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Law.Tax

Signing with e-signature in CEE

A comparative guide

2020

Contents







Introduction

Digital transformation affects all aspects of a business's operations, including contracts, internal documentation and employment relationships. The COVID-19 pandemic has created the need for contactless and remote contracting, as a result of which businesses are turning to digital contracting and electronic signatures. Using the appropriate form of e-signatures helps businesses save time and money, increase security, and enhance their environmental credentials.

This guide to electronic signatures in the Central and Eastern European region (CEE) is intended to show companies and organisations which electronic signature and electronic contracting solutions are accepted as legally binding. It gives information on the acceptance and enforceability of contracts and legal statements signed with electronic signatures, the type of electronic signatures which are legally binding, and other digital solutions for contracting and making legal statements.

Based on our CEE-wide survey, we have established that the type of electronic signature depends on whether the national law mandates the written form for an agreement or other legal statement, and what kind of electronic signature is considered sufficient. Therefore, our starting point is the definition of what constitutes a written statement and types of e-signatures accepted by each national law. We then give examples of agreements and legal statements where the written form is mandatory in each practice area. Finally, we explain the cases when only a wet-ink signature is acceptable, and no electronic signatures are allowed.

This guide focuses on the most important legal areas where electronic signatures are usually used: employment law, commercial contracts, real estate law, corporate law and banking and finance contracts. This guide additionally includes helpful at-a-glance charts that compare the different legal situations and uses of e-signatures in CEE countries.

We focus on nine countries: Bulgaria, the Czech Republic, Hungary, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine.

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We have unparalleled experience in cross-border investment projects. Our clients benefit from well-established contacts with governments and investment authorities, and from a clear, commercial approach to our clients' needs.

This guide provides high-level advice. Needless to say, national legal systems are usually complex and can easily trap the unwary. It is, therefore, essential that you seek proper legal advice.



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Definitions

This guide covers a number of types of e-signatures that have different legal relevancy and uses the following terms throughout.

Electronic signature or e-signature, which covers all technologies and digital solutions that enable businesses and individual persons to create electronic signatures, including putting the image of a handwritten signature on a document, signing with pin codes, signing via ticking a checkbox, typing the name on an electronic document, or signing with an e-signature certification issued by a trusted service provider. As a high-level definition, an electronic signature is electronic data which is attached to or logically associated with other electronic data and which the signatory uses to sign.

In comparison with an electronic signature, a **digital signature** is technology that uses algorithms and encryption-decryption methods to detect unauthorised modifications to data and to authenticate the identity of the signatory (electronic identification). Digital signatures use PKI to verify the identity of a signatory. PKI uses two keys, one public and one private, for unique identification. Both the sender and recipient must have a digital certificate from a certificate authority.

Simple/standard electronic signature (SES), which means electronic data that is used by the signatory to sign and is attached to or logically associated with other electronic data, e.g. if a person attached his/her signature panel or name to the end of an email or simply typed his/her name at the end of a Word document. A SES does not verify the issuer's personal identity or the integrity of the text, i.e. it cannot be guaranteed that the text has not been changed.

Advanced electronic signature (AES), which is a special and more secure type of digital signature that it is uniquely linked to, and capable of identifying, the signatory. However, AES is not able to guarantee the identity of the signatory, because even though it is based on a certificate, such a certificate could be issued by anyone, including the signatory himself.

Qualified electronic signature (QES), which is a special type of AES digital signature that is created by a qualified electronic signature creation device and is based on a qualified certificate for electronic signatures. A QES and related qualified certificate can only be issued by a qualified trust service provider, which is authorised by a supervisory body in each country.

Electronic time stamp, which is a digital data that certifies the date an electronic signature was created.

The eIDAS Regulation: Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, which applies directly in each EU country in the CEE region (Bulgaria, Croatia, the Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia).

It should be noted that on the basis of the eIDAS Regulation, in EU member states an electronic signature cannot be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures. Furthermore, the eIDAS Regulation stipulates that a qualified electronic signature will have the equivalent legal effect of a handwritten (wet-ink) signature, and a qualified electronic signature based on a qualified certificate issued in one EU member state will be recognised as a qualified electronic signature in all other member states.

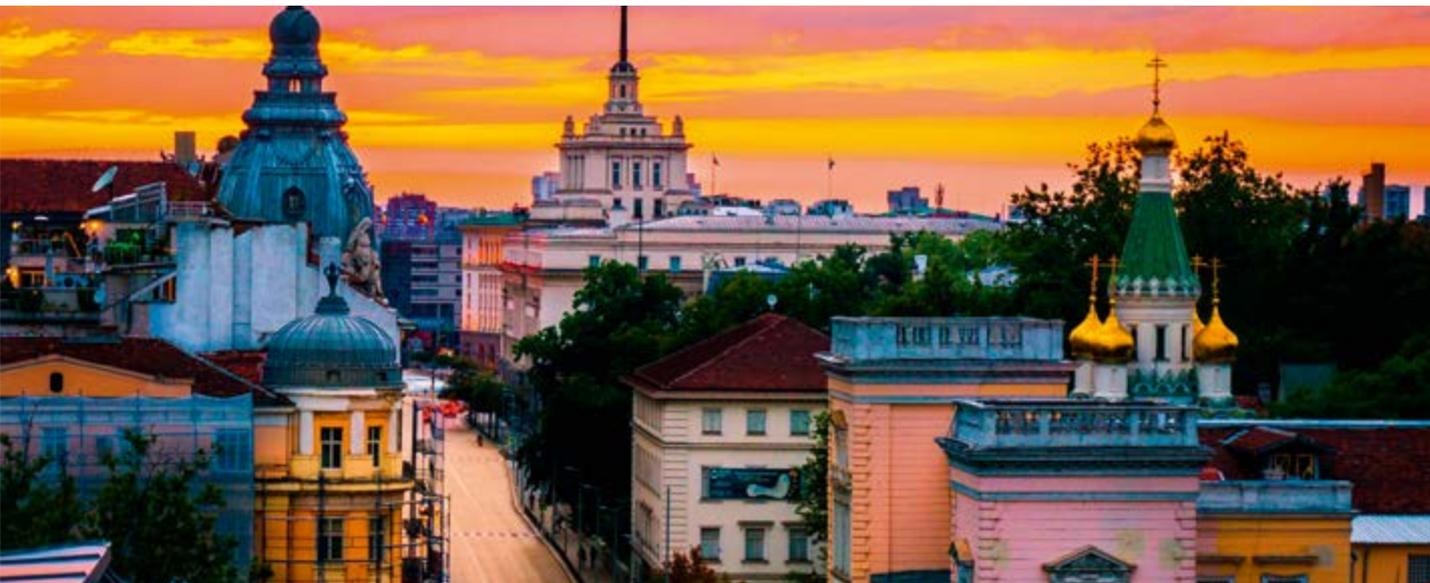
However, it varies from country by country whether other types of electronic signature, e.g. an AES or SES, are accepted as having the equivalent legal effect of a handwritten, wet-ink signature.

E-signatures under employment law

Employers and employees can use e-signatures for signing different types of unilateral or bilateral legal statements related to their employment relationship, including but not limited to termination notices, employment contracts, agreements to modify employment contracts, employers' notifications, instructions to employees, and employers' offer letters to candidates.

However, it differs from country to country as to what type of electronic signature has legal effect, whether documents signed with different types of e-signatures qualify as written statements, and which legal statements must be in written form.





Bulgaria

When does a legal statement qualify as a written document under employment law?

A legal statement by the employer is considered in written form:

- a. if the paper legal statement is signed with a handwritten signature;
- b. if an electronic statement is signed with a qualified electronic signature (which is equivalent to a handwritten signature). If the electronic document and its signing are contested in court, a qualified certificate for electronic signature, issued by the qualified trust service provider, may be required.

This means that for electronic documents, only a QES can be used if the written form is mandatory under the law. However, an AES, a SES and other forms of electronic signatures can be used for any other electronic documents related to the employment relationship where the written form is not required.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a general provision, an employment contract and its modifications, the termination of an employment relationship, the employer's orders, a job description and all electronic documents that are relevant to the commencement, existence, amendment and termination of the employment relationship, created by the employer, must be signed with a qualified electronic signature.

