



# Daňovky

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In brief

Tax and Legal News |  
May 2023

# The most important changes brought by the new judicial map

On 1 June 2023, the so-called reform of the "judicial map" will come into force, the primary objective of which, according to its authors, is to achieve faster and better-quality decision-making. The reform will lead to the abolition of several existing courts, the creation of new courts with case specific competences and, among other things, the transfer of competences between courts.



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## Establishment of municipal courts

One of the biggest changes is expected in the capital Bratislava and in the city of Košice. In these cities, new so-called municipal courts will be created by transforming the current district courts.

As part of the judicial reform, four municipal courts will be established in Bratislava with the following specialization of the agenda:

- criminal law agenda - Municipal Court Bratislava I;
- family law agenda - Municipal Court Bratislava II;
- business law agenda, including the agenda of the registry court - Municipal Court Bratislava III; and
- civil and labour law agenda - Municipal Court Bratislava IV.

The Municipal Court in Košice will replace the District Court Košice I, II and Košice - surroundings.

## Changes in the maintenance of the Commercial Register in Bratislava and Košice

The Commercial Register will be newly maintained by:

- Municipal Court Bratislava III for the district of the Regional Court in Bratislava; and
- Municipal Court Košice for the district of the Regional Court in Košice.

This change will have an impact on the obligation to indicate the name of the ("new") registry court that keeps records of the registered person. Therefore, it is necessary for companies that are currently registered under the District Court Bratislava I to indicate **the Municipal Court Bratislava III in business letters and orders in written or electronic form as of 1 June 2023**. Companies currently registered under the Košice I District Court are newly required to indicate **the Municipal Court Košice** as the court of registration.

The other registry courts for the remaining districts remain unchanged.

## District Courts

The number of district courts will be reduced from 54 to 36 (including five municipal courts), with some of the abolished courts continuing to operate as offices of their successor district courts.

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replaced by completely different district courts. For example, the District Court of Poprad will not be competent for the district of the Regional Court in Prešov as it is now, but the District Court of Prešov.

## **Regional courts**

The existing county courts will remain. However, the following changes will take place:

second-instance commercial disputes will only be under the jurisdiction of the Regional Courts of Bratislava, Banská Bystrica and Košice; and

second-instance family law cases will be under the jurisdiction of the Regional Courts of Trnava, Žilina and Prešov only.

Civil and criminal second instance cases remain in all eight regional courts.

## **Administrative courts**

The reform also leads to the establishment of three new first instance administrative courts, namely the Administrative Court in Bratislava, Banská Bystrica and Košice. These administrative courts will have the status of regional courts.

Whether the reform of the judicial map will actually achieve the expected aim and thus lead to a more efficient and shorter length of court proceedings will be determined by the application practice.

Nevertheless, in the coming months, it can be expected that individual court proceedings will be prolonged due to the change of statutory judges and postponements of hearings for the necessary time needed for the implementation of the changes.

# Carbon Border Adjustment Mechanism („CBAM“) brings new obligations to importers of defined goods

On 17 May 2023, Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism („CBAM“) entered into force. The CBAM (also referred to as „carbon duty“) will enter into application in its transitional phase on 1 October 2023. Regulation must be applied in its entirety across the EU.



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The CBAM will initially apply to imports of certain goods and selected precursors in some of the most carbon-intensive sectors: cement, iron and steel, aluminium, fertilisers, electricity and hydrogen.

## ***Transitional period***

CBAM should be phased in gradually over time, with the aim of allowing for a careful, predictable and proportionate transition for EU and non-EU businesses, as well as for public authorities. Under the political agreement, the CBAM will enter into force in its transitional phase as of 1 October 2023. During this transitional period, it will be limited to reporting obligations with the aim to collect data.

A CBAM report on the goods imported during the respective quarter of a calendar year and the emissions embedded in these imports will have to be submitted by each importer or the indirect customs representative for the given quarter of a calendar year, no later than one month after the end of that quarter. The deadline for submission of the first CBAM report will be 31 January 2024. The last CBAM report, which is the report to be submitted for the last quarter of 2025, should be submitted by 31 January 2026.

The rules and requirements for the reporting of emissions under CBAM will be further specified in an implementing act to be adopted by the European Commission after consulting the CBAM Committee, made up of experts from EU Member States.

