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NEWSLETTER SLOVAKIA

SETTING FOUNDATIONS

Issue:  
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## → Law

### Commercial Code Amendment

On 20 December 2022, Act No. 8/2023 Coll. amending Act No. 513/1991 Coll., the Commercial Code, as amended (hereinafter referred to as the "Commercial Code"), Act No. 161/2015 Coll. Civil Extra-Court Procedure Code as amended (hereinafter referred to as the "Civil Extra-Court Procedure Code"), Act No. 455/1991 Coll. on Trade Enterprise as amended (hereinafter referred to as the "Trade Licensing Act"), Act No. 530/2003 Coll. on the Commercial Register and on Amendments and Additions to Certain Acts, as amended (hereinafter referred to as the "Commercial Register Act") and Act No. 757/2004 Coll. on Courts and on Amendments and Additions to Certain Acts, as amended (hereinafter referred to as the "Courts Act") was adopted. In the following, we provide an overview of the most important changes brought by the amendment in question.

In a new provision of Section 110a, effective as from 1 February 2023, the Commercial Code introduced the possibility to establish a limited liability company in a simplified manner by means of a designated electronic form for the creation of a memorandum of association, which the Ministry will publish in the state language and in English on its website. It will also be possible to create a memorandum of association and submit a proposal for registration in the Commercial Register through an interactive guide on the website of the Ministry of Justice of the Slovak Republic.

Pursuant to paragraph 2 of the said provision, a limited liability company may be established in a simplified manner by means of a designated electronic form for the creation of a memorandum of association if the following conditions are cumulatively fulfilled:

- the company has no more than five members,
- the company is established for the purpose of doing business,
- the business purpose of the company are only selected activities corresponding to the list of free trades, which is listed in Annex No. 4a of the Trade Licensing Act (hereinafter referred to as "Annex No. 4a"),
- the company's business purpose does not consist of more than 15 selected activities corresponding to the list of free trades,
- the company's business name must include an appendix indicating the legal form 's. r. o.',
- the contributions of the members of the company shall be exclusively in cash,

- the administrator of the deposit is the managing director,
- the company has no supervisory board.

This is without prejudice to other conditions for the registration of a limited liability company in the Commercial Register under the Commercial Code or a special regulation.

The amendment to the Commercial Code similarly introduces the possibility to establish an enterprise or an organisational unit of an enterprise of a foreign legal person having its registered office in a Member State of the European Union or in a Contracting State to the Agreement on the European Economic Area in a simplified manner, provided that the following conditions are met:

- the enterprise or the organisational unit of an enterprise of a foreign legal person is established for the purpose of doing business,
- the business purpose of the enterprise or organisational unit of the enterprise of the foreign legal person are only selected activities corresponding to the list of free trades according to Annex 4a,
- the business purpose of the enterprise or organisational unit of the enterprise of the foreign legal person does not consist of more than 15 selected activities corresponding to the list of free trades according to Annex No 4a.

The competent registration court of a limited liability company established in a simplified manner by means of a designated electronic form for the creation of a memorandum of association and an enterprise of a foreign legal person or an organisational unit of a foreign legal person established in a simplified manner is the District Court in Žilina (the amendment has supplemented the provision of Sec. 279a of the Civil Extra-Court Procedure Code).

According to the amendment to the Trade Licensing Act, the trade licence for the operation of trades listed in Annex 4a shall be granted to a legal person which is established in a simplified manner and to a foreign legal person's enterprise or an organisational unit of a foreign legal person's enterprise which is established in a simplified manner and entered into the Commercial Register on the date of entry of the legal person, the enterprise of the foreign legal person or the organisational unit of the enterprise of the foreign legal person into the Commercial Register. In this case, the obligation to declare the

operation of a trade pursuant to Annex 4a shall be fulfilled by the registration court after the establishment of the legal person, the enterprise of the foreign legal person or the organisational unit of the enterprise of the foreign legal person. The Trade Licensing Office shall issue a trade licence certificate to a legal person which is established in a simplified manner and to an enterprise of a foreign legal person or an organisational unit of an enterprise of a foreign legal person which is established in a simplified manner and entered in the Commercial Register immediately after its entry in the Commercial Register has been effected.



