SANCTIONS FOR PARTIES' INACTIVITY IN CIVIL LITIGATION

1. Does your system of law have any rules governing the processing of cases prior to trial and during the trial that fix time-limits for parties a) to correct and supplement their cases and evidence b) to take other procedural steps?

In most cases (for instance in cases given under (a) thereof) the court orders the parties to carry out procedural steps within the time limit, which is determined at the discretion of the court (the so-called judicial time-limit). In some cases (e.g. filing of an appeal against a judicial decision), the law fixes the time limits cogently.

2. Do the trial proceedings consist of a large number of hearings for taking evidence or does your system of law define a limit in number of hearings, e.g. »no more than two hearings« per litigation?

The number of hearings per litigation is not fixed; it always depends on the course of a specific proceeding.

3a. What are the sanctions when a party fails to take a procedural step within the time-limits fixed by the law or the court?

It depends on nature of a specific procedural step, for instance, a remedy filed belatedly may be denied, the court may impose a disciplinary fine upon the party, in other cases it may remit laches of the time-limit, etc.

3b. Do the same or similar sanctions apply when a party misuses procedure for the manifest purpose of delaying the proceedings?

In such case the court has an option to impose a disciplinary sanction upon the party.

4a. What sanctions is the court able to apply in cases of unjustified non-attendance of a witness?

It may impose a disciplinary fine upon the witness, or let bring him/her in by the police.

4b. Are there any appropriate sanctions when an expert appointed by the court fails to communicate his report or is late in communicating it without good reason?

A disciplinary fine may be imposed upon an expert, or remuneration for filing of an expert report reduced, but also a proposal to remove from the register of certified and sworn translators submitted.
5a. Where a lawyer representing a party misuses procedure for the manifest purpose of delaying the proceedings, what disciplinary sanctions, if any, can be imposed by professional associations? Is it common for professional associations to use disciplinary sanctions?

The court may file a motion for a disciplinary procedure at the Bar Association but it is not common.

5b. Do rules regarding the remuneration of lawyers guard against needless procedural steps. If so, what are the principle ways, in which such rules encourage lawyers to crystallize the parties’ claims at the earliest possible stage of litigation?

No. The court, however, must not award the successful lawyer any remuneration for ineffective actions in the proceedings.

6. Does your system of law allow judges to have power on «formal conduct» and to control the timetable and duration of proceedings (e.g. by setting firm dates, refusing adjournments)?

The Slovak law system does not exclude such a procedure, but it neither stipulates nor encourage to such a procedure.

7. Do judges have power on substantive progress of civil proceedings, particularly as respects:
   - power to order the parties to provide such clarifications as are necessary - yes
   - power to order the parties to appear in person - yes
   - to raise questions of law - yes, but basically the iura novit curia principle shall apply
   - to introduce factual evidence that parties have not adduced in cases where there are interests other than those of the parties at stake - yes
   - to control the taking of evidence - yes
   - to exclude witnesses whose possible testimony would be irrelevant - yes

8. Do the judges in your legal system have power to decide whether a) the procedure should be oral or written b) to resort a summary judgment or are these matters fixed by law?

Basically, these matters are fixed by law.

9. Are there any limitations on a party’s right to adduce a) fresh evidence b) fresh points of law at an appellate level? If so, are there any exceptions to this rule?

Yes, there are, in principle, the parties cannot adduce fresh evidence at an appellate level.

II.

1. Are there any proposals for reform of the civil procedural law to enhance effectiveness of the procedure by sanctioning parties’ abuse of court procedure?

The civil procedural law is being amended practically permanently, and a re-codification thereof is being prepared.

2. What points would you wish to discuss in greater detail?

The issue of burden of evidence.
3. What subject do you suggest for the next meeting?

The expert evidence in civil proceedings.

Nina Betetto  -  questions

Pavel Rohárik  -  responses

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