



Daňovky

**Tax and Legal
news**

**Legal
World news
In brief**

**Tax and Legal News |
May 2022**

Changes brought by the new Building act

The Construction Act and the Spatial Planning Act, which were approved almost five decades after the adoption of the original legislation, will enter into force in 2024. The aim of the new legislation is to eliminate the shortcomings of existing legislation and consider the current needs of society. The result should be simplification and acceleration of construction permits, digitization, but also stricter sanctions against unauthorized constructions.



Milina Schifferdeckerová
mschifferdeckerova@kpmg.sk
+421 907 745 045



Lenka Miklóssyová
kpmg@kpmg.sk
+421 2 5998 4111

1. Selection of changes brought by the Construction Act:

The aim of the new legislation in the field of construction is the professionalization of the state administration in the field of construction, reducing the administrative burden of construction-related activities, simplifying, and accelerating the process of building permits, its electronification and digitization of data related to spatial planning and construction.

- **Transfer of competencies:**

One of the main changes in the new legislation is the transfer of competencies performed within construction proceedings by municipalities within the transferred performance of state administration back to the state. Part of this change is the establishment of a central state administration body, namely the Office for Spatial Planning and Construction of the Slovak Republic (hereinafter the "Office for Spatial Planning and Construction"), which will act through subordinate authorities with limited territorial competence. The competence of the existing authorities (municipalities) will therefore be transferred to the regional offices of the newly established Office for Spatial Planning and Construction.

The competencies of the existing special construction offices are maintained, except for specialized construction offices in the field of construction of motorways, railways, and airports.

- **Simplification of construction permitting:**

The intention of the new legislation is to significantly speed up the entire process of granting construction permits, as according to the authors of the law, this process currently takes an average of up to 300 days. Based on the proposed changes, it is assumed that the issuance of a construction permit after the effectiveness of the new act will be possible within 40 working days. However, the question of whether such a presumption can be fulfilled will only be answered in practice.

The multi-stage construction procedure will be abolished, the territorial and construction procedure, and the procedure for environmental impact assessment (if applicable) will be replaced by one decision - **the decision on the construction plan**. The decision on the construction plan will also represent a verification of the construction project, i.e., it will allow the builder to start the construction process straight away.

The possibility of **notification**, and thus gaining a simplified construction permit, for certain categories of construction works **remains**. Subject to notification will be minor construction or minor construction work. This simple procedure, where the builder only has to prove the compliance with the conditions of the construction site, will be completed by the issuance of a confirmation of the construction notification by the competent authority.

- **Electronization of the proceedings and digitization of data:**

The process of gaining construction permits should also be simplified and accelerated thanks to **electronization, the introduction of an information system** and the growing importance of designers who can apply for construction permits

for the builder instead of the builder. In particular, the designer will be obliged to prepare a design of the construction plan on the basis of the builder's instructions in accordance with the basic requirements for constructions. The designer will carry out the elaboration of the design of the construction plan on the basis of a **contractual relationship with the builder**. The builder or the designer authorized by him is then obliged to upload the prepared construction plan with the relevant documentation in the **Urbion** information system, which will **automatically assess it and publish it for the interested parties for comment**.

The issuance of the decision will be preceded by a discussion of the draft construction plan with all relevant state administration bodies, affected legal entities, the municipality in whose territory the building is to be built and the owners of neighboring buildings and land. All proceedings under the Construction Act will be conducted **electronically in the information system**.

The so-called "*once and for all*" benefit will be introduced, which means that if the state already has some information about a particular citizen, it will not need to be resubmitted.

- **Unauthorized buildings:**

Unauthorized buildings will be **sanctioned more severely**. According to the authors of the law, the reason for the existence of numerous unauthorized buildings are **confusing and long-lasting processes**, when it is "easier" for the builder to build an unauthorized building and then apply for an additional permit, as there's almost no risk of rejecting the application for an additional permit. The current sanctions for breaches of construction legislation also appear to be insufficient.

The new legislation therefore contains a significant tightening of the processes of "permitting" unauthorized buildings, when it will no longer be possible to **apply for an additional construction permit** and the building authority will order the removal of a construction or part thereof, alterations to the construction or building modification carried out by unauthorized construction works. If the owner of the building or the operator of the building does not remove the building within the period specified by the building authority, the building authority will ensure the enforcement of the decision. In the case of unauthorized construction works, in addition to imposing fines, the building authority shall order the owner of the technical infrastructure to **disconnect the building from the water supply and electricity supply**. Enforcement of the building authority's order will be carried out by an organization authorized for construction work on the basis of a contract with the building authority and the costs of removing the building and removing construction waste will be **paid by the construction office**, which will then recover these costs from the owner of the removed building.