In which cases are only documents with wet-ink signatures accepted under employment law?

There are no such cases.



Czech Republic

When does a legal statement qualify as a written document under employment law?

Written legal statements require the signature of the acting person to be valid. The signature may be replaced by mechanical means where standard.

Legal statements in electronic (or other technical) form are also deemed to be written legal statements if it is possible to capture the content and identify the acting person.

According to the Labour Code, signing with an advanced electronic signature based on a qualified certificate or qualified electronic signature can be accepted in cases of documents regarding establishment, change or termination of employment only if the employee agreeing to electronic delivery of such documents.

However, where an officially verified signature is required by law, no electronic signature is acceptable and only a wet-ink signature is sufficient.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a general provision, an employment contract and its modifications, a termination notice, a collective agreement, an agreement to complete a job or to perform work must be in writing and can be signed with a qualified electronic signature or advanced electronic signature based on a qualified certificate.

In case of collective agreements, the expressions of will must be on the same document.

In which cases are only documents with wet-ink signatures accepted under employment law?

In cases where it is necessary for the signature to be officially verified, because no electronic signature is currently considered as equivalent to an officially verified wet-ink signature and it is not possible to officially verify an electronic signature, e.g. a power of attorney of the employee for the delivery of certain documents.

However, from 1 February 2022 it will be possible to replace the requirement for officially verified signatures by using certain electronic means, including electronic signatures based on a qualified certificate.



Hungary

When does a legal statement qualify as a written document under employment law?

If a paper-based legal statement is signed with a handwritten signature. An electronic legal statement will be deemed written if: (1) the signatory can be identified; (2) the time of signature can be identified; and (3) the content of the electronic document is unchanged and this can be proven (integrity).

According to a decision of the Hungarian Supreme Court, not only a QES or AES but other types of electronic signatures can meet these three conditions. However, a court will evaluate and examine this on a case-by-case basis.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a general provision, an employment contract and its modification, a termination notice, an employer's notification of the rights and obligations concerning the employment relationship, offer letters to employment candidates and agreements on studies must be in writing. Based on a decision of the Hungarian Supreme Court, they can be signed with qualified, advanced or standard (simple) electronic signature.

In which cases are only documents with wet-ink signatures accepted under employment law?

There are no such cases.



Poland

When does a legal statement qualify as a written document under employment law?

A legal statement is in the written form if it is signed with a wet-ink signature. Such signature must enable the signatory to be identified, so must include at least his/her surname. Polish law recognises that a legal statement made in electronic form is equivalent to the written form if it is signed with a qualified (certified) electronic signature. Such signature is equivalent to a wet-ink signature only if the e-signature was provided by companies registered on the list of the National Certification Centre. (Not all e-signatures are certified, see the Definition chapter of this guide for the definitions of different e-signature types.)

This means that only qualified electronic signatures are acceptable in the case of electronic legal statements if a written form is mandatory under Polish law.

Recent Covid-19 legislation has introduced a new rule. In respect of agreements required to apply for state subsidies due to the Covid-19 pandemic, the trusted signature and the personal signature (specific types of electronic signatures for communicating with public authorities) are considered equivalent to wet-ink signatures.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a rule, the employer must produce the following employment documents in written form: an employment contract, a termination notice, alteration letters, non-competition agreements, work particulars, and monitoring notifications.

This means that a QES must be used if the written form is mandatory under the law, i.e. in the aforementioned cases. However, an AES, a SES and other forms of electronic signatures can be used for any other documents related to the employment relationship where the written form is not required.

In which cases are only documents with wet-ink signatures accepted under employment law?

The following employment documents must be in hard copy form: referrals for initial/periodic medical check-ups, collective labour agreements, registers of accidents at work, registers of diagnosed or suspected occupational diseases, and employment certificates.



Romania

When does a legal statement qualify as a written document under employment law?

If a paper-based legal statement is signed with a handwritten signature. An electronic legal statement will be deemed written if: (1) the document is signed with a valid QES by the signatory or legal representative for legal entities; (2) the time of signature can be identified; and (3) the content of the electronic document is unchanged and this can be proved (integrity).

This means that only electronic documents signed with a qualified electronic signature qualify as a written, advanced or standard electronic signature, and other types of electronic signatures are not sufficient if a written form is mandatory under the law.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a main provision, employment contracts and their modifications, the termination of employment relationships, notifications on rights and obligations concerning employment relationships, and offer letters to employment candidates must be in writing. If they are in electronic form, only a QES is sufficient.

In which cases are only documents with wet-ink signatures accepted under employment law?

There are no such cases.



Serbia

When does a legal statement qualify as a written document under employment law?

If a paper-based legal statement is signed with a handwritten signature.

A contract will be deemed written if the parties exchange letters or agree by teleprinter or other means enabling the content of the statement and the person giving the statement to be determined with certainty.

A legal statement in electronic form has to be signed with a qualified electronic signature if the law requires a written form.

This means that only a qualified electronic signature is accepted in the case of legal statements in electronic form, if the law requires a written form. However, only qualified electronic signatures under Serbian law are acceptable; qualified electronic signatures issued in other countries are currently not recognised as there are no applicable international treaties. If notarisation (signature verification, solemnisation, notarial deed) is required in addition to the written form, a qualified electronic signature will not be sufficient.

Advanced or standard electronic signatures or other types of e-signatures are not sufficient if the law requires a written form.

Examples of legal statements and contracts where a written form is mandatory under employment law

Employment law requires several legal statements in a written form, including employment contracts, all kinds of resolutions (annual leave resolutions, employment termination resolutions, paid leave resolutions, resolutions on suspension, etc.) and warning notices

In which cases are only documents with wet-ink signatures accepted under employment law?

In all of the above cases where a written form is required by the law, except for the calculation of salaries and resolutions on annual leave which can be sent to the employee in electronic form. However, if the employee requests them in writing, a wet-ink signature is mandatory. It should be noted that employment law does not specify what “electronic form” means, but based on the definition of written legal statement, those documents signed with a QES will most likely suffice.



Slovakia

When does a legal statement qualify as a written document under employment law?

A written legal statement is valid if it is signed by the person who made the statement. A signature may be substituted by mechanical means in cases where it is common.

Furthermore, a legal statement will be deemed as written if it is made by telegraph, telex or electronic means that enable it to record the contents of the legal statement and to identify the person who made the legal statement. Legal statements in electronic form signed with an advanced electronic signature or advanced electronic stamp will always be deemed as written.

Based on the above provision, signing with a qualified electronic signature or advanced electronic signature is sufficient if the law requires a written form.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a main provision, employment contracts, termination of employment relationships, and the modification of the employment contract must be in writing, so a qualified or advanced electronic signature is required.

For employment law legal statements, when a written form is not required, other types of electronic signatures are accepted.

In which cases are only documents with wet-ink signatures accepted under employment law?

There are no such cases.



Slovenia

When does a legal statement qualify as a written document under employment law?

A legal statement is deemed written when written down and signed.

However, where a written form is required by law or regulation, an electronic form will be deemed to be equivalent to the written form if the electronic data is available and suitable for later use.

A written legal statement is binding if it is signed with a handwritten signature or, if in electronic form, signed with a qualified electronic signature.

This means that only a qualified electronic signature is sufficient for signing employment law documents where a written form is mandatory.

Examples of legal statements and contracts where a written form is mandatory under employment law

Among others, employment agreements and their modifications, drafts/proposals of employment agreements, notices of vacancies, notices to non-selected candidates, notices on temporary performance of other work duties mutual terminations of the employment agreement, termination documents, and agreements on compensation instead of use of notice periods must be in writing and, therefore, only signing with a qualified electronic signature is sufficient.

In which cases are only documents with wet-ink signatures accepted under employment law?

There are no such cases. Although there is no direct prohibition on the use of any kind of e-signatures, or any provisions on mandatory use of wet-ink signatures, e-signatures are not used in practice.



Ukraine

When does a legal statement qualify as a written document under employment law?

There is no legal requirement as to when a legal statement must be deemed as written under employment law. In the case of employment documents such as employment agreements, there is no direct prohibition on using e-signatures. However, this is an untested practice in Ukraine.

Ukraine is not a member state of the EU, so the eIDAS Regulation on e-signatures does not apply.

