

The International Bar Association Company Director Checklist – the Slovak Republic

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Item	Number	Check	Item	Number	Check
Before appointment			Potential liability	16	<input type="checkbox"/>
Items to understand	1	<input type="checkbox"/>	Duration of duties	17	<input type="checkbox"/>
People to meet with	2	<input type="checkbox"/>	Special circumstances		
Documents to review	3	<input type="checkbox"/>	Bankruptcy	18	<input type="checkbox"/>
Ongoing duties			Takeover bids	19	<input type="checkbox"/>
Points for attention	4	<input type="checkbox"/>	Market abuse/insider dealing	20	<input type="checkbox"/>
Legal status of directors	5	<input type="checkbox"/>	Defences		
Parties to which duties are owed	6	<input type="checkbox"/>	Good corporate governance	21	<input type="checkbox"/>
Powers of directors	7	<input type="checkbox"/>	Minutes of board meetings	22	<input type="checkbox"/>
Duty of loyalty	8	<input type="checkbox"/>	Discharge and indemnification	23	<input type="checkbox"/>
Duty of care	9	<input type="checkbox"/>	Insurance	24	<input type="checkbox"/>
Duty to have and maintain skills	10	<input type="checkbox"/>	Resignation	25	<input type="checkbox"/>
Additional duties (confidentiality, etc.)	11	<input type="checkbox"/>	Restructuring of assets	26	<input type="checkbox"/>
Delegation of powers/authority	12	<input type="checkbox"/>	ESG and D&I policies, metrics	27	<input type="checkbox"/>
Conflicts of interest (inc. intragroup dealings)	13	<input type="checkbox"/>			
Compliance with statutory obligations	14	<input type="checkbox"/>			
Disclosure obligations	15	<input type="checkbox"/>			

Introduction

This checklist is intended to serve as a practical guide to the main duties and obligations of the directors of

- limited liability companies – in Slovak: *spoločnosť s ručením obmedzeným*) in Slovak Republic,
- joint stock companies (in Slovak – *akciová spoločnosť*) in Slovak Republic,
- including public joint stock companies (in Slovak – *verejná akciová spoločnosť*), listed on a regulated market, i.e. Bratislava Stock Exchange (BSSE) arising from the acts of the National Council of the Slovak Republic, namely:
 - Act No. 513/1991 Coll., the Commercial Code, as amended;
 - Act No. 530/2003 Coll. on Commercial Registry and on Amendment of Certain Acts, as amended;
 - Act No. 455/1991 Coll. on Entrepreneurial Activities (the Trade Licensing Act), as amended;
 - Act No. 533/2001 Coll. on Securities and on Investment Services and on Amendment of Certain Acts, as amended (the Securities Act) ;
 - Act No. 429/2002 Coll. on Stock Exchange, as amended;
 - Act No. 7/2005 Coll, on Bankruptcy and Restructuring and on Amendment of Certain Acts, as amended.

For specifics of listed public companies, see the third column of this checklist below.

As for directors in the above mentioned Slovak companies, in case of limited liabilities companies, the directors are called Executive Directors (in Slovak - *konatelia*), in case of the joint stock companies, they are members of the Board of Directors (in Slovak - *predstavenstvo*). In principle, main duties and liabilities of Executive Directors and members of the Board of Directors are the same. In relation to members of Board of Directors of public joint stock companies on top of that Directors bear several publication and notification duties.

Disclaimer

This checklist is informational in character only and is not intended to be comprehensive in all respects or to serve as a substitute for professional advice. In all cases, however, specific legal advice should be sought. This checklist was last updated on 28 February 2022.

DUTIES AND OBLIGATIONS OF THE DIRECTORS			
	Action/issue	Specifics of listed public companies (if relevant)	Comments/notes
Before appointment			
1. Items to understand	<ul style="list-style-type: none"> requirements and prerequisites for serving as a member of the statutory body - in the Slovak Republic, only natural persons may be appointed as directors. Each director of company (member of board of directors) also has to meet general conditions for performance of trades carried out by the company. Foreign persons may become directors only i) if they are citizens of an OECD country or ii) if they have residence permit in the Slovak republic remuneration of directors; time commitment required; collective bargaining agreement (if any) company's corporate governance framework, if any; ban of competition. 	<ul style="list-style-type: none"> relevant market regulator's rules pursuant to the Securities Act and rules on trades on Bratislava Stock Exchange 	<ul style="list-style-type: none"> Director is bound by ban of competition; he/she may not perform any activity in conflict of interest to his/her function or the company. Director may be required to be registered as the ultimate beneficiary owner of the company with the Commercial Registry. Terms of performance of the function, including remuneration have to be approved by the company's General Meeting. Listed companies are obliged to approve and publish their remuneration policy and a detailed report on remuneration. It is necessary to be certain that you meet the requirements and prerequisites for serving as a member of the statutory body set out by the statutory provisions.
2. People to meet with	Management of company, members of the Supervisory Board, other directors, company's lawyers, tax advisor and auditors.		<ul style="list-style-type: none"> Is there any current litigation pending or threatening? Were satisfied all notification duties towards regulatory authorities?
3. Documents to review	<ul style="list-style-type: none"> company's articles of association, or by-laws; recent Board of Directors minutes; recent minutes from the company's General Meeting; company's financial statements and annual reports on its business activities, potential petitions for company's insolvency filed with the respective court; 	<ul style="list-style-type: none"> Respective regulation of the National Bank of Slovakia; Report on material transactions with related persons; Remuneration policy of the company. 	<ul style="list-style-type: none"> Powers and duties of directors/Board of Directors should be assessed. Company's financial position should be reviewed.

