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The content of this document is of informative nature.

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**ACT**

of 9 February, 2005

**on illegal work and illegal employment and on amendment of certain acts**

The National Council of the Slovak Republic has adopted the following Act:

**Article I**

**Section 1**

**Subject matter**

This Act shall define illegal work and illegal employment, provide for the prohibition of illegal work and illegal employment, the exercise of control, the obligation of the inspection authority and penalties for violation of prohibition of illegal work and illegal employment.

**Section 2**

**Definition of Terms**

(1) Illegal work is a dependent work performed by a natural person for a legal person or a natural person who is an entrepreneur<sup>1)</sup> and

- a) does not have a labour-law relationship with a legal person or a natural person who is an entrepreneur, or a civil service relation pursuant to a special regulation<sup>2)</sup> or
- b) is a national of a country that is not a Member State of the European Union, another State that is a party to the Agreement on the European Economic Area or the Swiss Confederation, or a stateless person (hereinafter referred to as a "third country national") and the conditions for their employment pursuant to a special regulation are not met.<sup>4)</sup>

(2) Illegal employment is employment by a legal person or a natural person who is an entrepreneur,<sup>1)</sup> provided they utilise dependent work

- a) of a natural person and do not have an employment relationship with them or a civil service relationship pursuant to a special regulation,<sup>2)</sup>
- b) of a natural person, they have a labour-law relationship or a civil service relationship pursuant to a special regulation established therewith<sup>2)</sup> and did not register such a person to the register of insured persons and pensioners of old-age pension saving within 7 days from the expiry of period pursuant to special regulation<sup>6)</sup> for registering to this register at the latest to the commencement of the inspection of illegal work and illegal employment, provided the inspection commenced within 7 days from the expiry of period pursuant to special regulation<sup>6)</sup>

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for the registration to this register or

- c) third country national and the conditions for their employment are not met pursuant to a special regulation.<sup>4)</sup>

(3) Illegal employment is also the employment of a third country national who resides in the territory of the Slovak Republic in contravention of a special regulation<sup>8)</sup> and who performs dependent work.

## **Section 2a**

(1) Illegal employment is not a work performed for a natural person who is an entrepreneur<sup>1)</sup> by their direct relative, sibling or spouse who has pension insurance<sup>8a)</sup>, who is recipient of a pension pursuant to special regulations<sup>8a)</sup>, or is a pupil or student under the age of 26.

(2) Illegal work is not a work performed for a natural person who is an entrepreneur<sup>1)</sup> by their direct relative, sibling or spouse who has pension insurance<sup>8a)</sup>, who is recipient of a pension pursuant to special regulations<sup>8a)</sup>, or is a pupil or student under the age of 26.

## **Section 3**

### **Prohibition of illegal work and illegal employment**

(1) The natural person shall not perform illegal work.

(2) The legal person and the natural person who is the entrepreneur shall not illegally employ pursuant to Sec. 2 par.2 and 3. The natural person shall not illegally employ pursuant to Sec. 2 par. 3.

(3) Repeated violation of the prohibition of illegal employment shall be considered a particularly grave violation of this Act for the purpose of the trade license revocation.<sup>8b)</sup>

## **Section 4**

### **Work offer**

If a legal person or natural person offers work using the means of information,<sup>9)</sup> the operator of the means of information shall be obliged to notify the inspection authority free of charge pursuant to Sec. 5 par. 1 on the name and address or the business name and registered office of the offeror.

### **Inspection of illegal work and illegal employment**

## **Section 5**

(1) Inspection of illegal work and illegal employment is performed by the following controlling authorities:

- a) Inspectorate of Labour
- b) Central Office of Labour, Social Affairs and Family and

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c) Labour Office, Social Affairs and Family

(2) The inspection pursuant to paragraph 1 shall be without prejudice to inspection competences of other authorities pursuant to special regulations<sup>10)</sup>. The inspection authorities

shall be obliged to cooperate and provide the necessary information within the scope of their competence. The inspection body pursuant to a special regulation shall be obliged to cooperate with the inspection authority and to provide information within its scope for the purpose of inspection of illegal work and illegal employment and fulfilment of obligations pursuant to a special regulation.<sup>10a)</sup>

(3) A legal person and natural person shall be obliged to provide information to the inspection authority within the scope of its competence, to provide the documents, statements and other documents necessary to ensure the preparation of inspection, execution of inspection and the fulfilment of obligations pursuant to a special regulation;<sup>10a</sup> where a legal person or natural person, employs a third-country national, they shall be required to submit a copy of the certificate of residence or other residence permit to a third country national pursuant to a special regulation<sup>8)</sup> to the inspection authority performing the control of illegal work and illegal employment.

(4) A natural person shall be obliged to the inspection body conducting the control of illegal work and illegal employment

a) to prove the identity,

b) submit a document containing the social security identification number of a natural person,<sup>11)</sup>

c) to justify the presence at the workplace.

(5) A natural person, who is a national of a third country, in addition to the obligations pursuant to paragraph 4, shall be required to submit a valid certificate of residence or other residence permit to the inspection authority conducting the control of illegal work and illegal employment.