Sanctions for breaches of construction legislation have been expanded and increased and powers in the area of **state construction supervision** should also be strengthened. The institute of **forfeiture of the building into state ownership** is also being introduced. In the event of a breach of the law, it will be possible to penalize not only the builder or the contractor, but also the persons authorized to perform construction supervision or the construction manager.

However, these rules apply to unauthorized buildings in the future, i.e., proceedings initiated after the new legislation will come into force. The problem of unauthorized buildings already built should be solved by a specific process - by **reviewing the suitability of an unauthorized construction for operation**, during which the builder will have the opportunity to prove that if the previously constructed unauthorized construction is not contrary to the public interest, or private interest (if it is not built on foreign land) and meets other conditions set by law, such construction can be **additionally legalized**.

- **Effectiveness:**

After some remarks, there was also an annual shift in the **effectiveness** of the Construction Act, which was originally scheduled for 1 January 2023. The Construction Act is to enter into force on **1 April 2024**. Proceedings initiated at building authorities pursuant to existing regulations, which will not be validly completed by a decision in the matter by 31 March 2024, shall be completed at the construction office **pursuant to law effective until 31 March 2024**.

2. Selection of changes brought by the Spatial Planning Act:

According to the submitters, the new Act on Spatial Planning is intended to strengthen research in the field of spatial planning and transfer research results into the principles of spatial planning, professionalize the state administration and

reduce the administrative burden in spatial planning activities.

- **Transfer of competencies:**

The Spatial Planning Act also regulates the competencies for the newly established Office for Spatial Planning and Construction in the area of spatial planning. Its main task will be to procure the **Concept of Spatial Development of Slovak republic** and to act as a **coordinator of a unified procedure and processes of spatial planning through methodological guidelines**.

The existing levels of individual spatial planning documentation are preserved, and a new type of spatial planning documentation is added - **the spatial plan of the micro-region**. The zoning plan of the micro-region will be approved by the self-governing region together with a generally binding regulation declaring its binding part. The capital Bratislava and the city of Košice will have a special regime in the form of a **metropolitan zoning plan** with a special methodology.

- **Electronization:**

The new legislation is intended to bring new **electronic spatial planning processes** in a unified methodology and in a unified Urbion **spatial planning and construction information system**, which will store and publish relevant data and information. The public part of the information system should contain spatial planning documentation, information on the territory provided by spatial planning authorities for publication, decisions and binding opinions of spatial planning authorities and selected data about decisions and measures of construction offices. Based on the relevant authorizations, the information system will be **accessible to all participants in spatial planning and construction proceedings** and will provide the necessary services for the individual phases of spatial planning, construction, and operation of buildings.

The spatial planning process is to be significantly simplified, for example by harmonizing the proceedings with environmental impact assessment processes. The detailed regulation of each procedure will depend on the type of required spatial planning documentation and the requirements imposed on it, which will be regulated by an implementing regulation.

- **Zoning plans:**

According to the authors of the law, spatial planning should become a basic procedure, where with the help of a **uniform methodology and uniform principles of spatial planning**, the competence is given to municipalities and cities to plan development in their own territory. The aim is to create a unified structure of spatial plans throughout the Slovak Republic. The new law also responds to practical problems by introducing a **conceptual approach**, while it pursues the goal of making the valid spatial planning documentation a **relatively stable binding document**. It thus seeks to eliminate cases where spatial planning authorities procure even minor changes separately, several times a year, while in some cases such processes overlap, and the overall result is not uniform. In the new law, the submitter seeks to eliminate this negative practice by introducing more detailed conditions for the preparation of individual spatial planning documentation and more strictly regulated possibilities for their changes.

- **Effectiveness:**

As with the Construction Act, the Spatial Planning Act will enter into force on **1 April 2024**. The spatial planning documentation approved by 31 March 2024 will be obligatory **replaced by the spatial planning documentation** created in accordance with the Spatial Planning Act by **31 March 2032**, otherwise it will expire on the following day.

Expected changes to the Labour Code related with transposition of EU Directives from 1 August 2022

Here you will find a brief overview of the newly adopted provisions of the Directives of the European Parliament and of the Council (EU) in the field of labour law.



