

# **ACT No 404/2011**

**of 21 October 2011,**

## **on Residence of Aliens and Amendment and Supplementation of Certain Acts**

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

### **Section I**

#### **PART ONE BASIC PROVISIONS**

##### **Article 1 Subject Matter**

- (1) This Act shall regulate the
- a) scope of the police force activities for the provision of border control<sup>1)</sup> of the Slovak Republic borders (hereinafter referred to as the “border control”) and in the area of the residence of aliens in the Slovak Republic territory (hereinafter referred to as the “residence”);
  - b) scope of activities of public authorities in the area of visas;
  - c) conditions for the entry of aliens into the Slovak Republic territory (hereinafter referred to as the “entry”) and conditions for the leaving of the Slovak Republic territory (hereinafter referred to as “leaving”) which have not been amended in a special regulation or international treaty<sup>2)</sup> which is binding for the Slovak Republic (hereinafter referred to as the “international treaty”);
  - d) conditions of residence;
  - e) issuing documents for aliens;
  - f) registration of persons and residence control;
  - g) administrative expulsion and ban on entry;
  - h) detention of third country nationals and placement into facilities;
  - i) police transport of third country nationals through the Slovak Republic territory (hereinafter referred to as the “police transport”) and police escort of third country nationals from the Slovak Republic territory (hereinafter referred to as the “police escort”);
  - j) air transit of third country nationals through the Slovak Republic territory hereinafter referred to as the “air transit”);
  - k) rights and duties of persons during border control and during residence;

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1) Cl. 2 par. 9 of European Parliament and Council (EC) Regulation no. 562/2006 of March 15, 2006 which defines the Community Code on the Rules Specifying the Movement of Persons through Borders (Schengen Borders Code) (O.J. EU L 105, 13. 4. 2006) as amended.

2) For example Regulation (EC) no. 562/2006, European Parliament and Council (EC) Regulation no. 810/2009, which defines the Community Visa Code (Visa Code) (O.J. EU L 243, 15. 9. 2009), Agreement between the Slovak Republic and Ukraine on Local Border Traffic (Notification no. 441/2008 Coll.).

- l) offences and other administrative delicts at the department of border and residence control.

(2) This Act also applies for the aliens who applied for the granting of asylum or for the provision of subsidiary protection in the Slovak Republic territory (thereinafter referred to as the “application for the granting of asylum”) who were granted asylum in the Slovak Republic territory, who were granted subsidiary protection in the Slovak Republic territory, who applied for the provision of temporary refuge in the Slovak Republic territory or who were granted temporary refuge in the Slovak Republic, unless provided otherwise by a special regulation<sup>3)</sup>.

## **Article 2**

### **Basic Provisions**

- (1) For the purposes of this Act,
  - a) assisted voluntary return shall be understood as the return of a third country national into his/her country of origin, recent place of residence or any third country into which the third country national decided to return and which accepts him/her; and which is provided by the International Organisation for Migration or other non-governmental organisation on the basis of an agreement with the Slovak Republic government;
  - b) proximity of the external border shall be understood as the Slovak Republic territory within the distance of 5km from the external border;<sup>4)</sup>
  - c) member state shall be understood as the member state of the European Union, apart from the Slovak Republic, other state which is a contract party of the Treaty on the European Economic Area and Swiss Confederation; for the purposes of Art. 30 and Art. 51 to 57 the member state shall be understood only as the member state of the European Union, apart from the Slovak Republic;
  - d) air transit shall be understood as the transit of a third country national, and accompanied, if necessary, through the premises of a public airport in the Slovak Republic territory for the purpose of his/her air transport into the country of destination;
  - e) national visa shall be understood as the permission granted by the Slovak Republic which enables residence in the Slovak Republic territory;
  - f) unauthorised residence shall be understood as the residence of an alien in the Slovak Republic territory in violation with an act, a special regulation or an international treaty;<sup>2)</sup>
  - g) unauthorised crossing of an external border shall be understood as the entry or exit of a person through the external border outside border crossing point; through the border crossing point outside defined working hours or while it is closed; unless such an entry or exit is allowed by an international treaty, this Act or a special regulation;<sup>5)</sup>
  - h) continuous residence shall be understood as the period of residence on the basis of an **issued residence permit** which starts to elapse on the date of entry; whereas the continuous residence shall not include the term of any imprisonment and continuous residence of the alien abroad for the period of more than 180 days, unless provided otherwise herein;

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3) Act no. 480/2002 Coll. on Asylum and on the Amendment and Supplementation of Certain Acts as amended by further regulations.

4) Cl. 2 par. 2 of Regulation (EC) no. 562/2006.

5) Art. 14 par. 6 and 9 of Act no. 199/2004 Coll. Customs Act. on the amendment and supplementation of certain acts.

- i) threat to state safety shall be understood as the action of a person who threatens democratic order, sovereignty, territorial cohesion or inviolability of state borders; or the action of a person who violates the fundamental rights and freedoms which protect the lives and health of persons, property and environment;
- j) threat to public order shall be understood as the violation or threat to the interest protected by law regarding fundamental human rights and freedoms, protection of minors and other vulnerable persons or repeated violation of an interest protected by law regarding due exercise of public administration, environment, public order or citizen coexistence;
- k) valid travel document shall be understood as a passport or other public document, if acknowledged as a travel document by the Slovak Republic, valid, enabling unambiguous identification of its holder, with untouched integrity and undamaged so that the included records are illegible;
- l) border transport shall be understood as the transport of persons via international bus line which operates within the area up to 50 kilometres from the external land border;
- m) border area of the external border shall be understood as the Slovak Republic territory up to the distance of 50 kilometres from the external border;
- n) Schengen visa shall be understood as the uniform visa, visa with limited territorial validity and airport transit visa;<sup>6)</sup>
- o) marriage of convenience shall be understood as the marriage in order to obtain residence;
- p) facility shall be understood as the place where a third country national is placed on the basis of a decision on detention as defined herein;

(2) An alien shall be understood as everybody who is not the state citizen of the Slovak Republic.<sup>7)</sup>

(3) A Union citizen is understood as everybody who is not the state citizen of the Slovak Republic and who is the citizen of another member state.

(4) A third country national is everybody who is neither the state citizen of the Slovak Republic nor the Union citizen; a third country national is also understood as a person without any citizenship.

(5) A family member of the Union citizen is understood as the third country national who is

- a) his/her spouse;
- b) his/her child younger than 21 years of age, his/her dependent child and dependent children of his/her spouse;
- c) his/her dependent direct relative in descending or ascending line and such a person of his/her spouse;
- d) any other family member to whom paragraphs (a) to (c) do not apply and he/she is a dependent person in the country of his/her origin;
- e) any other family member to whom paragraphs (a) to (c) do not apply and he/she is the member of his/her household;
- f) any other family member to whom paragraphs (a) to (c) do not apply and he/she depends on his/her care due to serious health reasons;
- g) his/her partner with whom the Union citizen is in a permanent, duly certified relationship;

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6) Cl. 2 par. 3 to 5 of Regulation (EC) no. 810/2009.

7) Art. 2 to 8b of the Slovak Republic National Council Act no. 40/1993 Coll. on Citizenship of the Slovak Republic as amended by further regulations.

h) a third country national with the right of residence in the same member state in which the Union citizen has the right of residence, and the Union citizen is a Slovak Republic national with whom the third country national returns or whom he/she joins to reside with back in the Slovak Republic territory and fulfils some of the conditions specified in letters (a) to (g) in connection with the Slovak Republic national;

(6) A third country national who is not required to have visa shall be the third country national who is not subject to visa duty according to a special regulation<sup>8)</sup> whose residence in the Slovak Republic territory is authorised on the basis of a valid document on residence issued according to this Act or on the basis of residence permit<sup>9)</sup> or if provided by an international treaty.

(7) A vulnerable person is especially a minor, a disabled person, a victim of trafficking in human beings a person older than 65 years, a pregnant woman, a single parent with an underage child and a person subjected to torture, rape or other serious forms of psychical, physical or sexual violence; in justified cases even a person younger than 65 years may be considered to be an “older person”.

(8) A persona non grata is an alien who was imposed a ban on entry, who was expelled,<sup>10)</sup> who was given a notification for the purpose of entry refusal<sup>11)</sup> or if provided by a special regulation.<sup>12)</sup>

(9) An accommodator is a legal entity or natural person – entrepreneur who provides accommodation on the basis of a contract on accommodation.

## **PART TWO BORDER CONTROL, ENTRY AND EXIT THROUGH EXTERNAL BORDER**

### **TITLE ONE EXTERNAL BORDER**

#### **Article 3 Control of External Border**

Border control at the external border shall be provided by the police force department (thereinafter referred to as the “police department”) on the basis of an act, a special

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8) Appendix no. 2 of the Council (EC) Regulation no. 539/2001 of March 15, 2001 which specifies the list of third countries the nationals of which must have visa when crossing the borders of member states and countries the nationals of which are exempt from this obligation (Special Edition of O.J. EU, chap. 19/vol. 04) as amended.

9) Cl. 2 par. 15 of Regulation (EC) no. 562/2006.

10) Art. 65 of Criminal Act.

11) cl. 96 of the Treaty by which the Schengen Agreement is exercised of June 14, 1985 on gradual abolition of controls at common borders signed in Schengen on June 19, 1990 (Special Edition of O.J. EU, chap. 19/vol. 2, O.J. EC L 239, 22. 9. 2000) as amended.

12) Art. 7 par. 1 of Act no. 126/2011 Coll. on the Exercise of International Sanctions.

regulation<sup>13)</sup> or an international treaty<sup>14)</sup> at the border crossing point, close to the external border and close to the external border area.

#### **Article 4 Border Crossing Point**

- (1) A border crossing point at the external border shall be the
- a) place specified by an international treaty for the entry and exit, for the transit of transportation means and for the transport of goods through the external border;
  - b) public airport which was granted a permission for the operation of flights into third countries or flights from third countries according to a special regulation<sup>15)</sup> (thereinafter referred to as the “international airport”).
- (2) A third country as per paragraph 1(b) shall be understood as the state which does not apply the provisions of a special regulation on the abolition of control of internal borders.<sup>16)</sup>

#### **Article 5 Conditions of Crossing External Border**

- (1) The conditions of crossing external border which have not been defined herein are specified in a special regulation<sup>17)</sup> or international treaty.<sup>18)</sup>
- (2) An external border can be crossed outside a border crossing point, only if defined by an international treaty<sup>18)</sup> or on the basis of a permission issued by the Ministry of Interior of the Slovak Republic (thereinafter referred to as the “Ministry of Interior”) as per a special regulation,<sup>19)</sup> if the permission for the crossing of persons and goods through the customs border outside customs crossing point is not subject to the competent customs body as per special regulation.<sup>5)</sup>

#### **Article 6**

- (1) A third country national younger than 16 years of age who is not the holder of a travel document can only cross an external border accompanied by a person in whose travel document he/she is entered; if such a person is subject to visa obligation, a third country national younger than 16 years of age must have a separate visa granted in such a travel document.

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13) For example Regulation (EC) no. 562/2006, Regulation (EC) no. 810/2009.

14) Agreement between the Slovak Republic and Ukraine on the Regime at Slovak-Ukrainian State Borders, Cooperation and Mutual Help in Border Issues (Notification no. 2/1995 Coll.).

15) Art. 32 par. 1 of Act no.143/1998 Coll. on Civil Aviation (Aviation Act) and on the amendment and supplementation of certain acts.

16) Article III of Regulation (EC) no. 562/2006.

17) Cl. 4 and 5 of Regulation (EC) no. 562/2006.

18) For example cl. 5 par. 4 and 7 of Agreement between the Slovak Republic and Ukraine on the Regime at Slovak-Ukrainian State Borders, Cooperation and Mutual Help in Border Issues (Notification no. 2/1995 Coll.), cl. 7 par. 1 of the Agreement between the Slovak Republic government and Cabinet of Ukrainian Ministers on Cooperation and Mutual Help in Case of Emergency (Notification no. 122/2003 Coll.).

19) Cl. 4 par. 2 of Regulation (EC) no. 562/2006.

(2) A third country national, when crossing an external border at the border crossing point, shall be obliged to demonstrate financial resources<sup>20)</sup> necessary to cover the costs related to his/her residence in the Slovak Republic territory.

(3) The Ministry of Interior shall, in accordance with a special regulation,<sup>21)</sup> issue a general statute in order to define the amount of financial resources necessary to cover the costs related to the residence of a third country national in the Slovak Republic territory.

## **Article 7**

### **Special Conditions of Entry of Union Citizens and Family Members of Union Citizens**

(1) A family member of a Union citizen can enter the Slovak Republic territory, if he/she is accompanied by the Union citizen or if he/she travels in order to join the Union citizen; this shall not apply, if the family member of the Union citizen has the right of residence as the family member of the Union citizen in some of the members states.

(2) The right of entry shall be demonstrated by a Union citizen by means of submitting a document or in another trustworthy way in which he/she duly demonstrates his/her identity and citizenship in a member state. The family member of the Union citizen shall demonstrate the right of entry by submitting a document or in another trustworthy way in which he/she duly demonstrates his/her identity and family relationship with the Union citizen. A person who declares that he/she is a Union citizen or a family member of a Union citizen is allowed by the police department to demonstrate these facts in a trustworthy way within due period of time.

(3) A family member of a Union citizen who is subject to visa obligation<sup>22)</sup> shall submit a valid visa at the entry; this shall not apply, if he/she submits a valid document of residence of a family member of a Union citizen or a document of residence as per special regulation.<sup>9)</sup>

(4) A police department shall grant visa at the border crossing point to a family member of a Union citizen who is subject to visa obligation who does not have required visa at the entry through the external border, if he/she has demonstrated in a trustworthy way that the right as per paragraph 1 applies to him/her. The visa at the border crossing point shall be immediately granted by the police department.

(5) If a family member of a Union citizen who is subject to visa obligation does not have any passport at the entry, the police department shall grant him/her visa on a separate sheet of paper.

## **Article 8**

### **Border Check**

(1) Border check<sup>23)</sup> shall be performed by a member of police force (thereinafter referred to as the “policeman”).

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20) Cl. 5 par. 1(c) of Regulation (EC) no. 562/2006.

21) Cl. 5 par. 3 of Regulation (EC) no. 562/2006.

22) Cl. 1 of Regulation (EC) no. 539/2001.

23) Cl. 2 par. 10 and cl. 7 of Regulation (EC) no. 562/2006.

(2) If the police officer discovers during border check that an alien has submitted a false or counterfeit travel document, other false or counterfeit documents allowing crossing of the external border or a false or counterfeit residence permit, the police officer shall be allowed to withhold such a document. The police officer may also withhold a travel document, another document allowing crossing of the external border or a residence permit issued for another person and presented by the alien as their own, or if it was declared by the public authority that issued it as invalid or stolen. The police officer shall issue a certificate about withheld document for such an alien.

(3) A police department is allowed to additionally enter data about time and place of entry through the external border into a travel document of a third country national, if such a third country national has refuted the assumption about the failure to fulfil the conditions of residence length due to a missing stamp in the travel document at the entry through the external border as per special regulation.<sup>24)</sup>

## **Article 9 Border Surveillance**

When performing border surveillance,<sup>25)</sup> a policeman is allowed, apart from the privileges as per a special regulation,<sup>26)</sup> within the necessary scope, to

- a) enter and drive into the land parcels close to the external border;
- b) forbid a person entry to a specific place situated close to the external border;
- c) enter and drive into the land parcels close to the external border area, when performing investigation of persons suspicious of committing a crime or an offence related to border control.

## **Article 10 Technical Devices**

(1) A police department is allowed, when performing border surveillance, to place and use technical devices in the area close to the external border which identify and document unauthorised external border crossing or prevent unauthorised external border crossing (thereinafter referred to as the “technical means”).

(2) A police department shall, prior to the placing of a technical device, notify this fact in writing to the owner, administrator or user of the land parcel (thereinafter referred to as the “land owner”); whereas the written notification shall at the same time include an instruction about his/her rights and duties due to the placing of the above technical device.

(3) A police department is allowed, if necessary for the fulfilment of tasks related to the performance of border surveillance and if the placement of a technical device cannot be delayed, to place the above technical device even without prior notification of this fact to the

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24) Cl. 11 par. 2 of Regulation (EC) no. 562/2006.

25) Cl. 2 par. 11 and cl. 12 of Regulation (EC) no. 562/2006.

26) For example Art. 13 to 34 of the Slovak Republic National Council Act no. 171/1993 Coll. on Police Force as amended by further regulations, Art. 60 of the Slovak Republic National Council Act no. 372/1990 Coll. on Offences as amended by further regulations.

land owner; following to the placement of such a technical device the police department shall proceed as per paragraph 2 without any delay.

(4) A police department shall take care of the rights of the land owner during the placement of the above technical device.

(5) A technical device, if its nature allows this, shall be labelled: “State property, destruction, damage or unauthorised removal to be punished by law”.

(6) When placing a technical device close to the external border area, there is no requirement for the labelling of such a monitored area as per a special regulation.<sup>27)</sup>

## **Article 11**

### **Entry Refusal for Union Citizen and Family Member of Union Citizen**

(1) A police department at a border crossing point can refuse entry through an external border for a Union citizen or a family member of a Union citizen only in such a case, if there is a justified suspicion that he/she would threaten the state safety/public order in a serious way, or if it is necessary for the protection of public health.

