Real Estate CEE - Comparative Guide

Lease Agreements

(For Czech Republic, Hungary, Romania, Slovakia)

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HORIZONS ALLIANCE

INTRODUCTION

Understanding the legal frameworks governing real estate across Central and Eastern Europe can be complex. Lease requirements, from written documentation to the specifics of lease terms, differ widely between countries.

Our *CEE Comparative Guide on Lease Agreements* provides a concise and accessible summary of these regulations in key countries, including the Czech Republic, Hungary, Romania, and Slovakia. This side-by-side comparison is a practical tool for businesses and individuals alike, supporting well-informed choices in real estate ventures throughout these jurisdictions.

We encourage you to consult this guide for a comprehensive insight, equipping you to navigate leasing rules confidently across CEE countries.

Sincerely,

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COMPARATIVE GUIDE – LEASE AGREEMENT SUMMARY

A lease agreement can greatly influence a company's operations and activities, as it defines the primary rights and responsibilities of both parties. Non-residential (or commercial) lease agreements are prevalent across various sectors and regions, though they are governed by differing legal standards and practices. Our Horizons Alliance Real Estate team has developed a guide comparing lease regulations in four countries: Czech Republic, Hungary, Romania, and Slovakia. This report provides a comparative summary of general lease regulations, followed by specific rules for non-residential lease agreements.

Below, a chart highlights notable aspects, illustrating both similarities and differences in the regulations across these four countries.

Czech Republic		Hungary	Romania	Slovakia
Is written form obligatory?	x (can be made verbally)	✓	x (except a few cases)	✓
Is energy performance certificate necessary?	✓	✓	✓	✓ (except for industrial halls/plants and warehouses, where energy certificate is not required)
Any special rules regarding the lease term?	• longer than 10 years: leases might be terminated by the court after 10 years under some conditions, • longer than 50 years: leases after 50 years are supposed to be for an indefinite period of time (these rules might be and regularly are excluded in the lease agreements)	x	maximum lease period: 49 years (and 5 years if the lessor is a person with limited legal capacity)	x

COMPARATIVE GUIDE – LEASE AGREEMENT SUMMARY

Czech Republic		Hungary	Romania	Slovakia
Any special (mandatory) rules?	x	• rules set by the Housing Act (e.g. condition of the premises, right to supervise) • Agricultural Land Act (regarding the use of agricultural and forestry areas, under certain title)	• public properties with the state or municipality • agricultural land • condition • pre-emption right	• non-residential premises • agricultural land • state-owned properties
Registration of the agreement with the territorial tax authorities?	x	x	✓	X

CZECH REPUBLIC

GENERAL OVERVIEW

Lease agreements, including leases of non-residential premises (premises used for business), are in the Czech Republic regulated by the Act No. 89/2012 Coll., Civil Code, as amended ("**Civil Code**").

In general, most of the statutory provisions relevant for lease agreement and for leases in general are dispositive, which means that the parties to the agreement may agree on different rules. The only exception is a cogent regulation of residential leases where the Civil Code protects the tenant. Therefore, when negotiating a lease agreement for non-residential premises, the parties are limited only by considerations of good morals and public order, which gives the parties a great deal of contractual freedom.

A typical lease agreement for non-residential premises regulates standard matters, such as precise identification of the leased premises (including possible expansion), lease term (including possible extension or break option), rent amount (including indexation), service charges, security deposit, maintenance obligations, adjustments of the premises by the tenant, termination etc.

A triple-net lease is a standard.

CZECH REPUBLIC

SPECIFICS OF LEASE AGREEMENTS FOR NON-RESIDENTIAL PREMISES

State of the leased premises at the time of conclusion of the lease agreement

Under the civil code it is not required for conclusion of a lease that the leased premises actually exist nor that they are permitted for use. It is possible to enter into a lease agreement on premises that are to be constructed or that are under construction. Despite this fact the lease agreement is sometimes split into two agreements – agreement on future lease agreement (describing the process of construction of the building with the premises and an obligation to conclude the lease agreement once the premises are finished and permitted for use) and the lease agreement itself.

