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Real Estate Transactions in Slovakia



INTRODUCTION

The real estate market in Slovakia was **fully liberalized in May 2014**, when the transition period negotiated between Slovakia and the European Union ended (European law requires EU member states not to restrict acquisitions of real property by nationals of other member states, however during EU accession negotiations the Slovak Republic negotiated from this rule the temporary exemption concerning agricultural and forest land).

In general, Slovak citizens, Slovak companies (also with foreign owners), foreign citizens and foreign companies are allowed to purchase and sell real estates in Slovakia, **however**:

- after the end of the above-mentioned transitional period (May 2014); from June 2014, a new set of rules is effective for acquiring an **agricultural** land which apply to **any purchaser** regardless of the residency or corporate seat (the details are described below),
- no new rules were introduced with respect of the transferee of forests; therefore, foreign nationals and companies are able to directly acquire forests in Slovakia.

All real estates located in Slovakia are registered in the **Real Estate Registry** and pursuant to the Cadastral Act, information registered in the Real Estate Registry is deemed reliable and binding unless the contrary is proved.

Real estate is evidenced on the respective Ownership Certificate, which includes following information: (i) information on real property; (ii) information on the owners and eventual co-ownership shares; and (iii) information on any encumbrances, pledges, easements and other rights of third persons to the real property.

The extract from **Ownership Certificate** may be obtained by everyone

- a) Against the payment of an administrative fee (in the amount of EUR 8); or
- b) On the website www.katasterportal.sk (available also in English language), free of charge, however this extract can not be used for legal acts. This online registry is updated on weekly basis.

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GENERAL INFORMATION ABOUT REAL ESTATE TRANSFER PROCESS

The acquisition of real estate in Slovakia requires two obligatory steps:

- I. execution of a written agreement,
- II. registration of the title in the Real Estate Registry.

I. Execution of a written agreement

The ownership of the real estate may be transferred by written **purchase agreement** concluded under the Slovak law. The demonstration of will to transfer the real estate of both the transferor and the transferee must be on the same document and the signature of the transferor shall be verified.

The purchase agreement can be drafted by either party and it does not need to be drafted by a public notary or certified attorney. The purchase agreement must include all the particulars required by the Civil Code and must also comply with the requirements of the Cadastral Act specifying more precisely its content.

The purchase agreement must be in Slovak language (or Czech language). Any other language version must be translated into Slovak by a certified translator, making it eligible to be registered in the Real Estate Registry.

Prior to the execution of the purchase agreement, the parties may conclude a **preliminary agreement** in which they undertake to enter a purchase agreement within the agreed time period. Based on the preliminary agreement, either party can sue for the performance of the purchase agreement if the other party breaches the obligation to enter in the purchase agreement.

II. Registration of the ownership title in the Real Estate Registry

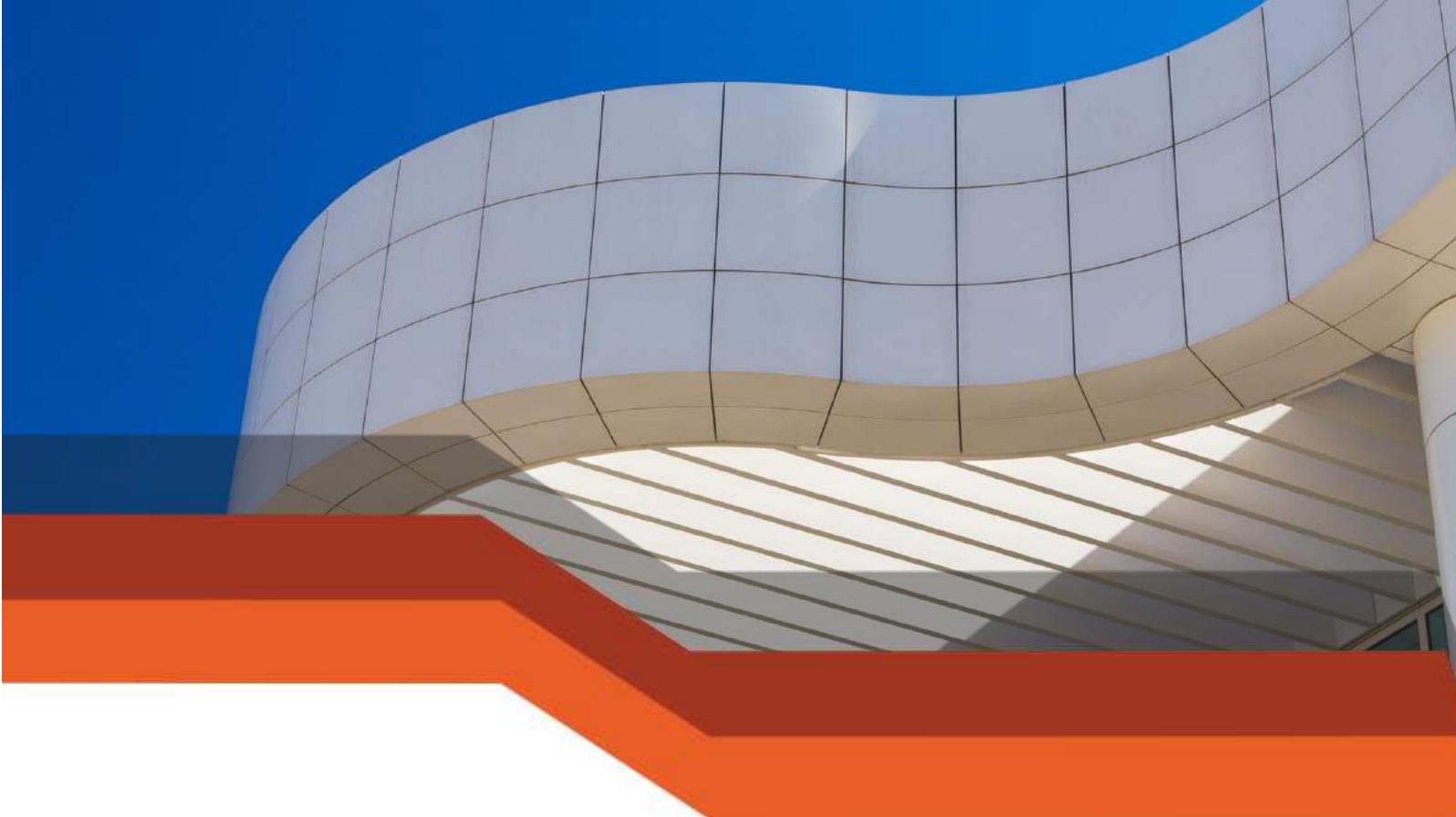
The title to real estate is acquired by the registration in the Real Estate Registry upon the Resolution of the competent Real Estate Administration.