Examples of legal statements and contracts where a written form is mandatory under employment law

As a rule, employment agreements must be concluded in a written form. Furthermore, among others employment orders, employment termination agreements, and collective bargaining agreements must also be in writing.

In which cases are only documents with wet-ink signatures accepted under employment law?

Although there is no direct prohibition on using any kind of e-signatures, or any provisions on mandatory use of wet-ink signatures, e-signatures are not used in practice.

Employment law use case in comparison

This chart shows a comparison between nine CEE countries on the issue of whether the following types of electronic signature are acceptable in the case of employment law documents where the law requires a written form.

	Bulgaria	Czech Republic	Hungary
QES with time stamp	√	√ ¹	√
QES without time stamp	√	√ ¹	√
AES with time stamp	X	√ ²	√
AES without time stamp	X	√ ²	√
Advanced biometric signature	X	√ ³	√
SES	X	√ ³	√
Scanned e-version of the original paper-based document with handwritten signature sent as an attachment to an ordinary email without electronic signature but with standard email signature panel	X	√ ³	√
Sent as text in an ordinary email, without electronic signature but with standard email signature panel	X	√ ³	√
Sent in an SMS	X	√ ³	X
Signed with a copy-pasted image of a handwritten signature, sent as an attachment to an ordinary email	X	√ ³	√
Signed with the typed name of the signatory and sent as an email attachment	X	√ ³	√
Sent via a social media message sending application. e.g. Messenger, Viber, LinkedIn	X	√ ³	X
Sent via a chat application	X	√ ³	X
Agreements accepted online, by ticking a checkbox or by clicking on a button ("click-on agreements")	X	√ ³	X
Agreement accepted through an online platform provided by the other party	X	√ ³	X

¹ if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature.

² if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature. We also note that in the case of documents regarding the establishment, change or termination of employment, the AES must be based on a qualified certificate.

³ if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature. We also note that in the case of documents regarding the establishment, change or termination of employment, it is not possible to use this electronic signature.

E-signatures on commercial contracts

Businesses can use e-signatures to sign different types of commercial contracts.

However, it varies from country to country as to what type of electronic signature has legal effect, whether documents signed with different types of e-signatures qualify as written statements, and which type of commercial contracts must be concluded in a written form.



Bulgaria

When does a commercial contract qualify as a written document?

A commercial agreement is considered a written document:

- a. if the paper-based contract is signed with a handwritten signature;
- b. if the contract has been technically recorded in a manner that can be reproduced;
- c. if the electronic contract is signed by a qualified electronic signature (which is equivalent to a handwritten signature). If the electronic document and its signing is contested in court, a qualified certificate for electronic signature issued by the qualified trust service provider may be required;
- d. if the electronic contract is signed with a simple (standard) electronic signature or advanced electronic signature on condition that the parties have agreed that the respective signature will be equivalent to a handwritten signature.

In all cases where a written form is mandatory for a commercial contract, its amendments and annexes must also be in a written form.

Examples of commercial contracts where a written form is mandatory

As a general provision, a written form for the validity of commercial transactions is required only if there is a specific legal requirement provided. In all other cases a written form is not required.

An electronic document (including an electronic statement) is considered to be in a written form and may be used in all cases where legislation requires the simple written form for the conclusion and validity of a contract. However, an electronic document cannot be used if the legislation requires a qualified form for validity or proof of statement, such as a notarial certification of the signature, a notarised deed, an individual's statement, and the participation of witnesses or officials.

Examples of contracts and agreements where the simple written form is required by law:

- preliminary contracts preceding the conclusion of a final contract for which a notarial deed or notarial certification is required;
- a sale with a buyback option, advanced payment arrangement or in instalments;
- bank credit;
- licence agreements for copyright and neighbouring rights in cases of the licence of moral rights, licences for exclusive rights, and licences for the neighbouring rights of a performing artist;
- licence agreements for trademarks and industrial designs;
- the written form is recommended for contracts above EUR 2,500 for evidential purposes (proving existence by using testimony in court is inadmissible);
- insurance contracts.

In which cases are only commercial contracts with wet-ink signatures accepted?

An electronic document cannot be used if the legislation requires a qualified form for validity or proof of statement, such as a notarial certification of the signature, notarised deed, individual's statement, and the participation of witnesses or officials. Real estate sale and purchase agreement are one such example.

Czech Republic

When does a commercial contract qualify as a written document?

Written legal statements require the signature of the acting person to be valid. The signature may be replaced by mechanical means where standard.

Legal statements in electronic (or other technical) form are also deemed to be written legal statements if it is possible to capture the content and identify the acting person.

Examples of commercial contracts where a written form is mandatory

As a general provision, donation and sale and purchase agreements (when the object is registered in a public register), licence agreements (if the license is exclusive or if it is to be registered in a public register), insurance contracts (if the insurance will last for more than one year), waivers of rights from defective performance, contracts on the provision of holiday services and agency agreements must be in writing.

In which cases are only commercial contracts with wet-ink signatures accepted?

In cases where it is required for the signature to be officially verified, because no electronic signature is currently considered equivalent to an officially verified wet-ink signature and it is not possible to officially verify an electronic signature, if a qualified form of verification is required (notarial deed), e.g. in the case of reservation of title or preliminary declaration, and with certain securities which cannot be issued in electronic form, e.g. bills of exchange.

From 1 February 2022, it will be possible to replace the requirement for officially verified signatures with the use of certain electronic methods, including electronic signatures based on a qualified certificate.

Hungary

When does a commercial contract qualify as a written document?

If a paper-based legal statement is signed with a handwritten signature. An electronic legal statement will be deemed written if: (1) the signatory can be identified; (2) the time of signature can be identified; and (3) if the content of the electronic document is unchanged and this can be proved (integrity).

Although the definition of a written statement is as same as in the case of employment law, the Hungarian Supreme court interprets it differently in the case of civil law legal statements and commercial agreements: only commercial contracts signed with an advanced or qualified electronic signature qualify as written agreements.

Examples of commercial contracts where a written form is mandatory

There are many types of commercial agreement where a written form is mandatory. The Civil Code and other Hungarian legal acts may require a written form for different types of contracts. Among others, agreements on maintaining ownership in the case of sale and purchase agreements, contracts containing pre-emption or repurchase rights, purchase or sale options, and licence contracts for copyright and neighbouring rights must be in writing. If the contract contains a mortgage, pledge, security deposit, suretyship or guarantee, at least those provisions must be in writing.

Based on the practice of the Hungarian Supreme Court, an AES or QES is necessary for signing such contracts.

In which cases are only commercial contracts with wet-ink signatures accepted?

Real estate sale and purchase agreements and legal statements if they must be submitted to the land registry office.

Poland

When does a commercial contract qualify as a written document?

Commercial contracts qualify as written if they are signed with a handwritten signature. If the contract is in electronic form, it has an equal legal effect to a written legal statement if it is signed with a qualified electronic signature.

Examples of commercial contracts where a written form is mandatory

As a rule, commercial contracts must be in writing only if the law requires it. Among others powers of attorney, commercial proxies, leasing agreements, agreements on the acquisition of debt, a statement by a guarantor in a guarantee agreement, agreements on the assignment of economic copyrights, and exclusive licensing agreements must be concluded in writing.

This means that a QES must be used if the written form is mandatory under the law, i.e. in the aforementioned cases. However, an AES, SES and other forms of electronic signature can be used for any other commercial contracts where a written form is not required.

In which cases are only commercial contracts with wet-ink signatures accepted?

If the law requires a notarial deed, the contract cannot be signed electronically even with a QES. Good examples here are sale agreements obliging the transfer of ownership, and substantive legal documents granting the right for entry in the land and mortgage register, as well as agreements on easements, pledges, mortgages, usufruct, and cooperative ownership rights to premises, where wet-ink signatures are mandatory.

Romania

When does a commercial contract qualify as a written document?

If a paper-based contract is signed with a handwritten signature. An electronic contract will be deemed written if: (1) it is signed with a valid QES by a signatory or its legal representative (for legal entities); (2) the time of the signature can be identified; and (3) if the content of the electronic document is unchanged and this can be proved (integrity).

As a rule, a QES can only be issued by certified providers of QES in accordance with Romanian law.

