

Litigation and enforcement in Bulgaria: overview

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Country Q&A | [Law stated as at 01-Feb-2018](#) | Bulgaria

A Q&A guide to dispute resolution law in Bulgaria.

The country-specific Q&A gives a structured overview of the key practical issues concerning dispute resolution in this jurisdiction, including court procedures; fees and funding; interim remedies (including attachment orders); disclosure; expert evidence; appeals; class actions; enforcement; cross-border issues; the use of ADR; and any reform proposals.

To compare answers across multiple jurisdictions visit the Litigation and enforcement [Country Q&A tool](#).

This Q&A is part of the global guide to dispute resolution. For a full list of jurisdictional Q&As visit global.practicallaw.com/dispute-guide.

Main dispute resolution methods

1. What are the main dispute resolution methods used in your jurisdiction to resolve large commercial disputes?

The main dispute resolution methods in Bulgaria are litigation before the national courts and arbitration. Court proceedings are adversarial. This principle is supplemented by the:

- Principle of disposition, under which the parties initiate the proceedings of their own volition and determine the subject matter of the lawsuit and the range of the assistance needed from the court.
- Ex-officio principle, under which the court can:
 - determine whether it has jurisdiction;
 - set the value of the claim;
 - terminate pending proceedings;
 - appoint experts; and
 - join claims.

In addition, the court has broad powers to manage the litigation by:

- Assisting the parties to clarify matters of fact and law.
- Monitoring the due performance of the proceedings.
- Instructing the parties in relation to any irregularity in the proceedings, and how to remedy it.

The standard of proof depends on the type of claim. When filing the claim in first instance proceedings, the claimant must:

- State the evidence and the specific facts that are intended to be proven.
- Present all the written evidence.

At the first open hearing, the claimant can clarify and supplement the claim motion, as well as point out and present evidence related to the objections raised by the defendant. The defendant can present new evidence at the hearing if it was impossible to have stated and presented it with the reply to the claim motion. The claimant cannot present evidence after the first open hearing if he/she was already in possession of, or should have known about, such evidence.

The required standard of proof is set out under Article 146 of the Civil Procedure Code. Either before or during the first open hearing, the court prepares and submits a report to the parties, setting out:

- The rights and facts that are recognised and not disputed by the parties.
- The facts that do not need to be proved (that is, those that are public and well-known, and those known to the court).
- How the burden of proof is allocated for the facts that must be proven. Each party must determine the facts on which it bases its claims or objections.

On appeal, the court of appeal rules on the validity and admissibility of the first instance judgment. The court of appeal can only rule on the issues that are stated in the appeal.

Court litigation

Limitation periods

2. What limitation periods apply to bringing a claim and what triggers a limitation period?

The limitation periods in Bulgaria are typically governed by the Bulgarian Obligations and Contracts Act (OCA). This provides for a five-year limitation period for all claims (*Article 110, OCA*). As an exception, the following claims are extinguished after a three-year limitation period (*Article 111, OCA*):

- Labour remuneration claims.
- Claims for damages and liquidated damages resulting from non-performance of contracts.
- Claims for rent, interest and other scheduled payments.

The limitation period runs from the day the claim becomes actionable. If it is agreed that the claim becomes actionable following an invitation, the limitation period begins to run from the day the obligation arose.

For claims arising from tort, the limitation period begins to run on discovering the offender.

For claims for liquidated damages for default, the limitation period begins to run from the last day for which the liquidated damages are assessed.

An action for damages must be brought within one year in claims relating to any of the following:

- Forwarding contract.
- Contract of carriage.
- Contract for commodity control.
- Depository contract.

Special rules on limitation exist in relation to bills of exchange:

- Actions against the drawee arising out of the bill of exchange are barred after three years following maturity.
- Actions of the bearer against the endorsers and the drawer are barred after one year from the date of a duly made protest, or from maturity, where the bill of exchange contains the stipulation "*retour sans frais*".
- Actions of the endorsers against each other and against the drawer are barred after six months from the date on which the endorser paid the bill of exchange, or from the date on which an action was brought.
- In an action for unjustified enrichment, the bearer of a bill of exchange, promissory note or cheque loses the right to an action after three years.

The rules for cheques are the same.

For large commercial enterprises, the limitation periods for violation of the competition rules are:

- Three years for infringement of provisions related to information inquiries or inspections.
- Five years for all other infringements.

The limitation period starts to run from the day the infringement is committed. For ongoing infringements, it starts to run from the day on which the infringement is discontinued.

