

Name of the country: **Slovenia**

Transposition Act = O R D E R on the promulgation of the European Works Councils Act (ZESD-1), adopted by the National Assembly of the Republic of Slovenia at its session of 14 June 2011.

1. Presence of legally based administrative or judicial conflict solving procedures for:

		No	Yes	Unclear	brief explanation
A	SNB (including the pre-SNB phase, i.e. requesting the necessary information about the company, staff distribution, etc.)		Yes		
B	EWC based on Art. 6 agreements		Yes		
C	EWC based on art. 13 agreement			No differentiation/mention	
D	EWC based on subsidiary requirements		Yes		Article 40: A labour court shall be responsible for resolving any disputes relating to the application of this Act.

2. Litigation on different sets of rights: presence of national provisions

		No	Yes	Which authority (e.g., court) is competent ¹
A	Breaches against the provision of information to the SNB as per art. 4 (4) of Directive 2009/38/EC (information on the number of employees)/Failure to establish a SNB		Yes	Labour court ²
B	Operation of the EWC: breaches and compliance with the law (statutes), agreement or Subsidiary Requirements		Yes	
C	Challenging management on the use of confidentiality and secrecy/withholding information)	NO ³		

¹ Material and geographical competence.

² The law assigns jurisdiction for labour disputes to labour courts (delovna sodišča) and social courts (socialna sodišča), even if the case involves a civil dispute. Labour disputes involve relations between an employer and employee that constitute violation of the rights and obligations arising from employment relations. Labour courts have jurisdiction to adjudicate on individual labour disputes (disputes arising from employment relations, disputes relating to property rights relating to such relations), collective labour disputes (disputes in which one of the parties is usually a trade union or other institutional form of employee representation), disputes relating to the legality of strikes, and disputes relating to employee rights to employee participation in company management), which is enshrined in Slovenian law.

³ However, EWC members don't have to respect confidentiality with regard to other employee representatives: Art. 37 of the EWC Act: "(3) The previous paragraph shall not apply to contacts with other members of



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E	Individual rights of the SNB/EWC members under national EWC legislation	Unclear	
F	(Others to be filled in)		Supervision of the implementation of the provisions of this Act shall be exercised by the Labour Inspectorate of the Republic of Slovenia.

3. Capacity to act in court

		Brief explanation/ differences for 2A-2F above)
1	Who/which body can start a judicial procedure?	EWC members or trade union
2	What legal status (ius standi) is a requirement to start a judicial procedure? (legal personality, capacity to act in courts, other forms?)	Legal and physical persons, associations, trade unions
3	What is the legal status of the EWC (legal personality or other capacity to act in court)?	Only EWC members or trade unions have the capacity to act in courts (European Commission 2018: 34) Although it stipulates in the same paper (p.60) that EWCs have legal capacity ⁴
4	In case of lacking capacity to act in court: how can it be circumvented (think of representation by trade unions)?	Labour and Social Courts Act contains some special provisions concerning the representation of a party during a procedure by a trade union representative. The procedural role of trade unions in the concrete cases before the courts is regulated by the Zakon o delovnih in socialnih sodiščih (Labour and Social Courts Act).
5	Who represents the EWC in law?	
6	What is the capacity to act in court of joint type ('forum' or French-type) EWCs composed of both management and employees' representatives and can it be an obstacle?	No mention in law.

4. Starting a procedure and timelines

	Brief explanation
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the European Works Council and to contacts with employees' representatives in establishments or undertakings in the Member States, if these persons must be informed of the content of information and the results of consultations pursuant to the agreement referred to in Article 16 or 34 of this Act, or to contacts with employees' representatives on the supervisory committee, or with translators or experts who assist the European Works Council."

⁴ Based on ZDSS = (presumably) The Labour and Social Courts Act (Ur.l. RS, no. 19/94, 20/98, hereinafter: ZDSS), art. 45 para 3.