However, for certain consumer contracts, e.g. the provision of telecommunication services, a QES is not required from consumers to conclude contracts in electronic form. Similarly, in commercial transactions counterparts' signatures are valid, i.e. each party signs and dates a paper-based document by hand based on a scanned copy of the handwritten signed counterpart document emailed by the other party.

Examples of commercial contracts where a written form is mandatory

Under Romanian law, a written form is mandatory either for evidentiary purposes, to prove the existence of a contract, or for validity purposes where, in the absence of a written form, the contract is void.

For validity reasons, rural leases (*contract de arendare*), public procurement and concession contracts, guarantee contracts (*fidejusiune*), licence and right transfer contracts for copyright, neighbouring rights, contracts on mortgages over movable assets, pledges or security deposits, and leasehold agreements must be in writing.

In which cases are only commercial contracts with wet-ink signatures accepted?

Civil acts, e.g. birth certificates, regulated types of will, which must be handwritten (*olograf*) as well as documents which must be sent by registered letter for notification purpose, e.g. delay notices communicated by registered mail, are accepted only with wet-ink signatures.

Serbia

When does a commercial contract qualify as a written document?

The definition of written legal statements is the same as under employment law, i.e. only signing a contract in electronic form with a qualified electronic signature is sufficient if the law requires a written form.

Examples of commercial contracts where a written form is mandatory

Under the Law on Contracts and Torts, a written form is required, e.g. for sale and purchase agreements that include the payment of the purchase price in instalments, construction agreements, licence and transfer of rights agreements for intellectual property, commercial agency agreements, allotment agreements, insurance agreements, agreements on surety, and bank guarantees.

Furthermore, for certain agreements additional formalities, including notarial deeds, are required, e.g. agreements for the sale and purchase of real estate.

In which cases are only commercial contracts with wet-ink signatures accepted?

If the law requires notarisation or otherwise stipulates that certain legal transactions cannot be undertaken in electronic form, only paper documents with wet-ink signatures will be accepted. This is the case, e.g. with agreements for the sale and purchase of real estate.

In addition, not all governmental authorities are currently technically equipped to handle electronic documents, so even documents that can be signed with a qualified electronic signature may have to be submitted in paper with wet-ink signatures to an authority.

Slovakia

When does a commercial contract qualify as a written document?

The definition is the same as under employment law, i.e. signing the contract in electronic form with a qualified electronic signature or advanced electronic signature is sufficient if the law requires a written form.

However, the Slovakian Supreme Court has passed a decision which allows a broader interpretation of the definition of a written contract and has stated that a contract sent via email, fax or SMS can be deemed as written, with the main condition being that the text of the legal act is captured on a material basis from which it is possible to identify the content of the legal act and the person who performed the legal act.

Examples of commercial contracts where a written form is mandatory

Slovakian law requires the mandatory written form for several commercial contracts. Commonly used commercial contracts with the mandatory written form are insurance agreements and associated legal acts, contracts relating to pre-emption rights, contracts for exclusive licences, bank account agreements, and contractual penalty clauses.

In which cases are only commercial contracts with wet-ink signatures accepted?

There are no such cases.

Slovenia

When does a commercial contract qualify as a written document?

A commercial contract is deemed written when written down and signed. However, where the written form is required by law or regulation, an electronic form will be deemed to be equivalent to the written form if the data in electronic form is available and suitable for later use.

A commercial contract is binding if it is signed with a handwritten signature or, if in electronic form, signed with a qualified electronic signature.

This means that only a qualified electronic signature is sufficient for signing a commercial contract where a written form is mandatory.

Examples of commercial contracts where a written form is mandatory

Among others, instalment sales agreements, donation agreements, construction agreements, licence agreements, agreements on the lease of hotel capacity, del credere warranty and non-compete clauses in agency agreements or surety statements must be in writing, so only signing with a qualified electronic signature is sufficient in the case of contracts in an electronic form.

In which cases are only commercial contracts with wet-ink signatures accepted?

In general, there are no such cases. However, the electronic form of a document and an electronic signature cannot be used when the law requires that an agreement should be concluded in the form of a notarial deed. Only wet-ink signatures are accepted for certain documents that require certification of a signature by a notary public. documents, so even documents that can be signed with a qualified electronic signature may have to be submitted in paper with wet-ink signatures to an authority.

Ukraine

When does a commercial contract qualify as a written document?

A contractual transaction will be considered as concluded in writing if its substance is fixed in one or several documents, letters, or telegrams exchanged by the parties and it is signed by the parties.

Ukrainian law does not contain clear legal provisions on the acceptability of electronic signatures. However, in most cases there is no direct prohibition on the use of any kind of e-signature.

Contracts in electronic form signed with a qualified electronic signature mostly qualify as written agreements, while advanced electronic signatures, advanced biometric signatures, standard electronic signatures, scanned versions of wet-signed contracts, signing through online platforms, and click-on agreements are acceptable only if the parties have explicitly agreed to this in writing in an initial agreement and attach sample handwritten signatures.

Examples of commercial contracts where a written form is mandatory

As a rule, all contractual transactions between legal entities, contractual transactions between a legal and an individual person (except for certain cases), and contractual transactions between individual persons for more than 20 times the non-taxable minimum income of citizens (except for certain cases) must be in writing.

In which cases are only commercial contracts with wet-ink signatures accepted?

Agreements that are subject to notarisation.

Commercial contracts in comparison

This chart shows a comparison between nine CEE countries on the issue of whether the following types of electronic signatures are acceptable in commercial contracts where the law requires a written form.

	Bulgaria	Czech Republic ¹	Hungary
QES with time stamp	√	√	√
QES without time stamp	√	√	x
AES with time stamp	√ (with conditions)	√	√
AES without time stamp	√ (with conditions)	√	x
Advanced biometric signature	x	√	√
SES	√ (with conditions)	√	x
Scanned electronic version of the original paper-based document with handwritten signature sent as an attachment to an ordinary email without electronic signature but with a standard email signature panel	√ (with conditions)	√	x
Sent as text in an ordinary email, without electronic signature but with a standard email signature panel	√ (with conditions)	√	x
Sent as an SMS	x	√	x
Signed with a copy-pasted image of a handwritten signature, sent as an attachment to an ordinary email	x	√	x
Signed with the typed name of the signatory and sent as an email attachment	x	√	x
Sent via a social media message sending application, e.g. Messenger, Viber, LinkedIn	x	√	x
Sent via a chat application	x	√	x
Agreements accepted online, by ticking a checkbox or by clicking on a button ("click-on agreements")	x	√	x
Agreement accepted through an online platform provided by the other party	x	x	x

¹ Czech Republic: if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature.

² Slovenia: only in commercial agreements where no special form, e.g. notarial deed or certification of signature, is required by the law.

³ Ukraine: if commercial contracts are not subject to notarisatation.

Poland	Romania	Serbia	Slovakia	Slovenia ²	Ukraine ³
√	√	√	√	√	√
√	√	√	√	√	√
X	X	X	√	X	√
X	X	X	√	X	√
X	X	X	√	X	√
X	√ (only in long term commercial agreements)	X	√	X	√
X	X	X	√	X	X
X	X	X	√	X	X
X	X	X	√	X	√
X	X	X	√	X	X
X	X	X	√	X	X
X	X	X	√	X	X
X	√ (only for certain contracts concluded with consumers)	X	X	X	√
X	X	X	√	X	√

E-signatures under real-estate law

Businesses can use e-signatures to sign different types of real estate contracts.

However, it differs from country to country as to what types of electronic signature have legal effect, whether documents signed with different types of e-signature qualify as written statements, and which type of real estate contracts must be concluded in a written form.



Bulgaria

When does a real estate agreement qualify as a written document?

Electronic documents cannot be used when the law requires a qualified form for validity or proof of a statement, such as notary certification of a signature, notarised deed, an individual's statement, participation by witnesses or officials. Real estate sale and purchase agreements require a qualified form for validity; a form of notarial deed executed in person before a notary public, so signing with an electronic signature is not acceptable.

Examples of real estate agreements where a written form is mandatory

All agreements related to real estate transactions.

In which cases are only real estate agreements with wet-ink signatures accepted?

All agreements related to real estate transactions.

Czech Republic

When does a real estate agreement qualify as a written document?

Written legal statements require the signature of the acting person to be valid. The signature may be replaced by mechanical means where standard.