(2) A decision on the refusal of entry for a Union citizen or a family member of a Union citizen due to the threat to the state safety or public order must be based exclusively on personal behaviour of such a person, whereas such personal behaviour must represent an immediate and sufficiently serious threat to the state safety or public order. Criminal offences committed in the past by a Union citizen or by a family member of a Union citizen are not, without any connection with a justified suspicion of a serious threat to state safety or public order, a reason for entry refusal.

(3) Prior to the issue of a decision on the refusal of entry due to a threat to the state safety or public order, a policeman is allowed to take fingerprints from a Union citizen or family member of Union citizen and make a record.

(4) An appeal against the decision on the refusal of entry as per paragraph 1 does not have any suspensory effect.

## **Article 12**

### **Entry Refusal for Third Country National**

(1) A police department at the border crossing point shall be entitled to refuse entry for a third country national as per a special regulation.<sup>28)</sup>

(2) A police department at a border crossing shall be entitled to refuse entry for a third country national also if his/her residence has already achieved the maximum length according to an international contract.<sup>29)</sup>

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27) Art. 10 par. 7 of Act no. 428/2002 Coll. on Protection of Personal Data.

28) Cl. 13 of Regulation (EC) no. 562/2006.

29) Cl. 4 Agreement between the Slovak Republic and Ukraine on Local Border Traffic (Notification no. 441/2008 Coll.).

(3) Entry cannot be refused to a third country national who has been granted a residence permit in the Slovak Republic, who submitted an asylum application during border check, who has been granted asylum in the Slovak Republic territory, who has been granted subsidiary protection in the Slovak Republic territory, who has requested provision of temporary refuge in the Slovak Republic territory, who has been granted temporary refuge in the Slovak Republic territory or who has been issued a travel document for an alien as per a special regulation.<sup>30)</sup>

(4) **An appeal against the decision as per paragraph 2 shall not have a suspensory effect.**

## **TITLE TWO INTERNAL BORDERS**

### **Article 13 Internal Border Control**

(1) The Slovak Republic government can, in accordance with a special regulation,<sup>31)</sup> statutory order, determine that the border control at the internal borders is temporarily renewed, to such an extent and in such a way which corresponds with the respective situation.

(2) During temporary renewal of border control at the internal borders the provisions of this Act which define border control at the external border shall be appropriately applied.

## **TITLE THREE VISA**

### **Article 14 Schengen visa**

(1) The characteristic of Schengen visa and conditions of their granting which have not been defined herein are included in a special regulation.<sup>32)</sup>

(2) A family member of a Union citizen shall be granted Schengen visa.

### **Article 15 National Visa**

(1) A third country national can be granted a national visa, if necessary in relation with the granting a residence permit in the Slovak Republic or in order to fulfil the obligations of the Slovak Republic following from international treaties or if this is in the interest of the Slovak Republic.

(2) A family member of an alien who was granted asylum or subsidiary protection as stated in a special regulation,<sup>33)</sup> shall be granted a national visa, if he/she does not threaten the state safety or public order.

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30) Art. 13 of Act no. 647/2007 on Travel Documents and on the amendment and supplementation of certain acts.

31) Cl. 23 to 31 of Regulation (EC) no. 562/2006.

32) Regulation (EC) no. 810/2009.

(3) A national visa shall be granted for residence longer than three months, maximum one year; if a national visa shall be granted in relation to the residence in the Slovak Republic, it is granted for 90 days and if a national visa is to be granted to a family member of an alien who was granted asylum or subsidiary protection, it is granted for the necessary period of time.

## **Article 16**

### **Proceedings on Granting of Schengen Visa**

(1) The granting of Schengen visa can be conditioned by an invitation certified by a police department.

(2) A diplomatic mission or consular office <sup>34)</sup> of the Slovak Republic abroad (hereinafter referred to as the “consulates”) may grant Schengen visa only after a prior statement of the Ministry of Interior; the Ministry of Interior and **the Ministry of Foreign and European Affairs** of the Slovak Republic (hereinafter referred to as the “Ministry of Foreign Affairs”) may agree in which cases the consulate may issue Schengen visa without a statement of the Ministry of Interior. The Ministry of Interior shall provide its statement to issuing a Schengen visa also to a diplomatic mission or a consular office of another state as part of consultations as per a special regulation.<sup>35)</sup> If an application for issuing a Schengen visa is approved, the decision shall not be issued; a visa sticker shall be issued instead.

(3) A consulate shall be entitled to determine the border crossing point for an entry of a third country national which is to be entered in Schengen visa.

(4) The decision by which an application for the granting of Schengen visa was refused or the decision by which granted Schengen visa was cancelled or revoked shall be issued in the state language; if requested by a third country national, it shall be also issued in the language as specified by a representing body or police department.

(5) A consulate can refuse an application for the granting of Schengen visa from a family member of a Union citizen only then if

- a) he/she fails to identify him/herself and family relationship to the Union citizen on the basis of submitted documents or in another trustworthy way; or
- b) he/she represents a serious threat to the state safety, public order or public health.

(6) A consulate or police department can, according to a special regulation,<sup>34)</sup> cancel or revoke Schengen visa. Schengen visa of a family member of a Union citizen can be only cancelled or revoked for the reason as per paragraph 5(b).

(7) A third country national can appeal against the decision on the refusal of the application for the granting of the Schengen visa, on cancelling or revoking granted Schengen visa. The appeal is filed by the third country national at the administration body which has issued the decision within the period of 15 days from the date of decision receipt. If the decision on the refusal of the application for the granting of Schengen visa could not have been delivered to the third country national, the period for the filing of an appeal starts to elapse on the date which follows after 90 days from the date of filing of the visa application. If the decision on cancelling or revoking granted Schengen visa could not have been delivered

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33) Art. 10 and 13b of Act no. 480/2002 Coll. as amended by further regulations.

34) Cl. 34 of Regulation (EC) no. 810/2009.

to the third country national within 90 days, it shall be delivered by means of a public notice for the period of 15 days on the official board of the administration body which has issued the decision.

(8) An appeal against the decision by which the application for the granting of Schengen visa was refused or against the decision by which the granted Schengen visa was cancelled or revoked shall not have any suspensory effect. The appeal must contain the data about the person who has filed it, why he/she considers the decision as wrong and in conflict with legal regulations. The appeal and written documentation regarding the appeal shall be submitted by the applicant in the state language.

(9) A consulate can decide on the appeal, if it fully approves the appeal. If the consulate fails to decide about the appeal, it shall be sent within five days from its delivery to the Ministry of Foreign Affairs which shall decide about the appeal. The Ministry of Foreign Affairs shall review the correspondence between the reasons of the decision of the representing body with the reasons defined in this Act or in a special regulation.<sup>32)</sup> If the reason of the decision by which the application for the granting of Schengen visa was refused, or decision by which granted Schengen visa was cancelled or revoked, was a different statement of the Ministry of Interior, the Ministry of Foreign Affairs can request again the statement of the Ministry of Interior as a part of a new evaluation of reasons.

(10) A written decision on the appeal shall be delivered to the applicant within 60 days from the date of the filing of the appeal. The decision shall be prepared in the state language and delivered to the applicant via a consulate. The decision which will not be deliverable to a third country national within 90 days shall be delivered by means of a public notice for the period of 15 days on the official board of the consulate.

(11) A general regulation on administrative proceeding<sup>35)</sup> shall not apply to the proceeding on the appeal against the decision which was issued by the consulate; this shall not apply, if it concerns a family member of the Union citizen.

(12) An evaluation of the decision on the appeal by the court shall be excluded; this does not apply, if this is a decision on the application of a family member of a Union citizen.

(13) The Ministry of Interior can extend the validity of Schengen visa due to the reasons as per a special regulation.<sup>36)</sup>

(14) The granting of Schengen visa representing another state and the granting of Schengen visa represented by another state is regulated in a special regulation.<sup>37)</sup>

(15) A family member of a Union citizen shall be obliged to submit, together with an application for Schengen visa, a valid travel document, a document which proves his/her family relationship with a Union citizen and a document about dependency, if required. A consulate shall decide about the application within 10 working days at the latest.

## **Article 17**

### **Proceedings on Granting of National Visa**

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35) Act no. 71/1967 Coll. on administrative proceeding (administrative order) as amended by further regulations.

36) Cl. 33 of Regulation (EC) no. 810/2009.

37) Cl. 8 of Regulation (EC) no. 810/2009.

(1) A third country national shall file an application for the granting of national visa using the official form at a consulate.

(2) A third country national shall submit, together with an application for the granting of national visa, a valid travel document, a coloured photograph of size 3 x 3.5 cm showing his/her current appearance, a document which proves the purpose of residence, a document of health insurance and further documents necessary for the decision about the application for the granting of national visa. The third country national shall be obliged to appear in person for an interview, if required.

(3) A family member of an alien who was granted asylum or subsidiary protection shall be obliged to submit, together with an application for the granting of national visa, a valid travel document, a document which proves his/her family relationship with a Union citizen and a document about dependency, if required; if he/she fails to submit all the documents, the application will not be accepted.

(4) A consulate shall decide about an application for the granting of national visa within 30 days from its receipt.

(5) A consulate can grant national visa only after prior statement of the Ministry of Interior; the Ministry of Interior and the Ministry of Foreign Affairs can agree the cases in which the consulate can grant national visa even without the statement of the Ministry of Interior.

(6) A national visa is issued to a travel document in the form of a sticker; **if a third country national presents a travel document referred to in paragraph 10, a national visa in the form of a sticker shall be issued on a special form.** The validity of the national visa generally ends at least 90 days prior to the end of validity of the travel document.

(7) A consulate shall be entitled to determine the border crossing point for the entry of a third country national which is to be recorded in the national visa.

(8) A consulate or police department shall be entitled to cancel national visa, if they discover the facts which would justify the non-granting of national visa, if the third country national has been administratively expelled or if he/she was imposed the sentence of expulsion.

(9) Neither a special regulation,<sup>32)</sup> nor a general regulation on administrative proceedings<sup>37)</sup> apply to the proceedings on the granting of national visa and on the cancellation of national visa; the general regulation on administrative proceedings is related to the proceedings on the granting of national visa to a third country national as per Art. 15 par 2.

**(10) For the purposes of the procedure for issuing a national visa to a third country national pursuant to Article 15 para. 2 a valid travel document shall mean a passport or other public document that is valid, allowing an unambiguous identification of its holder, having uncompromised integrity and not damaged beyond the point of the records contain therein being illegible.**

## Article 18

A police department at the border crossing point can grant Schengen visa to a third country national as per a special regulation.<sup>38)</sup> The provisions of Article. 16 par. 2, 4 to 6 and 12 appropriately apply to the proceedings on the granting of Schengen visa at the border crossing point.

## Article 19 Invitation

(1) An invitation is a supporting document that the consulate uses for decision making in the Schengen visa issuing procedure. The invitation may be substituted by an agreement on hosting as per a special regulation.<sup>41)</sup>

(2) An invitation verification may be requested by

- a) a Slovak citizen or an alien legally residing in the territory of the Slovak Republic; this does not apply to the third-country nationals with an issued tolerated residence under Article 58 para. 1 or who are staying in the territory of the Slovak Republic under a special regulation,<sup>2)</sup>
- b) a legal entity residing in the territory of the Slovak Republic.

(3) The inviting person shall submit their request on an official form in person or may be represented by an authorized person under a special regulation.<sup>37)</sup> Their invitation verification request shall include:

- a) information about the inviting person pursuant to Article 129 para. 1 letter d) or letter e),
- b) the name, surname, date and place of birth, nationality, permanent address and the address of stay in the Slovak Republic of the invited third country national, including the names, surnames and dates of birth of his/her children, if they are travelling with the invited third country national,
- c) the purpose for which the third country national is invited to the territory of the Slovak Republic,
- d) the commitment of the inviting person to cover all expenses related to the stay and travelling of the invited third country national.

(4) Together with their invitation verification request the inviting person shall submit a proof of identity along with all the particulars stipulated herein, otherwise the police department shall not accept the invitation verification request. The police department shall issue to the inviting person a certificate of receipt of the invitation verification request.

(5) Along with their invitation verification request the inviting person shall submit documents not older than 90 days which confirm

- a) the invitation purpose; a official Registry document proving the purpose of the invitation may be older than 90 days,
- b) the ability of the inviting person to cover all expenses related to the stay and travelling of the invited third country national.

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38) Cl. 35 of Regulation (EC) no. 810/2009.

(6) The inviting person shall prove the purpose of the invitation by submitting a document proving:

- a) the relationship with the invited third-country national;
- b) a business license of the inviting person;
- c) business or other working relations with the invited third country national;
- d) organising of a cultural, scientific or sporting event;
- e) study or other form of education;
- f) provision of health care; or
- g) the invitation purpose by some other credible manner.

(7) The inviting person shall prove their ability to cover all expenses related to the stay and travelling of the invited third country national by presenting an account balance confirmation for and account registered to their name in a bank, branch of a foreign bank or in a foreign bank (hereinafter referred to as the “bank”).

(8) In total the bank account balance pursuant to paragraph 7 must reach twelve times the subsistence minimum and funds for each day of the stay of the invited third country national listed in the generally binding legal regulation issued pursuant to Article 6 para. 3.

(9) The invitation shall be verified by the relevant police department for the place of residence of the person referred to in paragraph 2 letter a) or for the domicile of the entity referred to in paragraph 2 letter b) after having received an approval of the Ministry of Interior, within 15 days of receiving the request. Verified invitation shall be valid for 90 days of its issue.

(10) The Ministry of Interior shall not grant a permission to verify the invitation, if

- a) the invited third country national is a persona non grata;
- b) it is reasonably suspected that the purpose of stay of a third country national as stated in the invitation does not correspond with the actual purpose of their trip;
- c) it is reasonably suspected that the invited third country national can threaten the national safety, public order, public health or rights and freedoms of other persons and, in certain specific areas, nature during their stay;
- d) in their invitation confirmation request the inviting person has provided false, incomplete or misleading information or presented false, counterfeit or someone else’s documents;
- e) it is reasonably suspected that the invited third country national intends to enter into a marriage of convenience;
- f) it is reasonably suspected that the invitation might be misused;
- g) it is found that the documents accompanying the invitation verification request do not meet the conditions laid down by the law;
- h) it is found that the accommodation provided in the Slovak Republic territory fails to fulfil the minimum standards as per a special regulation;<sup>61)</sup>
- i) it is found that any of the conditions stipulated in a special regulation<sup>41a)</sup> is not complied with.

(11) If the inviting person declares that the verified invitation for the invited third country national has been lost, stolen or has expired and requests a verification of a new invitation for that third country national, the police department shall notify the Ministry of Interior, which makes the issued invitation invalid.

(12) A general regulation on administrative proceedings<sup>37)</sup>“ shall not apply to deciding on the verification of the invitation.

## **PART THREE RESIDENCE OF ALIENS**

### **TITLE ONE RESIDENCE OF THIRD COUNTRY NATIONAL**

#### **Section One Temporary Residence**

#### **Article 20 General Provisions**

(1) Temporary residence shall enable a third country national to stay, exit and re-enter the Slovak Republic territory during the period of time as specified by a police department.

(2) Temporary residence shall be bound with a single purpose. If a third country national wants to perform other activities than those for which the temporary residence was granted, he/she must file a new application for the granting of temporary residence, unless provided otherwise herein.

(3) A third country national who was granted temporary residence can study during temporary residence.

#### **Article 21 Purposes of temporary residence**

- (1) Temporary residence can be granted by a police department to a third country national
- a) for the purpose of business;
  - b) for the purpose of employment;
  - c) for the purpose of study;
  - d) for the purpose of special activity;
  - e) for the purpose of research and development;
  - f) for the purpose of family unification;
  - g) for the purpose of performing service obligations by civil units of armed forces;<sup>39)</sup>
  - h) who has the status of a Slovak living abroad;<sup>40)</sup>

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39) Treaty between states which are parties to North Atlantic Treaty and other states participating in the Partnership for Peace related to the statute of their armed forces (Notification no. 324/1997 Coll.) as amended by addendum protocol to the Treaty (Notification no. 325/1997 Coll.).

40) Art. 7 of Act no. 474/2005 Coll. on Slovaks Living Abroad and on the amendment and supplementation of certain acts.

i) who has the status of a person with long term residence in another member state.

(2) Temporary residence is also the residence on the basis of a Blue Card of the European Union (thereinafter referred to as the “Blue Card”) issued in accordance with this Act.

## **Article 22**

### **Temporary Residence for the Purpose of Business**

(1) Temporary residence for the purpose of business shall be granted by a police department, if there are no reasons for the refusal of the application as per Art. 33 paragraph 6, third country national who

- a) is conducting business or will be conducting business in the Slovak Republic territory as a natural person; or
- b) is acting or will be acting on behalf of a trading company or cooperative and he/she is not in a working relationship.

(2) A police department shall grant temporary residence for the purpose of business for the assumed time period of business, however, maximum for three years.

## **Article 23**

### **Temporary Residence for the Purpose of Employment**

**(1) Temporary residence for the purpose of employment shall be granted to a third country national by a police department, if there are no reasons for the refusal of the application in accordance with Article 33 paragraph 6, based on a confirmation of the possibility to fill a vacancy.<sup>44)</sup>**

**(2) Temporary residence for the purpose of employment shall be granted by a police department, if there are no reasons for the refusal of the application as per Article 33 paragraph 6, to a third country national based on an employment permit<sup>44a)</sup> or to a third country national who is not required to have an employment permit<sup>45)</sup> nor a confirmation of the possibility to fill a vacancy.<sup>44)</sup>**

(3) A police department shall grant temporary residence for the purpose of employment for the assumed duration of employment, however, maximum for two years.

