

The Deloitte logo is displayed in a bold, blue, sans-serif font. The word "Deloitte" is followed by a small green dot. The logo is positioned in the upper left corner of a white rectangular area that serves as a background for the text.

Deloitte.

Deloitte Legal Central Europe Guide to transfer of NPLs

March 2016



Contents

Introduction	4
Summary of the survey	6
1. Transferability	7
2. Capacity of the buyer	8
3. Means of transfer and consent of the borrower	9
4. Security	10
5. Bank secrecy and data protection	11
Country Guides	13
Albania	14
Bulgaria	18
Czech Republic	22
Estonia	26
Hungary	30
Kosovo	34
Latvia	38
Lithuania	42
Poland	46
Romania	50
Serbia	56
Slovakia	60
Deloitte Legal	64

Introduction

Dear Reader,

The debt sales market in Central Europe is gaining momentum. The improving economic situation is attracting NPL¹ investors to debt purchasing in the CE region due to the expectations of higher recovery rates, which suggests a favorable habitat for distressed debt sales. At the same time, banks are looking for opportunities to reduce risk-weighted assets and the amount of capital they must hold against non-performing loans so that they can increase their new lendings to customers with better credit quality. With improving market conditions, portfolio transactions are becoming a more attractive, effective and speedy remedy for banks to deal with their NPL problem. Recent transaction activity in the market has included mortgage and corporate loan portfolios in addition to more frequent consumer portfolio transactions. Transaction activity has also started picking up in some countries that have seen very limited activity in the past.

As a result of increasing NPL transaction activity in the CE region, familiarity with the specific legalities of transferring NPLs in various jurisdictions can help investors safely conduct business outside their home countries. Investors need current, easy-to-use information relative to NPL transfers in the jurisdictions where they do business. Consequently, the Deloitte Legal Guide to NPL Transactions was produced by legal practices of Deloitte Central Europe (Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Kosovo, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia). It was prepared based on

legal research carried out in 2015 in each of these jurisdictions, and includes country-specific information provided by local lawyers. This guide is intended to be a useful tool for investors and banks involved in NPL transactions, tackling complex issues relevant to these transactions. Topics covered for each jurisdiction include:

- Transferability of NPLs
- Capacity requirements on the buy side
- Means of transfer and consent of the borrower
- Security transfer
- Bank secrecy and data protection

However, the information included in this guide is general in nature and laws may change. The information herein is not meant to replace transaction-specific legal advice in any of the jurisdictions covered. While there may be similarities across the jurisdictions surveyed, differences are substantial. As such, in transferring NPLs certain areas remain where local expertise is essential for each transaction. Our guide contains a summary of the survey from the drafters, followed by detailed information for each of the jurisdictions surveyed.

Please direct questions or requests for further information to the local contacts listed for each jurisdiction. Their details are included at the end of each country guide.

¹ In line with the generally accepted terminology, we define non-performing loans (NPLs) as loans overdue by at least three months (90 days past due or „DPD“).

Thank you for your interest in our guide and we hope you shall find the information useful.

Yours sincerely,



Andrei Burz Pinzaru

Partner, Attorney at law
Reff & Associates SCA – Member of Deloitte Legal
Leader for the Banking & Securities Industry
for Deloitte Legal Global
+40 (21)207 52 05
aburzpinzaru@reff-associates.ro



Dr. Gábor Erdős

Attorney, Partner Associate - Deloitte Legal Szarvas Erdős
and Partners Law Firm
+36 1 428 6813
gerdos@deloittece.com

Summary of the survey

1. Transferability

In the jurisdictions surveyed, bank loan receivables are **generally transferable**, with certain **common exceptions** applicable in most jurisdictions. Such exceptions include:



Restrictions to transfer provided in the loan agreement;



Restrictions deriving from non-compliance with bank secrecy / data protection requirements.



Consumer loans in **Serbia**;



Consumer loans in **Bulgaria** (The parties may waive this restriction);



Mortgage loans in **Bulgaria and Albania** (The parties may waive this restriction);



Specific purpose of the loan in the **Czech Republic**;

There are **national restrictions** specific to certain countries, which include restrictions in connection with:

The **consequences of breaking restrictions** in the surveyed jurisdictions claim for damages and the invalidity of the transfer.

2. Capacity of the buyer

There are **specific capacity requirements**, generally irrespective of the performing / non-performing nature of the loan.

These specific restrictions are the following:



Hungary and Kosovo

Only financial institutions



Albania

Banks or non-banks
financial institutions



Bulgaria

Only bank / non-banks
financial institutions
– in the case of a regular
purchase of loans



Lithuania

Only authorized entities
– in the case of consumer
loans



Serbia

Portfolio of loans
– authorization required
for certain financial
institutions and only
transfers of loans granted
to legal entities are
permitted.

3. Means of transfer and consent of the borrower

The generally used means of transfer are the following:



Assignment of receivables

Consent is not required, but a notice of the transfer must be sent to the borrower. Furthermore, in certain countries the notification of the guarantors is required, and / or a copy of the assignment agreement must be sent to the borrower.



Assignment of contract

Consent is generally required.

Note

In **Slovakia**, in the case of the transfer of NPLs consent of the borrower is not required. In **Albania**, in the case of the transfer of NPLs consent of the borrower is not required; however the data protection and bank secrecy requirements must be complied with.

In **Hungary** a mandatory written form of the transfer agreement (*ad validitatem*) is required.

In **Kosovo** the consent of the borrower is always required.

In **Lithuania**, the consent of the borrower is required for intuitu personae loans.



Novation

is a less widely used means of transfer, which also requires the borrower's consent.

4. Security



Transferability of securities

Borrower securities

There is an automatic transfer.

Third party securities

The consent of the guarantor is required.

Note: In Hungary automatic transfer exists only in the case of pledges, sureties and deposits.



Formalities required for the transfer

Real estate mortgages

Registration formalities with the relevant Land Book and / or official registries must be accomplished (generally no material costs).

Note: In Poland, real estate mortgage is not transferred until the new lender enters in the land and the transfer is registered with the Land Book.

Note: In Albania, the assignment of the loan agreement secured via mortgage will be deemed to be effective upon registration with the real estate registration office.

Other securities

Registration formalities are required only for certain types of securities (generally no material costs).

Note: In the Czech Republic, an authentic form is required for the transfer of security (costs depending on the value of the transfer). In Bulgaria and Romania, registration is required for the most common types of security.

5. Bank secrecy and data protection

The regulations regarding data protection and bank secrecy are applicable in the case of loan transfers.

The consent of the borrower is required in order to disclose information to the potential buyers. Consent is **not required** in the case of:



Transfer of NPLs

In Poland, the Czech Republic and Hungary



Public sale of the loans

In Poland








The legitimate interest of the bank is concerned




In Romania and in Poland for data protection, in Hungary for outstanding receivables, Lithuania, Slovakia.



Country guides

Albania

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable upon fulfillment of certain conditions as shown below.
2	Are there any cases where there are limitations to the transferability?			Transferability can be limited by agreement. For other limitations, please see section 9 below.
3	Types of legal instruments available for the transfer			<ul style="list-style-type: none"> • Assignment of bank loan receivables • Contract assignment
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			Generally, securities granted are automatically transferred, except for cases where certain actions are required (e.g. loans secured by mortgage; in such case the transfer of the loan shall be deemed complete as from date of registration with the real estate registration office).
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			Generally, no consent is required for assignment of receivables.
6	In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the transfer is considered invalid.
7	Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			Acquiring loans on a regular basis may be considered as financing activity, thus falling under the provisions of Law no. 9662, dated 18.02.2006 "On Banks in the Republic of Albania" as amended. In such case, the entity should be subject to licensing as a bank or other financial institution.

Question	Yes	No	Comment
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			The type of loans to be transferred poses no additional requirements to the buyer capacity. However should the acquisition of the loan fall under the definition of financial activity, the buyer should be a bank or a financial institution.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			If the information related to the transferred loans constitutes banking secrecy, which includes the financial information and the personal data of the borrower, the applicable restriction provided under the banking legislation and/or personal data protection legislation shall apply. In particular, the information contained in the Credit Registry, held by the Bank of Albania (i.e. personal data and the information related to the credit balance and the crediting exposure of the borrowers, information about the related persons and loan guarantors) is subject to data secrecy restrictions. To this effect, the data reporters (i.e. relevant lenders) are entitled to process/ transfer such data upon authorization of the borrower. Such authorization is granted, in a standard form, on the date of application for loan and will be attached to the relevant loan agreement.
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			Yes, both these laws entitle the lender to process (including, but not limited to, transmit) the borrower's information if required by its legitimate interests. However, no further regulations about, inter alia, the meaning of this exception and/or the kind of the affected transactions have been provided.
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			Pursuant to the Albanian Civil Code the loan transfer is effective toward the borrower and third parties upon notification of the borrower by the former lender (transferor) or the new one (transferee). There are no specific regulations dealing with the notification time (i.e. prior or following the transfer).

Question	Yes	No	Comment
<p>12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?</p>			<p>The mortgage agreement should be concluded before the notary public and registered, within 30 days upon conclusion thereof, with the Immovable Properties Registration Office (“IPRO”). The IPRO registers the mortgage agreements within 2 working days from the filing date. The expenses for the registration are borne by the borrower, unless otherwise agreed upon mutual agreement. Depending on the value of the loan, the registration expenses vary between ALL 7,500 (approx. EUR 55) and ALL 25,000 (approx. EUR 180). According to the Albanian Civil Code, the mortgage is considered completed upon its registration with the IPRO. Thus, the non-registration of the mortgage agreement impedes the successful enforcement of the rights deriving therefrom. For a loan transfer, the lender’s data in the IPRO must be updated accordingly.</p>
<p>13 Same question for the loans secured with other type of collateral</p>			<p>The securing charge agreements over tangible movable assets should also be registered with the Securing Charge Registry (“SCR”). Such agreement must be concluded in writing. The registration of the securing charge agreements is done by completing the relevant forms determined by the SCR regulation. Such registration is effective from the moment SCR accepts the information contained in the relevant form and the moment that this information is accessible in SCR system. In case the completion of the securing charge depends on the registration thereof, the failure to register it with the SCR impedes the successful enforcement of the rights deriving therefrom. The applicable fee for such registration is ALL 1,400 (approx. EUR 10). In the case of loan transfer, the lender’s data in the SCR must be updated accordingly. Furthermore, in the case of loans secured by pledge over shares, the relevant agreement must be concluded in writing and registered in the company’s book. In practice, such agreement is registered also with the Commercial Registry, in the section of voluntary data. Such registration is done so third parties are aware of the pledged shares and has no relevance with regard to the rights of the pledgee deriving from the pledge agreement. The registration shall be completed by the Commercial Registry within 24 hours from the filing date, and the applicable fee is ALL 100 (approx. EUR 0,7). In the case of loan transfer, the lender’s data in the Commercial Registry must be updated accordingly.</p>



Office

Deloitte Albania sh.p.k.