Legal statements in electronic (or other technical) form are also deemed to be written legal statements if it is possible to capture the content and identify the acting person.

Examples of real estate agreements where a written form is mandatory

As a general provision, a written form is required for legal acts regarding rights in rem to immovables. In these cases, if more people are acting, their expressions of will must be on the same instrument. Any agreements for the sale and purchase, donation, of mortgage of real estate, lease agreements for residential purposes, surety and financial guarantee or offers relating to pre-emptive rights must also be in writing.

In which cases are only real estate agreements with wet-ink signatures accepted?

Only wet-ink signatures are sufficient if it is required for a signature to be officially verified, because no electronic signature is currently considered as equivalent to officially verified wet ink signature and it is not possible to officially verify electronic signature, e.g. declarations by a real estate owner.

However, from 1 February 2022 it will be possible to replace the requirement for officially verified signatures with the use of certain electronic means, including electronic signatures based on a qualified certificate.

Hungary

When does a real estate agreement qualify as a written document?

The definition and court practice on written contracts are the same as in the case of commercial contracts: only real estate contracts signed with an advanced or qualified electronic signature qualify as written agreements.

Examples of real estate agreements where a written form is mandatory

As a rule, agreements for the sale and purchase, donation of real estate, and lease agreements for residential purpose must be in writing

In which cases are only real estate agreements with wet-ink signatures accepted?

All documents related to real estate to be submitted to the land registry office must be signed with a wet-ink signature; electronic signatures are not accepted.

Poland

When does a real estate agreement qualify as a written document?

The definition of a written contract is the same as in the case of commercial contracts.

Examples of real estate agreements where a written form is mandatory

As a rule, real estate related lease agreements, rental guarantee agreements, master lease agreements, development agreements, and construction contracts must be in writing.

In which cases are only real estate agreements with wet-ink signatures accepted?

In practice there is no possibility to close a real estate transaction in the ordinary written form, or with the use of electronic signatures. Almost all real estate transactions require a notarial deed. In the case of share deals, limited liability companies operating mainly in Poland, and share transfer, there is a requirement for signatures to be certified by a notary, and it is not possible to use e-signatures. Only lease agreements can be signed with an e-signature. However, e-signatures are rare, thus the traditional form of printing, signing and exchanging originals prevails. Physical closings are still obligatory in the majority of cases.

Romania

When does a real estate agreement qualify as a written document?

As a rule, real estate transactions including sale and purchase agreements and real estate immovable mortgages are subject to notarisation by a notary public to be considered validly concluded, and in these cases electronic signatures cannot be used.

However, a lease for immovable property can be validly concluded in a written form, without notarisation formalities, in which case the definition of a written form mentioned in the case of commercial contracts applies, i.e. those contracts can be signed with a QES.

Examples of real estate agreements where a written form is mandatory

Real estate sale and purchase agreements as well as donations over immovable property are subject to notarisation for the contract to be valid, while lease agreements for immovable properties can be concluded in the standard written form.

In which cases are only real estate agreements with wet-ink signatures accepted?

Where the notarised form is compulsory, documents need to be signed with a wet-ink signature before a notary public.

Serbia

When does a real estate agreement qualify as a written document?

The definition of a written legal statement is the same as under employment law and commercial contracts, i.e. only signing a contract in electronic form with a qualified electronic signature is sufficient if the law requires a written form.

Examples of real estate agreements where a written form is mandatory

Serbian law requires a written form for, e.g. lease agreements for agricultural or forest land and of public construction land, for real estate sale and purchase and donation agreements, mortgage agreements and statements, and agreements for the establishment of personal or real easement rights.

In the case of real estate agreements, the written form does not suffice as they have to be solemnised or notarised. In these cases, the agreement has to be signed with handwritten signatures before a competent notary and it is not possible to use qualified electronic signatures.

In which cases are only real estate agreements with wet-ink signatures accepted?

Real estate agreements have to be solemnised or notarised, in which cases only a wet-ink signature is accepted.

Slovakia

When does a real estate agreement qualify as a written document?

A written contract will be valid if it is signed by the person who concluded it. In the case of real estate transactions, a written form is mandatory and notarial deed or attorney (advocate) authorisation are mandatory. If the document is in an electronic form, only signing with a qualified electronic signature is acceptable in real estate transactions.

Examples of real estate agreements where a written form is mandatory

Slovakian law requires the mandatory written form for agreements on the sale and purchase, donation, easement and mortgage of real estate.

In which cases are only real estate agreements with wet-ink signatures accepted?

There are no such cases.

Slovenia

When does a real estate agreement qualify as a written document?

A real estate agreement is deemed written when written down and signed.

However, where a written form is required by law or regulation, an electronic form will be deemed to be equivalent to the written form (unless specifically determined otherwise) if the data in electronic form is available and suitable for later use.

A real estate agreement is binding if it is signed with a handwritten signature or, if in electronic form, signed with a qualified electronic signature.

This means that only qualified electronic signatures are sufficient for signing a real estate agreement where the written form is mandatory.

Examples of real estate agreements where a written form is mandatory

Agreements to transfer ownership rights to real estate and agreements on establishing a right in rem on real estate (pledges, easements, land charges, rights of superficies) must be in a written form, and it is specifically determined that these types of agreements are not legally valid if concluded in an electronic form. Real estate lease agreements must also be in writing but are legally valid if concluded in an electronic form.

In which cases are only real estate agreements with wet-ink signatures accepted?

Wet-ink signatures are required for agreements to transfer the ownership right to real estate, agreements on establishing a right in rem on real estate, and for certain documents that require the certification of a signature by a notary public.

The electronic form of a document and an electronic signature cannot be used if the legislation requires that an agreement should be concluded in the form of a notarial deed.

Ukraine

When does a real estate agreement qualify as a written document?

The definition is the same as in the case of commercial contracts: Ukrainian law does not contain clear legal provisions on the acceptability of electronic signatures. However, in most cases there is no direct prohibition on the use of any kind of e-signatures.

Examples of real estate agreements where a written form is mandatory

As a general rule, any agreement regarding real estate, such as a sale and purchase agreement, lease agreement, and mortgage agreement must be signed in a written form.

In which cases are only real estate agreements with wet-ink signatures accepted?

Any real estate agreement which is subject to mandatory notarisation, such as sale and purchase agreements, lease agreements with a term equal to or exceeding three years, and mortgage agreements, must be signed with wet-ink signatures.

Real Estate transactions use case comparison

This chart shows a comparison between nine CEE countries on the issue of whether the following type of electronic signatures are accepted in real estate transactions where the law requires a written form.

	Bulgaria	Czech Republic	Hungary
QES with time stamp	X	√ ¹	√ only if not in land registry
QES without time stamp	X	√ ²	X
AES with time stamp	X	√ ³	√ only if not in land registry
AES without time stamp	X	√ ²	X
Advanced biometric signature	X	√ ²	√ only if not in land registry
SES	X	√ ²	X
Scanned electronic version of the original paper-based document with handwritten signature sent as an attachment to an ordinary email without electronic signature but with a standard email signature panel	X	√ ²	X
Sent as text in an ordinary email, without electronic signature but with a standard email signature panel	X	√ ²	X
Sent as an SMS	X	√ ²	X
Signed with a copy-pasted image of a handwritten signature, sent as an attachment to an ordinary email	X	√ ²	X
Signed with the typed name of the signatory and sent as an email attachment	X	√ ²	X
Sent via a social media message sending application, e.g. Messenger, Viber, LinkedIn	X	√ ²	X
Sent via a chat application	X	√ ²	X
Agreements accepted online, by ticking a checkbox or by clicking on a button ("click-on agreements")	X	√ ²	X
Agreement accepted through an online platform provided by the other party	X	√ ²	X

¹ Czech Republic: If "only wet ink signature is accepted", it is not currently possible to use this electronic signature.

² Czech Republic: If "only wet ink signature is accepted", it is not currently possible to use the electronic signature. We also note that in case of documents for registration into the Real Estate Register, it is not possible to use this electronic signature.

³ Czech Republic: If "only wet ink signature is accepted", it is not currently possible to use this electronic signature. We also note that in case of documents for registration into the Real Estate Register, the AES must be based on a qualified certificate.

