

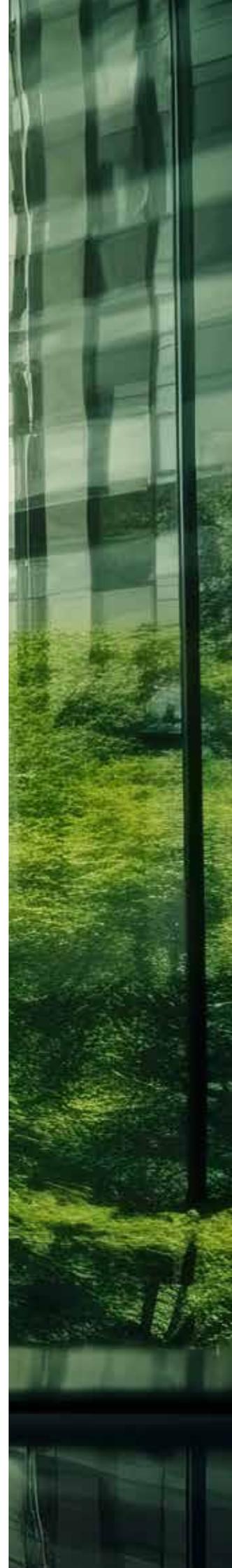
CMS Expert-Guide on ESG in Real Estate

Austria & CEE

September 2023

Table of contents

Introduction	3
Austria	4
Developer / Builder	4
Investor	9
Owner / Operator	14
Croatia	20
Developer / Builder	20
Investor	26
Owner / Operator	31
Slovakia	37
Developer / Builder	37
Investor	42
Owner / Operator	46
Slovenia	50
Developer / Builder	50
Investor	57
Owner / Operator	62
Türkiye	68
Developer / Builder	68
Investor	72
Owner / Operator	75
Key contacts	79
Where we are	80





Introduction

In the ever-evolving landscape of real estate development, investment, and operation, a remarkable surge in ESG (environmental, social, and governance) regulatory activity is reshaping the sector. With these changes come new and vital requirements that impact all stakeholders engaged in real estate processes.

Real estate is increasingly falling under the ESG spotlight, with a unified goal across Europe reflected in various regulations. Our comprehensive analysis approaches the subject from diverse angles, offering guidance to navigate this evolving landscape.

Our aim is to explore the pivotal role ESG plays in sustainability, risk management, and the unexplored opportunities awaiting those involved in real estate. This guide delves into the world of ESG integration, where compliance meets innovation, profitability aligns with responsibility, and together, we forge a path toward a brighter future for all stakeholders.

For further assistance and expert legal advice to navigate your needs, reach out to our partners. Our services cover real estate transactions, development projects, sustainable financing, green lease agreements, and tax incentives, among others, all with a strong emphasis on our competence in seamlessly integrating ESG considerations.

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Austria

Developer / Builder

Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Buildings produced 8.1M tonnes of CO2 in 2019, 10% of Austria's emissions. Property values are tied to sustainability.

The 2011 Austrian Climate Act sets emission limits by sector, including real estate, reviewed by an independent committee. Austria has passed various ESG laws, including for real estate, to achieve its targets. The 2020-2024 plan aims for climate neutrality by 2040, surpassing the EU Green Deal. The 2017 amendment limited emissions until 2020, with more changes and real estate-focused ESG laws pending. The Renewables Heating Act (Erneuerbaren-Ausbau-Gesetz, EAG) promotes renewable heating, phasing out fossil fuels by 2035/2040.

Question 2

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Austrian real estate developers must keep up with evolving EU and national ESG regulations. Challenges include rigorous energy efficiency mandates dictated by federal and state building codes and the Renewable Energies Expansion Act. This law compels costly retrofits, impacting development costs and viability. Moreover, developers must navigate social compliance, tenant rights, safety regulations, and sustainable practices, all under the umbrella of ESG laws. Striking a balance between these factors, costs, and property performance is imperative.

Question 3

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Project site selection is pivotal to energy efficiency and ESG compliance in real estate development. Key considerations involve:

Regional Planning Act (Raumordnungsgesetz): The municipal zoning plan (Flächenwidmungsplan) must align with neighbouring zoning to meet ESG and energy goals.

Development plan (Bebauungsplan): Construction guidelines in municipal plans focus on efficient land use and settlement patterns.

Register of contaminated sites (Altlastenkataster): Sites posing health/environmental risks are identified in the register, informing site selection.

Building code (Bauordnung): State-specific codes cover permits, energy efficiency, and ESG factors like solar panels or EV charging.

Austria's Environmental Impact Assessment Act

(Umweltverträglichkeitsprüfungsgesetz, UVP-G) mandates assessments for specific property projects, evaluating biodiversity, air quality, noise, and more. Mitigation measures guided by regional plans and zoning address impacts.

Question 4

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). Building codes in Austria have adopted the NZEB requirements. The Austrian Institute of Construction Engineering (OIB) issues harmonization guidelines, including the OIB Standard 6 for energy-saving rules. Austria offers a broad range of ESG incentives for sustainable real estate, spanning federal and state levels. Incentives include NZEB construction/retrofitting and renewable energy installation, as outlined in the 2021 Renewable Energies Expansion Act.

Question 5

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience? Are environmental impact assessments mandatory?

Properties located in hazard zones often face usage restrictions due to natural hazards. Land planning aims to mitigate such hazards when complete exclusion is not possible. Natural hazards include avalanches, floods, landslides, and more. These can directly impact properties, especially in hazard zones. Building permits, development plans (FWP), local development concepts (ÖEK), hazard zone plans, and reference maps inform about risks. Based on hazard potential, zones include "red hazard", "yellow hazard", and "information areas". Increasing event frequency means ordinances, expert reports, and mapping may not be up to date. Environmental Impact Assessments may be obligatory under certain circumstances as per the Act on EIA (UVP-G 2000). The Act's Annex 1 lists different project types requiring EIA due to potentially significant environmental impacts, such as waste treatment plants, roads, power plants, pipelines, and more.

Question 6

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The Waste Management Act (Abfallwirtschaftsgesetz, AWG 2002) is the core of waste legislation in Austria. It emphasizes separate waste collection, storage, transport, and treatment. Recyclables should be recycled if ecologically appropriate and feasible. Regulations such as the Recycling Building Materials Regulation, Landfill Regulation, and Contaminated Sites Remediation Act add to waste management requirements. The Federal Waste Management Plan (Bundes-Abfallwirtschaftsplan, BAWP) is issued every six years for implementation. The Waste Catalogue Regulation defines waste types, and the Waste Control Regulation covers waste owners. For new buildings, mandatory waste separation applies, with certain materials to be separated on site.

Question 7:

Are there distinct safety rules for construction sites and specific regulations during the development phase?

Regulations impose health and safety considerations on real estate developers and builders, especially for commercial projects. These cover federal mandates for worker safety, the Austrian Trade Regulation Act (Gewerbeordnung, GewO), and regional/state statutes like building codes and zoning requirements. Key laws include:

- **Construction Work Coordination Act** (Bauarbeitenkoordinationsgesetz, BauKG): Governs safety and health coordination obligations at construction sites with employed workers.
- **Safety and Health Protection Plan** (Sicherheits- und Gesundheitsschutzplan, SiGe-Plan): Mandates plans for construction sites with risks to worker safety.
- **Employees Protection Act** (ArbeitnehmerInnenschutzgesetz, ASchG): Ensures workplace safety and health for employees.
- **Construction Workers' Protection Regulation** (Bauarbeiterschutzzverordnung, BauV): Specific regulation under the Employees Protection Act for construction workers.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Only authorized professionals, such as architects, can issue valid energy certificates in Austria, adhering to the guidelines of the Austrian Institute of Construction Engineering (OIB). Apart from mandatory energy certificates, there are recognized voluntary certifications like BREEAM, LEED, ÖGNI, ÖGNB, and klimaaktiv. These certifications assess diverse criteria including sustainability, energy efficiency, materials, and air quality. While not obligatory, they can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

The legal framework for energy performance certificates (EPCs) and energy requirements in Austria is derived from EU directives and transposed into national law. EPCs provide insight into a building's energy efficiency, rated from AAA++ to G. They are required for property sales, rentals, and leases, with heating requirements and energy factors also advertised. New buildings or major renovations generally require EPCs. The components of a residential building's energy certificate include heating demand, primary energy demand, CO2 emissions, the energy performance factor, water heating demand, heating energy demand, and final energy demand. Pending the Renewables Heating Act, specific heating types are not banned, but heating demand significantly influences the certificate and property value.



Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Approval for rooftop photovoltaic systems depends on factors like location, zoning, and neighbours' rights, as outlined in the state's building code. The EU Solar Rooftops Initiative mandates the gradual installation of solar energy systems on different building types, starting with new public, commercial, and residential buildings. Legal obligations for photovoltaic systems on new buildings derive from the EU's Energy Efficiency of Buildings Regulation, implemented by state building codes. The amendments to the Condominium Act ease upgrades for condo rooftop systems:

Individual systems: Owners notify others of plans; no objection within two months implies consent.

Shared systems: A majority decides on installation based on co-ownership shares or votes cast. Profit-driven installations fall under the Trade Regulation Act, requiring licenses and operation permits. Regulatory rules under the Electricity Industry and Organisation Act might also apply to PV system operation.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Installing electric vehicle (EV) charging points may require informing or obtaining approval from regulatory bodies under the building code of the specific federal state. Approval depends on factors like location, zoning, and neighbours' rights, relevant to both new construction and property upgrades. The 2022 amendment to the Condominium Act simplifies charging point installation for existing condominiums. For individual systems, owners notifying others can secure consent in the absence of objection within two months. Shared systems require majority agreement based on co-ownership shares or votes. Commercial charging setups might fall under the Trade Regulation Act, requiring a trade license and operation permit. Operation could also be subject to the Electricity Industry and Organisation Act's regulations.

Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

Austrian public contracting authorities must incorporate ecological considerations when entering into construction contracts, as environmental justice is a fundamental principle of public procurement under Sec 20 para 5 of the Austrian Federal Procurement Act. This principle applies universally to all contract types and volumes. Environmental justice is integral to contract terms, tenderer suitability assessment, and award criteria formulation. Breach of this principle is a serious violation and can invalidate decisions or tender documents in review procedures. Tenderer suitability assessment may consider accreditation in environmental management systems like EMAS. Serious breaches of environmental regulations could lead to bidder exclusion under Sec 78 para 1 no 5. Award criteria may factor in environmental aspects if relevant to the contract's subject matter, particularly costs linked to environmental impact during the performance's life cycle under Sec 92 para 1 no 2.

Question 13:

Are there special rules for hiring construction workers from third countries due to the labour shortage?

Non-EU nationals require specific work and residence permits, like the “Red-White-Red” Card or labour market authority authorization. The Employment of Foreign Nationals Act (AuslBG) governs foreign workers’ entry into the Austrian labour market. Real estate developers and constructors must adhere to the Wage and Social Dumping Prevention Act (Lohn- und Sozialdumping-Bekämpfungsgesetz, LSD-BG) since 2017. Modified provisions increase liability for principals of construction projects. They should adjust contracts and seek contractual recourse. This law separates key wage and social dumping provisions from the Labour Contract Law Amendment Act (AVRAG) and the Temporary Employment Act (AÜG), aiming to ensure fair remuneration. Contractors subcontracting construction work bear liability for social security contributions and arrears. Liability arises upon payment of wages, and is limited to 20% of remuneration.

Question 14:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

The Federal Disability Equality Act (BGStG) in Austria, in force since 1 January 2006, aims to ensure equal participation of individuals with disabilities in society. It mandates comprehensive accessibility in various aspects of life, encompassing not only physical disabilities but also visual and hearing impairments. Building on the UN Convention on the Rights of Persons with Disabilities and OIB Guideline 4, ÖNORM B 1600 “Barrier-free construction” sets the foundation for construction standards, complemented by ÖNORM B 1601 for accessible dwellings. Building laws fall under state jurisdiction and are key tools to mitigate barriers for people with disabilities. While new buildings must adhere to accessibility standards, existing structures lack similar legal obligations. Public buildings have long-standing accessibility mandates, while private housing standards vary across federal provinces. Implementation of accessibility measures involves added costs, prompting state-level financial incentives for barrier-free construction.



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Question 2

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate investors must keep up with EU regulations and their national transposition related to ESG, such as:

Energy efficiency and emissions: Stringent energy and sustainability standards under building codes and the Renewable Energies Expansion Act determine compliance, potentially leading to costly retrofits affecting investment decisions.

Tenant rights and social considerations: Adhering to social standards, health and safety rules, and ESG practices entails balancing these factors with investment goals.

Liability and due diligence: Due diligence is crucial for assessing ESG-related risks before property acquisition, considering environmental and social liabilities.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations. Austrian transposition of directives like the Corporate Sustainability Reporting Directive is pending.