The registration process starts by the submission of the Application to the respective Real Estate Administrator and should be completed by the Resolution of the Real Estate Administration.

USUAL SCENARIO OF THE REAL ESTATE TRANSACTION AND FEES

In line with the established practice

- I. Parties conclude a purchase agreement, the signature of the transferor shall be verified
- II. Parties regulate how the payment of the purchase price should be “secured” (from the signing of the agreement to the registration of the new ownership), for example:
 - Purchase price can be deposited in the notarial custody for the benefit of the transferor,
 - Purchase price can be deposited on escrow account administrated by a bank for the benefit of the transferor, and the purchase price will be paid to the transferor once the respective Resolution of the Real Estate Administration is issued.
- III. Application is submitted to the respective Real Estate Administration. The Administration decides on the Application for the registration of the ownership title within 30 days, the fee is in the amount of EUR 66. The parties of the agreement can apply for registration in accelerated proceedings, in this case the fee is in the amount of EUR 266 and the registration is completed within 15 days.



LIMITATIONS OF THE ACQUISITION OF THE REAL ESTATE

Transfer of an agricultural land only to specific transferee

The owner of the agricultural land may in general, without further restrictions, **directly** transfer the agricultural land only to (regardless the permanent residency or registered seat):

- a. An agricultural company or farmer, both of them performing agricultural activity for at least three years prior to the transfer in the municipality where the agricultural land is situated;
- b. An existing co-owner of the agricultural land; or
- c. persons related to the owner (in case that the owner is a natural person).

If the buyer does not fulfil any one of the conditions stated above, the seller must follow following procedure:

- owner of the agricultural land is obliged to publish an Offer, which shall inter alia include the requested price for transfer; in (i) Register of Publication of Offers kept by the Ministry of Agriculture and (ii) also on the Official Municipality Board in the municipality where the agricultural land is situated
- law requires the owner to transfer the agricultural land only to a buyer with permanent residency or a registered seat in Slovakia for at least 10 years prior to the transfer. In addition, the owner is obliged to give preference to interested buyers in the following order:
 1. buyer who is a farmer in the municipality where the agricultural land is situated for at least three years,
 2. buyer who is a farmer in a neighboring municipality for at least three years,
 3. buyer who is a farmer anywhere in Slovakia for at least three years,

4. any other buyer (of course meeting the condition of the residency or of the seat in Slovakia for at least 10 years,

always for a price that is not lower than the price published in the Offer.

The fulfilment of these conditions must be confirmed by the respective District Authority, otherwise the transfer will not be registered in the Real Estate Registry (and thus, the ownership will not be transferred).

Prohibition of tillage of land

It is prohibited to tillage the (i) agricultural land under the area smaller than 2 000 m² and (ii) forest land under the area smaller than 5 000 m².

REAL ESTATE TRANSFER TAXATION

The table below provides a brief overview of fees and taxation with respect to the real estate transfer in Slovakia.

