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# FINANCIAL LAW NEWS

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## AMENDMENT OF PUBLIC PROCUREMENT ACT

(Act No. 213/2009 Coll. Amending and Supplementing Act No. 25/2006 Coll. on Public Procurement and on Amending and Supplementing of Certain Other Acts, as amended)

Explanatory note to this amendment of the Act states that its purpose is to increase transparency, justice and awareness in some processes of public procurement and increasing of competences of the Public Procurement Office.

This Act reduces limit of non-priority services within which contracts may be awarded below the threshold procedure from EUR 6,000,000 to EUR 3,000,000.

Further this Act introduces duty of contracting authority and contracting entity to send in awarding contracts for provision of non-priority services to the Public Procurement Office notice on publication of call at least 2 business days preceding publication of the call for submission of tenders on its web site. Subsequently, the Public Procurement Office shall publish in its Bulletin notice on publication of the call for submission of tenders at the latest on the day of publication of notice for submission of tenders stated herein. Similar duty shall apply also to the contracting authority in awarding below the limit contracts for provision of non-priority services.

Under this Act, the Public Procurement Office is obliged to perform supervision of the procedure of awarding contracts prior to the conclusion of contract or framework agreement and in the event of performing supervision prior to closing of tender offer's contest on the grounds of a motion ta contracting authority, contracting entity or other designated entities for performance of supervision of awarded contract of the entities mentioned above, Government Office of the Slovak Republic

or on its own motion. Such motion has to be sent to the Public Procurement Office within statutory periods.

This Act came into force in 1 July 2009.

## AMENDMENT OF ACT ON PROTECTION AGAINST MISUSE OF ALCOHOLIC DRINKS

(Act No. 214/2009 Coll. Amending and Supplementing Act No. 219/1996 Coll. on Protection Against Misuse of Alcoholic Drinks and on Establishment and Operation of Detention Cells for Drunks and on Amending and Supplementing of Certain Other Acts)

This amendment of the Act explicitly stipulates ban to children under 15 years and teenagers under 18 years of age to consume alcoholic drinks or other addictive substances, whereas they are obliged to undergo orientation breath test or orientation examination by testing devices for identification of narcotics and psychotropic substances.

Further children under 15 years cannot stay in publicly accessible places where alcoholic drinks are served after 9 p.m. without supervision of their legal representatives.

Municipality may fine legal representatives of children who breached the above mentioned bans up to the amount of EUR 33.

This Act came into force on 4 June 2009.

## ORDINANCE ON SCOPE OF PRICE REGULATION IN NETWORK INDUSTRIES

(Ordinance of the Regulatory Office for Network Industries No. 38/2009 Coll. on Issuance of Ordinance No. 1/2009 on the Scope of Price Regulation in the Network Industries and on Manner of its Implementation)

By this Ordinance the Regulatory Office for Network Industries regulates pursuant to the Act on Regulation of Network Industries the scope of price regulation in the field of electroenergetics, gas, heat, drinking water

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and sewer water and in provision of water management services as well as the manner of its implementation.

Ordinance is published in part 54/2009 of the Bulletin of the Regulatory Office for Network Industries and it may be inspected at the Office for Regulation of the Network Industries.

This Ordinance came into force 20 June 2009 except for Section 12, which shall come into force on 1 January 2010.

#### **ASSESSING VALUE OF ASSETS IN PENSION FUND AND SUPPLEMENTARY PENSION FUND**

(Decree of the National Bank of Slovakia No. 246/2009 Coll. on Method of Assessing the Value of Assets in the Pension Fund and Supplementary Pension Fund and on Amending of the Decree of the Ministry of Finance of the Slovak Republic No. 217/2005 Coll. concerning the Own Resources of Supplementary Pension Management Company and the Methods and Procedures to be followed in Assessing the Value of Assets in Supplementary Pension Funds, as amended)

That Decree was passed by the National Bank of Slovakia as an implementation rule stipulating methods and procedures in assessing the value of assets in the pension fund and supplementary pension fund.

Decree regulates assessing the value of contributions and penalty, deposits and financial instruments, receivables and commitments and assessing the value of the financial instrument denominated in a foreign currency.

This Decree came into force 1 July 2009.