Rr. Elbasanit
Pallati poshte Fakultetit
Gjeologji - Miniera
Tirana, Albania

Key Contact & Contributors

Shehu Olindo

+355 4 4517 929
oshehu@deloittece.com

Sabina Lalaj

+355 445 17927
slalaj@deloittece.com

Erlind Kodhelaj





+355 445 17939
ekodhelaj@deloittece.com

Ened Topi

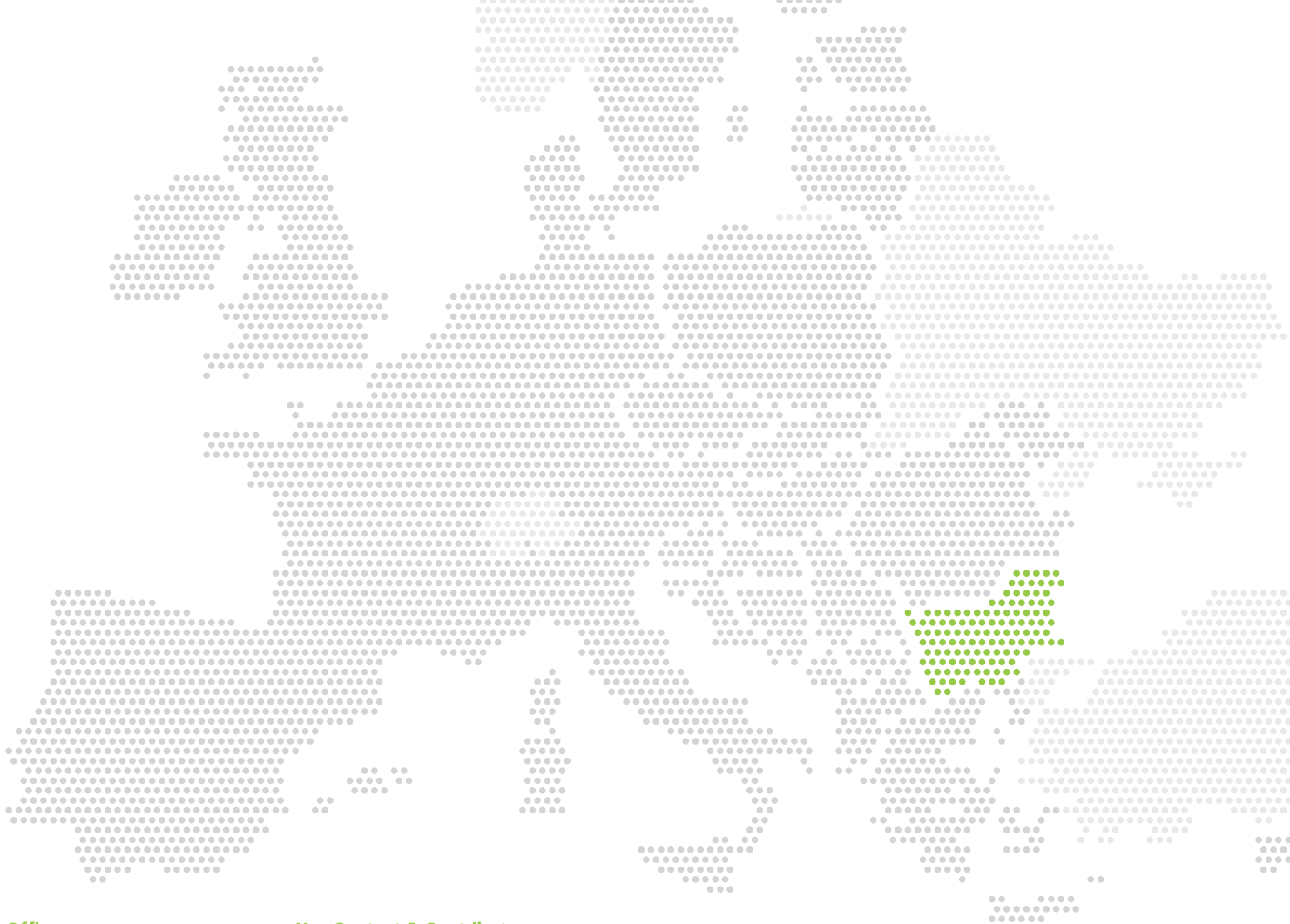
+355 445 17906
etopi@deloittece.com

Bulgaria

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<ul style="list-style-type: none">• Transferability may be limited based on agreement of the parties;• For certain types of loans (e.g. consumer loans) transferability must be provided for in the loan agreement.
3	Types of legal instruments available for the transfer			The general legal instruments include: <ul style="list-style-type: none">• Assignment of receivables (cession);• Transfer of debt (i.e. assumption of the debt where the new borrower assumes the obligations and the old borrower is released from its obligations);• Novation.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<ul style="list-style-type: none">• In the event of assignment of the underlying receivable, the security transfers automatically. However additional registration procedures may have to be followed for certain types of securities - e.g. mortgages, special pledges.• In the event of a transfer of debt, the security given by a third person shall only continue to secure the loan if the third party agrees to the change of the debtor. Mortgages/pledges granted by the initial debtor remain in force subject to any additional registrations that have to be completed.• In the event of novation, the security granted for the old debt will be kept for the new debt only if the security providers give their explicit consent to that effect.

Question	Yes	No	Comment
5 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			Generally, no consent is required for assignment of receivables. Assignment of receivables under consumer contracts must be provided for in the initial agreement between the lender and the consumer or in a subsequent amendment agreement in writing before the assignment takes place. Transfers of debts as well as novation of debt require the consent of the old debtor, the new debtor and the lender.
6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the assignment/transfer will not take effect.
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			Generally, loans can be acquired by any third party. However, subject to certain exceptions, if the third party acquires loans on a regular basis, it must be licenced as a bank or a registered as a financial institution (if this business is material).
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			There is no special requirement with respect to the buyer's capacity depending on the performing/non-performing loans. Special purpose investment companies licensed for securitization of receivables are not allowed to acquire loans that are subject to enforcement.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			Yes, they apply to information that is treated as bank secrecy or personal data. Note that only information about balances and transactions under the bank accounts are covered by the bank secrecy rules. Lenders should also comply with any other confidentiality obligations, if such obligations are included in the loan documentation. Banks, non-banking financial institutions, payment institutions and electronic money companies have a paid access to the information system of the Bulgarian National Bank (credit registry) regarding loans granted to clients. The system contains personal information of the borrowers as well as information about current status of the credits including repayments and repayment defaults for a 5 year period backwards. When using the system the institutions must still comply with bank secrecy and data protection rules. The institutions obtain and use the information only to establish the creditworthiness of the borrowers. They are not allowed to disclose or transfer the information to third parties or use it for commercial purposes (not even as summarised data).

Question	Yes	No	Comment
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			No exceptions apply. Disclosure is generally allowed to certain authorities subject to a special procedure or upon the consent of the borrower. Therefore, it is recommended to have the borrower's consent in advance (included in the loan agreement).
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			In the event of assignment of receivables the assignor must notify the borrower after the assignment takes place. For certain types of loans, e.g. consumer loans, if the previous creditor continues to administer the loan, no notification is necessary. Banks, financial institutions, payment institutions and electronic money companies must notify the Bulgarian National Bank regarding the transfer as a part of their reporting obligations. There are also certain reporting obligations for statistical purposes under the Currency Act (e.g. Bulgarian companies must report to the Bulgarian National Banks certain transactions with foreign companies)
12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			Yes, loans secured by mortgages must be assigned by way of an agreement with notarised signatures. The agreement must be registered with the Property Registry in order to be valid with respect to the mortgage. Should the assignee fail to re-register the mortgage, the assignee may not successfully enforce the rights under the mortgage The fee for registration of the assignment could be material as it is proportionate to the secured amount. Timeframe differs on a case by case basis. Usually, it takes a few days from filing the documents to complete the registration.
13 Same question for the loans secured with other type of collateral			Generally, changes of the parties to other types of security agreements must be registered with the applicable registry (e.g. with the Special Pledges Registry). Timeframes and costs differ depending on the competent registry. Fees are not proportionate to the secured amount so they are lower compared to registration of assignment with respect to mortgages.