⁴ Ukraine: if real estate agreements are not subject to notarisation.

Poland	Romania	Serbia	Slovakia	Slovenia	Ukraine ⁴
√ only lease agreements	√ if notarised form is not mandatory	√ if notarised form is not mandatory	√	√ only for certain agreements	√
√ only lease agreements	√ if notarised form is not mandatory	√ if notarised form is not mandatory	X	√ only for certain agreements	√
X	X	X	X	X	√
X	X	X	X	X	√
X	X	X	X	X	√
X	X	X	X	X	√
X	X	X	X	X	√
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	√
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	√
X	X	X	X	X	√

E-signatures under corporate law

Businesses can use e-signatures to sign different types of corporate documents.

However, it differs country from by country to country as to what type of electronic signature has legal effect, whether documents signed with the different types of e-signatures qualify as written statements, and which type of corporate documents must be executed in a written form.



Bulgaria

When does a corporate document qualify as a written document?

A corporate document is considered as written:

- a. If the paper-based corporate document is signed with a handwritten signature.
- b. If the electronic corporate document is signed by a qualified electronic signature, which is equivalent to a handwritten signature. If the electronic document and its signing is contested in court, a qualified certificate for electronic signature, issued by the qualified trust service provider, may be required.
- c. If the electronic corporate document is signed by a simple electronic signature or advanced electronic signature on condition that the parties have agreed that the respective signature will be equivalent to a handwritten signature.
- d. Electronic documents cannot be used if the legislation requires a qualified form for validity or proof of the statement such as a notary certification of the signature.

Examples of corporate documents where a written form is mandatory

As a general provision, a written form for validity of corporate law documents is required only if the law requires it. In all other cases, a written form is not required.

The memorandum of association for a limited liability company (LLC), the deed of incorporation of a joint-stock company (JSC), and management agreements for the management of an LLC and JSC must be in writing.

In which cases are only corporate documents with wet-ink signatures accepted?

Electronic documents and signatures cannot be used if the relevant legislation requires a qualified form for validity or proof of the statement, e.g. a notarial certification of the signature.

A qualified form is required to transfer a commercial enterprise as a going concern), for the memorandum of association of a general partnership, for the memorandum of association of limited partnership, and to transfer shares in an LLC. Furthermore, the qualified form is mandatory for the decisions of an LLC's general meetings of shareholders concerning the acceptance or expulsion of a shareholder, a capital increase or decrease, the election of a manager of the LLC, and decisions on the transfer of real estate, except if the memorandum of association of the LLC explicitly provides that a simple written form is permitted for these decisions.

Czech Republic

When does a corporate document qualify as a written document?

Written legal statements require the signature of the acting person to be valid. The signature may be replaced by mechanical means where standard.

Legal statements in electronic (or other technical) form are also deemed to be written legal statements if it is possible to capture the content and identify the acting person.

Examples of corporate documents where a written form is mandatory

As a general provision, the memorandum of association, articles of association, decisions of the company, share transfer agreements, consent for the use of premises or consent for registration in a public register must be in writing.

In which cases are only corporate documents with wet-ink signatures accepted?

In cases where it is required for the signature to be officially verified, because no electronic signature is currently considered as equivalent to officially verified wet ink signature and it is not possible to officially verify electronic signature.

Furthermore, the qualified form of verification is also required (notarial deed) for the following corporate documents:

- a. memorandum of association;
- b. articles of association;
- c. consent for the use of premises.

Further, certain securities which cannot be emitted in electronic form, e.g.: common certificate or bill of exchange.

From 1 February 2022, it will be possible to replace the requirement for officially verified signatures with the use of certain electronic means, including electronic signatures based on a qualified certificate.

Hungary

When does a corporate document qualify as a written document?

In the case of corporate law, the definition and court practice of written legal statements is the same as in the case of commercial contracts: if the corporate documents are in electronic form, only signatures with advanced or qualified electronic signatures are acceptable.

Examples of corporate documents where a written form is mandatory

As a rule, the articles of association, corporate resolutions, and share/asset transfer agreements must be in writing.

In which cases are only corporate documents with wet-ink signatures accepted?

There are no such cases.

Poland

When does a corporate document qualify as a written document?

The definition and formal requirements of written legal statements are as same as in the case of commercial contracts: if the document is in electronic form, it has an equal legal effect to the written legal statement if it is signed with a qualified electronic signature.

Examples of corporate documents where a written form is mandatory

As a rule, legal statements necessary for court proceedings, asset transfer agreements, share transfer agreements and minutes from shareholders' meetings must be in writing.

In which cases are only corporate documents with wet-ink signatures accepted?

Subject to a few exceptions mentioned below, in general paper-based wet-signature written form of documents are required. This is because there are no electronic systems which would allow documents to be submitted in an electronic form except for the temporary situation during the COVID-19 pandemic. Therefore, most corporate documents cannot be signed with an electronic signature.

Furthermore, there are cases in which a special form is required, i.e. a notarial deed form (e.g. amendments to the articles of association) or a form with signatures certified by a notary public (e.g. a share transfer agreement). In those cases, only a wet-ink signature is acceptable.

However, there are certain corporate matters that may be dealt with online via electronic court systems, e.g. financial statements of commercial companies can be submitted to the National Court Register, incorporation of a simple limited liability company (S24 system), sale of shares in a simple limited liability company which was established online via the S24 system, changes to the articles of association of a simple company established online via the S24 system. In such cases, the electronic form and electronic signature can be used.

Romania

When does a corporate document qualify as a written document?

The definition of a written statement is the same as in the case of commercial contracts, i.e. corporate documents in electronic form must be signed with a qualified electronic signature.

However, as a rule, methods of electronic communication can only be used if the deeds of incorporation of the company provide for this possibility and sometimes cannot be used at all, e.g. in the case of secret voting or when the law requires a notarised form for the documents.

In the context of the COVID-19 pandemic, temporary measures were enacted by Government Ordinance No. 60/2020 (in principle during the state of emergency in Romania and for two months afterwards) to allow certain corporate documents to be adopted in electronic form irrespective of express provisions in the deed of incorporation.

Examples of corporate documents where a written form is mandatory

Under Romanian law, the written form is mandatory for decisions of a company, share transfer agreements, deeds of foundation and specimen signatures.

For the incorporation of a company, the deed of incorporation and specimen signature must be signed in handwriting only.

In which cases are only corporate documents with wet-ink signatures accepted?

All corporate documents which must be sent by registered letter for notification purpose, e.g. delay notices communicated by registered mail, and for the incorporation of a company, deed of foundation and specimen signatures are accepted only with wet-ink signatures.

Serbia

When does a corporate document qualify as a written document?

The definition of a written legal statement is as same as under employment law in the case of commercial contracts and real estate related agreements: if the corporate document is in electronic form, only a QES is acceptable if the law requires the written form.

Examples of corporate documents where a written form is mandatory

Under the Companies Law, the written form is required for, e.g. the memorandum of association (resolution or agreement on incorporation), articles of association, shareholders agreements, decisions of the company, share transfer agreements in a limited liability company and in joint stock companies that are not public, offer for sale of shares to shareholders with pre-emption rights and acceptance of such offers, certain agreements between a company and its shareholders, powers of attorney for voting at the general meeting issued by the shareholder of a joint stock company, division plan, auditor reports related to the status changes (mergers, acquisitions, divisions, spin offs), agreements on control and management and certain consents, notifications, requests, invitations to the general meetings.

Additionally, certain documents have to be notarised, e.g. memorandum of association, share transfer agreement, power of attorney for voting if issued by an individual person, and division plan.

In which cases are only corporate documents with wet-ink signatures accepted?

If the law requires notarisation (signature verification, solemnisation, notarial deed), or otherwise stipulates that certain legal transactions cannot be effected in electronic form, only paper documents with wet-ink signatures will be acceptable.

In addition, not all governmental authorities are currently technically equipped to handle electronic documents, so documents that can be signed by a qualified electronic signature may have to be submitted in paper with wet-ink signatures.

Currently, the Serbian Business Registers Agency is accepting electronic documents only when electronic registration is possible. This is the case with registering the incorporation of limited liability companies. Exceptionally in this case the memorandum of association in electronic form does not have to be notarised but can be signed with qualified electronic signature(s) of the shareholder(s), provided that none of the shareholders are contributing real estate to the company's share capital. It is also the case with entrepreneurs, the submission of financial statements and registration of ultimate beneficial owners. In all other cases, paper documents signed in wet ink are required.