(6) The exchange of information related to the inspection of illegal work and illegal employment and the fulfilment of obligations pursuant to a special regulation<sup>10a</sup> shall not require the consent of the person concerned pursuant to a special regulation.<sup>12)</sup>

## Section 5a

(1) The inspection authority shall assess the risk of illegal employment pursuant to Sec. 2 par. 3 and regularly identify the sectors of economic activities in which the illegal employment is concentrated pursuant to Sec. 2 par. 3 (hereinafter referred to as "risk sector").

(2) The inspection authority shall perform the inspection of illegal employment pursuant to Sec. 2 par. 3, primarily in risk sectors.

(3) The National Labour Inspectorate shall annually submit to the European Commission before 1 July the information for the previous calendar year on the number of inspections of illegal employment pursuant to Sec. 2 par. 3 for each of the risk sectors, the percentage of the inspected entities from the number of employers in each risk sector and the outcomes of inspections performed in individual risk sectors. Inspection authorities shall provide the National Labour Inspectorate annually, until 31. March, the information to the extent pursuant to the first sentence.

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## **Sanction for the violation of prohibition of illegal work and illegal employment**

### **Section 6**

Sanctions for illegal employment are regulated by special regulations.<sup>13)</sup>

### **Section 7**

(1) The person who performs illegal work shall be deemed to commit an offence.

(2) Penalty up to EUR 331 may be imposed for an offence pursuant to paragraph 1.

(3) The protests are dealt with by the Central Office of Labour, Social Affairs and Family, Office of Labour, Social Affairs and Family and Inspectorate of Labour.

(4) Proceedings on offences are subject to a special regulation.<sup>14)</sup>

### **Section 7a** **Additional payments**

(1) A legal person or natural person who has been sanctioned for violating the prohibition of illegal employment pursuant to Sec. 2 par. 3, shall be obliged to pay

- a) the agreed due wage to a natural person who has been illegally employed,
- b) an additional payment in an amount equal to the income tax advance, income tax, income tax arrears, social insurance premiums pursuant to a special regulation,<sup>15)</sup> compulsory contributions to old-age pension savings pursuant to a special regulation,<sup>16)</sup> supplementary pension savings contribution pursuant to a special regulation,<sup>17)</sup> and compulsory public health insurance pursuant to a special regulation<sup>18)</sup> which they would have been obliged to pay if an illegally employed natural person had been properly employed, including appropriate sanctions and penalties pursuant to special regulations,<sup>19)</sup>
- c) expenses related to the delivery of the due wage pursuant to letter a) to the country to which the unlawfully employed person has returned or has been administratively expelled.<sup>20)</sup>

(2) If a legal person or natural person, who has been legally sanctioned for violating the prohibition of illegal employment pursuant to Sec. 2 par. 3, or the illegally employed natural person does not prove otherwise, for the purposes of paragraph 1, the agreed wage is the monthly minimum wage pursuant to a special regulation<sup>21)</sup> or the wage agreed in a collective agreement for a comparable employee,<sup>22)</sup> if the collective agreement provides for a wage more favourable than the monthly minimum wage.

(3) If a legal person or natural person, who has been legally sanctioned for violating the prohibition of illegal employment pursuant to Sec. 2 par. 3 or if an illegally employed natural person does not prove otherwise, for the purposes of paragraph 1, it is assumed that the employment relationship lasted for three months.

(4) An additional payment pursuant to paragraph 1 letter b) shall be the revenue of the state budget.

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## Section 7b

### Liability for illegal employment

(1) A legal person or a natural person shall not be liable for illegal employment pursuant to Sec. 2 par. 3, if they fulfilled the obligations pursuant to a special regulation<sup>23)</sup> and did not know that the certificate of residence or another residence permit were falsified.

(2) Obligation of a legal person or natural person to pay, on the grounds of an enforceable decision, a penalty for violation of the prohibition of illegal employment or additional payments pursuant to Sec. 7a par. 1 letter a) and c) passes, if such claim could not be satisfied in the enforcement proceedings pursuant to a special regulation; on

- a) a legal person or natural person for whom a legal person or natural person who has been the subject to a penalty for violating the prohibition of illegal employment supplies work, goods or provide services pursuant to a contract, or
- b) a legal person or a natural person who, pursuant to a contract for the supply of work, goods or services, is an intermediary in the supply of work, goods or services as referred to in letter a).

(3) The procedure pursuant to paragraph 2 shall apply only if it is established that the statutory body of a legal person pursuant to paragraph 2 letter a) or b) or a natural person as referred to in paragraph 2 letter a) or b), or their executive employee knew that the legal person or natural person from whom the obligation to pay a penalty or additional payments pursuant to paragraph 2 would have passed, violated the prohibition of illegal employment.

(4) The procedure pursuant to paragraph 2 shall not apply to a legal person and natural person who is an entrepreneur, being subject to a prohibition on accepting a work or service pursuant to paragraph 5.

(5) A legal person or a natural person who is an entrepreneur may not accept a work or service supplied or provided pursuant to a contract by a legal person or natural person (hereinafter referred to as a "service provider") through a natural person that they illegally employ, where it is

- a) cross - border provision of service for a period exceeding five days within a period of 12 months from the first provision of the service or
- b) national labour supply or cross-border supply of labour.