Office

Deloitte Legal Law Firm




103, Al. Stambolijski Blvd
Sofia Tower (Mall of Sofia)
1303 Sofia, Bulgaria







Key Contact & Contributors



Reneta Petkova

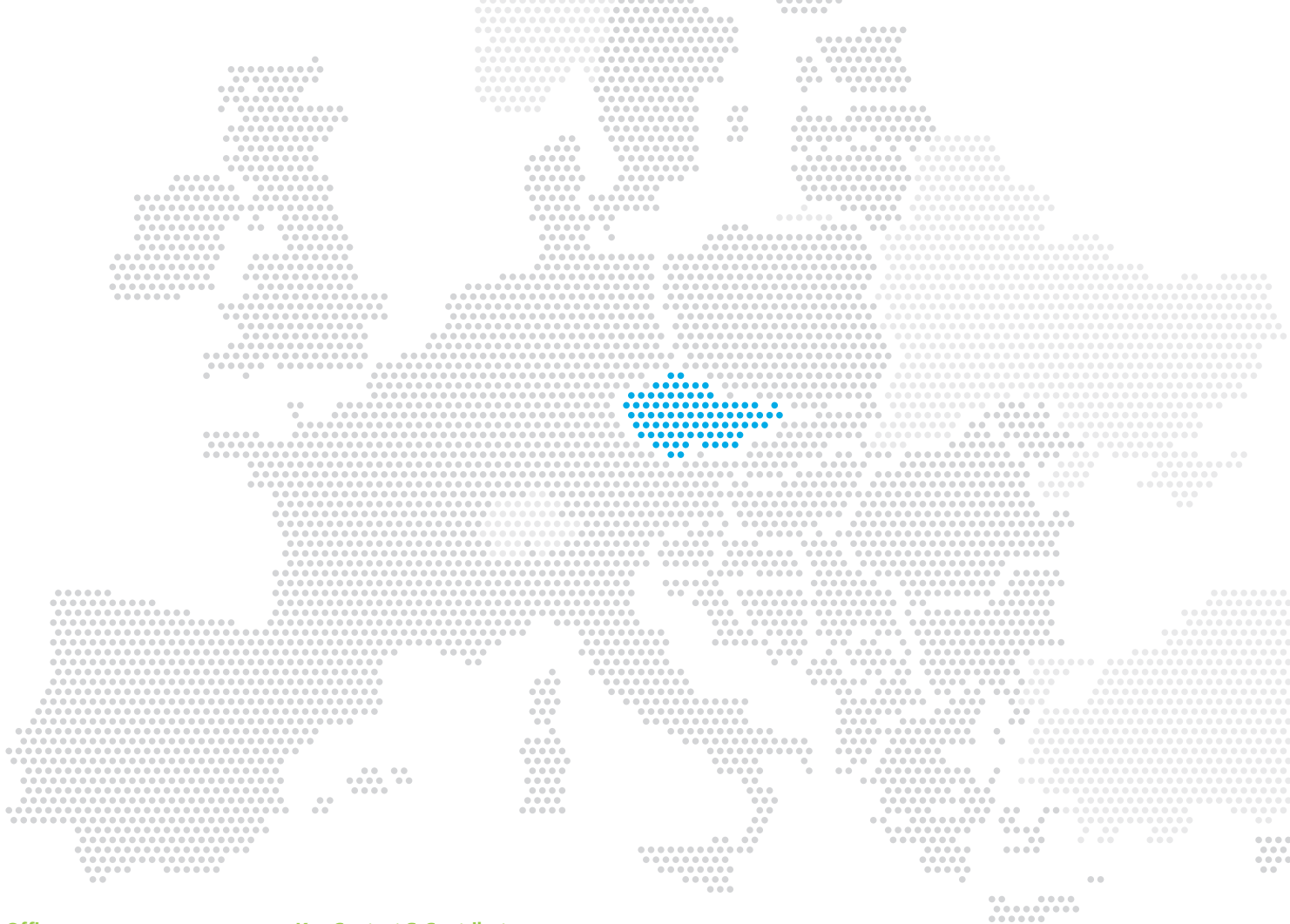
+359 2 8023 118
rpetkova@deloittece.com

Czech Republic

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<ul style="list-style-type: none"> • Transferability may be limited based on agreement of the parties. • Transferability is limited in case of receivables that were destined for a specific purpose.
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ul style="list-style-type: none"> • Assignment of receivables • Debt assumption (i.e. assumption of the debt where the new borrower assumes the obligations and the old borrower is released from its obligations) • Contract assignment
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<ul style="list-style-type: none"> • In the event of assignment of the underlying receivable, the security transfers automatically. However, the assignment of the receivables is effective towards the guarantor (person providing a security), only after the guarantor is notified about the assignment. There are certain procedures to be followed which are as follows: <ol style="list-style-type: none"> 1) For pledges registered in the Register of pledges held by the notarial chamber or other public registers there is a duty to notify the respective register about the transfer; for registration in Register of pledges please see the comment in point 13 below. 2) Real estate mortgages are registered in Cadastral Register. The transfer shall be notified to the Cadastral Register, the respective contract (e.g. assignment agreement) shall be attached thereto. • In the event of a debt assumption the securitization of a loan given by a guarantor shall only continue to be valid in case the guarantor agrees with the change of the debtor.

Question	Yes	No	Comment
5 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			<ul style="list-style-type: none"> • Depends on the transfer instrument. • A creditor may assign the entire receivable or a part thereof by a contract as an assignor even without the consent of the debtor to a third person (the assignee). • In the case of contract assignment, any contractual party may transfer its rights and obligations stemming from a contract or its part to a third person unless excluded by the nature of the contract and provided that the other contractual party agrees to this and that it has not been performed. In case the performance is periodical or repetitive, then the contract may be transferred with effect to what has not been performed yet.
6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the transfer shall be deemed as relative invalid.
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			Generally speaking, no.
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			There is no special requirement with respect to the buyer's capacity depending on the performing/non-performing loans.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			Yes, the customers must give consent with the processing of their personal data / divulging of information that fall under the banking secrecy protection.
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			In case a customer is in delay with a monetary performance towards the bank for a period of time exceeding 60 days or if the customer breaches his obligations towards the bank concluded in an agreement or set by law, the bank's duty to keep banking secrecy shall be limited so that the bank may inform other banks or third persons, or the general public about breach of contract by the customer, whereas he may only state the name of the client and an indication of the breached obligation.
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			No. There are no specific notification requirements. However, until the time the assignor notifies the borrower of the assignment or until the assignee does not prove the existence of the assignment to the borrower, the borrower can perform his obligations by paying the debts to the assignor.

Question	Yes	No	Comment
<p>12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?</p>			<ul style="list-style-type: none"> • Yes, in the case of real estate property, registration in the Cadastral Register is necessary. Timeframe for entering the right into Cadaster may significantly vary from about 21 days to appx. 51 (in exceptional cases the period may amount up to 81 days). This will depend on the Cadaster office. • The signatures on the pledge agreement shall be officially certified. • The related costs are not material (signature certification costs less than EUR 2 and the administrative fee for a motion to enter data into Cadastral Register amounts to approx. EUR 35). • In the case of a real estate property registered in the Cadastre, the entering of the lien into the Cadaster is a pre-condition for its establishment and effectiveness.
<p>13 Same question for the loans secured with other type of collateral</p>			<ul style="list-style-type: none"> • Yes, register of pledges maintained by the Czech Notarial Chamber (obligatory in case of pledge of a business unit, bulk property or real estate not registered in the Cadastral Register, in other cases optional based on mutual agreement of the parties) is necessary. • The pledge agreement must be executed in the form of a notarial deed. • The advantage is that the right of the pledge creditor whose right is registered in this register or another public register shall be satisfied with priority. • The notary's reimbursement is counted as a percentage from the amount of the debt, or the pledged thing. • The process of registration is less formal and may take several hours or days. • Consequences of failure to register: <ul style="list-style-type: none"> • Consequences will vary depending on the pledged item, but these are the most probable scenarios: • The lien will not be established (the lien is effective by entering it into the register) • The lien will be established, but it will not be effective towards third parties (the pledgee will lose priority of its right).



Office

Ambruz & Dark Deloitte Legal

Nile House, Karolinská 654/2
Prague 8, Czech Republic

Key Contact & Contributors


Jan Spacil

+420 246 042 991
jspacil@deloittece.com

Jan Prochazka

+420 246 042 913
jprochazka@deloittece.com

Estonia

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<p>In principle any claim is transferrable without the consent of the obligor (debtor), except for (i) such claims, which underlying obligations cannot be performed by any other person than the original obligee without altering the content of the obligation; or (ii) certain specific claims stipulated by law (e.g. claims for compensation for damage arising from a bodily injury, or claims which cannot be subject to enforcement procedure such as certain social benefits).</p> <p>Transferability may be limited based on agreement of the parties; however such agreement has no effect towards third parties; In addition, any clause included to standard business terms and conditions applicable to consumers, which precludes or unreasonably restricts the right of the other party to assign claims, is null and void.</p>
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ul style="list-style-type: none"> • Assumption of a contract. • Assignment based on a contract • Sale of accounts receivable (factoring) <p>In addition the transfer of rights and obligations on the basis of the law (e.g. in the case of mergers).</p>
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<ul style="list-style-type: none"> • The securities, which are accessory to the transferred obligations, will transfer automatically (e.g. sureties, possessory pledge). • As to the securities, which are not accessory to the obligation (e.g. mortgages, registered securities over movables and guarantees), these will not transfer automatically;

Question	Yes	No	Comment
			<p>however, it is presumed that the transferor is obliged to transfer also such securities. In practice this means that appropriate transfer documentation (e.g. notarised agreement re mortgages) and entries to the registries need to be executed in order to effect the transfer of non-accessory securities.</p> <ul style="list-style-type: none"> • Additionally, the transferor and the borrower or the person issuing the security may agree on the particular security instrument not being transferred in the case of the transfer of the secured obligations.
<p>5 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?</p>			<p>Generally, no consent is required for assignment of receivables; however it is usually required or advisable to notify the debtor. For instance, based on general rules, in case the borrower was not and did not need to be aware of the transfer, any obligation or transaction by the borrower obligor towards the transferor (original creditor) is deemed to have been performed for the benefit of a correct person.</p> <p>In case of factoring, the seller of the receivables is required to notify the obligor of the assignment of the claim.</p> <p>Also, in the case of consumer credit, the consumer must be informed of the assignment of the claim, unless the creditor continues to be an obligee with respect to the consumer by agreement with the new obligee.</p> <p>On the other hand consent of the other party is needed in the case of assumption of contract.</p>
<p>6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?</p>			<p>Agreements which preclude or restrict the right to assign the claim have no effect vis-à-vis the third parties (i.e. the purchaser of the claims), provided that the debtor was duly notified of the transfer. Thus, if the loan receivables are sold in breach of a contractual prohibition, the borrower may file claims against the initial creditor for breach of contract (e.g. damages claim, contractual penalty). The assignment shall remain valid.</p>
<p>7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?</p>			<p>There are no specific requirements for debt collection businesses.</p>
<p>8 Is the buyer capacity requirement different in the case of performing and non-performing loans?</p>			<p>No.</p>

Question	Yes	No	Comment
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			The creditors must adhere to the rules on customers' data protection and data processing as well as in the case of credit institutions on banking secrecy. The transfer of data to the transferee of the receivables is only allowed if the client has consented to it or if it can be determined that the transferee has a substantiated legal interest in receiving such data. Provided that certain prerequisites are fulfilled, the transfer of data to a creditor with a substantiated legal interest in obtaining the data with the objective of performing creditworthiness (credit risk) assessments are allowed without the customer's prior consent.
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			See also above in point 9. In general the information on the payment defaults is not considered to be banking secrecy and such information may be transferred and distributed without the consent of the data subject provided that the receiver has legitimate interest in the data and that certain other conditions are met. Such data transfer under the legitimate interest exception cannot entail the transfer of delicate personal data nor be disproportionate.
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			Usually the creditor informs the debtor about the transfer of the claim to the new creditor and the transferee and the transferor formalise the claim assignment document. In the case of consumer credit agreements, the transferor is obliged to notify the borrower of the transfer unless the transferor and the transferee have agreed that the transferor will remain the creditor vis-à-vis the consumer.
12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			A notarised agreement is necessary for the transfer of the mortgage. New mortgages and amendments to the existing mortgage (transfer of the mortgage to the security holder) shall be registered with the land book. The related costs are notary fees and stamp duties, for which the amount is calculated based on the value of the transaction in hand. In case of changes in the existing mortgages, the cost and time required is not material.
13 Same question for the loans secured with other type of collateral			The practice varies depending on the particular type of the collateral. In case the loan is secured with a commercial pledge, the change in the security holder (creditor) needs to be notarised and registered. The related costs are notary fees and stamp duties, for which the amount is calculated based on the value of the transaction in hand. In case of changes in the existing pledges, the cost and time required is not material.



