

REPORT
on the Free Movement of Workers
in Slovakia in 2006

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CHAPTER I. ENTRY, RESIDENCE AND DEPARTURE

The issues of entry, residence, and departure of foreigners into Slovakia are regulated in the Foreigners Act. In 2006, there were no changes of the Act, which would affect its enforcement in 2006. However, the Act was amended at the end of 2006, but the amended version came into force on 1 January 2007 only. As it did not affect application of the law in 2006, the recent amendments are dealt with under the section Draft Legislation below. In the section “texts in force” when commenting on the legislation present tense is used, although some of the provisions might not apply while writing this report, as they have been amended by the Act No. 693/2006, which came into force on 1 January 2007.

Directive 2004/38/EC was transposed into the Slovak legislation at the end of 2005 already by the Act. No 558/2005 amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended, which was adopted on 8 November 2005 and came into force on 15 December 2005. Transposed provisions of the Directive 2004/38/EC were therefore in Slovak Foreigners Act throughout the year, and all the provisions discussed below reflect the situation in Slovakia after transposition of the Directive 2004/38/EC.

A. Entry

Texts in force

zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov¹ – the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts (Foreigners Act)

Amendments of Foreigners Act:

- zákon c. 408/2002 Z. z. ktorým sa mení a dopina zákon c. 313/2002 Z. z. o verejnej službe v znení neskorších predpisov a zmene a doplnení niektorých zákonov² – the Act No. 408/2002 Amending the Act No. 313/2002 on Public Service as amended, and on Amendments of some Acts
- zákon c. 480/2002 Z. z. o azyle a o zmene a doplnení niektorých zákonov³ – the Act. No. 480/2002 on Asylum, and on Amendments of some Acts
- zákon c. 606/2003 Z. z. ktorým sa mení a dopina zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a dopina zákon c. 480/2002 Z. z. o azyle a o zmene a doplnení niektorých zákonov⁴ – the Act No. 606/2003 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and Amending the Act. No. 480/2002 on Asylum, and on Amendments of some Acts
- zákon c. 69/2005 Z. z. ktorým sa mení a dopina zákon c. 171/1993 Z. z. o Policajnom zbore v znení neskorších predpisov a o zmene a doplnení niektorých zákonov⁵ – the Act No. 69/2005 Amending Act No. 171/1993 on the Police Corps as amended, and on Amendments of some Acts
- zákon c. 474/2005 Z. z. o Slovákoch žijúcich v zahraničí a o zmene a doplnení niektorých zákonov⁶ – the Act No. 474/2005 on Slovak Nationals Living Abroad and on Amendments of some Acts

1 Collection of Laws (Zbierka zákonov), Vol. 23 (2002).

2 Collection of Laws (Zbierka zákonov), Vol. 160 (2002).

3 Collection of Laws (Zbierka zákonov), Vol. 184 (2002).

4 Collection of Laws (Zbierka zákonov), Vol. 247 (2003).

5 Collection of Laws (Zbierka zákonov), Vol. 32 (2005).

6 Collection of Laws (Zbierka zákonov), Vol. 190 (2005).

- zákon c. 558/2005 Z. z. ktorým sa mení a dopina zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a o zmene a doplnení niektorých zákonov⁷ - the Act No. 558/2005 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended
- zákon c. 693/2006 Z. z. ktorým sa mení a dopina zákon c. 48/2002 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a o zmene a doplnení niektorých zákonov⁸ – the Act No. 693/2006 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and on Amendments of some Acts

zákon c. 71/1967 Zb. o správnom konaní (správny poriadok)⁹ v znení neskorších predpisov – Act No. 71/1967 on Administrative Procedure (Administrative Order) as amended

zákon c. 145/1995 Z. z. o správnych poplatkoch¹⁰ v znení neskorších predpisov - the Act No. 145/1995 on Administrative Fees as amended

Article 5 (7) provides for different treatment of EEA nationals¹¹ in comparison to other foreigners with regard to their entry into Slovakia. According to this provision, Article 5 (1) (d)¹² and Article 4 (2) (b)¹³ do not apply to EEA citizens.

Consequently, citizens of the EEA are exempt from the obligation of demonstrating financial coverage of their stay, and showing documents about the purpose of the stay.

Possession of a travel document is required from an EEA citizen when entering the Slovak Republic. A travel document was considered either a passport or other public document, if acknowledged as a travel document by the Slovak Republic (e.g. identity card of an EU citizen).

According to Article 3 (1) of the Foreigners Act a foreigner (including EEA citizens) with permanent or temporary residence permit in Slovakia is allowed to enter Slovakia even if the validity of his/her travel document expired, or if the travel document was lost or stolen abroad.

According to Article 3 (2) of the Foreigners Act, visa is not required from a foreigner other than EEA citizen, if he/she possesses a valid document of a residence (long-term residence) in the EEA.

A residence of the foreigner with a valid document of a residence in the EEA must be an equivalent to a next residence permit¹⁴ according to Article 38 (1) (b). Under this provision, police department issues upon request of a foreigner next permit to the foreigner, who has got a temporary residence permit for the purpose of employment or business, or to a foreigner, who has got a temporary residence permit for the purpose of family reunification with the former one, or with a foreigner on permanent residence, if his/her temporary residence lasts at least five years before lodging an application.

With this, in line with Directive 2003/109/EC, a new term long-term residence was introduced.

⁷ Collection of Laws (Zbierka zákonov), Vol. 226 (2005).

⁸ Collection of Laws (Zbierka zákonov), Vol. 265 (2006).

⁹ Collection of Laws (Zbierka zákonov), Vol. 27 (1967).

¹⁰ Collection of Laws (Zbierka zákonov), Vol. 49 (1995).

¹¹ In Article 3 (2) of the Foreigners Act is provided, who is considered a citizen of European Economic Area when this notion is mentioned in the Act. Except for citizens of a Member state of the European Union, citizens of another contracting party of the EEA Treaty, and citizens of Switzerland are included.

¹² Article 5 (1) (d) provides: “A policeman is entitled to execute border control consisting of: ... (d) inspection of documents demonstrating the purpose of the stay and the financial coverage of the stay”

¹³ Article 4 (2) (b) provides: “At the execution of border control the foreigner is obliged, upon request: ... (b) prove financial coverage for the stay, in convertible currency, at least in the amount of half the minimal wage determined by a special regulation for each day of the stay; a foreigner younger than 16 years is obliged to prove the financial coverage for the stay of half the amount.”

¹⁴ Permanent residence permit for foreigners other than EEA citizens is granted either for a definite period of time – five years, and then is called first residence permit. After five years of first residence permit, or after five years of temporary residence permit have passed, permanent residence permit is issued for indefinite period of time and is called next residence permit (Article 34 (2) of the Foreigners Act).

As to the denial of entry, specific provisions related to EEA citizens and their family members can be found in the Foreigners Act. A policeman may deny entry of an EEA citizen and his/her family member only if he/she is an undesirable person; if there is a reasonable suspicion that he/she will endanger the security of the country, public order, or it is necessary for the protection of public health; or if he/she does not submit travel document or does not possess visa, if necessary (Article 6 (3)).

Before deciding on denial of entry, the policeman shall make it possible to EEA citizen and his/her family member, who cannot show his/her travel document, to get or obtain it in reasonable time, or to prove in other reliable way that he/she has the right of movement and residence (Article 6 (4)).

An undesirable person is a foreigner (including EEA citizens and their family members), who was administratively expelled or on which a punishment of expulsion in criminal procedure was imposed (Article 2 (d)). Problems with this regard might arise, if a foreigner concerned was expelled in the past for a reason, which cannot be subsumed under reasons for denial of entry provided for in actual legislation.

An appeal against denial of entry to a superior administrative body is according to Article 6 (8) possible, but without suspensive effect.

Provisions of the Act No. 558/2005, which came into force at the end of 2005 have eliminated several problematic issues with regard to entry of EEA citizens, however, as mentioned above, there are still some controversial issues left. More problems are, however, regarding entry of family members of EEA citizens, which are dealt with in Chapter V below.

Draft Legislation

On 6 December 2006, the Act No. 693/2006 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and on Amendments of some Acts was adopted. It came into force on 1 January 2007. This act redrafted all the provisions regarding entry and denial of entry of EEA citizens.

In the new wording of the Foreigners Act, there are no provisions regarding entry of EEA citizens. Regarding border controls, there is just a reference to the Regulation 2006/562/EC.

There is a new provision (Article 6 of the Foreigners Act¹⁵) regarding denial of entry of EEA citizens, however, substantially, there are no changes with regard to previous wording of the Foreigners Act. As in the previous wording, there are no specific provisions on what is understood under security of the State, public policy or public health.

There is no specific provision regarding appeal against denial of entry, therefore provisions of Administrative Order apply. According general administrative rules, an appeal has a suspensive effect.

Miscellaneous

As mentioned in the report for 2005, the order of the President of the Bureau of Border and Foreigners Police of the Police Corps on the implementation of the Foreigners Act was according to the Bureau of Border and Foreigners Police not public. However, the decision of

¹⁵ Article 6 of the Foreigners Act provides: "(1) A policeman may deny entry to a citizen of the European Economic Area or his/her family member only provided that

- (a) he/she is an undesirable person,
- (b) there is a reasonable suspicion that he/she would endanger security of the State, the public policy, or provided that it is necessary for protection of public health, or
- (c) provided that he/she cannot submit a travel document or does not have a visa when required.