During the transitional period, no financial payments or adjustments will be made. This pilot period is to serve as a learning period for all stakeholders (importers, producers and authorities) and to collect useful information on embedded emissions to refine the methodology for the definitive mechanism.

The agreement foresees that indirect emissions will be covered in the scope after the transitional period for some sectors (cement and fertilisers), on the basis of a methodology to be defined in the meantime.

A review of the CBAM's functioning during its transitional phase will be concluded before the entry into force of the definitive system. At the same time, the product scope will be reviewed to assess the feasibility of including other goods and a timetable setting out their gradual inclusion should be presented.

## ***The definitive system***

From 1 January 2026, the full CBAM will kick in. The customs authorities should not allow the importation of goods by any person other than an authorised CBAM declarant. The authorised CBAM declarants will have to submit annually a declaration of the embedded emissions in the goods imported into the customs territory of the EU and would surrender the number of CBAM certificates which correspond to those declared emissions. The first CBAM declaration, in respect of the calendar year 2026, should be submitted by 31 May 2027.

allowances on the auction platform expressed in EUR/ tonne of CO<sub>2</sub> emitted, in accordance with the procedures laid down in a separate regulation.

For those calendar weeks in which no auctions are scheduled on the auction platform, the price of CBAM certificates shall be the average of the closing prices of EU ETS allowances of the last week in which auctions on the auction platform took place.

The phasing-out of free allocation under the EU ETS will take place in parallel with the phasing-in of CBAM in the period 2026-2034.

### **Penalties**

It falls to the EU member states to impose penalties for infringements of the mentioned Regulation and they should ensure that such penalties are enforced.

More specifically, the penalty amount for the failure of an authorised CBAM declarant to surrender CBAM certificates should be identical to the excess emissions penalty set out in the Directive establishing a scheme for greenhouse gas emission allowance trading and increased pursuant to the relevant provision of that Directive, according to rules applicable in the year of importation of the goods.

However, where the goods have been introduced into the EU by a person other than an authorised CBAM declarant without complying with the obligations under the Regulation, the amount of those penalties should be higher in order to be effective, proportionate and dissuasive.

When imposing the penalties, the competent authorities should take into account in particular the duration, gravity, scope, intentional nature and repetition of such non-compliance and the level of cooperation of the person with the competent authority. According to the Regulation, an amount from three to five times the penalty referred to above should be concerned. Such penalty would be applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered.

An effective, proportionate and dissuasive penalty should be imposed on the importer or the indirect customs representative even during the transitional period, if he failed to comply with the reporting obligation or if the submitted CBAM report is incomplete or incorrect and he has not taken the necessary steps to correct it.

The imposition of penalties under this Regulation is without prejudice to penalties that may be imposed under EU or national law for the infringement of other relevant obligations, in particular those related to customs rules.

### **Next steps**

Adoption of delegated and implementing acts under this Regulation is awaited in the forthcoming months.

In view of the approaching start of application of the transitional phase of the new mechanism, it is important that businesses operating in the sectors concerned become familiar with the new rules in good time and prepare for the upcoming changes.

# One sentence summary | May 2023

Last month's tax and legal news in brief.



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- The Financial Administration has published the list of taxpayers with **tax reliability index** on its website. An overview of the taxpayer assessment is publicly available in [the information lists](#).
- The Ministry of Labour, Social Affairs and Family of the Slovak Republic has published on its website a structured form [the Application for granting an exception pursuant to Article 16 \(1\) of Regulation \(EC\) No. 883/2004](#), in which it is possible to select **the performance of telework according to the Framework Agreement between the Slovak Republic and Austria** as a reason (you can find more information about the signing of the Framework Agreement with effect from 1 June 2023 [in our previous Article](#)).
- New rates of the meal allowances for business trips will come into force **on 1 June 2023**: EUR 7.30 (for the time zone 5 to 12 hours), EUR 10.90 (for the time zone over 12 to 18 hours) and EUR 16.40 (for the time zone over 18 hours). In this context, the minimum value of the meal voucher increased from EUR 5.10 to **EUR 5.48**, the minimum employer contribution/financial contribution increased from EUR 2.81 to **EUR 3.02** and the maximum employer contribution/financial contribution increased from EUR 3.74 to **EUR 4.02**.
- The President signed an [amendment to the Whistleblower Protection Act](#), which **from 1 July 2023** regulates the obligations of employers in the area of the internal system of notice's verification. In addition, the penalties for non-compliance are increased up to EUR 100 000.
- The Social Insurance Agency allows from 15 May 2023 to request the issuance of an **A1 certificate** also via an electronic form. More information on the document for social security purposes when employees work abroad, can be found on [the following link](#).
- The Parliament has not approved the draft amendment to the Act on Foundations to the second reading during the May's session. The instrument for managing private assets which was supposed to introduce [so-called private foundations](#) failed to pass even by the parliamentary proposal.
- The Slovak Government has extended by [Decree](#) the financial contribution for accommodating Ukrainian refugees according to the Act on Asylum **until the end of 2023**, while the amount remains unchanged.
- The European Central Bank [increased the key interest rates](#) on the main refinancing operations to 3.75% with effect from 10 May 2023.