Court structure



3. What is the structure of the court where large commercial disputes are usually brought? Are certain types of dispute allocated to particular divisions of this court?

Large commercial disputes fall under the jurisdiction of the civil courts in Bulgaria. If a commercial dispute exceeds BGN25,000, the claim is submitted to the district court at the place of business of the defendant. The decision of the district court is subject to appeal to the appellate court, and a final decision may be made by the Supreme Court of Cassation. Commercial disputes are heard by the commercial chambers formed at each court on a decision by the general assembly of the judges. If the dispute is commercial, it is subject to different rules of procedure under the Civil Procedure Code, which allow for the filing of additional claim motions and additional responses to the claim motion.

Rights of audience

4. Which types of lawyers have rights of audience to conduct cases in courts where large commercial disputes are usually brought? What requirements must they meet? Can foreign lawyers conduct cases in these courts?

Rights of audience/requirements

Natural persons and legal entities can conduct court proceedings themselves and can appoint an attorney to act on their behalf. A junior attorney with under two years' experience can represent parties in the district courts only together with another attorney. Only an attorney with five years' experience can represent a party before the Supreme Court of Cassation.

Foreign lawyers

Foreign nationals who have acquired the capacity of an attorney according to the law of their country can appear before the judiciary authorities in Bulgaria as defence counsel or mandatory counsel if the following conditions are met:

- They are acting for a national of their own country.
- They are acting in a specific case.
- They are acting together with a Bulgarian attorney.
- This has been allowed by an agreement between Bulgaria and the foreign country, or agreed by the chairman of the Supreme Bar Council.

An EU lawyer can undertake legal representation activities before the Bulgarian courts together with an attorney registered with a Bulgarian Bar Association.

Fees and funding

5. What legal fee structures can be used? Are fees fixed by law?

The remuneration for legal assistance provided by attorneys is determined by free bargaining on the basis of a written agreement with the client. However, it cannot be less than the minimum rates fixed in Ordinance No 1 of 9 July 2004 on the minimum rate of attorney fees, as follows:

- Where the amount at stake in the claim is between BGN5,000 and BGN10,000, the minimum fee is BNG450 plus 4% of the excess over BGN5,000.
- Where the amount at stake in the claim exceeds BGN10,000, the minimum fee is BNG650 plus 2% of the excess over BGN10,000.

6. How is litigation usually funded? Can third parties fund it? Is insurance available for litigation costs?

Funding

The fees for filing a claim in Bulgaria are typically 4% of the amount at stake in the claim. Parties do not typically need third party funding, although this is allowed. No special rules apply in this regard.

Insurance

Some insurance companies in Bulgaria provide legal expenses insurance.

Court proceedings

Confidentiality

7. Are court proceedings confidential or public? If public, are the proceedings or any information kept confidential in certain circumstances?

Court proceedings are public. The court can, of its own motion or at the request of one of the parties, order either the case hearing or certain actions to be undertaken in closed session if any of the following applies:

- The public interest demands it.
- The protection of the privacy of the parties, their families or of persons in custody requires it.
- The case concerns a trade, industrial, invention or fiscal secret, the public announcement of which would harm legitimate interests.
- There are reasonable grounds to do so.

Pre-action conduct

8. Does the court impose any rules on the parties in relation to pre-action conduct? If yes, are there penalties for failing to comply?

The court does not impose any rules on the parties in relation to pre-action conduct.

Main stages

9. What are the main stages of typical court proceedings?

Starting proceedings

Proceedings start with the filing of a claim before the court. The claim is reported to a judge who verifies the validity of the claim. If the claim motion does not meet the requirements of the Civil Procedure Code, the claimant has one week to remedy the irregularities. If the claimant fails to do so, the claim motion and attachments are returned.

Notice to the defendant and defence

Once the court has checked the validity and admissibility of the claim, the court sends a copy of it with the attachments to the defendant, instructing him/her to lodge a written reply within one month. If the defendant does not submit a written reply, make a statement, object or contest the truthfulness of a submitted document within the prescribed period, they waive the opportunity to do so later.

Subsequent stages

After the court verifies the validity and admissibility of the submitted claims, the court:

- Rules on all preliminary matters and on the admission of the evidence.
- Appoints a hearing of the case in open session.
- Can notify the parties of its draft report on the case, as well as instruct them to undertake mediation or other means of amicable settlement of the dispute.

An open session is then held to clarify the facts of the dispute. The claimant can clarify and supplement the claim motion, as well as present evidence related to the objections raised by the defendant. The defendant can present new evidence if it was impossible to have stated and presented it with the reply to the claim motion.