Slovakia

When does a corporate document qualify as a written document?

The definition is the same as under employment law and commercial contracts, i.e. signing with a qualified electronic signature or advanced electronic signature is sufficient if the law requires the written form.

However, there are several corporate documents where the law requires stricter formal requirements, such as notarial deed or verification of the signature, and in those cases only a wet-ink signature is acceptable.

Examples of corporate documents where a written form is mandatory

Among others Slovakian law requires the mandatory written form for memorandums of association and share transfer agreements.

In which cases are only corporate documents with wet-ink signatures accepted?

All corporate documents required for notarial deed or verification of the signature, such as an endorsement of shares, must be signed with wet-ink signatures, so no electronic signatures are acceptable.

Slovenia

When does a corporate document qualify as a written document?

A corporate document is deemed written when written down and signed.

However, where the written form is required by law or regulation, an electronic form will be deemed to be equivalent to the written form if the data in electronic form is available and suitable for later use.

A written corporate document is binding if it is signed with a handwritten signature or, if in electronic form, signed with a qualified electronic signature.

This means that only qualified electronic signatures are sufficient for signing corporate law documents where a written form is mandatory.

Examples of corporate documents where a written form is mandatory

Among others, the act of incorporation (sole shareholder LLC), resolutions of the sole shareholder (LLC), resolutions of the shareholders' assembly (LLC with two or more shareholders), articles of association (LLC with two or more shareholders), statement of directors and supervisory board members on appointment, minutes of the shareholders' assembly of a joint stock company, and share transfer agreements must be in writing. Note that for some of the mentioned documents, the law requires stricter formal requirements, such as certification of a document or certification of a signature by a notary public or notarial deed.

In which cases are only corporate documents with wet-ink signatures accepted?

In cases where the sole shareholder has a hard copy of the book of resolutions, wet-ink signature of the resolutions is required, while if the sole shareholder has an electronic copy of the book of resolutions, a qualified electronic signature is required.

If the law requires stricter formal requirements, such as certification of a document or certification of a signature by a notary public or notarial deed, only wet-ink signatures are accepted. Although the law provides for the certification of qualified electronic signatures, this option is not yet implemented in practice.

In addition, the electronic form of a document and an electronic signature cannot be used when the law requires that an agreement must be concluded in the form of a notarial deed, e.g. share transfer agreements.

Ukraine

When does a corporate document qualify as a written document?

As a rule, the agreement between the participants of a limited liability company must be concluded in a written form.

Regarding a company's internal corporate documents, such as shareholders' minutes, there is no direct prohibition on the use of e-signatures. However, this is an untested practice in Ukraine.

Examples of corporate documents where a written form is mandatory

As a rule, the agreement between the participants of a limited liability company and the minutes of the general meeting must be in writing. There is no expressed prohibition on executing them electronically, although in many cases such minutes are subject to mandatory notary certification, in which case they cannot be executed electronically.

In which cases are only corporate documents with wet-ink signatures accepted?

If the corporate documents are subject to a notarial certification or other form of signature verification.

Corporate law use case comparison

This chart shows a comparison between nine CEE countries on the issue of whether the following type of electronic signatures are accepted in real estate transactions where the law requires a written form.

	Bulgaria ³	Czech Republic ¹	Hungary
QES with time stamp	√	√	√
QES without time stamp	√	√	x
AES with time stamp	√	√	√
AES without time stamp	√	√	x
Advanced biometric signature	x	√	√
SES	√	√	x
Scanned electronic version of the original paper-based document with handwritten signature sent as an attachment to an ordinary email without electronic signature but with a standard email signature panel	x	√	x
Sent as text in an ordinary email, without electronic signature but with a standard email signature panel	x	√	x
Sent as an SMS	x	√	x
Signed with a copy-pasted image of a handwritten signature, sent as an attachment to an ordinary email	x	√	x
Signed with the typed name of the signatory and sent as an email attachment	x	√	x
Sent via a social media message sending application, e.g. Messenger, Viber, LinkedIn	x	√	x
Sent via a chat application	x	√	x
Agreements accepted online, by ticking a checkbox or by clicking on a button ("click-on agreements")	x	√	x
Agreement accepted through an online platform provided by the other party	x	√	x

¹ Czech Republic: if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature.

² Slovakia: only in corporate documents where no special form, e.g. a notarial deed or verification of signature, is required by law.

³ Bulgaria: in the case of a QES unless the legislation requires a qualified form for validity or proof of the statement. In the case of an AES and SES: if the legislation does not require a qualified form for validity or proof of the statement and if the parties have agreed that the advanced/standard electronic signature will be equivalent to a handwritten signature.

⁴ Slovenia: only in corporate documents where no special form, e.g. notarial deed or certification of signature, is required by law.

⁵ Ukraine: no express prohibition by law although not applicable in practice.

E-signatures on Banking and Finance contracts

Agreements falling under banking/finance law such as loan and credit agreements, syndicated loan and mortgage loan agreements, and agreements to provide financial services play an important role in the life of businesses. Signing them remotely with e-signatures could be an advantage.

However, it differs from country to country as to what types of electronic signature have legal effect, whether those agreements signed with different types of e-signatures qualify as written contracts, and which type of agreements must be executed in a written form.



Bulgaria

When does a banking/finance agreement qualify as a written document?

An agreement can be deemed as written:

- a. If the paper-based legal statement is signed with a handwritten signature.
- b. If it is in electronic form and signed by a qualified electronic signature, which is equivalent to a handwritten signature.

However, there are specific regulations which require the provision in writing of the terms and conditions of bank credit, such as those regarding cost, interest rate, additional settlement obligations, and prepayment costs.

Furthermore, special provisions on consumer credit agreements set out additional requirements on the written form. Consumer credit agreements and consumer immovable property credit agreements must be concluded in a written form, on paper or on another durable medium (any instrument which enables the consumer to store information addressed personally to him/her in a way accessible for future reference for a period of time adequate for the purpose of information and which allows the unchanged reproduction of the information stored). Both agreements can be concluded through means of distance communication. Means of distance communication is any means which, without the simultaneous physical presence of the supplier and the consumer, can be used for the distance marketing of a service between those parties.

An electronic document cannot be used when legislation requires a qualified form for validity or proof of the statement, such as notarial certification of the signature or notarised deed.

Mortgage agreements must be in a qualified form for validity, a form of notarial deed executed in person before a notary public.

The internal policy of the given financial institution is also relevant.

Examples of banking/finance agreements where a written form is mandatory

As a general provision, a written form is required for all loan and credit agreements.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

An electronic document cannot be used when the legislation requires a qualified form for validity or proof of the statement, e.g. notarial certification of the signature and notarised deed. Mortgage agreements must be in a qualified form for validity, a form of notarial deed executed in person before a notary public.

Czech Republic

When does a banking/finance agreement qualify as a written document?

Written legal statements require the signature of the acting person to be valid. The signature may be replaced by mechanical means where standard.

Legal statements in electronic (or other technical) form are also deemed to be written legal statements if it is possible to capture the content and identify the acting person.

Examples of banking/finance agreements where a written form is mandatory

As a general provision, consumer loan agreements, mortgage agreements, agreements on the provision of investment services and payment services agreements must be in writing.

For financial legal statements, it is typical for the signatures to be replaced by mechanical means, usually represented by a stamp simulating the real signature.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

In cases where it is required for the signature to be officially verified, because no electronic signature is currently considered as equivalent to officially verified wet ink signature and it is not possible to officially verify electronic signature and if a qualified form of verification is required (notarial deed), e.g. mortgage agreements.

From 1 February 2022, it will be possible to replace the requirement on officially verified signatures with the use of certain electronic means, including electronic signatures based on a qualified certificate.

Hungary

When does a banking/finance agreement qualify as a written document?

In the case of banking/finance agreements, the definition of a written legal statement is the same as in commercial contracts: only agreements in an electronic form signed with an advanced or qualified electronic signature qualify as written agreements.