	<ul style="list-style-type: none"> company's business plan and corporate strategy; company's insurance coverage for directors. 		
Ongoing duties			
4. Points for attention	<ul style="list-style-type: none"> Internal rules of the company should be reviewed. Director should be acquainted with the company's group, check, whether the company has duly registered its UBO/s, check the persons related to the company. Directors are members of a collective body – the Board of Directors. Acting on behalf of the company may be regulated in the By-Laws in a way that each director may act separately, or that 2 or more directors have to act jointly. The law regulates obligations of the Board of Directors, however, there are also certain obligations of the directors themselves, as mentioned below. 	Review how are notification and publication duties secured and whether the company have been compliant with the relevant obligations.	
5. Legal status of directors	<p>Directors have the general duty to the company to act with due professional care. Articles of Association or By-Laws of the company, or potentially other internal regulation approved by the respective corporate body may contain specific duties that the directors have to observe.</p> <p>The legal relationship between the directors and the company is governed adequately by the provisions of the Slovak Commercial Code on mandate contract. An agreement on performance of function of the director is required to be concluded. Such agreement</p>	Remuneration of directors of listed companies to be governed by the respective remuneration policy of the company.	Directors are entitled for remuneration, if they did not agree that they perform they duty without any remuneration. If no remuneration is agreed between the director and the company, the director is entitled to adequate remuneration, pursuant to the provisions of the Commercial Code on mandate contract.

	has to be approved by the general meeting of the company.		
6. Parties to which duties are owed	<p>Directors have their duties towards the company and its shareholders. Directors have to observe their general duty to act with professional care and in accordance with interests of the company and all its shareholders.</p> <p>Directors also have certain duties towards the General Meeting of the company and towards the Supervisory Board of the company.</p>		The directors are usually appointed by the company's General Meeting. In case of joint stock companies, they can be also appointed by the Supervisory Board, if the By-Laws of the company state so.
7. Powers of the board of directors	<p>Board of Directors is the statutory body of the company with the power to manage the activities of the company and to act on behalf of the company.</p> <p>The Board of Directors decides on every matter of the company that is not by the law or by the by-laws reserved to the General Meeting of the shareholders or to the Supervisory Board.</p>	To publish duly annual and semi-annual reports, remuneration policy, report on material transactions with related persons, any changes of rights connected with shares, any changes related to its registered capital, invitation to the general meeting (and all related materials) etc.	
8. Duty of loyalty	<p>Directors have the duty to act in accordance with interests of the company and all its shareholders.</p> <p>This means that directors may not prioritize their interests, interests of only certain shareholder, or interests of third parties before the interests of the company.</p>		Directors are jointly liable for damages caused by breach of their obligations during exercise of their powers.
9. Duty of care	Directors have the duty to execute their powers with due care that includes the obligation to act with professional care and in accordance with interests of the company and all its shareholders.		Directors are jointly liable for damages caused by breach of their obligations during exercise of their powers.
10. Duty to have and maintain skills	Directors have the duty to act with professional care. However, there is no		

	<p>specific duty to have and maintain certain skills.</p> <p>However, if you have certain expertise, skills, or abilities, you are obliged to use them in the performance of your duties - within the limits of your capabilities.</p>		
11. Additional duties (confidentiality, etc.)	<p>Directors have the duty to maintain confidentiality on confidential information and information whose disclosure to third parties may cause damage to the company or may its interest or interests of its shareholders.</p> <p>Directors further have the duty to</p> <ul style="list-style-type: none"> • obtain all the corporate consents/approvals of the legal acts to be performed on behalf of the company, if relevant; • act on behalf of the company in a manner set out by the Articles of Association or By-Laws; • cooperate with and comply with obligations regarding other competent corporate bodies/entities (if relevant), such as supervisory board; • duly manage and conduct the internal corporate issues, including convocations of the general meetings, to ensure that the prescribed records and accounts are duly and properly kept, drawing up and filing the corporate documents. 	<p>Directors of publicly listed companies have duty of confidentiality concerning information that are significant for financial market development or for individual parties in the market.</p> <p>Directors of publicly listed companies also have duties concerning publications and notifications and concerning mandatory offer rights and share purchase rights of shares, to enact such offers or purchase in case such offers or share purchase occur under the law.</p>	<p>Directors are jointly liable for damages caused by breach of their obligations during exercise of their powers.</p>
12. Delegation of powers/authority	<p>Directors may delegate their power in certain decision-making powers to lower-tier managers, e.g., the company's senior employees or third parties or the respective powers may be delegated/distributed among the directors themselves. Directors are still</p>		