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions.

Question 3

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Question 5:

What ESG related requirements do real estate investors face when securing financing for investments?

ESG's growing importance makes real estate financing pricier and tougher if there are no environmentally sustainable options for lenders. To earn this label, investments must align with the EU Taxonomy Regulation (2020/852), which defines eco-criteria for investments and bolsters sustainable finance. Sustainability assessment relies on specific delegated acts alongside the Taxonomy Regulation. In real estate, the EU Taxonomy Climate Delegated Act covers new buildings, renovations, maintenance, repair, and ownership acquisition. Internationally, Austrian financing embraces guidelines such as the Green Bond and Sustainability-Linked Bond Principles, the Green and Sustainability Linked Loan Principles, and the EBA's Guidelines on Loan Origination and Monitoring, incorporating ESG.

Question 6:

What are the main ESG-related challenges for real estate investors when negotiating transaction agreements for their real estate investment?

ESG's growing influence is evident in Austrian real estate transaction agreements, impacting:

Extended due diligence scope: Thorough environmental due diligence is crucial to assess potential risks and liabilities linked to the property. Compliance with regulations, contamination assessment, and energy efficiency evaluation minimize future environmental liabilities.

Expanded warranty and liability regime: ESG matters significantly shape warranty and liability. Transparent ESG disclosure, circular economy, compliance with laws, certifications, sustainability, and ESG's impact on property value at exit are crucial considerations.

Energy efficiency and retrofitting: Investors must assess property energy efficiency and retrofitting needs to meet energy targets. Balancing upfront costs, long-term savings, and energy performance standards poses challenges.

Heightened MAC provisions relevance: Material adverse change (MAC) rules have gained importance, allowing parties to address unforeseen circumstances affecting deal feasibility or value.

Green financing and valuation: Accessing green financing and accurately valuing ESG attributes is intricate. Navigating varied valuation methods and working with ESG-aware lenders is key.

Question 7:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Only authorized professionals, such as architects, can issue valid energy certificates in Austria, adhering to the guidelines of the Austrian Institute of Construction Engineering (OIB). Apart from mandatory energy certificates, there are recognized voluntary certifications like BREEAM, LEED, ÖGNI, ÖGNB, and klimaaktiv. These certifications assess diverse criteria including sustainability, energy efficiency, materials, and air quality. While not obligatory, they can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation.

Question 8:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

Energy performance certificates (EPCs) and energy performance requirements for Austrian buildings are established by the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU), transposed into Austrian law by acts like the Energy Efficiency of Buildings Act and the Energy Performance Certificate Submission Act. EPCs indicate a building's energy efficiency (from AAA++ to G) and are required for sales, rentals, and leases. They must be no older than 10 years, and heating requirements must be included in advertisements. New buildings and major renovations typically require EPCs. Diverse regulations among federal states may entail variations. While there is no strict ban on specific heating methods, attention should be given to heating demand for energy certificates and building value.

Question 9:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Depending on the size and performance of a proposed rooftop photovoltaic system, approval by the competent authorities may be necessary, often under the building code of the relevant federal state. This hinges on factors like zoning, building plans, and neighbour' rights. The EU Solar Rooftops Initiative, aligned with the REPowerEU plan and solar energy strategy, mandates the gradual installation of solar energy systems on various buildings, starting with new public, commercial, and residential structures. This stems from the EU's Energy Efficiency of Buildings Regulation (2010/31/EU), implemented in Austria through the building codes of the federal states, and requiring PV systems for certain projects.

Upgrading rooftop photovoltaic systems in condominium buildings benefits from administrative facilitations under the 2022 amendment to the Condominium Act (WEG). For individual systems, an owner can inform others about the planned installation, with no objections after two months implying consent. Shared systems require a majority of co-ownership shares or two-thirds of votes cast for installation in the common interest.

If a rooftop photovoltaic system is established for profit or benefit, it is considered a commercial facility under the Trade Regulation Act (Gewerbeordnung, GewO), potentially requiring a trade license and operation permit. Operation of such a system could also fall under regulations of the Electricity Industry and Organisation Act (Elektizitätswirtschafts- und Organisationsgesetz, ElWOG).

Question 10:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Installing electric vehicle (EV) charging points may require regulatory approval, governed by the state's building code. Location-specific factors like zoning and building plans affect this, and are relevant for both new projects and property enhancements. The 2022 amendment to the Condominium Act eases EV charging in existing condo buildings, with conditions similar to those for PV systems (individual notice or joint majority resolution).

Profit-oriented charging points fall under the Trade Regulation Act, necessitating licenses and operation permits. Regulatory rules under the Electricity Industry and Organisation Act may also apply to the operation of e-charging points.

Question 11:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Austria. In contrast to, for instance, the German Supply Chain Act (Lieferkettengesetz), the Austrian legislator has not implemented national laws that would anticipate the subject matters of the CSDDD.

Question 12:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Austria enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD) in its Commercial Code (UGB). Reports must include non-financial data as per Austrian Financial Reporting and Auditing Committee Opinion 9, for example, non-financial indicators, environmental impacts, and social aspects.

Obligations cover:

- Publicly significant firms with limited duties.
- Large entities exceeding 2 of 3 thresholds: EUR 20m balance sheet, EUR 40m revenue, or 250 employees on average (limited duties).
- Large publicly significant firms with 500+ employees on average (full obligations under the NFRD).

The Corporate Sustainability Reporting Directive (CSRD) expands obligations, with Austrian transposition pending since January 2023.

Real estate investors may require ESG compliance reporting under the EU Taxonomy Regulation. Real estate funds must also address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector for green property project ESG criteria disclosure.



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What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate investors must keep up with EU regulations and their national transposition related to ESG, such as:

Energy efficiency and emissions: Stringent energy and sustainability standards under building codes and the Renewable Energies Expansion Act determine compliance, potentially leading to costly retrofits affecting investment decisions.

Tenant rights and social considerations: Adhering to social standards, health and safety rules, and ESG practices entails balancing these factors with investment goals.

Liability and due diligence: Due diligence is crucial for assessing ESG-related risks before property acquisition, considering environmental and social liabilities.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations. Austrian transposition of directives like the Corporate Sustainability Reporting Directive is pending.

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions.

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Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience?

Properties in hazard zones face usage constraints due to natural hazards. Land planning aims to mitigate these risks, as natural hazards, including avalanches, floods, mudslides, and more, endanger lives and property. Events impact properties, especially if located in hazard zones. Building permits, development plans (FWP), local development concepts (ÖEK), and hazard zone plans offer hazard risk insights. Areas are categorized as "red hazard zones", "yellow hazard zones", or "information areas" based on risk levels. Frequent events shorten update intervals for ordinances, expert reports, and hazard zone plans, impacting their accuracy (reference date of the expert report).

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The Waste Management Act (Abfallwirtschaftsgesetz, AWG 2002) is pivotal to Austrian waste regulation. Key principles include separate collection, storage, transport, and treatment of waste. Real estate owners must also adhere to:

Recycling Building Materials Regulation (Recycling-Baustoffverordnung): Demolition and waste separation rules apply, with specific provisions for construction site waste in addition to general waste laws.

Landfill Regulation (Deponieverordnung): Differentiates landfill classes for various types of waste.

Contaminated Sites Remediation Act (Altlastensanierungsgesetz, ALSAG): Fees apply to waste related to construction under the Waste Management Act.

Federal Waste Management Plan (Bundes-Abfallwirtschaftsplan, BAWP): Issued every six years, this plan aligns waste management objectives and principles.

Waste Catalogue Regulation (Abfallverzeichnisverordnung 2020): Lists types of waste with designations and specifications.

Waste Control Regulation (Abfallnachweisverordnung): Mandates waste owner recording, reporting, and verification. Additionally, waste separation is compulsory for new buildings. Hazardous and non-hazardous waste must always be separated on site. For new construction exceeding a total gross volume of 3,500 m³, specific material groups must be separated on site, unless technically infeasible or disproportionately costly.

Question 7:

Are property owners bound by health and safety regulations? Can typical green lease clauses be enforced, especially with consumers?

Regulations encompass health and safety laws at federal and state levels, influencing real estate investor decisions. These include worker safety mandates and the Austrian Trade Regulation Act (Gewerbeordnung, GewO), along with regional codes and environmental health rules. Green lease clauses, like communicating power use to landlords, are generally upheld but vary with lease terms, parties, and consumer protection laws. Austria's robust consumer protection regulations promote fairness and transparency. Green lease terms must align with energy efficiency goals and respect the consumer protection laws and data privacy requirements outlined in the Austrian Consumer Protection Act (Konsumentenschutzgesetz, KSchG).



Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Only authorized professionals, such as architects and civil engineers, can issue legally binding energy certificates in Austria, following the guidelines of the Austrian Institute of Construction Engineering (OIB). Apart from mandatory energy certificates, there are recognized voluntary certifications in Austria, including BREEAM, LEED, ÖGNI, ÖGNB, and the klimaaktiv building standard. These certifications cover various criteria like sustainability, water efficiency, energy, materials, air quality, and more. While not obligatory, they signal ESG compliance and can serve as evidence for contractual obligations or obtaining green financing under the EU Taxonomy Regulation.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

Austria's energy performance regulations stem from EU Directives and are implemented through acts like the Energy Efficiency of Buildings Act and the Energy Performance Certificate Submission Act. Energy certificates rate building efficiency (AAA++ to G) and are mandatory for property transactions, with heating data required in advertisements. Residential certificates detail heating and energy demands, CO₂ emissions, the efficiency factor, and recommendations. No heating bans exist currently, but gas phase-out and conversion costs are challenges. High costs hinder conversion despite technical feasibility, but market pressure may lead to new solutions due to the energy crisis.

Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Depending on the size and capacity of a rooftop photovoltaic (PV) system, approval by or notification to the relevant authority might be necessary under the building code of the federal state where the property is located. This approval considers factors like zoning, building plans, and neighbours' rights. The EU Solar Rooftops Initiative, as part of the REPowerEU plan, mandates the gradual installation of solar energy systems on various building types, starting with new public and commercial structures, and later extending to residential buildings. The legal obligation derives from the EU Energy Efficiency of Buildings Regulation and is implemented in Austrian state-specific building codes. Upgrading PV systems in condominium buildings is facilitated under the 2022 amendment to the Condominium Act (WEG). For profit-oriented PV systems, the Trade Regulation Act and the Electricity Industry and Organisation Act's regulations may apply.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Installing electric vehicle (EV) charging points requires regulatory notification or approval, guided by the state's building code. Location specifics and neighbours' rights affect approvals for new or enhanced properties. As with PV systems, the 2022 amendment to the Condominium Act facilitates EV charging installations in condos. For individuals, notifying others of planned EV charging points implies consent if no objection arises. Shared systems require a majority vote. Profit-driven setups fall under the Trade Regulation Act, potentially requiring licenses. Regulatory rules under the Electricity Industry and Organisation Act may also apply to the operation of EV charging points.

Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

Austrian public contracting authorities must incorporate ecological considerations when entering into construction contracts, as environmental justice is a fundamental principle of public procurement under Sec 20 para 5 of the Austrian Federal Procurement Act. This principle applies universally to all contract types and volumes. Environmental justice is integral to contract terms, tenderer suitability assessment, and award criteria formulation. Breach of this principle is a serious violation and can invalidate decisions or tender documents in review procedures. Tenderer suitability assessment may consider accreditation in environmental management systems like EMAS. Serious breaches of environmental regulations could lead to bidder exclusion under Sec 78 para 1 no 5. Award criteria may factor in environmental aspects if relevant to the contract's subject matter, particularly costs linked to environmental impact during the performance's life cycle under Sec 92 para 1 no 2.

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The Corporate Sustainability Due Diligence Directive (CSDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Austria. In contrast to, for instance, the German Supply Chain Act (Lieferkettengesetz), the Austrian legislator has not implemented national laws that would anticipate the subject matters of the CSDDD.

Question 14:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Austria enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD) in its Commercial Code (UGB). Reports must include non-financial data as per Austrian Financial Reporting and Auditing Committee Opinion 9, for example, non-financial indicators, environmental impacts, and social aspects.

Obligations cover:

- Publicly significant firms with limited duties.
- Large entities exceeding 2 of 3 thresholds: EUR 20m balance sheet, EUR 40m revenue, or 250 employees on average (limited duties).
- Large publicly significant firms with 500+ employees on average (full obligations under the NFRD).