- (2) Before taking a decision on denial of entry, a policeman shall allow a citizen of the European Economic Area and his/her family member, who cannot submit a travel document,

- (a) to obtain or secure a travel document within a reasonable time period, or
- (b) to prove in other reliable manner that he/she has the right to a free movement and stay."

the Bureau on the (no) publicity of the order was repealed by the Ministry of Interior, and the order can be made public upon request. The annex to the order No. 53/2005 is called Methodology for securing the procedure in issues of residence of foreigners at the territory of the Slovak Republic (Metodika na zabezpečenie postupu vo veciach pobytu cudzincov na území Slovenskej republiky). There are no provisions regarding entry of EEA citizens in the Methodology.

B. Residence

Texts in force

zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov – the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts (Foreigners Act) 16

zákon c. 71/1967 Zb. o správnom konaní (správny poriadok) v znení neskorších predpisov – Act No. 71/1967 on Administrative Procedure (Administrative Order) as amended

Title V of the Section III of the Foreigners Act regulates the residence of EEA citizens and their family members, and the Title V is named “Special provisions for the EEA citizen and his/her family member”.

EEA citizens are not obliged to register for residence permit. According to the wording of Article 45a (1):

“Residence of an EEA citizen intending to stay at the territory of Slovak Republic for more than three months, is considered as a first residence permit, if:

- (a) he/she is employed,
- (b) he/she is running a business,
- (c) he/she studies at public school or at a school recognized by the government, and has financial means to secure his/her stay and health insurance in Slovakia,
- (d) he/she has financial means to secure his/her stay and health insurance in Slovakia, or
- (e) there is assumption that he/she will be employed.”

Article 54 (4) provides:

“Should there be a reasonable fear that a citizen of the European Economic Area does not fulfil the requirements under Article 45a (1) and (5), a police department may verify their fulfilment.”

If a Union citizen who satisfies the conditions referred to in points (a), (b) or (c) of the Directive 2004/38/EC is accompanied by his/her family members – EEA citizens, it is questionable, if residence of those family members can be considered as a first residence permit too. It will be so, only if they have financial means to secure their stay and health insurance in Slovakia. If it is not the case, their residence cannot be considered as a first residence permit. However, as mentioned in miscellaneous below, there is a presumption that all EEA citizens fulfil requirements for registration.

There are no special provisions regarding treatment of job seekers in the law. According to Article 45a (1) (e) of the Foreigners Act, if there is an assumption that an EEA citizen will be employed, his/her residence at the territory of Slovakia is considered as a first residence permit.

The EEA citizen may, according to Article 45a (2), apply for registration of the first residence permit. The police department will not accept the application, if the applicant will not submit a travel document, or if he/she is an undesirable person.

Confirmation on registration of the first residence permit is issued at the day of application for registration.

16 For amendments of the Foreigners Act, see this Chapter’s Section A.

According to paragraph 6 of Article 45a, the Administrative Order does not apply to the issue of confirmation on registration of the first residence permit. As no procedure on remedies incorporated in the Foreigners Act exists, there is no possibility to challenge the decision on non acceptance of an application for registration of the first residence permit in an ordinary administrative procedure. Complaint to a court against final and effective decision on denial of entry is available only.

According to Article 45a (4), residence of an EEA citizen on the basis of the first residence permit expires, when:

- a) he/she notifies the police department in written form about the termination of permanent stay,
- b) he/she was expelled in the administrative procedure, or
- c) he/she acquired citizenship of Slovak Republic.

Residence of an EEA citizen on the basis of the first residence permit will retain, if the reason for termination of the employment was occupational disease or work accident, or if he/she cannot temporarily run business because of injury or disease. Residence of an EEA citizen on the basis of the first residence permit will also retain, if the person concerned is involuntarily unemployed, and he/she was employed for more than one year and is registered as a job applicant; if the person concerned is involuntarily unemployed and finished his employment agreed for less than one year or his employment was finished during first two months and he/she is registered as a job applicant; if the person concerned is involuntarily unemployed and is undergoing special education, or; if the person concerned is voluntarily unemployed and is undergoing special education related to previous employment. Residence of an EEA citizen on the basis of the first residence permit will also retain, if the person concerned is voluntarily unemployed and is undergoing special education related to previous employment (Article 45a (5)).

If an EEA citizen is not a worker anymore, and he/she is temporarily unable to work as the result of an illness or accident, and it is not a occupational disease or work accident, which was the reason for termination of the employment, according to the Slovak law, such EEA citizen will lose his/her residence on the basis of the first residence permit in Slovakia. This does not seem to respect the wording of the Article 7 (3) of the Directive 2004/38/EC.

Right of Permanent Residence

According to Article 45c (1):

“Residence of an EEA citizen should be considered as a residence on the basis of next permit, if the EEA citizen:

- (a) resides continuously for at least five years;
- (b) resides continuously for at least three years and his/her residence is considered as a residence on the basis of the first residence permit and during this residence he/she was employed or ran business for at least 12 months and fulfilled conditions for pension or early pension; the condition of continuous residence is not required, if the EEA citizen is spouse of Slovak citizen or of a foreigner, who lost Slovak citizenship, because of a marriage with this foreigner;
- (c) resides continuously for more than two years and his/her residence is considered as a residence on the basis of the first residence permit and the reason for termination of his/her employment or business was permanent inability to work or run business; the condition of continuous residence is not required, if the EEA citizen became during his/her residence entitled to disability pension because of occupational disease or work accident, or if the EEA citizen is spouse of Slovak citizen or of a foreigner, who lost Slovak citizenship, because of a marriage with this foreigner;
- (d) is employed or runs business in another EEA country and at least once a week returns to Slovakia, whereas he/she stayed continuously and was employed in Slovakia before at least for three years;
- (e) is a family member of EEA citizen, with whom he/she was staying in Slovakia and who acquired the right of permanent residence according to paragraph 1 (b) to (d); or
- (f) is a mourner of EEA citizen, with whom he/she was staying in Slovakia and who was employed or ran business

1. continuously for at least two years before dying,

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2. and died because of work accident or occupational disease, or
3. and lost Slovak citizenship because of marriage with the EEA citizen concerned.”

There is a discrepancy between Article 17 (1) (b) of the Directive 2004/38/EC and Article 45c (1) (c) of the Foreigners Act, and also between Article 17 (2) of the Directive 2004/38/EC and Article 45c (1) (b) and (c) of the Foreigners Act. Whereas the Directive is speaking about the condition of length of residence, which shall not be imposed in particular cases; the Foreigners Act is in the same context providing for condition of continuity instead of length.

The EEA citizen may, according to Article 45c (2), apply for registration of next residence permit. Documents proving facts provided in Article 45c (1) shall be submitted with the application together with a travel document.

The residence of EEA citizen on the basis of next permit expires for the same reasons as the residence on the basis of first permit, or if a citizen of EEA is not staying in Slovakia for two subsequent years (Article 45c (4)).

According to proposed Article 54 (4), the police department may check the fulfilment of the conditions embodied in Article 45a (1) and (5), if there is well-founded doubt that the EEA citizen is not fulfilling them.

Draft legislation

On 6 December 2006, the Act No. 693/2006 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and on Amendments of some Acts was adopted. It came into force on 1 January 2007. No changes with regard residence of EEA citizens were made.

Miscellaneous

Part IV of the Methodology for securing the procedure in issues of residence of foreigners at the territory of the Slovak Republic governs the issues of residence of EEA citizens. According to the Methodology, there is a presumption that an EEA citizen always fulfils requirements for first registration and for retention of the right to residence. Verification of the requirements takes place in extreme cases only, if the EEA citizen lives evidently in material poverty (e.g. homeless, beggar, etc.). According to the Methodology, in such cases, an EEA citizen can be expelled without stating the time for expulsion, which means that he/she can return any time to Slovakia.

C. Departure

Texts in force

zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov – the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts (Foreigners Act) 17

zákon c. 171/1993 Z. z. o Policajnom zbore¹⁸ v znení neskorších predpisov - the Act No. 171/1993 on the Police Corps as amended

According to the Article 57 (8) of the Foreigners Act, EEA citizens and third-country family members of EEA citizens can be expelled if they endanger security of the state, public order, or public health. Article 57 (8) provides:

¹⁷ For amendments of the Foreigners Act, see this Chapter's Section A.

¹⁸ Collection of Laws (Zbierka zákonov), Vol. 46 (1993).

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“A citizen of the European Economic Area and a favoured foreigner¹⁹ may be expelled only if they endanger security of the state, public order, or public health; this does not apply, if the disease endangering public health occurs more than three months from entry of the EEA citizen or favoured foreigner.”

According to Article 57 (9) of the Foreigners Act, EEA citizens and their family members with next permit may be expelled only on the basis of serious reasons of threat to the security of the country, or public order.

If an EEA citizen does not fulfil conditions laid down in Article 45a (1) (d) of the Foreigners Act, or if a favoured foreigner does not fulfil conditions laid down in Article 45b (1) (b), he/she can be expelled without having the period for prohibition of entry defined (Article 57 (10)).

An EEA citizen residing lawfully in Slovakia for more than ten years cannot be expelled, save the situation, if he/she constitutes a threat to the security of the country (Article 57 (11) (a)).

There are no detailed provisions on what is understood under security of the country and public order in the Foreigners Act. There is also no provision on what should be taken under consideration, when deciding on the expulsion. The provisions in Foreigners Act are vague, and leave a lot of space for discretion of police.