ASTI and fit-out works and its permitting:

In the Czech Republic, the permitting process has been simplified under the new building code, which came into effect on July 1, 2024. The previous, rather complicated and lengthy process has been streamlined, and now only one permit is required for construction or modification works. This new single-permit system is expected to shorten the overall permitting process.

In general, the builder may commence the construction works only upon obtaining the new consolidated permit issued by the relevant building authority. This permit might be changed during the construction. This is frequently used for modification works (ASTI – Above Standard Technical Improvements, or for fit-outs) of the building under construction. Similar permit is required also for significant changes of an existing building. Furthermore, for the use of the building or its modifications (ASTI, fit-outs) a use permit is required.

Typically, during the construction of the building, two proceedings are running side by side: (i) for a permit of changes before completion of the building (the proceeding is initiated by the landlord) – to approve changes to the original permit taken due to business or technical decision of the landlord or due to

ASTI, and (ii) for a permit to carry out the fit-out works (the proceeding is initiated by the tenant).

The landlord secures the ASTI permits (including change of the permit for construction of the building and the use permit) provided the tenant delivers its required specification on time. The tenant should try to negotiate with the landlord to include to this change of the permit (applied for by the landlord) also a permit for the fit-out works. Landlords often accept such requests but are restrained to warrant issuance of such permit and to warrant a deadline of its issuance. They often refuse to apply for use permit for the fit-outs (since the fit-outs are typically delivered by a third party).

Successful permitting process depends on perfect synchronization and cooperation between the landlord and the tenant consisting mainly in timely and accurate submission of specifications by the tenant.

Fit-outs and ASTI are also related to the following topics:

(i) who implements the ASTI works (typically the landlord) and who implements the fit-out works (typically the tenant);
(ii) who pays for the ASTI and for the fit-out-works (typically tenant, but landlord might provide a contribution);
(iii) who guarantees the issuance of the permits and under what conditions;
(iv) when the lease period actually starts (the commencement date – typically it is not subject to use permit for the fit-out works but might be subject to a permit for the fit-out works and regularly is subject to use permit for the premises, including ASTI); and
(v) the consequences of a delay in obtaining permission or implementation of the ASTI works.

This all should be regulated by the lease agreement. This is valid for build-to-suit leases as well as for other commercial leases.

Subletting and assignment

Any sublet of the leased premises and assignment of the lease is subject to a written approval by the landlord under the Civil Code. This is often repeated in the lease agreement. The tenants often require exemptions from this rule stating when the approval is not required or when the landlord is obliged to grant such an approval.

CZECH REPUBLIC

In case of transfer of the ownership title to the leased premises from the landlord to a third party the lease is automatically transferred to the new owner of the leased premises by virtue of the law provided he had to know that the premises are leased.

Sanctions for early termination

We often see the following clause in lease agreements: if the lease is terminated early for a reason on the tenant's side the landlord is entitled to ask for a contractual penalty in the amount of a rent which would accrue from the date of the early termination until the expiry of the original lease term. This might be negotiated to reduce the amount of the penalty to a few-month rent (approx. 4-12, depending on the negotiating power of the parties). Similar penalty might be asked against the landlord.

Surrender of the premises

Usually, when the lease is terminated the tenant shall return the cleared-out premises to the landlord in the condition in which they were handed-over to him (considering usual wear and tear). In case of delay the landlord can enter the premises and remove the tenant's property (at the tenant's expense) only provided the lease agreement includes respective clause. Even in such case it is recommended to the landlord to enter and clean the premises in the presence of a notary public who will take an inventory of the tenant's property and its condition, to avoid later disputes with the tenant.

Compensation for acquisition of customer base

The Civil Code states that if a lease ends by a termination notice by the landlord, the tenant is entitled to compensation for the benefit which the landlord or a new tenant gained by acquiring the customer base established by the tenant. Application of this provision (together with some others) is regularly excluded in lease agreements.

HUNGARY

GENERAL OVERVIEW

Lease agreements, including leases of non-residential premises (commercial or business leases) in Hungary are regulated by the Act V of 2013 on the Civil Code ("**Civil Code**"), with additional rules set out in Act LXXVIII of 1993 on the lease and alienation of apartments and premises ("**Housing Act**") for residential leases and commercial leases. In addition to the above, Act CXXII of 2013 on agricultural and forestry land turnover ("**Agricultural Land Act**") provides specific regulation regarding the use of agricultural and forestry areas, which is only possible under certain title for natural persons and legal entities qualifying the criteria set out therein.