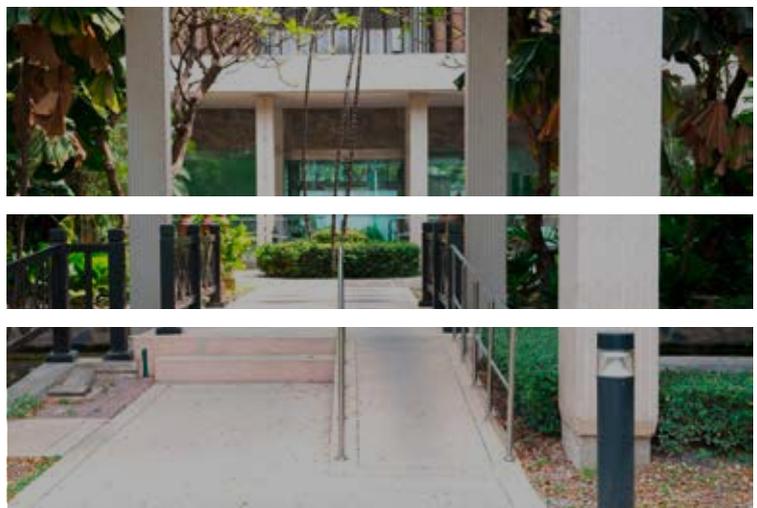
The Corporate Sustainability Reporting Directive (CSRD) expands obligations, with Austrian transposition pending since January 2023.

Real estate investors may require ESG-compliance reporting under the EU Taxonomy Regulation. Real estate funds must also address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector for green property project ESG criteria disclosure.

Question 16:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

The Federal Disability Equality Act (BGStG) of 2006 aims to ensure comprehensive accessibility to empower people with disabilities. Austria signed the UN Convention on the Rights of Persons with Disabilities in 2007, resulting in the ÖNORM B 1600 and B 1601 guidelines for barrier-free construction based on the UN Convention and OIB Guideline 4. While building law is regulated by the states, regulations require new structures to be accessible, but not existing buildings. Accessible public buildings are mandated, while private housing lacks extensive requirements. Provinces' regulations vary, often referencing ÖNORM B 1600 and OIB Guideline 4. Financial support from federal states aids accessibility implementation, addressing increased costs.



Developer / Builder

Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

The Long-term Strategy for the Reconstruction of the National Building Stock by 2050 aims to contribute to achieving the ambitious climate target of reducing greenhouse gas emissions by 55% by 2030. In accordance with the Climate Change Adaptation Strategy, Croatia aims for climate neutrality by 2040, while its main goal is to emphasize the importance of addressing climate change and integrating climate adaptation into policies to reduce vulnerability to its effects. The Renewable Energy Sources and High-Efficiency Cogeneration Act promotes renewable heating, phasing out fossil fuels by 2035/2040. The Air Protection Act (Zakon o zaštiti zraka) and its implementing bylaws set emission limits, which are to be reviewed by independent experts.

The Law on the Croatian Energy Efficiency Fund (Zakon o Fondu za zaštitu okoliša i energetske učinkovitost) as well as the Building Act (Zakon o gradnji) provide a basis for implementation of various programmes and incentives to support energy-efficient renovations and green building projects, all in accordance with the National Environmental Strategy, the National Environmental Action Plan, the Energy Development Strategy and the Energy Development Strategy Implementation Programme.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate developers need to continuously monitor the ever-changing ESG regulations at both the EU and national levels. These regulations present various challenges, including stringent energy efficiency requirements outlined in the Building Act, as well as the Renewable Energy Sources and High-Efficiency Cogeneration Act. Compliance with these laws often leads to expensive retrofitting, which can significantly affect development expenses and feasibility. Additionally, developers must navigate a complex landscape that includes adhering to social compliance standards, tenant rights, safety regulations, and sustainable practices, all within the framework of ESG laws. Striking the right balance among these factors, managing costs effectively, and ensuring property performance are of utmost importance.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

The selection of a project site plays a crucial role in achieving energy efficiency and ensuring compliance with ESG standards in real estate development. You should be aware of:

Spatial Planning Act (Zakon o prostornom uređenju): For instance, this Act prescribes special zones called spatial constraints (prostor ograničenja) where it is forbidden to build certain types of buildings and/or plants.

Regional Development Act (Zakon o regionalnom razvoju Republike Hrvatske): The construction guidelines prioritize harmonious and balanced development of the state, ensuring the protection and preservation of the natural environment and the diversity of cultural wealth, all in accordance with the principles of sustainable development.

Register of Contaminated Sites (Registar onečišćivača Republike Hrvatske): The register identifies locations that pose health and environmental risks, providing essential information for the site selection process.

Building Act (Zakon o gradnji): Regulates permits, energy efficiency standards, and ESG considerations such as the installation of solar panels or electric vehicle charging infrastructure.

Environmental Protection Act (Zakon o zaštiti okoliša): This act mandates assessments of environmental impact for specific property projects, evaluating factors such as biodiversity, air quality, noise levels, and more. Mitigation measures are determined in accordance with regional plans and zoning regulations to address potential impacts.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the concept of nearly zero-energy buildings (NZEB) was introduced through directives such as the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU). The Building Act (Zakon o gradnji) has transposed the NZEB requirements. The Croatian Parliament adopted the Energy Strategy of the Republic of Croatia, including a plan to invest between EUR 24.38 billion and EUR 31.79 billion in energy renovation of buildings and construction of NZEB, which is between 48.5% and 51.9% of total investments.

Different types of incentives are granted through tax breaks, utility fee reductions (which can vary between different municipalities and regions), and direct non-refundable grants sourced from the emission allowances allocated by the Energy Efficiency Fund.



Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience? Are environmental impact assessments mandatory?

Properties situated in hazard-prone zones often encounter usage limitations due to natural risks. Land planning strives to mitigate these hazards when outright exclusion is not feasible. Natural hazards include floods, earthquakes, landslides, and more, which can directly affect properties, particularly in hazard-prone areas. Information about risks is obtained from multiple sources, including spatial plans, location permits, geotechnical studies, etc. There are various construction standards and regulations that are applied in areas exposed to natural hazards such as earthquakes, floods, landslides, and forest fires. According to the Environmental Protection Act and the Regulation on Environmental Impact Assessment, environmental impact assessment is mandatory for specific types of construction (e.g. waste treatment facilities, railroads, power plants, pipelines, and more), and for construction for which this obligation is determined during the process of establishing the need for an environmental impact assessment.

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The Waste Management Act (Zakon o gospodarenju otpadom) is the central act of waste management legislation in Croatia. It places significant emphasis on various aspects of waste management, including the separate collection, storage, transport, and treatment of waste. Priority is given to recycling recyclable materials when it is ecologically appropriate and feasible to do so. To guide and implement waste management practices, Croatia has issued regulations, directives and instructions on waste management in specific circumstances and for specific types of waste. In the context of new construction projects, there is a mandatory requirement for waste separation, necessitating the segregation of specific materials directly at the construction site, depending on specific local rules.

Question 7:

Are there distinct safety rules for construction sites and specific regulations during the development phase?

Regulations are designed to ensure the safety of workers, protect the environment, and promote responsible construction practices. Some of the key safety rules and regulations include:

- Worker safety: Workers are obligated to undergo training on safe work practices and the use of safety equipment.
- Occupational safety and health regulations: Safety requirements for construction activities, including the use of personal protective equipment, machinery safety, and hazard identification and mitigation.
- Waste management: Construction sites should typically segregate and manage waste materials appropriately.
- Environmental regulations: Construction projects need to include measures to protect the environment, such as erosion control, proper disposal of construction waste, and measures to prevent contamination of soil and water.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

The primary system used is the Energy Performance Certificate (Energetski certifikat). This certificate is a standardized document that provides information about the energy efficiency of a building and can impact the property valuation. It is required for property sales, rentals, and leases.

Other certificates, such as LEED, BREEAM, Passive House Certification or Green Building Labels, assess diverse criteria including sustainability, energy efficiency, materials, and air quality. They can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation. However, they are not yet widespread in Croatia and are not mandatory.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

Requirements are primarily driven by EU directives and national regulations. The Energy Performance Certificate (Energetski certifikat) provides insight into a building's energy efficiency, and it is graded from A+ (most efficient) to G (least efficient). It is required for property sales, rentals, and leases. Croatia promotes the use of renewable energy sources for heating, such as solar thermal and heat pumps, as part of the strategy to reduce emissions. New buildings or significant renovations typically require Energy Performance Certificates. Residential building certificates assess various factors like heating demand, primary energy demand, CO2 emissions, the energy performance factor, water heating demand, heating energy demand, cooling demand, ventilation and air conditioning demand, electrical lighting demand, external envelope thermal demand, water supply demand, and final energy demand. While no specific heating types are banned, heating demand plays a pivotal role for the certificate and in property valuation.

Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Installation of alternative energy supply systems, such as rooftop PV systems, typically requires permits and authorizations from local authorities and grid operators. The specific permits needed may vary depending on the size and capacity of the PV system. Depending on the size and location of the PV system, it may be subject to environmental impact assessment requirements, which is more common for larger installations. The EU Solar Rooftops Initiative sets forth a gradual approach to the installation of solar energy systems across different building categories, commencing with new public, commercial, and residential structures. The legal obligations pertaining to PV systems on new buildings are rooted in the EU's Energy Efficiency of Buildings Regulation, which is integrated into the Building Act.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Depending on the location and type of charging point installation, permits or authorizations are required from local authorities or grid operators.

As of 2020, the Croatian Building Act prescribes mandatory electric vehicle charging infrastructure in new and existing buildings, with variations depending on the type of building and number of apartments in the building.

Question 12:

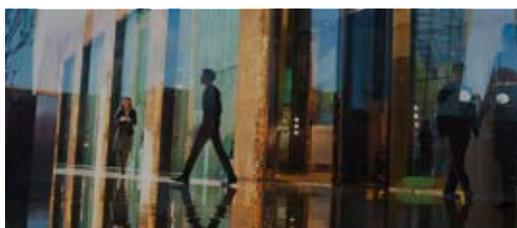
Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

No – however, the contracting authority must refuse the bid if it determines that it is extremely low because it does not comply with applicable obligations under national and international environmental, social and labour law that the tenderer must comply with, including collective bargaining agreements, in particular the obligation to pay the contracted salary. Moreover, the contracting authority is allowed (but not obligated) to impose specific conditions for the performance of the contract related to environmental, social and labour law.

Question 13:

Are there special rules for hiring construction workers from third countries due to the labour shortage?

Third-country workers refers to non-EEA and Swiss nationals. The Foreign Nationals Act (Zakon o strancima) regulates the entry of foreign workers into the labour market, among other things. Before applying for a residence and work permit, the employer is obligated to perform or request a labour market test and get clearance from the Croatian Employment Service (Hrvatski zavod za zapošljavanje). However, in certain cases (e.g. labour shortages), exceptions may apply, and the permit can be obtained without conducting a labour market test.



Question 14:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

Croatia implemented Directive (EU) 2019/882 on the accessibility requirements for products and services through the Technical Regulation on Ensuring Accessibility of Buildings for Persons with Disabilities and Reduced Mobility (Pravilnik o osiguranju pristupačnosti građevina osobama s invaliditetom i smanjene pokretljivosti), which will enter into force on 28 June 2025. Until that date, people with disabilities and reduced mobility are entitled to the following, according to the existing regulation:

Accessible entrance: Buildings should have accessible entrances (e.g. ramps, barrier-free walkways, etc.) that allow persons with disabilities and reduced mobility to easily enter and exit the building.

Accessible sanitary facilities: Sanitary facilities in buildings should be adapted for persons with disabilities.

Accessible elevators and lifts: In multi-storey buildings, elevators and lifts should be accessible to persons with disabilities.

Signage and signalling: Buildings should have proper signage and signalling to facilitate the movement of persons with disabilities.

Adaptations for the blind and visually impaired: Buildings should have appropriate adaptations for the blind and visually impaired, including tactile markings and audible signals at traffic lights.

Adaptations for the deaf and hard of hearing: Buildings should be equipped for persons with hearing impairments, including informational signage and sound amplification devices.

Parking adaptations: Parking areas should have a designated number of parking spaces reserved for persons with disabilities.

Education and information: Buildings providing public services should ensure that information is available and accessible to persons with disabilities.

Planning and design: The regulation also imposes obligations on the planning and design of new buildings with regard to accessibility.

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Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

The most pressing legal challenge for investors in real estate is to stay informed about EU and national legislation in relation to ESG, since there are many different areas and legal acts that impose different obligations, which include the following aspects:

Energy efficiency and emissions: Strict energy and sustainability standards prescribed in the Building Act and the Renewable Energy Sources and High-Efficiency Cogeneration Act require adherence, resulting in costly retrofits that impact on investors decisions.

Tenant rights and social considerations: Investors need to find a balance between social norms, health and safety regulations, and ESG practices, while aligning them with the investment objectives.

Liability and due diligence: Investors will need to conduct due diligence as imperative for assessing ESG-related risks before purchasing a property, including evaluating environmental and social liabilities.