Taxation	Seller		Buyer	
	Individual	Company	Individual	Company
Real estate transfer tax	As from 1 January 2005 a real estate transfer tax is not levied in Slovakia.			
Real estate tax	<p>Real estate tax is levied on Slovak property, which comprises land, buildings and flats (apartments). In all cases, the tax liability arises on 1 January of the year following the year in which the property is acquired and ends on 31 December of the year in which the ownership ends.</p> <p>The general rate of the land tax is 0.25% of the value. The general rate of the building tax and the apartment tax is EUR 0.033 per m². The municipalities may increase or decrease these rates in accordance with the local conditions.</p>			
Value added tax	<p>The delivery (sale) of construction or a part thereof in Slovakia, including the supply of building land, on which the structure is constructed, VAT is exempt by a taxable person if the delivery is carried out after laps of five years from the first use of the building. The VAT registered person may opt to charge the VAT. The seller is only entitled to a full input VAT deduction for services received related to the acquisition of real estate and the acquisition costs when the sale is subject to VAT. If input VAT was deducted, a VAT-exempt sale within 20 years leads to a pro-rata reversal of input VAT deduction.</p> <p>Supply of land except for supply of building land by a taxable person is tax exempt. As long as the building land is supplied along with the construction, the above-mentioned rules applies.</p>			

Taxation	Seller		Buyer	
	Individual	Company	Individual	Company
Income tax	<p>Tax residents are subject to Slovak personal income tax on their worldwide income, including income from real estate.</p> <p>If real estate qualifies the activity as business income, capital gains from selling the real estate would be fully taxable. If the activity is not qualified as a business activity, the sale of real estate within a period of 5 years is taxable.</p> <p>The tax base is the difference between sales price and acquisition costs (note: a loss cannot be claimed). A sale after expiration of the five-year holding period is not taxable.</p> <p>The 19% or, as the case may be, the 25% tax rate applies. For non-residents, income from transactions concerning domestic real estate is considered to be a Slovak sourced income and thus, they have to file tax returns.</p> <p>The 19% or, as the case may be, the 25% tax rate applies.</p>	<p>Tax resident company is subject to Slovak corporate income tax on its worldwide income, including income from real estate.</p> <p>The income of corporations is to be regarded as business income in any case, regardless of the nature of the income (e.g. income from real estate).</p> <p>Capital gains from selling the real estates are taxable. The 21% flat tax rate applies. The loss upon a sale of some buildings and land cannot be claimed.</p> <p>For non-residents, income from transactions concerning domestic real estate is considered to be a Slovak sourced income and thus, they have to file tax returns. The 21% tax rate applies.</p>	<p>Upon payment of purchase price for the Slovak real estate, generally no withholding tax applies. Some exceptions may apply if the recipient of the income is a foreign person from other than EU Member State or from outside the EEA.</p> <p>If the purchased real estate will become part of the business assets, the acquisition costs must be generally capitalized and for buildings such acquisition costs can be according to the Slovak Income Tax Act depreciated over the period of 20 or 40 years (20 years period applies e.g. for industrial buildings, 40 years' period applies e.g. for administrative buildings, hotels). Land plots are not depreciable.</p> <p>Similar rules applies for non-residents as for tax residents.</p>	<p>Upon payment of purchase price for Slovak real estate, generally no withholding tax applies. Some exceptions may apply if the recipient of the income is a foreign person from other than EU Member State or from outside the EEA.</p> <p>The acquisition costs must be generally capitalized and for buildings such acquisition costs can be according to the Slovak Income Tax Act depreciated over the period of 20 or 40 years (20 years period applies e.g. for industrial buildings, 40 years' period applies e.g. for administrative buildings, hotels). Land plots are not depreciable.</p> <p>Similar rules applies for non-residents as for tax residents..</p>



OTHER ASPECTS

Specificity

- I. Ownership of a land does not include ownership of a building located on it.

Slovak law does not recognize the principle according to which the ownership of a land includes the ownership of a building located on it. Consequently, the owner of a land may be different from the owners of the buildings on it.

- II. Due diligence

The real property ownership is registered in the Real Estate Registry. A Resolution of the respective Real Estate Administration approving an entry in the Real Estate Registry and the registration of the transfer in the Real Estate Registry may not be considered as a guarantee that the ownership title was validly transferred, as there are several circumstances under which the transfer was in compliance with law.



Legislation

- The Act No. 40/1964 Coll., Civil Code, as amended
- The Act No. 162/1995 Coll. on the real estate cadaster and entering of ownership and other rights to real estates, as amended (Cadastral Act)
- The Act No. 140/2014 Coll. on acquiring the ownership of agricultural land, as amended
- The Act no.180/1995 Coll. on some measures for land ownership arrangements, as amended

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Author



Karol Ďuriga

Senior Associate

Karol.Duriga@accace.com

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Contact us!

E-mail: slovakia@accace.com | Tel.: + 421 232 553 000

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