The relevant provisions of the Civil Code regulating lease agreements and leases are dispositive regulations, therefore the contracting parties of a lease agreement may agree to different conditions other than the rules set out in the Civil Code. However, there are a few exceptions to this rule:

HUNGARY

(a) as a general rule of the Housing Act, all lease agreements must be made in writing;
(b) if a residential lease is concluded with the state or a municipality, it must be compliant with the Housing Act, which lays down mandatory rules for the protection of tenant rights,
(c) lease agreements related to agricultural and forestry land must be compliant with the Agricultural Land Act,
(d) unless otherwise agreed by the parties, commercial leases are bound by the rules set by the Housing Act, specifically in connection with the conclusion of the lease agreement, the rights and obligations of the parties and the termination of the lease, which contains detailed regulations for some key matters. The key sections of the act are the following:
    i. the premises must be in a condition suitable for its intended use (i.e. the central facilities of the building, such as: heating, water, sewerage, electricity, are in working order) during the handover to the lessee;
    ii. the lessor must present an energy performance certificate (or a copy) related to the premises, before the conclusion of the contract;
    iii. the lessor has the right to supervise the proper use of the property and the fulfilment of the contractual obligations at least once a year.

    It is important to note that the Housing Act declares that the rental fee, handover, proper use, maintenance, renovation, termination of the tenancy and the return of the premises at the end of the contract shall be governed by the agreement of the parties. Therefore, except for some general principles of the Civil Code, namely the principle of good faith and fair dealing, the parties have contractual freedom when negotiating a lease agreement for residential and non-residential premises.

HUNGARY

A typical lease agreement for non-residential premises regulates standard matters, such as the name of the parties, the obligations of both parties (including the obligation of the landlord to what extent it has to fit out the premises), the identification of the leased premises (including possible expansion), lease term (including possible extension or break option), rent amount (including indexation), service charges, security deposit, maintenance obligations, alterations of the premises by any of the parties ordinary and extraordinary, termination etc.

SPECIFICS OF LEASE AGREEMENTS FOR NON-RESIDENTIAL PREMISES

State of the leased premises at the time of conclusion of the lease agreement

The Civil Code classifies lease agreements as consensual agreements; therefore, it is not required for conclusion of a lease that the leased premises actually exist nor that they are appropriate for the permitted use. It is possible to enter into a lease agreement on premises that are to be constructed or that are under construction.

Construction and its permitting:

Except for the construction activities listed in Annex 1 of the Government Decree 312/2012. (XI.8.) and the construction activities subject to a simple notification procedure under the Act No. LXXVIII of 1997, a construction permit must be obtained from the Authority

Beside the construction permitting procedure, where the Authority has competence, the local municipality also has a say in the building/facility that is to be constructed:

- may carry out a town-planning opinion procedure and give an opinion on an application for a building permit as defined by law, prior to the building permit procedure,
- may carry out a town planning notification procedure for construction activities that are not subject to a building permit and are not considered to be activities subject to a simple notification.

HUNGARY

In order to use a building or part thereof for which a construction permit was granted, one of the following procedures must be carried out:

- the contractor should obtain an occupancy permit as the basis for an occupancy permit procedure; or
- the contractor should only notify the authority about the completion of the building or a part thereof as the basis for an occupancy acknowledgement procedure.

Based on the statutory warranty of lessor making sure that the premises are appropriate for the intended use during the lease term, unless otherwise agreed, the lessor is liable for the costs of maintaining the premises and ensuring that it is fit for its intended use, and for the expenses (such as taxes) relating to the property. The dispositive rules of the Housing Act places the non-major costs of maintaining the object of the lease on the lessee, however, the parties may derogate from these provisions and lay down the rules for the charging of costs in their contract within the general limits of contractual freedom, therefore it is also possible that the lessee undertakes to bear the costs associated with the maintenance of the premises as additional consideration for the use.