There is no specific provision on the duration of expulsion order with regard to EEA citizens and third-country family members of EEA citizens. Using analogy, the same duration, as when expelling other foreigners for reasons of endangering security of stay, public order or public health, shall be applied. According to the general provision (Article 57 (1) (a) (1)) on duration prohibition of entry for above mentioned reasons, the duration of foreigner's prohibited entry into Slovakia is ten years. Article 57 (1) (a) (1) provides:

“The police department shall administratively expel a foreigner and determine the duration of prohibited entry for ten years, if he/she endangers security of the state, public order, health ...”

In the situation, when the EEA citizen does not produce his valid identity card or passport, as envisaged in the ECJ judgement in case *Oulane*, he/she has to prove his/her identity in reliable way. This way of proving identity is regulated in Article 18 of the act No. 171/1993 on the Police Corps, and is valid also for Slovak citizens. If a foreigner does not prove his/her identity in reliable way, there is a reason for his/her expulsion.

However, according to Article 57 (8) to (10), the EEA citizen could be expelled only if he/she threatened security of the state, public order, or public health, or if he/she has no financial means to secure his/her stay and health insurance in Slovakia. In a particular case, the decision of the police department on possible expulsion would depend on their consideration of reliability of the proof of identity. When considering it, reasons for tracing of identity have to be taken into consideration (Article 18 (4) of the Act on Police Corps).

In general, a policeman is empowered to ask a person to prove his/her identity by showing an identification document.

According to Article 57 (13), paragraph 7 of the Article applies accordingly to an EEA citizen and a favoured foreigner.

Article 57 (7) provides:

“A police department can reduce the period of prohibition of stay according to paragraph 1, or not expel a foreigner, who has got a permanent residence permit, if the consequences of the action according to paragraph 1 were not appropriate to private and family life of a foreigner, length of his/her stay, his/her age, and his/her ties with the country of origin.”

There is no time limit for leaving the territory of the country stipulated in the law with regard to EEA citizens and their family members. General time limit in case of expulsion of a for-

¹⁹ A definition of a favoured foreigner is in the Article 45b (1) of the Foreigners Act cited in Chapter V.

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eigner is up to 30 days. The maximum time corresponds then to minimum time provided in the Article 30 (3) of the Directive 2004/38/EC.

According to Article 61 (2), the EEA citizen and his/her family member can ask for cancellation of the decision on administrative expulsion, if they have proofs confirming that significant change of circumstances, for which he/she was expelled, occurred.

Draft legislation

On 6 December 2006, the Act No. 693/2006 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and on Amendments of some Acts was adopted. It came into force on 1 January 2007.

The only change, which applies to EEA citizens with regard to departure, is a quite important procedural one. According to new wording of Article 57 (3) of the Foreigners Act, appeal against decision on expulsion does not have a suspensive effect. Before adoption of the Act No. 693/2006, only in cases when the reason for expulsion was unlawful entry, or unlawful residence, there was no suspensive effect of the appeal.

Article 57 (5) of the Foreigners Act as amended provides for a possibility to remain at the territory of Slovakia, but the decision about is fully under the discretion of police. Article 57 (5) provides:

“Should a foreigner stay on the territory of the Slovak Republic based on a residence permit, a police department may order to him/her at which place he/she should stay until finality of a decision on administrative expulsion”

Miscellaneous

There is no general clarification of terms security of the state, public order, or public health in the Methodology for securing the procedure in issues of residence of foreigners at the territory of the Slovak Republic. As an example of serious reasons of endangering security of the state or public order, conviction for particularly serious deliberate criminal offence is mentioned. Otherwise, just provisions from the Foreigners Act are repeated in the Methodology.

CHAPTER II. ACCESS TO EMPLOYMENT*Texts in force*

- zákon c. 5/2004 Z. z. o službách zamestnanosti a o zmene a doplnení niektorých zákonov²⁰ - the Act No. 5/2004 on Services of Employment and on Amendments of Some Acts
- zákon c. 578/2004 Z. z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov²¹ - the Act No. 578/2004 on Providers of Health Care, Health Service Workers, Professional Organisations in Health Care and on Amendments of Some Acts
- zákon c. 586/2003 Z. z. o advokácii a o zmene a doplnení zákona c. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov²² - the Act No. 586/2003 on Advocacy and on Amendment of the Act No. 455/1991 on Trade Business (Trade Act) as Amended
- zákon c. 477/2002 o uznávaní odborných kvalifikácií a o doplnení zákona Národnej rady Slovenskej republiky c. 145/1995 Z. z. o správnych poplatkoch v znení neskorších predpisov²³ - the Act No. 477/2002 on Recognition of Professional Qualifications and on Amendment of the Act of the National Council of Slovak Republic No. 145/1995 on Administrative Fees
- zákon c. 435/2000 Z. z. o námornej plavbe²⁴ – the Act No. 435/2000 on Maritime Navigation

Equal treatment in access to employment

The Act No. 5/2004 on Services of Employment as amended (Act On Services of Employment) regulates access to employment in Slovakia.

The Act On Services of Employment came into force on 1 February 2004 with the exception of provisions governing mediation of employment from Slovakia to EU and vice versa (Article 72(9)(10) of the Act On Services of Employment). One of the reasons for its adoption was the accession of Slovak Republic to the EU; Directives 76/207, 86/613, 91/383, 96/71, and 2000/78 were transposed with this act. This was not the only reason for adoption of this act. The main purpose of the act in issue is according to the explanatory report to the act is the necessity to modernize the execution of services of employment, necessity to create conditions for their flexible organisation and provision depending on different needs of job seekers.

According to this act, no work permit is required from citizens of a Member State of the European Union, citizens of EEA countries, citizens of Switzerland, and their family members.

Article 2 (2) of the Act On Services of Employment provides that: “Citizen of a Member State of the European Union, citizen of a state, which is a party to the Agreement on European Economic Area, and citizen of Swiss Confederation, and their family members, have the same legal position as citizens of Slovak Republic, if not stipulated otherwise.” There are no such provisions with regard to access to employment of individuals concerned.

Therefore, there is no formal provision, which would threaten the equal treatment in access to employment of Slovak citizens on one hand, and of EU, EEA and Swiss citizens on the other hand.

²⁰ Collection of Laws (Zbierka zákonov), Vol. 4 (2004).

²¹ Collection of Laws (Zbierka zákonov), Vol. 245 (2004).

²² Collection of Laws (Zbierka zákonov), Vol. 239 (2003).

²³ Collection of Laws (Zbierka zákonov), Vol. 182 (2002).

²⁴ Collection of Laws (Zbierka zákonov), Vol. 179 (2000).

The issue of possible reciprocal measures of Slovakia to those applied by a Member State of EU with regard to Articles 1 and 6 of the Council Regulation on free movement of workers is dealt with in Chapter VIII on EU enlargement.

Language requirement

There is no such condition for access to employment in general, as knowledge of Slovak language. Article 14 of the Act on Services of Employment provides that regarding the right for access to employment, no discrimination on the basis of language is permitted.

However, Article 31 (4) of the Act No. 578/2004 on Providers of Health Care as amended provides that a foreigner is required to know special terminology in Slovak language to the extent necessary for the execution of a medical profession. As there is no explanation of the term foreigner in the Act, EEA citizens seem to be considered as foreigners with this regard.

According to Article 5 of the Act No. 586/2003 on Advocacy as amended provides that in order to be enrolled in the List of Advocates in Slovakia, EEA citizens have to pass a qualification exam in Slovak, if they did not provide legal services in Slovakia for three years as Euroadvocates. However, there is no language requirement for enrolment into the List of Euroadvocates. The legal position of a Euroadvocate is the same as of an Advocate, subject to some restrictions regarding applying for positions in the Bar association.

Recognition of diplomas

Act No. 477/2002 on Recognition of Professional Qualifications as amended, which substantial part came into force on 1 May 2004, regulates the process of recognition of diplomas and professional qualifications.

It regulates conditions for recognition of diplomas, school reports, certificates and other documents on education issued by schools, or other competent authorities in accordance with law of the Member States of the European Union for purposes of execution of professions in Slovakia, which execution is subject to fulfilment of qualification prerequisites.

Procedure on recognition of professional qualifications is regulated in Articles 14 and 15 of the Act. Person concerned is obliged to submit identification document; verified copy of the documents on education; extract on subjects attended and exams executed, or appendix to the diploma; certificate on undergone praxis; other documents, if it requires special regulation. If necessary for judging the issue, other information and documents can be sought from the person concerned. Verified translation of documents on education into Slovak is needed.

Possible decisions are:

- recognition;
- partial recognition;
- refusal.

Decisions on partial recognition and on refusal have to be reasoned. In the decision on partial recognition, data on possible compensation mechanisms are included, in particular requested length of professional praxis; requested length of adaptation period including length of additional education, which forms part of it; professional areas, which will be included into examination on qualification.

Before deciding on requirement of examination of professional qualification or on attending of adaptation period, the relevant authority shall consider, if the knowledge of applicant acquired during his/her professional praxis, do not eliminate, fully or partly, fundamental differences in the content of education.

In general, provisions of the Administrative Order are applicable to the procedure on recognition of professional qualifications.

As regards medical professions, Annex 5 to the act No. 477/2002 provides for recognition of diplomas of medical doctors, pharmacists, nurses, and midwives. There is a list of

diplomas issued in EEA countries and in Switzerland and criteria for recognition of midwife education in the Annex.

According to Article 1 (3) of the act No. 477/2002, recognition of documents on specialisation in medical professions necessary for execution of medical professions is governed by a special act. The special act is act No. 578/2004 on Providers of Health Care, Health Service Workers, Professional Associations in Health Care, and on Amendments of some Acts as amended. This act is discussed in chapter XI.