	<p>generally responsible to the company for performance of their powers, even if they are delegated.</p> <p>The General Meeting may appoint one or more procurists (procura holder). Procurists are special authorized representatives registered with the Commercial Registry, that are authorized to act related to operation of enterprise of the company. A director/Board of Directors may also appoint other persons to represent the company externally, but only for specific acts. It is not permitted to authorize other persons to conduct all acts on behalf of the company in full scope as directors.</p>		
13. Conflicts of interest (inc. intragroup dealings)	<p>Directors are not allowed to:</p> <ul style="list-style-type: none"> i) in their own name or on their own account enter into deals that are related to the activity of the company, ii) broker deals of the company for other persons, iii) participate on business of another company as a shareholder with unlimited liability, iv) conduct activity of the statutory body or its member or member of other body for another company with similar business activity as the company, except for intragroup companies. <p>The By-Laws of the company may broaden these restrictions.</p>		The company is entitled to ask the directors that breached conflict of interest to present to the company benefit from the trade during which the breach of conflict of interest occurred and transfer the respective rights.
14. Compliance with statutory obligations	<p>Directors have the general duty to execute their powers with due care that includes the obligation to act with professional care and in</p>		

	<p>accordance with interests of the company and all its shareholders.</p> <p>Failure to ensure the company's compliance might lead to the liability for damages incurred by the company.</p>		
15. Disclosure obligations of listed companies	<p>Responsibility for publication of all the company's relevant information/documents as required by laws, such as:</p> <ul style="list-style-type: none"> • publication of financial statements; • publication of a report on the company's business activities and on the state of its assets (if relevant); • publication of the report on relations (if relevant); • publication of the annual report (if relevant); • keep registers and filings up to date (such as information obligatory registered in the public registers); • publication of the relevant up-to-date information on the company's website; • registration of the UBO <p>publication of relevant corporate issues to the company's shareholders and creditors, if relevant (e. g. contemplated transformations, decrease of registered capital, etc.).</p>	<p>Listed companies have the duty to publish invitations to the General Meeting in national periodic press publishing stock market news. Listed companies also have the duty for the company to publish on its webpage information about upcoming General Meeting. Further, listed companies have the duty to publish notification about important transaction.</p>	
16. Potential liability	<p>Directors are jointly liable for all damages caused by breach of their obligations at performance of their functions. Directors are not liable for damages, if they acted with due care and in good faith that they acted in interests of the company. Directors are also not liable, if they executed a resolution of the General Meeting of the company, unless the resolution was in breach with law or By-Laws of the company.</p>		

	<p>Directors that breached conflict of interest have the duty to present to the company benefit from the trade during which the breach of conflict of interest occurred and transfer the respective rights, if the company asks so.</p> <p>Breach of director's duties may also result in criminal liability.</p> <p>In particular, the directors may be liable for non-payment of salary, fraudulent insolvency, intended insolvency, breach of obligation of management of other person's assets, or breach of the ban of competition.</p>		
17. Duration of duties	<p>Statutory duties of directors last for the duration of their functions, i.e., for the entire period from the appointment to the office until your discharge/resignation from office.</p> <p>Their liability for damages lasts also after their functions are terminated. After termination of their function, directors are obliged to provide adequate cooperation to authorities to clarify the required matter related to the time when they were in function of directors. Directors are entitled for compensation from the company of costs for providing such cooperation.</p>		The agreement on performance of the director's function may set out that certain obligations (e.g. related to ban on competition, business secret) shall survive the termination of the office.
Special circumstances			
18. Bankruptcy	<p>Directors are obliged in case the company is overindebted to file an application to the respective court to declare bankruptcy on the company in 30 days since they found out or could have found out if they acted with due care that the company is overindebted.</p>		A company is overindebted, if it has more than one creditor and the amount of company's liabilities exceed the amount of company's assets.