Subletting and assignment

Any sublet of the leased premises and assignment of the lease is subject to approval by the landlord under the Civil Code, but the lessee often require exemptions from this rule stating when the approval is not required or when the landlord is obliged to grant such an approval (usually to bring subsidiaries and affiliated companies to the premises).

In case of transfer of the ownership title to the leased premises from the landlord to a third party the lease is automatically transferred to the new owner of the leased premises by virtue of the law, however, in case the lessee misled the new owner in regard to the existence or main terms of the lease agreement, the new owner has the right to terminate the fixed-term lease.

HUNGARY

Termination of a fixed term lease agreement

If the lessee continues to use the premises following the expiry of the period determined in the lease contract concluded for a definite period, and the lessor does not object to that within fifteen days from the expiry of the contract, the contract concluded for a definite period shall transform into a contract concluded for an indefinite period. This can however be excluded in the lease agreement with mutual consent.

Sanctions for early termination of a fixed term lease agreement

In case the lease agreement is concluded for an indefinite term both parties have the right to terminate the contract with ordinary termination with a notice period agreed, or lack of such agreement as prescribed by law. If it is a fixed term contract and the parties did not agree on the right to terminate the contract with ordinary termination, it can only be terminated for cause, i.e for the breach of the contract by the other party. Landlords usually include a contractual penalty in the lease agreement for early termination for breach by the lessee.

Surrender of the premises

Conditions of surrender of the premises may freely be agreed. Usually, when the lease is terminated the lessee shall return the cleared-out premises to the landlord in the condition in which they were handed-over to him (considering usual wear and tear), unless they agreed otherwise.

Warranty of the lessor

The lessor warrants that the leased property is in conformity with the contract throughout the duration of the lease, no third party has any right to it which restricts or prevents the lessee from using the property. If the leased property is a dwelling or other premises for human habitation and is in such a condition that its use is dangerous to health, the lessee may terminate the contract even if he knew or ought to have known of this fact at the time of the conclusion of the contract or at the time of taking possession of the property.

ROMANIA

GENERAL OVERVIEW

Lease agreements, including leases of non-residential premises (commercial or business leases) in Romania are regulated by the Law no. 287 of 2009 on the Civil Code ("**Civil Code**"). The general provisions for the lease agreements are applicable also for residential leases, as well as for agricultural leases, if such are compatible with the particular rules provided for these types of leases. Also, some particular rules on the residential leases are applicable to the non-residential premises, as expressly provided in the Civil Code.

The relevant provisions of the Civil Code regulating lease agreements and leases are dispositive regulations, therefore the contracting parties of a lease agreement may agree to different conditions other than the rules set out in the Civil Code. However, there are a few exceptions to this rule:

(a) the lease agreement is consensual, meaning that it is not required to be made in written for validity. However, for proof (*ad probationem*), the written form and the registration of the agreement with the territorial tax authorities are required, the last being under the sanction of administrative fine;
(b) if a lease is concluded for public properties with the state or a municipality, the lease agreement must be made in writing and it must be compliant with the Administrative Code, which lays down mandatory rules for the lease procedure that is made through public tender;

(c) lease agreements related to agricultural land must be made in witing under the sanction of nullity and registered with the local authorities, and compliant with the special provision of the Civil Code;

(d) the lease agreements executed in writing and registered with the tax authorities/local authorities and the lease agreements made in authentic form (in front of the notary) are enforceable for the rent payment obligation;

(e) unless otherwise agreed by the parties, the lease agreements are bound by the rules set by the Civil Code, specifically in connection with the conclusion and the term of the lease agreement, the rights and obligations of the parties and the termination of the lease, which contains detailed regulations, some of them bounding, for some key matters. The key sections of the act are the following:

i. the maximum lease period of 49 years (and 5 years if the lessor is a person with limited legal capacity) and the parties cannot agree otherwise;

ii. special term for the lease agreements whereby the parties does not provide expressly the lease period (i.e. 1 year for the premises used for professional activity and for the unfurnished residential premises);

iii. the premises must be in a condition suitable for its intended use (i.e. the central facilities of the building, such as: heating, water, sewerage, electricity, are in working order) during the handover to the lessee and the lessor is bound to execute all the necessary repairs during the leased period, in order to maintain the premises in suitable condition;