Nationality condition for captains of ships

Act No. 435/2000 on Maritime Navigation as amended does not contain a requirement that the captain of Slovak ship has to be a Slovak citizen. There is just one provision on citizenship of the ship's crew, Article 10 (2), which provides:

“Crew of a maritime ship registered in the national maritime register is usually composed of citizens of the Slovak Republic.”

This provision is not saying that someone, who is not a Slovak citizen, cannot be a member of the ship's crew, but implies that Slovak citizens are preferred before other EEA citizens.

Draft legislation

The Act No. 477/2002 on Recognition of Professional Qualifications should be repealed in near future. There is a draft law in the legislative process, which should replace the existing law in this field. The main reason for the new law is the transposition of the Directive 2005/36/EC. The draft law was approved by the Slovak Government on 28 February 2007 and according to its current wording, it should enter into force on 20 October 2007. However, it has to be approved by the Slovak Parliament before.

CHAPTER III. EQUALITY OF TREATMENT ON THE BASIS OF NATIONALITY

Texts in force

- zákon c. 460/1992 Zb. Ústava Slovenskej republiky²⁵ – the Act No. 460/1992 Constitution of Slovak Republic
- zákon c. 5/2004 Z. z. o službách zamestnanosti a o zmene a doplnení niektorých zákonov v znení neskorších predpisov - the Act No. 5/2004 on Services of Employment and on Amendments of some Acts as amended
- zákon c. 595/2003 Z. z. o dani z príjmov²⁶ v znení neskorších predpisov – the Act No. 595/2003 on Tax from Incomes as amended

Working conditions, social and tax advantages

Article 36 (b) of the Constitution constitutes a general equal treatment provision with regard to working conditions. It provides:

“All employees shall have the right to fair and satisfactory conditions at work. The law shall provide in particular for:

...

b) the security from arbitrary dismissal and discrimination at work,...

The Act on Services of Employment comprises in its Article 2 (2) a general clause on the equality of treatment regarding EU citizens EEA countries, citizens of Switzerland, and their family members. This provision stipulates that the EU citizens have in general the same legal position as Slovak citizens. Article 2 (2) provides:

“Citizen of the Member State of the European Union, citizen of a state, which is a contracting party to the Agreement on European Economic Area and citizen of Swiss Confederation and his/her family member have identical status as citizens of the Slovak Republic in legal relations originating in accordance with this act, if this act does not provide otherwise.”

In the Act No. 595/2003 on Tax from Incomes, there is a provision, which enables individuals to apply a tax bonus for each child living in the household with the individual, and even if the child is not living temporarily in the household, as long as he/she is dependent on parents. According to Article 33 (10) of the Act on Tax from Incomes, only those, who have a permanent residence in Slovakia and staying at least 183 days in the country, can apply for the tax bonus.

As regards social benefits, these are discussed in Chapter X below.

Frontier workers

The Act No. 595/2003 on Tax from Incomes contains several provisions, which provide for tax bonuses and non-taxable incomes only for those, who have permanent residence in the country. In particular, the assessment base can be lowered because of having a wife without any income only by those workers, who have permanent residence in the country. Other possibilities for lowering the assessment base applicable only to those with permanent residence are: life insurance, contributions to complementary pension system, and special purpose savings. However, at the end of 2006, the provision of the Act No. 595/2003 on Tax from Incomes restricting the above mentioned benefits to those with permanent residence was abrogated by the Act No. 688/2006, which came into force on 1 January 2007.

25 Collection of Laws (Zbierka zákonov), Vol. 92 (1992).

26 Collection of Laws (Zbierka zákonov), Vol. 243 (2003).

Nevertheless, tax bonuses on children are applicable only to those, who have permanent residence in the country. This remained into force also after 1 January 2007. This situation does not seem to follow the line of the EU legislation on frontier workers in the light of ECJ jurisdiction .

CHAPTER IV. EMPLOYMENT IN THE PUBLIC SECTOR

Texts in force

- zákon c. 460/1992 Zb. Ústava Slovenskej republiky – the Act No. 460/1992 Constitution of Slovak Republic
- zákon c. 312/2001 o štátnej službe a o zmene a doplnení niektorých zákonov²⁷ – the Act No. 312/2001 on civil service and on Amendments of some Acts
- zákon c. 73/1998 Z. z. o štátnej službe príslušníkov Policajného zboru, Slovenskej informačnej služby, Zboru väzenskej a justicnej stráže Slovenskej republiky a Železnicnej polície v znení neskorších predpisov²⁸ – the Act No. 73/1998 on civil service of members of Police Corps, Slovak Information Service, Corps of Prison and Court Guard, and Railways Corps as amended
- zákon c. 200/1998 Z. z. o štátnej službe colníkov a o zmene a doplnení niektorých ďalších zákonov²⁹ – the Act No. 200/1998 on Civil Service of Custom Officers and on Amendments of some Acts
- zákon c. 346/2005 Z. z. o štátnej službe profesionálnych vojakov ozbrojených síl Slovenskej republiky a o zmene a doplnení niektorých zákonov³⁰ - the Act No. 364/2005 on Civil Service of Professional Soldiers of Armed Forces and on Amendments of some Acts
- vyhláška c. 590/2006 Z. z., ktorou sa ustanovuje zoznam štátnozamestnaneckých miest, o ktoré sa môže uchádzať len občan Slovenskej republiky³¹ – the Ordinance No. 590/2006, which sets the list of civil servants employment posts, which are open only for citizens of Slovakia

Nationality condition for access to positions in the public sector

According to Article 61 (2) of the Constitution of the Slovak Republic, only Slovak citizens may be elected for posts of president and vice-president of the Supreme Audit Office. Also as a Member of Parliament, may be according to Article 74 (2) of the Constitution only Slovak citizen elected. Furthermore, according to Article 103 (1), as a president of Slovakia, only its citizen may be elected. As a prime minister, deputy prime minister and minister only Slovak citizen can be appointed too (Articles 110 (2) and 111). According to Articles 134 (3) and 145 (2), as constitutional court judges and judges are Slovak citizens appointed. Finally, the Public Defender of Rights (ombudsperson) can be Slovak citizen only too.

The act No. 312/2001 on Civil Service as amended (Act on Civil Service) regulates legal relations when executing civil service. Article 14 (12) of the Act on Civil Service provides that the list of civil servants employment posts, which are open only for citizens of Slovakia, will be set by generally binding ordinance adopted by the Civil Service Office. In 2006, the ordinance 596/2004 was replaced by ordinance 390/2006, which came into force on 10 June 2006. The list consists of two parts, which are embodied in annexes to the ordinance. In Annex 1, general part of the list is included. Annex 1 reads as follows:

- “1. Civil servant employment posts in the department of civil service
(a) 2.06 Judiciary,

²⁷ Collection of Laws (Zbierka zákonov), Vol. 131 (2001).

²⁸ Collection of Laws (Zbierka zákonov), Vol. 28 (1998).

²⁹ Collection of Laws (Zbierka zákonov), Vol. 76 (1998).

³⁰ Collection of Laws (Zbierka zákonov), Vol. 148 (2005).

³¹ Collection of Laws (Zbierka zákonov), Vol. 139 (2006).

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- (b) 2.09 Defence,
- (c) 2.12 Industrial (priemyselné) property,
- (d) 2.17 Home affairs,
- (e) 2.24 Protection of secret issues;

2. Civil servant employment posts in service office

- (a) Supreme Audit Office of the Slovak Republic,
- (b) Ministry of Foreign Affairs of the Slovak Republic,
- (c) Prosecutor General Office, regional prosecutor offices, high military prosecution, district military prosecution.”

Comparing with previous wording of the ordinance, following departments of civil service were excluded: International cooperation, financial means of the European Communities; Legislation; and Control, complaints and petitions, internal audit.

Annex 2 contains special part of the list. The Annex 2 provides:

“The special part of the list includes civil servant employment posts

- (a) of exceptional significance,
- (b) where mandate to acquaint with secret issues is required.”

Comparing with previous wording of the ordinance, posts of superior officers were excluded from the list.

Article 55 (1) contains a definition, what are the civil servant employment posts of exceptional significance. It provides:

“Head of the office shall determine, with the consent of the Civil Service Office, which civil servant employment posts of the service office are posts of exceptional significance, save civil servant employment posts of exceptional significance, to which personal salary applies; civil servant employment posts of exceptional significance are those civil servant employment posts, which are decisive in particular for fulfilment of the programme declaration of the government, or fulfilment of tasks connected with drawing of financial means of the European Union. The government when adopting systemization determines civil servants employment posts of exceptional significance, to which personal salary applies.”

According to Article 2 (7), civil service of members of Police Corps, Slovak Information Service, National Security Authority, Corps of Prison and Court Guard, Railways Corps, custom officers and professional soldiers, and of members of Fire-fighting and Rescuing Corps is governed by special acts.

Members of Police Corps, Slovak Information Service, National Security Authority, Corps of Prison and Court Guard, and Railways Corps can be according to Article 14 (1) of the act No. 73/1998 Slovak citizens speaking Slovak only.

Article 14 (1) of the act No. 200/1998 comprises the same condition of citizenship for custom officers, and Article 17 (1) of the act No. 315/2001 for firemen.

The condition of Slovak citizenship applies also to soldiers. It is embodied in Article 13 (1) of the act No. 346/2005 on Civil Service of Professional Soldiers of Armed Forces of Slovak Republic. According to this provision, only Slovak citizens may be accepted as professional soldiers.

Language requirement

According to Article 14 (1) (g) of the Act on Civil Service, knowledge of Slovak language is one of the conditions for admission to the civil service. There are no specific provisions on how is the knowledge of Slovak language examined.