Office

Deloitte Legal juht, vandeadvokaat

Roosikrantsi 2
Tallinn, Estonia

Key Contact & Contributors

Mait Riikjarv

+372 6406524
mriikjarv@deloitteCE.com




Merit Lind







+372 640 6525
melind@deloittece.com



Katrin Peskov-Kahkonen

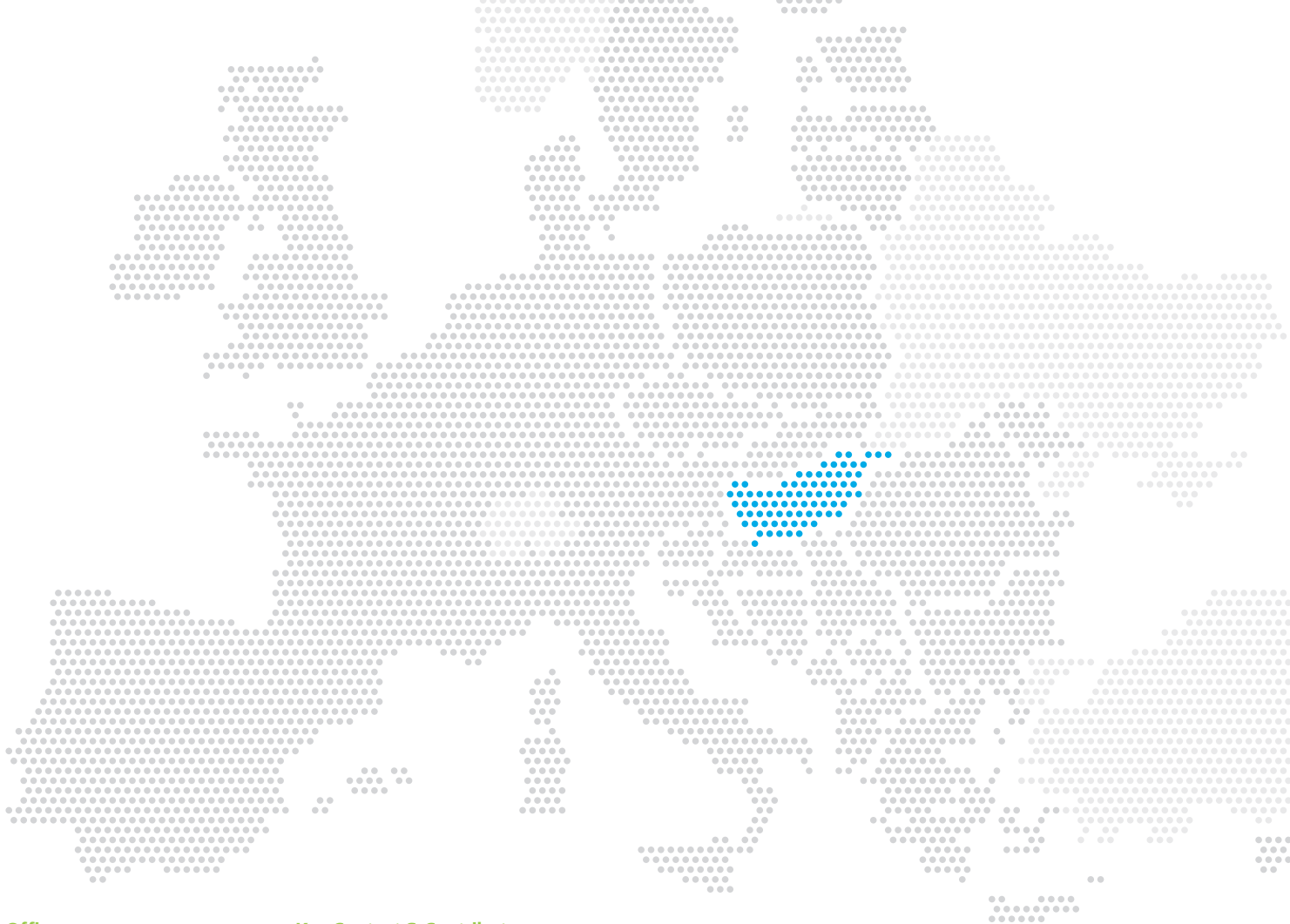
+372 640 6574
kpeskovkahkonen@deloittece.com

Hungary

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Yes, the receivables from bank loans are transferable.
2	Are there any cases where there are limitations to the transferability?			The Hungarian Civil Code regulates the transfer of receivables resulting from bank loans. There is no specific prohibition on such transfer. However, the agreement may contain some contractual limitations in relation to the transfer.
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ol style="list-style-type: none"> 1. Assignment of the claim 2. Transfer of the agreement 3. Transfer of portfolio (i.e. package of contracts) pursuant to the Credit Institutions Act. The transfer of portfolio may be applied in the case of (i) loan agreements; (ii) factoring agreements; and (iii) leasing agreements, provided that the loan amount (capital amount) or the claims arising from the leasing reach at least HUF 10 billion or there are at least 20 contracts to be transferred. The transfer of portfolio requires the approval of the Hungarian National Bank.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<ol style="list-style-type: none"> 1. In the case of assignment, certain security interests may not be assigned to a third party. Pursuant to the Hungarian Civil Code and its commentary, the pledge, suretyship and the claims related to any interest, deposit transfers automatically. However, the right of set off, the authorisation for prompt collection may not be transferred to the assignee. In connection with the call option rights (established on the quota and on the real estates) the precedents are controversial whether the call option rights are transferrable or not. 2. In the case of transfer of contract, the securities are not transferred automatically. Specific clauses need to be inserted into the transfer deed. 3. In the case of transfer of portfolio, the security interests transfer automatically.

Question	Yes	No	Comment
5 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			<ol style="list-style-type: none"> 1. In the case of assignment, no specific consent is required from the borrower. 2. The transfer of contract is a tripartite agreement, i.e. the borrower is also a party to the agreement. 3. In the case of transfer of portfolio, no specific consent is required from the borrower.
6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If the loan receivables are sold in breach of a contractual prohibition, the borrower may file claims against the initial creditor for breach of contract (e.g. damages claim, contractual penalty). The assignment shall remain valid.
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			Yes, it must be a financial institution if this activity is carried out in a business-like way (as specified by the Banking Act).
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			There is no special requirement with respect to the buyer's capacity depending on the performing/non-performing loans. The same provisions apply for performing and non-performing loans.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			Data protection applies for all personal data including for the information related to transferred loans.
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			In the case of transfer of portfolio or purchase of receivables in a business-like way – pursuant to the Banking Act – the Banking Act provides exceptions from the banking secrecy.
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			The borrower must be notified of the assignment (also of the transfer of portfolio).

Question	Yes	No	Comment
<p>12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?</p>		<p>Yes, the change of beneficiary must be registered with the Land Registry in order to comply with the property law. Should the assignee fail to re-register the mortgage, the assignee may not successfully enforce the rights under the mortgage</p> <p>The fee for registration of the assignment could be material as it is calculated based on each real estate.</p> <p>The notification must be filed with the Land Registry within 30 days of the agreement and the Land Registry's deadline for procedure is 21 days.</p>	
<p>13 Same question for the loans secured with other type of collateral</p>		<p>Procedures are the same for any collateral that is registered in a security registry.</p>	



Office

Deloitte Legal

Dózsa György street 84/C
Budapest, Hungary

Key Contact & Contributors




Gábor Erdős




+36 (1) 428 6813
gerdos@deloittece.com




Anita Baracsi

+36 (1) 428 6844
abaracsi@deloittece.com

Kosovo

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Yes, the receivables resulting from bank loans are transferable. Currently there is no specific rule or law issued by the Central Bank or other authorities that regulates transfer of loan receivables. Currently this transfer is governed by the provisions of the Law on Property Rights and other Real Rights, and the Law on obligations as transfer of debt.
2	Are there any cases where there are limitations to the transferability?			If the debtor and the creditor agreed that the creditor could not transfer the claim to another, the transfer shall have no legal effect. The law provides for an exemption in cases of commercial contracts and says that such transfers will have legal effect regardless of whether the parties agreed.
3	Types of legal instruments available for the transfer	 Contract		Contract /assignment contract, pledge agreement, contract on take over of debt (in cases when the debtor assigns the debt to third party - creditor's consent needed; contract on accession to debt - in cases when the third person undertakes to the creditor to fulfil the creditor's claim against the debtor); novation.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			Yes, they do, but not automatically. Necessary changes in the cadastre and pledge registries are needed. These changes must be done the moment the contract for assignment is stipulated.
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			See above under (2). In addition to this, the Law on Obligations Article 422 provides that the debtor's consent shall not be required for the transfer of a claim, but the assignor must notify the debtor regarding the assignment.

Question	Yes	No	Comment
6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			<p>If the restriction is required by law (in cases when the claim is connected to the creditor's personality or whose nature opposes transfer to another i.e. claims with which the parties cannot dispose freely), than such contract is null.</p> <p>In situations when the law does not prohibit the transfer, but the parties agree in some specific restrictions, such agreement will have no legal effect. There are nevertheless two exceptions to this:</p> <ol style="list-style-type: none"> 1. If the recipient of the receivable did not know and was not obliged to know of a prohibition of transfer, and 2. As under point (2) above (in cases of commercial contracts).
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			Yes, it must be a financial institution according to the Law on Banks.
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			The same provisions apply for performing and non-performing loans.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			<p>Data protection applies for all personal data including for the information related to transferred loans. According to the Law on Payments, banks must protect the secrecy of clients and their respective accounts, unless disclosure is required by a court order, law or the express authorization given by the client. Also the Banking Code of Ethics provides that the banks shall protect the confidentiality and secrecy of their clients and documents, and not disclose to any third person except to such persons and authorities who are explicitly authorized by law and regulations to request such an information. In accordance with the Law on Protection of Personal Data and other applicable legislation, agreements between banks and clients contain provisions whereby the clients give their consent to the bank to disclose their data to the Central Bank of Kosovo, its shareholders, auditors, legal advisors and to the Financial Intelligence Unit or other state authorities. The clients also give their consent for the bank to use and process their data, as well as give access to the Central Bank of Kosovo to their loan history for purposes of processing, extension, maintenance and whatever change of loan conditions.</p>

	Question	Yes	No	Comment
10	Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			In cases of loans/loan receivables, banks are obliged to register the loans in the loan registry maintained by the Central Bank of Kosovo and any other change to the loan agreement.
11	In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			Notification of guarantors, necessary changes in the cadaster/pledge register, changes in the loan registry maintained by the Central Bank of Kosovo.
12	In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			Yes, reflection of changes in the Cadastre. Apart from the legal instrument, which is the signed contract, the law requires the registration with the cadastral office as a pre-condition of acquiring ownership over a property. Absent such registration, the new owner will not be recognized as such. Procedures are expedite and may be done within a day.
13	Same question for the loans secured with other type of collateral			Procedures are the same. Online pledge registry is available.



Office

Deloitte Albania sh.p.k.

Rr. Elbasanit
Pallati poshte Fakultetit
Gjeologji - Miniera
Tirana, Albania

Key Contact & Contributors




Olindo Shehu






+35544517929
oshehu@deloittece.com



Luljeta Plakolli-Kasumi

+38138760317
lplakollikasumi@deloittece.com

Latvia

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			Latvian normative acts do not provide any specific prohibition to such transfer. However, the transferability may be limited based on agreement of the parties.
3	Types of legal instruments available for the transfer			The general legal instruments include: <ul style="list-style-type: none"> • Assignment of receivables (cession); • Novation.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			The securities, which are accessory to the transferred obligations, will transfer automatically. Nevertheless, it is advisable to include the specific clause in assignment agreement and the entries to appropriate registers.
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			Generally, no consent is required for assignment of receivables. Novation of debt requires the consent of the old debtor, the new debtor and the lender.
6	In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the transfer can be challenged by the borrower. If the buyer was not aware of such contractual restriction the borrower may file a claim against the initial creditor for breach of contract, e.g. claim damages or contractual penalty. If the buyer was aware of such contractual restrictions the borrower may seek a declaration that the assignment agreement shall be declared null and void.