iv. the lessee must use the premises with prudence and diligence, in accordance to the intended use;

v. the lessor must present an energy performance certificate (or a copy) related to the premises, before the conclusion of the contract;

vi. typically, the lessor has the right to supervise the proper use of the property and the fulfilment of the contractual obligations periodically;

vii. specifically for the residential premises, agricultural land and for premises used for professional activity, the lessee has a general 3-months pre-emption right in the event its lease agreement has expired and the lessor intends to conclude a lease agreement with a third party, in the same conditions, only if the lessee has complied with all its contractual obligations;

viii. specifically for agricultural leases, the lessee has a pre-emption right at the acquisition of the land in case the owner intends to sell.

Therefore, except for some general principles of the Civil Code, namely the principle of good faith and fair dealing, the parties have contractual freedom when negotiating a lease agreement for residential and non-residential premises, except for some bounding rules provided by the Civil Code.

A typical lease agreement for non-residential premises regulates standard matters, such as the name of the parties, the obligations of both parties (including the obligation of the lessor to what extent it has to fit out the premises), the identification of the leased premises (including possible expansion), lease term (including possible extension or break option), rent amount (including indexation), service charges, security deposit, maintenance obligations, alterations of the premises by any of the parties ordinary and extraordinary, termination etc.

SPECIFICS OF LEASE AGREEMENTS FOR NON-RESIDENTIAL PREMISES

State of the leased premises at the time of conclusion of the lease agreement

The Civil Code classifies lease agreements as consensual agreements; therefore, it is not required for conclusion of a lease that the leased premises actually exist nor that they are appropriate for the permitted use. It is possible to enter into a lease agreement on premises that are to be constructed or that are under construction.

ROMANIA

Permitting related matters to lease agreements

Fit-out works and their permitting:

Law 50/1991 on authorisation of construction works does not allow lessee to obtain a building permit for fit-out works. Consequently, in the event that fit-out works require authorisation, the holder of the building permit is the owner (usually the lessor, unless subleased) and the lessee carries out the works based on a general power of attorney, assuming all liability. In the event that the works are not legally compliant, the owner is liable and it typically has a contractual-established recourse right against the lessee.

In the event that the fit-out works are in scope of the owner and it fails to perform them, the lessee may perform the works by itself on the cost and liability of the owner. However, the lessee may perform only those fit-out works for which building permit is not required.

Authorisation of the usage of the premises:

In order for the premises to be legally used for the intended purpose, Romanian law provides for various authorisations and permits that should be obtained by the lessee, depending on its activity. Most commune permits that are required in practice are fire permit and environmental authorisation. Both are obtained following the completion of the fit-out works, between the handover of the premises by the owner and the starting of the activity of the lessee.

Lack of permitting is usually sanctioned with fines imposed by the Romanian regulation authorities and also the suspension of the activity within the premises until the permits are obtained.

In case of material damages inflicted on the premises caused by fire incidents, in absence of related permit, the property will not be covered by the insurance.

Subletting and assignment

Any sublet or assignment of the leased premises is subject to approval by the lessor under the Civil Code. However, in the agreement the lessor may offer an anticipated approval usually in relation to affiliates of the lessee.

Any interdiction of subletting or assignment, in full or in part, must be expressly regulated by the parties.

The Civil Code enables the parties to contractually agree upon a direct claim of the lessor against the sublessee for any financial claims (such as payment of rent and related service charge), as well as for enactment of any material obligations of the sublessee.

The effects over the lease agreement of the ownership right transfer over the premises

In case of transfer of the ownership right to the leased premises from the lessor to a third party, the lease agreement is automatically opposable to the new owner of the leased premises by virtue of the law, provided that the premises and the lease agreement are registered in the Land Registry. In case the premises are not registered in the Land Registry, this rule of by-default opposition of a lease agreement to the new owner is applicable only if the lease agreement has a certified execution date prior to the certified execution date of the transfer of the ownership right. By certified execution date it is generally understood a validation and acknowledgment of the existence of the agreement by a competent authority or by legal professionals (notaries or lawyers).