After evidence has been collected, the court again invites the parties to reach a settlement.

If settlement is not reached, the court proceeds to the verbal contest.

When the case has been clarified, the court ends the verbal contest, and sets a day for announcing its judgment.

At the request of one of the parties, the court can set a suitable time limit for the submission of written pleadings in relation to any factual or legal complexity.

Interim remedies

10. What actions can a party bring for a case to be dismissed before a full trial? On what grounds must such a claim be brought? What is the applicable procedure?

There is no procedure to dismiss a case before the full trial.

11. Can a defendant apply for an order for the claimant to provide security for its costs? If yes, on what grounds?

There is no separate procedure to apply for security for costs.

12. What are the rules concerning interim injunctions granted before a full trial?

Availability and grounds

It is possible to obtain a ruling from the court to secure a claim where both:

- The claimant would find it impossible or very difficult to enforce the rights of the judgment otherwise.
- The claim is backed up by compelling written evidence.

Alternatively, a security can be provided in an amount determined by the court under Articles 180 and 181 of the Contracts and Obligations Act.

The court can also oblige the claimant to present monetary or property guarantees in an amount determined by it.

Prior notice/same-day

The motion for admission of security is not served on the opposite party but is decided at a closed session on the day of its submission.

Mandatory injunctions

Mandatory injunctions are not available in commercial disputes.

Right to vary or discharge order and appeals

A ruling of the court on securing the claim can be appealed by a private complaint within one week from its service (for the claimant) or from the day of notification of the imposed security measure (for the defendant). A copy of the private complaint must be served on the opposite party for a rejoinder within one week. If the appellate court upholds the ruling securing the claim, this is subject to appeal before the Supreme Court of Cassation. A ruling securing a claim is not suspended during an appeal.

13. What are the rules relating to interim attachment orders to preserve assets pending judgment or a final order (or equivalent)?

Availability and grounds

The availability and grounds are the same as for granting interim measures before the full trial (*see Question 12, Availability and grounds*).

Prior notice/same-day

The notice requirements are the same as for granting interim measures before the full trial (*see Question 12, Prior notice/same-day*).

Main proceedings

Orders can be granted in support of substantive proceedings that are taking place in the courts of another country. The rules are set out in Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters or the Bulgarian Code of Private International Law.

Preferential right or lien

From the moment the distraint (restraint/seizure order) is imposed, the debtor is deprived of the right to dispose of the receivable or object, and cannot change, damage or destroy it without being subject to criminal liability.

Purported actions of disposal by the debtor over the distrained object or receivable after the distraint are not valid.

Damages as a result

If the claim on which the security has been allowed is denied or has not been filed within the term given to the claimant, or if the case is terminated, the defendant can demand damages caused as a result from the claimant.

Security

The court can require the claimant to present a monetary or property guarantee. The amount of the guarantee is determined by the court according to the size of the direct and immediate damages that the defendant would suffer if the security is later found to be unfounded.

14. Are any other interim remedies commonly available and obtained?

The interim remedies available are:

- Placing a ban on the sale of real estate.
- Distraint (restraint/seizure) of the defendant's movable objects and receivables.
- Other appropriate measures determined by the court, including stopping a vehicle from being moved or suspending the execution of documents.

Final remedies

15. What remedies are available at the full trial stage? Are damages only compensatory or can they also be punitive?

The remedies depend on the type of claim motion. The court can order compensatory damages as well as punitive penalties where the parties agreed to them in the breached agreement that led to the claim.

Evidence

Disclosure

16. What documents must the parties disclose to the other parties and/or the court? Are there any detailed rules governing this procedure?

Either party can request the court to oblige the other party to submit a document. In some circumstances, the court can assume as proven facts in relation to which a party has created obstacles in collecting admissible evidence. See [Question 1](#).

Privileged documents

17. Are any documents privileged? If privilege is not recognised, are there any other rules allowing a party not to disclose a document?

Privileged documents

The information contained in documents between a lawyer and a client is confidential and privileged. The lawyer must keep the clients' secrets. Lawyers cannot be witnesses in their clients' cases.

Other non-disclosure situations

Presentation of a document can be refused if:

- The content of the document is related to circumstances relating to the private or family life of the party.
- This could lead to disgrace or criminal prosecution against the party, or against their relatives.

Examination of witnesses

18. Do witnesses of fact give oral evidence or do they only submit written evidence? Is there a right to cross-examine witnesses of fact?