(6) The service provider shall be obliged, at the request of the legal person or the natural person who is the entrepreneur, to whom they deliver the work or provide the service pursuant to paragraph 5, to provide without delay to the necessary extent the documents and personal data of natural persons through whom they deliver the work or provide the service to ensure that a legal person or a natural person who is an entrepreneur may control that the service provider does not violation the prohibition of illegal employment.

(7) For the purposes of this Act the labour supply shall be deemed as:

- a) national labour supply, which is the temporary assignment of a natural person to work pursuant to a special regulation,<sup>24a)</sup>
- b) cross-border supply of labour, which is

1) the temporary assignment of a natural person from another country than the Slovak Republic to

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work to a user employer in the territory of the Slovak Republic

- 2) posting of a natural person from a state other than the Slovak Republic to the territory of the Slovak Republic performed between the controlling person and the controlled person<sup>24b)</sup> or between the controlled persons.

(8) The controlling authority shall impose a fine of between EUR 2000 and EUR 200 000 on a legal person or a natural person who is an entrepreneur in breach of the prohibition on accepting a work or service pursuant to Sec. 5 and, if two or more natural persons are present at the same time, at least EUR 5 000.

(9) A penalty pursuant to Sec. 8 may be imposed within two years from the day of discussion of the protocol on labour inspection result, and at the latest within three years from the day of violation of obligation.

(10) The penalty referred to in paragraph 8 may not be imposed on the legal person or natural person who is an entrepreneur and has already been imposed a penalty for the same offence by another controlling authority.

(11) The penalty shall be the revenue of the state budget.

### **Section 7c**

#### **Obligation to provide information**

(1) The inspection authority is required to inform a third country national who has been illegally employed pursuant to Sec. 2 par.1 in the conduct of an inspection of illegal work and illegal employment on his right to file a action<sup>25)</sup> if the agreed wage has not been paid, his right to claim the agreed wage and his right to be served the due wage in the country to which he returns or will be administratively expelled at the expense of a legal person; or a natural person who has been legally sanctioned for violating the prohibition of illegal employment pursuant to Sec. 2 par. 3.

(2) A legal person founded or established pursuant to a special regulation,<sup>26)</sup> the purpose of which is to protect the rights and interests of third country nationals may, by virtue of a power of attorney, represent the third country national in civil proceedings in order to protect their rights pursuant to this Act. If a legal person takes over a representation under the first sentence, they shall empower their member or an employee to act as a representative on the behalf of a principal.

### **Section 7ca**

#### **Temporary provision on regulations effective as of 1, January 2018**

Violation of the prohibition of illegal employment pursuant to Sec. 2 par. 2 letter b) effective until 31 December 2017 by a legal person or a natural person who is an entrepreneur, for the purposes of maintaining a central publicly accessible list of natural and legal persons, who violated the prohibition of illegal employment, and for the purpose of demonstrating that the conditions stipulated in special regulations on the basis of their written application filed with the National Labour Inspectorate, is not consider as the violation of the prohibition of illegal employment by the expiry of 15 days from the date of receipt of this request provided that legal person or natural person, who is an entrepreneur and who used the dependent work of a natural person, has registered such natural person in the register of insured persons and pensioners of old age pension saving within seven days of the expiry of the period pursuant to a special regulation for the

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registration to this register, but at the latest until the start of the inspection of illegal work and illegal employment, provided the inspection commenced within seven days from the expiry of the period pursuant to a special regulation for the registration to this register.

### **Section 7d Final provision**

This Act takes over the legal binding acts of the European Union listed in Annex.

#### **Article II**

Act no. 231/1999 Coll. on the state aid, as amended by Act No. 434/2001 Coll., Act No. 461/2002 Coll. and Act No. 203/2004 Coll. is amended as follows:

Sec. 2 is supplemented by paragraph 4, which reads as follows:

"(4) The provider shall not provide state aid to an entrepreneur who has violated the prohibition of illegal employment pursuant to a special regulation<sup>8a)</sup> for five years from the date of the negotiation over the protocol on the outcome of inspection. The entrepreneur demonstrates that the prohibition of illegal employment for the purpose of granting state aid has not been violated by a certificate of the relevant labour inspectorate not older than three months."

Note related to reference 8a reads as follows:

"8a) Act No.82/2005 Coll. on illegal work and illegal employment and on amendment of certain acts."