Sustainability disclosure and reporting: Complying with the EU Taxonomy Regulation and reporting on ESG performance are increasingly expected practices. Croatia's transposition of directives like the Corporate Sustainability Reporting Directive is currently pending.

Green financing: Meeting the criteria for green investments presents challenges due to the EU Taxonomy Regulation, which mandates ESG integration into financing decisions.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

The selection of a project site plays a crucial role in achieving energy efficiency and ensuring compliance with ESG standards in real estate development. You should be aware of:

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Different types of incentives are granted through tax breaks, utility fee reductions (which can vary between different municipalities and regions), and direct non-refundable grants sourced from the emission allowances allocated by the Energy Efficiency Fund.

Question 5:

What ESG related requirements do real estate investors face when securing financing for investments?

The increasing significance of ESG factors has the effect of raising the cost and complexity of real estate financing when environmentally sustainable options for lenders are not available. To earn the “environmentally sustainable” designation, investments must conform to the criteria outlined in the EU Taxonomy Regulation (2020/852), which was established by the EU to define environmental standards for investments and bolster sustainable finance. The assessment of sustainability relies on specific delegated acts that accompany the Taxonomy Regulation. In the real estate sector, the EU Taxonomy Climate Delegated Act encompasses a range of activities, including new construction, renovations, maintenance, repair, and property acquisition.

Question 6:

What are the main ESG-related challenges for real estate investors when negotiating transaction agreements for their real estate investment?

Some of the main challenges that investors may face are:

Expanded due diligence scope: Comprehensive ESG due diligence is important while evaluating potential risks and liabilities associated with a property. This includes assessing compliance with regulations, conducting contamination evaluations, and evaluating energy efficiency to effectively mitigate future environmental liabilities.

Legal and regulatory compliance: Compliance with the specific legal framework that relates to the land plots, zoning, and environmental regulations is essential to avoid legal complications.

Enhanced warranty and liability framework: ESG considerations significantly influence warranty and liability provisions. Key factors include transparent ESG disclosures, adherence to circular economy principles, compliance with legal requirements, certifications, sustainability practices, and understanding the impact of ESG on property value upon exit.

Energy efficiency and retrofitting: Investors are obligated to evaluate the energy efficiency of properties and identify retrofitting requirements to meet energy targets.

Green financing and property valuation: Securing green financing and accurately appraising the ESG attributes of a property is a complex endeavour. Navigating diverse valuation methods and collaborating with lenders who prioritize ESG considerations is essential.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

The primary system used is the Energy Performance Certificate (Energetski certifikat). This certificate is a standardized document that provides information about the energy efficiency of a building and can impact the property valuation. It is required for property sales, rentals, and leases.

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As of 2020, the Croatian Building Act prescribes mandatory electric vehicle charging infrastructure in new and existing buildings, with variations depending on the type of building and number of apartments in the building.

Question 12:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to enhance sustainability in corporate activities and requires specific companies to carry out thorough due diligence of their supply chains to identify and mitigate environmental and social risks. As the CSDDD is currently in the drafting phase, it does not impose specific obligations on real estate investors in Croatia. Unlike some other countries, such as Germany with its Supply Chain Act (Lieferkettengesetz), Croatia has not introduced national legislation addressing the issues covered by the CSDDD.

Question 13:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Croatia mandates ESG reporting in accordance with the EU Non-Financial Reporting Directive (NFRD), incorporated into its Accounting Act (Zakon o računovodstvu). The obligations apply to:

- a) Publicly significant firms with limited reporting duties.
- b) Large entities that exceed at least two of the following thresholds: EUR 20 million in balance sheet total, EUR 40 million in revenue, or an average of 250 employees (with limited reporting duties).
- c) Large publicly significant firms with an average of 500 or more employees, subject to full reporting obligations under the NFRD.

Furthermore, pending the transposition of the Corporate Sustainability Reporting Directive (CSRD) into Croatian law, these reporting obligations are expected to expand.

Real estate investors may also find themselves requiring ESG compliance reporting due to the EU Taxonomy Regulation. Additionally, real estate funds must address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector concerning the disclosure of ESG criteria for green property projects.

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What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

The Long-term Strategy for the Reconstruction of the National Building Stock by 2050 aims to contribute to achieving the ambitious climate target of reducing greenhouse gas emissions by 55% by 2030. In accordance with the Climate Change Adaptation Strategy, Croatia aims for climate neutrality by 2040, while its main goal is to emphasize the importance of addressing climate change and integrating climate adaptation into policies to reduce vulnerability to its effects. The Renewable Energy Sources and High-Efficiency Cogeneration Act promotes renewable heating, phasing out fossil fuels by 2035/2040. The Air Protection Act (Zakon o zaštiti zraka) and its implementing bylaws set emission limits, which are to be reviewed by independent experts.

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Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

The most pressing legal challenge for owners and operators of real estate is to stay informed about EU and national legislation in relation to ESG, since there are many different areas and legal acts that impose different obligations, which include the following aspects:

Energy efficiency and emissions: Strict energy and sustainability standards prescribed in the Building Act and the Renewable Energy Sources and High-Efficiency Cogeneration Act require adherence, resulting in costly retrofits that impact on investors decisions.

Tenant rights and social considerations: Owners and operators will need to find a balance between social norms, health and safety regulations, and ESG practices, while aligning them with their objectives.

Liability and due diligence: Due diligence is imperative for assessing ESG-related risks before purchasing a property, including evaluating environmental and social liabilities.

Sustainability disclosure and reporting: Complying with the EU Taxonomy Regulation and reporting on ESG performance are increasingly expected practices. Croatia's transposition of directives like the Corporate Sustainability Reporting Directive is currently pending.

Green financing: Meeting the criteria for green investments presents challenges due to the EU Taxonomy Regulation, which mandates ESG integration into financing decisions.

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Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience?

Properties situated in hazard-prone zones encounter usage restrictions due to the presence of natural risks. The objective of land planning is to reduce these risks, since natural hazards like floods, landslides, and more pose threats to both human lives and property. These events can have a significant impact on properties, particularly when they are located in hazard-prone areas. Information about risks is obtained from multiple sources, including spatial plans, location permits, geotechnical studies, etc. The frequency of such events necessitates more frequent updates to ordinances, expert reports, and hazard zone plans, which can affect the accuracy of these documents (depending on the expert report's date).

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The Waste Management Act (Zakon o gospodarenju otpadom) is the central act of waste management legislation in Croatia. It places significant emphasis on various aspects of waste management, including the separate collection, storage, transport, and treatment of waste. Priority is given to recycling recyclable materials when it is ecologically appropriate and feasible to do so.

To guide and implement waste management practices, Croatia has issued regulations, directives and instructions on waste management in specific circumstances and for specific types of waste. In the context of new construction projects, there is a mandatory requirement for waste separation, necessitating the segregation of specific materials directly at the construction site, depending on specific local rules.

Question 7:

Are property owners bound by health and safety regulations? Can typical green lease clauses be enforced, especially with consumers?

Owners are typically responsible for ensuring that their properties meet safety standards, and that any necessary maintenance or repairs are carried out to address safety concerns, as well as environmental health, as regulated by law and municipal acts and rules.

While green lease clauses, such as those related to reporting power usage to landlords, are generally enforceable, their application can vary based on lease terms, the parties involved, and the framework of consumer protection laws. Having that in mind, green lease terms must align with energy efficiency objectives and adhere to the principles of consumer protection, respecting the legal provisions outlined in the Croatian Consumer Protection Act (Zakon o zaštiti potrošača), including data privacy requirements.

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Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Installation of alternative energy supply systems, such as rooftop PV systems, typically requires permits and authorizations from local authorities and grid operators. The specific permits needed may vary depending on the size and capacity of the PV system. Depending on the size and location of the PV system, it may be subject to environmental impact assessment requirements, which is more common for larger installations. The EU Solar Rooftops Initiative sets forth a gradual approach to the installation of solar energy systems across different building categories, commencing with new public, commercial, and residential structures. The legal obligations pertaining to PV systems on new buildings are rooted in the EU's Energy Efficiency of Buildings Regulation, which is integrated into the Building Act.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Depending on the location and type of charging point installation, permits or authorizations are required from local authorities or grid operators. As of 2020, the Croatian Building Act prescribes mandatory electric vehicle charging infrastructure in new and existing buildings, with variations depending on the type of building and number of apartments in the building.

Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

No – however, the contracting authority must refuse the bid if it determines that it is extremely low because it does not comply with applicable obligations under national and international environmental, social and labour law that the tenderer must comply with, including collective bargaining agreements, in particular the obligation to pay the contracted salary. Moreover, the contracting authority is allowed (but not obliged) to impose specific conditions for the performance of the contract related to environmental, social and labour law.

Question 13:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to enhance sustainability in corporate activities and requires specific companies to carry out thorough due diligence of their supply chains to identify and mitigate environmental and social risks. As the CSDDD is currently in the drafting phase, it does not impose specific obligations on real estate investors in Croatia. Unlike some other countries, such as Germany with its Supply Chain Act (Lieferkettengesetz), Croatia has not introduced national legislation addressing the issues covered by the CSDDD.

Question 14:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Croatia mandates ESG reporting in accordance with the EU Non-Financial Reporting Directive (NFRD), incorporated into its Accounting Act (Zakon o računovodstvu). The obligations apply to:

- Publicly significant firms with limited reporting duties.
- Large entities that exceed at least two of the following thresholds: EUR 20 million in balance sheet total, EUR 40 million in revenue, or an average of 250 employees (with limited reporting duties).
- Large publicly significant firms with an average of 500 or more employees, subject to full reporting obligations under the NFRD.

Furthermore, pending the transposition of the Corporate Sustainability Reporting Directive (CSRD) into Croatian law, these reporting obligations are expected to expand.

Real estate investors may also find themselves requiring ESG compliance reporting due to the EU Taxonomy Regulation. Additionally, real estate funds must address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector concerning the disclosure of ESG criteria for green property projects.



Question 16:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

Croatia implemented Directive (EU) 2019/882 on the accessibility requirements for products and services through the Technical Regulation on Ensuring Accessibility of Buildings for Persons with Disabilities and Reduced Mobility (Pravilnik o osiguranju pristupačnosti građevina osobama s invaliditetom i smanjene pokretljivosti), which will enter into force on 28 June 2025. Until that date, people with disabilities and reduced mobility are entitled to the following, according to the existing regulation:

Accessible entrance: Buildings should have accessible entrances (e.g. ramps, barrier-free walkways, etc.) that allow persons with disabilities and reduced mobility to easily enter and exit the building.

Accessible sanitary facilities: Sanitary facilities in buildings should be adapted for persons with disabilities.

Accessible elevators and lifts: In multi-storey buildings, elevators and lifts should be accessible to persons with disabilities.

Signage and signalling: Buildings should have proper signage and signalling to facilitate the movement of persons with disabilities.

Adaptations for the blind and visually impaired: Buildings should have appropriate adaptations for the blind and visually impaired, including tactile markings and audible signals at traffic lights.

Adaptations for the deaf and hard of hearing: Buildings should be equipped for persons with hearing impairments, including informational signage and sound amplification devices.

Parking adaptations: Parking areas should have a designated number of parking spaces reserved for persons with disabilities.

Education and information: Buildings providing public services should ensure that information is available and accessible to persons with disabilities.

Planning and design: The regulation also imposes obligations on the planning and design of new buildings with regard to accessibility.



Slovakia

Developer / Builder

Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Currently, there is a bill in the legislative process that aims to reduce emissions in the building sector. The bill on climate change is intended to align the legislative framework in the Slovak Republic with the framework in the European Union and to achieve the climate goals of Slovakia and the EU by 2030, as well as climate neutrality by 2050.

In addition to emissions covered by the EU ETS, the building sector has a target to reduce carbon dioxide emissions by 12% compared to the 2018, 2019 and 2020 reference averages by 2030.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

EU measures significantly impact national legal systems, especially in the rapidly evolving ESG landscape. Building certifications like LEED and BREEAM are in vogue, driven by EU-based standards. Construction laws and technical standards are ever-changing, requiring substantial investments to meet EU ESG criteria.

The new Slovakian construction law, effective from 2024, and compliance with the recast Energy Performance of Buildings Directive pose unprecedented challenges for the local construction market. Ongoing construction waste management reforms and green public procurement since 2022 contribute to sustainability goals.

Renewables regulation has seen EU-level changes. Non-financial reporting and EU taxonomy categorization add responsibilities in terms of gathering and reporting ESG information, impacting finance acquisition.

Developers must navigate social compliance, tenant rights, safety regulations, and sustainability under ESG laws. Balancing these factors, managing costs, and ensuring property performance is paramount.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Act No. 555/2005 Coll. outlines energy efficiency requirements for new and sale/lease-bound buildings.