Recognition of diplomas

There are no specific provisions for access to the public sector with regard to recognition of diplomas in comparison with general rules on recognition of diplomas.

Recognition of professional experience for access to the public sector

The professional experience is not taken into consideration in the selection procedure. As from 1. January 2004, provisions regarding professional experience were repealed from the Act on Civil Service.

Equality of treatment

In 2003, provisions regarding professional experience for the purpose of determining salary, etc. were repealed from the Act on Civil Service. The salary in civil service is not dependent on the professional experience at all, it depends just on the position of the person concerned and on assessment of the work of the person concerned by his/her superior officer.

CHAPTER V. MEMBERS OF THE FAMILY*Texts in force*

- zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov – the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts (Foreigners Act) as amended³²
- zákon c. 145/1995 Z. z. o správnych poplatkoch³³ v znení neskorších predpisov - the Act No. 145/1995 on Administrative Fees as amended
- zákon c. 600/2003 Z. z. o prídavku na diť a o zmene a doplnení zákona c. 461/2003 Z. z. o sociálnom poistení³⁴ v znení neskorších predpisov - the Act No. 600/2003 on Child Allowances and on Amendment of the Act No. 461/2003 on Social Insurance as amended
- zákon c. 131/2002 Z. z. o vysokých školách a o zmene a doplnení niektorých zákonov³⁵ v znení neskorších predpisov – the Act No. 131/2002 on Universities and on Amendments of some Acts as amended

Residence rights

As mentioned in Chapter I, there were no changes of the Foreigners Act, which would affect its enforcement in 2006. However, the Act was amended at the end of 2006, but came into force on 1 January 2007. As it did not affect application of the law in 2006, the recent amendments are dealt with under the section Draft Legislation below. In this section - texts in force - when commenting on the legislation present tense is used, although some of the provisions might not apply while writing this report, as they have been amended by the Act No. 693/2006, which came into force on 1 January 2007.

Directive 2004/38/EC was transposed into the Slovak legislation at the end of 2005 already by the Act. No 558/2005 amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended, which was adopted on 8 November 2005 and came into force on 15 December 2005. Transposed provisions of the Directive 2004/38/EC were therefore in Slovak Foreigners Act throughout the year, and all the provisions discussed below reflect the situation in Slovakia after transposition of the Directive 2004/38/EC.

As regards entry of family members, Article 3 (2) provides that visa is not required from a family member of an EU citizen, of a citizen of another contracting party of the EEA Treaty, and of a citizen of Switzerland (EEA citizens), if the family member possesses a valid document of a residence in the EEA.

Family members of EEA citizens are, according to Annex to the act 145/1995 on administrative fees, exempt from the obligation to pay fees for visa, when visa are granted at the border, and when visa are requested from the family members concerned. At the border, it is possible to grant transit and short-term visa for no longer than 15 days to a foreigner for a humanitarian reason, provided that the foreigner proves that the transit (entry) is urgent and he/she could not foresee it or that granting of the visa is in the interest of the Slovak Republic.

However, the exemption from the obligation to pay fees for visa is missing when visa are requested in the regular procedure, and not at the border. This raises doubts, whether it is in compliance with the Article 5 (2) of the Directive 2004/38/EC.

There is still an obligation of a family member of an EEA citizen to prove financial coverage for duration of his/her stay, as Article 4 (2) (b) of the Foreigners Act, which consist the obligation to prove financial coverage of the stay and which does not apply to EEA citizens,

³² For amendments of the Foreigners Act see Chapter I.

³³ Collection of Laws (Zbierka zákonov), Vol. 49 (1995).

³⁴ Collection of Laws (Zbierka zákonov), Vol. 245 (2003).

³⁵ Collection of Laws (Zbierka zákonov), Vol. 58 (2002).

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applies to family members of EEA citizens. This is possible obstacle with regard to their right to the entry, as envisaged by the Directive 2004/38/EC.

Article 45b of the Foreigners Act, which concerns family members of EEA citizens provides for an obligation to apply for a residence permit for family members of EEA citizens. It also enumerates in its paragraph 2, who is considered as a family member. Article 45b (2) provides:

- “A family member of the EEA citizen is
- (a) a spouse, and his/her child under 21 or his/her unprovided child,
 - (b) a child under 21 or unprovided child,
 - (c) relative in straight row dependent on him/her,
 - (d) relative of a spouse in straight row dependent on him/her,
 - (e) other family members dependent on him/her, or members of his/her household.”

An unprovided child is, according to Article 3 of the Act on Child Allowances, is a child up to 25 years, if he/she is still preparing permanently for his/her profession by way of studying, or if he/she cannot prepare himself/herself because of illness or bodily harm.

Such a family member is called a favoured foreigner, if he/she is a family member of an EEA citizen residing in Slovakia.

As Slovakia does not treat registered partnerships as equivalent to marriage, registered partners are not considered as family members, if they are not members of a household of an EEA citizen. Partners according to Article 3 (2) (b) of the Directive 2004/38/EC have to be members of a household of an EEA citizen too, in order to be considered as family members according to Slovak legislation. This might create problems in cases, where partners are not living in one household for particular reasons.

Family members shall be granted first residence permit, if they are family members of EEA citizen according to Article 45b (2), and if they are not a burden to the health security system and social security system of Slovak Republic (Article 45b (1)).

Requirements regarding health security and social security are exceeding requirements set by the Directive 2004/38/EC, in particular in its Article 7 (2).

According to Article 45b (5), the police department shall reject the application for granting first permit if the foreigner is an undesirable person, or there is well-grounded suspicion that the foreigner contracted a marriage with the aim of acquiring residence permit; if there is well-grounded suspicion that the foreigner could endanger the security of the country, public order in a serious manner, or public health. The police department shall also reject the application, if the conditions of Article 45b (1) are not fulfilled.

The right for the first permit will preserve, according to Article 45b (6), if a favoured foreigner is employed or running business or has enough financial means to secure his/her stay and not to become a burden to the health security system and social security system of Slovak Republic and if:

- he/she resided in Slovakia at least one year before the EEA citizen died,
- his/her marriage ceased and (a) lasted at least three years and the residence one year; (b) an unprovided child from the marriage was entrusted to him/her; (c) there are reasons of special attention; (d) he/she has right to meet with unprovided child in Slovakia,
- he/she studies, and his parent, who is an EEA citizen died or terminated the residence in Slovakia; the right for the first permit preserves also for the parent of a student, if the parent has got the child in personal care, and this right preserves until the end of studies.

Conditions for retention of the right for residence on the basis of first permit for family members after the EEA citizen died, requiring employment, running of business, or having enough financial means are clearly exceeding those set in Article 12 (2) of the Directive 2004/38/EC. The same counts for the other two situations mentioned above with regard to Article 12 (3) and Article 13 of the Directive 2004/38/EC.

The police department shall, according to Article 45b (8), cancel the first permit of a family member of a EEA citizen, if the residence of a EEA citizen – his/her family member – expires, because the EEA citizen notifies the police department in written form about the termination of permanent stay, or the EEA citizen was expelled in the administrative procedure. The police department shall also cancel the first permit of a family member of an EEA citizen if it finds out facts, which constitute reasons for rejection of the application for first permit with the exception of endangering of public health. The last reason for cancellation of the first permit is, according to Article 45b (8), the fact that the police department finds out that the marriage was contracted with the aim of getting first permit.

First permit expires, when a family member of EEA citizen notifies the police department in written form about the termination of his/her stay; or if he/she was expelled in the administrative procedure; or if he/she acquired citizenship of Slovak Republic; or when the police department cancelled the first permit (Article 45b (7)).

Previous paragraph shall not apply, if the consequences of cancellation of the first permit would be inappropriate, especially with regard to private and family life of the foreigner.

According to Article 45d (1), a police department shall grant next permit to a favoured foreigner, if his previous continuous residence lasts at least five years, or if he/she stays in Slovakia as a family member of an EEA citizen staying in Slovakia in accordance with Article 45c (1) (b) to (f)³⁶.

Next permit of a family member of an EEA citizen expires for the same reasons as the residence on the basis of next permit of an EEA citizen, or if a family member of an EEA citizen is not staying in Slovakia for two subsequent years.

The situation of Slovak citizens, who want to reside in Slovakia with third country family member, was improved by the act No. 558/2005, which came into force at the end of 2005. Before adoption of this act, a family member of Slovak citizen had no legal entitlement for the permanent residence permit. According the old wording of Article 35 of the Foreigners Act, the police department might have granted a permanent residence permit. For family members of EEA citizens, Article 45b provided that the police department shall grant the permanent residence permit. The new wording of Article 35 provides also for a legal right of a family member of Slovak citizen to have a residence permit granted, if the conditions set by the law are fulfilled.

The conditions for granting of the permit are still harder for family members of Slovak citizens, than for family members of EEA citizens. Apart from the conditions for the family members of EEA citizens mentioned above, the family member of Slovak citizen has to prove that he/she has no criminal record, and needs to have his/her stay financially secured, which has to be proved by the sum of at least approximately 2.200 EUR (before adoption of the act No. 558/2005, the sum was double).

The issues of departure of family members of EEA citizens are dealt with in Chapter I, as they are closely related to those of EEA citizens.

Access to work

According to Article 22 (7) (a) of the Act on Services of Employment, foreigners with permanent residence in Slovakia are not required to have a permission to work. Therefore, family members granted first or next residence permit (i. e. those having permanent residence) are allowed to work without a need to get any other permission.