(4) Temporary residence for the purpose of seasonal employment can be granted by a police department for a third country national following to the fulfilment of the conditions as per paragraph 1 maximum for 180 days during 12 months following after each other .

(5) Temporary residence for the purpose of employment is not required until 90 days from the beginning of the residence in the Slovak Republic territory, if a third country national fulfils the conditions for residence as per a special regulation,<sup>41)</sup> if he/she has fulfilled the obligation as per Art. 111 par. 2(a) and

- a) works for an important foreign investor<sup>42)</sup> in the Slovak Republic;

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41) Cl. 5 of Regulation (EC) no. 562/2006.

42) Art. 3 of Act no. 175/1999 Coll. on Certain Measures Related to the Preparation of Important Investments and supplementation of certain acts.

- b) has been sent by his/her employer based in a member state to the Slovak Republic territory within the services provided by this employer;<sup>43)</sup>
- c) is employed in international mass transport, if he/she was sent by his/her foreign employer to work in the territory of the Slovak Republic;<sup>44)</sup> or
- d) if he/she is in a working relationship with an employer with registered office or with registered office of a branch outside the Slovak Republic territory and has been sent on the basis of a contract closed with a legal entity or natural person to work in the Slovak Republic territory.<sup>45)</sup>
- e) based on a commercial contract delivers goods or services and performs installation works, warranty and repair works, production facility system set ups, programming works, or vocational training for said goods, if the duration of the employment relationship or the assignment to perform work does not exceed the total of 90 days a year, or
- f) based on a commercial contract delivers goods or services and performs installation works, warranty and repair works, production facility system set ups, programming works or provides vocational training for said goods to a trading company that has been provided with an investment assistance under special regulation 50a) in the period for which the investment assistance approval was issued.

#### **Article 24**

##### **Temporary Residence for the Purpose of Study**

(1) Temporary residence for the purpose of study shall be granted by a police department, if there are no reasons for the refusal of the application in accordance with Art. 33 par. 6 for a third country national who

- a) is a student of a secondary school;<sup>46)</sup>
- b) is a student of a language school;<sup>47)</sup>
- c) is a student of a university; or
- d) is attending language or professional preparation for the study at university which is organised by a university in the Slovak Republic.

(2) A police department shall grant temporary residence for the purpose of study for the assumed duration of study,<sup>48)</sup> however maximum for six years.

(3) A third country national who was granted temporary residence for the purpose of study by a police department can conduct business activities during temporary residence.

(4) Temporary residence for the purpose of study shall not be required until 90 days from the beginning of the residence in the Slovak Republic territory, if a third country national fulfils the conditions for residence as per a special regulation,<sup>6)</sup> if he/she has fulfilled the obligation as per Art. 111 par. 2(a).

#### **Article 25**

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43) Art. 22 par. 7( n) of Act no. 5/2004 Coll. as amended by further regulations.

44) Art. 22 par. 7 (p) of Act no. 5/2004 Coll. as amended by further regulations.

45) Art. 22 par. 6 (a) of Act no. 5/2004 Coll. as amended by further regulations.

46) Art. 32 of Act no. 245/2008 Coll. on Upbringing and Education (School Act) and on the amendment and supplementation of certain acts.

47) Art. 53 of Act no. 245/2008 Coll.

48) For example Art. 52 to 54 of Act no. 131/2002 Coll. as amended by further regulations, Art. 41, Art. 42 par. 1 of Act no. 245/2008 Coll.

## **Temporary Residence for the Purpose of Special Activity**

(1) Temporary residence for the purpose of special activity shall be granted by a police department, if there are no reasons for the refusal of the application in accordance with Art. 33 par. 6, for a third country national who is not an entrepreneur<sup>49)</sup> for

- a) lecturing activity;
- b) artistic activity;
- c) sporting activity;
- d) traineeship as a part of study outside the Slovak Republic territory;
- e) activities which follow from the programmes of the Slovak Republic government or from the programmes of the European Union;
- f) fulfilment of an obligation of the Slovak Republic which follows from an international treaty;
- g) provision of health care or for the escort of a third country national who is provided health care, if necessary,
- h) volunteering activities or
- i) activities of a journalist accredited in the Slovak Republic.

(2) A police department shall grant temporary residence for the purpose of special activities as per paragraph 1 for the time period necessary in order to achieve the purpose, however, maximum for two years.

(3) Temporary residence for the purpose of special activity is not required until 90 days from the beginning of residence in the Slovak Republic territory, if a third country national fulfils the conditions for residence as per a special regulation,<sup>46)</sup> if he/she has fulfilled the obligation as per Art. 111 par. 2(a).

## **Article 26**

### **Temporary Residence for the Purpose of Research and Development**

(1) Temporary residence for the purpose of research and development shall be granted by a police department, if there are no reasons for the refusal of the application in accordance with Art. 33 par. 6, for a third country national who performs research and development on the basis of an agreement on hosting<sup>41)</sup> for the time period necessary in order to achieve the purpose, however, maximum for two years. A third country national who was granted temporary residence for the purpose of research and development by a police department can conduct business activities during temporary residence.

(2) Temporary residence for the purpose of research and development shall not be required until 90 days from the beginning of residence in the Slovak Republic territory, if a third country national fulfils the conditions for residence as per a special regulation,<sup>46)</sup> if he/she has fulfilled the obligation as per Art. 111 par. 2(a).

## **Article 274**

### **Temporary Residence for the Purpose of Family Unification**

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49) Art. 2 par. 2 of the Commercial Code.

(1) Temporary residence for the purpose of family unification shall be granted by a police department, if there are no reasons for the refusal of the application in accordance with Art. 33 par. 6, for a third country national who is a

- a) family member if the third country national with temporary residence or with permanent residence;
- b) relative in a direct ascending line of a person granted asylum younger than 18 years of age; or
- c) dependent person in accordance with an international treaty.<sup>50)</sup>

(2) The following is considered as a family member of a third country national according to paragraph 1(a)

- a) a spouse, if the married couple is at least 18 years;
- b) a single child younger than 18 years of age of a third country national and his/her spouse;
- c) his/her single child younger than 18 years of age;
- d) a single child of his/her spouse younger than 18 years of age;
- e) his/her unattended single child older than 18 years of age or dependent single child older than 18 years of age of his/her spouse<sup>51)</sup> who cannot take care of him/herself due to long term unfavourable health condition;
- f) his/her parent or a parent of his/her spouse who is dependent on his/her care and lacks appropriate family support in the country of origin.

(3) The provision of paragraph 1(a) shall not relate to a family member as per paragraph 2(f) of a third country national with temporary residence for the purpose of study.

(4) Temporary residence for the purpose of family unification shall be granted to a third country national stated in paragraph 2 (c) and (d) only then, if such a unification is approved by the parent to whom this child was not entrusted into personal care and who has the right to meet this child.

(5) Temporary residence for the purpose of family unification shall be granted until the end of the validity of residence of a third country national for which the third country national as stated in paragraph 1 applies the right for family unification, however, maximum for five years.

(6) A third country national who was granted temporary residence for the purpose of family unification can conduct business activities; this shall not apply in the case of a family member as per paragraph 2(e) or (f) who cannot conduct business activities.

## **Article 28**

### **Temporary Residence for the Purpose Performing Service Obligations by Civil Units of Armed Forces**

Temporary residence for the purpose of performing service obligations by civil units of armed forces shall be granted by a police department to a third country national who is a member of the civil units of the issuing state and who is in service of such armed forces, maximum for five years.

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50) Treaty between states which are parties to North Atlantic Treaty and other states participating in the Partnership for Peace related to the statute of their armed forces (Notification no. 324/1997 Coll.) as amended by addendum protocol to the Treaty (Notification no. 325/1997 Coll.).

51) Art. 3 of Act no. 600/2003 Coll. on Child Allowances and on the amendment and supplementation of Act no. 461/2003 Coll. on Social Insurance as amended by further regulations.

**Article 29**  
**Temporary Residence of Third Country National Who Has Status of Slovak Living Abroad**

(1) Temporary residence for a third country national who has a certificate of a Slovak living abroad as per a special regulation<sup>43</sup>) shall be granted by a police department, if there are no reasons for the refusal of the application as per Art. 33 par. 7.

(2) Temporary residence permit shall be granted by the police department as per paragraph 1 for **five years**.

(3) A third country national who was granted temporary residence permit as per paragraph 1 can conduct business activities.

**Article 30**  
**Temporary Residence of Third Country National Who Has Status of Person with Long Term Residence in Another Member State**

(1) Temporary residence for a third country national who has the status of a person with long term residence in another member state shall be granted by a police department, if there are no reasons for the refusal of the application as per Art. 33 par. 6 and if he/she is

- a) conducting business activities in the Slovak Republic territory;
- b) employed in the Slovak Republic territory;
- c) studying at a school in the Slovak Republic;
- d) performing activities as stated in Art. 25 or Art. 26; or
- e) a family member as per Art. 27 par. 2 of a third country national as per letters (a) to (d) and the family existed in another member state which has acknowledged the status of a person with long term residence to a third country national.

(2) Temporary residence shall be granted by a police department as per paragraph 1 for the time period necessary in order to achieve the purpose, however, maximum for five years.

(3) A third country national as per paragraph 1 can simultaneously perform even several activities included in paragraph 1.

(4) Temporary residence as per paragraph 1 shall not be required until 90 days from the beginning of residence in the Slovak Republic territory, if a third country national fulfils the conditions for residence as per a special regulation,<sup>46</sup>) and if he/she has fulfilled the obligation as per Art. 111 par. 2(a).

**Application for the Granting of Temporary Residence**

**Article 31**

(1) An application for the granting of temporary residence permit shall be filed by a third country national in person abroad at a consulate accredited for the state which has issued a travel document for him/her or at a consulate accredited for the state in which he/she has permanent residence; unless provided otherwise herein; if there is no such an embassy or in exceptional circumstances the Ministry of Foreign Affairs shall determine, following to the

agreement with the Ministry of Interior, another consulate where the third country national files the application for the granting of temporary residence permit. The consulate which has received the application shall issue a certificate of receipt to the applicant on the date of its receipt.

(2) A consulate that received the application shall interview the temporary residence permit applicant to make a preliminary check of the application. The interview shall be conducted in the state language or in another language understood by both parties. The consulate shall produce a written record about the interview which is to be attached to the application for granting a temporary residence permit. **The record shall be produced in the language of the interview and signed by the applicant; if the interview was not conducted in the state language, the consulate shall produce a translation into the state language and attest it with their attestation clause.** If the applicant does not speak the state language he/she may arrange an interpreter, at his/her own cost, who shall be obliged to sign the record. Together with the record **and the translation thereof** the consulate shall send to the police department its position on granting the temporary residence permit, in which they shall recommend to grant or not to grant the temporary residence permit and the specific reasons for such position.

(3) **The temporary residence permit application may also be filed by the third country national in person at the police department, if he/she is legally residing in the Slovak Republic territory; this shall not apply to third country nationals with residence permits granted under Article 58 para. 1 letter b) or to asylum seekers.<sup>3)</sup> Submitting an application does not authorize a third country national to reside in the territory of the Slovak Republic beyond the conditions stipulated by a special regulations.<sup>57)</sup> A third country national who is a holder of a certificate of a Slovak living abroad<sup>43)</sup> and who applied for temporary residence permit under Article 29 shall be authorized to reside in the territory of the Slovak Republic before the application is decided.**

(4) A police department shall issue a certificate of receipt to the applicant on the date of the filing of an application for the granting of temporary residence permit as per paragraph 3.

(5) A third country national with whom the family unification is requested can file an application for the granting of temporary residence instead of the third country national who cannot file an application due to helplessness as per Art. 27.

(6) A third country national who has been granted temporary residence as per Art. 23 par. 4 cannot file an application for the change of purpose at a police department.

(7) A third country national who has been granted temporary residence as per Art. 27 or Art. 30 par. 1(e) and whose marriage was terminated and whose continuous temporary residence lasts at least three years or who achieved full age shall file an application for the change of the purpose of residence at a police department within 30 days from the issuance of a death certificate, of coming into effect of the decision on the divorce of marriage or achievement of full age; whereas by the time of deciding on such an application his/her residence shall be considered as authorised.

(8) A third country national who applies for the granting of temporary residence as per Art. 27 par. 1(a) as the family member of a Blue Card holder with residence permission in another member state where their common family existed shall be obliged to file an application at a police department within 30 days from the entry into the Slovak Republic

territory. Instead of the above third country national, the application for the granting of temporary residence as per Art. 27 par. 1(a) can be filed by the Blue Card holder with whom the family unification is requested. If the validity of residence permission in a member state has expired during the proceedings for the granting of temporary residence, his/her residence shall be considered as authorised by the time of deciding about such an application.

## Article 32

(1) An application for granting a temporary residence permit shall be filed by a third country national on an official form. When filing an application for granting a temporary residence permit, the third country national shall be obliged to submit a valid travel document and all the particulars of the application for granting a temporary residence permit as defined herein; otherwise the consulate or police department shall not accept the application for granting a temporary residence permit. **If the consulate or the police department do not accept the application for granting a temporary residence permit, they shall notify the third country national in writing on what documents must be presented with the application for granting a temporary residence for it to be accepted. However, the application for granting a temporary residence permit as per Article 23 paragraph 1 shall be rejected by the consulate or the police department only if the third country national fails to submit a valid travel document.**

(2) A third country national shall submit, together with an application for the granting of temporary residence, two coloured photographs of size 3 x 3.5 cm showing his/her current appearance and documents not older than 90 days which confirm

- a) the purpose of residence;
- b) integrity, unless provided otherwise in paragraph 3;**
- c) financial resources for residence; this shall not apply in the case of a third country national as per Art. 28 and 29;
- d) financial resources for conducting business activities in the case of a third country national as per Art. 22; this shall not apply in the case of a third country national who is or will be acting on behalf of an important foreign investor;
- e) provided accommodation; this shall not apply in the case of
  1. a third country national who regularly commutes to work or school through the state border from the neighbouring state;
  - 2. a third country national applying for granting a temporary residence permit as per Article 24, Article 25 para. 1 letters e) and f) or Article 30 and studying at a university, teaching or doing research; or;**
  - 3. a third country national applying for granting a temporary residence permit as per Article 26 or Article 29;**
- f) approval as per Art. 27 par. 4.

(3) **The obligation to present a document attesting to their integrity shall not apply to third country nationals as per Article 24 paragraph 1 letter a) and Articles 28 and 30 and third country nationals younger than 14 years; this document also does not need to be submitted with applications for changing the purpose of residence, if documents attesting to their integrity had been submitted with their previous application for granting a residence permit. A document attesting to his/her integrity does not have to be attached to the application of a third country national as per Article 29 submitting an application for granting a temporary residence permit as per Article 29 within 60 days from being issued a certificate of a Slovak living abroad as per a special regulation.<sup>43</sup>).**

(4) A document on the provision of accommodation of a third country national, who is representing or working for an important foreign investor in the Slovak Republic, his/her spouse and child, **an international agreement as per para. 5 letter j) and a document as per para. 5 letters c), o), q and r) all may be older than 90 days.**

(5) The purpose of residence as per paragraph 2(a) shall be demonstrated by a third country national via

a) **submitting a business plan in the form as per a special regulation,58) a trade license certificate or a document confirming that the person is authorised to do business, in the case of a third country national who applies for temporary residence as per Article 22;**

b) **a written binding offer of an employer to employ the third country national, or an employment contract and a decision to recognize a document attesting the academic qualification of the third country national as per a special regulation 62) or a document attesting the highest achieved education, in the case of a third country national who applies for temporary residence as per Article 23 paragraph 1.**

c) employment permission or employer's confirmation that the third country national is to perform such an activity for which an employment permission is not required; or an international contract in the case of a third country national who applies for temporary residence as per Art. 23 **para 2;**

d) a confirmation from a state administration body, or a school of acceptance of a third country national for studies **or a confirmation from an organisation that is in charge of administration of programs approved by the government of the Slovak Republic or programmes of the European Union based on an agreement signed with the competent state administration body,** if it is a third country national applying for temporary residence permit as per Article 24;

e) confirmation from a school or other educational institution about the performance of lecturing activities in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(a);

f) confirmation from a state administration body or artistic agency in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(b);

g) confirmation from a sports organisation or competent state administration body in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(c);

h) confirmation about traineeship in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(d);

i) confirmation from a state administration body the scope of activities of which also includes the performance of activities according to the programmes approved by the Slovak Republic government or programmes of the European Union or confirmation of the organisation which provides for such a programme on the basis of a contract with the competent state administration body in the case of a third country national who applies for temporary residence as per Art. 25 par. 1 (e);

j) **an international agreement a confirmation from a state administration body the scope of activities of which includes also the performance of activities of the programmes approved by the government of the Slovak Republic or programmes of the European Union or a confirmation from the organisation which runs such a programme based on an agreement signed with the competent state administration body,** if it is a third country national applying for temporary residence permit as per Article 25 paragraph 1 letter f);

- k) confirmation from a health institution on the provision of health care or document on the need of escort in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(g);
- l) confirmation from a non-governmental organisation about the performance of volunteering activities in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(h),
- m) confirmation from a competent state administration body on the performance of the activities of a journalist accredited in the Slovak Republic or document on the accreditation of a journalist active in the Slovak Republic in the case of a third country national who applies for temporary residence as per Art. 25 par. 1(i);
- n) **an agreement on hosting as per a special regulation,<sup>41)</sup> if it is a third country national applying for temporary residence permit as per Article 26;**
- o) certificate of civil status in the case of a third country national who applies for temporary residence as per Art. 27; in the case of a single child younger than 18 years of age, a child younger than 18 years of age entrusted into personal care of a third country national, unattended child of a parent dependent on the care of a third country national or a dependent person according to an international treaty also a document confirming this fact;
- p) individual or collective instruction for the transport of armed forces in the case of a third country national who applies for temporary residence as per Art. 28;
- q) certificate of a Slovak living abroad in the case of a third country national who applies for temporary residence as per Art. 29;
- r) document of long term residence issued as per a special regulation<sup>52)</sup> by a member state and an employment contract, a written promise of an employer to hire a third country national, a confirmation from a state administration body, school or another accredited facility accepting the third country national for study or vocational education or another document as per letter (a) or (e) to (n), in the case of a third country national who applies for temporary residence as per Art. 30.