Milina Schifferdeckerová
mschifferdeckerova@kpmg.sk
+421 907 745 045



Andrej Žabka
kpmg@kpmg.sk
+421 3 5998 4111

More extensive changes to Act No. 311/2001 Coll., the Labour Code, as amended (the hereinafter referred to as the "Labour Code") can be expected with effect as of

1 August 2022. These changes reflect the newly adopted Directives of the European Parliament and of the Council (EU), namely (i) Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union (hereinafter referred to as the "Directive (EU) 2019/1152"); and (ii) Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (hereinafter referred to as the "Directive (EU) 2019/1158") (Directive (EU) 2019/1152 and Directive (EU) 2019/1158 hereinafter collectively referred to as the "Directives").

The aim of the Directives is to improve working conditions by promoting more transparent and predictable employment, while at the same time ensuring labour market adaptability and facilitating work-life balance for employees who are parents or have caring responsibilities (**work-life balance**).

Several provisions enshrined in the Directives are already included to a certain extent in the current legislation of the Labour Code or in other labour law regulations.

The proposal for a law amending the Labour Code and other labour law regulations in connection with the transposition of the Directives (hereinafter referred to as the "Amendment") was approved by the Government of the Slovak Republic on 26 May 2022 (with comments). The Parliament itself will decide on the approval of the Amendment.

Below is an overview of the most important changes regulated by the Directives themselves, which have not yet been transposed in our legal order:

(i) the possibility of transfer to another form of employment: an employee whose probationary period (if agreed in the employment contract) has ended and who has worked for at least six months for the same employer shall have the right to ask the employer for a form of employment with more predictable and secure working conditions (e.g. a request for a change from a fixed-term to an indefinite period); the employer is at the same time obliged to reply in writing to such an employee and must duly justify its decision (however, the employer does not have to comply with the employee's request);

(ii) the form in which the information is provided: where information is provided to an employee, it should be permissible, in addition to providing the information in paper form, to provide the information in electronic form, provided that the employee has access to the electronic form of the information, can save and print it, and the employer keeps a record of the sending or receipt of such information in electronic form;

(iii) probationary period: in the case of fixed-term employment relationships, the agreed probationary period may not be longer than half of the agreed duration of the employment relationship (the length of the probationary period should thus be proportionate to the expected duration of the employment relationship);

(iv) parallel employment: an employer may not prohibit an employee from commencing employment with another employer outside the hours of work determined by that employer, nor disadvantage him in any way because of that;

(v) information on working conditions and terms and conditions of employment:

- the employer is obliged to provide the employee no later than within seven days of the commencement of the employment relationship with information on:

- the method of determining the place of work or the designation of the main place of work if several places of work are agreed in the employment contract;
- the length of the employee's standard working day or week and any rules regarding overtime and overtime pay, and rules regarding shift change when the work schedule is fully or substantially predictable; and
- salary due and salary payment, including payment dates (according to the legislation currently in force, this obligation should be fulfilled by the employer within one month from the beginning of the employment relationship, i.e. Directive (EU) 2019/1152 will shorten the deadline for providing this information);

- the employer will also have to provide the employee with new, additional information that previously did not have to be provided to the employee, namely information on the time limit for filing an action for a declaration that the termination of the employment relationship is invalid and information on the right to training provided by the employer.

The employer is obliged to provide this information no later than one month from the date of commencement of employment.

(vi) the institute of paternity leave: on the occasion of the birth of a child, the male employee (the father of the child) is to be entitled to paternity leave of 10 working days (we already know this institute to a certain extent in our legislation, namely in Section 166 para. 1 of the Labour Code, which refers to male parental leave, and thus Directive (EU) 2019/1158 only renames the already known in Slovakia male parental leave to paternity leave).

The Slovak Republic, as an EU Member State, is obliged to bring into force the laws and regulations necessary to comply with Directive (EU) 2019/1152 **by 1 August 2022** and to comply with Directive (EU) 2019/1158 **by 2 August 2022**.

After the National Council of the Slovak Republic approves the Amendment, or after the Amendment is published in the Collection of Laws of the Slovak Republic, we will present to you in more detail the individual changes to the Labour Code or other labour law regulations.

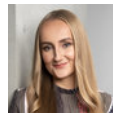
Update on the progress of the global minimum tax

A new international tax agreement on minimum taxation for multinational groups has been delayed until 2024. Implementation deadline which was originally intended in 2023 was slowed down by the discussion on ironing out technical details. France, as the current presidency, is trying to reach the unanimous support of all EU Member States. This article provides a summary of recent developments on the international level.