#### **MEASURE ON METHOD OF ASSESSING VALUE OF ASSETS IN MUTUAL FUND**

(Notification of the National Bank of Slovakia No. 248/2009 Coll. on Issuance of Measure No. 3/2009 on the Method of Assessing the Value of Assets in the Mutual Fund)

This Measure stipulates the method of assessing the value of assets in the mutual fund. The purpose of this measure is to stipulate assessing of particular units of

assets in the mutual fund in more detail and meanwhile to unify rules of assessing assets of mutual funds.

Decree of the Ministry of Finance of the Slovak Republic No. 611/2003 Coll. on Method of Assessing the Value of Securities, Financial Market Instruments and Derivates in Assets of the Mutual Fund was repealed by this Measure.

Measure is published in part 14/2009 of the Bulletin of the National Bank and it may be inspected at all branches of the National Bank of Slovakia.

This Measure came into force in 1 July 2009.

#### **CHANGE OF MINIMUM LIVING WAGE AMOUNT**

(Measure of the Ministry of Labour, Social Affairs and Family of the Slovak Republic No. 252/2009 Coll. on Change of Minimum Living Wage Amount)

As minimum living pursuant to this Measure is regarded the sum or the total sums of natural person or natural persons, whose incomes are considered jointly:

- (a) EUR 185.19 monthly in case of one adult natural person,
- (b) EUR 129.18 monthly in case of other jointly considered adult natural person,
- (c) EUR 84.52 monthly in case of cared for minor children or uncared for children.

The above mentioned sums shall be valid to 30 June 2010.

This Measure came into force on 1 July 2009.

#### **AMENDMENT OF CRIMINAL CODE**

(Act No. 257/2009 Coll. Amending and Supplementing Act No. 300/2005 Coll. Criminal Code, as amended)

Problematic of extremism in the Criminal Code is regulated under the explanatory note by this Act.

This Act defines extremist group as an association of at least three natural persons for the purposes of committing criminal act

of extremism. In case that criminal prosecuting authority shall prove existence of extremist group, it shall be regarded as a circumstance conditioning application of higher criminal penalty.

The Act stipulates that under criminal acts of extremism shall be subsumed:

- (a) criminal act of support and propagation of groups oriented to suppressing basic rights and freedoms,
- (b) criminal act of manufacturing of extremist materials,
- (c) criminal act of circulation of extremist materials,
- (d) criminal act of possession of extremism materials,
- (e) criminal act of defamation of nation, race and confession,
- (f) criminal act of supporting to nation, race and ethnic hatred,
- (g) criminal act of supporting, defamation and threatening to natural persons due to their relations with some race, nation, nationality, colour of skin, ethnic group or family origin, and
- (h) criminal act committed from special motive.

This Act shall come into force on 1 September 2009.

#### **AMENDMENT OF ACT ON PROPERTY OF MUNICIPALITIES**

(Act No. 258/2009 Coll. Amending and Supplementing Act No. 138/1991 Coll. on Property of the Municipalities and on Amending and Supplementing of Certain Acts, as amended)

Under the explanatory note to this Act, its purpose is property law unification of ownership to plots (in the state ownership) and buildings thereon, which are owned by municipalities and higher self governing territorial units.

Build-up areas shall be transferred from the state ownership to the ownership of municipalities and higher self-governing territorial units by operation of law. Such lawful transfer of ownership shall be confirmed by the transferring trustee of state ownership and by the receiving municipality or higher self-governing territorial unit in a written protocol.

To the ownership of municipalities and higher self-governing territorial units shall be transferred also plots in the ownership of the Slovak Republic, which are in temporal administration of respective District Office in the seat of region; these build-up areas shall be transferred to the ownership of territorial self-governing authority upon agreement.

Under this Act, the municipality property shall be real estates and movable assets including financial resources, as well as receivables and other property rights, which are in the municipality ownership pursuant to this Act or which shall be acquired by the municipality by transfer from the property of the Slovak Republic on the grounds of the Act on Property of the Municipalities or special rule, or by its own activity.

This Act shall not apply to:

- (a) disposition with securities, which is governed by special regulations, and
- (b) disposition with financial resources, which is governed by special regulations.