Examples of banking/finance agreements where a written form is mandatory

As a rule, loan agreements, mortgage loan agreements and all contracts by financial institutions for providing financial services and financial auxiliary services, excluding payment orders for a single payment transaction, must be concluded in writing.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

If the agreement, e.g. real estate mortgage agreement, must be submitted to the land registry, it must be signed with a wet-ink signature because the land registry office's methods are still paper-based.

Poland

When does a banking/finance agreement qualify as a written document?

An agreement will be deemed written if it is signed with a handwritten signature. If the agreement is in an electronic form, it must be made by electronic means (in pdf.) and signed with a qualified electronic signature.

Polish law recognises various types of written legal statements, including:

- a. simple written form;
- b. form with date certified;
- c. form with signatures certified by a notary public;
- d. a notarial deed.

An agreement in electronic form will be equal to the simple written form. A document signed by a qualified electronic signature with a time stamp will be equal to the written form with the date certified.

In general, agreements may be signed in a “mixed form”, i.e. in which one party signs the agreement in handwriting and the other with a qualified electronic signature.

There is an exclusion relating to banking operations signed with a simple electronic signature (not with a QES) which can be deemed equal to the written form if certain provisions are met and the bank has concluded a respective agreement with the customer.

Examples of banking/finance agreements where a written form is mandatory

As a rule, credit facilities agreements, loan agreements, mortgage statements (mentioned in Art. 95 of Banking Law), bank guarantees, where a receivable has been evidenced in writing, and assignments of receivables are also evidenced in writing as well as registered and financial pledges agreements.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

In agreements which must be executed in the form of a notarial deed or with signatures certified by a notary public, as well as with date certified (if the signing party does not have a time stamp). This applies in general to mortgage statements and civil pledges.

Romania

When does a banking/finance agreement qualify as a written document?

The definition of a written statement is the same as in commercial contracts: banking/finance agreements in an electronic form must be signed with a qualified electronic signature.

However, for mortgage contracts over immovable property, the notarised form is mandatory. In addition, for consumer loan contracts concluded at distance, although the written form is required as a rule for evidentiary purposes (including a QES for contracts in electronic form), the law allows that a loan contract can be validly concluded and evidenced for enforcement purposes (titlu executoriu) through other means, even if the consumer that benefited from the loan amount refused to sign the contract by handwritten signature or QES (Government Ordinance No. 85/2004).

Examples of banking/finance agreements where a written form is mandatory

Under Romanian law, the written form is mandatory for loan agreements, mortgage loan agreements over movable property (if the mortgage concerns immovable property, notarisation is mandatory) and for all contracts from financial institutions for providing financial services and financial auxiliary services, excluding payment orders for a single payment transaction.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

Where the notarised form is mandatory, agreements need to be wet-ink signed by hand before a notary public.

Serbia

When does a banking/finance agreement qualify as a written document?

The definition of a written legal statement is the same as under employment law, in the case of commercial contracts and real estate related agreements: if the banking/finance agreement is in an electronic form, only a QES is acceptable if the law requires the written form.

Examples of banking/finance agreements where a written form is mandatory

The written form is required for, e.g. all credit agreements (bank loans, syndicated loans, mortgage loans, etc.), bank guarantee agreements, agreements to open a bank account, letter of credit, all contracts of financial institutions for providing financial services, mortgage statements, pledge agreements, promissory notes, financial leasing agreements, and agreements on financial collateral.

Additionally, certain documents have to be notarised, e.g. mortgage statements and agreements, and share pledge agreements.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

Mortgage statements and agreements, pledge agreements and promissory notes, given that the Cadastral Registry, Pledge Registry of the Serbian Business Registers Agency and banks accept them only on paper with wet-ink signatures.

Slovakia

When does a banking/finance agreement qualify as a written document?

The definition is the same as under employment law and commercial contracts: signing with qualified electronic signature or advanced electronic signature is sufficient if the law requires the written form.

However, there are several banking/finance agreements where the law requires stricter formal requirements such as a notarial deed or verification of the signature, in which cases only wet-ink signatures are accepted.

Examples of banking/finance agreements where a written form is mandatory

Among others, Slovakian law requires a mandatory written form for consumer loan/home loan contracts (otherwise the loan is deemed provided free of interest and fees), contracts concerning shares, e.g. share pledge agreement, share purchase agreement, share donation agreement, and share escrow.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

All agreements required for a notarial deed or verification of the signature, such as endorsement in a share pledge, must be signed with wet-ink signatures; no electronic signatures are acceptable.

Slovenia

When does a banking/finance agreement qualify as a written document?

A banking/finance agreement is deemed written when written down and signed.

However, where the written form is required by law or regulation, an electronic form will be deemed to be equivalent to the written form if the data in electronic form is available and suitable for later use.

A banking/finance agreement is binding if it is signed with a handwritten signature or, if in electronic form, signed with a qualified electronic signature.

This means that only a qualified electronic signature is sufficient for a banking/finance agreement where the written form is mandatory.

Examples of banking/finance agreements where a written form is mandatory

Among others, loan agreements, certain security agreements, pledges, letters of credit, and bank guarantees require the written form. For certain security agreements, please also see the real estate section (4.8).

In which cases are only banking/finance agreements with wet-ink signatures accepted?

For certain security agreements, please also see the real estate section (4.8).

Ukraine

When does a banking/finance agreement qualify as a written document?

The definition of a written statement is the same as in the case of commercial contracts and real estate contracts.

In the case of banking/finance agreements, there is no direct prohibition on using e-signatures.

Signing with a qualified e-signature is usually accepted as written. Advanced and standard e-signatures and certain types of other electronic signing methods (such as scanned versions of agreements sent via email, accepting the agreement on an online platform or by clicking) are accepted as written if the parties have explicitly agreed to that in writing in an initial agreement and attach a sample of the handwritten signatures.

Examples of banking/finance agreements where a written form is mandatory

As a rule, a loan agreement must be concluded in writing if its contractual value is at least ten times higher than the statutory minimum taxable income of private citizens, and in cases where the lender is a legal entity, regardless of the amount.

In which cases are only banking/finance agreements with wet-ink signatures accepted?

Agreements which are subject to mandatory notarisation must be signed with wet-ink signatures.

Banking and finance contracts use case comparison

This chart shows a comparison between nine CEE countries on the issue whether the following type of electronic signatures are accepted in the case of banking and finance contracts where the law requires a written form.

	Bulgaria	Czech Republic ¹	Hungary
QES with time stamp	√	√	√
QES without time stamp	√	√	x
AES with time stamp	x	√	√
AES without time stamp	x	√	x
Advanced biometric signature	x	√	√
SES	x	√	x
Scanned electronic version of the original paper-based document with handwritten signature sent as an attachment to an ordinary email without electronic signature but with a standard email signature panel	x	√	x
Sent as text in an ordinary email, without electronic signature but with a standard email signature panel	x	√	x
Sent as an SMS	x	√	x
Signed with a copy-pasted image of a handwritten signature, sent as an attachment to an ordinary email	x	√	x
Signed with the typed name of the signatory and sent as an email attachment	x	√	x
Sent via a social media message sending application, e.g. Messenger, Viber, LinkedIn	x	√	x
Sent via a chat application	x	√	x
Agreements accepted online, by ticking a checkbox or by clicking on a button ("click-on agreements")	x	√	x
Agreement accepted through an online platform provided by the other party	x	√	x

¹ Czech Republic: if "only a wet-ink signature is accepted", it is not currently possible to use this electronic signature.

² Slovakia: if a special form or verification is not required by law, e.g. notarial deed on direct enforceability.

³ Slovenia: only for banking/financial agreements where no special form, e.g. notarial deed or certification of signature, is required by law.

⁴ Ukraine: if banking/finance contracts are not subject to notarisation.

Poland	Romania	Serbia	Slovakia ²	Slovenia ³	Ukraine ⁴
√	√	√ if notarised form is not mandatory	√	√	√
√	√	√ if notarised form is not mandatory	√	√	√
X	X	X	√	X	√
X	X	X	√	X	√
X	X	X	√	X	√
X	X	X	√	X	√
X	X	X	√	X	√
X	X	X	√	X	X
X	X	X	√	X	X
X	X	X	√	X	√
X	X	X	√	X	X
X	X	X	√	X	X
X	X	X	X	X	√
X	X	X	√	X	√

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