Oral evidence

Written evidence from witnesses is not allowed.

Each witness is questioned separately, in the presence of the parties. Witnesses who have not yet given testimony do not attend the questioning of the other witnesses. Witnesses can be questioned once more during the same or another hearing, at their own request or at the request of a party or the court. There are specific exemptions for facts that cannot be proven by witness statements.

Right to cross-examine

In the event of differences between witness testimonies, the court can order a witness confrontation.

Third party experts

19. What are the rules in relation to third-party experts?

Appointment procedure

Experts are appointed at the request of a party or by the court.

Role of experts

Experts are appointed to provide independent advice to the court.

Right of reply

The expert states their conclusion orally. The parties can ask questions aimed at clarifying the conclusion.

Fees

The party that requested the appointment of an expert must pay the resulting fees.

Appeals

20. What are the rules concerning appeals of first instance judgments in large commercial disputes?

Which courts

In large commercial disputes, appeals are brought before the appellate court.

Grounds for appeal

The grounds for appeal are a void, inadmissible or incorrect decision of the first instance court.

Time limit

The appeal must be lodged within two weeks of service of the decision.

Class actions

21. Are there any mechanisms available for collective redress or class actions?

The Bulgarian Civil Procedure Code regulates collective claims. A collective claim can be brought on behalf of persons injured by an offence, where the number of these persons cannot be precisely defined but is determinable. At a closed session, the court:

- Accepts as participants in the proceedings other injured parties or organisations for the protection of injured parties or of damaged collective interests that declare their wish to participate in the procedure within the determined term.
- Excludes injured parties who, within the determined term, have declared that they will bring a separate procedure.

Costs

22. Does the unsuccessful party have to pay the successful party's costs and how does the court usually calculate any costs award? What factors does the court consider when awarding costs?

The fees paid by the claimant, as well as the expenses for the proceedings and the attorney's remuneration, are paid by the defendant proportionally to the successful part of the claim. Defendants are also entitled to claim payment of the costs incurred by them in proportion to the rejected part of the claim.

The court rules on expenses after the end of each part of the case.

The court, on request of a party, can on its own discretion reduce attorney fees to the statutory minimum amount (see [Question 5](#)).

23. Is interest awarded on costs? If yes, how is it calculated?

In the case of non-performance of a monetary obligation (including obligation for costs), the debtor is liable for interest accrued from the date of default. The rate of interest is set by the Council of Ministers.

Enforcement of a local judgment

24. What are the procedures to enforce a local judgment in the local courts?

The effective decisions and rulings of the courts are subject to enforcement on obtaining a writ of execution.

Cross-border litigation

25. Do local courts respect the choice of governing law in a contract? If yes, are there any national laws or rules that may modify or restrict the application of the law chosen by the parties in their contract?

If the choice of law is valid under the relevant private international law principles, the court respects that choice.

26. Do local courts respect the choice of jurisdiction in a contract? Do local courts claim jurisdiction over a dispute in some circumstances, despite the choice of jurisdiction?

If the choice of jurisdiction is valid under the relevant private international law principles, the court respects that choice.

27. If a party wishes to serve foreign proceedings on a party in your jurisdiction, what is the procedure to effect service in your jurisdiction? Is your jurisdiction a party to any international agreements affecting this process?

The following rules apply in Bulgaria:

- Regulation (EC) 1393/2007 on the service in the member states of judicial and extrajudicial documents in civil or commercial matters.
- HCCH Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters 1965.
- Bulgarian Code of Private International Law.

28. What is the procedure to take evidence from a witness in your jurisdiction for use in proceedings in another jurisdiction? Is your jurisdiction party to an international convention on this issue?

The procedure is governed by:

- Regulation (EC) 1206/2001 on co-operation between the courts of the member states in the taking of evidence in civil or commercial matters.
- The HCCH Convention on the Taking of Evidence Abroad in Civil and Commercial Matters 1970.
- The Bulgarian Code of Private International Law.

Enforcement of a foreign judgment

29. What are the procedures to enforce a foreign judgment in your jurisdiction?

The following apply in Bulgaria:

- Regulation (EU) 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters 2007.
- Bulgarian Code of Private International Law.

Alternative dispute resolution

30. What are the main alternative dispute resolution (ADR) methods used in your jurisdiction to settle large commercial disputes? Is ADR used more in certain industries? What proportion of large commercial disputes is settled through ADR?

In the last few years, large commercial enterprises have come to typically prefer arbitration as a faster and more efficient dispute resolution method. Arbitration is governed by the Bulgarian International Commercial Arbitration Act, which is based on the UNCITRAL Model Law on International Commercial Arbitration 1985.