	Question	Yes	No	Comment
7	Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			In most cases the buyer is not required to have any special capacity to acquire loans, with exception if the loan is issued to consumer and the buyer would continue to provide lending services, e.g. extend additional loan, change interest rate. In such case the buyer of such loans must be a company which is licenced to issue the consumer loans.
8	Is the buyer capacity requirement different in the case of performing and non-performing loans?			There is no special requirement with respect to the buyer's capacity depending on the performing/non-performing loans.
9	Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			Banking secrecy and data protection restrictions apply for all personal data including for the information related to transferred loans, unless the client has consented to transfer of his personal data (see also point 10).
10	Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			However, a standard bank loan agreement usually contains the client's waiver of banking secrecy and data protection in case of assignment of loan receivables. If the loan agreement does not contain the client's waiver of banking secrecy and data protection in case of transfers of loans/loan receivables, a prior consent of the customer should be obtained.
11	In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			Latvian Civil law does not specifically provide that the borrower/guarantor should be notified on the assignment. However, in practice the repayment made to the previous creditor is effective towards the assignee unless the borrower was notified on the transfer.

	Question	Yes	No	Comment
12	In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			Yes, the change of beneficiary must be registered with the Land book. To change the beneficiary's name in the Land book the following documents should be submitted: a request for corroboration; assignment agreement. State fee in amount of EUR 14,23 will apply. The registration procedure takes up to 10 business days from the submission of the documents.
13	Same question for the loans secured with other type of collateral			Yes, the formalities apply to all types of collateral that are registered in the public registry (e.g. commercial pledge should be re-registered with the Registry of Enterprises). To change pledgee's name in the Registry of Enterprises the following documents should be submitted: application form; assignment agreement. State fee in amount of EUR 14,23 and application duty in amount of EUR 9,00 will apply. The registration procedure takes up to 5 business days from the submission of the documents.



Office

Deloitte Legal ZAB

Gredu str.4a
Rīga, LV-1019, Latvia

Key Contact & Contributors

Ilze Znotina

+371 (6) 7074159
iznotina@deloittece.com




Martins Puke





+371 (6) 7074123
mpuke@deloittece.com





Aleksandra Bazarova

+371 (6) 7074119
abazarova@deloittece.com

Lithuania

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<p>Transferability is limited in the case of:</p> <ul style="list-style-type: none"> • assignments of receivables the recovery of which is already impossible; • the judges, public prosecutors and attorneys dealing with the court cases which are commenced in relation to such receivables; • if the person of the creditor (the bank) is of essential importance to the borrower. <p>The limitations do not differ upon the types of loan (mortgage vs. unsecured loans, performing vs. non-performing loans, etc.).</p>
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ul style="list-style-type: none"> • Assignment of receivables (cession); • Novation. However, such form for assignment of receivables is not very common in the practice.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<p>In the event of assignment of the underlying receivable, the security (including third party surety, etc.) and any other accessory rights established for the security of performance of the obligations under the loan agreement transfers automatically.</p> <p>Mortgages/pledges are also subject to automatic transfer (unless this is prohibited by the provisions of mortgage/pledge bond); however, the additional registration procedure has to be followed (in any case, the consent of the borrower is not required).</p> <p>In case of third party property mortgage/pledge, the consent of such third party for the transfer of the mortgage/pledge is also required.</p> <p>In the event of novation, any securities, including securities and/or mortgages/pledges issued by third parties, cease to exist, unless all parties of the novation agree otherwise and the consents of such third parties are obtained.</p>

Question	Yes	No	Comment
5 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			Generally, no consent is required for assignment of receivables, unless the person of the creditor (the bank) is of essential importance to the borrower. The borrower must be informed on such assignment by presenting a copy of the assignment agreement to him. In case of failure to inform the borrower, the repayment of the loan (or its part) by the borrower to the original creditor shall be deemed as legitimate. In the case of novation, the agreement between all 3 parties (i.e. both creditors and the borrower) has to be concluded on the transfer.
6 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the borrower may dispute the transfer in court. Also, the borrower may suspend performance of his obligations under the loan agreement until the situation is rectified, and may claim for compensation of damages.
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			The buyer is not subject to any special capacity to acquire loans (and such companies are not supervised by financial supervisory authority in Lithuania), except for the acquisition of consumer credit loans – the buyer of such loans must be the company which is licenced to issue consumer credit loans.
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			Yes, the restrictions provided in local legislation on banking secrecy and personal data protection apply to the loan and the borrower's personal data related to the loans transferred, unless the loan agreement establishes the right of the lender to assign the receivables to third parties. In the case of a breach of bank secrecy and personal data protection rules, the creditors may be subject to certain administrative sanctions as imposed by the regulatory authorities of Lithuania; however, this will not affect the validity of the assignment agreement itself.

	Question	Yes	No	Comment
10	Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			Yes, local legislation on banking secrecy and personal data protection provide for the exception of justifying a legitimate interest. In our view, this exception should be applied in case of transfers of loan receivables (especially in case of transfer of non-performing loans).
11	In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			The assignment of loan receivables is not subject to any public registration. However, the borrower must be informed on such assignment by presenting a copy of the assignment agreement to him.
12	In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			In case the loan is secured by the mortgage, the creditors will have to make notarized agreement on transfer of mortgage bond and register it with the Hypothec Register. The fee for the notary is 0.1% of the value of transferred loan (but not less than ca. EUR 29 and not more than ca. EUR 5,792) and for the Hypothec Register - ca. EUR 9. If the above procedure is not complied with, the new creditor will not be entitled to use the mortgage for the repayment of loan.
13	Same question for the loans secured with other type of collateral			In case the loan is secured by the pledge, the creditors will have to make notarized agreement on transfer of pledge bond and register it with the Hypothec Register. The fee for the notary is 0.1% of the value of transferred loan (but not less than ca. EUR 29 and not more than ca. EUR 5,792) and for the Hypothec Register - ca. EUR 9. If the above procedure is not complied with, the new creditor will not be entitled to use the pledge for the repayment of loan.



Office

**Law firm Davidonis
& partners associated
with Deloitte Lietuva UAB**

Jogailos St. 4
Vilnius, LT-01116, Lithuania




Key Contact & Contributors






Tomas Davidonis
+370 5255 3075
tdavidonis@deloittece.com

Jurgita Bliznikiene
+370 5255 3040
jbliznikiene@deloittece.com

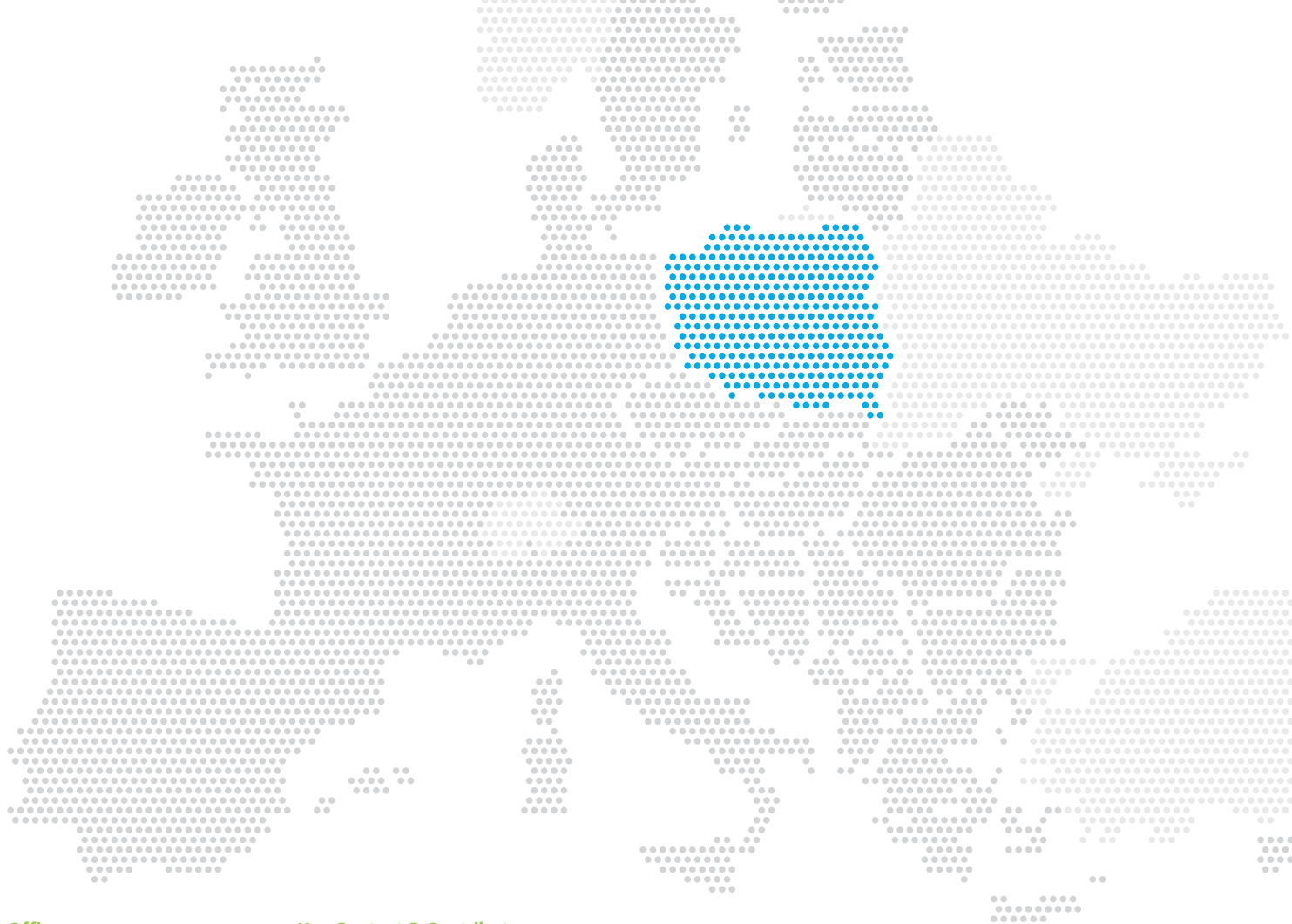
Evaldas Lukauskas
+370 5255 3076
elukauskas@deloittece.com

Poland

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<ul style="list-style-type: none"> • Transferability may be limited based on agreement of the parties; • Transferability is in fact limited due to banking secrecy requirements and banking regulation. Please note that these limitations do not actually affect transferability per se (as the transfer will be valid, although breaching the secrecy duties).
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ul style="list-style-type: none"> • Assignment of receivables • Sub-participation in a securitisation fund or via SPV (capital company) <p>In general, assignment of bank receivables may be executed only in the form of:</p> <ul style="list-style-type: none"> • public sale of receivables in specific legal procedure, • sale of 'lost receivables' (lost NPLs), • conclusion and performance of the agreements on the transfer of receivables or sub-participation agreements concluded with a securitization fund, • conclusion and performance of the agreements on the transfer of receivables concluded with a company issuing securities, the collateral of which are securitized receivables.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			<p>The security interest is automatically in effect; however there are certain exceptions:</p> <ul style="list-style-type: none"> (i) Entry into land and mortgage register is necessary to transfer the receivables with real estate mortgage. (ii) Entry into register of pledges is necessary to transfer registered pledge.