The parties may decide to regulate that the lease agreement is terminated as a result of the transfer of the ownership right over the premises. Otherwise, the Civil Code provides for a buffer period within which the lease agreement is still in force, that is equal to twice the duration of the grace period contractually granted in case of unilateral termination without a cause

Termination of a lease agreement

The Civil Code provides for multiple causes of termination of a lease agreement, namely: (i) at the transfer of the ownership right over the premises (as mentioned above); (ii) at the expiry of the lease term; (iii) due to unilateral termination without a cause; (iv) by the non-default party in case of breach of

contractual obligation by the other contracting party; and (v) for other causes expressly provided by the law.

If the lessee continues to use the premises following the expiry of the definite lease term and provided that it also fulfils its contractual obligations, without being challenged by the lessor, the contract is extended by default for an unlimited period of time. The parties may override this rule in the lease agreement.

In case of lease agreements for which the parties have not established a lease term, the Civil Code grants the parties the right to unilaterally terminate without a cause the agreement, with the observance of a prior reasonable grace period.

Whenever the parties have established the lease term, they may also opt for a right of unilateral termination without a cause, with the observance of a prior established grace period.

The Civil Code also allows parties to terminate the agreement in the event of contractual breaches by either of the parties. In such event, the lease may be terminated with a prior in-delay notice whereby the in-default party is granted a remedy term. Lessors usually include a contractual penalty in the lease agreement for early termination for breach by the lessee. In such a case, the lessor is also granted the right to enforce any securities provided by the lessee, that are covering the non-fulfilment of its obligations.

Also, the lease agreement is terminated in other specific situation, usually outside the will of the parties, such as the total destruction of the premises or other events of force major that make the premises unsuitable for use. The lease is also terminated in the event that the lessor is evicted in its ownership right over the premises.

Surrender of the premises

Conditions of surrender of the premises may be freely agreed by the parties. Usually, when the lease is terminated, the lessee shall return the cleared-out premises to the lessor in the condition in which they were handed-over to him (considering usual wear and tear), unless the parties agreed otherwise.

However, in the event that the lessee does not voluntarily surrender the premises, the lessor may inflict a surrender of premises legal action against the lessee.

Warranty and liability of the lessor

Usually, the lessee performs prior to the conclusion of a lease agreement an audit/inspection of the premises in order to identify any flaws or hindrances to the proper usage according to the intended scope. To such end, the lessor mandatorily warrants for the hidden flaws only, generally regarding the structure of the premises and other causes that could not be detected by a diligent lessee during the preliminary audit/inspection.

The lessor warrants that the leased premises is in conformity with the agreed specifications throughout the duration of the lease. Also, it acknowledges that no third party has any right to it, which would restrict or prevent the lessee from using the premises. Unless expressly provided otherwise, the lessor is liable only for the remedial works to major defects only that are mostly linked to structure works. Any other remedial works during a normal course of usage are expected to be performed by the lessee.

The lessor is liable to keep the lessee harmless against any third-party claims against the title or the usage over the premises, in full or in part. Should such claim would be successful in court, the lease agreement is either terminated or in case of partial admission of the claim, the lessee is entitled to rent reduction proportional with the remainder available lease area. Further, unless expressly limited in the lease agreement, the lessee is also entitled to other damages covering the incurred costs as a result of early termination.

SLOVAKIA

GENERAL OVERVIEW

The primary legal regulation governing non-residential (incl. commercial) leases in Slovakia is Act No. 40/1964 Coll., the Civil Code (Civil Code), which in its Section 720 refers to the application of a particular regulation when it comes to non-residential premises, namely Act No. 116/1990 Coll., on the Lease and Sublease of Non-residential Premises (the Act). The interrelation between the Civil Code and the Act is determined by the general principle *lex specialis derogat legi generali*, which implies that if the conditions for the special regulation are met, this regulation takes precedence over the general one. The provisions of the Civil Code as a general rule of law shall apply to matters not governed by the special regulation. Notwithstanding the aforementioned, specific regulations govern the lease of forest and agricultural lands. Additionally, special provisions are in place to oversee the lease of real estate owned by the state, public authorities, or municipalities.

