

MANDATORY ELECTRONIC MAILBOXES FOR LEGAL ENTITIES

As of 1 August 2016, the Slovak Republic instituted the mandatory use of electronic mailboxes (accounts) (hereinafter the "emails") for legal entities. The obligation was introduced by Act No. 305/2013 Coll., on e-Government as amended (hereinafter the "Act on e-Government"), whereby the respective state authority was obliged to activate the emails by 1 August 2016. Even if the office of the Deputy Prime Minister for Investments and Informatization issued the instruction concerning the activation process providing some temporary comfort (hereinafter the "Instruction"), there would be no legal force in the Instruction and it would not have to be followed by the respective authorities. Therefore, it is highly recommended that the activation be initiated as soon as possible as clarified below.

WHY?

The general aim of mandatory emails is to replace traditional written communication with public authorities and stands as an alternative to the filings being delivered in paper form. It also facilitates the official delivery of documents of any kind to/from public authorities, substituting postal delivery. On the one hand, this form can speed up communication (and ideally, later, one application could initiate/replace an administrative process that formerly involved several authorities). On the other hand, the entity is obliged regularly and conscientiously to check its emails in order not to miss any deadline.

WHO?

The email is established by virtue of law and is free of charge. The email is mandatorily established and activated for all legal entities (including the branch offices of foreign entities) registered in the Commercial Register of the Slovak Republic. Natural persons (even if entrepreneurs) may activate the emails voluntarily.

According to the Instruction, during the transitional period between 1 August 2016 and 1 January 2017, public authorities may deliver documentation electronically to the emails solely after the time of first access to the email by the person entitled thereto on behalf of the entity. However, this additional transitional period is not envisaged in law and therefore, delivery (even to the inactivated email) could be deemed legally effective.

Access to the emails is automatically enabled for the statutory bodies of the legal entity. Certain open issues are still pending in this respect, e.g. how it will be set up if two persons are obliged to act jointly on behalf of the legal entity or if the legal entity is represented by a third person (e.g. trustee in case of the bankruptcy proceeding) etc.

HOW?

At the moment, the emails can be accessed only by Slovak citizens holding a personal identification card (ID) with an electronic chip and a personal security code (the so-called BOK code).

In case of foreign nationals (acting as statutory bodies for legal entities), the emails can be accessed by any holder of a residence card with an electronic chip and the BOK code. Any other foreign nationals are forced to authorise a third person, as the accessibility of emails is connected only with the possession of an ID or a residence card and the chip and the BOK code; in this case the written authorisation (there is a special form for this) must be filed with the Government Office of the Slovak Republic. It is expected that the alternative authenticator will exist in future for foreign nationals, but no laws have been adopted in this respect so far.

DO I HAVE TO USE MY EMAIL?

The Act on e-Government neither imposes an obligation on any subject to use its email, nor provides any specific sanctions. However, if a public authority delivers its official decision via email and the delivery is not subject to any active action (e.g. confirmation of reception), the delivery will be considered effective regardless of whether the entity was aware of the delivery or not – missing an important deadline shall be a punishment as such for not using the email. It is also recommended that the certified signature together with the BOK code be obtained, as it is also free of charge and can take the place of the filings when the "real" signature is otherwise required.

HOW DOES IT WORK?

The email can be accessed on www.slovensko.sk. Apart from the ID or the residence card, a mechanical card reader (obtained from the police free of charge) and the appropriate software (easily downloadable for free on <https://www.slovensko.sk/sk/nastiahnutie>) are necessary to log in successfully.

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