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1	Does the law set conditions as to how the EWC can take a valid decision on entering a judicial procedure? Think of voting, quorum, the necessity of a physical meeting to take a decision,...	By a majority of votes (general rule) ⁵
1.a	Does the law contain any requirements on the internal rules concerning question 1?	No
2	How does one file a case in court? (Who, format, steps)	In Slovenia an action does not have to be submitted on a special form; however, it must contain certain legally-defined elements, some applying to all applications and some specifically to the action in question. An action must therefore include: a reference to the court, the names and permanent or temporary residence of the parties, the names of the legal representatives or counsels, the subject of the dispute and the content of the statement. It must also include the personal identification number (EMŠO) of a party, if that party is a natural person registered in the central population register; a tax number if the party is not registered in the central population register but is registered in the tax register; or date of birth if the party is registered neither in the central population register nor the tax register (this information is obtained by the court ex officio). If the party is a legal entity, the action must state the name or business name, registered office and business address, and the registration number or tax number if the legal entity is established in Slovenia.
3	What is the deadline to start a judicial procedure?	
4	Are there other relevant deadlines in the judicial procedure?	
5	What is the role of out of court settlements once a case has been filed?	
6	How long does a judicial procedure typically take?	<i>In 2005 the new Labour and Social Courts Act⁴⁹ introduced some new procedural rules to accelerate the proceedings in labor and social disputes. Among others, the new Act promotes settlements as the most efficient alternative way for resolving cases. It is also necessary to point out the project of the so-called "accelerated civil proceedings" that introduced the principle of the</i>

⁵ Art. 26 of the EWC Act: Article 26 (Decisions, rules of procedure, experts) (1) The European Works Council shall adopt decisions by a majority of the votes of the members present, save as otherwise provided by this Act.



		<i>concentrated hearing. This project determines more clear and efficient tasks of all parties to the proceedings.</i> ⁶
7	Is an injunction or a summary procedure possible?	

5. Costs

		Brief explanation
1	What are the court fees for a judicial procedure?	In labour disputes parties are not required to pay court fees ⁷
2	Is legal representation by a lawyer required in a judicial procedure?	<i>Parties may appear before courts themselves in Slovenia, except in procedures involving extraordinary legal remedies, where they may take legal action only through an intermediary who is a lawyer, or if the party or their legal representative have passed the state bar examination. Should a party wish to be represented by counsel, that intermediary may, in proceedings before a local court, be any person with full legal capacity, while before a district, higher or the Supreme Court, only a lawyer or other person who has passed the state bar examination may appear as counsel.</i> ⁸
3	Who pays the costs for:	Just the general formula ⁹
	- Legal expert	Limited to one expert (generally)
	- Court fees	Parties may request legal aid, which shall be granted to them if they meet the conditions laid down in the Free Legal Aid Act (Zakon o brezplačni pravni pomoči, ZBPP). More on this topic can be found under 'Legal aid'. ¹⁰
	- Other costs (travel/interpretation)	Employer
4	Does a EWC normally have an independent budget and/or an own bank account under a given national legislation?	No

⁶ https://fra.europa.eu/sites/default/files/fra_uploads/1544-access-to-justice-2011-country-SI.pdf

⁷ <https://e-justice.europa.eu/37/EN/costs?SLOVENIA&member=1>

⁸ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?SLOVENIA&member=1

⁹ • The expenses incurred in establishing and operating the EWC and its select committee shall be met by the central management, it shall provide the venue, material resources and administrative staff required by meetings and the performance of ongoing work;

• Central management shall meet the travel and accommodation expenses, including board and lodging;

• The EWC members shall have the means required to apply the rights arising from this Act

¹⁰ https://e-justice.europa.eu/34/EN/how_to_bring_a_case_to_court?SLOVENIA&member=1