Choosing the right project site is crucial for energy efficiency and ESG compliance in real estate. Key considerations involve:

- A new Slovakian construction law effective from 2024 will impact permit processes and cover permits, energy efficiency, and ESG factors like solar panels and EV charging.
- Municipal zoning plans emphasize efficient land use.
- Environmental risks are registered for certain sites.
- Projects may require time-consuming environmental impact assessments.
- Building certification and energy-effective solutions are mandated.
- Incorporating renewables enhances project appeal, but regulations have evolved.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, introduced the National Plan for promotion of NZEB. The National Plan includes financial measures and other incentives for promoting NZEB.

Other related incentives include the development of renewable energy sources under Act No. 309/2009 Coll. on Promotion of Renewable Energy Sources and High-efficiency Cogeneration, as amended. It focuses on small, local and community renewables production.

Developer/builder

Question 5: Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience? Are environmental impact assessments mandatory?

Resilience of buildings is addressed by the legislative framework for construction, as well as the secondary legislation on the placement of buildings.

Projects falling within the scope of Act No. 24/2006 Coll. on Environmental Impact Assessment must mandatorily undergo environmental impact assessment.

Construction requires zoning and building permits which are issued in compliance with zoning plans. Under the new construction law effective as of 2024, the system of obtaining permits and EIA clearance will be consolidated into fewer steps.

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The specific requirements for waste treatment are set out in Act No. 79/2015 Coll. on Waste, as amended, and the Ministry of the Environment's Decree No. 344/2022 Coll. on construction and demolition waste. The regulations allocate responsibilities to the originator of the waste, i.e. the holder of the construction permits. The originator must dispose of and recycle the waste. Increasing rates of recycling of construction waste is one of the priorities of the Recovery Plan. The aim is to increase recycling from 54% to 70% of the total volume of waste produced. All projects with over 300 sqm of built-up area will be required to recycle and reuse the materials from the construction site.

Question 7:

Are there distinct safety rules for construction sites and specific regulations during the development phase?

Safety rules have diverse legal sources. The primary safety regulations for construction sites are found in Government Regulation No. 396/2006 Coll.

Worker safety in general is governed by Act No. 124/2006 on Occupational Safety and Health, with specific rules outlined in the Ministry of Labour, Social Affairs and Family's Decree No. 147/2013 Coll.

Other relevant regulations include Government Regulation No. 392/2006 Coll. on working equipment safety, the Ministry of Labour's Decree No. 508/2009 Coll. on pressure, lifting, electrical, and gas equipment safety, and Government Regulation No. 395/2006 Coll. on personal protective working equipment requirements.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, sets out the requirements related to energy efficiency and certification. Specific features as well as other requirements for evaluation and certification have been published in secondary legislation.

Apart from mandatory energy certificates, there are recognized voluntary certifications like BREEAM, LEED, etc., which are the most widely used value drivers in Slovakia for commercial office real estate. These certifications assess diverse criteria including sustainability, energy efficiency, materials, and air quality. While not obligatory, they can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

The legal framework for energy performance certificates and energy requirements is derived from EU directives transposed into national law. Certification is mandatory for new or renovated buildings and buildings which will be sold or leased by their owners.

Categorization is required even at the point of advertising. Property is ranked from A to G based on efficiency.

Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Depending on the type of installation and its placement, different laws may apply to obtaining all relevant permits, including construction permits. At the same time, small and local sources are either restricted in size or in their ability to feed electricity into the grid. Approval for rooftop photovoltaic systems depends on factors like location, zoning, and neighbours' rights.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Each new or renovated residential or non-residential building with more than 10 parking spaces has to have charging points, or infrastructure in place to install a charging point.

Installing electric vehicle charging points may require informing or obtaining approval from regulatory bodies. Operation of commercial charging setups may entail an obligation to obtain a business license.

Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

Social and environmental criteria can be evaluated in certain public procurement tenders thanks to legal changes that became effective in 2022.

Under Act No. 343/2015 Coll. on Public Procurement, contracting authorities may take into consideration environmental aspects when comparing price and quality in connection with the subject of the procurement. Green procurement is also a subject of the Action Plan and the Environmental Strategy, an initiative that proposes non-binding goals for promoting green public procurement.

Question 13:

Are there special rules for hiring construction workers from third countries due to the labour shortage?

Nationals of third countries will need a temporary residence permit in most cases. Obtaining permits for employing third country nationals is a complicated process, which will depend on whether it concerns a profession with a labour shortage. The Central Office of Labour, Social Affairs and Family publishes a list of occupations with labour shortages.

This list of labour shortage occupations serves to speed up the administrative procedure for the employment of third country nationals. At the moment, construction-related labour shortages will depend on the region where the construction is to take place.

Question 14:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

Decree No. 532/2002 Coll. of the Ministry of the Environment, which stipulates the details of general technical requirements for construction, addresses the issue of technical requirements for buildings used by people with special needs.

New buildings need to have access at street level. Parking spaces have to include a section closest to the entrance reserved for people with special needs. The Decree also specifies further requirements which must be met.



Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Currently, there is a bill in the legislative process that aims to reduce emissions in the building sector. The bill on climate change is intended to align the legislative framework in the Slovak Republic with the framework in the European Union and to achieve the climate goals of Slovakia and the EU by 2030, as well as climate neutrality by 2050.

In addition to emissions covered by the EU ETS, the building sector has a target to reduce carbon dioxide emissions by 12% compared to the 2018, 2019 and 2020 reference averages by 2030.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

The emphasis on ESG issues has increased markedly. Investors involve ESG in their decision-making. ESG implementation is a strategy for increasing financial returns, part of a broader approach to risk management, and a means of protecting investments.

Energy efficiency and emissions: Stringent energy and sustainability standards under national law determine compliance, potentially leading to costly retrofits affecting investment decisions.

Tenant rights and social considerations: Adhering to social standards, health and safety rules, and ESG practices entails balancing these factors with investment goals.

Liability and due diligence: In addition to legal and financial due diligence, ESG due diligence considering environmental and social liabilities has become an important part of real estate opportunity investment assessment before property acquisition.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations.

Supply chain management is part of a regulatory trend which will certainly be one of the greatest ESG challenges for businesses in the coming years. Two EU directives which Slovakia will need to transpose are extremely important in this respect: the Corporate Sustainability Reporting Directive and the Corporate Sustainability Due Diligence Directive (which is in the proposal phase at the EU level).

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Act No. 555/2005 Coll. outlines energy efficiency requirements for new and sale/lease-bound buildings.

Choosing the right project site is crucial for energy efficiency and ESG compliance in real estate. Key considerations involve:

- A new Slovakian construction law effective from 2024 will impact permit processes and cover permits, energy efficiency, and ESG factors like solar panels and EV charging.
- Municipal zoning plans emphasize efficient land use.
- Environmental risks are registered for certain sites.
- Projects may require time-consuming environmental impact assessments.
- Building certification and energy-effective solutions are mandated.
- Incorporating renewables enhances project appeal, but regulations have evolved.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, introduced the National Plan for promotion of NZEB. The National Plan includes financial measures and other incentives for promoting NZEB.

Other related incentives include the development of renewable energy sources under Act No. 309/2009 Coll. on Promotion of Renewable Energy Sources and High-efficiency Cogeneration, as amended. It focuses on small, local and community renewables production.

Question 5:

What ESG-related requirements do real estate investors face when securing financing for investments?

ESG's growing importance makes real estate financing pricier and tougher if there are no environmentally sustainable options for lenders. To earn this label, investments must align with the EU Taxonomy Regulation (2020/852), which defines eco-criteria for investments and bolsters sustainable finance. Sustainability assessment relies on specific delegated acts alongside the Taxonomy Regulation. In real estate, the EU Taxonomy Climate Delegated Act covers new buildings, renovations, maintenance, repair, and ownership acquisition. Most of the requirements remain voluntary when securing financing.

Question 6:

What are the main ESG-related challenges for real estate investors when negotiating transaction agreements for their real estate investment?

ESG's growing influence is evident in real estate transaction agreements, impacting:

Extended due diligence scope: Thorough environmental due diligence is crucial to assess potential risks and liabilities linked to the property. Compliance with regulations, contamination assessment, and energy efficiency evaluation minimize future environmental liabilities.

Expanded warranty and liability regime: ESG matters significantly shape warranty and liability. Transparent ESG disclosure, circular economy, compliance with laws, certifications, sustainability, and ESG's impact on property value at exit are crucial considerations.

Energy efficiency and retrofitting: Investors must assess property energy efficiency and retrofitting needs to meet energy targets. Balancing upfront costs, long-term savings, and energy performance standards poses challenges.

Heightened MAC provisions relevance: Material adverse changes (MAC) rules have gained importance, allowing parties to address unforeseen circumstances affecting deal feasibility or value.

Green financing and valuation: Accessing green financing and accurately valuing ESG attributes is complex. Navigating varied valuation methods and working with ESG-aware lenders is key.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, sets out the requirements related to energy efficiency and certification. Specific features as well as other requirements for evaluation and certification have been published in secondary legislation.

Apart from mandatory energy certificates, there are recognized voluntary certifications like BREEAM, LEED, etc., which are the most widely used value drivers in Slovakia for commercial office real estate. These certifications assess diverse criteria including sustainability, energy efficiency, materials, and air quality. While not obligatory, they can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

The legal framework for energy performance certificates and energy requirements is derived from EU directives transposed into national law. Certification is mandatory for new or renovated buildings and buildings which will be sold or leased by their owners.

Categorization is required even at the point of advertising. Property is ranked from A to G based on efficiency.

Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

Depending on the type of installation and its placement, different laws may apply to obtaining all relevant permits, including construction permits. At the same time, small and local sources are either restricted in size or in their ability to feed electricity into the grid. Approval for rooftop photovoltaic systems depends on factors like location, zoning, and neighbours' rights.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

Each new or renovated residential or non-residential building with more than 10 parking spaces has to have charging points, or infrastructure in place to install a charging point.

Installing electric vehicle charging points may require informing or obtaining approval from regulatory bodies. Operation of commercial charging setups may entail an obligation to obtain a business license.

Question 12:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Slovakia. However, as the CSDDD will need to be transposed into national law, many companies have already started with preparations to be compliant in time.

Question 13:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Slovakia enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD), which was transposed via Act No. 431/2002 Coll. on Accounting.

Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Currently, there is a bill in the legislative process that aims to reduce emissions in the building sector. The bill on climate change is intended to align the legislative framework in the Slovak Republic with the framework in the European Union and to achieve the climate goals of Slovakia and the EU by 2030, as well as climate neutrality by 2050.

In addition to emissions covered by the EU ETS, the building sector has a target to reduce carbon dioxide emissions by 12% compared to the 2018, 2019 and 2020 reference averages by 2030.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

The emphasis on ESG issues has increased markedly under pressure from tenants, employees, contractors, customers, regulators, and investors who involve ESG in their decision-making. Real estate owners/operators implement ESG in their strategy for increasing financial returns, as part of a broader approach to risk management, and as a means of protecting investments.

Energy efficiency and emissions: Stringent energy and sustainability standards under national law determine compliance.

Tenant rights and social considerations: ESG buildings are expected to gain momentum in terms of tenant demand and market rents. Tenants, especially large corporate tenants, are orientating their strategy towards ESG and renting in green buildings in order to achieve their own sustainability goals.

Liability and due diligence: ESG due diligence considering environmental and social liabilities has become an important part of real estate opportunity investment assessment.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations.

Supply chain management is part of a regulatory trend which will certainly be one of the greatest ESG challenges for businesses in the coming years. Two EU directives which Slovakia will need to transpose are extremely important in this respect: the Corporate Sustainability Reporting Directive and the Corporate Sustainability Due Diligence Directive (which is in the proposal phase at the EU level).

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions.

Green leases: Green leases are not yet regulated by a specific law. Instead, landlords are developing their own set of guidelines regarding sustainable asset management, energy savings, green cleaning, indoor air cleaning, quality, sustainable purchasing, solid waste management, and water protection.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Act No. 555/2005 Coll. outlines energy efficiency requirements for new and sale/lease-bound buildings.

Choosing the right project site is crucial for energy efficiency and ESG compliance in real estate. Key considerations involve:

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Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, introduced the National Plan for promotion of NZEB. The National Plan includes financial measures and other incentives for promoting NZEB.

Other related incentives include the development of renewable energy sources under Act No. 309/2009 Coll. on Promotion of Renewable Energy Sources and High-efficiency Cogeneration, as amended. It focuses on small, local and community renewables production.

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Resilience of buildings is addressed by the legislative framework for construction, as well as the secondary legislation on the placement of buildings.

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Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The specific requirements for waste treatment are set out in Act No. 79/2015 Coll. on Waste, as amended, and the Ministry of the Environment's Decree No. 344/2022 Coll. on construction and demolition waste. The regulations allocate responsibilities to the originator of the waste, i.e. the holder of the construction permits. The originator must dispose of and recycle the waste.