(6) Means of subsistence for residence as per paragraph 2 letter c) shall be proven by a third country national by means of

- a) **A bank account balance statement** for an account registered to the name of the third country national, if it is a third country national applying for temporary residence permit as per Articles 22 or 30;
- b) a note from an employer confirming the agreed salary or **a bank account balance statement** for an account registered to the name of the third country national, if it is a third country national applying for temporary residence permit as per Articles 23 or 30;
- c) **bank account balance statement** for an account registered to the name of the third country national, confirmation of a granted scholarship, confirmation of a statutory body of a legal entity about the provision of means of subsistence during residence or a statutory declaration of a person that he/she would provide means of subsistence for the third country national during his/her residence supported by a personal bank account statement, **a bank account balance statement**, if it is a third country national applying for temporary residence permit as per Articles 24 or 30;
- d) **bank account balance statement** for an account registered to the name of the third country national or a confirmation of a statutory body of a legal entity on financial and material

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52) Regulation of Council (EC) no.1030/2002 of June 13, 2002 which defines a unified format of residence permissions for third country nationals (Special Edition of O.J. EU, chap.19/vol. 04; O.J. EC L 157, 15. 6. 2002) as amended.

- means of subsistence of the third country national during his/her residence, if it is a third country national applying for temporary residence permit as per Articles 25, 26 or 30;
- e) a confirmation as per paragraph 5 **letter i) or j)**, if it also includes means of subsistence for the residence, if it is a third country national who applies for temporary residence permit as per Article 25 **letters e) or f)** or Article 30;
  - f) an agreement on hosting as per a special regulation,<sup>41)</sup> in the case of a third country national who applies for temporary residence as per Sec. 26;
  - g) **a statutory declaration of a third country national who has been granted or is applying for permanent residence or temporary residence permit under this act with whom he/she is requesting a family reunification, that he/she will provide financial and material support during third country national's stay in the territory of the Slovak Republic, together with the employment contract, an employer's confirmation of the amount of paid salary or a confirmation of the bank account balance of an account registered to the name of the third country national who has been granted or is applying for a permanent residence permit or temporary residence permit under this Act and whom he/she is requesting family reunification with;**
  - h) a confirmation of a foster home about the placement of a third country national.

(7) The third country national shall declare his/her financial resources for business activities as per paragraph 2 letter d) **by a submitting a bank account balance statement of the business account that must be different from the account referred to in paragraph 6, amounting to**

- a) twenty times the subsistence minimum, 60) if it is a third country national as per Article 22 para. 1 letter a);
- b) one hundred times the subsistence minimum, if it is a third country national as per Article 22 para. 1 letter b).

(8) A document on the provision of accommodation must demonstrate that the third country national has provided accommodation for at least six months of temporary residence; if he/she applies for temporary residence for a shorter period of time, he/she must demonstrate accommodation during the whole temporary residence. A third country national as per Art. 27 and Art. 30 par. 1(e) must demonstrate the provision of accommodation in common with the third country national with whom he/she applies for family unification.

(9) A third country national as per Art. 22, 25, 26, 27, 29 and 30 shall be obliged to submit a document confirming health insurance to the police department within 30 days from the receipt of the document of residence.

(10) A third country national who has been granted a temporary residence permit shall be obliged to submit a medical opinion confirming that he/she does not suffer from any disease which could threaten public health to the police department within 30 days from the receipt of the residence document; this shall not apply if it concerns a third country national as per Articles 28 ,29 or 30 **and if it concerns changing of the type or purpose of residence**. The medical opinion confirming that he/she does not suffer from any disease which could threaten public health may not be older than 30 days. .

(11) A third country national who was granted temporary residence as per Art. 22 shall be obliged to submit within 60 days from the receipt of a document of residence an extract from the Companies Register of a natural person – entrepreneur, trading company or cooperative which were included in the application; this shall not apply, if a special regulation does not

require any entry into the Companies Register. The period for the submission of an extract from the Companies Register can be extended by 60 days upon the application of a third country national.

(12) Instead of the third country national applying for granting a temporary residence permit as per Article 27, the fulfilment of conditions as per paragraph 2 letter c), e) and f) shall be demonstrated by the third country national with whom the family reunification is requested..

(13) A consulate or police department can request from a third country national as per Art. 30 a document not older than 90 days which confirms integrity

- a) from the member state which has acknowledged him/her as a person with long term residence; or
- b) from the member state which has granted him/her residence.

(14) If a third country national files an application for the granting of temporary residence for the purpose of family unification with the person granted asylum within three months from the granting of asylum, the application shall include only a valid travel document and a document which proves affinity or another evidence which proves the existence of such a relationship.

(15) Financial resources shall be demonstrated by a third country national in the amount of subsistence minimum<sup>60)</sup> for each month of residence; if the residence length exceeds one year, financial resources must be demonstrated in the amount of twelvefold subsistence minimum. A minor third country national shall demonstrate a half of the financial resources for residence as per first sentence.

### **Article 33**

#### **Deciding about Application for Granting of Temporary Residence**

(1) A police department, when deciding about the application for the granting of temporary residence, takes into account the

- a) public interest, especially the safety viewpoint, economic interests of the Slovak Republic, especially the contribution of business activities of a third country national to the Slovak Republic economy and to the protection of public health;
- b) interests of a minor child of a third country national, personal and family conditions of a third country national, his/her financial situation and length of residence up to now and assumed residence;
- c) statement of a consulate on the granting of temporary residence.

(2) A police department, when evaluating business plan which was submitted as per Art. 32 par. 5(a) shall request a statement from the Ministry of Economy of the Slovak Republic whether the business activities of a third country national contribute the Slovak Republic economic interests.

(3) A police department when granting a residence permit as per Article 23 paragraph 1 shall request the competent Office of Labour, Social Affairs and Family to provide a written confirmation of the possibility to fill a vacancy.<sup>44)</sup> The police department shall attach to the application according to the preceding sentence a copy of the part of the application bearing applicant's personal data, copies of documents indicating the purpose of residence and a copy of the position of the consulate as per Article 31 paragraph 2, if the application was submitted at a consulate.

(4) The time period for which the third country national has provided accommodation during temporary residence shall not affect the time period for which the temporary residence is granted.

(5) A police department may suspend the proceedings on granting of temporary residence as per Article 27, if the third country national applied for it before a decision was made on the application for permanent residence or temporary residence hereunder of a third country national with whom he/she applies for family reunification.

(6) A police department shall refuse an application for the granting of temporary residence, if

- a) a third country national is an undesired person;
- b) there is a justified suspicion that a third country national would threaten the state safety, public order or public health during his/her residence;
- c) a third country national fails to fulfil the conditions for the granting of temporary residence;
- d) a third country national has closed the marriage of convenience;
- e) a third country national gives false or misleading data or submits falsified or counterfeited documents or a document of another person;
- f) the data in a travel document do not correspond with the reality;
- g) the granting of temporary residence is not in public interest; or
- h) it is obvious that the provided accommodation in the Slovak Republic territory fails to fulfil the minimum requirements as per a special regulation;<sup>53)</sup> 61 or
- i) the Office of Labour, Social Affairs and Family issues a confirmation as per paragraph 3 stating a disapproval of filling a vacancy.

(7) A police department can refuse an application for the granting of temporary residence by a third country national who has the status of a Slovak living abroad only for reasons stated in paragraph 6(a), (b), (d) to (f) and (h).

(8) A police department shall decide about the application for the granting of temporary residence within 90 days. A police department shall decide within 30 days from the receipt of an application with all the necessities as per Art. 32 in the case of

- a) a third country national as per Art. 24 to 26 and Art. 29;
- b) a third country national who represents or works for a foreign investor in the Slovak Republic and at the same time is the citizen of the member state of the Organisation for Economic Cooperation and Development;
- c) a third country national who represents or works for an important foreign investor<sup>47)</sup> in the Slovak Republic;
- d) a spouse of a third country national as stated under (b) or (c) or a child younger than 18 years of age of a third country national as stated under (b) or (c).

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53) Art. 62(f) of Act no. 355/2007 Coll. on Protection, Support and Development of Public Health and on the amendment and supplementation of certain acts.

Art. 8 par. 1 of the Slovak Republic Ministry of Health Edict no. 259/2008 Coll. on Details about Requirements on the Internal Premises of Buildings and Minimum Requirements for Low Standard Flats and Accommodation Facilities.

(9) If an application for granting a temporary residence permit is accepted, the police department shall not issue a written decision, but notify the third country national in writing that he/she was granted a temporary residence permit and indicate in the notification the date of granting and the date of expiry of the temporary residence permit. The police department shall send a written or electronic notice of granting the temporary residence permit to the third country national, to the competent consulate based on the place of permanent residence of the third country national, as well as to the self-governing region and municipality of the place of temporary residence.

(10) The police department shall decide to grant temporary residence as of a later start date if it is discovered from the document by which the third-country demonstrates his/her purpose of residence that the purpose of residence starts to be conducted later than at the date of the decision on the application; this shall not apply if the time between the decision of the police department to grant temporary residence and the start of conducting the purpose of residence is less than 30 days. Granted residence must always start 30 days before the date on which the third country national starts conducting the purpose of his/her residence.

(11) A police department shall inform the member state in which a third country national has acknowledged status of a person with long term residence about the granting of temporary residence.

(12) If a third country national has requested the change of the type or purpose of residence, his/her residence in the Slovak Republic territory shall be considered as authorised by the time of deciding about such an application.

### **Article 34 Renewal of Temporary Residence**

- (1) A police department can renew temporary residence
- a) maximum for 180 days, if the temporary residence for the purpose of seasonal employment was granted for less than 180 days and further residence is necessary in order to complete the seasonal employment;
  - b) maximum for three years, if the assumed residence of a third country national shall last at least three years;
  - c) maximum for five years in the case of a third country national as per Art. 24 or Art. 27, if the assumed residence of a third country national shall last at least five years; or
  - d) maximum for five years in the case of a third country national as per Art. 29 or Art. 30.

(2) An application for the renewal of temporary residence shall be filed by a third country national in person in an official form at a police department at the latest on the last day of temporary residence validity. **An application for renewal of temporary residence on behalf of a third country national as per Article 27 who cannot file the application in person due to helplessness may be filed by a third country national with whom the family reunification is requested.** The third country national shall be obliged to submit a valid travel document together with the application for the renewal of temporary residence; otherwise it will be not accepted by the police department. The police department shall issue a certificate of receipt to the applicant on the date of the filing of an application.

(3) A third country national shall submit, together with an application for the renewal of temporary residence, a photograph of size 3 x 3.5 cm showing his/her current appearance and documents which are not older than 90 days which confirm the

- a) purpose of residence;
- b) means of subsistence for the residence; this shall not apply to third country nationals as per Article 22, para. 1 letter a), Article 28 or Article 29;
- c) health insurance during residence in the Slovak Republic territory; this shall not apply in the case of a third country national as per Art. 23, Art. 24 or Art. 30 par. 1(b) and (c),
- d) provision of accommodation; this shall not apply in the case of
  1. a third country national who regularly commutes to employment or school through the state border from a neighbouring state;
  2. a third country national who was granted temporary residence as per Art. 24 and studies at a university;
  3. a third country national who was granted temporary residence as per Art. 26 or 29, or
  4. a third country national who represents an important foreign investor<sup>47)</sup> in the Slovak Republic, his/her spouse and child.

(4) A police department when renewing a residence permit as per Article 23 paragraph 1 shall send a written request to the competent Office of Labour, Social Affairs and Family to issue a confirmation of the possibility to fill a vacancy.<sup>44)</sup> The police department shall attach to the application according to the preceding sentence a copy of the part of the application for residency renewal bearing applicant's personal data and copies of documents indicating the purpose of residence.

(5) A third country national who was granted temporary residence for the purpose of conducting business shall be obliged to submit together with the application for the renewal of temporary residence for the purpose of conducting business, a confirmation about settled tax and custom obligations, health insurance and pension saving contributions related to the business activities and to all the other trading companies on behalf of which he/she is acting. If a third country national is not a tax payer or is not obliged to pay social insurance contributions, he/she shall attach a document which proves this fact.

(6) A third country national shall be obliged, when applying for temporary residence permit renewal as per Article 22 para. 1 letter a), to demonstrate taxable income from such business activities for the previous fiscal period at least in the amount of twenty times the subsistence minimum; if the person had not conducted business activities for the whole previous fiscal period, he/she shall be obliged to demonstrate taxable income in the amount of double the subsistence minimum for each month of residence in the previous fiscal period. **If the third country national was not yet licensed to do business in the previous fiscal period, he/she shall be obliged, when applying for temporary residence permit renewal as per Article 22 para. 1 letter a), to demonstrate taxable income from business activities amounting to ten times the subsistence minimum by presenting a bank account balance statement as per Article 32 para. 7.**

(7) A third country national shall be obliged, when applying for temporary residence permit renewal as per Article 22 paragraph 1(b), to demonstrate **income after tax of the trading company or the cooperative on whose behalf he/she acts** for the previous fiscal period at least in the amount of sixty times the subsistence minimum; if the person had not conducted business activities for the whole previous fiscal period, he/she shall be obliged to demonstrate **income after tax** in the amount of five times the subsistence minimum for each month of

residence in the previous fiscal period. If a third country national acts on behalf of several trading companies or cooperatives, the condition of the profit after tax referred to in the sentence above must be met at least by one trading company or cooperative, on whose behalf he/she acts. If the third country national was not yet authorised to act on behalf of a trading company or a cooperative in the previous fiscal period, he/she shall be obliged, when applying for the temporary residence permit renewal as per Article 22 para. 1 letter b), to demonstrate financial means for business activities amounting to thirty times the subsistence minimum by submitting a bank account balance statement as per Article 32 para. 7.

(8) The purpose of residence shall be demonstrated by a third country national as per Art. 32 par. 5; this shall not apply in the case of a third country national who has been granted temporary residence for the purpose of conducting business and for the purpose of family unification. A third country national who has been granted temporary residence for the purpose of conducting business shall demonstrate the purpose of residence by means of a document which confirms the business licence. A third country national who applies for the renewal of temporary residence for the purpose of family unification shall be obliged to submit a solemn declaration that the reasons for the granting of temporary residence as per Art. 27 further persist.

(9) Means of subsistence for residence shall be demonstrated by a third country national in the manner as per Article 32 para. 6 and in the amount as per Article 32 para. 15; if it is a temporary residence permit renewal pursuant to Article 27, a third country national who is doing business or who is in an employment relationship shall be allowed to demonstrate meeting of the conditions by means as referred to in Article 32 para. 6 letter. a) or b)". Article 32 paragraph 8 shall apply similarly to the proof of accommodation. The third-country national may prove the provision of accommodation also by submitting a statutory declaration of the real estate tenant that the lease agreement continues to be valid, if in the temporary residence granting procedure the third country national has shown that he/she has accommodation provided for as per Article 122 paragraph b) and the lease agreement is valid for at least another six months.

(10) When deciding about an application for temporary residence permit renewal the police department shall proceed as referred to in Article 33 para. 1. If the trading company or a cooperative on whose behalf the third country national acts pursuant to Article 22 para. 1 letter b) has not reached in the previous fiscal period the profit after tax as referred to in paragraph 6, the police department shall request a statement from the Ministry of Economy of the Slovak Republic whether the business activities of the trading company or cooperative are an added value for the economic interests of the Slovak Republic."

(11) If a third country national also acted in the previous fiscal year on behalf of trading companies or cooperatives other than those referred to in paragraph 4, the police department shall request a confirmation pursuant to paragraph 4 from the relevant finance authority, relevant Social Insurance branch and from health insurance companies."

(12) The police department shall refuse an application for temporary residence permit renewal for the reasons stipulated in Article 33 paragraph 6; the police department shall not refuse an application for the temporary residence permit renewal of a third country national having a temporary residence permit for the purpose of family reunification for reasons as per Article 33 paragraph 6(b), if he/she threatens public health. The police department may renew a temporary residence permit for the purposes of business as per Article 22 para. 1 letter b)

even if the trading company or cooperative on whose behalf the third country national acts pursuant to Article 22 para. 1 letter b) has not reached in the previous fiscal period the profit after tax as referred to in paragraph 6, but according to the statement from the Ministry of Economy of the Slovak Republic the business activities of such trading company or cooperative are an added value for the economic interests of the Slovak Republic.