5	Can the EWC be sentenced to pay the costs of the other party in the judicial procedure?	<p>Fixed costs for litigants in civil proceedings</p> <p><i>Fixed costs include:</i></p> <ul style="list-style-type: none"> • <i>court fees,</i> • <i>attorneys' fees,</i> • <i>experts' fees,</i> • <i>translators' and interpreters' fees, as well as</i> • <i>travel costs (e.g. those of witnesses and experts).¹¹</i> <p><i>The reimbursement of costs is regulated by the Criminal Procedure Act and the Civil Procedure Act, which establish the principle of success and the principle of fault.</i></p> <p><i>In civil proceedings, the unsuccessful party must refund the costs incurred by the successful party. Each party must cover costs resulting from their own fault or by coincidence. More detailed rules on the reimbursement of costs are laid down in the Civil Procedure Act (Articles 151-186 and 173.a) and in the Rules on the Recovery of Costs in Criminal Proceedings (Official Gazette No 15/03). In civil proceedings, experts' fees are, in principle, paid in advance by the party which requested that evidence by an expert be heard. If the court decides to hear the expert, the court will cover the costs in advance. These costs are then reimbursed at the end of the proceeding, according to the principle of success.¹²</i></p>
6	Can the EWC members be sentenced to pay the costs of the other party in the judicial procedure?	

¹¹ Costs for judicial proceedings are regulated by the following legal texts:

- **The Court Fees Act** – *Zakon o sodnih taksah* (Official Gazette of the Republic of Slovenia 37/2008),
- **The Attorney Fees Act** – *Zakon o odvetniški tarifi* (an amendment is planned in the near future),
- **The Notary Tariff** – *Notarska tarifa* (Official Gazette of the Republic of Slovenia 94/2008, 32/2011. A new amendment is planned shortly),
- Rules on **court interpreters** – *Pravilnik o sodnih tolmačih* (Official Gazette of the Republic of Slovenia 49/2002, 75/2003, 71/2007),
- Rules on **court experts and court appraisers** – *Pravilnik o sodnih izvedencih in cenilcih* (Official Gazette of the Republic of Slovenia 7/2002, 75/2003, 72/2005, 71/2007, 84/2008),
- **The Criminal Procedure Act** – *Zakon o kazenskem postopku* (Official Gazette of the Republic of Slovenia 32/2012),
- **Rules on the Recovery of Costs in Criminal Proceedings** – *Pravilnik o povrnitvi stroškov v kazenskem postopku* Official Gazette of the Republic of Slovenia 61/1997, 6897 - corr. 62/2008),
- **The Civil Procedure Act** – *Zakon o pravnem postopku* (Official Gazette of the Republic of Slovenia 73/2007 – official consolidated version, 45/08 - ZArbit, 45/08, 111/08 - Odl. US, 121/08 - Skl. US, 57/09 - Odl. US, 12/10 - Odl. US, 50/10 - Odl. US, 107/10 - Odl. US, 75/12 - Odl. US and 76/12 - corr.).

The above-mentioned texts can be found on Slovenia's online legal portal, the [Legal Information Centre](#), or from other national legislation registers.

Source: <https://e-justice.europa.eu/37/EN/costs?SLOVENIA&member=1>

¹² <https://e-justice.europa.eu/37/EN/costs?SLOVENIA&member=1>



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6. Sanctions

		Brief explanation
	How is a breach of law classified?	Offence
1	What are the sanctions for breaches of EWC laws?	<p>(1) A fine of between € 20 000 and € 100 000 shall be imposed on a legal person for an offence, if:</p> <ol style="list-style-type: none"> 1. it fails to provide data, or provides incorrect or incomplete data, in violation of Article 5 of this Act [= information on the structure and distribution of employment]¹³ 2. if it fails to carry out annual information and consultation and information and consultation in exceptional circumstances or if it provides incorrect or incomplete data. <p>For physical persons acting on behalf of legal persons: (2) A fine of between € 2 000 and € 5 000 shall also be imposed on the responsible person of a legal person who commits an offence referred to in the previous paragraph.</p>
2	Can the court rule to stop or reverse the companies' decision-making?	
3	Whom should fines be paid to?	
4	Can a member of management be held personally liable (personal vs. corporate liability)	Yes ¹⁴
5	Can individual EWC members be sentenced to pay fines or be subject to other sanctions?	
6	Can the EWC collectively be sentenced to pay fines or be subject to other sanctions?	

