

Participation of Foreign Nationals in Civil Proceedings: Legal Frameworks and Practical Experiences in Selected Legal Systems

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Q In practice, do foreign nationals encounter barriers in accessing civil courts? If so, what kind?

- Legal foundation: equality and equal treatment
- The law formally guarantees equal access to justice for all individuals
- In practice, certain obstacles may arise — particularly language barriers
- These are addressed through interpretation and translation services

- Challenges are linguistic, financial, and procedural in nature
- These do not preclude access to justice
- They may however diminish its effectiveness in practice
- Indicates need for further enhancement of protective mechanisms

Conclusion

While North Macedonia's legal framework formally guarantees equal access, foreign nationals encounter practical barriers — primarily linguistic, but also financial and procedural. These barriers do not eliminate access to courts, but they reduce the practical effectiveness of that access, signalling a need for continued improvement in the support mechanisms available to foreign litigants.

Legal & Procedural Capacity

Q Does a foreign national have the same legal capacity and procedural capacity as a citizen?

- Regulated by the Law on Private International Law
- Capacity of natural persons governed by law of their state of nationality
- If foreign national lacks capacity under home law but has it under Macedonian law → may act independently in proceedings

- Foreign legal entities: governed by law of state of registration
- If not registered anywhere: law of statutory seat applies
- Entities registered in multiple states: law of actual seat (per statute or founding act) governs

- Associations/orgs without legal personality: law of state of registration or establishment
- General rule: foreign nationals enjoy the same legal and procedural capacity as domestic nationals
- Nuances may arise depending on applicable law and specific case circumstances

Key rule: Legal representative of a foreign national may act on their behalf only until the foreign national declares they will personally conduct the proceedings.

Q Is there a requirement to provide an address for service within the country, and what are the consequences of non-compliance?

- Governed by Article 141 of the Law on Civil Procedure
- Party or legal representative located abroad without an authorised rep in N. Macedonia must appoint a representative for service of documents
- Court shall invite them to do so within an appropriate time limit
- Invitation served via diplomatic channels or consular/diplomatic missions of N. Macedonia

- Non-compliance does NOT suspend the proceedings
- Court appoints a temporary representative at the party's expense
- Aim: ensure uninterrupted conduct of proceedings
- Party may at any time appoint their own representative for service → revokes court-appointed temporary rep

Key Takeaway

Failure to provide an address for service does not result in procedural sanctions against the party directly — rather, the court steps in and appoints a temporary representative to preserve continuity. This is a practical, party-protective approach rather than a punitive one.

Security for Costs (Cautio Iudicatum Solvi)

Q Are foreign nationals required to provide security for costs (cautio iudicatum solvi), and are there any exceptions to this obligation ?

- Foreign claimant may be required to provide security upon defendant's request
- Request must be filed by the preparatory hearing (or first hearing if no preparatory hearing held)
- Security is provided in monetary form; court may permit other appropriate forms
- Court determines the amount and time limit; warns claimant of legal consequences

Exemptions from Security for Costs

1. Reciprocity — nationals of N. Macedonia not required to provide security in claimant's state
2. Claimant has been granted asylum in N. Macedonia
3. Claim arises from employment in N. Macedonia
4. Matrimonial / paternity / maternity / maintenance matters
5. Bill of exchange or cheque claim, counterclaim, or payment order

- If claimant fails to provide security within time limit → claim deemed withdrawn
- If at appellate stage → claimant deemed to have waived the legal remedy
- Defendant need not proceed on merits until security request is finally resolved and security provided

- If court dismisses security request → proceedings may continue even before decision is final
- Doubt as to reciprocity → clarified by Ministry of Justice
- Foreign nationals entitled to exemption from litigation costs under same conditions as nationals

Q Is there a requirement to appoint a local legal representative, and what are the consequences of failing to do so?

- Party without domicile or registered seat in N. Macedonia must appoint a representative for service of documents, or designate an address for service
- No general obligation to be represented by a lawyer solely based on foreign status
- A foreign party may participate in proceedings independently

- However: where no address within state → in practice necessary to appoint a representative for service
- Where legal representation by attorney is mandatory for all parties (certain proceedings) — applies equally to foreign nationals
- Macedonian law treats foreign nationals the same as nationals in this respect

Procedural Consequences of Non-Compliance

- Court orders removal of the deficiency
- Appointment of a temporary representative in the event of continued non-compliance
- Submissions deemed irregular or rejected
- Adverse procedural consequences: expiration of time limits or loss of right to a legal remedy

Legal Aid: Availability and Conditions

Q Is legal aid available, and under what conditions?

Primary Legal Aid

Includes: basic legal information, legal advice, assistance with applications

Delivered by: authorised officials, civil society organisations, legal clinics

No nationality distinction — all persons with domicile/residence in N. Macedonia are eligible (Art. 5 Law on Free Legal Aid)

- Nationals of N. Macedonia with limited financial means
- Foreign nationals and stateless persons if: lawful residence in the state, OR right arises from an applicable international agreement
- Particularly vulnerable groups: victims of domestic violence, persons with disabilities, socially disadvantaged individuals

Secondary Legal Aid

Includes: legal representation by attorney + exemption from court costs

Granted by: formal decision of the Ministry of Justice

Subject to: financial + legal merit criteria (see below)

Conditions for Granting (Secondary) Aid

Financial criterion: income, assets, socio-economic status

Legal criterion: claim must have reasonable legal basis, not manifestly unfounded

Procedural interest: legal aid must be necessary for effective exercise or protection of rights

Interpreter Assistance: Obligation, Costs & Pleadings

Q Is there an obligation to provide interpreter assistance? Who bears the costs? May a foreign national submit pleadings in a foreign language?