(13) The police department shall refuse an application for temporary residence permit renewal of a third country national who has been granted temporary residence permit for the purpose of family reunification, apart from reasons as stated in Article 33 paragraph 6, even if the married couple does not live together as a family.

(14) The police department shall decide about an application for temporary residence permit renewal within the time periods as stated in Article 33 para. 8.

(15) If an application for temporary residence permit renewal is accepted, the police department shall not issue a written decision, but notify the third country national in writing that his/her temporary residence permit was renewed and indicate in the notification the date of renewal and the date of expiry of the temporary residence permit. The police department shall send a written notice of renewing the temporary residence permit to the third country national and to the competent consulate based on the place of permanent residence of the third country national.

(16) After the expiry of its validity the temporary residence permit for the territory of the Slovak Republic shall be considered as authorised until a decision is made about the application for temporary residence permit renewal.

### **Article 35** **Expiry of Temporary Residence**

Temporary residence shall expire, if

- a) ) a third country national does not enter the Slovak Republic territory within 180 days from the granting of **the temporary residence permit**;
- b) a third country national notifies a police department in writing about the end of his/her residence;
- c) the **temporary residence permit** of a third country national has expired;
- d) a third country national was imposed the punishment of expulsion;
- e) a third country national was administratively expelled;
- f) the third country national has been granted a different type of residence under this Act from what he/she had before, **or the third country national has been granted an asylum or subsidiary protection**;
- g) a third country national has obtained the Slovak Republic citizenship;
- h) the temporary residence of a third country national was cancelled by a police department;  
or
- i) a third country national has died or was declared dead.

### **Article 36** **Cancellation of Temporary Residence**

(1) A police department shall cancel temporary residence, if

- a) the purpose for which a third country national was granted temporary residence has ceased;
- b) they discover the facts which represent the reason for the refusal of an application for the granting of temporary residence as per Art. 33 par. 6 or par. 7;
- c) a third country national has not submitted a document as per Art. 32 par. 10,
- d) a third country national stays abroad continuously for more than 180 days without any written notice to a police department; this shall not apply in the case of a third country national as per Art. 29 or Art. 30;
- e) a third country national has seriously or repeatedly violated an obligation as specified by this Act, or
- f) the Office of Labour, Social Affairs and Family revokes its confirmation of the possibility to fill a vacancy<sup>61aa</sup>).

(2) The provision of paragraph 1 shall not apply, if the consequences of the cancellation of temporary residence would be inappropriate, especially with regard to personal and family life of a third country national.

- (3) The provision of paragraph 1 letter a) shall not apply within 30 days
- a) from the termination of employment, if it concerns temporary residence as per Article 23 or Article 30 paragraph 1 b);
  - b) from a final examination, secondary school graduation, post-secondary school final graduation or post-secondary final examination, 61a) if it concerns temporary residence under Article 24 or Article 30 para. 1 letter c),
  - c) from successful completion of the university studies 61b), if it concerns temporary residence under Article 24, 25 paragraph 1 letter e) or Article 30 para. 1 letter c)."

(4) A police department shall inform the member state in which a third country national has an acknowledged status of a person with long term residence about the cancellation of temporary residence.

### **Special Provisions on Blue Card Temporary Residence**

#### **Article 37 Blue Card**

(1) A Blue Card enables a third country national to enter, reside and work in the Slovak Republic territory, to exit the Slovak Republic territory and re-enter the Slovak Republic territory during the time period for which it was issued by a police department.

(2) A Blue Card for the purpose of highly qualified employment shall be issued by a police department, if there are no reasons for the refusal of an application as per Art. 39 par. 1 to a third country national for three years or if the duration of employment is shorter than three years, a Blue Card shall be issued by a police department for the duration of employment period extended by 90 days.

(3) Highly qualified employment as per paragraph 2 is the employment for the performance of which higher professional qualification is required. Higher professional qualification means a qualification attested by evidence of higher education qualification.

(4) Paragraph 2 shall not relate to a third country national who

- a) is an asylum applicant;
- b) is a person granted asylum;
- c) has been provided subsidiary protection;
- d) has requested the provision of a temporary refuge;
- e) is a displaced person;
- f) has been granted temporary residence for the purpose of seasonal employment as per Art. 23 par. 4 or for the purpose of research and development as per Art. 26;
- g) has been acknowledged the status of a person with long term residence in a member state and applies for the granting of the residence permit in order to conduct economic activities as an employee or as a self-employed person;
- h) has been granted the right of residence or the right of permanent residence as the family member of a Union citizen;
- i) has been granted tolerated residence in the Slovak Republic territory as per Art. 58;
- j) enters the Slovak Republic territory on the basis of obligations which follow from an international treaty or
- k) fulfils the conditions as per Art. 23 par. 5.

### **Article 38**

#### **Application for Blue Card Application**

(1) An application for the Blue Card application shall be filed by a third country national in person at a consulate. A third country national whose residence in the Slovak Republic territory is authorised can file an application for the Blue Card application at a police department as well.

(2) A third country national who is the holder of a Blue Card issued by a member state can file an application for the Blue Card application in the Slovak Republic territory at a police department within 30 days from the entry into the Slovak Republic territory.

(3) The body which has received an application shall issue a confirmation of receipt to the applicant on the date of the filing of a Blue Card application.

(4) A Blue Card application shall be filed by a third country national in an official form.

(5) A third country national shall submit his/her Blue Card application together with a valid travel document, two coloured photographs of the size of 3 x 3.5 cm showing his/her current appearance and

- a) an employment contract for the performance of employment corresponding to highly qualified employment, if the employment under such contract should last at least one year from the date of granting of the Blue Card and the monthly salary is agreed to be at least 1.5 times the average monthly salary of an employee in the respective industry of the Slovak Republic's economy published by the Statistical Bureau of the Slovak Republic for the calendar year preceding the calendar year in which the Blue Card application is filed, or a written commitment of the employer to hire the third country national for an employment corresponding to highly qualified employment;
- b) a decision on recognizing the document attesting the qualification of a third country national as per a special regulation; <sup>62)</sup>
- c) documents not older than 90 days attesting:

1. integrity; third country nationals shall not have to provide integrity proving documents if they are changing type or purpose of their residence and they had attached a document proving their integrity in their prior application for granting of a residence;
2. provision of accommodation during their residence in the territory of the Slovak Republic.

(6) A written promise of an employer as per par. 5(a) contains the commitment of an employer to

- a) conclude an employment contract for the performance of highly qualified employment;
- b) agree the duration of employment for the period of at least one year from the date of Blue Card granting;
- c) agree the monthly salary in the amount of at least 1.5-fold of the average monthly salary of an employee in the Slovak Republic economy in the respective area published by the Statistical Bureau of the Slovak Republic for the calendar year which precedes the calendar year in which the Blue Card application is filed.

(7) If the Statistical Bureau of the Slovak Republic has not published any data about the average monthly salary of an employee in the Slovak Republic economy for the previous calendar year, the average monthly salary of an employee in the Slovak Republic economy for the previous calendar year shall be considered as the average monthly salary of an employee in the Slovak Republic economy in the respective area published by the Statistical Bureau of the Slovak Republic for the first to third quarter of the calendar year which precedes the calendar year in which the Blue Card application is filed.

(8) A third country national shall submit a medical opinion confirming that he/she does not suffer from any disease which threatens public health to the police department within 30 days from the receipt of the document of residence. A third country national who applies for the Blue Card issuance at a police department shall submit a medical opinion confirming that he/she does not suffer from any disease which threatens public health within 30 days from the filing of the application. A medical opinion confirming that he/she does not suffer from any disease which threatens public health may not be older than 30 days.

(9) If a third country national has submitted a written promise of an employer as per paragraph 6, he/she shall be obliged to submit an employment contract which contains the necessities as specified in paragraph 5(a) within 30 days from the receipt of the document of residence.

(10) When granting a Blue Card the police department shall request the Central Labour Office to provide a written confirmation of the possibility to fill a vacancy corresponding to highly qualified employment. The police department shall attach to the application pursuant to the preceding sentence a copy of the part of the Blue Card application bearing applicant's personal data and copies of documents as per paragraphs 5a) to 5c).

(10) A police department shall issue a written decision about the Blue Card application within 30 days from the filing of the application together with all the necessities as specified in paragraph 5.

(11) If a police department issues a Blue Card to a third country national who is the holder of a Blue Card issued by a member state, they shall inform in writing the member state which has recently issued a Blue Card to the third country national prior to the issuance of the Blue Card in the Slovak Republic about the Blue Card issuance.

(12) A third country national who is the holder of a Blue Card issued by the member state the validity of which has expired during the proceedings for the Blue Card application has authorised residence in the Slovak Republic territory by the time, when the decision about the Blue Card application comes into force and effect.

### **Article 39 Refusal of Application for Blue Card Application**

- (1) A police department shall refuse the application for the issuance of a Blue Card, if
- a) a third country national does not fulfil the conditions for the Blue Card application as per Art. 38 par. 5;
  - b) a third country national submits documents gained by fraudulent action, falsified or counterfeited documents;
  - c) it is a third country national who is a threat for the state safety, public order or public health;
  - d) an employer who should employ the third country national has violated in the past five years the ban on illegal employment as per a special regulation;<sup>54)</sup> or
  - e) it is a third country national who is the holder of a Blue Card issued by a member state for less than 18 months.
  - f) the Central Labour Office issues a certificate as per Article 38 paragraph 10 stating their disapproval to fill a vacancy corresponding to highly qualified employment

(2) A police department shall inform the member state which has recently issued a Blue Card to the third country national about the refusal of the Blue Card issuance.

### **Article 40 Renewal of Blue Card**

(1) A Blue Card for the purpose of highly qualified employment shall be renewed by a police department upon the application of a third country national for the purpose of highly qualified employment for three years or if the duration of employment is shorter than three years, a Blue Card shall be renewed by a police department for the duration of employment period extended by 90 days.

(2) An application for the renewal of a Blue Card shall be filed by a third country national in person at a police department at the latest on the last day of the Blue Card validity.

(3) A police department shall issue a confirmation of receipt on the date of the filing of an application for the renewal of the Blue Card.

(4) An application for the renewal of a Blue Card shall be filed by a third country national in an official form.

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<sup>54)</sup> Art. 3 par. 2 of Act no. 82/2005 Coll. On Illegal Work and Illegal Employment and on the amendment and supplementation of certain acts as amended by Act no. 223/2011 Coll.

- (5) A third country national shall submit his/her Blue Card renewal application together with a valid travel document, two colour photographs of the size of 3 x 3.5 cm showing his/her current appearance and
- a) an employment contract for the performance of employment corresponding to highly qualified employment, if the employment under such employment contract is to last at least one year from the date of granting of the Blue Card and the monthly salary is agreed to be at least 1.5 times the average monthly salary of employees in the respective industry of the Slovak Republic's economy published by the Statistical Bureau of the Slovak Republic for the calendar year preceding the calendar year in which the Blue Card application is filed, or a written commitment of the employer to hire the third country national for an employment corresponding to highly qualified employment,
  - b) a decision on recognizing the document attesting the qualification of a third country national as per a special regulation, <sup>62)</sup>
  - c) a document confirming the provision of accommodation during his/her residence within the territory of the Slovak Republic.

(6) When renewing a Blue Card the police department shall request the Central Labour Office to provide a written confirmation of the possibility to fill a vacancy corresponding to highly qualified employment. The police department shall attach to the application pursuant to the preceding sentence a copy of the part of the Blue Card renewal application bearing applicant's personal data and a copy of the document as per paragraphs 5a) to 5c).

(7) A police department shall issue a written decision about the Blue Card renewal within 30 days from the filing of the application together with all the necessities as specified in paragraph 5.

(8) A Blue Card the validity of which has expired shall be considered as valid in the Slovak Republic territory by the time of valid decision about the application for the Blue Card renewal.

(9) If a Blue Card holder has requested the change of the type or purpose of residence, his/her residence in the Slovak Republic territory shall be considered as authorised by the time of deciding about such an application.

#### **Article 41**

#### **Refusal of Application for Blue Card Renewal, Blue Card Removal or Blue Card Expiry**

(1) A police department shall refuse an application for the Blue Card renewal or remove the Blue Card from a Blue Card holder, if

- a) he/she has acquired the Blue Card by fraudulent action, if he/she has falsified or counterfeited the blue card;
- b) he/she does not fulfil the conditions for the Blue Card application anymore;
- c) he/she performs other activity than highly qualified employment in the Slovak Republic territory;
- d) he/she is a threat for the state safety, public order or public health;
- e) he/she has not notified the change of employer to a police department within five working days;

- f) he/she has not notified the unemployment period beginning to a police department within five working days;
- g) he/she was unemployed longer than three months which follow after each other;
- h) he/she was unemployed more than once during the Blue Card validity; or
- i) he/she has submitted an application for the provision of a benefit in material need as per a special regulation.<sup>55)</sup>

(2) The provision of paragraph 1(e) and (f) shall not apply, if the Blue Card holder demonstrates that the notification has not been delivered to a police department without his/her fault.

(3) If the Blue Card holder during his/her period of unemployment, which must not exceed three months, finds a new job corresponding to highly qualified employment, he/she shall inform the Central Labour Office thereof within the said time period. The police department shall request the Central Labour Office to provide a written confirmation of the possibility to fill a vacancy corresponding to highly qualified employment. The police department shall proceed in accordance with paragraph 1g) only if the Central Labour Office issues a statement as per paragraph 3 expressing disapproval to fill a vacancy.

(4) A police department shall instruct the Blue Card holder about the fact that the filing of an application for the provision of a benefit in material need shall not be the reason to refuse an application for the Blue Card removal or for the removal of the Blue Card; if they fail to do so, paragraph 1(i) shall not be applied.

- (5) A granted Blue Card shall expire, if
- a) a Blue Card holder hands over an issued Blue Card to a police department together with a written notification about the end of residence in the Slovak Republic territory;
  - b) a Blue Card holder was imposed the punishment of expulsion;
  - c) a Blue Card holder was administratively expelled;
  - d) a Blue Card holder has obtained the Slovak Republic citizenship;
  - e) a Blue Card holder has obtained a Blue Card in a member state;
  - f) a police department has removed the Blue Card from its holder;
  - g) a Blue Card holder has obtained another residence according to this Act than those which he/she has had;
  - h) a Blue Card holder has died, was declared dead; or
  - i) the Blue Card validity has expired.

## **Section Two Permanent Residence**

### **Article 42**

(1) Permanent residence enables a third country national to stay, exit and re-enter the Slovak Republic territory during the time period as specified by a police department. Permanent residence enables a third country national to stay, exit and re-enter the Slovak

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<sup>55)</sup> Art. 2 of Act no. 599/2003 Coll. on Aid in Material Need and on the amendment and supplementation of certain acts.

Republic territory during the time period as specified by a police department, unless provided otherwise herein.

- (2) Permanent residence shall be
- a) permanent residence for five years;
  - b) permanent residence of unlimited duration;
  - c) residence of a third country national with acknowledged status of a person with long term residence in the European Union (thereinafter referred to as the “long term residence”).

### **Article 43** **Permanent Residence for Five Years**

- (1) A police department shall grant permanent residence for five years, if there are no reasons for the refusal of an application as per Art. 48 par. 2, to a third country national
- a) who is a spouse of the Slovak Republic citizen with permanent residence in the Slovak Republic territory or dependent relative in direct line of the Slovak Republic citizen with permanent residence in the Slovak Republic territory;
  - b) who is a single child younger than 18 years of age entrusted into personal care of a third country national who is a spouse of the Slovak Republic citizen with permanent residence in the Slovak Republic territory;
  - c) who is a single child younger than 18 years of age of a third country national with permanent residence for five years or child younger than 18 years of age entrusted into personal care of a third country national with permanent residence for five years,
  - d) who is a dependent child younger than 18 years of age who cannot take care of himself/herself due to long term unfavourable health condition, third country national with permanent residence; or
  - e) if this is in the interest of the Slovak Republic.

(2) Permanent residence for five years for a third country national who is a single child younger than 18 years of age entrusted into personal care of a third country national who is a spouse of the Slovak Republic citizen with permanent residence in the Slovak Republic territory or a single child younger than 18 years of age entrusted into personal care of a third country national with permanent residence can be granted only then, if the unification is also agreed by the parent whom this child was not entrusted into personal care and who has the right to meet this child.

### **Application for Permanent Residence for Five Years**

#### **Article 44**

(1) An application for granting a permanent residence permit for five years shall be filed by a third country national in person at a consulate or in person at the police department. A third country national as per Article 43 paragraph 1(e) does not have to file an application for granting a permanent residence permit for five years in person. An application on behalf of a third country national who cannot file an application for granting a permanent residence permit for five years in person due to helplessness as per Article 43 letters a) and d) may be submitted by a relative of the third country national with whom the family reunification is requested. The authority which has received the application shall issue a confirmation of its receipt on the application filing date. **An application for granting a permanent residence for five years can be filed by a third country national at the police department, if he/she is legally**

residing in the territory of the Slovak Republic; this shall not apply to third country nationals with granted residence under Article 58 para. 1 letter b) or to asylum seekers.<sup>3)</sup>

(2) Along with his/her application for granting a permanent residence permit for five years a third country national shall be obliged to submit a valid travel document and all the particulars of the application for granting a permanent residence permit for five years as specified herein, otherwise the application shall not be accepted by the consulate or police department. **If the consulate or the police department do not accept the application for granting a permanent residence permit for five years, they shall provide written information to the third country national on what documents must be presented with the application for granting a permanent residence permit for five years for it to be accepted.**

#### **Article 45**

(1) A third country national shall file an application for the granting of permanent residence for five years using the official form.