#### **Article IV**

Act No. 311/2001 Coll. the Labour Code, as amended by Act No. 165/2002 Coll., Act No. 408/2002 Coll., Act No. 413/2002 Coll., Act No. 210/2003 Coll., Act No. 461/2003 Coll., Act No. 5/2004 Coll. and Act No. 365/2004 Coll. is amended as follows:

1. In Sec. 130 par. 5 the second sentence reads as follows: "The information on the total cost of labour shall comprise of the sum of the wage and the reimbursement of the premium for health insurance, social security and the payment of the old-age pension savings paid by the employer."
2. insurance, social security and the payment of the old-age pension savings paid by the employer."
3. In Sec. 224 par. 2 letter c) the full stop shall be replaced by a comma and the letters d) and e) are added, which read as follows:
  - d) to keep records of agreements on works performed outside employment relationship in the sequential order of their conclusion,
  - (e) keep records of the working time of employees who perform work on the basis of an Agreement on the Temporary Job of Students.
4. In Sec. 244 par. 4 at the end of the first sentence, the full stop is replaced by a semicolon and the following words are added:

"where employee representatives do not operate at the employer, employees directly elect the members of the special negotiating body from the employees of the employer in a joint negotiation."
5. In Sec. 247 par.1 reads as follows:

"(1) The European Works Council shall elect representatives of employees from the employees of the employer in a joint negotiation. The members of the European Works Council

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for employees employed in the Slovak Republic shall appoint representatives of employees of the employer in joint negotiations; where employee representatives do not operate at the employer, employees shall elect an employee representative to attend the joint negotiation on their behalf. The distribution of votes in the joint negotiation shall be determined proportionally by the number of employees represented. "

## Article VI

Act No. 461/2003 Coll. on social insurance as amended by Act No. 551/2003 Coll. Act No. 600/2003 Coll., Act No. 5/2004 Coll., Act No. 43/2004 Coll., Act No. 186/2004 Coll., Act No. 365/2004 Coll., Act No. 391/2004 Coll., Act No. 439/2004 Coll., Act No. 523/2004 Coll. and Act No. 721/2004 Coll. is amended as follows:

1. In Sec. 226 par. 1 letter e) at the end the comma is replaced with a semicolon and the following words are added:  
"The register of insured persons and pensioners of old-age pension saving includes for the purposes of Sec 231 par. 1 letter b) also employees pursuant to Sec. 4 par. 2 ":
2. In Sec. 231 par. 1 letter b) reads as follows:  
"b) to register in the register of insured persons and pensioners of old-age pension savings
  1. an employee pursuant to Sec. 4 par. 1 for sickness, pension and unemployment insurance before the commencement of such insurance, not later than before commencing the activity of the employee, to withdraw the employee pursuant to Sec. 4 par. 1 no later than the day following the termination of such insurance, terminate the registration to the register of insured person and pensioners of the old-age pension savings, if the insurance relationship pursuant to Sec. 20 has not incurred and to inform on the alteration in the data referred to in Sec. 232 par. 2 letters a) to c),
  2. an employee pursuant to Sec. 4 par. 2 for the purposes of insurance against accidents and for the purposes of a special regulation<sup>100b)</sup> prior to the commencement of labour-law relationship, to withdraw the employee pursuant to Sec.4 par.2 from the register of insured persons and pensioners of old-age pension saving no later than the day
  3. following the termination of labour-law relationship, to cancel the registration in the register of insured persons and pensioners of old-age pension saving, if the employment relationship pursuant to a special regulation has not incurred and to inform on the alteration in the data referred to in Sec. 232 par 2 letters a) and b), "

Note related to reference 100b reads as follows:

"100b) Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on amendment of certain acts:".

4. In Sec. 231 par. 3, the words "of paragraph 1 letters a) to f), h) to j) and m) "shall be replaced by" paragraph 1 letters a), c) to f), h) to j) and m) ", and the following sentence is added at the end: "The time period for fulfilling the obligation pursuant to paragraph 1 letter b) shall be preserved even if the form has been sent by fax or electronic mail within the prescribed period or if the information referred to in paragraph 1 letter b) has been sent via a short text message (SMS). "
5. In Sec. 231 par. 4 the following sentence is added at the end: "The employer shall be obliged to confirm the information sent by of a short text message (SMS) on a form prescribed by the Social Insurance Company no later than three days following the date of its posting to the Social



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Insurance Company."

6. In Sec. 233 par. 12, the words "The competent authority pursuant to a special regulation" shall be replaced by "Office of Labour, Social Affairs and Family" and the following shall be added at the end: "The Office of Labour, Social Affairs and Family is obliged to inform the register of insured persons and pensioners of the old-age pension saving the registration of a natural person in the register of job-seekers on the date of receipt of the application for inclusion in the register of job-seekers and their withdrawal from the register of job-seekers on the day of issuance of decision on the withdrawal from the job-seekers register. The time period for fulfilling the obligation pursuant to the previous sentence shall be preserved even if the form has been sent by fax or electronic mail within the prescribed period."
7. Sec. 293c shall be inserted after Sec. 293b which reads as follows:

#### **„Section 293c**

The employer who concluded with the employee referred to in Sec. 4 par. 2 the labour-law relation prior to 1 April, 2005 and the labour-law relation continues, shall be required to register such an employee in the register of insured persons and pensioners of old-age pension saving no later than 31 May, 2005."

#### **Article VII**

Act No. 453/2003 Coll. on state administration bodies in the field of social affairs, family and employment services and on the amendment of certain acts as amended by Act No. 5/2004 Coll. is supplemented as follows:

In Sec. 5 par. 7. the following letter d) is inserted after the letter c), which reads as follows:

"d) tries offences pursuant to a special regulation, 5a)".

The hitherto letter d) is referred to as letter e).