	Question	Yes	No	Comment
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			Generally, no consent is required for assignment of receivables.
6	In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			The transfer may be null and void.
7	Does the buyer need any special capacity to acquire loans (e.g. financial institution)?		 No, but with some exceptions	The buyer may be only a securitisation fund or a SPV (capital company).
8	Is the buyer capacity requirement different in the case of performing and non-performing loans?			The assignment of performing loans is limited to certain categories of entities as specified in comment 1 points 2-4.
9	Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			See the comment 1 above
10	Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			The data protection regulations provide for such exception. However, the provisions concerning banking secrecy are generally applicable to bank loans (as they provide stricter protection). These regulations set forth less general exceptions, as specified in comment 1.
11	In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			The borrower should be basically notified on the assignment. Lack of notification, however, does not affect effectiveness of the transfer. In such case any repayment made to the previous creditor is effective towards the assignee.

Question	Yes	No	Comment
12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?		See comment 4. There are court fees related to entries in the registers (not material in relation to high-value transactions).	
13 Same question for the loans secured with other type of collateral		See the comment above.	



Office







**Deloitte Legal, Pasternak,
Korba i Wspólnicy Kancelaria
Prawnicza sp.k.**





al. Jana Pawła II 19
Deloitte House
Warszawa, Polska

Key Contact & Contributors

Zbigniew Korba
+48 (22) 3483556
zkorba@deloitte.com



Romania

Question	Yes	No	Comment
1 Are the receivables resulting from bank loans transferable?			As a general principle, the Romanian Civil code provides that any monetary claims are transferable by way of assignment of rights.
2 Are there any cases where there are limitations to the transferability?			To the extent transfers are expressly prohibited/limited under the relevant documentation, the assignment is valid but the assignor will be liable towards the assigned debtor for damages.
3 Types of legal instruments available for the transfer	 (assignment of receivables)		<p>Exceptions (applicable to all the transfer modalities below listed):</p> <ul style="list-style-type: none"> • Security provided by state owned entities (e.g. FGCR, FNGCIMM) - security provider's consent to the transfer of the security is required; • Promissory notes require separate individual endorsement on the title itself; • The assignee cannot take over from the assignor the possession over the pledged asset (in Romanian, "bun dat in gaj") without the security provider's prior consent.
	 (assignment of receivables)		No express legal provision, no unitary view within legal scholars.
		 (subrogation in creditor's rights through payment of the debtor's debt)	
		 (novation through change of creditor)	Unless expressly stipulated in the novation deed, the securities securing the initial claim will not accompany the new claim.

Question	Yes	No	Comment
<p>4 Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?</p>		 (assignment of receivables)	
	 (assignment of contract)		
		 (subrogation in creditor's rights through payment of the debtor's debt)	
	 (novation through change of creditor)		
<p>5 In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?</p>			<p>Assignment of receivables: Transfer by assignment of monetary receivables is valid, but the assignor is liable to the assigned debtor for any damages caused by breaching the transfer restrictions agreed under the finance documents.</p> <p>Subrogation: Transfer by subrogation is valid (any clause requiring the consent of the debtor for the subrogation is considered as not written).</p> <p>Novation and assignment of contract require the consent of the borrower for their validity.</p>

Question	Yes	No	Comment
6 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?			<ul style="list-style-type: none"> As a general rule, there are no capacity restrictions in terms of buyers acquiring non-performing loans. Note that currently there are a number of legislative initiatives proposing to introduce capacity restrictions on the buyers of non-performing loans, with no certainty as to their expected adoption in the current form; Buyer needs to be a credit or financial institution in case of sale of portfolios of performing loans.
7 Is the buyer capacity requirement different in the case of performing and non-performing loans?			Please refer to our comments at point 7 above.
8 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			<p>a) Professional secrecy:</p> <ul style="list-style-type: none"> professional secrecy obligations protect any information regarding the property, the activity, the business and business relationships, the operation or the agreements concluded by a bank with its clients; disclosure of the information protected by the professional secrecy could be made only in very limited circumstances, such as: <ul style="list-style-type: none"> if the interested party's consent is obtained in advance (e.g. borrower, guarantor, etc.); or if the bank has and invokes a legitimate interest to communicate the protected information to another party. <p>b) Data protection:</p> <ul style="list-style-type: none"> From a data protection compliance perspective, Bank's obligations in case of loan disposals are: <ul style="list-style-type: none"> to obtain consent from the data subjects, in particular if sensitive data are concerned (in case this consent was not already obtained under the finance documentation). Formality could be avoided in case a legitimate interest of the Bank substantiates the disclosure/transfer of personal data; to inform the data subjects on minimum required information under the law.

Question	Yes	No	Comment
<p>9 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in case of transfers of loans/loan receivables?</p>			<ul style="list-style-type: none"> • The concept of “legitimate interest” is provided as such but not defined by the law; • In our view, disclosure for the purpose of a sale is a legitimate purpose in general and even more in particular cases where the sale’s object is a NPL portfolio
<p>10 In case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?</p>	 (assignment of contract)		<p>a) Post-transfer notification formalities:</p> <ul style="list-style-type: none"> • Purpose: opposability of the transfer towards the assigned debtor; • Who has to be notified: assigned debtor; personal guarantor; if applicable: liquidator, enforcement officer, court of law. In practice, the security providers are also notified of the assignment; • By whom: assignor or assignee. If made by the assignee, the assigned debtor has the right to request the proof of the assignment. In practice, the notice is made by the assignor or by way of a joint notice; • Deadline: no general legal deadline; consumers to be notified within 10 days as of execution of the assignment agreement. <p>b) Post-transfer registration and publicity formalities:</p> <ul style="list-style-type: none"> • Purpose: enforceability of the assignment towards third parties (including e.g. other creditors of the assigned debtors); • Registrations to be performed: <ol style="list-style-type: none"> 1) Electronic Archive for Secured Transactions: assignment of the loan portfolio as such + change of creditor under the movable mortgages securing the assigned receivables; 2) Land Book: change of creditor under the real estate mortgages securing the assigned receivables; 3) Trade Registry: change of creditor under the mortgages over business as a going concern securing the assigned receivables; 4) Central Depository: change of creditor under movable mortgage over securities (in Romanian, “valori mobiliare”) (e.g. listed shares, bonds, etc) to be registered with and separately evidenced in special accounts opened by the security providers 5) Other special registers, if the case (ships, planes, etc): change of creditor under the relevant mortgage. <p>c) Other formalities:</p> <ul style="list-style-type: none"> • movable mortgage over shares to be registered with the shareholders’ registry.
	 (assignment of contract)		<p>See comments at point 11 b) above, which are accordingly applicable.</p>

Question	Yes	No	Comment
11 In case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			<ul style="list-style-type: none"> • In case the assigned claims are secured with real estate mortgages, the assignment agreement must be signed in authentic form, i.e. in front of a notary public and subsequently registered with the Land Book. • This triggers significant costs (0.3% of the value of the assigned receivable, noting however that, as a matter of practice, some notaries construe that the 0.3% should be applied to the purchase price), which, as a market practice, are covered by the assignee.
12 Same question for the loans secured with other type of collateral			<ul style="list-style-type: none"> • Please refer to our comments at point 11. b) above. • The Electronic Archive registration related costs are established by each Electronic Archive authorized operator, but should be around EUR 50-70 per registration. • The registration costs with the Trade Registry are about EUR 50 per registration.



Office

Reff & Associates SCA
– Member of Deloitte Legal
4-8 Nicolae Titulescu Road
East Entrance
2nd Floor, Sector 1
011141, Bucharest
Romania




Key Contact & Contributors


Andrei Burz Pinzaru
+40 (21)207 52 05
aburzpinzaru@reff-associates.ro






Mihaela Maxim
+40 21 207 98 87
mmaxim@reff-associates.ro

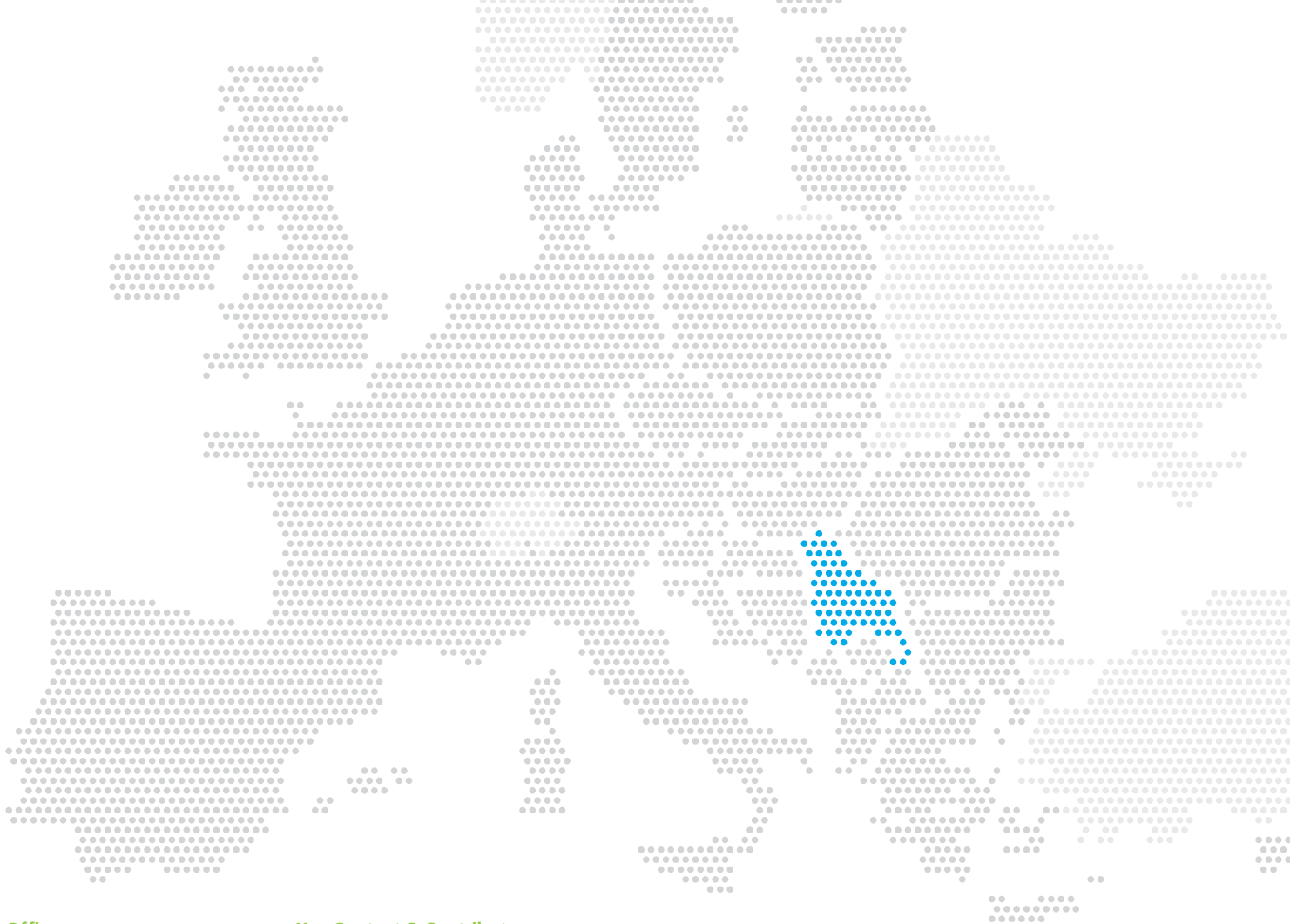
Andreea Șerban
+40 (21) 2075 497
andserban@reff-associates.ro