Marianna Dávidová

mdavidova@kpmg.sk
+421 907 745 029



Soňa Vojteková

kpmg@kpmg.sk
+421 2 5998 4111

We keep you informed about the changes on international tax rules within [series of our Articles](#).

Current status of Development and Implementation of Minimum Tax Directive EU

October 2021

Following years of intensive negotiations, the OECD/G20 Inclusive Framework has agreed in October 2021 the tax treaty, which consists of two pillars:

- Pillar One applies to all multinationals with a **global annual turnover above EUR 20 billion and profitability above 10%**, pay taxes in the countries where sales are made.
- Pillar Two sets to tax companies with an **annual turnover of more than EUR 750 million with a minimum rate of 15 %**.

December 2021

On 22 December 2021, the European Commission published [a proposed EU Directive](#) to implement the Pillar Two rules into EU law. Further to the publication of the OECD on „**Global Anti-Rase Erosion Model Rules**“ provides jurisdictions with detailed guidance, which is based on the two rules - **Income Inclusion Rule („IIR“)** and **Undertaxed Payment Rule („UTPR“)**.

March 2022

On 14 March 2022, the OECD released the **Commentary to the Model GloBE rules under Pillar 2 including a separate document with illustrative examples** to better understand the mechanics. They also launched a public consultation on the GloBE Implementation Framework. The OECD received over 500 pages of comments.

Ahead of the meeting, on 15 March 2022 the Council published a [compromise text for an EU Minimum Tax Directive](#) on which the finance ministers were invited to adopt following key changes:

- implementation timeline – postponement of the transposition deadline for the rules into domestic law within 31 December 2023 and IIR deferral until 31 December 2023 and UTPR deferral until 31 December 2024
- application of the GloBE rules in the case of smaller number of ultimate parent entities („UPEs“) – only Member States where no more than ten UPEs of in-scope MNE groups are located may therefore decide to not apply the Directive for five years
- parallel link between Pillar One and Pillar Two

However, four Member States (Poland, Sweden, Malta and Estonia) did not agree with the adoption of the Directive at this stage. Discussion continued at the next ECOFIN meeting.

April 2022

It was expected that EU Member States reach an agreement on the compromise text at ECOFIN meeting on 5 April 2022 taking into consideration the objections of Poland (Sweden, Estonia and Malta supported amendments).

New compromise text extends the application period of the deferral to **six years** from five and increases the maximum number of ultimate parent entities to **twelve** from ten. The proposed rules have again failed to approve.

May 2022

EU Finance Ministers express broad support for unanimously adopting the compromise text for Pillar Two Directive, but Poland's acceptance is essential for the deal to proceed. Accordingly, the EU Minimum Tax Directive was initially added to the agenda for the ECOFIN meeting on 24 May 2022, but it was removed at the last minute. There are still Poland's concerns in context of aligning the work and timelines of both pillars. Final conclusion could be reached at the next meeting of ministers on **17 June 2022**.

To date, the European Commission has only produced a proposal on Pillar 2. This is primarily because the details of Pillar 1 are still being negotiated at the OECD level. A proposal to implement Pillar 1 is expected in the summer 2022.

We will keep you informed on further update of the Global Minimum Taxation proceeding.

Tax Authorities inform about the cancellation of duplicate user accounts

The Slovak Financial Administration Portal ("FAP") checks taxpayers' ID accounts for electronic communication. They will draw attention to the long-term unused login credentials in advance and help taxpayers to avoid potential complications in meeting their tax obligations. The goal of Financial Administration is to effectively remove approximately 15,000 user accounts that are created in duplicate.



Daňové a právne oddelenie

kpmg@kpmg.sk

+421 2 5998 4111

The Financial Administration has issued a press release on the simplification and clarification the access to its portal. Removal of the duplicate accounts is related to user access **that have not been used since 1 January 2020**. The notification will be sent automatically via softwarning, no further action from taxpayers is required in this respect.

There are two ways to cancel the account:

- **according to the last login,**
- **the account with the lowest value of the login name number.**

The users will receive information which of the accounts will be retained and that will continue to be used for electronic communication with financial administration. At the same time, taxpayers have nothing to worry about - removal of these accounts will not affect their Power of Attorney or other authorizations to entities, or the filing and signing of documents.

[LinkedIn](#) | [YouTube](#) | [Facebook](#) | [Instagram](#)

www.kpmg.sk

Tel.: +421 2 59984 111

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2024 KPMG Slovensko Advisory, k.s., a Slovak limited partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.