Note related to reference 5a reads as follows:

„5a) Sec.7 of the Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on amendment of certain acts:"

#### **Article VIII**

Act No. 5/2004 Coll. on Employment Services and on amendments to certain acts, as amended by Act No. 191/2004 Coll., Act No. 365/2004 Coll., Act No. 585/2004 Coll., Act No. 614/2004 Coll. and Act No. 1/2005 Coll. is amended as follows:

1. In Sec. 6 par. 2 letter d) reads as follows:

"d) performs a earning activity of no more than 64 hours per month and whose wage or remuneration for performing this activity does not exceed SK 3 200 per month, while personal activity is considered to be based on a labour-law relation pursuant to a special regulation<sup>5)</sup> or other legal relationship pursuant to special regulations<sup>13a)</sup>, evidence of the number of hours worked and the amount of the wage or remuneration shall be provided by the job-seeker at the request of the Office."

Note related to reference 13a reads as follows:

"13a) For example, the Commercial Code, the Civil Code.

2. In Sec. 12 letter m) at the end of the comma is deleted and the following words are added: "and to inspect illegal work and illegal employment pursuant to a special regulation; <sup>18a)</sup> to

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report on the cases of illegal work and illegal employment to the relevant labour inspectorate, the Social Insurance Agency and, in the case of an alien who has performed the illegal work, also the Police Force department.

Note related to reference 18a reads as follows:

“18a) Act No. 82/2005 Coll. on Illegal Work and Illegal Employment and on amendment of certain acts:“.

3. In Sec. 12 letter s) reads as follows:

“s) to keep a central register<sup>18b)</sup> of data on taking up and termination of employment of a citizen of a Member State of the European Union and its family members and to keep a central register<sup>18b)</sup> of data on taking up and termination of employment of an alien for whom an employment permit is not required pursuant to Section 22 par. 7,“.

Note related to reference 18b reads as follows:

“(18b) Council Regulation (EEC) No 311/76 of 9 February, 1976 on the compilation of statistics on foreign workers (OJ of the EU L 039, 14. 2. 1976).“.

4. In Sec. 12 letter v) reads as follows:

“v) to keep a central register<sup>18b)</sup> of the work permits issued to aliens and keep a central register<sup>18b)</sup> of data referred to in Section 23 par. 9,“.

5. Sec. 12 is supplemented by the letters w) and x), which read:

“w) decide on the imposition of a penalty,

x) to cover the expenses on healthcare performance pursuant to Section 20a. “.

6. In Sec 13 par. 1, letter e) is supplemented by the fourth point, which reads as follows:

“4. on the imposition of a penalty, “.

7. In Sec. 13 par. 1 the following letter f) is inserted after the letter e), which reads as follows:

“f) to try offences pursuant to a special regulation,<sup>18a)</sup>“.

Hitherto letters f) to d) are referred to as g) to e).

8. In Sec. 13 par. 1 letter r) at the end the comma is deleted and the following words are added: „and to inspect illegal work and illegal employment pursuant to a special regulation<sup>18a)</sup> to report on the cases of illegal work and illegal employment to the relevant labour inspectorate, the Social Insurance Agency and, in the case of an alien who has performed the illegal work, also the Police Force department.

9. In Sec. 13 par. 1 letter u) reads as follows:

“u) inform the Social Insurance Company of the data in the register of insured persons and pensioners of old-age pension saving pursuant to a special regulation,<sup>20a)</sup>“.

Note related to reference 20a reads as follows:

20a) Sec. 233 par. 12 of Act No. 461/2003 Coll. as amended by Act No. 82/2005 Coll.

10. In Sec. 13 par. 3 the introductory sentence reads as follows: "The competence of the Office in the employment of a citizen of a Member State of the European Union and of its family members and an alien includes".

11. In Sec. 13 par. 3 letter b) after the words "the work permit", the comma shall be inserted and words "and inform the Central Office of the number of work permits granted for the reported month no later than the 20th day of the following calendar month" shall be deleted.

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12. In Section 13, paragraph 3, is supplemented by letters c) and d), which read as follows:

„c) to keep records of 18b)

1. data on taking up the employment and termination of employment of a citizen of a Member State of the European Union and of their family members,
2. data on taking up the employment and termination of employment of an alien whose employment does not require work permit pursuant to Sec. 22 par. 7,
3. work permits issued to aliens,
4. data referred to in Sec. 23 par. 9

d) inform the Central Office of the number of permits for employment issued to aliens and the data specified in Section 23 par. 8 and 9 for the reported month no later than the 20th day of the following calendar month. “.

13. In Sec. 19 par. 3 the words "or not terminated the participation on active labour market measures and on activation activities" shall be inserted after the word "activities".

14. Sec. 19 is supplemented by paragraphs 11 to 13, which read as follows:

"(11) Medical assessment activity for the purposes of this Act also includes the inspection of the procedure for the assessment of the job-seeker ability to work and the inspection of the treatment regime of the job-seeker during their temporary incapacity to work. In inspecting the compliance with the treatment regime by the job-seeker during their temporary incapacity to work, the medical assessor cooperates with the attending physician pursuant to a special regulation.<sup>22aa)</sup>

(12) The inspection of the observance of the treatment regime of a job-seeker temporarily incapable of working includes the exercise of inspection in the dwelling of a temporarily incapable job-seeker with their consent or at the place where there is a presumption that a temporarily incapable job-seeker resides.