Serbia

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			In general, they are.
2	Are there any cases where there are limitations to the transferability?			In general, there are not.
3	Types of legal instruments available for the transfer			The transfer (cession) can be made by a contract entered into with a recipient.
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			Yes they do. Accessory rights shall pass with the underlying receivable, such as the right of preferential payment, mortgage, security, rights on the ground of contract with a guarantor, rights to interest, to liquidate damages, and the like. However, a transferor effecting cession may deliver the object pledged to the recipient only should the pledger agree; otherwise, it shall remain with transferor, to be kept by him for the account of the recipient. It shall be presumed that due and outstanding interest is assigned (ceded) together with the principal claim.
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			No, it does not.
6	In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, the transfer shall be deemed invalid.

Question	Yes	No	Comment
7			<p>The buyer can be another bank or a legal entity, for which the law does not require any special capacity nor is it subject to control of the financial supervisory authority. On the other hand, another bank is supervised by the National Bank of Serbia (NBS). A bank shall notify the National Bank of Serbia (NBS) of the intended transfer no later than 30 days before concluding the relevant transfer agreement.</p> <p>If established in supervision that a bank acted contrary to the law, the NBS shall take corrective or enforcement measures.</p> <p>The notification shall be supported by the following documentation:</p> <ol style="list-style-type: none"> 1) decision of the bank's governing body on the assignment from those paragraphs; 2) main data about the person to which the bank intends to assign receivables (business name, seat and registry number, as well as data on the ownership structure and members of the governing bodies), with a designation whether the person is related to the bank; 3) draft agreement on assignment from those paragraphs, with the planned date of agreement conclusion and/or execution; 4) results of the assessment from paragraph 4 hereof; 5) data on gross book value of receivables to be assigned and the amount of value adjustment for those receivables; 6) data on whether the assignment from those paragraphs shall be performed against the payment of a fee, the absolute amount of that fee and/or percentage of the value of receivables to be assigned less value adjustment, and data on whether the bank is ensuring funds for the fee payment directly or indirectly.
8			<p>Yes, it is. A bank may assign only receivables that are due to another legal entity, which is not another bank.</p>

Question	Yes	No	Comment
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			<p>Yes they do. However, the relevant law on protection of personal data allows processing of personal data without consent of a natural person when that processing is carried out with legal authority (pursuant to the laws that enable a bank to assign receivables without a debtor's consent). More or less the same applies to legal persons.</p> <p>In practice, the bank effecting the transfer obliges a recipient, whether it be another bank or another legal person, to sign a non-disclosure agreement in which the latter undertakes to protect the information in accordance with the law.</p> <p>It should be noted that the banking secrecy restrictions oblige all banks and therefore a bank that is a receiver of the receivable. As a matter of course the bank effecting the transfer is bound to notify the debtor of the assignment effected.</p>
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			<p>Yes, one of them envisages that processing of personal data without consent shall be allowed for achieving a prevailing justifiable interest of the person concerned, the controller or a user. However, we find that the exception would not apply in the case of transfers of loans/loan receivables. In that regard see our answer to the 9th. question.</p>
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?			<p>While a bank shall notify the NBS of the intended transfer before concluding the relevant transfer agreement, such notification of a borrower may come after the assignment has been effected (see answers to questions no. 7 and 9).</p>
12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?			<p>In that case there shall be only one contract since the law provides that a mortgage assignment contract concluded separately from the assignment of receivable shall produce no legal effect.</p> <p>The contract shall be notarized and the mortgage assignment shall produce legal effect towards third parties on the ground of entry in the real estate register.</p> <p>Hence, additional formalities do apply and both procedures (before the notary public and the Cadaster of Immovable Properties) entail additional time (cca 7 days) and costs, which amount to cca EUR 300.</p>
13 Same question for the loans secured with other type of collateral			<p>Additional formalities apply only in case of loans secured by a pledge registered in the Business Register Agency (BRA), which consists of the registration of the transfer. Such registration should not take longer than 5 days or cost more than cca EUR 50 .</p>



Office

Law Office Marjanovic in cooperation with Deloitte

Serbia, 11000 Belgrade.
Terazije str. no. 8
Serbia

Key Contact & Contributors

Vladislav Marjanovic

+381 11 3819 118
vmarjanovic@deloittece.com



Ruzica Jovanovic

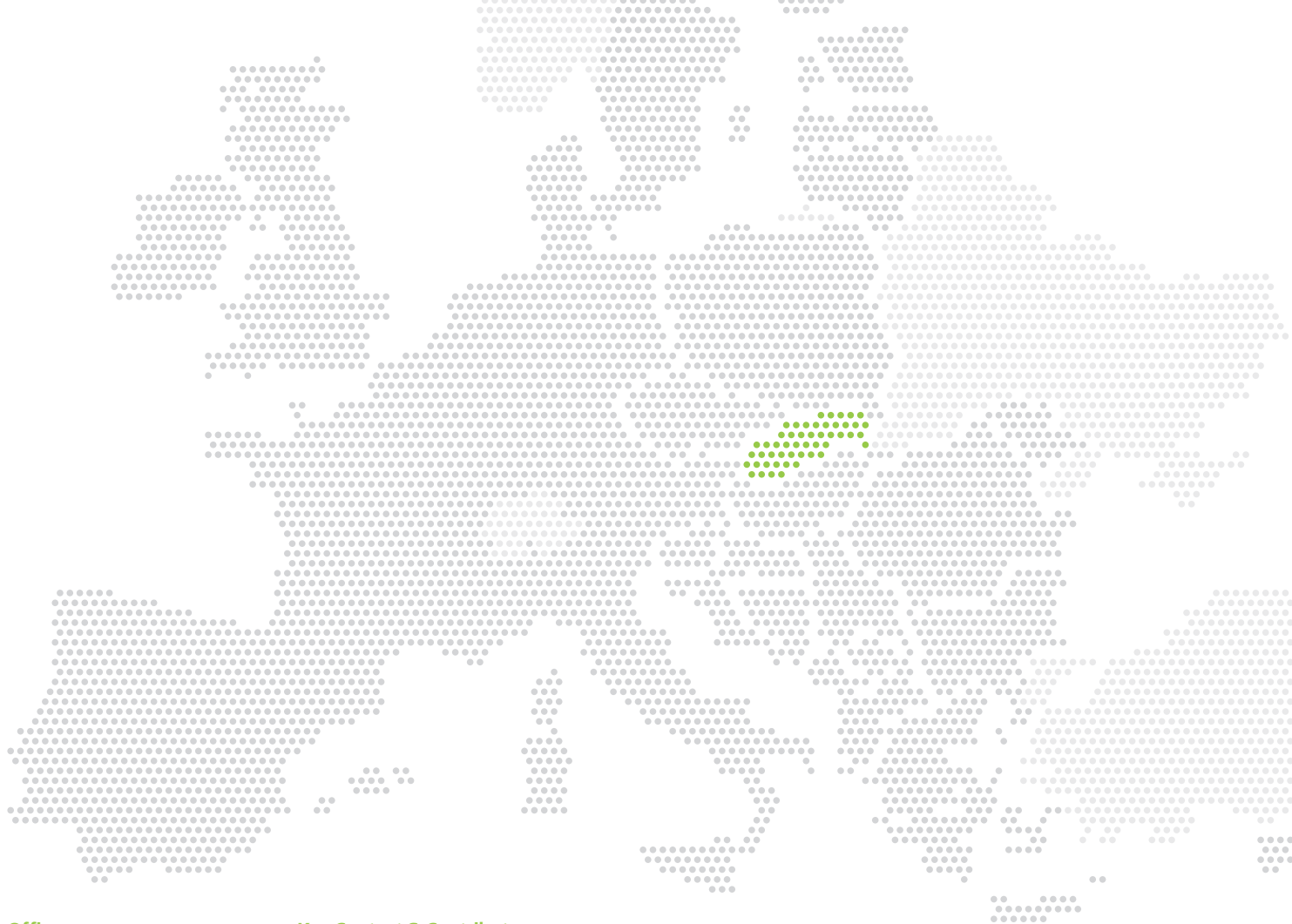
+381 11 3812 248
rjovanovic@deloittece.com

Slovakia

	Question	Yes	No	Comment
1	Are the receivables resulting from bank loans transferable?			Generally, receivables from bank loans are transferable with certain exceptions, most of which are listed below.
2	Are there any cases where there are limitations to the transferability?			<ul style="list-style-type: none"> • Transferability may be limited based on agreement of the parties; <p>In the case of bank loans, there are differences between the performing and the non-performing loan:</p> <ul style="list-style-type: none"> • Transferability must be agreed in the agreement of the parties in respect to performing loans. However, no specific limitations apply for the non-performing loans. • Furthermore, additional obligations may arise with respect to secured loans. See below.
3	Types of legal instruments available for the transfer			<p>The general legal instruments include:</p> <ul style="list-style-type: none"> • Assignment of receivables (cession); • Assignment of contract
4	In the case of secured loans, do the securities transfer automatically in effect of the transfer of the underlying receivable?			In the event of assignment, the security transfers automatically. However with respect to certain types of securities, additional registration procedures or announcements may have to follow, e.g. mortgages, special pledges.
5	Assuming no specific transfer clauses have been included in the finance documents, does the borrower need to consent to the transfer?			* In the case of non-performing loans, a consent to the transfer is not required. Otherwise, based on contractual provisions.
6	In case there are specific restrictions to transfer included in the finance documents, what are the consequences if the loan receivables are sold anyway?			If consent is not provided when required, such transfer of loan would in general be considered as invalid.