By this Act shall be amended wording of specific provisions so that, in order to be clear that municipalities and higher self-governing territorial units are owners of the property and that budgetary organisations and allowance organisations established hereby are trustees of the property in the ownership of municipalities and higher self-governing territorial units.

This Act came into force on 1 July 2009.

#### **Other significant legal regulations published in the Collection of Laws of the Slovak Republic in June 2009 are as follows:**

- Notification of the Telecommunications Office of the Slovak Republic No. 212/2009 Coll. on Issuance of Decision of the Telecommunications Office of the Slovak Republic Amending Decision of the Telecommunications Office of the Slovak Republic from 28 January 2004 (Notification No. 57/2004 Coll.) as amended, on Determination of List of Relevant Markets,

- Regulation of the Government of the Slovak Republic No. 223/2009 Coll. Amending and Supplementing the Regulation of the Government of the Slovak Republic No. 373/2008 Coll. stipulating Requirements for Placing of Plant Protection Products on the Market in the wording of Regulation of the Government of the Slovak Republic No. 32/2009 Coll.,
- Decree of the Ministry of Education of the Slovak Republic No. 230/2009 Coll. stipulating Particulars on Manner of Appointment of School Self-Governing Authorities, on their Structure, on their Organisational and Financial Coverage,
- Decree of the Ministry of Education of the Slovak Republic No. 231/2007 Coll. on Particulars of Organisation of School Year on Elementary Schools, High Schools, on Elementary Art Schools, on Practical Schools, on Vocational Schools and on Language Schools,
- Notification of the Postal Regulatory Office No. 233/2009 Coll. on Issuance of Ordinance No. 1/2009 stipulating the Scope of Price Regulation and setting Maximum Prices of Universal Postal Service and Postal Payment System for Domestic Payments,
- Decree of the Ministry of Agriculture of the Slovak Republic No. 234/2009 Coll. Amending and Supplementing Decree of the Ministry of Agriculture of the Slovak Republic No. 196/2008 Coll. on Production of Veterinary Prescription Forms, Specific Veterinary Prescription Forms Marked by a Cross Blue Strip and on Graphical Items and Data of these Forms,
- Measure of the Ministry of Environment of the Slovak Republic No. 235/2009 Coll. Amending and Supplementing the Measure of the Ministry of Environment of the Slovak Republic No. 318/2004 Coll. on Amendment of Disposition Competences of the State Property Trustees in Founder's Competence of the Ministry of Environment of the Slovak Republic in Disposition with State Property,
- Decree of the Ministry of Education of the Slovak Republic No. 236/2009 Coll. on School Dormitory,
- Decree of the Ministry of Health of the Slovak Republic No. 237/2009 Coll. Amending and Supplementing Decree of the Ministry of Health of the Slovak Republic No. 549/2007 Coll. stipulating Particulars on Admissible Limits of Noise, Infrasound and Vibrations and on Requirements for Objectification of Noise, Infrasound and Vibrations in the Environment,
- Notification of the Regulatory Office for Network Industries No. 239/2009 Coll. on Issuance of Ordinance No. 2/2009 Amending and Supplementing Ordinance of the Regulatory Office for Network Industries No. 2/2008 stipulating Price Regulation in Electroenergetics (Notification No. 311/2008 Coll.) as amended by the Ordinance No. 7/2008 (Notification No. 377/2008 Coll.),
- Notification No. 240/2009 Coll. on Issuance of Ordinance No. 3/2009 Amending and Supplementing the Ordinance of the Office for Regulation of the Network Industries No. 3/2008 setting Price Regulation for Production, Distribution and Supply of Drinking Water by Public Water System and for Discharge and Treatment of Waste Water by Public Sewage System (Notification No. 295/2008 Coll.),
- Notification of the Regulatory Office for Network Industries No. 241/2009 Coll. on Issuance of Ordinance No. 4/2009 Amending and Supplementing Ordinance of the Regulatory Office for Network industries No. 4/2008 setting Price Regulation in Gas Industry and which Supplements Ordinance of the Regulatory Office for Network Industries No. 4/2007 setting Scope and Structure of Eligible Costs, Method of Determination of Proportionate Profit and Documentation for Price Proposal in Gas Industry (Notification No. 291/2008 Coll.) as amended by the Ordinance No. 7/2008 (Notification No. 377/2008 Coll.),
- Notification of the Regulatory Office for