- Clear legal obligation under the Law on Civil Procedure
- Court must inform the party or participant of their right to an interpreter
- Presiding/single judge must record in the minutes: (a) the court's instruction, and (b) the statement of the party or participant
- Applies to all participants, not only parties
- Both oral and written interpretation of all hearing statements must be provided

- Costs of translation and interpretation are borne by the court
- This is a state-funded obligation, not a burden on the foreign party
- Translation carried out by court-appointed translators
- Ensures financial accessibility for foreign litigants regardless of means

- Foreign nationals may submit pleadings in a foreign language
- However: as a rule, translation into Macedonian (language of proceedings) is required
- Any document drafted in a foreign language must be accompanied by a certified translation
- Foreign nationals entitled to use their own language at hearings
- Written translation of all evidence documents must also be provided

Practical Challenges in Interpretation

Q Are there any practical issues concerning quality of translations, delays, availability of interpreters, or admissibility of online/telephone interpretation?

Translation Quality

Despite a solid normative framework, the quality of translations in practice may be inconsistent. There is no centralised quality assurance mechanism, and the standard of court-appointed translators can vary significantly.

Procedural Delays

The need to arrange translation and interpretation introduces delays into proceedings. This can be particularly acute when translators are unavailable or when documents require urgent certified translation.

Availability of Interpreters

Availability is significantly constrained in smaller municipalities, where translation capacity for less common languages is limited. This creates geographic inequality in the effective exercise of language rights.

Digital Interpretation

Modern forms of interpretation (online, telephone) are insufficiently regulated. There are no clear statutory rules on their admissibility, creating legal uncertainty in practice.

Q Under what conditions may documents in a foreign language be admitted as evidence? How is a witness residing abroad and not speaking the language examined?

Foreign-Language Documents as Evidence

- A document in a foreign language may be admitted as evidence only if it is accompanied by a certified translation into Macedonian
- This requirement is absolute — no exceptions are provided
- Translation must be certified (i.e., performed or verified by a court-appointed translator)
- The requirement ensures the court and all parties can access and evaluate the evidence equally
- Failure to provide a certified translation will result in the document not being accepted as evidence

Witnesses Residing Abroad

- Governed by Articles 170–174 of the Law on Civil Procedure (international legal assistance)
- Domestic court submits a request to the competent foreign court
- Request and annexes must be in the language of the requested state, or accompanied by a certified translation (Art. 174 LCP)
- If witness does not understand the language of the proceedings: examined through a court-appointed interpreter (Art. 230(1) LCP)
- Right to an interpreter guaranteed by Art. 6 LCP
- The international legal assistance framework ensures the procedural rights of foreign witnesses are upheld

Q What constitutes an interesting and original legal solution in your system that could serve as inspiration for other jurisdictions?

★ Legal Clinics as Primary Legal Aid Providers

Unlike traditional models where legal clinics serve only an educational role, **North Macedonia has institutionalised legal clinics as an integral part of the primary legal aid system.** This creates a dual benefit: students receive practical training while vulnerable groups receive free legal assistance. The model creates a direct synergy between legal education and the public interest, and is cost-effective for the state. It may serve as a source of inspiration for other jurisdictions, particularly those developing efficient, low-cost mechanisms for enhancing access to justice.

- Art. 5 Law on Free Legal Aid: all persons with domicile or residence in the territory are entitled to primary legal aid
- No distinction based on nationality — a territorial rather than nationality-based approach
- Foreign nationals may access primary legal aid based on factual connection to the state
- Represents an important step toward universal access to basic legal guidance

Recommendation

Further statutory clarification is desirable to avoid ambiguities in practice regarding who exactly qualifies under the territorial approach. The current framework is progressive but would benefit from greater precision in application.

Key Takeaways

Equal Access

Formally guaranteed; practical barriers (linguistic, financial, procedural) exist but do not preclude access

Legal Capacity

Same as nationals — governed by PIL; N. Macedonia law applies where it grants broader capacity

Address & Service

Court appoints temp rep if party fails to designate address; proceedings continue uninterrupted

Security for Costs

Required on request; broad exemptions (reciprocity, asylum, employment, family, bills of exchange)

Legal Representative

No general obligation; procedural consequences for non-compliance with service requirements

Legal Aid

Available to foreign nationals: residency/international agreement + financial + legal merit criteria

Language Rights

State-funded interpreters required; certified translations mandatory; practical gaps in smaller areas

Evidence

Certified translation required for all foreign-language documents; witnesses abroad via intl. assistance

Innovation

Legal clinic model and territorial legal aid approach are exportable, cost-effective mechanisms