

Establishing a company in Slovakia

AND WHAT YOU SHOULD NOT FORGET ABOUT THE TRANSITION TO EURO

Anyone contemplating whether to create a new company in Slovakia shouldn't worry. In light of the planned adoption of the euro from January 1, 2009, the conditions for establishing a company in Slovakia have become slightly easier to meet. For those who already have companies established in Slovakia, the second part of this article, concerning the obligatory conversion of a company's registered capital and shares to euros, may be of interest.

TYPE OF COMPANY AND PROCEDURE FOR SETTING IT UP

In general, a foreign investor may conduct business in Slovakia on a lasting basis only if it joins an already established Slovak company or creates its own company under Slovak law. The first decision to be made is the type of company that best suits the entrepreneur's



needs and goals. To conduct business, investors may choose from the following forms: branch, limited liability company, joint-stock company, limited liability partnership, unlimited partnership and cooperative, European company, European cooperative and European Economic Interest Grouping. A branch is usually preferred when the administration burden of having a separate legal entity in the other country is quite heavy according to group policy. Under Slovak law, formalities necessary for creating a branch are very similar to those for establishing a limited liability company. On the other hand, a branch does not have a separate legal capacity and any acts taken by the branch are taken on behalf of the mother company. From the other types of companies, a limited liability company and a joint stock company are

preferred. A joint stock company is used namely for joint venture transactions or projects that include external financing. A limited liability company is the most popular structure in Slovakia, in particular because of its simple structure and governance.

Personal questions also have to be taken into account, especially about who will perform the function of the statutory body. EU and OECD member state citizens do not require any residence permit to be registered as the statutory body of a company.

The procedure for setting up companies in Slovakia begins with drafting the establishing document (for an LLC this is the memorandum of association, for a JSC it is the articles of association with a founding deed). While in certain cases it may be difficult to change the essential characteristics once the company is established, the thorough drafting of establishing documents is recommended. The law states the minimum requirements of an establishing document.

However, detailed regulation of mutual relations between the founders of the company may prevent potential claims in the future. Once the establishing document is signed the company may apply for the permits required for its activities in Slovakia. In the majority of cases, licences for activities are issued by the Trade Licensing Office. For licences regarding specific activities, a company must apply to other authorities, for example, the National Bank of Slovakia or the Telecommunications Office. After obtaining licences the procedure for setting up a company continues with registration in the Commercial Register. Companies come into existence from the date on which they are incorporated into the Commercial Register maintained by the district courts. The Commercial Register incorporates a new legal entity within five working days of the submission of a complete and duly prepared application. Registration for income tax must be completed within 30 days of a company being registered in the Commercial Register. In general, VAT registration is facultative up to a certain turnover when the law imposes an obligation to register for VAT.

EURO ADOPTION

Establishing companies with registered capital in euros has been possible since 2007. Until December 31, 2008 the minimum registered capital for a limited liability company is either SKK 200,000 or €5,000. For a joint stock company



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the minimum registered capital is either SKK 1,000,000 or €25,000. From January 1, 2009, the registered capital and member shares in Slovak companies must be exclusively in euros. Consequently, for companies already established in Slovakia which have their registered capital in SKK, a new obligation has arisen in connection with euro adoption. The conversion of nominal values of registered capital and member shares from SKK to euros will not be done automatically by the Commercial Register, but only on the basis of an application filed by the respective company. The application to register the conversion of the nominal values of registered capital and shares to euros should follow the strict rules set by the legislation and must be filed by December 31, 2009 at the latest. However, during 2009, companies will not be able to register any other changes with the Commercial Register, unless they file the registration of the conversion together with these changes.

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