- Network Industries No. 242/2009 Coll. on Issuance of Ordinance No. 5/2009 setting Price Regulation for Provision of Water Management Services relating to Use of Watercourse,
- Notification of the Regulatory Office for Network Industries No. 243/2009 Coll. on Issuance of Ordinance of the Regulatory Office for Network Industries No. 6/2008 setting Price Regulation of Heat (Notification No. 296/2008 Coll.) as amended by Ordinance No. 7/2008 (Notification No. 377/2008 Coll.),
  - Decree of the Ministry of Economy of the Slovak Republic No. 244/2009 Coll. on Determination of Entity from which Claim for Special Contribution to Miners may be Claimed,
  - Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 245/2009 Coll. – Convention drawn up on the basis of Article K. 3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations,
  - Measure of the Statistical Office of the Slovak Republic No. 247/2009 Coll. on Amendment of Disposition Competences of State Property Trustee in the Founder's Competence of the Statistical Office of the Slovak Republic in Disposition with State Property,
  - Notification of the Ministry of Finance of the Slovak Republic No. 249/2009 Coll. on Issuance of the Ordinance No. MF/12916/2009-32 setting Daily Balance Limit of Financial Resources in Cash for Clients of the State Treasury,
  - Decree of the Ministry of Interior of the Slovak Republic No. 259/2009 Coll. Amending and Supplementing Decree of the Ministry of Interior of the Slovak Republic No. 121/2002 Coll. on Fire Prevention as amended by the Decree No. 591/2005 Coll.,
  - Notification No. 260/2009 Coll. on Issuance of Measure No. 07045-28/2009-OL amending Measure of the Ministry of Health of the Slovak Republic No. 07045/2003-OAP stipulating the Scope of Price Regulation in the Field of

Health Care (Notification No. 588/2003 Coll.) as amended,

- Notification of the Ministry of Health of the Slovak republic No. 261/2009 Coll. on Issuance of the Measure No. OPP0209-13105/2009-OL Issuing the List of Medical Devices Fully Reimbursed or Partially Reimbursed from the Public Health Insurance,
- Notification of the Ministry of Health of the Slovak Republic No. 262/2009 Coll. on Issuance of Ordinance No. OPD0209-13199/2009-OL Issuing the List of Dietetical Foodstuffs Fully Reimbursed or Partially reimbursed from the Public Health Insurance,
- Notification of the Ministry of Health of the Slovak Republic No. 263/2009 Coll. on Issuance of Measure No. OPL0209-13213/2009-OL Issuing the List of Drugs and Medicinal Products Fully reimbursed or Partially Reimbursed from the Public Health Insurance.

#### JUDICIAL DECISIONS

In this part we refer to quotations from the reasoning of selected court rulings and opinions in civil, employment and commercial matters recently published in the From Court Practice (in Slovak: "Zo súdnej praxe") journal:

#### AGREEMENT ON FUTURE AGREEMENT

(Decision of the Supreme Court of the Slovak Republic, File No. 1 Obdo V 23/2007, published in journal From Court Practice 2/2009, No. 19)

If a party to the Agreement on Future Agreement transfers thing, future transfer of which shall be subject of such agreement, by valid agreement to the third party, rights and obligations from the Agreement on Future Agreement shall be terminated due to impossibility of performance and between parties to the Agreement on Future Agreement shall be created a liability relation. Since breach of obligation from the Agreement on Future Agreement has legal consequences only for the parties to such agreement, it shall not cause nullity of transfer of thing to the third party alone.

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Advokátska kancelária Čechová & Partners

Združenie advokátov: JUDr. Katarína Čechová (evidenčné číslo v zozname advokátov vedenom Slovenskou advokátskou komorou: 0339/317 831 63) poverená vedením účtovníctva združenia pod IČ DPH SK1020333083, JUDr. Jana Ďurišová (4260/307 989 73), JUDr. Simona Haláková (5503/318 195 41), Mgr. Ing. Michaela Jurková (4286/307 989 57), Mgr. Tomáš Mareta (1601/318 172 11), Mgr. Tomáš Rybár (3988/307 967 76), Mgr. Tomáš Zárecký (4020/360 754 18)

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