Question	Yes	No	Comment
7 Does the buyer need any special capacity to acquire loans (e.g. financial institution)?	 *	 *	* In the case of the non-performing loan, no specific capacity of the buyer is required, as buyers are not supervised by the financial supervisory authority. Exemptions apply only for performing loans and consumer performing loans (according to Slovak law a consumer is an individual who does not act within the scope of his business or other entrepreneurial activities when making and performing a contract). Otherwise, limitations based on the Slovak laws (eg. bank secrecy) may apply.
8 Is the buyer capacity requirement different in the case of performing and non-performing loans?			See above.
9 Do banking secrecy and data protection restrictions apply with respect to the loan and customers' information related to the loans transferred?			The subject of banking secrecy is all information and documents on matters concerning a bank client that are not publicly available – e.g. account balances and deposit balances.
10 Does the local legislation on banking secrecy and data protection provide for the exception of justifying a legitimate interest? In your view, would this exception apply in the case of transfers of loans/loan receivables?			In the case of non-performing loans, if the default of a client exceeds 90 days, the bank may provide confidential information concerning the client without the client's consent to specific subjects which the bank has authorized for the purpose of enforcing the bank's claims (e.g. attorney representing bank before court, court executor performing execution of clients asset, auctioneer conducting an auction of clients asset).
11 In the case of assignment of loans/loan receivables, are there any specific publicity forms required to be completed?		 *	* For the assignment itself no. Public registrations apply with respect to some securities. According to civil law, an assignor is obliged to notify the borrower of the assignment of the receivable.

Question	Yes	No	Comment
<p>12 In the case of loans secured by real estate mortgages, do additional formalities apply (e.g. notarized agreement, registration with land book)? If additional formalities apply, are the related costs material?</p>		<p>Assignment of pledge (real estate) to new pledgee shall be registered in the Cadaster Register, which registers this change within 30 days from the day when application for registration was submitted. Direct costs are rather immaterial (fee Eur 66,-), i.e. not considering administrative burden. if the new pledgee is not registered in the Cadaster Register, he will not acquire the pledge.</p>	
<p>13 Same question for the loans secured with other type of collateral</p>		<p>Depends on type of collateral. Movable assets may be registered in the Central Notary Register of Pledges if contractual parties agreed to do so (fee Eur 33,19 – 182,57). Enterprise or a part of it requires registration in the Central Notary Register of Pledges. Business share requires registration in the Commercial Register (fee EUR 66,-). Securities requires registration in the Central Securities Depository (fee Eur 6,60-33,-). Trade marks and patents require registration in the Industrial property office of the Slovak Republic (fee Eur 17). If a new pledgee fails to register in respective register, he will not acquire the pledge.</p>	



Office

Deloitte Legal s.r.o.

Digital park II, Einsteinova 23,
851 01, Bratislava, Slovakia

Key Contact & Contributors

Miroslava Grestiakova Terem

+421 (2) 582 49 341
mgrestiakova@deloittece.com

Denisa Pejchalova

+421 2 582 49 317
dpejchalova@deloittece.com

Elena Jarolimkova

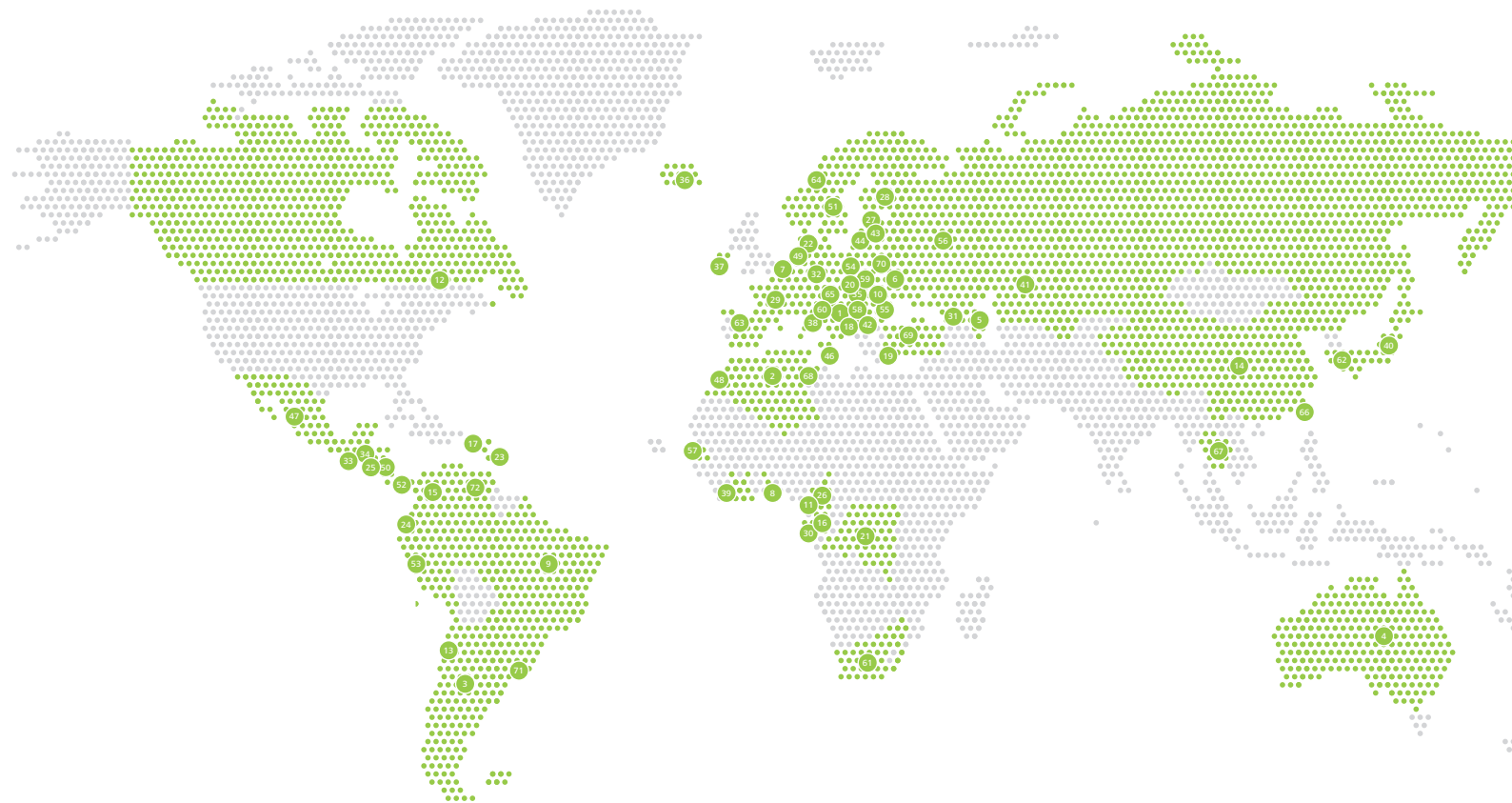
+421258249142
ejarolimkova@deloittece.com

Deloitte Legal

Deloitte Legal global footprint today

Countries where legal services are provided
by Deloitte Legal
As of February 2016

1. Albania
2. Algeria
3. Argentina
4. Australia
5. Azerbaijan
6. Belarus
7. Belgium
8. Benin
9. Brazil
10. Bulgaria
11. Cameroon
12. Canada
13. Chile
14. China
15. Colombia
16. Congo, Rep. of
17. Costa Rica
18. Croatia
19. Cyprus
20. Czech Rep.
21. Democratic Rep of
Congo
22. Denmark
23. Dominican Rep.
24. Ecuador
25. El Salvador
26. Equatorial Guinea
27. Estonia
28. Finland
29. France
30. Gabon
31. Georgia
32. Germany
33. Guatemala
34. Honduras
35. Hungary
36. Iceland
37. Ireland
38. Italy
39. Ivory Coast
40. Japan
41. Kazakhstan
42. Kosovo
43. Latvia
44. Lithuania
45. Luxembourg
46. Malta
47. Mexico
48. Morocco
49. Netherlands
50. Nicaragua
51. Norway
52. Panama
53. Peru
54. Poland
55. Romania
56. Russia
57. Senegal
58. Serbia
59. Slovakia
60. Slovenia
61. South Africa
62. South Korea
63. Spain
64. Sweden
65. Switzerland
66. Taiwan
67. Thailand
68. Tunisia
69. Turkey
70. Ukraine
71. Uruguay
72. Venezuela



Deloitte Legal's response to today's market expectation

- With over 1,600 experienced legal professionals in 72 countries, Deloitte Legal has a strong team of skilled legal professionals with various level of experience and specialization; this provides both expert knowledge and the flexibility required to address matters cost efficiently, considering the complexity and importance of the matter for the client and the budget available
 - Deloitte Legal practitioners work under client-attorney privilege and confidentiality, as required and in compliance with the local regulations
 - Deloitte Legal has a good culture of client relationship and engagement process which allows a single point of contact for multiple expert contributions and fast turn-around time for deliverables
 - Deloitte Legal has a good understanding of the local legal, business and administrative environment in the jurisdictions where it operates
 - Deloitte Legal works in the Deloitte environment as one of the largest global professional services provider
 - Deloitte Legal combines excellent connectivity to both the global network with its intellectual capital resources and the local environments
 - Deloitte Legal has sizeable teams with a service line structure which combine an efficient, versatile approach to complex matters.
- Deloitte Legal offers a delivery model that is based on well established practices of lawyers experienced in serving multinational clients and in working with colleagues in Tax, Consulting, Risk and Financial Advisory as part of a well managed Deloitte client service relationship team
 - Deloitte Legal's investment in and use of technology and automation enables Deloitte Legal to deliver operational efficiencies and add value to business

For more details, please visit:

www.deloittelegal.com and www.deloittelegalce.com

About Deloitte

"Deloitte" is the brand under which tens of thousands of dedicated professionals in independent firms throughout the world collaborate to provide audit, consulting, financial advisory, risk management, tax and legal services to selected clients. These firms are members of Deloitte Touche Tohmatsu Limited (DTTL), a UK private company limited by guarantee. Each member firm provides services in a particular geographic area and is subject to the laws and professional regulations of the particular country or countries in which it operates. DTTL does not itself provide services to clients. DTTL and DTTL member firm are separate and distinct legal entities, which cannot obligate the other entities. DTTL and each DTTL member firm are only liable for their own acts or omissions, and not those of each other. Each of the member firms operates under the names "Deloitte", "Deloitte & Touche", "Deloitte Touche Tohmatsu", or other related names. Each DTTL member firm is structured differently in accordance with national laws, regulations, customary practice, and other factors, and may secure the provision of professional services in their territories through subsidiaries, affiliates, and/or other entities.

Deloitte provides audit, tax, consulting, financial advisory and legal services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 225,000 professionals are committed to making an impact that matters.

About Deloitte Central Europe

Deloitte Central Europe is a regional organization of entities organized under the umbrella of Deloitte Central Europe Holdings Limited, the member firm in Central Europe of Deloitte Touche Tohmatsu Limited. Services are provided by the subsidiaries and affiliates of Deloitte Central Europe Holdings Limited, which are separate and independent legal entities.

The subsidiaries and affiliates of Deloitte Central Europe Holdings Limited are among the region's leading professional services firms, providing services through more than 5,000 people in 41 offices in 17 countries.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.