The term "non-residential premises" is defined directly in the Act positively and negatively. In the positive sense, non-residential premises are defined as (i) rooms or sets of rooms that are intended for purposes other than housing, according to the decision of the building authority, and (ii) flats for which consent has been granted for their use as non-residential purposes.

The building authority determines the purpose of use for particular premises; therefore, the decisive factor is legal, not a factual, matter. On the negative side, the Act stipulates that the amenities of the flat and the common areas of the building are not considered non-residential premises.

According to the law, non-residential premises may be leased exclusively for the purposes for which they are structurally intended and in compliance with the terms of the Building Act, i.e., they may only be used for the purposes specified in their building permit. Any change in the use of these premises is subject to the building authority's approval.

The legal regulation of non-residential leases is general and applies to the entire scope of private law, regardless of the legal status of its subjects (entrepreneur or non-entrepreneur). The general regulation of the Civil Code is largely dispositive. However, regarding the nature of the provisions of the Act, neither legal theory nor case law is uniform; it is nonetheless generally accepted that the regulation of non-residential leases is cogent in certain aspects. A lease agreement, regardless of whether it pertains to residential or non-residential premises, is a consensual contract, i.e. it is established when the parties agree on its content. A standardized lease agreement for non-residential premises shall contain the statutory essential elements, such as the identification of the parties and leased premises, the purpose of the lease, the amount and maturity of the rent and the method of its payment, and, if it is not a lease for an indefinite lease term, the period for which the lease is concluded. An agreement that does not contain the preceding elements shall be deemed invalid. According to the Act, a lease agreement must also be executed in written form.

SPECIFICS OF LEASE AGREEMENTS FOR NON-RESIDENTIAL PREMISES

Status of the leased premises at the time of conclusion of the lease agreement

Pursuant to the law, the lessor is obliged to hand over the object of the lease (the leased premises) to the lessee in a condition that allows the lessee to use the leased premises for the agreed purpose, or if the manner of use has not been agreed, for its usual purpose.

SLOVAKIA

The ability of the leased premises to meet the lessee's expectations is assessed both in factual as well as legal terms (e.g., the use of the leased premises is not restricted or excluded by the rights of another person). The Act furthermore stipulates that non-residential premises may only be leased for the purposes for which they were intended when constructed.

Fit-out works

For leases of non-residential premises, the lessee is only allowed to carry out alterations with the lessor's consent and, if the lessor agrees, the lessee may seek reimbursement of the costs. If the lessor grants such consent but does not commit to covering any expenses of the lessee, the lessee may demand compensation for any increase in the property's value after the termination of the lease. However, if the lessee executes unauthorized alterations to the non-residential premises, it is legally obliged to restore these premises to their original condition at its own expense upon the termination of the lease. If the lessor suffers substantial damages due to such unauthorized alterations, it is entitled to withdraw from the lease agreement. Therefore, it is customary for the parties to mutually agree on any fit-out works and the conditions under which they may be carried out, especially regarding the scope of the fit-out, the responsibilities of the parties to carry out such works, the party that will bear the costs, and the party that will arrange for the issuance of the permits and the conditions under which they are issued. Under the VAT Act, any fit-out works executed by the lessee that increase the property's value are considered non-monetary income of the lessor, unless the lessor reimburses the lessee for the costs and agrees to such alterations. Following the conditions set by the VAT Act, such income may be depreciated.

Permitting

The current legal regulation in the area of construction law and permitting processes, which is Act No. 50/1976 Coll. on Spatial Planning and Building Regulations (Building Act), will be partially repealed and replaced by two new legal regulations. These are Act No. 200/2022 Coll. on Spatial Planning, which is already in effect, and Act No. 201/2022 Coll. on Construction, which should come into effect on 1 April 2025.

SLOVAKIA

These legal regulations replace the relevant provisions of the original Building Act, which formally remains in force; however, the application of the amended parts will be subject to the regime of the mentioned new laws. It should be noted that the new legislation was due to come into force on 1 April 2024, but has been delayed by one year. As such, we believe there is a significant risk that the laws will be substantially amended or repealed in the meantime, given that they were enacted under a previous government.