Increasing rates of recycling of construction waste is one of the priorities of the Recovery Plan. The aim is to increase recycling from 54% to 70% of the total volume of waste produced. All projects with over 300 sqm of built-up area will be required to recycle and reuse the materials from the construction site.

Question 7:

Are property owners bound by health and safety regulations? Can typical green lease clauses be enforced, especially with consumers?

General safety rules with respect to workers are covered by Act No. 124/2006 on Occupational Safety and Health. Additionally, property owners are bound by regulations on health and safety protection in connection with the building.

Robust consumer protection regulations promote fairness and transparency. However, green leases as such are not yet regulated by a specific law. Instead, property owners are developing their own set of guidelines regarding sustainable asset management, energy savings, green cleaning, indoor air cleaning, quality, sustainable purchasing, solid waste management, and water protection. In reality, the terms and conditions of a green lease are often not detailed in the lease agreement, only summarized in the building's operating rules. Therefore, enforceability of ESG commitments depends on the validity of contractual arrangements.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Act No. 555/2005 Coll. on Energy Performance of Buildings, as amended, sets out the requirements related to energy efficiency and certification. Specific features as well as other requirements for evaluation and certification have been published in secondary legislation.

Apart from mandatory energy certificates, there are recognized voluntary certifications like BREEAM, LEED, etc., which are the most widely used value drivers in Slovakia for commercial office real estate. These certifications assess diverse criteria including sustainability, energy efficiency, materials, and air quality. While not obligatory, they can indicate ESG compliance and make the case for green financing under the EU Taxonomy Regulation.

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Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

Social and environmental criteria can be evaluated in certain public procurement tenders thanks to legal changes that became effective in 2022.

Under Act No. 343/2015 Coll. on Public Procurement, contracting authorities may take environmental aspects into consideration when comparing price and quality in connection with the subject of the procurement. Green procurement is also a subject of the Action Plan and the Environmental Strategy, an initiative that proposes non-binding goals for promoting green public procurement.

Question 13:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Slovakia. However, as the CSDDD will need to be transposed into national law, many companies have already started with preparations to be compliant in time.

Question 14:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Slovakia enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD), which was transposed via Act No. 431/2002 Coll. on Accounting.

Question 15:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

Decree No. 532/2002 Coll. of the Ministry of the Environment, which stipulates the details of general technical requirements for construction, addresses the issue of technical requirements for buildings used by people with special needs.

New buildings need to have access at street level. Parking spaces have to include a section closest to the entrance reserved for people with special needs. The Decree also specifies further requirements which must be met.



Developer / Builder

Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Buildings caused 13.8% of Slovenia's greenhouse gas emissions in 2020, amounting to 2.2M tonnes. With the exception of non-profit apartments, property values are not tied to sustainability.

The Slovenian National Energy and Climate Plan from 2020 set targets for emission reduction by sector, with the aim of reducing emissions from buildings by 70% from 2005 levels by 2030, and of reducing final energy consumption in buildings by 20% compared to 2005 by 2030, in order to achieve climate neutrality by 2050, in line with the EU Green Deal. The Building Act cites the promotion of sustainable construction as one of its key objectives. Sustainable construction indicators are currently in preparation under the integral project CARE4CLIMATE coordinated by the Ministry of the Environment, Climate and Energy.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate developers must guarantee consistency of the construction plan with the relevant EU and national legislation. Challenges encompass adherence to standards laid down by the Building Act and the Environmental Protection Act and their implementing documents. Developers must navigate social compliance, safety regulations, and sustainable practices with respect to ESG laws. Striking a balance between these factors, costs, and property performance is imperative.

Environmental impact assessment:

Before any development or construction works likely to have significant effects on the environment, an environmental impact assessment must be carried out, and an environmental permit must be obtained from the Ministry. In connection with construction that may have significant effects on the environment and for which a building permit is required, an environmental impact assessment must be carried out in the context of issuing an integrated building permit.

Energy efficiency and emissions: Energy efficiency is an important consideration in spatial planning. The Spatial Management Act includes considerations of energy efficiency in preparation of new documentation as the basis of spatial development.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Project site selection is pivotal for energy efficiency and ESG compliance. Key considerations involve:

Spatial Management Act (ZUreP-3): Sustainable spatial development and energy efficiency must be considered in the process of preparing municipal zoning plans. Municipalities may allow planned investments to diverge from established spatial plans if they offer solutions which are compliant with energy efficiency goals or better with respect to energy efficiency.

Act on the siting of installations for generation of electricity from renewable energy sources (ZUNPEOVE): This Act regulates priority areas for the siting of photovoltaic and wind energy installations in general (such as rooftops, service buildings, areas of former mines and quarries, and certain landfills). These (potential) priority areas will be further regulated by a national strategic act and further specified by a national implementing spatial act.

Water Act (Zakon o vodah): For development or construction likely to have a permanent or temporary effect on the water regime or the status of water mandates, a water permit must be obtained in line with legislation on spatial planning and construction of buildings. The Water Act also defines special conditions and procedures for the construction of power generation and storage facilities, and specifically allows the setting-up of photovoltaic systems in certain areas.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). On the national level, in line with the Act on Energy Efficiency, all newly constructed buildings must be NZEBs and must be constructed in line with the Rules on efficient use of energy in buildings.

The Slovenian Eco Fund (Eko sklad) provides financial incentives for NZEBs, such as low-cost loans and non-refundable subsidies. For businesses, subsidies are focused on the construction of new buildings, and all calls related to NZEBs for both subsidies and loans are currently open. The current call for tenders includes EUR 2,720,000 in non-refundable grants and EUR 3,000,000 in loans. The financing each project can receive is EUR 85-150 per square metre of the NZEB's surface, dependent on the construction and insulation material, and can represent at most 30% of the investment's justified costs. Loans may be granted from a minimum of EUR 25,000 up to a maximum of EUR 2,000,000.

Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience? Are environmental impact assessments mandatory?

Properties located in hazard zones often face usage restrictions due to natural hazards. Spatial planning aims to mitigate such hazards when complete exclusion is not possible. Restrictions with respect to construction and development differ across individual spatial (state or municipal) planning documents and depend on the type of protection regime (if any) applicable to the property in question.

If a certain property is subject to a regime of cultural heritage protection, a regime of valuable natural features protection (wildlife sanctuary), agricultural and forest area protection, or defence protection, the developer/builder may be limited with respect to construction or renovation of such property, or may even not be able to obtain a building permit.

Environmental impact assessment (EIA) is obligatory for projects significantly impacting the environment, as mandated by the Environmental Protection Act (ZVO-2). The underlying Decree on activities affecting the environment that require an environmental impact assessment (Uredba o posegih v okolje, za katere je treba izvesti presojo vplivov na okolje) lists quantitative thresholds above which an EIA is required. In addition, any building exceeding certain dimensions requires an EIA.

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

Core provisions on waste management are included in the Environmental Protection Act (Zakon o varstvu okolja). The Act categorizes waste types and specifies means of waste limitation, management, recycling, and disposal. Detailed treatment of waste is regulated by governmental decrees. The Decree on Waste (Uredba o odpadkih, 2022) specifies the general hierarchy of waste treatment, where reuse and recycling of waste have priority over disposal. Annex 3 to this decree contains criteria for the classification of dangerous waste. Note that until 2024, certain provisions of the old decree from 2015 still apply. The Decree on management of waste arising from construction work (Uredba o ravnanju z odpadki, ki nastanejo pri gradbenih delih) regulates the treatment of waste in cases of construction, reconstruction, adaptation, renovation, or removal of a building. The Building Act (Gradbeni zakon) sets out the general requirement of waste minimization in buildings.



Question 7:

Are there distinct safety rules for construction sites and specific regulations during the development phase?

As regulated by the Rules on construction sites (Pravilnik o gradbiščih), every construction site must be fenced in and sufficiently marked to rule out danger for passers-by and traffic. For most construction sites (excluding simple projects), the constructor must also prepare a construction site organization plan (načrt organizacije gradbišča), which must be approved by the investor and must include more detailed safety measures for prevention of damage to third persons. Note that the current Rules on construction sites are applicable only until the new Decree on construction sites enters into force. In addition to the general Health and Safety at Work Act (Zakon o varnosti in zdravju pri delu), the Decree on safety and health protection at work at temporary and mobile construction sites (Uredba o zagotavljanju varnosti in zdravja pri delu na začasnih in premičnih gradbiščih) regulates worker safety measures on construction sites.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Only authorized professionals in project design or technical consulting and employers of such professionals may issue valid energy certificates in accordance with the Rules on the methodology for the production and issuance of energy performance certificates for buildings (Pravilnik o metodologiji izdelave in izdaji energetskega izkaznika stavb, 2023). Currently, there are no recognized voluntary certifications in Slovenia. Pursuant to the Act on Energy Efficiency (Zakon o učinkoviti rabi energije), a building may have no more than one energy performance certificate at any given time.

Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

The legal framework for energy performance certificates (EPCs) and energy requirements in Slovenia is derived from EU directives transposed into national law. The Rules on the methodology for the production and issuance of energy performance certificates mandate that EPCs must consider energy indicators such as heating, energy consumption, and CO₂ emissions of the building. These indicators are ranked in classes from A1 to G.

Property sale or rental advertisements must include the prescribed energy indicator listed in the EPC. Certain buildings do not need a valid EPC, such as industrial buildings and warehouses without heating and cooling systems, as well as simple and smaller buildings.

Question 10:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

The new Act on the siting of installations for generation of electricity from renewable energy sources (ZUNPEOVE) prescribes an obligation to install photovoltaic power plants on all new buildings with a roof area of 1,000 sqm or more (and, after an appropriate transitional period, also on existing buildings with a roof area of more than 1,700 sqm), unless this is not possible due to the type and location of the building or other conditions, such as the possibility of connection to the electricity grid.

Installation of alternative energy supply systems may require a construction permit, depending on the power capacity, placement, and mode of connection to the grid. For each alternative supply system, a permit for connection to the grid must also be obtained, which is issued by the owner of the respective distribution network. If facilities with a rated capacity greater than 10 MW are connected to the public grid, obtaining a final energy permit is also required.

Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

When constructing new buildings and carrying out major renovations, the investor must ensure that the infrastructure prescribed by the Act on Energy Efficiency (Zakon o učinkoviti rabi energije) is in place for laying electrical cables and installing enough charging points.

For instance, for non-residential buildings with more than ten parking spaces, the owner must ensure the installation of at least one charging point for electric vehicles and the installation of infrastructure for the wiring of electric cables for at least one out of every five parking spaces (to enable the subsequent installation of charging points for electric vehicles).

Obligations to install charging points also apply to the construction and major renovation of off-street rest areas intended for short stopovers for road users, as well as to stand-alone car parks for motor vehicles.

In general, a building permit is not required for the installation of charging stations. For connecting charging stations to the grid, a permit must be obtained from the distribution network operator.



Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

Yes, according to the Green Public Procurement Regulation (Uredba o zelenem javnem naročanju), environmental considerations are mandatory in public procurement procedures for 22 public procurement items (e.g. design or execution of road construction, electricity, electronic office equipment, etc.).

When awarding public contracts, the contracting authority must particularly consider the following environmental aspects:

- energy efficiency and the use of renewable or other alternative energy sources;
- efficient use of water and its reuse;
- efficient use of resources;
- prevention of risks to health or the environment, in particular air, water and soil pollution, and loss of biodiversity;
- reuse of secondary raw materials and products, and prevention and reduction of waste, including through longer lifetimes of goods and construction;
- promoting the use of reusable products instead of disposable ones, encouraging the repair, treatment and recovery of end-of-life products and waste for reuse and recycling.

Question 13:

Are there special rules for hiring construction workers from third countries due to the labour shortage?

There are no special rules. Rules for employment of workers from abroad are laid down in the Employment, Self-employment and Work of Foreigners Act (Zakon o zaposlovanju, samozaposlovanju in delu tujcev). A worker from a third country requires either a single permit for work and residence in Slovenia, or an EU Blue Card (for highly skilled workers). Consent of the Employment Agency of Slovenia is required to obtain the permit.

As of yet, no specific legislation aimed at addressing the labour shortage in construction has been adopted. Construction workers may be employed under the general provisions for employment of foreign workers. Employment of workers from Bosnia and Herzegovina as well as Serbia is facilitated by international treaties on labour migration concluded with these countries.

Question 14:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

The Equalisation of Opportunities for Persons with Disabilities Act (Zakon o izenačevanju možnosti invalidov) seeks to prevent discrimination against people with disabilities and to enable equal opportunities for them in all aspects of life. It mandates the technical adaptation of all structures in public use with various technical devices, visual and sonic indicators, and other measures beneficial to those with physical, visual and hearing impairments.