(2) A third country national shall be obliged to submit together with an application for the granting of permanent residence for five years a valid travel document and all the necessities for application for the granting of permanent residence for five years as specified herein, otherwise the application will not be accepted by a consulate or police department.

(3) A third country national shall submit together with an application for the granting of permanent residence for five years two coloured photographs of size 3 x 3.5 cm showing his/her current appearance and documents not older than 90 days which confirm

- a) the facts as stated in Art. 43,
- b) integrity; this shall not apply to third country nationals under 14 years of age **or if it concerns a change of type of residence where a proof of integrity was attached to the prior application for a residence permit;**
- c) financial resources for residence;
- d) agreement as per Art. 43 par. 2, if necessary; and
- e) provision of accommodation during permanent residence for five years.

(4) A third country national shall be obliged to submit to the police department a medical opinion confirming that he/she does not suffer from any disease which threatens public health within 30 days from the receipt of the residence document; **this shall not apply to a change of type of residence.** The medical opinion confirming that he/she does not suffer from any disease threatening public health may not be older than 30 days.

(5) A third country national shall demonstrate the facts referred to in Article 43 para. 1 letters a) to d) by official registry documents **which may be more than 90 days old;** in case of a dependent direct line relative, an unmarried child under 18 years of age, a child under 18 years of age entrusted to personal care or a dependent child over 18 years of age, also by a document that proves this fact. A third country national shall demonstrate the fact as per Article 43 para. 1 letter e) by a certificate issued by a central public administration authority. The condition of permanent residence as per Article 43 paragraph 1 letters a) to d) shall be demonstrated by presenting an identity card, a municipality certificate or a residence document.

(6) Financial resources for residence as per paragraph 3(c) shall be demonstrated by a third country national by means of

- a) a balance statement of a bank account registered to the name of the third country national;
- b) a confirmation of an employer about the amount of the agreed salary;
- c) an employment contract, confirmation of an employer about the amount of the paid salary, bank account balance statement or document about a pension received by a spouse, parent or a Slovak Republic citizen who is a direct line relative of the third country national, together with a statutory declaration that he/she would provide financial and material means of subsistence to the third country national during his/her residence in the Slovak Republic territory..

(7) Financial resources during residence shall be demonstrated by a third country national in the amount of a twelfefold of subsistence minimum.<sup>60)</sup> A minor third country national shall demonstrate the financial resources during residence in half of the amount as stated in the first sentence.

(8) Provided accommodation has to be common with the accommodation with the Slovak Republic state citizen or a third country national with permanent residence for five years as per Art. 43 par. 1(a) to (d).

(9) The police department shall decide about an application for granting a permanent residence permit for five years within 90 days of receipt of the application by the police department. If it concerns granting a permanent residence permit under Article 43 para. 1 letter e) to a third country national who represents or works for a major foreign investor in the Slovak Republic or his/her child under Article 43 para. 1 letters b) to d), the police department shall decide within 30 days of receipt of the application and all the particulars.

## **Permanent Residence of Unlimited Duration**

### **Article 46**

(1) A police shall grant, upon the application of a third country national, permanent residence of unlimited duration to a third country national who

- a) has had permanent residence for at least four years as per Art. 43; or
- b) is a child younger than 18 years of age of a third country national with permanent residence of unlimited duration.

(2) The Ministry of Interior can grant permanent residence of unlimited duration even without fulfilling the conditions as specified herein,

- a) if necessary for the provision of protection and assistance to a witness as per a special regulation;<sup>56)</sup>
- b) to a person without any citizenship;
- c) for reasons of particular concern;
- d) upon a proposal of the Slovak Information Service due to safety interests of the Slovak Republic; or
- e) to a full aged person who has been granted a tolerated residence as per Art. 58 par. 2(a) for at least three years of study at a school in the Slovak Republic territory.

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<sup>56)</sup> Art. 2 of Act no. 256/1998 Coll. on the Protection of a Witness and on the amendment and supplementation of certain acts as amended by further regulations.

(3) A person without any citizenship is the person which is not considered as a citizen of any state according to their laws. In order to demonstrate this fact, it is sufficient, if he/she demonstrates that he/she does not have any citizenship in the state

- a) in which he/she was born;
- b) in which he/she has had previous residence or stay; and
- c) the citizenship of which his/her parents and other family members have.

#### **Article 47**

(1) An application for the granting of permanent residence of unlimited duration shall be filed by a third country national in person in an official form at a police department; a family member can file an application instead of a third country national who cannot file an application in person due to helplessness. A police department shall issue a confirmation of receipt to the applicant on the date of its filing.

(2) A third country national shall submit, together with an application for the granting of permanent residence of unlimited duration, a valid travel document. If the third country national fails to submit a valid travel document, the police department shall not accept the application for the granting of permanent residence of unlimited duration.

(3) A third country national shall submit, together with an application for the granting of permanent residence of unlimited duration, two photographs of size 3 x 3.5 cm showing his/her current appearance and documents not older than 90 days which confirm

- a) financial means of subsistence for **residence in the manner referred to in Article 45 para. 6 and** in the amount referred to in Article 45 paragraph 7;
- b) health insurance;
- c) integrity in the case of a third country national as per Art. 46 par. 1(b) older than 14 years of age.
- d) **a consent as referred to in Article 43 para. 2, if it is a third country national as per Article 46 para. 1 letter b)**

(4) A police department can request from a third country national

- a) a document which is not older than 90 days and which confirms provided accommodation;
- b) a statutory declaration that the reasons for granting a permanent residence permit as per Article 43 **para. 1 letters a), d) or e)** continue to exist.

(5) A third country foreign national as per Art. 46 par. 1(b) shall be obliged to attach to an application a medical opinion as well which confirms that he/she does not suffer of any disease which would threaten public health, within 30 days from the filing of a request. A medical opinion which confirms that he/she does not suffer of any disease which would threaten public health may not be older than 30 days.

(6) The police department shall decide on an application for granting a permanent residence permit for an unlimited period of time within 90 days of receipt of the application by the police department. **If it concerns a third country national who represents or works for a major foreign investor in the Slovak Republic, his/her spouse or his/her child under Article 43 para. 1 letters b) to d), the police department shall decide within 30 days of receipt of the application and all the particulars..**

(7) Permanent residence as per Art. 43 shall be considered as valid in the Slovak Republic territory up to the time of deciding about the application for the granting of permanent residence of unlimited duration.

## **Common Provisions on Permanent Residence for Five Years and on Permanent Residence of Unlimited Duration**

### **Article 48**

#### **Deciding about Application for Granting of Permanent Residence**

(1) When deciding about an application for the granting of permanent residence, a police department shall take into account

- a) public interest, level of threat to state safety, public order or public health by a third country national;
- b) interests of a minor child of a third country national, personal and family conditions of a third country national, his/her financial situation and length of previous residence;
- c) level of integration of a third country national into the society;
- d) a statement of a representing body on the granting of permanent residence.

(2) A police department shall refuse an application for the granting of permanent residence, if

- a) a third country national is an undesired person;
- b) there is a justified suspicion that a third country national would threaten the state safety, public order or public health during his/her residence;
- c) a third country national does not fulfil the conditions for the granting of permanent residence;
- d) a third country national has closed a marriage of convention;
- e) the marriage was not closed as per a special regulation,<sup>57)</sup> in the case of an application for the granting of permanent residence as per Art. 43 par. 1(a) or Art. 46 par. 1(a);
- f) a third country national gives false or misleading data or submits falsified or counterfeited documents or a document of another person; or
- g) data in travel document do not correspond with the reality.

(3) If the application for granting a permanent residence permit is approved, the police department shall not issue any written decision but notify the third country national in writing that he/she was granted a permanent residence permit in the territory of the Slovak Republic, stating the date of granting the permanent residence permit, and if it is a permanent residence permit for five years, including the date of expiry of the permanent residence permit. The police department shall send a written or electronic notice of granting a permanent residence permit to the third country national, to the competent consulate based on the place of permanent residence of the third country national, as well as to the self-governing region and municipality of the place of permanent residence..

(4) If a third country national has requested a change of the type or purpose of residence, his/her residence in the Slovak Republic territory shall be considered legal until the decision on the application is made..

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57) Act no. 36/2005 Coll. on Family and on the amendment and supplementation of certain acts as amended by further regulations.

## **Article 49**

### **Expiry of Permanent Residence**

Permanent residence shall expire, if

- a) a third country national does not enter into the Slovak Republic territory within 180 days from the granting of permanent residence;
- b) a third country national notifies a police department in writing about the end of residence;
- c) the validity of permanent residence granted to a third country national has finished as per Art. 43 and he/she has not applied for permanent residence as per Art. 46,
- d) a third country national was imposed the punishment of expulsion;
- e) a third country national was administratively expelled;
- f) a third country national has obtained the Slovak Republic citizenship;
- g) a police department has cancelled permanent residence of a third country national;
- h) the third country national has been granted a type of residence permit under this Act other than the one he/she had before, or the third country national has been granted an asylum or**
- i) a third country national has died or was declared dead.

## **Article 50**

### **Cancellation of Permanent Residence**

(1) A police department shall cancel permanent residence, if

- a) they discover the facts which are the reason for the refusal of the application for permanent residence;
- b) a third country national has not submitted the document as per Art. 45 par. 4 or in Art. 47 par. 5;
- c) a third country national continuously stays abroad more than 180 days without a written notification to a police department;
- d) the married couple does not live together as a family in the case of permanent residence as per Art. 43 par. 1(a),
- e) a third country national was granted permanent residence as per Art. 43 par. 1(a) or Art. 6 par. 1(a) and his/her marriage has been terminated within five years from the time of granting permanent residence for five years;
- f) a third country national has filed an application for a benefit in material need.

(2) The provision of paragraph 1 shall not apply, if

- a) the consequences of the cancellation of permanent residence would be inappropriate with regard to the reason of permanent residence cancellation, especially with regard to the personal and family life of a third country national;
- b) in the case of a third country national who was granted residence as per Art. 46 par. 2(a) to (d); or
- c) in the case of a third country national as per Art. 43 par. 1(a) to (d) who was granted permanent residence for at least three years and the person he/she was joining for permanent residence has died;
- d) it concerns a third country national as per Article 43 paragraph 1 letters b) or c), over 18 years of age who**
  - 1. is doing business in the territory of the Slovak Republic;**
  - 2. is employed in the territory of the Slovak Republic;**
  - 3. is studying at a school in the Slovak Republic; or**
  - 4. is performing activities as stated in Article 25 or Article 26; or**

(3) The police department shall revoke a permanent residence permit as per Article 46 para. 2 letters a), c) or d) at the request of the national authority that requested the permanent residence permit to be granted; such a decision cannot be appealed against. The police department shall revoke a permanent residence permit as per Article 46 para. 2 letter b) if the police department finds that the person is not stateless.

## Special Provisions on Long Term Residence

### Article 51 Long Term Residence

Long term residence shall be granted with unlimited duration.

### Article 52

(1) A police department shall grant long term residence, if there are no reasons for the refusal of the application as per Art. 54 par. 2, to a third country national

- a) whose residence in the Slovak Republic territory is authorised and continuous during the period of five years immediately prior to the filing of an application;
- b) whose long term residence has expired as per Art. 55(e) or Art. 56(b), (c) or (d); or
- c) who has had a five-year authorised continuous residence in the territory of member states as a Blue Card holder and has resided in the Slovak Republic territory as a Blue Card holder for at least two years immediately prior to the filing of an application.

(2) Paragraph 1 shall not apply to a third country national who

- a) is an asylum seeker;
- b) whose residence is tolerated under Article 58 para. 1 or para. 4,
- c) has requested to be provided a temporary refuge;
- d) is a displaced person;
- e) has been granted temporary residence permit for the purpose of study;
- f) has been granted a temporary residence permit for the purpose of special activities as per Article 25 para. 1(d) to (f);
- g) has been granted a temporary residence permit for the purpose of seasonal employment;
- h) resides in the Slovak Republic territory as per Article 23 para. 5(b), (c) or (d); or
- i) enjoys diplomatic privileges and immunities in the Slovak Republic territory according to the international law.<sup>68)</sup>

(3) The time period of continuous residence as per paragraph 1(a) shall not include the time period of residence of a third country national as per paragraph 2(g), (h) or (i).

(4) The time period of continuous residence as per paragraph 1(a) shall include

- a) the time period of temporary residence for the purpose of study or the time period of temporary residence as per Art. 25 par. 1(d) to (f) in the Slovak Republic territory, half of its length;
- b) the period of maximum six months which follow after each other and maximum ten months during which a third country national has resided outside the Slovak Republic territory after notifying the police department;
- c) the time from submitting the asylum application until a decision on granting an asylum or subsidiary protection is made.

- (5) The time period of continuous residence as per paragraph 1(c) includes the period of maximum 12 months which follow after each other and maximum 18 months during which a third country national has resided outside the territory of member states.

### **Article 53**

#### **Application for Granting of Long Term Residence**

(1) An application for the granting of long term residence shall be filed by a third country national in person at a police department. A family member can file an application for the granting of long term residence instead of the third country national who cannot file an application in person due to helplessness. The police department shall issue a confirmation of the receipt of the application on the date of its filing.

(2) A third country national shall be obliged to submit, together with an application for the granting of long term residence, a valid travel document. If he/she fails to submit a valid travel document, the application for the granting of long term residence will not be accepted by the police department.

(3) A third country national shall submit, together with an application for the granting of long term residence, two photographs of size 3 x 3.5 cm showing his/her current appearance and documents which are not older than 90 days which confirm

- a) stable and regular resources for him/herself and for his/her family members so that he/she would not become a burden for the social aid system of the Slovak Republic;
- b) provision of accommodation in the case of an application for the granting of long term residence as per Art. 52 par. 1(b);
- c) health insurance.

(4) Stable and regular income can be demonstrated by a third country national especially by means of an employment contract, confirmation of an employer about paid salary, **balance statement of a bank account** registered to the name of the third country national, a certificate of receiving a pension.

(5) A third country national who has been granted a temporary residence permit for the purpose of family reunification prior to filing an application for granting a long-term **residence or a family member as per Article 27 para. 2 of an asylum seeker or an alien who has been granted subsidiary protection** may prove stable and regular income by a statutory declaration of a spouse, parent or person into who's care he/she was entrusted in order to confirm that he/she would provide financial and material means of subsistence to the third country national during his/her residence in the Slovak Republic, together with a document as per paragraph 4.

- (6) **The** police department shall decide about an application for granting a long-term residence permit within 90 days of its receipt by the police department.

(7) The residence granted according to this Act shall be considered as valid in the Slovak Republic territory after the end of its validity by the time of delivering the decision on the application for the granting of long term residence.

### **Article 54**

## **Deciding about Application for Granting of Long Term Residence**

(1) If a police department grants long term residence to a third country national who has the status of a person with long term residence in a member state, this shall be notified to the member state.

(2) A police department shall refuse an application for the granting of long term residence, if

- a) the third country national does not fulfil the conditions for the granting of long term residence,
- b) there is a justified suspicion that the third country national would threaten the state safety or public order;
- c) the third country national's asylum has been revoked on grounds pursuant to a special regulation, <sup>68a)</sup> or
- d) the third country national's subsidiary protection has not been extended or has been cancelled on grounds pursuant to a special regulation. <sup>68b)</sup>

(3) A police department which proceeds as per paragraph 2(b) shall evaluate the level of the threat to the state safety or public order which follows from a criminal offence committed by a third country national and its severity or which follows from the danger which threatens from a third country national and take into account the length of residence and the extent of relations with the country of origin.

(4) The decision by which long term residence was granted cannot be appealed.

### **Article 55 Expiry of Long Term Residence**

Long term residence shall expire, if

- a) a third country national gives up long term residence in writing;
- b) a third country national was imposed the punishment of expulsion;
- c) a third country national was administratively expelled;
- d) a third country national has obtained the Slovak Republic citizenship;
- e) a third country national was granted long term residence in another member state;
- f) a police department has cancelled long term residence of a third country national; or
- g) a third country national died or was declared dead.

### **Article 56 Cancellation of Long Term Residence**

A police department shall cancel long term residence, if

- a) they discover that a third country national has obtained long term residence in a fraudulent way;
- b) a third country national resides outside the Slovak Republic territory for more than six years;
- c) a third country national as per Art. 52 par. 1(a) and (b) has continuously resided outside the territory of member states during 12 months which follow after each other; or
- d) a third country national as per Art. 52 par. 1(c) has continuously resided outside the territory of member states during 24 months which follow after each other.

- e) the third country national's asylum has been revoked on grounds pursuant to a special regulation, <sup>68a)</sup> if he/she had been granted long term residence permit based on the granted asylum, or
- f) the third country national's subsidiary protection has not been extended or has been cancelled on grounds pursuant to a special regulation, <sup>68b)</sup> if he/she had been granted long term residence permit based on the granted subsidiary protection.

#### **Article 57**

If a police department refuses an application for long-term residence, cancels long term residence or if his/her long term residence expires and if these facts do not result in administrative expulsion or exercise of the punishment of expulsion, the third country national shall be obliged to reside in the Slovak Republic territory, if he/she fulfils the conditions for residence as per this Act or a special regulation.<sup>46)</sup>

### **Section Three Tolerated Residence**

#### **Article 58**

(1) A police department shall grant tolerated residence to a third country national, if there is no reason for the refusal of a request as per Art. 59 par. 12 (b);

- a) in the case of his/her administrative expulsion as per Art. 81;
- b) if his/her exit is impossible and his/her detention is inefficient.