(13) The employee of the Office in the inspection of the observance with the treatment regime pursuant to Sec. 12 shall be obliged to demonstrate to a job-seeker temporarily

incapable of working the authorisation to perform the inspection.“.

Note related to reference 22aa reads as follows:

"22aa) Act No. 576/2004 Coll. on Health Care, on Services related to the provision of Health Care and on amending and supplementing certain laws. “.

15. The following Sec. 20a shall be inserted after Sec. 20, which reads as follows:

#### **“ Section 20a**

Health performance for the purposes of assessing the health capability of the job-seeker is the issuance of a certificate of the existence of temporary incapacity for work. “.

16. In Sec. 22 par. 7. The following letters b) and c) shall be inserted after the letter a), which shall read as follows:

"b) who has been granted a temporary residence permit for the purpose of family reunification and enters into a labour-law relation or similar labour relation shall be permitted by a

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special law, <sup>24a)</sup>

(c) who has been granted a temporary residence permit for the purpose of activities in accordance with the specific programs,<sup>24b)</sup>“.

Hitherto letters b) to n) are referred to as letters d) to p).

Notes related to reference 24a and 24b reads as follows:

24a) Section 23 of Act No. 48/2002 Coll. as amended.

24b) Section 22 of Act No. 48/2002 Coll. as amended by Act No. 606/2003 Coll.

17. In Sec. 23 par. 8 reads as follows:

"(8) The employer shall be obliged to inform in writing the Office on the commencement of employment and the termination of the employment of a citizen of a Member State of the European Union and of their family members and on entering and termination of the employment of an alien who is not required to work permit pursuant to sec. 22 par. 7, not later than seven working days from the date of commencement of employment and no later than seven working days from the cessation of employment. “.

18. Sec. 23 is supplemented by paragraph 9, which reads as follows:

"(9) The employer shall be obliged to inform the Office in writing within seven working days in writing if the alien who has been granted a work permit has not taken up employment or his employment has ceased prior to the expiry of the period stipulated in the work permit.“.

19. In Section 28, letter b) reads as follows:

"(b) to provide a Central Office

1. with data on the extent and structure of employments intermediated for remuneration and persons subject to employment intermediated for remuneration with the state to the last day of the calendar month at latest to the tenth day of the following calendar month on forms, the content and method of presentation of which shall be determined by the Central Office,
2. report on its activity once a year, “.

20. In Sec. 33 par. 1 the word "nationality" shall be inserted after the words "date of birth".

21. In Sec. 34, new paragraphs 9 and 10 are inserted after the paragraph 8, which read as follows:

"(9) A job-seeker who submits a certificate of temporary incapacity for work shall not be required to be available to the Office pursuant to paragraph 6 and the periodicity of visits pursuant to paragraph 8 within the period of temporary incapacity for work shall not be determined.

(10) A job-seeker who submits evidence of the expected date of birth shall not be required to be available to the Office pursuant to paragraph 6 and the periodicity of visits pursuant to paragraph 8 from the beginning of the sixth week preceding the expected date of birth and for six weeks after the birth shall not be determined.“.

Hitherto paragraphs 9 and 10 are referred to as paragraphs 11 and 12.

22. In Sec. 36 par. 2 the new letter b) shall be inserted after the letter a), which reads as follows:

“b) taking-up the employment,“.

Hitherto letters b) to d) are referred to as c) to e).

23. In Sec. 36 par. 4 the introductory sentence reads as follows: "For a grave reason pursuant to

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paragraph 2 letter c) and paragraph 5 letter b) to d) shall be deemed, “.

24. In Sec. 36 par. 4 letter b) the full-stop at the end shall be replaced by a comma and the letter c) shall be supplemented, which reads as follows:

"c) the temporary incapacity for work of a job-seeker whose commencement and termination is proved to the Office by the certificate of temporary incapacity for work within three days from the date of issuance of the certificate of temporary incapacity for work and the day following the cessation of the temporary incapacity for work.

25. In Sec. 36 par. 5 in the introductory sentence, the words "of the paragraph 2 letter c) "shall be replaced by" of the paragraph 2 letter d) ".

26. In Sec. 36 par. 5 letter b) and c) the words "without grave reasons" are added to the end.

27. Sec. 36 is supplemented by paragraph 7, which reads as follows:

"(7) The certificate of temporary incapacity for work submitted within three days from the date of issuance thereof shall be the excuse of the job seeker who did not appear at the Office or at a place designated by the Office for purposes pursuant to Section 34 par. 8 provided the temporary incapacity for work pertains at that time."

28. After Sec. 41 the Sec. 41a is inserted, which reads including the title as follows:

#### **“ Section 41a**

#### **Records of employment of some groups of employees**

Records<sup>18b)</sup> of data on the employment of a citizen of a Member State of the European Union and their family members and records<sup>18b)</sup> of data on the employment of an alien include, in particular, the forename, name, date of birth, gender, education, nationality, sector, type of work performed and place of work.“.