Further, the Building Act (Gradbeni zakon) prescribes that entrances must allow people with particular functional disabilities to use them independently, and must be equipped with the necessary signalling and equipment for unhindered movement, communication and orientation, and that the number of parking spaces for disabled persons near the main entrance must be sufficient.

Additional obligations are set out by the Rules on universal construction and the use of construction works (Pravilnik o univerzalni graditvi in uporabi objektov) which, among others, govern the application of construction standards SIST ISO 21542 on accessibility and usability of the built environment, SIST 1186 on tactile walking surface indicators for blind and partially sighted persons, and SIST EN 60118-4 on electroacoustics.



Question 1

What are the currently applicable emission reduction goals and relevant provisions for green real estate developments?

Buildings caused 13.8% of Slovenia's greenhouse gas emissions in 2020, amounting to 2.2M tonnes. Property values are not tied to sustainability.

The Slovenian National Energy and Climate Plan from 2020 set targets for emission reduction by sector, with the aim of reducing emissions from buildings by 70% from 2005 levels by 2030, and of reducing final energy consumption in buildings by 20% compared to 2005 by 2030, in order to achieve climate neutrality by 2050, in line with the EU Green Deal. The Building Act cites the promotion of sustainable construction as one of its key objectives. Sustainable construction indicators are currently in preparation under the integral project CARE4CLIMATE coordinated by the Ministry of the Environment, Climate and Energy.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate investors must keep up with EU regulations and their national adaptations related to ESG, such as:

Environmental impact assessment: Before any development or construction works likely to have significant effects on the environment, an environmental impact assessment must be carried out, and an environmental permit must be obtained from the Ministry. In connection with construction that may have significant effects on the environment and for which a building permit is required, an environmental impact assessment must be carried out in the context of issuing of an integrated building permit.

Energy efficiency and emissions: Energy efficiency is an important consideration in spatial planning. The Spatial Management Act includes considerations of energy efficiency in preparation of new documentation as the basis of spatial development.

Liability and due diligence: Due diligence is crucial for assessing ESG-related risks before property acquisition. Legislation such as the Environmental Protection Act must be observed to assess the liability of the investor with respect to environmental externalities.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations. Even though the reporting rules of the Corporate Sustainability Reporting Directive will be applicable only in 2024, Slovenia has already implemented its norms on non-financial reporting, which include information on the environment, in the Slovenian Companies Act.

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions. Green financing is supported by certain public institutions, such as the Eco Fund (Eko sklad).

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Project site selection is pivotal for energy efficiency and ESG compliance. Key considerations involve:

Spatial Management Act (ZUreP-3): Sustainable spatial development and energy efficiency must be considered in the process of preparing municipal zoning plans. Municipalities may allow planned investments to diverge from established spatial plans if they offer solutions which are compliant with energy efficiency goals or better with respect to energy efficiency.

Act on the siting of installations for generation of electricity from renewable energy sources (ZUNPEOVE): This Act regulates priority areas for the siting of photovoltaic and wind energy installations in general (such as rooftops, service buildings, areas of former mines and quarries, and certain landfills). These (potential) priority areas will be further regulated by a national strategic act and further specified by a national implementing spatial act.

Water Act (Zakon o vodah): For development or construction likely to have a permanent or temporary effect on the water regime or the status of water mandates, a water permit must be obtained in line with legislation on spatial planning and construction of buildings. The Water Act also defines special conditions and procedures for the construction of power generation and storage facilities, and specifically allows the setting-up of photovoltaic systems in certain areas.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

On the EU level, the Energy Performance of Buildings Directive (2010/31/EU) and the Energy Efficiency Directive (2012/27/EU) introduced the concept of nearly zero-energy buildings (NZEB). On the national level, in line with the Act on Energy Efficiency, all newly constructed buildings must be NZEBs and must be constructed in line with the Rules on efficient use of energy in buildings.

The Slovenian Eco Fund (Eko sklad) provides financial incentives for NZEBs, such as low-cost loans and non-refundable subsidies. For businesses, subsidies are focused on the construction of new buildings, and all calls related to NZEBs for both subsidies and loans are currently open. The current call for tenders includes EUR 2,720,000 in non-refundable grants and EUR 3,000,000 in loans. The financing each project can receive is EUR 85-150 per square metre of the NZEB's surface, dependent on the construction and insulation material, and can represent at most 30% of the investment's justified costs. Loans may be granted from a minimum of EUR 25,000 up to a maximum of EUR 2,000,000.

Question 5:

What ESG related requirements do real estate investors face when securing financing for investments?

ESG's growing importance makes real estate financing pricier and tougher if there are no environmentally sustainable options for lenders. To earn this label, investments must align with the EU Taxonomy Regulation (2020/852), which defines eco-criteria for investments and bolsters sustainable finance. Sustainability assessment relies on specific delegated acts alongside the Taxonomy Regulation. In real estate, the EU Taxonomy Climate Delegated Act covers new buildings, renovations, maintenance, repair, and ownership acquisition. The Slovenian Sovereign Sustainability Bond Framework is aligned with the Technical Screening Criteria of the EU Taxonomy for a significant part. Internationally, the Framework aligns with the Sustainability Bond Guidelines 2021, the Green Bond Principles 2021, and the Social Bond Principles 2021.

Question 6:

What are the main ESG-related challenges for real estate investors when negotiating transaction agreements for their real estate investment?

ESG's growing importance has an influence on Slovenian real estate transaction agreements, which in practice translates into:

Extended due diligence scope: Documents regarding ESG matters need to be considered carefully to ensure they are not contrary to the investor's intentions for the property, and to assess potential risks and liabilities linked to the property. Compliance with regulations, contamination assessment, and energy efficiency evaluation minimize future environmental liabilities.

Expanded warranty and liability regime: ESG matters significantly shape warranty and liability. Transparent ESG disclosure, circular economy, compliance with laws, certifications, sustainability, and ESG's impact on property value at exit are crucial considerations.

Energy efficiency and retrofitting: Investors must assess property energy efficiency and retrofitting needs to meet energy targets. Balancing upfront costs, long-term savings, and energy performance standards poses challenges.

Heightened MAC provisions relevance: Material adverse changes (MAC) rules have gained importance, allowing parties to address unforeseen circumstances affecting deal feasibility or value.

Question 7:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

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After obtaining an occupancy permit, the investor must present a valid EPC to the tenant or buyer. The investor must also conduct a cost-benefit analysis for efficient heating and cooling of certain industrial buildings. Certain buildings do not need a valid EPC, such as industrial buildings and warehouses without heating and cooling systems, as well as simple and smaller buildings.

Investor

Question 9:

Are there any requirements that need to be met regarding the installation of alternative energy supply systems (e.g. rooftop photovoltaic systems)?

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Question 10:

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When constructing new buildings and carrying out major renovations, the investor must ensure that the infrastructure prescribed by the Act on Energy Efficiency (Zakon o učinkoviti rabi energije) is in place for laying electrical cables and installing enough charging points.

For instance, for non-residential buildings with more than ten parking spaces, the owner must ensure the installation of at least one charging point for electric vehicles and the installation of infrastructure for the wiring of electric cables for at least one out of every five parking spaces (to enable the subsequent installation of charging points for electric vehicles).

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In general, a building permit is not required for the installation of charging stations. For connecting charging stations to the grid, a permit must be obtained from the distribution network operator.

Question 11:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Slovenia. Implementation of CSDDD policies is left to the private sector's discretion. The Slovenian legislator has not implemented national laws that would anticipate the subject matters of the CSDDD. Investor

Question 12:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Slovenia enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD) in its Companies Act (Zakon o gospodarskih družbah).

The Companies Act requires Slovenian public-interest companies with more than 500 employees to include detailed statements in their annual reports on environmental, social, human resources, human rights, anti-corruption and anti-bribery issues necessary to understand the development, performance and position of the company and the impact of its activities.

Real estate investors may require further ESG compliance reporting under the EU Taxonomy Regulation. Real estate funds must also address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector for green property project ESG criteria disclosure.

Question 1

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The Slovenian National Energy and Climate Plan from 2020 set targets for emission reduction by sector, with the aim of reducing emissions from buildings by 70% from 2005 levels by 2030, and of reducing final energy consumption in buildings by 20% compared to 2005 by 2030, in order to achieve climate neutrality by 2050, in line with the EU Green Deal. The Building Act cites the promotion of sustainable construction as one of its key objectives. Sustainable construction indicators are currently in preparation under the integral project CARE4CLIMATE coordinated by the Ministry of the Environment, Climate and Energy.

Question 2:

What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

Real estate owners/operators must keep up with EU regulations and their national adaptations related to ESG, such as:

Energy efficiency and emissions: Pursuant to the Energy Act, the real property owner must submit an energy performance certificate to the buyer upon purchase of the building. In the event of a lease, the lessor must hand over the energy performance certificate to the lessee prior to or with the commencement of the lease. Rules on efficient use of energy in buildings also have to be considered with respect to energy efficiency.

Tenant rights and social considerations: Upholding social norms, health and safety rules, and ESG practices entails balancing these factors with investment goals.

Liability and due diligence: Due diligence is crucial for assessing ESG-related risks before property acquisition. Legislation such as the Environmental Protection Act must be observed to assess the liability of the owner/operator with respect to environmental externalities.

Sustainability disclosure and reporting: Compliance with the EU Taxonomy Regulation and reporting ESG performance entail rising expectations. Even though the reporting rules of the Corporate Sustainability Reporting Directive will be applicable only in 2024, Slovenia has already implemented its norms on non-financial reporting, which include information on the environment, in the Slovenian Companies Act.

Green financing: Meeting green investment criteria poses challenges due to the EU Taxonomy Regulation requiring ESG integration into financing decisions. Green financing is supported by certain public institutions, such as the Eco Fund (Eko sklad).

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

Project site selection is pivotal for energy efficiency and ESG compliance. Key considerations involve:

Spatial Management Act (ZUreP-3): Sustainable spatial development and energy efficiency must be considered in the process of preparing municipal zoning plans. Municipalities may allow planned investments to diverge from established spatial plans if they offer solutions which are compliant with energy efficiency goals or better with respect to energy efficiency.

Act on the siting of installations for generation of electricity from renewable energy sources (ZUNPEOVE): This Act regulates priority areas for the siting of photovoltaic and wind energy installations in general (such as rooftops, service buildings, areas of former mines and quarries, and certain landfills). These (potential) priority areas will be further regulated by a national strategic act and further specified by a national implementing spatial act.

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The Slovenian Eco Fund (Eko sklad) provides financial incentives for NZEBs, such as low-cost loans and non-refundable subsidies. For businesses, subsidies are focused on the construction of new buildings, and all calls related to NZEBs for both subsidies and loans are currently open. The current call for tenders includes EUR 2,720,000 in non-refundable grants and EUR 3,000,000 in loans. The financing each project can receive is EUR 85-150 per square metre of the NZEB's surface, dependent on the construction and insulation material, and can represent at most 30% of the investment's justified costs. Loans may be granted from a minimum of EUR 25,000 up to a maximum of EUR 2,000,000.

Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience?

Properties in hazard zones face usage constraints due to natural hazards. Spatial (state and municipal) planning aims to mitigate these risks, including avalanches, floods, mudslides, and more, as natural hazards endanger lives and property. Events impact properties, especially if located in hazard zones. Building permits, spatial plans, and location information (also containing information on applicable protection regimes) offer hazard risk insights.

If a certain property is subject to a regime of cultural heritage protection, a regime of valuable natural features protection (wildlife sanctuary), agricultural and forest area protection, or defence protection, the owner/operator may be limited with respect to reconstruction or renovation of such property.

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

Core provisions on waste management are included in the Environmental Protection Act (Zakon o varstvu okolja). The Act categorizes waste types and specifies means of waste limitation, management, recycling, and disposal. Detailed treatment of waste is regulated by governmental decrees. The Decree on Waste (Uredba o odpadkih, 2022) specifies the general hierarchy of waste treatment where reuse and recycling of waste have priority over disposal. Annex 3 to this decree contains criteria for the classification of dangerous waste. Note that until 2024, certain provisions of the old decree from 2015 still apply. The owner or operator of a waste management facility is responsible for the prescribed treatment of waste, except for waste that is the responsibility of the producer. The owner or operator must cover all costs of waste management, including the cost of the public waste service infrastructure. The Building Act (Gradbeni zakon) sets out the general requirement of waste minimization in buildings.

Question 7:

Are property owners bound by health and safety regulations? Can typical green lease clauses be enforced, especially with consumers?

Different laws and regulations from the health and safety field apply to property owners, such as:

- rules on fire safety in buildings,
- rules on the ventilation and air conditioning of buildings,
- rules on protection against noise in buildings,
- rules on lightning protection systems of buildings,
- rules on protection of buildings against humidity.