7. Out of court settlements

		Brief explanation
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¹³ Art. 41 of the EWC Act.

¹⁴ Art 44 of the EWC Act.



1.	<p>In general, are alternative conflict resolutions available in a given country can out of court settlements be reached once a case has been filed? Does it happen in practice?</p>	<p><i>Recourse to mediation is voluntary. The Mediation in Civil and Commercial Matters Act (ZMCGZ, UL RS No 56/08) refers to mediation in general, i.e. to mediation associated with judicial procedures and to non-judicial mediation. It sets out only the basic rules for mediation procedures, leaving other aspects to self-regulating mechanisms. For example, it lays down where mediation begins and ends, who appoints the mediator, the mediator's basic rules of conduct, the form of the dispute settlement agreement, how to ensure it can be enforced, etc. Parties may deviate from provisions of the Act, except provisions regulating the principle of impartiality of mediator and the impact of mediation on preclusion and limitation periods.</i></p> <p><i>The Slovenian Association of Mediators has adopted a code of conduct for mediators, but this applies only to its members.</i></p> <p><i>The Act on Alternative Dispute Resolution in Judicial Matters (ZARSS, Uradni List RS (UL RS; Official Gazette of the Republic of Slovenia) Nos 97/09 and 40/12 – Fiscal Balance Act (ZUJF)), which was adopted on 19 November 2009 and came into force on 15 June 2010, requires first-instance and second-instance courts to adopt and bring into force a programme of alternative dispute settlement to allow parties alternative means of settlement in disputes on commercial, labour, family and other civil-law matters. Under this programme courts are obliged to allow the parties to use mediation in addition to other forms of alternative dispute resolution.</i></p> <p><i>The Ministry of Justice keeps a central register of mediators who operate in court programmes for alternative dispute resolution.</i></p> <p><i>A number of non-governmental organisations are involved in mediation:</i></p> <ul style="list-style-type: none"> • Slovenian Association of Mediators (list of mediators), • Centre for Mediation at the Legal Information Centre, • Slovenian Association of Mediation Organisations – MEDIOS (list of mediators). <p><i>The Council for Alternative Dispute Resolution operates under the auspices of the Ministry of Justice and Public Administration. The Council was set up in March 2009 and is a central, independent, expert body of the Ministry with a coordinating and consultative role.¹⁵</i></p> <p>Also: Mediation of a labour court in a collective labour dispute Mediation, the purpose of which is the conclusion of a compromise in court, is determined in Articles 52 to 56 ZDSS.</p>
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¹⁵ https://e-justice.europa.eu/64/EN/mediation_in_eu_countries?SLOVENIA&member=1



		<p>After a preliminary testing of an initiative (by which a collective labour dispute has been commenced) the president of the panel (who is a professional judge) calls a main hearing. The judge is obliged to attempt to bring about a compromise between the parties. A compromise may be reached throughout the procedure until a final decision. If a compromise is concluded after the issue of a decision by the court of first instance, the court annuls the decision.</p> <p>Mediation is free; parties pay only for their lawyers. In all other disputes, except commercial disputes, the court covers the mediator's fees for the first three hours of mediation.</p> <p>Can a labour court impose binding arbitration? Such a possibility is not regulated in the Slovene legal arrangement.¹⁶</p>
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8. Resources for EWCs

		Brief explanation
1.	Can unions provide legal support or financing for litigation?	
2.	What other resources are available in terms of legal support to EWCs and/or EWC members in your country (e.g., Arbeiterkammer, legal support centres)	<p>Supervision of the implementation of the provisions of this Act shall be exercised by the Labour Inspectorate of the Republic of Slovenia.¹⁷</p> <p>Information on mediation is available from the EJN Civil Atlas webpage on Alternative dispute resolutions.</p>

¹⁶ Source: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/meetingdocument/wcms_160116.pdf

¹⁷ Art. 39 of the EWC Act.



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