29. In Sec. 56 par. 1, the words "in comparison with the established costs of creating a job position for a job-seeker who is not a disabled person pursuant to Sec. 9 par. 1 letter a) “ are deleted.

30. In Sec. 56 par. 4 letter d) reads as follows:

"d) payments for the leasing of a motor vehicle for a maximum of three years.”

31. In Sec. 56, the paragraph 7 is deleted.

Hitherto paragraphs 8 to 13 are referred to as paragraphs 7 to 12.

32. In Sec 56 par. 11, the words "in paragraphs 9 and 10" shall be replaced by "in paragraphs 8 and 9".

33. In Sec. 65, a new paragraph 3 is added after paragraph 2, which reads as follows:

"(3) The relevant branch of the Social Insurance Company shall be obliged to provide the Office with data from the register of employers necessary for the purpose of assessing the fulfilment of the employer's obligation pursuant to paragraph 1 in the scope and manner specified by the Central Office.”.

Hitherto paragraph 3 is referred to as paragraph 4.

34. In Section 68, new paragraphs 4 to 6 are inserted after paragraph 3, which are as follows:

"(4) Inspecting activities pursuant to paragraph 3 include, in addition to the authorisations of inspection authorities pursuant to special regulations<sup>62)</sup> also authorisations

- a) to access freely at any time to workplaces subject to the inspection of illegal work and illegal

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employment and, to the extent necessary, access to private land and communications,

- b) require to prove the identity of the natural person present at the employer's place of work and an explanation of the reason for her presence.

(5) Employee of a legal person or a natural person who is an entrepreneur and hinders the execution of an inspection of illegal employment, may be imposed a penalty by the Central Office and Office from SKK 500 to SKK 20,000, even repeatedly, provided the obligation has not been fulfilled within the new time period.

(6) The Police Force shall be obliged to provide the inspection authority, at their request, with the cooperation and protection<sup>62a</sup> in conducting the inspection activity; cooperation and protection may be requested if it is reasonably foreseeable to endanger the life or health of the person performing the inspection activity or hindering the performance of the inspection activity. "

Hitherto paragraph 4 is referred to as paragraph 7.

Note related to reference 62a reads as follows:

"62a) Sec. 2 par. 2 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on police forces."

35. Sec. 68 is supplemented by paragraph 8, which reads as follows:

"(8) Within the inspection pursuant to Section 19 par. 11 shall be treated in the same way as for the inspection of the observance of the treatment regime of an insured person temporarily incapable for work pursuant to a special regulation.<sup>15)</sup>"

36. After Sec. 68 the Sec. 68a is inserted, which reads including the title as follows:

#### **„Section 68a Administrative Offences**

(1) Central Office and Office shall be entitled to impose a penalty

- a) on the employer for breaching the obligations pursuant to this Act up to SKK 1 000 000,  
b) on a legal person or a natural person who is an entrepreneur, for illegal employment pursuant to a special regulation<sup>18a)</sup> up to SKK 1 000 000.

(2) The Central Office and the Office shall, when imposing a penalty pursuant to paragraph 1, take into account the gravity of deficiencies identified and the gravity of their consequences.

(3) The penalty may be imposed within a period of one year from the date on which the Central Office and the Office became aware of the violation of such obligations, but no later than three years from the date of the violation.

(4) The penalty referred to in paragraph 1 letter b) cannot be imposed if a penalty has already been imposed on the inspected entity for the same offence by other authorities authorized to perform an inspection pursuant to special regulations.

(5) The penalty shall be the revenue of the state budget."

37. In Sec. 69 par. 1 letter a) reads as follows:

"a) the maximum amount of the payment for services related to the intermediation of employment pursuant to Sec. 25 par. 3 "

38. In Sec. 70 par. 1, the words "Sec. 12 letters j) and n)" shall be replaced by "Sec. 12 letters j), n)

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and w) ".

39. In Sec. 70, the paragraph 2 is deleted.

Hitherto paragraphs 3 to 11 are referred to as paragraphs 2 to 10.

#### **Article IX**

Act No. 576/2004 Coll. on health care, on services related to the provision of health care and on amending and supplementing certain laws is supplemented as follows:

In Sec. 25 par. 1 the new letter g) is inserted after the letter f), which reads as follows:

“g) an assessment physician of the Office of Labour, Social Affairs and Family for the purpose of medical assessment activity pursuant to a special regulation<sup>38a</sup>) in the full extent,”.

Hitherto letters g) to i) are referred to as h) to j). Note related to reference 38a reads as follows:

„<sup>38a</sup> Section 19 of Act No. 5/2004 Coll. as amended by Act No. 82/2005 Coll.”

#### **Article X**

This Act shall enter into force on 1 April 2005, with the exception of the provisions of Article II and Article V, which shall enter into force on 1 February 2006.

**Ivan Gašparovič undersigned**

**Pavol Hrušovský undersigned**

**Mikuláš Dzurinda undersigned**

## THE LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION

Directive 2009/52 / EC of the European Parliament and of the Council of 18 June 2009 stipulating minimum standards on sanctions and measures against employers of illegally staying third-country nationals in the territory of the Member States (OJ L 168, 30.6.2009).