	<p>If they do not file such application in the statutory timeline, they are obliged to pay an amount of EUR 12,500.</p> <p>During the bankruptcy proceedings, a bankruptcy is appointed in the declaration of insolvency issued by the insolvency court. From that moment on, the debtor's right to administer and dispose of assets belonging to the insolvency estate is transferred to the bankruptcy trustee. The directors are therefore normally not involved in bankruptcy proceedings. However, they have duties of disclosure and cooperation in order to assist the bankruptcy trustee, the bankruptcy court and creditors' bodies with the fulfilment of their duties.</p> <p>The situation is different in formal restructuring, in which the debtor's management remains in possession (in director's hands). However, company's rights to dispose of assets is limited, and each material disposal of assets requires the prior consent of the creditors' committee and the bankruptcy trustee.</p>		
19. Takeover bids		They have duties concerning publications and notifications on their involvement in purchase or sale of the share in the company.	
20. Market abuse/insider dealing	General duty to act in accordance with interests of the company and all its shareholders and to act in compliance with the respective EU regulations.	<p>Directors of listed companies have the duty not to</p> <ul style="list-style-type: none"> i) manipulate the market, ii) trade using insider information, and iii) illegally publish confidential information, 	

		pursuant to Regulation of the European Parliament and the Council No. 596/2014 on market abuse.	
Defences			
21. Good corporate governance	<p>The directors are in charge of the company's business management and represent the company in all matters. In particular, some of these duties include:</p> <ul style="list-style-type: none"> • ensuring that the prescribed records and accounts are duly and properly kept and that shareholders list is administrated; • informing the shareholders, upon request, at the General Meeting of the company about any company-related matters relevant for assessment of the matters on the agenda of the General Meeting; • Disclosing financial statements or main facts shown therein in the manner prescribed by law; • Drawing up the full wording of the Articles of Association or By-Laws and filing them to the Collection of Deeds of relevant Commercial Registry (registration court) after becoming aware of any change. 	Directors of listed companies have several notification and publication duties that include the duties to publish remuneration policy, a detailed report on remuneration of directors, report on material transaction with the related parties, information on any change of the registered capital or rights attached to the certain type of shares.	Directors are jointly liable for damages caused by breach of their obligations during exercise of their powers.
22. Minutes of board meetings and publication requirements	Minutes have to be prepared on course of the Board of Directors meetings, executed by the Chairman of the Board of Directors and a minute's taker. Directors have the right to have stated in the Minutes their different opinion on discussed matter.		

	There are no statutory publication requirements of the Minutes save for those adopting changes in the corporate data subject to registration in the relevant Commercial Register.		
23. Discharge and Indemnification	<p>Directors are discharged by the General Meeting of the company or if the By-Laws state so, by the Supervisory Board. Any rights of the company for compensation of damages stay in place after discharge of the directors. The company may waive such rights only after 3 years after occurrence of damage and only with approval of General Meeting.</p> <p>Each company (represented by the Supervisory Board or a shareholder) is entitled to claim damages on behalf of the company against the director/member of Bord of Directors.</p>		
24. Insurance	There is no mandatory insurance for directors or companies to maintain for directors. It is possible to have facultative D&O insurance. The company is allowed to pay premiums for such insurance as part of remuneration of director.		
25. Resignation	Directors may resign by delivery of resignation letter or directly personally present on the General Meeting of company (or a Supervisory Board meeting if by-laws devoted the competence on appointment and recall of directors to the Supervisory Board). Their resignation is effective from the date of the next following meeting of the body with power to appoint or recall directors (General Meeting/Supervisory Board) after delivery of the resignation letter or on the date of the General Meeting/meeting of the Supervisory Board on which he/she personally presented his/her resignation.		

	<p>If the General Meeting/Supervisory Board does not meet in 3 months from delivery of the resignation letter, the resignation is effective on the first day after the 3-month period. If directors resign on meeting of such body, the resignation is effective right then.</p>		
<p>26. Restructuring of assets</p>	<p>Since there are no specific out-of-insolvency restructuring proceedings regulated by law in the Slovak Republic, only a court restructuring may be initiated. In general, the law requires the directors to be fully aware and responsible for the financial situation of the company at all times, especially during financial difficulties.</p> <p>They have to undertake reasonable efforts to overcome reasons for insolvency, e.g. by pursuing necessary measures with immediate effect and there is a set of limitations regarding making e.g. payments to shareholders or controlling or otherwise personally interconnected persons in case a company is in crisis (in principle status of having negative equity) and provided such limitation were breached by the directors then in such a case they become personally liable (as guarantors) to creditors of the company.</p>		
<p>27. ESG and D&I policies, metrics, reports</p>	<p>No mandatory ESG policy rules are in effect in the Slovak Republic. D&I rules are regulated in the respective labor regulations in relation to employees, that include equal treatment of all employees and prohibition of their discrimination.</p> <p>Annual report of company should contain information on impact of activities of the company on environment and employment.</p>		