

SK: Lease agreements in the era of COVID-19

Coronavirus and lease agreements. In cases where operations have to be closed or business activities are prohibited, the question arises as to what happens to the lease and whether it can be suspended, paid in instalments or cancelled altogether. Below we have prepared a short overview of the options in the current situation.



1. Mandatory wording of the agreement

The wording of the agreement has preference over the wording of the law. The first thing which needs to be analysed is the force majeure clause, as it can contain answers to the most important questions, namely

- Is the tenant obliged to pay rent in case of the occurrence of force majeure?
- Does a party have the right to terminate the agreement in case of the occurrence of force majeure?

The agreement may also contain other similar clauses that could address the COVID-19 situation, so we recommend that you carefully review the agreed terms.

2. Discount on the rent or not paying at all

Unless the agreement contains a clause on the non-payment of rent, the general rule is that the tenant must pay the rent even if it does not use the leased property (or uses it to a lesser extent).

However, Slovak law regulates the following cases, which allow a discount or forgiveness of rent

- **limited possibility of using the leased property** because the landlord does not comply with the contractual obligations – applicable, for example, if the landlord decides to close the leased property or the premises in which it is located without being required to do so by law (voluntary quarantine). This would be the case, for example, where the entire shopping centre would be closed, although individual shops could still be open
- if the tenant does not pay the rent without being entitled to a discount or forgiveness, this will entitle the landlord to withdraw from the agreement

3. Turnover or share of leased premises clauses

The lease may contain provisions on the tenant's minimum turnover (or the landlord's shopping centre) or the minimum share of leased premises in the leased property. The Covid-19 situation can have a significant impact on the fulfilment of these clauses, so we recommend that you analyse the wording of the agreements carefully. While loss of turnover or a decrease in the share of leased premises may lead to a rent reduction, in many agreements a rent reduction may be excluded for cases such as the current pandemic.

4. Exemption from liability

If the tenant is in default of its obligations under the agreement and the landlord suffers damage as a result, the tenant may be relieved of its liability if it has been prevented from meeting its obligations by COVID-19. However, any such situation needs to be carefully examined.

5. Reviewing the agreement

As the legislation is rather vague in this respect, it is important to carefully analyse the wording of the lease agreement. We recommend going beyond a simple analyses of the force majeure clause and thoroughly examining the entire agreement for the possibilities of rent reductions, foregoing the payment of certain instalments or even cancelling the lease. We are happy to assist you in this regard.

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We will come
through this together

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