- 1) For example, Act No. 455/1991 Coll. on trade licensing (Trade Act), as amended, Commercial Code.
- 2) Act No. 311/2001 Coll., Labour Code as amended.  
Act no. 400/2009 Coll. on state service and on amendments and supplements of certain acts as amended.
- 4) Sec. 21, par. 1 of Act No. 5/2004 Coll. on employment services and on amendments and supplements of certain acts as amended.
- 6) Sec. 231, par. 1 letter b) of Act No. 461/2003 Coll. on social insurance as amended by Act No. 82/2005 Coll.
- 8) Act No. 404/2011 Coll. on the stay of aliens and on the amendment and supplement of certain acts, as amended by Act No. 75/2013 Coll.  
Act No. 480/2002 Coll. on asylum and on amendments and supplements of certain acts, as amended.
- 8a) Act No. 461/2003 Coll., as amended.  
Act No. 328/2002 Coll. on the social security of police officers and soldiers and on the amendment and supplement of certain acts as amended.
- 8b) Sec. 58 par. 1 letter c) of Act No. 455/1991 Coll. as amended by Act No. 136/2010 Coll.
- 9) Act No. 167/2008 Coll., on periodical press and agency news and on amendments and supplements of certain acts (Press Act) as amended by Act No. 221/2011 Coll.  
Act No. 147/2001 Coll. on advertising and on amendments and supplements of certain acts, as amended by Act No. 23/2002 Coll.
- 10) For example, Act No. 455/1991 Coll., as amended, Act No. 461/2003 Coll., as amended, Act No. 581/2004 Coll. on health insurance companies, health care supervision and amendments and supplements of certain acts, as amended by Act No. 719/2004 Coll.  
Act No. 576/2004 Coll. on health care, services related to the provision of Health Care and on the amendment and supplement of certain acts.
- 10a) Sec. 12 letter ad) and Sec. 13 par. 1 letter e) fifth point of Act No. 5/2004 Coll., as amended by Act No. 223/2011 Coll.  
Sec. 7 par. 3 letter s) of Act No. 125/2006 Coll., on labour inspection and on the amendment and supplement of the Act No. 82/2005 Coll., on illegal work and illegal employment, and on amendments and supplements of certain acts as amended.
- 11) Sec. 235 of Act No. 461/2003 Coll. As amended by Act No. 43/2004 Coll.
- 12) Act no. 428/2002 Coll. on the Protection of Personal Data as amended.



- 13) For example, Sec. 68a par.1 letter b) of Act No. 5/2004 Coll. As amended, Sec. 8a par.4 letter d) of Act No. 523/2004 Coll. on the financial rules of the public administration and on amendments and supplements of certain acts as amended, Sec. 26 par. 1 letter g) of Act No. 25/2006 Coll. on public procurement and on amendments and supplements of certain acts as amended by Act No. 232/2008 Coll., Sec. 19 par.2 letter a) the first point of Act No. 125/2006 Coll. as amended.
- 14) The Act of the Slovak National Council no. 372/1990 Coll. on civil offences as amended.
- 15) Act No. 461/2003 Coll., as amended.
- 16) Act No. 43/2004 Coll. on old-age pension savings and amendments and supplements of certain acts as amended.
- 17) Sec. 5 par. 2, Sec. 12 par. 2, Sec. 13 par. 3 and Sec. 14 of Act No. 650/2004 Coll. on supplementary old-age savings and on amendments and supplements of certain acts as amended.
- 18) Act No. 580/2004 Coll. on health insurance and amendments and supplements of Act No. 95/2002 Coll. on insurance and on amendments and supplements of certain acts as amended.
- 19) Act No. 563/2009 Coll. on tax administration (Tax Code) and on amendments and supplements of certain acts as amended.  
Act No. 461/2003 Coll., as amended. Act No. 43/2004 Coll., as amended. Act No. 650/2004 Coll., as amended.  
Act No. 580/2004 Coll., as amended.
- 20) Part Four of Act No. 404/2011 Coll. As amended by Act No. 75/2013 Coll.
- 21) Act No. 663/2007 Coll. on minimum wage as amended.
- 22) Sec. 40 par. 9 of Act No. 311/2001 Coll. as amended.
- 23) Sec. 23a par. 1 and 2 of Act No. 5/2004 Coll. as amended by Act No. 223/2011 Coll.
- 24) Act of the National Council of the Slovak Republic No. 233/1995 Coll. on executors and executing activities (the Execution Code) and on the amendment and supplements to other acts as amended.
- 25) Sec. 150 of Act No. 311/2001 Coll. as amended by Act No. 124/2006 Coll.
- 26) Act No. 83/1990 Coll. on association of citizens, as amended.  
Act No. 147/1997 Coll. on non-investment funds and on the supplement of the Act of the National Council of the Slovak Republic No. 207/1996 Coll. as amended.  
Act no. 213/1997 Coll. on non-profit organizations providing generally beneficial services as amended.  
Act No. 34/2002 Coll. on foundations and on the amendment of the Civil Code as amended.