# Agreement on DAC8 compromise text

New reporting framework on the crypto-asset sector will help tax authorities to track the trade of crypto-assets and exchange of information about proceeds gained.



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On 16 May 2023, the Economic and Financial Affairs Council of the EU (ECOFIN) reached [agreement](#) on the proposal to extend the Council Directive 2011/16 on Administrative Cooperation (DAC) to cover the exchange of information on crypto-assets, as well as tax rulings for individuals (DAC8). The agreed text is largely in line with the initial proposal issued by the European Commission.

## Key provisions of DAC8 include:

**Crypto-assets and e-money:** extending the EU tax transparency rules to cover crypto-assets and e-money. In line with the initial EC proposal, DAC8 would apply to all crypto-assets service providers (CASPs), irrespective of whether they are regulated under the [Markets in crypto-assets \(MiCA\) Regulation](#) or not. As a first step, in-scope CASPs would be required to collect and verify – in line with specific due diligence procedures, information from EU clients. Subsequently, certain information would be reported to the relevant competent authorities. Under a third step, this information would be exchanged by the recipient Member State with the tax authorities of the Member State where the reportable user is tax resident. The rules proposed are largely consistent with the OECD's Crypto-Asset Reporting Framework (CARF) and aligned with the definitions included in the MiCA Regulation. For more details on the differences between CARF and DAC8, please refer to the related [KPMG Insights piece](#).

**Rulings issued to high-net-worth individuals:** extending the automatic exchange of advanced cross-border rulings to cover rulings issued in respect of individuals.

**Reporting of the tax identification number (TIN):** DAC8 introduces new requirements and strengthens existing requirements to collect and exchange information on TINs for a number of the reporting obligations introduced by the various versions of DAC.

**Reporting of cross-border arrangements (DAC6):** Amendments were included to comply with the CJEU decision in case C-694/20 in relation to the obligations of reporting intermediaries which are bound by legal professional privilege (On December 8, 2022, the Court of Justice of the European Union (CJEU or the Court) gave its decision in case C-694/20 concerning compatibility with EU law of the requirement for intermediaries, who are subject to legal professional privilege, to notify other intermediaries of their reporting obligation under the EU mandatory disclosure rules (DAC6). The CJEU held that the notification obligation is invalid in light of the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union (the Charter) - specifically the right to respect for communications between a lawyer and his or her client (Article 7)).

**Other:** extending the scope of the mandatory automatic exchange of information between Member States to cover non-custodial dividend income.

Note that a common system of minimum penalties for serious non-compliance offences, which was included in the earlier proposal by the European Commission and that would have been applicable both to existing and proposed disclosure requirements was removed in the agreed compromise text.

The Directive will be formally adopted once the European Parliament have given their non-binding opinion. The Parliament's Committee on Economic and Monetary Affairs (ECON) has [tabled](#) several amendments to the text. The proposed changes are tentatively scheduled to be adopted by ECON on May 30, 2023, and the file is expected to be voted in the Parliament's

plenary sitting on July 10, 2023. The Directive will be published in the Official Journal of the EU after formal sign off by the Council.

With the exception of the TIN related provisions above, Member States would need to transpose the Directive **by December 31, 2025**. The rules would become applicable as of January 1, 2026 (with some exceptions).

*Source: ETC News*

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