(2) A police department shall grant tolerated residence to a third country national if there are no reasons for the refusal of an application as per Art. 59 par. 12;

- a) who is a minor person found in the Slovak Republic territory;
- b) if required due to the respect for his/her personal and family life and not threatening the state safety or public order; a third country national as per Art. 27 par. 1 and Art. 43 par. 1(a) to (d) such a residence can be granted only then, if he/she is not a holder of a valid travel document and demonstrates his/her identity in another trustworthy way;
- c) who is the victim of human trafficking,<sup>58)</sup> if he/she is at least 18 years old; a police department or a person authorised by the Ministry of Interior shall inform the third country national about the possibility and conditions for the granting of tolerated residence for this reason and about the rights and duties which follow from this.

(3) A police department can, upon the request of a prosecuting authority, grant tolerated residence to a third country national who was illegally employed under particularly exploitative working conditions or to an illegally employed minor person, if the presence of this third country national in the Slovak Republic territory is necessary for the purpose of criminal proceedings. Tolerated residence shall be granted by a police department for 180 days. A police department can extend tolerated residence by 180 days, repeatedly as well, up to the time of valid completion of criminal proceedings or by the time of the payment of the due amount of remuneration for performed work to a third country national. A prosecuting authority or a person authorised by the Ministry of Interior shall inform a third country national about the possibility and conditions of the granting of tolerated residence for this reason and about the rights and duties which follow from this.

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58) Cl. 4 (a) of the Council of Europe Convention on Action against Trafficking in Human Beings (Notification no. 487/2008 Coll.).

- (4) The following shall be considered as tolerated residence
- a) provision of institutional care;
  - b) duration of quarantine measures;
  - c) evaluation of applications for the granting of tolerated residence, prison sentence execution or period of imprisonment; this shall not apply, if the residence of a third country national in the Slovak Republic territory is authorised;
  - d) the period of maximum 90 days during which a third country national, who is the victim of human trafficking and at least 18 years old, decides whether he/she would cooperate with prosecuting authorities, when resolving criminal acts related to human trafficking; however, this period can be extended by 30 days upon the request of the person authorised by the Ministry of Interior.

## Article 59

(1) The police department shall, based on an application of a third country national, grant or extend tolerated residence for the period of duration of the grounds for its granting, but for no more than 180 days, unless the third sentence of this paragraph, paragraph 6 or Article 58 para. 3 provide otherwise. An application for granting and extension of a tolerated residence shall be filed by a third country national in person in an official form at the police department. An application for granting a tolerated residence as per Article 58 para. 2 letter c) and para. 3 shall be filed by a prosecuting authority instead of the third country national. A third country national shall be obliged, when filing an application for granting a tolerated residence as per Article 58 para. 1 letter b) and para. 2 letter b), to submit documents proving the facts which would justify granting of tolerated residence. An application for granting a tolerated residence on behalf of the third country national who cannot file the application in person due to helplessness may be filed by a family member of such third country national. The police department shall issue a confirmation of receipt to the applicant on the date of its filing..

(2) A police department shall not accept an application for the granting of tolerated residence, if a third country national has been detained in accordance with Art. 88 or during the proceedings on the granting of asylum as per a special regulation.<sup>3)</sup>

(3) A third country national who applied for granting a tolerated residence as per Article 58 paragraph 2 letter b) shall attach to his/her application a document demonstrating his/her need to respect for private and family life and a document attesting to his/her integrity not older than 90 days; the Ministry of Interior can in justified cases desist from requesting the integrity attesting document.

(4) A police department can repeatedly extend tolerated residence; whereas they shall be obliged to investigate, whether the reasons, for which tolerated residence was granted to the third country national, further persist. For this reason the third country national can be required by the police department to demonstrate the persistence of the reason for which he/she was granted tolerated residence.

(5) A third country national cannot conduct business activities during the validity of tolerated residence.

(6) A police department shall grant tolerated residence as per Art. 58 par. 2(c) for at least 180 days, even repeatedly, if the presence of a third country national in the Slovak Republic

territory is necessary for the purpose of criminal proceedings; however, a police department shall not grant any tolerated residence, if demonstrated, that the applicant has not abandoned or has restored, out of his/her own will, contacts with persons suspicious of committing a crime related to human trafficking.

(7) A police department shall decide on the application for the granting of tolerated residence or about an application for the extension of tolerated residence within 15 days from the filing of the application at the police department.

(8) If an application for the granting of tolerated residence or an application for the extension of tolerated residence is accepted by a police department, the police department shall issue a confirmation, instead of a decision, that he/she was granted tolerated residence or that tolerated residence in the Slovak Republic was extended which contains the date of granting or extending tolerated residence.

(9) If the reason for which tolerated residence was granted expires, a third country national shall be obliged to notify the police department about this fact at the latest within 15 days from the day when he/she discovered this fact.

(10) The Ministry of Interior shall provide for a third country national, who has tolerated residence as per Art. 58 par. 2(c) or par. 3, appropriate accommodation, if he/she cannot provide for it on his/her own.

(11) A prosecution body or a person authorised by the Ministry of Interior shall inform the third country national who was granted tolerated residence as per paragraph 6 about any potential programmes or projects the aim of which is to enable his/her integration into the society during tolerated residence.

(12) A police department shall refuse an application for the granting of tolerated residence or an application for the extension of tolerated residence, if

- a) a third country national gives false or misleading data or submits falsified or counterfeited documents or a document of another person;
- b) does not fulfil the conditions for the granting of tolerated residence;
- c) a third country national is an undesired person;
- d) he/she has not attached any document as per paragraph 3.

(13) The provisions of paragraph 12(a), (c) and (d) shall not apply for tolerated residence as per Art. 58 par. 2(a).

(14) An appeal against the decision about the refusal of an application for the granting of tolerated residence or against the decision about the refusal of an application for the extension of tolerated residence as per Art. 58 par. 1(a) and (c) shall not have any suspensory effect.

## **Article 60**

### **Expiry of Tolerated Residence**

Tolerated residence shall expire, if

- a) a third country national notifies a police department in writing about the end of residence;

- b) the period for which tolerated residence was granted for a third country national expired and he/she has not applied for its extension;
- c) a third country national filed an application for the granting of asylum;
- d) a third country national obtained another residence according to this Act than the one which he/she has had;
- e) a third country national travelled away from the Slovak Republic territory;
- f) a third country national died or was declared dead; or
- g) a third country national was administratively expelled.

### **Article 61**

#### **Cancellation of Tolerated Residence**

- (1) A police department shall cancel tolerated residence, if
- a) they discover that the reason for which tolerated residence was granted has expired;
  - b) the third country national as per Article 58 paragraph 2(b), (c) or paragraph 3 threatens the national security or public order;
  - c) they discover the facts which represent the reason for the refusal of an application as per Art. 59 par. 12; or
  - d) in the case of a foreign national as per Art. 58 par. 2(c), who has restored, out of his/her own will, contacts with persons suspicious of committing a crime related to human trafficking, who pretends cooperation with prosecuting authorities or who stopped cooperating with prosecuting authorities.

(2) An appeal against the decision to cancel the tolerated stay under Article 58 para. 1 letter b) shall not have suspensory effect..

### **Section Four**

#### **Birth of Third Country National in Slovak Republic Territory or in Member State**

### **Article 62**

- (1) If a third country national is born in the territory of the Slovak Republic or member state to a parent who was granted residence according to this Act, the parent of a third country national born in the territory of the Slovak Republic or member state can apply for the granting of residence at the police department. The police department shall grant to this child
- a) temporary residence as per Art. 27, if his/her parents were granted temporary residence according to this Act;
  - b) temporary residence as per Art. 27, if his/her parent was granted long term residence as per Art. 52;
  - c) permanent residence as per Art. 43, if his/her parent was granted permanent residence as per Art. 43;
  - d) permanent residence as per Article 46, if his/her parent has been granted a permanent residence permit as per Article 46.
- (2) The application of the parent as per paragraph 1 shall include
- a) a valid travel document of a child or his/her own valid travel document in which the child is recorded;
  - b) a birth certificate of a child;

- c) two photographs of a child with the dimensions of 3 x 3.5 cm which show his/her current appearance;
- d) a document about the provision of financial resources for the residence of a child;
- e) a document about the provision of accommodation for a child.

(3) If the parent of a third country national who was born in the territory of the Slovak Republic or of the member state fails to apply for the granting of residence according to this Act on his/her behalf, he/she shall be obliged to provide for the leaving of the country within 90 days from his/her birth, unless there are serious reason which prevent this.

(4) A police department shall decide about the application as per paragraph 1 within 30 days from the delivery of the application to the police department. The residence of a third country national born in the territory of the Slovak Republic or of the member state shall be considered as authorised up to the time of valid decision about the application as per paragraph 1.

(5) If the application as per paragraph 1 is accepted, the police department shall not issue any **written** decision, but notify the parent of the child in writhing that the child has been granted a residence permit for the Slovak Republic territory which notification shall include the date of granting the residence permit.

- (6) A police department shall refuse an application as per paragraph 1, if
- a) the parent submits falsified or counterfeited documents or gives false or misleading data;
  - b) the data in the travel document do not correspond with the reality;
  - c) the parent has not submitted the documents as per paragraph 2.

(7) In the case of expiry and cancellation of granted period on the basis of an application as per paragraph 1 the provisions of this Act shall apply according to the type of granted residence.

## **TITLE TWO**

### **RESIDENCE OF UNION CITIZEN AND FAMILY MEMBER OF UNION CITIZEN**

#### **Article 63**

(1) This title shall define the right of residence for the Union citizen and his/her family member who accompanies or joins him/her.

(2) The residence of the Union citizen and the residence of the family member of the Union citizen shall be permanent residence.

#### **Section One**

#### **Right of Residence of Union Citizen**

#### **Article 64**

(1) A Union citizen who is the holder of a valid identity card or travel document shall be entitled, without any further conditions or formalities, to reside in the Slovak Republic territory for three months from the entry to the Slovak Republic territory. A Union citizen can

submit, instead of a valid identity card or travel document, any other document by which he/she demonstrates his/her identity and citizenship of a member state in a trustworthy way.

(2) The beginning of residence in the Slovak Republic territory shall be notified by a Union citizen at a police department within ten working days from the date of entry into the Slovak Republic territory.

(3) The right of a Union citizen for residence as per paragraph 1 shall remain untouched, unless he/she becomes a person in material need as per a special regulation.<sup>65)</sup>

(4) If a police department discovers during the control of a Union citizen, that he/she has lost the right of residence in the Slovak Republic territory as stated in paragraph 1, they inform him/her that he/she shall be obliged to leave the Slovak Republic territory.

### **Article 65**

(1) A Union citizen has the right of residence in the Slovak Republic territory during the period of more than three months, if

- a) he/she is employed in the Slovak Republic territory;
- b) he/she is a self-employed person in the Slovak Republic territory;<sup>59)</sup>
- c) he/she has sufficient resources for him/herself and for his/her family members so that they would not become a burden for the social assistance system of the Slovak Republic during the period of their residence and health insurance in the Slovak Republic territory;
- d) he/she studies at a primary school, secondary school or university in the Slovak Republic;
- e) there is an assumption that he/she would find employment; or
- f) he/she is a family member of a Union citizen whom he/she accompanies or joins and who fulfils the conditions for residence as per letters (a) to (e).

(2) The right of residence of a Union citizen shall remain untouched, if he/she fulfils the conditions as stated in paragraph 1.

(3) The right of residence of a Union citizen as per paragraph 1(a) and (b) remains untouched even then, if he/she is neither employed, nor self-employed, unless

- a) he/she is on temporary leave with pay due to sickness or injury;
- b) he/she is registered as a job applicant at the respective Office of Labour, Social Affairs and Family following to the period of employment for at least one year;
- c) he/she is registered as a job applicant at the respective Office of Labour, Social Affairs and Family following to the end of employment for a fixed period of time closed for the maximum of one year or if he/she is registered as a job applicant at the respective Office of Labour, Social Affairs and Family following to the period of employment for less than one year; or
- d) he/she has commenced a professional training; if he/she is not registered as a job applicant at the respective Office of Labour, Social Affairs and Family, it must be professional training related to the previous employment.

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59) For example Art. 5 of Act no. 461/2003 Coll. on Social Insurance as amended by further regulations, Art. 11 par. 4 of Act no. 580/2004 Coll. on Health Insurance and on the amendment and supplementation of Act no. 95/2002 Coll. on Insurance and on the amendment and supplementation of certain acts as amended by further regulations.

- (4) The right of a Union citizen as per paragraph 1(f) shall remain untouched even then, if
- a) the Union citizen whom he/she accompanies or joins died; or if his/her right of residence in the Slovak Republic territory expired, if he/she fulfils the conditions as stated in paragraph 1(a) to (e);
  - b) the Union citizen whom he/she accompanies or joins died; or if his/her right of residence in the Slovak Republic territory expired, in the case of his/her child who studies in the Slovak Republic territory or parent whom this child was entrusted into personal care; this right remains untouched until the completion of studies in the Slovak Republic; or
  - c) he/she has divorced the Union citizen whom he/she accompanies or joins or if their marriage was declared invalid, if he/she fulfils the conditions as stated in paragraph 1(a) to (e).

(5) If there is a justified doubt whether the Union citizen fulfils the conditions as stated in paragraph 1 or paragraph 3, the police department can verify their fulfilment.

## **Article 66**

(1) A Union citizen who resides in the Slovak Republic territory for more than three months shall be obliged to apply for the registration of residence in the Slovak Republic territory. An application for the registration of residence shall be filed in an official form in person at a police department within 30 days from the elapse of three months from the entry into the Slovak Republic territory.

(2) A Union citizen who applies for the registration of residence as per Art. 65 par. 1 (a) shall be obliged to submit a valid identity card or a valid travel document and a promise of an employer or a work contract.

(3) A Union citizen who applies for the registration of residence as per Art. 65 par. 1 (b) shall be obliged to submit a valid identity card or a valid travel document and a document which confirms that he/she is a self-employed person.

(4) A Union citizen who applies for the registration of residence as per Art. 65 par. 1 (c) shall be obliged to submit a valid identity card or a valid travel document and a document which confirms that he/she has sufficient resources for him/herself and his/her family members so that he/she would not become a person in material need during his/her residence period and a document of health insurance.

(5) A Union citizen who applies for the registration of residence as per Art. 65 par. 1 (d) shall be obliged to submit a valid identity card or a valid travel document, a document which confirms that he/she studies at a primary school, secondary school or university in the Slovak Republic and a solemn declaration that he/she has sufficient resources for him/herself and his/her family members so that he/she would not become a person in material need during his/her residence period in the Slovak Republic.

(6) A Union citizen who applies for residence registration as per Article 65 para. 1 letter e) shall be obliged to submit with the application a valid identity card or a valid travel document, a statutory declaration that he/she is continuously looking for work in the Slovak Republic territory **and a proof of having health insurance.**

(7) A Union citizen who applies for the registration of residence as per Art. 65 par. 1 (f) shall be obliged to submit a valid identity card or a valid travel document together with the application, a document which confirms the existence of a family relationship or a document which confirms that he/she has a permanent, duly certified relationship with the Union citizen whom he/she accompanies or joins.

(8) A police department shall be obliged, when investigating, whether the Union citizen has sufficient resources for him/herself and his/her family members so that he/she would not become a person in material need during the period of their residence in the Slovak Republic, to take into account the personal situation of the particular person. A Union citizen can demonstrate sufficient resources by submitting cash, travellers' cheques, credit cards, statements of accounts, documents of ownership of a real estate, document of drawing of pension or another trustworthy document. A police department shall not require an amount which the Union citizen shall demonstrate at the time of registering residence, higher than the amount of living subsistence in the Slovak Republic.<sup>63)</sup>

(9) A police department shall individually evaluate submitted documents as per paragraphs 2 to 7, whereas they investigate the facts which are demonstrated by the Union citizen by means of them. The police department shall, following to inspecting the documents, decide, whether the submitted documents as per paragraphs 2 to 7 are sufficient or not. If the submitted documents are not sufficient in order to demonstrate in a trustworthy way the facts as per paragraphs 2 to 7, the particular person shall not be registered by the police department. Such a person shall be at the same time informed in writing which documents are to be submitted in order to demonstrate the facts as per paragraphs 2 to 7 in a trustworthy way so that the person would be registered.

(10) A police department shall issue a confirmation to a Union citizen on the date of the filing of a complete application for the registration of the Union citizen residence which contains the name, surname, address of a registered person and registration date. If the Union citizen fails to submit a document as per Art. 122, the police department shall state as the address in the confirmation the municipality in which the Union citizen will reside.

(11) A Union citizen **as per Article 65 para. 1 who has been registered to have the right of residence by the police department** may request the police department to issue a residence document entitled the "Residence Card of EU Citizen" with a five year period of validity. The police department shall issue the residence document to the Union citizen within 30 days. If requesting the issue of a residence document, the Union citizen shall submit a proof of accommodation as per Article 122 and two 3 x 3.5 cm sized photographs showing his/her current appearance, otherwise the police department shall not issue the residence document; the accommodation must comply with minimum requirements as per a special regulation.<sup>61)</sup>

(12) A general regulation on administrative proceedings<sup>37)</sup> shall not apply to the issuance of a confirmation of registration.