Access to education

According to Article 92 (3) of the Act on Universities, students, who did not exceed regular period for studies, do not pay any tuition fees at public universities. This does not apply to foreigners other than EEA citizens with an exception of foreigners with permanent residence permit. Therefore, EEA family members having first or next residence permit are not obliged to pay any tuition fees.

³⁶ See Chapter I, Residence, After 15 December 2005.

Also the right to receive a social scholarship is conditioned by a permanent residence of the applicant.

Equal treatment to social benefits and tax advantages

As family members have right to permanent residence, when having this status, they are treated equally to Slovak citizens and EU nationals with regard to social benefits and tax advantages. However, according to Article 45b (8) in connection with Article 45b (5) (a) and Article 45b (1) (b) of the Foreigners Act, the police shall revoke the residence permit, if they determine that the family member concerned constitutes a burden to the health care system and social security system of the Slovak Republic. Therefore, if he/she applies for some of the social benefits, there is an option that the person concerned would be considered as constituting a burden to the social system, and thus, his/her residence permit can be as a consequence revoked.

Draft legislation

On 6 December 2006, the Act No. 693/2006 Amending the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts as amended and on Amendments of some Acts was adopted. It came into force on 1 January 2007. Several provisions regarding family members of EEA citizens were redrafted, with one important change in substance with regard to family members.

According to the new wording of the Foreigners Act, family members of EEA citizens are not obliged to prove financial coverage for duration of their stay. Article 4 of the Foreigners Act as amended provides:

“The Ministry of Interior of the Slovak Republic shall determine, pursuant to a separate Act, the amount of money for covering the costs related to the stay of a foreigner on the territory of the Slovak Republic, if the foreigner is not a citizen of the European Economic Area or his/her family member.”

As regards denial of entry, same provisions as for EEA citizens apply for their family members (Article 6 of the Foreigners Act as amended, see Chapter I for details).

Miscellaneous

As regards the implementation of the Act on Foreigners, there is the Order No. 53/2005 of the President of the Bureau of Border and Foreigners Police of the Police Corps on the implementation of the Foreigners Act. The annex to the order No. 53/2005 is called Methodology for securing the procedure in issues of residence of foreigners at the territory of the Slovak Republic (Metodika na zabezpečenie postupu vo veciach pobytu cudzincov na území Slovenskej republiky), and it governs in more detail the conduct of policemen when dealing with residence issues.

Part V of the Methodology governs the issues of residence of favoured foreigners. Mostly, provisions from the Foreigners Act are repeated in the Methodology in more detail. As regards security of the state and public order, according to the Methodology, well-grounded suspicion that the foreigner could endanger the security of the country, or public order will usually emanate from the knowledge of other sections of the police, e. g. office for fight against organised crime, and therefore the suspicion must be documented in writing, because the documents have to be of use in court proceedings.

CHAPTER VI. RELEVANCE AND INFLUENCE OF RECENT JUDGMENTS OF THE EUROPEAN COURT OF JUSTICE

In general, it is not common for any authority to utilize judgements of ECJ in their activities.

As regards the courts, there is no procedure established yet, which would make their judgements easily accessible to public. There are efforts of the Ministry of Justice with this regard, but in the time being, there is no official method of publication. However, decisions of the Supreme Court of Slovakia are published on its website, but those, which are published, relate to cases initiated before entry of Slovakia into the EU.

One official journal of the Supreme Court of Slovakia is being published. It is called "Law reports of opinions of the Supreme Court and decisions of the courts of the Slovak Republic" (*Zbierka stanovísk Najvyššieho súdu a rozhodnutí súdov Slovenskej republiky*). On the publication of opinions and decisions are deciding boards of the Supreme Court. Decisions published do not represent opinion of an individual, but are outcome of team debate and decision on pertinence of their publication.

No decisions regarding the field of free movement of workers were published.

There are several private companies, which issue decisions of Slovak courts on regular basis, but no decision was found, where ECJ judgement was applied.

Similar situation is in the legislation, where reports submitted with draft laws into parliament and explaining reasons for presenting the draft laws, contain references to EU law very often, but hardly any reference to ECJ judgements was found.

The above mentioned situation is most probably the outcome of the fact that Slovakia is a Member State of the EU only for a short time, and it was very hard task to implement the legislation itself adopted for many years before the accession of Slovakia, therefore, the relevant authorities might need some time to realize that there is the ECJ and the judgements should be of interest for them and their activities.

Similar situation is in the academic field and among researchers. There are only few articles and publications to be found on the topic of ECJ judgements and on free movement of workers in general. Generally, the situation with legal literature of any kind is not very good in Slovakia, when not many up to date professional legal books are issued and the quality of articles published in periodic journals is unsteady.

However, there is a periodical on the market dealing exclusively with ECJ decisions. It is called "*Výber z rozhodnutí súdneho dvora Európskych spoločenstiev*" (Selection from Decisions of the European Court of Justice), and it is issued every second month. It consists of two parts, each issue is dedicated to one topic and there are also extracts from recent ECJ decisions included. Two out of six volumes issued in 2006 were dedicated exclusively to decisions in the field of free movement of workers; one of them to EU citizenship, the other one to freedom of establishment, especially with regard to advocates.

Follow-up of Trojani, Collins, Ioannidis, Van Lent and Commission vs. Denmark cases

It was not necessary to change Slovak legislation with regard to the Trojani judgement, as the legislation is in line with it. There are no benefits, such as delt with in Collins and Ioannidis judgements, therefore, there are no consequences in Slovakia with this regard. Judgements Van Lent and Commission vs. Denmark do not seem to be relevant in Slovakia either.

Application of the free movement legislation in the sports sector

Each sport discipline is governed by its own association in Slovakia, and those associations are issuing their own rules to regulate, among other issues, the registration and operation of foreign sportspersons in the country.

It would be difficult to deal with all sports associations in this report; therefore this report concentrates on two most popular sports in Slovakia – football and ice-hockey.

In football, since the competition year 2005/2006, number of players, who are citizens of the EU, is not restricted.

The ice-hockey competes with football for the status of the most popular sport in Slovakia. The Slovak Association of Ice-hockey (SAIH) is the managing body of Slovak ice-hockey. The Association issued the Transfer Code, which is governing also transfers and registration of foreign nationals. According to Article 32 (a) of the Code, there is no limitation for registration of foreign nationals in a SAIH club. However, according to the same provision, only two foreign players can play in a championship game, if the governing body of the relevant competition does not allow a higher number. According to Article 32 (b) of the Code, every player without Slovak citizenship is regarded a foreign player. Also a player who acquired Slovak citizenship and played abroad during last three seasons having another citizenship than Slovak is regarded a foreign player.

The governing body of the Slovak major ice-hockey league is the company Pro Hokej. The number of foreign players allowed to play in a championship game for one club was four and distinction between EU citizens and other foreigners was not made. This was changed in November 2006, where the Pro Hokej decided that the number of foreign players allowed to play in a championship game will not be restricted anymore. One of the reasons for it was the issue of free movement of workers in the EU.

The SAIH issued also Directives and Criteria for Granting of Trainer Licenses of Trainers of Ice-hockey – Licenses A, B, and C. According to Part I – General Conditions for Obtaining a Trainer License, citizen of Slovak Republic can obtain the license. A citizen of other state can take part in the training only if accepted by the Accreditation Commission of the SAIH.

CHAPTER VII. POLICIES, TEXTS AND/OR PRACTICES OF A GENERAL NATURE WITH REPERCUSSIONS ON FREE MOVEMENT OF WORKERS

A document called “The Migration Policy Conception of the Slovak Republic” adopted by the Slovak Government in 2005 deals with general issues regarding migration issues.

According to the presentation report of the document, the conception is fully in line with the ongoing process focused on creation of single migration and asylum policy of the Member States of the EU. On the basis of to this date implemented recommendations, directives and regulations of the European Communities and European Union into legislation related to realisation of the migration policy in Slovakia, as well as in accordance with the Hague program on enhancement of freedom, security and justice in the EU, its task is to contribute to its more conceptual execution.

As the Conception was prepared mainly by the Migration Office of the Ministry of Interior of the Slovak Republic, which is, notwithstanding its name, responsible only for asylum system in Slovakia, the main part of the document deals with asylum and illegal migration. Not much is dedicated to legal migration issues.

In its section 3.2, called “Policy in the field of legal migration and social integration of immigrants and recognized refugees into society” it says:

“Proceeding from existing principles applied in the migration policy, the government of Slovakia will not place barriers for foreigners when executing their right to entry its territory, right of free movement on its territory, and right to leave the territory, under conditions of acceptance and conformity with its legal order, and under a presumption that the rights provided will not be used in contrary with the interests of the security of the country, with the intention to threaten public order, or to restrict rights and freedoms of Slovak citizens.

That requires creation of respective legal environment, which respects legal acts of the European Communities and the European Union, and participation of the stakeholders on realisation of the migration policy ...

As the legal migration is a broad-spectrum problem, the measures under which foreigners can enter Slovakia, must emanate not only from legal conditions, but also from economic and social potential of the state.

In this regard, action plan on solutions of legal migration including procedures on acceptance of migrants has to be prepared. This plan has to take account of the outcome of discussions in the green book of the EU on migration of workers, and it should respect the requirement that determination of the volume of acceptance of migrants is under authority of particular Member States.

The facts observed, as well as the necessity to coordinate the authorities involved in carrying out the tasks related to realisation of the migration policy in new conditions confirm the inevitability to create in short time horizon an intrasectional working group composed of competent representatives of relevant departments of the government.

...”