In accordance with the Housing Act (Stanovanjski zakon), multi-apartment property owners are under a general obligation to guarantee health and safety in multi-apartment buildings.

In Slovenia, green lease agreements usually contain clauses on charging operating costs based on consumption, sharing data on energy and/or water consumption, and/or obligating the landlord, the tenant or both parties to commit to renewable forms of energy.

Such green lease clauses can be enforced if they are not in conflict with the data privacy requirements outlined in the GDPR and the Personal Data Protection Act, and the general provisions of the Obligations Code (Obligacijski zakonik).

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The owner or user of the building may obtain an energy performance certificate. The legal framework for energy performance certificates (EPCs) and energy requirements in Slovenia is derived from EU directives transposed into national law. The Rules on the methodology for the production and issuance of energy performance certificates mandate that EPCs must consider energy indicators such as heating, energy consumption, and CO₂ emissions of the building. These indicators are ranked in classes from A1 to G.

Property sale or rental advertisements must include the prescribed energy indicator listed in the EPC. The owner is obligated to present a valid EPC of the building or relevant part of the building for each sale or lease of the property in question. The owner must do so before the conclusion of the sale or lease contract but is exempt from this obligation for rents shorter than one year, sales in enforcement and liquidation, and sales of old buildings that no longer meet requirements for occupancy. Certain buildings do not need a valid EPC, such as industrial buildings and warehouses without heating and cooling systems, as well as simple and smaller buildings.

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When awarding public contracts, the contracting authority must particularly consider the following environmental aspects:

- energy efficiency and the use of renewable or other alternative energy sources;
- efficient use of water and its reuse;
- efficient use of resources;
- prevention of risks to health or the environment, in particular air, water and soil pollution, and loss of biodiversity;
- reuse of secondary raw materials and products, and prevention and reduction of waste, including through longer lifetimes of goods and construction;
- promoting the use of reusable products instead of disposable ones, encouraging the repair, treatment and recovery of end-of-life products and waste for reuse and recycling.

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What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

The Corporate Sustainability Due Diligence Directive (CSDDD) aims to promote sustainability in business operations and basically requires certain companies to conduct comprehensive due diligence of their supply chain to identify, address, and mitigate certain environmental and social risks. Since the CSDDD is currently still at the drafting stage, it does not trigger specific obligations for real estate investors in Slovenia. Implementation of CSDDD policies is left to the private sector's discretion. The Slovenian legislator has not implemented national laws that would anticipate the subject matters of the CSDDD.

Question 14:

What are the main implications when it comes to ESG/non-financial reporting obligations?

Slovenia enforces ESG reporting under the EU Non-Financial Reporting Directive (NFRD) in its Companies Act (Zakon o gospodarskih družbah).

The Companies Act requires Slovenian public-interest companies with more than 500 employees to include detailed statements in their annual reports on environmental, social, human resources, human rights, anti-corruption and anti-bribery issues necessary to understand the development, performance and position of the company and the impact of its activities.

Real estate investors may require further ESG compliance reporting under the EU Taxonomy Regulation. Real estate funds must also address Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector for green property project ESG criteria disclosure.

Question 15:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

The Equalisation of Opportunities for Persons with Disabilities Act (Zakon o izenačevanju možnosti invalidov) seeks to prevent discrimination against people with disabilities and to enable equal opportunities for them in all aspects of life. It mandates the technical adaptation of all structures in public use with various technical devices, visual and sonic indicators, and other measures beneficial to those with physical, visual and hearing impairments.

Further, the Building Act (Gradbeni zakon) prescribes that entrances must allow people with particular functional disabilities to use them independently, and must be equipped with the necessary signalling and equipment for unhindered movement, communication and orientation, and that the number of parking spaces for disabled persons near the main entrance must be sufficient.

Additional obligations are set out by the Rules on universal construction and the use of construction works (Pravilnik o univerzalni graditvi in uporabi objektov) which, among others, govern the application of construction standards SIST ISO 21542 on accessibility and usability of the built environment, SIST 1186 on tactile walking surface indicators for blind and partially sighted persons, and SIST EN 60118-4 on electroacoustics.



Question 1

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What are the key legal challenges regarding ESG laws, particularly in relation to EU-level measures?

As Türkiye is not an EU member, the main challenge concerning ESG-related legislation is the adaptation of all relevant laws and regulations to EU standards.

Question 3:

Are there any specific laws that need to be considered in relation to energy efficiency and ESG factors when selecting project sites?

There are several pieces of legislation related to energy efficiency and ESG factors relevant for developers and investors in the logistics and industrial sector when selecting project sites, such as the Energy Efficiency Law No. 5627 and the Environmental Law No. 2872. These laws set out the requirements for energy efficiency and environmental protection which must be complied with when selecting project sites.

Question 4:

What incentives exist for promoting nearly zero-energy buildings (NZEB)?

The Regulation on Energy Performance in Buildings, aimed at achieving net zero emission buildings by 2053, is gradually making it mandatory for buildings to be more energy-efficient and to utilize renewable energy sources. Starting 1 January 2023, all buildings larger than 5,000 sqm must attain at least energy performance class B and source a minimum of 5% of their energy consumption from renewables like photovoltaic panels, wind energy, or heat pumps.

To reach this goal, improvements include increasing thermal insulation thickness from 5 cm to 7-8 cm in Istanbul and from 6 cm to 8-9 cm in Ankara, as well as enhancing window insulation values.

Question 5:

Are there measures or regulations in place for assessing a building's susceptibility to natural hazards and ensuring its resilience?

Are environmental impact assessments mandatory?

The primary piece of legislation governing the assessment of a building's vulnerability to natural hazards and its resilience is the Türkiye Building and Earthquake Regulation. This regulation establishes the overall framework for building safety in Türkiye and includes specific provisions for assessing natural hazards and building resilience. Additionally, the Regulation on Environmental Impact Assessment, a supplementary law to Environmental Law No. 2872, outlines the technical and procedural guidelines for assessing the environmental impact of real estate projects.

Furthermore, there are other important pieces of legislation, such as the Regulation on Buildings in Disaster Areas and the Regulation on Construction Materials, which define the minimum standards buildings must meet to be considered resilient to natural hazards.

Question 6:

Are there specific requirements for waste management, including the implementation of different treatments for different types of waste?

The main legislation governing waste management is the Environmental Law No. 2872. This law sets out the general principles of waste management. In addition, the Waste Management Regulations set out further important details relating to the matter.

It is essential that different types of waste are classified and collected separately at the source/place of generation without mixing with other wastes.

Further, as per the extended producer responsibility provisions, this type of responsibility covers electrical and electronic goods, packaging, vehicles, batteries and accumulators; such waste must be treated differently. The necessary measures must be taken by the manufacturers, starting from the design of the products, to reduce the negative impact of the products on the environment, to prevent waste, and to support reuse, safe recycling or recovery of waste.

Question 7:

Are there distinct safety rules for construction sites and specific regulations during the development phase?

There are certain health and safety regulations that apply to construction sites, such as the Regulation on Occupational Safety and Health in Construction Works, which sets out specific requirements for construction sites, and the Regulation on the Use of Personal Protective Equipment, which sets out requirements for the use of personal protective equipment at work.

Investors, developers, and builders who fail to comply with the health and safety regulations may be subject to fines or criminal charges.

Question 8:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

Yes, there are standardized measures or metrics for assessing the energy efficiency of buildings. The most commonly used measure is the Energy Performance Certificate (EPC). The EPC is a rating system that assigns a letter grade to a building based on its energy efficiency. The letter grades range from A (most efficient) to G (least efficient).

Other standardized measures for assessing the energy efficiency of buildings include:

- the primary energy consumption of the building;
- the annual energy cost of the building;
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Question 9:

What are the obligations regarding energy certificates, performance requirements, and heating types, particularly to promote emission reduction?

All new buildings must have an Energy Performance Certificate (EPC) before they can be occupied. EPCs are not compulsory for old buildings, but they have been strongly encouraged since the early 2010s. The minimum energy performance requirements depend on the building's size and the type of construction.

The main requirements for energy performance certificates in Türkiye are that they must be issued by a certified energy assessor accredited by the Ministry of Energy and Natural Resources, and must include information on the building's energy performance.

Question 10:

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In general, the threshold for unlicensed renewable electricity production is 5MW. Any renewable electricity production exceeding 5MW is subject to the Electricity Market License Regulation.

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Applications by natural or legal persons who intend to install solar cells on roofs are examined by the commission formed by the utility companies. and the costs for installing the system must be borne by the consumer.



Question 11:

Are there any specific requirements that must be adhered to in relation to the installation of charging points for electric vehicles?

There are specific requirements that must be adhered to when constructing new buildings in relation to the installation of charging points for electric vehicles. These requirements are outlined in the Regulation on Amendment of the Parking Lot Regulation, Article 5/j. For new buildings with 20 or more compulsory car parking spaces, it is required that at least 5% of the compulsory car parking areas, and not less than one unit, must be equipped for electric vehicles, including charging units according to the relevant standards. The charging units must be installed in such a way that they are easily accessible to the public and protected from the elements.

Question 12:

Is it mandatory for the contracting authority to consider environmental aspects in public construction procurement procedures?

The Law on Public Procurement No. 4734 (2022) Article 5/6 requires contracting authorities to consider environmental aspects in public construction procurement procedures.



Question 13:

Are there special rules for hiring construction workers from third countries due to the labour shortage?

No.

Question 14:

Are there any obligations to adapt buildings to certain standards or to maintain existing measures for people with special needs?

Pursuant to the Zoning Regulation, it has been obligatory since 2017 to comply with the TS 9111 Standard for access for people with special needs to buildings and entrances.

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To reach this goal, improvements include increasing thermal insulation thickness from 5 cm to 7-8 cm in Istanbul and from 6 cm to 8-9 cm in Ankara, as well as enhancing window insulation values.

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What ESG related requirements do real estate investors face when securing financing for investments?

The primary piece of legislation governing the assessment of a building's vulnerability to natural hazards and its resilience is the Türkiye Building and Earthquake Regulation. This regulation establishes the overall framework for building safety in Türkiye and includes specific provisions for assessing natural hazards and building resilience. Additionally, the Regulation on Environmental Impact Assessment, a supplementary law to Environmental Law No. 2872, outlines the technical and procedural guidelines for assessing the environmental impact of real estate projects.

Furthermore, there are other important pieces of legislation, such as the Regulation on Buildings in Disaster Areas and the Regulation on Construction Materials, which define the minimum standards buildings must meet to be considered resilient to natural hazards.

Question 6:

What are the main ESG-related challenges for real estate investors when negotiating transaction agreements for their real estate investment?

ESG-related concerns during the negotiation of transaction agreements for real estate investments are not very common or popular, as the concept of green buildings is not widespread due to cost-related difficulties. Also, there is no legal obligation for buildings smaller than 5000 sqm.

Question 7:

Are there established metrics for building energy efficiency? What common efficiency certificates exist, and what are their implications?

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Pursuant to the Charging Service Regulation, which determines the procedures and principles for establishing charging units and stations where electrical energy is provided to electric vehicles, the operation of charging stations connected to the charging network and of the charging network, as well as the provision of charging services, is carried out within the scope of a charging network operator licence obtained from the Energy Market Supervisory Authority.

Question 12:

What are the investor's main obligations when it comes to ensuring compliance with the CSDDD?

As Türkiye is not an EU member state, the CSDDD is not directly applicable. However, due to the obligation of companies to comply with the CSDDD in order to maintain their business with European companies, it will be necessary for Turkish companies to comply with the CSDDD.

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What are the main implications when it comes to ESG/non-financial reporting obligations?

ESG/non-financial reporting obligations are regulated by the Corporate Governance Communiqué published by the Turkish Capital Markets Board. Accordingly, public companies are obligated to indicate in their annual activity report whether or not they apply sustainability principles. If they do not, they must give detailed reasons for this, and list the social and environmental risks arising from non-compliance.



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Question 7:

Are property owners bound by health and safety regulations? Can typical green lease clauses be enforced, especially with consumers?

The main piece of legislation relating to lease agreements is the Turkish Code of Obligations No. 6098, which sets out the general provisions applicable to lease agreements. It is possible to include special provisions in lease agreements; however, such provisions cannot be contrary to the mandatory provisions of the Turkish Code of Obligations. In any case, green lease provisions are currently not popular.



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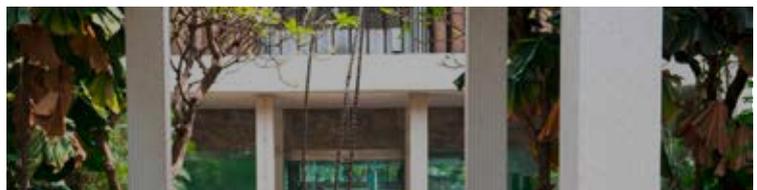
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