Mediation has been recently more widely advertised as an ADR method, but due to some imperfections of the Bulgarian Mediation Act it is not typically used. The Mediation Act implements Directive 2008/52/EC on mediation in civil and commercial matters.

31. Does ADR form part of court procedures or does it only apply if the parties agree? Can courts compel the use of ADR?

ADR applies only on the agreement of the parties. The court will respect the agreement of the parties if the agreement is valid.

32. How is evidence given in ADR? Can documents produced or admissions made during (or for the purposes of) the ADR later be protected from disclosure by privilege? Is ADR confidential?

The rules for document production and admission are agreed by the parties, or in the absence of such agreement, are regulated by the rules of arbitration of the relevant arbitral institution and any rules that the tribunal deems to be applicable. The arbitration tribunal or the interested party with its approval can request the competent court to collect evidence necessary for the case.

Under the Bulgarian Mediation Act, the participants to a mediation procedure must keep secret, in all circumstances, all facts and documents that became known to them in the course of the procedure. The mediator cannot be questioned as a witness in relation to circumstances disclosed to him/her by the participants that were relevant for deciding on the dispute subject to the mediation, except with the explicit consent of the participant who disclosed them.

33. How are costs dealt with in ADR?

In arbitration, the parties can agree on the allocation of costs. Where agreement is not reached, the arbitral tribunal can decide on costs on its own discretion and in accordance with the rules of the relevant arbitral institution.

In mediation, all costs are settled by agreement of the parties.

34. What are the main bodies that offer ADR services in your jurisdiction?

The following bodies offer ADR services in Bulgaria:

- Arbitration court at the Bulgarian Chamber of Commerce and Industry (www.bcci.bg), which is the biggest and oldest arbitral court in Bulgaria.
- Court of Arbitration at the Bulgarian Industrial Association (<https://en.bia-bg.com>).
- Confederation of Employers and Industrialists in Bulgaria (KRIB) Court of Arbitration (<http://arbitration.bg>).
- Professional Association of Mediators in Bulgaria (PAMB) (<http://pamb.info>).

Proposals for reform

35. Are there any proposals for dispute resolution reform? If yes, when are they likely to come into force?

There are no pending proposals for dispute resolution reform. Major amendments to the Bulgarian dispute resolution rules were adopted in 2017, under which:

- Public order was removed as a ground for revocation of an arbitration decision by the International Council for Commercial Arbitration.
- The scope of competence for revision of appellate decisions by the Supreme Court of Cassation was broadened in the Civil Procedure Code.

Online resources

Bulgarian Chamber of Commerce and Industry

W www.bcci.bg

Description. The Bulgarian Chamber of Commerce and Industry is an independent, non-governmental organisation for the promotion of the business interests of its members. It offers arbitration services.

KRIB Court of Arbitration

W <http://en.arbitrationcourtbg.org>

Description. The KRIB Court of Arbitration offers arbitration services.

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Professional qualifications. Bulgaria, Lawyer

Areas of practice. Corporate law; commercial law; contracts; arbitration.

Recent transactions

- Involved in a major international arbitration case for EUR620 million, regarding a dispute between Atomstroyexport and the National Electricity Company.
- Advised Piraeus Bank Bulgaria in a EUR25 million insolvency procedure related to the Rouse Mall.

Languages. Bulgarian, English, Russian, German

Professional associations/memberships. Arbitrator at the Arbitration court at the Bulgarian Chamber of Commerce and Industry since 1994; Vice President of the Arbitration court (experience both as an arbitrator and party's counsel in ICC arbitrations); Member (arbitrator under the Washington Convention at the ICSID designated by the Bulgarian government).

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Professional associations/memberships. Young ICCA; International Moot Court; Competitions Association (IMCCA).

Publications

- *Concept of an "investment" within the meaning of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in Papers of the National Conference of Doctoral Students in Law 2017, (ISSN 2603-3011).*

- *The reform in the investment dispute settlement mechanism: from ad hoc arbitration towards Investment court system*, in *Papers of the National Conference of Doctoral Students in Law*, 2016, ISSN 1314-6459.
- Contribution in *European and national perspectives on the application of the European Insolvency Regulation*, Aracne, 2017, ISBN 978-88-255-0906-9.
- Co-author in *The Regulations on Private International Law of the European Union 2009-2016. Trends and Developments in the legal framework*, Ciela, Sofia, 2017.

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