The section 4.2 “Legislation” provides, as regards the EU issues, following:

“In order to reach the goals of the migration strategy of the Slovak Republic, further unification of the national legislation with the EU legislation is necessary, with a view to create a flexible legal framework, which allows to react on all changes in the field of migration at international, national, and regional level.

In the field of approximation and creation of EC and EU law, ensuring of direct application of legally binding EC and EU acts in the conditions of Slovakia, ensuring of the transposition of legally binding EC and EU acts into legal order of Slovakia, and active participation of Slovakia at the creation of these acts.”

Only the cited part of the migration policy relates somehow to free movement of persons in the EU. The main part of the document discusses an illegal migration and asylum issues.

In practice and from the legislative efforts from time to time, it can be observed that the trends regarding third country nationals are rather restrictive ones. The expression of politicians and legislative drafts tend to create an environment, in which it would be more and

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more difficult to obtain any kind of residence permit in Slovakia for third country nationals. However, this does not affect third country nationals, who are family members of EEA citizens.

CHAPTER VIII. EU ENLARGEMENT

As regards legislation in this field, no changes were made in 2006. Article 24 of the Act No. 5/2005 On Services of Employment empowers the Government of Slovakia to take equivalent measures to those applied by a Member State of EU with regard to Articles 1 and 6 of the Council Regulation on free movement of workers. Article 24 reads as follows:

“(1) If a Member State of the European Union applies against citizens of the Slovak Republic and their family members under conditions provided in the Treaty on accession of the Slovak Republic to the European Union a national measure, or fully or partly suspends application of articles 1 and 6 of the Council Regulation (EEC) on free movement of workers in the Community, the Government of the Slovak Republic may issue a regulation establishing application of equal (equivalent) measures and their scope against that Member State.

(2) If the European Commission announce with regard to free movement of workers on the basis of an application of the Slovak Republic under conditions provided by the Treaty on accession of the Slovak Republic to the European Union complete or partial suspension of application of Articles 1 and 6 of the Council Regulation (EEC) on free movement of workers in the Community by the Slovak Republic by the reason of restoration of the common state on the labour market, the Government of the Slovak Republic may issue a regulation providing against which Member State and in what scope suspends the Slovak Republic application of Articles 1 and 6 of the Council Regulation (EEC) on free movement of workers in the Community.”

Most of the Member States have continued in applying national measures against Slovakia, and in suspension of application of articles 1 and 6 of the Regulation on free movement of workers in 2005. However, the Government of the Slovak Republic agreed at the beginning that no reciprocal measures will be applied, and they did not change that opinion since then.

The Government of Slovakia has decided not to apply any transitional measures with regard to the accession of Bulgaria and Romania into the EU. There was a little debate about this, as the majority of the political parties were of the opinion that it would not be right to apply any measures against Bulgaria and Romania whilst criticising the “old” Members States for doing the same to Slovakia. The decision was also supported by professional studies. According to them, the opening of labour market for Bulgaria and Romania would not pose any threat with regard to position of Slovak citizens in the labour market.

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CHAPTER IX. STATISTICS

The Bureau of Foreigners and Border Police of the Presidium of the Police Corps, upon request, provided following statistics³⁷:

Numbers of Persons Residing in Slovakia on 31 December 2006

Country	Temporary	Tolerated	Permanent	Total
Austria	25	2	1175	1202
Belgium	6	2	161	169
Cyprus	2	0	18	20
Czech Rep.	101	18	4994	5113
Denmark	2	0	147	149
Estonia	0	0	14	14
Finland	1	0	36	37
France	17	1	847	865
Germany	34	3	2252	2289
Greece	11	1	103	115
Hungary	13	6	2087	2106
Iceland	0	0	4	4
Ireland	1	0	84	85
Italy	23	0	672	695
Latvia	0	1	22	23
Lichtenstein	0	0	3	3
Lithuania	0	0	29	29
Luxembourg	0	0	2	2
Malta	0	1	6	7
Netherlands	2	1	242	245
Norway	7	0	158	165
Poland	21	3	3622	3646
Portugal	0	0	42	42
Slovenia	2	0	84	86
Spain	2	0	180	182
Sweden	4	0	102	106
United Kingdom	16	0	728	744

³⁷ E-mail from 7 March 2006.

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Numbers of New Residences in Slovakia in 2006

Country	Temporary	Tolerated	Permanent	Total
Austria	0	0	430	430
Belgium	0	0	57	57
Cyprus	0	0	3	3
Czech Rep.	0	7	1281	1288
Denmark	0	0	49	49
Estonia	0	0	7	7
Finland	0	0	21	21
France	0	1	271	272
Germany	0	2	911	913
Greece	0	0	35	35
Hungary	0	3	530	533
Iceland	0	0	1	1
Ireland	0	0	38	38
Italy	0	1	255	256
Latvia	0	2	10	12
Lichtenstein	0	0	2	2
Lithuania	0	0	7	7
Luxembourg	0	0	0	0
Malta	0	0	2	2
Netherlands	0	0	84	84
Norway	0	0	46	46
Poland	0	6	1126	1132
Portugal	0	0	21	21
Slovenia	0	0	26	26
Spain	0	0	83	83
Sweden	0	0	49	49
United Kingdom	0	0	300	300

The Head Office of Labour, Social Affairs, and Family is obliged, according to Article 12 (s) of the Act No. 5/2004 on Services of Employment, to administrate a central record of data on commencement and termination of employment of a citizen of a member state of the European Union and his/her family members. Upon request, they provided following statistics.³⁸

³⁸ E-mail from 19 March 2006.

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Country	Number of EU/EEA citizens, who worked in Slovakia on the basis of								
	Labour law relation			dispatch to perform work			Total		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Belgium	40	36	4	28	27	1	68	63	5
Denmark	27	22	5	9	7	2	36	29	7
Finland	6	4	2	1	1	0	7	5	2
France	272	221	51	473	453	20	745	674	71
Greece	19	18	1	1	1	0	20	19	1
Holland	37	34	3	10	10	0	47	44	3
Ireland	26	16	10	12	7	5	38	23	15
Luxembourg	0	0	0	0	0	0	0	0	0
Germany	303	260	43	146	128	18	449	388	61
Portugal	9	8	1	1	1	0	10	9	1
Austria	111	98	13	130	118	12	241	216	25
Spain	51	28	23	75	74	1	126	102	24
Sweden	17	13	4	9	8	1	26	21	5
Italy	91	80	11	82	71	11	173	151	22
United Kingdom	164	117	47	61	40	21	225	157	68
“Old” Member States	1173	955	218	1038	946	92	2211	1901	310
Cyprus	1	0	1	0	0	0	1	0	1
Czech Republic	945	652	293	205	194	11	1150	846	304
Estonia	1	1	0	0	0	0	1	1	0
Lithuania	6	2	4	2	0	2	8	2	6
Latvia	3	2	1	0	0	0	3	2	1
Hungary	319	265	54	24	18	6	343	283	60
Malta	0	0	0	1	1	0	1	1	0
Poland	806	556	250	219	211	8	1025	767	258
Slovenia	18	13	5	2	2	0	20	15	5
“New EU Member States”	2099	1491	608	453	426	27	2552	1917	635
Island	0	0	0	0	0	0	0	0	0
Lichtenstein	0	0	0	0	0	0	0	0	0
Norway	5	4	1	0	0	0	5	4	1
Switzerland	3	3	0	1	1	0	4	4	0
Total	3280	2453	827	1492	1373	119	4772	3826	946

CHAPTER X. SOCIAL SECURITY*Texts in force*

- zákon c. 599/2003 Z. z. o pomoci v hmotnej núdzi a o zmene a doplnení niektorých zákonov³⁹ v znení neskorších predpisov - the Act No. 599/2003 on Assistance in Material Indigence and on Amendments of some Acts as amended
- zákon c. 452/2004 Z. z. o náhradnom výživnom⁴⁰ v znení neskorších predpisov - the Act No. 452/2004 on Substitute Maintenance Payments as amended
- zákon c. 600/2003 Z. z. o prídavku na dieťa a o zmene a doplnení zákona c. 461/2003 Z. z. o sociálnom poistení v znení neskorších predpisov - the Act No. 600/2003 on Child Allowances and on Amendment of the Act No. 461/2003 on Social Insurance as amended
- zákon c. 280/2002 Z. z. o rodičovskom príspevku⁴¹ v znení neskorších predpisov - the Act No. 280/2002 on Parental Allowance as amended
- zákon c. 235/1998 Z. z. o príspevku pri narodení dieťaťa, o príspevku rodičom, ktorým sa súčasne narodili tri deti alebo viac detí alebo ktorým sa v priebehu dvoch rokov opakovane narodili dvojčatá a ktorým sa menia ďalšie zákony⁴² v znení neskorších predpisov - the Act No. 235/1998 on Childbirth Benefit, on Parental Allowance for those Parents, to Whom Three or More Children Were Born at the Same Time, or for those, to Whom Were Twins Born Repeatedly in Course of Two Years, and on amendments of other acts as amended
- zákon c. 650/2004 Z. z. o doplnkovom dôchodkovom sporení a o zmene a doplnení niektorých zákonov⁴³ - the Act No. 650/2004 on Supplementary Pension Savings and on Amendments of some Acts

In 2006, no new acts, and no amendments of relevant acts in force with any relevance to free movement of persons were adopted.

The issue of minimum subsistence allowances is regulated by the act No. 599/2003 on assistance in material indigence. According to Article 3 of the Act, persons legally residing in Slovakia have the same position as Slovak citizens for the purposes of assistance in material indigence, which means that they get the allowance when in material indigence, which is in line with the ECJ decision in *Grzelczyk*. Article 3 provides:

“For the purposes of securing basic living conditions and of assistance in material indigence, same status as to a citizen also applies to a foreigner, stateless person, recognized refugee residing at the territory of the Slovak Republic on the basis of permission of the competent authority ...”

