

REAL ESTATE INVESTMENTS IN THE SLOVAK REPUBLIC AFTER BREXIT

Q&A on legal issues that regularly arise in the course of real estate transactions after Brexit



1 Does Brexit mean obstacles to acquisition of real estate assets by British investors?

Acquisition of property (asset deals) by British citizens or companies will not be affected by Brexit. Slovak law imposes no restrictions on acquisition of real estate assets by British citizens or companies.

2 Will there be any obstacles for British citizens or companies acquiring shares in a Slovak company?

Similarly, to acquisition of real estate, Slovak law imposes no restrictions for British citizens or companies in establishing a new company or acquiring shares in an existing company. Incorporating a company or acquiring shares in a Slovak company needs to be registered with the Slovak Commercial Register. Stock acquisitions must be registered with the Central Depository.

3 What taxes are payable by British investors after Brexit?

There is no special tax on acquiring real estate (asset deal) in Slovakia. All owners of real estate must regularly pay real estate tax, irrespective of their nationality or place of incorporation. The seller may incur an obligation to pay profit tax as well as VAT when selling real estate or a company. In some cases the buyer may become liable by law for VAT payment together with the seller.

4 Will British investments in Slovakia be controlled in any way?

Currently, Slovak law does not deal specifically with control or restriction of investments by British citizens or companies in Slovakia.

5 Does Brexit restrict investment in real estate funds in Slovakia?

Slovak law on collective investments allows investments in real estate investment funds holding real estate (either directly or through shares in a real estate holding company). These investments are not restricted to EU citizens or companies incorporated within the EU. But note that certain tasks relating to investment fund business and administration are reserved for EU entities only and in any case a non-EU entity may be obliged to prove that it is governed by rules equivalent to EU legislation in its country of incorporation.

6 Will Brexit impact the use of documents issued in the UK for completing or registering a transaction with the Slovak authorities?

EU regulation simplifying formal requirements for presenting certain public documents in the EU – will not apply. So – as Slovakia and the UK are parties to the Hague Convention on Abolishing the Requirement of Legalization for Foreign Public Documents – official documents issued by courts, administrative authorities or notaries in one country (including official certification of signatures) will be recognized in a second country as long as the Hague apostille is attached to them.

7 Will the governing law on real estate investment transactions documents change after Brexit?

After Brexit the Rome I Regulation concerning choice of law for contracts no longer applies to the UK. This means that in the case of a court dispute the Slovak & UK courts will decide the governing law based on national conflict-of-law rules. However, the choice of applicable law will not affect aspects relating to transfer of title to real estate.

After Brexit the Brussels I Regulation concerning jurisdiction (what court will hear a case) and recognition and enforcement of judgements no longer applies to the UK. It is not clear whether the Hague Convention on Choice of Court Agreements will apply as the accession of the UK as a party in its own right was suspended in 2019. Recognition and enforcement of judgements is a matter of national law. A UK court judgment will have to be reviewed (recognized) by Slovak civil courts to be enforceable in Slovakia.

8 What legal regime now applies to posting of UK management/employees to Slovakia following real estate acquisition?

Postings of employees must follow the EU rules for free movement of services (the relevant EU directives are implemented in Slovak law). Under EU regulation no residency or work permit is necessary. During the transitional period (1 January – 31 December 2020), the situation for employees – and employers who post employees to the UK – does not in fact change from the situation before Brexit. Changes in mutual relations depend on any future agreement between UK and EU after the end of the transitional period

9 Will any further administrative or other obstacles arise in relation to completion and settlement of real estate transactions?

With real estate transactions, banks or other professionals will carry out anti-money-laundering (AML) checks under EU law. We do not expect any significant new obstacles or duties as a result of Brexit – so long as the UK retains an EU-compatible standard of AML rules.

An announcement has already confirmed that following Brexit, the UK will retain its access to the SEPA scheme. This means that electronic money transfers from the UK to Slovakia and vice versa may be processed under the same terms (time and administrative requirements) but may attract higher banking fees (EU rules limiting bank charges within the EU will no longer apply).

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