Additional conditions for the registration of a limited liability company established in a simplified manner and the registration of an enterprise of a foreign legal person or an organizational unit of an enterprise of a foreign legal person established in a simplified manner are also introduced by the amendment to the Commercial Register Act in a new provision of Section 7a. According to this provision, prior to the registration of a limited liability company established in a simplified manner by means of a designated electronic form for the creation of a memorandum of association, the registration court shall verify, among other things, whether:

- the natural person who is proposed to be registered as the managing director of the company is legally competent, has reached the age of 18 years, has a clean criminal record and is registered in the register of natural persons,
- members of the company are only persons who have an account with a bank or a branch of a foreign bank having its registered office in a Member State of the European Union or in a Contracting State of the Agreement on the European Economic Area,
- the members of the company, who are natural persons, are not represented at the incorporation of the company,

- the members of the company who are legal persons act through a statutory body in the formation of the company.

Before registering the enterprise of a foreign legal person or an organizational unit of a foreign legal person established in a simplified manner, the court of registration shall verify, among other facts, whether the head of the enterprise of the foreign legal person or the head of the organizational unit of the enterprise of the foreign legal person is legally competent, has attained the age of 18 years, has a clean criminal record and is entered in the register of natural persons and the foreign legal person has an account with a bank or a branch of a foreign bank having its registered office in a Member State of the European Union or in one of the Contracting States to the Agreement on the European Economic Area.

Another important novelty is the exchange of information through the system of interconnection of registers (new Sections 10a to 10e of the Commercial Register Act). Within the framework of this regulation, the court of registration shall, even without a petition, carry out

- registration of data on an enterprise or on an organisational unit of an enterprise of a Slovak legal person, if a foreign commercial register or other register in which the enterprise or organisational unit of an enterprise of a Slovak legal person is registered or is obliged to deposit documents notifies through the system of interconnection of registers that the enterprise or organisational unit of an enterprise of a Slovak legal person has been registered in the foreign commercial register or other register,
- changes in the data on the foreign person's enterprise or data on the organisational unit of the foreign person's enterprise, if a foreign commercial register or other register in which the foreign person is registered or is obliged to deposit documents notifies through the system of interconnection of registers that the data on the registered foreign person have been changed, to the extent of the data on the business name, registered office, identification number of the foreign person assigned by the foreign commercial register or other register in which the foreign person is registered or required to deposit documents, legal form, statutory body or supervisory body, if established,
- deletion of a foreign person's business or an organisational unit of a foreign person's business if a foreign business register or other register in which the foreign person is registered or in which it is obliged to deposit documents notifies, through the system of interconnection

of registers, that the registered foreign legal person has been dissolved or deleted; this shall not apply if the termination or deletion of the foreign person from the foreign commercial register or other register in which the foreign person is entered or in which it is required to deposit documents is due to a change in the legal form of the foreign person concerned, a merger, amalgamation or division of the foreign person entered in the foreign commercial register or other register in which the foreign person is entered or in which the foreign person is required to deposit documents,

- deletion of an enterprise or an organisational branch of an enterprise of a Slovak legal person, if a foreign commercial register or other register in which the enterprise or organisational branch of an enterprise of a Slovak legal person is registered or in which it is obliged to deposit documents, notifies through the system of interconnection of registers that the registered enterprise or the organisational branch of an enterprise of a Slovak legal person has been dissolved or has been deleted.

Similarly, the registration court shall, without undue delay after making a change in the

entry of data in the Commercial Register for a registered Slovak legal person, notify, through the system of interconnection of registers, foreign commercial registers or other registers, in which the enterprise or organisational unit of the enterprise of the Slovak legal person is registered or in which it is obliged to deposit documents, that the registration data of the Slovak legal person have been changed, to the extent of the data on the business name, registered office, identification number of the legal form, statutory body or supervisory body, if established.

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