

Corporate Law in Slovakia

Everything you need to know to start your
business in Slovakia

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Introduction

This eBook provides all necessary information about corporate law in Slovakia. You should read this eBook before you start your business in Slovakia. You can find here information about all possible form of companies, about management also specialties of Slovak corporate law, practical information, information about the commercial register, etc.

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I hope this eBook will help you and provide you relevant information you are looking for.

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Forms of Companies

Civil partnership – with no legal capacity. The agreement is stated in Civil Code. It is just an agreement between two partners without creating a new legal person (company).

General commercial partnership or unlimited partnership – with legal capacity. At least two persons carry on business activity under a common commercial name and bear joint and several liability for the obligations (debts) of the partnership with all their property. A partner of a general commercial partnership can only be a natural person. No minimum capital required.

Kommandit company – Limited partnership - is an entity in which one or more partners are liable for the partnership's obligations up to the amount of the unpaid parts of their contributions as recorded in the Commercial Register ("komanditist" "limited partners"), and one or more partners are liable for the partnership's obligations (debts) with their entire property ("komplementar" "general partners"). Only the general partner(s) may manage the business of the partnership. A limited partner shall make a contribution to the partnership's registered capital in the amount specified in the partnership agreement, but such amount shall not be less than EUR 250. Profit shall be divided into a portion appertaining to the partnership as a whole and a portion appertaining to the general partners in the ratio stipulated in the partnership agreement, or else into two (equal) halves. The portion profit pertaining to the partnership as a whole shall be taxed and then distributed among the limited partners according to the ratio

specified in the partnership agreement, otherwise according to the ratio of their paid-up investment contributions.

Limited liability company - is an entity which registered capital is made up of its members' investment contributions and whose members are liable (as sureties) for the company's obligations up to their paid-up investment contributions are entered in the Commercial Register. Number of shareholders can be between 1 and 50. Company with sole shareholder cannot establish another company with sole shareholder. Natural person can be the only one shareholder in maximum of three companies. Minimum share capital is EUR 5000, but the minimum contribution for one shareholder is EUR 750.

Joint Stock Company (public limited company) –is a company whose registered capital is divided into a certain number of shares with a specific nominal value. The joint stock company can be private or public. Public Joint Stock Company issues stocks based on an IPO for shares subscription or the shares are dealt on stock market. IPO in Slovakia is very rare. Minimum share capital is EUR 25000. Sole owner of the joint stock company is registered in commercial register and can be identified by public. Multiple owners of a company can not be identified in commercial register but in the list of shareholders held by the depository.

Specialties of Slovak Company Law

Reserve Fund, such fund may only be used to the extent to which it is formed mandatorily under this Code, and only for the purpose of covering a company's loss, unless the law stipulates otherwise. A reserve fund is created mandatorily by a limited liability company or a joint stock company out of after-tax profit in the current accounting period ("net profit") or from other own sources apart from net profit, provided that this is not excluded by law. On incorporation of the company or on increasing its registered capital, a reserve fund may also be created from additional payments made by members (shareholders) over and above their contributions or the issue price of the company's shares.

Ltd - The reserve fund shall be created in an amount equal to **at least 5% of the net profit, but without exceeding 10% of the amount of the registered capital**. An amount determined in the articles of association or statutes of at least 5% of net profit shall be annually transferred to the reserve fund until it reaches the level stipulated in the deed of association or statutes, such level being equal to at least 10% of the registered capital.

Joint stock company - The Company shall create the reserve fund by the day of its formation in amount of 10% of registered capital. This fund shall be augmented annually by an amount specified on the statutes, but by no less than 10% of net profit, until the amount, of the reserve, fund fixed in the statute is reached, this being equal to at least 20 % of the registered capital.

Formation of Companies

In general: The formation of a company is a two step procedure

1. **Formation** – signature of articles of association and all other relevant documents between shareholders (partnership contract, association agreement...). The shareholders or directors can act on behalf of the company but they are responsible jointly and severally for the acting before the registration. If the AGM gives consent with this act in 3 months after registration, the company is bound by the act not the shareholders or directors.
2. **Registration:** the company becomes a legal person. Memorandum of association has to be in written form, the oral form is not valid.