From a material point of view, if the new legislation does come into effect on April 1, 2025, it will ensure that the currently lengthy proceedings will be replaced by a digitalized process that is procedurally and legally simplified. The process of obtaining a construction permit in Slovakia will undergo a significant transformation; it will be streamlined from the current 84 steps down to just 13. A construction permit should be issued within a maximum of 45 days. This transformation will heavily involve planners, acting as representatives for developers or investors and will incorporate feedback from the relevant authorities, effectively transferring many responsibilities currently held by building authorities to these planners. Initially, the planner will create a building design based on the builder's instructions and draft a construction plan, which shall be aligned with the zoning plan of the municipality or zone. The planner will then submit this draft construction plan for discussion to the building authority, the municipality (to assess its compliance with the zoning plan), and the environmental impact assessment body (which should be a department within the Slovak Ministry of the Environment).
Additionally, the planner will notify the environmental impact assessment body about the strategy document, which serves as the foundation for environmental impact assessment, replacing the document currently assessed in the EIA process. The impact assessment body will then inform the other relevant authorities and set a comment submission deadline of at least 15 days.

The zoning permit proceedings will no longer be part of the process. However, municipalities must update their zoning plans, and until they do so, they will continue to require zoning permit proceedings before issuing building permits.

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Subletting and assignment

By default, a lessee may only sublet non-residential premises or any part thereof for a certain period of time with lessor 's consent. In the event of the transfer of ownership of the leased premises to a third party, the Civil Code specifically stipulates that the transferee shall assume the legal position of the former lessor, as the transfer of the leased property generally does not affect the lease agreement, which remains valid, effective and binding on the new owner. The lessee is then entitled to discharge its obligations towards the former lessor as soon as it has been notified of the change or proven by the transferee. However, the new owner (lessor) is not entitled to terminate the lease. Therefore, it is customary to include a special regulation regarding the subletting of the leased premises, as well as the assignment of the lease negotiated by the parties in the lease agreement that goes beyond statutory regulations. For instance, parties to the lease agreement often agree on the option of the lessee to sublet the use of the premises subject to lessor's consent in specific cases. The lessor grants this consent directly in the lease agreement usually in relation to the affiliates of the lessee, or they regulate the lessor's obligation to grant such consent under certain circumstances. This applies mutatis mutandis in the case of assignment.

Termination of the lease agreement

The Act distinguishes between the termination of a lease agreement concluded for a definite or indefinite term. In general, a lease agreement concluded for a definite lease term shall terminate upon the lapse of such lease term. However, the Act allows the termination of a fixed-term lease before the expiry of that term by notice of termination from both the lessor and the lessee due to reasons stipulated by law or directly in the lease agreement. The grounds for termination are exhaustively established in the legal regulation for both the lessor and the lessee. This regulation is mandatory, i.e. the parties cannot deviate from it or exclude it by a different (contrary) regulation in the lease agreement. Such legally established grounds for termination apply directly by virtue of law, regardless of whether they are stipulated in the lease agreement.

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In the case of a lease agreement concluded for an indefinite lease term, both parties are entitled to terminate such agreement by a termination notice without giving a reason. The law furthermore allows for the lease agreement to be terminated by the agreement of the parties, by the withdrawal by either party, or due to damage to the leased premises of the death or dissolution of the lessee.

Sanctions for early termination

Sanctions for the early termination of a lease agreement in Slovakia cannot be inferred from the law; therefore, it is customary to include various penalties applicable primarily to the tenant in the event of early termination. The sanctions are usually of a monetary nature and consist of the lessor's right to claim a contractual penalty, usually in the amount corresponding to the rent to be paid by the lessee for the remaining part of the originally negotiated lease term or to claim compensation for damages incurred therefrom.

Surrender of the premises

Unless otherwise agreed by the parties in the lease agreement, in the event of termination of the lease, the lessee is obliged to return the non-residential premises to their condition upon takeover, taking into account normal wear and tear. However, the parties often include a special regulation in their lease agreement particularly when fit-out or other construction works and alterations are carried out in the premises, which the lessor often wishes to retain after the termination of the lease. It is customary to contractually regulate the costs of such works and the method of settlement for the investment after such lease termination. If there is no such special arrangement and the lessee carries out alterations to the non-residential premises, they are obliged to remove these alterations upon the termination of the lease.

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