On 30 June 2004, act No. 452/2004 on substitute maintenance payments was adopted. This act came into force on 1 January 2005 only. This is a new legal institute, which was not in Slovak legal system before. Substitute maintenance payment is a sum provided by the state in order to secure maintenance of a child in case when the maintenance duty is not fulfilled by the parent or another so obliged person. According to Article 3 (1) of the Act, one of the conditions to be fulfilled is permanent residence of a child in Slovakia.

Similar situation also applies to the child allowances.

Act No. 600/2003 on child allowances came into force on 1 January 2004. Child allowance is a state social benefit, which is a contribution of the state to the upbringing and maintenance of a child. Conditions for entitlement for child allowance are determined in its Arti-

39 Collection of Laws (Zbierka zákonov), Vol. 245 (2003).

40 Collection of Laws (Zbierka zákonov), Vol. 193 (2004).

41 Collection of Laws (Zbierka zákonov), Vol. 125 (2002).

42 Collection of Laws (Zbierka zákonov), Vol. 90 (1998).

43 Collection of Laws (Zbierka zákonov), Vol. 275 (2004).

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cle 7 (1), including permanent or temporary residence in Slovakia for both parent and child. Article 7 (1), with respect to the issue of residence, provides:

“Conditions for entitlement for allowance are:

...

- b) permanent or temporary residence of an entitled person in the territory of the Slovak Republic,
- c) permanent or temporary residence of an unprovided child in the territory of the Slovak Republic.”

An entitled person is either a parent or a person who's care of a child substitutes the care of parent.

Another family benefit, parental allowance, is regulated by the act No. 280/2002. Parental allowance is a state social benefit, which is a contribution of the state to secure personal and proper care of the child up to the age of three years, or of a child with long-term unfavourable health condition up to the age of six years. The conditions for the entitlement for the parental allowance are provided in Article 3 (1) of the Act, and contain same requirements as for the child allowance. Article 3 (1), as it concerns the issue of residence, provides:

“Conditions for entitlement for the parental allowance are:

...

- b) permanent or temporary residence of an entitled person in the territory of the Slovak Republic,
- c) permanent or temporary residence of a child in the territory of the Slovak Republic.”

Requirement of permanent residence is also embodied in Article 3 (1) and Article 6 (1) of the act No. 235/1998 on childbirth benefit, on benefit to parents, whom three or more children were born, or whom twins were born in course of two years repeatedly. According to both provisions the entitled person needs to fulfil the requirement of permanent residence in order to receive the benefit. In case of the latter, which regulates the conditions for the benefit to parents, whom three or more children were born, or whom twins were born in course of two years repeatedly, the requirement of permanent residence counts for children too. Childbirth benefit is a state social benefit, which is a contribution of the state to cover the expenses related to secure the essential needs of a newborn child. Benefit to parents is a state social benefit, which is an annual contribution of the state for parents for increased expenses, which incur with regard to care for three or more children born simultaneously, or for in course of two years repeatedly born twins.

Supplementary pension schemes

In October 2004, act on supplementary pension saving was adopted under No. 650/2004 introducing supplementary pension savings for the first time in Slovakia. Among its provisions on ban on discrimination in Article 7 is in paragraph 4 stated that the participant on the supplementary pension saving living abroad has his/her rights from the saving preserved in the same extend as the participant living in Slovakia.

CHAPTER XI. ESTABLISHMENT, PROVISION OF SERVICES, STUDENTS*Texts in force*

- zákon c. 48/2002 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov – the Act No. 48/2002 on the Residence of Foreigners and on Amendments of some Acts (Foreigners Act) as amended⁴⁴
- zákon c. 455/1991 Zb o živnostenskom podnikaní (živnostenský zákon)⁴⁵ v znení neskorších predpisov - the Act No. 455/1991 on Trade Business (Trade Act) as amended
- zákon c. 586/2003 Z. z. o advokácii a o zmene a doplnení zákona c. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov - act No. 586/2003 on Advocacy and on Amendment of the Act No. 455/1991 on Trade Business (Trade Act) as amended
- zákon c. 323/1992 o notároch a notárskej cinnosti (Notársky poriadok)⁴⁶ - the Act No. 323/1992 on Notaries and Notarial Activities (Notarial Order)
- zákon c. 578/2004 Z. z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov v znení neskorších predpisov - the act No. 578/2004 on Providers of Health Care, Health Service Workers, Professional Associations in Health Care, and on Amendments of some Acts as amended
- zákon c. 277/1994 Z. z. o zdravotnej starostlivosti⁴⁷ v znení neskorších predpisov - the act No. 277/1994 on Health Care as amended
- zákon c. 138/1992 Zb. o autorizovaných architektoch a autorizovaných stavebných inžinieroch⁴⁸ v znení neskorších predpisov - the Act No. 138/1992 on Authorized Architects and Authorized Civil Engineers as amended
- zákon c. 131/2002 Z. z. o vysokých školách a o zmene a doplnení niektorých zákonov v znení neskorších predpisov – the Act No. 131/2002 on Universities and on Amendments of some Acts as amended

Establishment and provision of services

According to Article 45a (1) of the Foreigners Act, residence of an EEA citizen intending to stay at the territory of Slovak Republic for more than three months, is considered as a first residence permit, if, among other issues, he/she is running a business. The EEA citizen may, according to Article 45a (2), apply for registration of the first residence permit.

According to the act No. 455/1991, everyone with permanent residence in Slovakia is entitled to the establishment and provision of services in general.

With respect to advocates, act No. 586/2003 regulates provision of legal services in Slovakia, implementing Directives 1977/249 and 1998/5. Articles 31 to 45 are dealing with provision of legal services by advocates, who are EEA citizens - Euroadvocates. Switzerland is not included.

Two categories of Euroadvocates are distinguished in the act. Guest Euroadvocate is an advocate who provides legal services in Slovakia temporarily or occasionally. Guest Euroadvocate has no duty to register himself/herself, but he/she is excluded from composition of documents on transfer of real estate. Provisions on Guest Euroadvocate came into force on the date of entry of Slovakia in the EU.

The other category is Settled Euroadvocates. A Settled Euroadvocate is an advocate who provides legal services in Slovakia permanently, and who is listed in the list of Euroadvocates in the Slovak Bar Association. Every EEA citizen authorized to provide legal services in any

⁴⁴ For amendments of the Foreigners Act see Chapter I.

⁴⁵ Collection of Laws (Zbierka zákonov), Vol. 87 (1991).

⁴⁶ Collection of Laws (Zbierka zákonov), Vol. 65 (1992).

⁴⁷ Collection of Laws (Zbierka zákonov), Vol. 77 (1994).

⁴⁸ Collection of Laws (Zbierka zákonov), Vol. 31 (1992).

of the EEA States shall be recorded in the list of Euroadvocates. Provisions on Settled Euroadvocates came into force on 1 January 2004.

According to Article 11 (1) of the act No. 323/1992 on notaries and notarial activities, only Slovak citizen can be appointed as a notary.

Execution of health professions by EU citizens and citizens of Iceland, Liechtenstein, Norway and Switzerland is regulated by the act No. 578/2004. This act came into force on 1 November 2004, however, the most of its provisions, together with Article 30, which provides conditions for execution of health professions by above mentioned citizens, came into force on 1 January 2005.

According to Article 30, the above mentioned citizens who gained professional qualifications for execution of health professions can execute the health professions as Guest or Settled Person. The Guest Person, who executes the health profession sporadically or occasionally, shall notice the Ministry of Health on his/her activities in Slovakia no later than 30 days after the commencement of his/her activities. The Settled Person who executes the health profession permanently needs to have either one of the possible licenses, or to be employed.

In Annex 3 to the act No. 578/2004 is specified what kind of diplomas, certificates, and other documents on qualification are recognized in Slovakia for the purposes of execution of health professions.

Act No. 138/1992 regulates status of architects, landscape architects and civil engineers. EEA citizen and EFTA citizen can be recorded in the list of architects, landscape architects, or civil engineers under same conditions as Slovak citizens. The condition of education is fulfilled if the diploma, certificate, or other document on education is listed in Annex 2 to the Act, or the diploma, certificate, or other document on education acquired outside EEA and EFTA states was recognized by one of these states. The condition of professional experience means execution of professional activities under supervision in Slovakia, or in one of the above mentioned states, or outside of those states. Architects can also provide their services in Slovakia when recorded in the registry of Guest Architects. Except for the condition of recognition as architect in one of the above mentioned states, the same condition of education and professional experience as of the record in the list of architects applies.

Students

According to Article 45a (1) of the Foreigners Act, residence of an EEA citizen intending to stay at the territory of Slovak Republic for more than three months, is considered as a first residence permit, if, among other issues, he/she studies at school in the Slovak Republic, and has financial means to secure his/her stay and health insurance in Slovakia. The EEA citizen may, according to Article 45a (2), apply for registration of the first residence permit. As regards expulsion of students, see Chapter I of this report.

Article 113 (5) of the Act on Universities provides that citizens of Member States of the EU are treated in the same way as Slovak citizens.

CHAPTER XII. MISCELLANEOUS

Websites with Slovak legislation:

www.zbierka.sk – electronic Collection of Laws

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fro.htm - all acts can be found in unofficial consolidated versions, system of legal information administered by the Ministry of Justice; some precedent setting judgements can be found here too