The contribution- before the submission of a petition to the register court every contribution has to be paid in 30% together minimum 50% of minimum share capital, if there is sole shareholder 100% has to be paid. The contribution shall be paid fully within the five years period from establishing the company. If not the penalty rate is 20% p.a. and the shareholder can be excluded from the company. Contribution can be paid in cash or in kind. If it is paid in kind the contribution has to be fully paid before the registration of company. The shareholder is personal liable for the contribution in kind. The amount of the contribution in kind is estimated by expert opinion.

The term for registering the company is five business days. The court examines all the documents and the petition and gives the decision.

The fee for registering the Ltd. company is EUR 331,50.

The management

The member of the management can be only a natural person. There is no limitation of a director – it can be any natural person not only the shareholder.

The Commercial Code stipulates that all management is subject to prohibition of competitive conduct.

General partnership: each shareholder is entitled to act on behalf of the company.

Limited partnership: each komplementar - general partner is entitled to act on behalf of the company.

Ltd: Director can be only a natural person (do not have to be a shareholder) who shall not be considered to comply with integrity requirement if such a person was lawfully convicted for an economic criminal offence, criminal offence against property or other intentional criminal offence, whose merits (res gestae) are related to the line of his business, if he/she is not seen as if not being convicted.

Directors are appointed by the general meeting (AGM), by the articles or in subsequent appointment and can be removed also by the AGM without any given reason. Such a resolution has to be approved by more than half of the company's shareholders (simple

majority) in term of value. Directors may act on behalf of the company in all matters, subject to certain restrictions, such as the restriction not to exceed the type of business carried on by the company and not exceed any special limitations imposed on them by the articles. Such limitations will not be binding for third parties. If several directors are appointed, they represent the company either each of them separately or all together, or just two of them together – it depends on the stipulation in articles and the record in the commercial register.

Directors have a fiducially duty and the duty of care. Directors are responsible for damages to the company if they did violate their obligations. This will not apply if they execute the decision of AGM or if they act on behalf of the company bona fide.

Supervisory board is voluntary organ of the company with minimum three members. The supervisory board supervised the management. This means that in Slovakia you can choose if the company will have one tier board or two tier boards. Members of supervisory board are appointed and can be removed by AGM.

Joint stock company: all the same as the Ltd, with some exceptions: The directors and supervisory board can be appointed for maximum 5 years. The directors are appointed by AGM and can be removed without giving any special reason. The articles can declare that the members will be appointed by the supervisory board. The supervisory board has minimum 3 members. 1/3 of members is appointed by employees, if the company has more than 50 employees.

Two tier board systems are mandatory – there are directors and a supervisory board.

International matters

Incorporation theory is applied – There are several possibilities how a foreign company can conduct business in Slovakia.

Firstly the company can establish fully or partially owned company with the seat in Slovakia according to Slovak law (subsidiary).

Secondly the company can establish a branch (representative office) with has no legal capacity and act on behalf of the mother company but is registered in Commercial register of Slovakia and requires a seat in Slovak republic.

Foreign companies are treated the same way as Slovakian and have the same conditions for conducting business.

Company register

It is a public register operated by 8 district courts. All records into the register regarding new establishment and changes are validated by a court clerk. If the clerk has any objections to the petition and the petitioner provides further explanations the judge steps into the procedure.

The period for processing request is pretty short, currently 5 business days. Each petition has to be submitted on a predefined template with multiple relevant attachments.

All data recorded in the register are public. The data including the history of each company is available in the internet for free without any registration. The information available on the internet on the other hand is

not treated as legally binding but is very precise and reliable. There are several obligations for the company to periodically provide several documents to the public register like copy of the annual balance sheet, PL sheet, minutes of the annual general meeting, etc.

If the company does not fulfill the obligation to submit the copy of financial statement for the last accounting periods the court can cancel the company *ex officio*. The same can happen if there is no annual general meeting held or if the company does not fulfill its obligation to create or increase the reserve fund.

Here is the link for company register: www.orsr.sk – The register is also available in English.

About author

JUDr. Daniela Ježová, LL.M. is an attorney at law in Slovakia; she specialized in corporate law, company law, litigations and family law.



Her motto is: „*Fundamentum est iustitiae fides*”
Cicero.

Her law Office cooperates with other foreign law offices in Germany, Czech Republic, Poland, Romania and Great Britain.

Her law Office is flexible, professional, and dynamic in ability to meet the clients’ demands. She stays current on legal trends by lecturing at law schools and by attending international law conferences. Daniela publishes articles focused on European law in professional law journals.

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