



Legal Alert

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Weinhold Legal

Changes in the Commercial Code and related legislation in 2020

On 21 November 2019 the Act No. 390/2019 Coll. was promulgated in the Collection of Laws of the Slovak Republic (further as the “**Amendment**“) amending and supplementing the Act No. 513/1991 Coll, the Commercial Code, as amended.

The Amendment will be effective as of 1 October 2020.

The Amendment focuses primarily on streamlining the process of liquidation of companies, yet introduces also several other changes, especially in relation to the commercial register.

Main changes with respect to the liquidation of companies

- ▶ The company's entry into liquidation and the appointment of the first liquidator will be effective **as of their registration with the Commercial Register.**
- ▶ Introduction of an advance payment for the liquidator's remuneration and expenses - **an advance payment for liquidation** which the company will be obliged to deposit with a notary before the liquidator is registered with the Commercial Register or before the liquidator is appointed by the court.

Pursuant to a draft decree of the Ministry of Justice of the Slovak Republic implementing certain provisions of the Commercial Code on liquidation, the advance payment for liquidation initiated by a court decision on liquidation of a company should be in the amount to EUR 1,500. The draft also provides

a flat-rate remuneration of the liquidator for individual acts.

- ▶ Upon the company's liquidation, the unilateral legal acts of the company, in particular its orders, authorizations, Powers of Attorney and proxy, **shall be automatically cancelled**, except for the Powers of Attorney granted by the company for representation of the company in court proceedings.
- ▶ Establishment of a **minimum liquidation period of six months** following notification of the company's entry into liquidation.
- ▶ **Information and publication obligations of the liquidator:**
 - (i) to prepare
 - basic list of registered claims,
 - basic list of propertyaccording to the status as of 45 days from the publication of the notification on the company's entry into liquidation,
 - (ii) deposit both lists into the Collection of Deeds within 30 days from their preparation.
- ▶ Introduction of an institute of **additional liquidation**, ordered by the court after the following conditions have been met:
 - property to be liquidated or subject to bankruptcy proceedings was discovered,
 - the application is submitted by a person who has proven a legal interest,
 - the application will be filed within 4 years from the company's deletion from the Commercial Register.

- ▶ Pursuant to the transitional provisions the liquidations in which the liquidator was registered with the Commercial Register before the Amendment comes into effect, i.e. by 30 September 2020, will be completed according to the wording of the Commercial Code effective until 30 September 2020. However this liquidator is also obliged to deposit into the Collection of Deeds no later than by 31 December 2020 a list of property which he is obliged to draw up according to the state of the property ascertained by 30 September 2020. If the liquidator does not deposit the list of the Company's property according to the Amendment to the Collection of Deeds by 31 December 2020, bankruptcy of the company is assumed.

Changes in connection with the Commercial Register

- ▶ Consent to the location of the registered seat of the company will require an **officially certified signature** of the owner of the property or of the majority co-owners of the property or a part of it.
- ▶ The following data **will not be registered** with the Commercial Register anymore:
 - entrepreneurs - natural persons nor
 - restrictions of the statutory body acting on behalf of the company.
- ▶ Application for registration of data with the Commercial Register:
 - will be submitted **solely via electronic means** in electronic form,
 - no verification of the applicant's and the principal's signature will be required in case of representation based on a Power of Attorney.

Other changes in company regulation

- ▶ A company in the period from its dissolution to entry into liquidation will also be considered as a company in crisis.
- ▶ **Shortening the period upon the lapse of which the company will be in delay with the deposit of individual financial statements into the Collection of Deeds** (the obligation of the company is to deposit the financial statements into the Collection of Deeds within nine months from

the date of its preparation) from at least two consecutive accounting periods to **more than six months** and thus will fulfil the statutory **condition for the company's winding up by the court.**

- ▶ The proceedings for winding up of the company even without motion will be governed by the Code of Civil Non-Dispute Procedure.
- ▶ **Prohibition of a person subject to an enforcement proceeding** from establishing a limited liability company, acquiring or transferring an ownership interest in a limited liability company or becoming an executive of a limited liability company.
- ▶ **Executives** of Slovak and foreign legal entities whose branch is concerned **are obliged to submit an application for registration, confirming the registered data of the branch of the Slovak and foreign legal entity in the Commercial Register or applying for registration of changes with the Commercial Register by 30 September 2021.** If they fail to do so, the Commercial Register will delete them.

This information in this bulletin is correct to the best of our knowledge and belief at the time of going to press. Specific advice should be sought, however, before investment and other decisions are made.

Nor should the information in this bulletin be considered an exhaustive description of the given matter and its possible ramifications. We also note that legal opinion varies regarding some of the issues raised in this bulletin due to ambiguities in the relevant provisions. Thus, it is possible that an interpretation other than the one presented here will prevail in future.

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