## **Article 67**

### **Right of Permanent Residence of Union Citizen**

(1) A Union citizen has the right of permanent residence, if his/her residence in the Slovak Republic territory was authorised continuously during the period of five years.

(2) A Union citizen has the right of permanent residence also then, if his/her residence in the Slovak Republic territory was authorised continuously less than five years; and

- a) he/she is an employee or a self-employed person who, at the time, when he/she stopped working, achieved the age necessary for the existence of pension entitlement according to the law;<sup>60)</sup>
- b) he/she is an employee who left paid employment in order to draw early retirement pension, if he/she was employed in the Slovak Republic territory at least during the previous twelve months and his/her residence in the Slovak Republic territory was continuous for more than three years;
- c) he/she is an employee or a self-employed person with continuous residence in the Slovak Republic territory for more than two years who stopped working due to permanent incapacity to work; the condition of continuous residence in the Slovak Republic territory for more than two years shall not apply to the employee or self-employment person who has permanently lost the capacity to work due to occupational disease or accident at work;
- d) he/she is an employee or a self-employed person who, after three years of continuous residence as per Art. 65 par. 1(a) or (b), works as an employee or self-employed person in a member state and returns to the Slovak Republic territory at least once a week;
- e) he/she is a family member of a Union citizen with whom he/she resides in the Slovak Republic territory and who has obtained the right of permanent residence according to letters (a) to (d); or
- f) he/she is a family member of a Union citizen with whom he/she resides in the Slovak Republic territory and who died before he/she has obtained the right of permanent residence according to letters (a) to (d), and who, however, at the time of death, resided continuously in the Slovak Republic territory for at least two years or who died due to occupational disease or accident at work; or in the case of a survived spouse, who gave up the Slovak Republic citizenship after entering into marriage with him/her.

(3) The following is also considered as continuous residence

- a) temporary absence in the Slovak Republic territory which does not exceed altogether six months per year;
- b) absence in the Slovak Republic territory during the performance of compulsory military service;
- c) absence in the Slovak Republic territory during maximum twelve months which follow after each other due to pregnancy and birth, serious illness, study, professional education, post abroad or other serious reasons.

(4) The period of continuous residence in the Slovak Republic territory as per paragraph 2 (b) and (c) also includes the period of work performance in a member state.

(5) The period of employment as per paragraph 2 (a) to (d) also includes the period of involuntary unemployment of a Union citizen who was duly registered at a competent Office of Labour, Social Affairs and Family, the period of unemployment for reasons independent on the will of a Union citizen or the period of incapacity to work due to disease or accident.

(6) The condition of the length of residence in the Slovak Republic territory and length of employment in the Slovak Republic territory as per paragraph 2(b) or (c) shall not apply to the

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60) Art. 65 par. 2 of Act no. 461/2003 Coll. as amended by further regulations.

Union citizen who is a spouse of the Slovak Republic citizen or who is the spouse of the person who gave up the Slovak Republic citizenship after entering into marriage with him/her.

(7) The police department shall issue a document of residence entitled the “Residence Card of EU Citizen” with a 10 year period of validity to a Union citizen on the basis of his/her application, if he/she fulfils the conditions as per paragraph 1 or paragraph 2.

(8) Together with their request for issuing the residence document a union citizen shall submit two 3 x 3.5 cm sized photographs showing his/her current appearance and a document confirming the fulfilment of conditions as per paragraph 1 or paragraph 2. **If the Union citizen fails to submit a document as per Article 122 when changing his/her address of residence, the police department shall state as the address in the document the municipality in which the Union citizen will reside.**

### **Article 68** **Termination of Right of Residence of Union Citizen**

(1) The right of residence of a Union citizen or the right of permanent residence of a Union citizen shall expire, if the Union citizen

- a) notifies in writing the end of residence to a police department;
- b) was administratively expelled;
- c) was ablated his/her right of residence or his/her right of permanent residence;
- d) died or was declared dead; or
- e) obtained the Slovak Republic citizenship.

(2) A police department, can, on the basis of a decision, withdraw the right of residence from a Union citizen, if

- a) he/she submits a falsified or counterfeited document of residence which shows the fulfilment of conditions as per Art. 66 or Art. 67, when registering residence or when issuing a document of residence; or if he/she gives false data regarding the fulfilment of conditions on which the right of residence depends;
- b) they discover the facts during residence, that the Union citizen has obtained the right of residence on the basis of submitting falsified or counterfeited document showing the fulfilment of the conditions as per Art. 66 or Art. 67, or has given false data regarding the fulfilment of conditions which relate to the right of residence; or
- c) he/she has the right of residence as per Art. 65 par. 1(c) or (d) and has become a person in material need.

(3) A police department shall be obliged, if proceeding according to paragraph 2, to investigate the facts which justify the withdrawal of the right of residence from a Union citizen. If the police department discovers that the consequences of the withdrawal of the right of residence from the Union citizen would be inappropriate with regard to his/her age, health condition, family situation, length of previous residence, level of his/her integration into the society or scope of relationships with the country of origin, they shall not withdraw the right of residence from the Union citizen.

(4) A police department shall be obliged, after discovering of the facts which constitute the procedure according to paragraph 2(c), to allow the Union citizen to demonstrate in a trustworthy way within appropriate period of time that he/she is not a person in material need.

If the Union citizen demonstrates this fact in a trustworthy way, the police department shall not withdraw the right of residence.

(5) A police department shall determine, in the decision about the withdrawal of the right of residence, a duty of a Union citizen to leave the Slovak Republic territory within 30 days from the date when the decision comes into force and effect.

(6) A police department can, on the basis of a decision, withdraw the right of permanent residence from a Union citizen, if

- a) he/she resides outside the Slovak Republic territory longer than two years which follow after each other; or
- b) they discover that he/she has obtained the right of permanent residence in a fraudulent way.

(7) A police department shall determine, in the decision about the withdrawal of the right of permanent residence, a duty of a Union citizen to leave the Slovak Republic territory within 30 days from the date when the decision becomes efficient.

(8) If a Union citizen fails to leave the Slovak Republic territory within the period as specified in the decision about the withdrawal of the right of residence as per paragraph 2 or paragraph 7, the police department shall provide for the performance of the decision about the withdrawal of the right of residence.

## **Section Two**

### **Right of Residence of Family Member of Union Citizen**

#### **Article 69**

(1) A family member of the Union citizen who is the holder of a valid travel document shall be entitled to reside in the Slovak Republic territory during three months from the date of entry into the Slovak Republic territory, if he/she accompanies or joins the Union citizen whose family member he/she is. A family member of the Union citizen can submit any document instead of a valid travel document by means of which he/she demonstrates his/her identity and a family relationship with the Union citizen to the police department in a trustworthy way.

(2) The beginning of residence in the Slovak Republic territory shall be announced by the family member of the Union citizen at a police department within ten working days from the date of entry into the Slovak Republic territory.

(3) The right of residence of the family member of a Union citizen as per paragraph 1 shall remain untouched, unless he/she becomes a person in material need.

(4) If a police department discovers, when checking the family member of the Union citizen, that he/she has lost the right of residence in the Slovak Republic territory as stated in paragraph 1, they inform him/her that he/she shall be obliged to leave the Slovak Republic territory.

#### **Article 70**

(1) A family member of the Union citizen has the right of residence in the Slovak Republic territory during the period longer than three months, if the warrantor fulfils the conditions as per Art. 65 par. 1(a) to (e) or Art. 67.

(2) The warrantor shall be understood as the Union citizen with the right of residence or with the right of permanent residence in the Slovak Republic territory who is accompanied or joined by his/her family member.

(3) The right of residence of the family member of the Union citizen shall remain untouched even in the case of death of the warrantor with whom he/she resided in the Slovak Republic territory at least one year prior to his/her death, if he/she fulfils the conditions as per Art. 65 par. 1(a) to (e) or he/she is the family member of the person who fulfils these conditions and the family was established in the Slovak Republic territory.

(4) The right of residence of the family member of the Union citizen shall remain untouched even then, if the warrantor died or his/her right of residence in the Slovak Republic territory expired and his/her child who studies in the Slovak Republic territory is concerned; or a parent whom this child was entrusted into personal care. This right shall remain untouched until the completion of studies in the Slovak Republic.

(5) The right of residence of the family member of the Union citizen shall remain untouched even then, if his/her marriage with the warrantor ended in divorce or was declared invalid, if he/she fulfils the conditions as per Art. 65 par. 1 (a) to (e) or if he/she is a family member of the person who fulfils these conditions and the family was established in the Slovak Republic territory and

- a) his/her marriage with the warrantor lasted at least three years, out of which at least one year in the Slovak Republic territory;
- b) he/she has a child of the warrantor entrusted into personal care;
- c) his/her marriage was terminated due to domestic violence, warrantor's dependence on alcohol, narcotic drugs, psychotropic substances, hazardous games or other serious reasons; or
- d) he/she has the right to meet a minor child in the Slovak Republic territory on the basis of mutual agreement of both parents of the child or he/she has this right acknowledged by the court during the time period as necessary.

(6) If there is a justified doubt that the family member of the Union citizen fulfils the conditions as per paragraphs 1 and 3 to 5, the police department can verify their fulfilment.

(7) The family member of the Union citizen shall demonstrate the right of residence in the Slovak Republic territory by means of a valid document of residence entitled the "Residence Card of EU Citizen Family Member" or he/she can demonstrate this right in any other trustworthy way.

(8) The family member of the Union citizen shall be obliged to submit an application for the issuance of a document of residence at a police department within 30 days from the elapse of three months from the date of entry into the Slovak Republic territory.

(9) A police department shall issue a confirmation about the filing of an application for the document of residence to the family member of the Union citizen on the date of the filing

of the application for the document of residence to the family member of the Union citizen which contains the name, surname, address of the family member of the Union citizen and the date of filing the application. If the family member of the Union citizen fails to submit a document as per Art. 122 or if accommodation does not comply with the minimum requirements as per a special regulation,<sup>61)</sup> the police department shall state as the address in the confirmation about the filing of the application the municipality in which the family member of the Union citizen will reside.

(10) A police department shall issue the document of residence entitled the “Residence Card of EU Citizen Family Member” on the basis of an application to the family member of the Union citizen within 30 days with the validity of five years or for the period of the assumed residence of the warrantor, if such a period is less than five years. The family member of the Union citizen shall submit, together with the application for the issuance of the document of residence, the following

- a) a valid travel document;
- b) two photographs with the size of 3 x 3.5 cm which show his/her current appearance;
- c) a document which confirms the existence of a family relationship with the warrantor;
- d) a confirmation about the registration of the residence of the warrantor;
- e) in the case of the family member of the Union citizen as per Art. 2 par. 5(b) or (c) documents which prove this fact;
- f) in the case of the family member of the Union citizen as per Art. 2 par. 5(d) a trustworthy document which confirms that he/she is a person dependent on the warrantor;
- g) in the case of the family member of the Union citizen as per Art. 2 par. 5(e) a trustworthy document which confirms that he/she is the member of the household of the warrantor;
- h) in the case of the family member of the Union citizen as per Art. 2 par. 5(f) a trustworthy document which confirms that he/she is dependent on the warrantor’s care due to health reasons;
- i) in the case of the family member of the Union citizen as per Art. 2 par. 5(g) a trustworthy document which confirms the existence of a permanent, duly certified relationship with the warrantor;
- j) in the case of the family member of the Union citizen as per Art. 2 par. 5(h) a residence permit of the family member of the Union citizen issued with his/her name by a member state.

(11) A police department shall individually evaluate submitted documents and documents as per paragraph 10, whereas they shall investigate the facts which are demonstrated by the citizen by means of these facts. The police department shall, following to inspecting the documents, decide, whether the submitted documents as per paragraph 10 are sufficient. If the submitted documents are not sufficient in order to demonstrate in a trustworthy way the facts as per paragraphs 10, the particular person shall not receive the document of residence from the police department. Such a person shall be at the same time informed in writing which documents are to be submitted in order to demonstrate the facts as per paragraph 10 in a trustworthy way so that the person would receive the document of residence from the police department.

(12) A solemn declaration of the warrantor that he/she would support the family member of the Union citizen as per Art. 2 par. 5(d) shall not be sufficient for the demonstration of the existence of dependency and the police department shall not accept any solemn declaration without further documents as another trustworthy document as per paragraph 10(f).

(13) If the family member of the Union citizen as per Art. 2 par. 5(d) has submitted a document as per paragraph 10(f), the police department shall be obliged to evaluate whether the family member of the Union citizen has material support from the warrantor and whether he/she needs material support with regard to the financial and social conditions in the country of origin or in the country from which he/she comes.

(14) A document of residence of the family member of the Union citizen shall not lose validity, if

- a) his/her temporary absence in the Slovak Republic territory does not exceed altogether six months per year;
- b) he/she does not reside in the Slovak Republic territory during compulsory military service;
- c) his/her absence in the Slovak Republic territory lasts maximum twelve months which follow after each other due to pregnancy and birth, serious illness, study, professional education, post abroad or other serious reasons.

(15) A general regulation on administrative proceeding shall not apply to the issuance of the document of residence of the family member of the Union citizen.<sup>37)</sup>

## **Article 71**

### **Right of Permanent Residence of Family Member of Union Citizen**

(1) The family member of the Union citizen shall have the right of permanent residence, if his/her authorised residence in the Slovak Republic territory with the warrantor lasted continuously for the period of five years.

(2) The family member of the Union citizen shall have the right of permanent residence also then, if his/her authorised residence in the Slovak Republic territory with the warrantor lasted continuously less than five years, if the warrantor has the right of permanent residence as per Art. 67 par. 2.

(3) The family member of the Union citizen shall have the right of permanent residence also then, if his/her authorised residence in the Slovak Republic territory lasted continuously for the period of five years and his/her right of residence as per Art. 70 par. 3 or par. 5 has remained untouched.

(4) The family member of the Union citizen shall have the right of permanent residence, if the warrantor as per Art. 65 par. 1(a) and (b) with whom he/she has resided in the Slovak Republic territory has died before he/she obtained the right of permanent residence as per Art. 67, however,

- a) at the time of his/her death the warrantor has had continuous residence in the Slovak Republic territory for at least two years;
- b) has died as a result of a working accident or occupational disease; or
- c) it is the case of a surviving spouse who gave up the Slovak Republic citizenship after entering into marriage with him/her.

(5) The period of continuous residence shall also include the period as stated in Art. 67 par. 3.

(6) The period of continuous residence in the Slovak Republic territory as per par. 3 shall also include the period of work performance in a member state.

(7) The police department, shall, on the basis of an application, issue a document of residence entitled the “Residence Card of Family Member of EU Citizen” with a ten year period of validity to the family member of the Union citizen within 30 days, if he/she fulfils the conditions as per paragraph 1, 2, 3 or paragraph 4; the police department shall issue a new document of residence following to the end of the validity period.

(8) The family member of the Union citizen shall be obliged to apply for the issuance of the document of residence as per paragraph 7 at the latest on the last day of the validity of his/her document of residence issued as per Art. 70 par. 10.

(9) The family member of the Union citizen shall submit two photographs with the size of 3 x 3.5 cm which show his/her current appearance and a document which confirms the length of continuous residence as per paragraph 1, 2, 3 or paragraph 4 together with the application for the issuance of the document of residence; this shall not apply in the case of issuance of the document after the end of validity, then he/she shall be obliged to submit the photographs only.

(10) The document of residence of the family member of the Union citizen shall lose validity, if he/she has resided outside the Slovak Republic territory for more than two years which follow after each other.

## **Article 72**

### **Expiry of Right of Permanent Residence of Family Member of Union Citizen**

(1) The right of residence of the family member of the Union citizen or the right of permanent residence of the family member of the Union citizen shall expire, if

- a) he/she notifies the end of residence to the police department in writing;
- b) he/she was administratively expelled;
- c) his/her right of residence or right of permanent residence was withdrawn by the police unit;
- d) he/she has died or was declared dead; or
- e) he/she has obtained the Slovak Republic citizenship.

(2) The police department, can, on the basis of a decision, withdraw the right of residence from the family member of the Union citizen; if

- a) he/she has submitted a falsified or counterfeited document which shows the fulfilment of the conditions as per Art. 70 par. 10, when applying for the issuance of the document of residence; or if he/she has given false data regarding the fulfilment of the conditions which relate to his/her right of residence;
- b) they discover the facts during residence, that the family member of the Union citizen has obtained the right of residence on the basis of submitting falsified or counterfeited document showing the fulfilment of the conditions as per Art. 70 par. 10, or has given false data regarding the fulfilment of conditions which relate to his/her right of residence;
- c) he/she has the right of residence as per Art. 70 and has become a person in material need.

(3) A police department shall be obliged, if proceeding according to paragraph 2, to investigate the facts which justify the withdrawal of the right of residence from the family

member of the Union citizen. If the police department discovers that the consequences of the withdrawal of the right of residence from the family member of the Union citizen would be inappropriate with regard to his/her age, health condition, family situation, length of previous residence, level of his/her integration into the society or scope of relationships with the country of origin, they shall not withdraw the right of residence from the family member of the Union citizen.

(4) A police department shall be obliged, after discovering the facts which constitute the procedure according to paragraph 2(c), to allow the family member of the Union citizen to demonstrate in a trustworthy way within due period of time that he/she is not a person in material need. If the family member of the Union citizen demonstrates this fact in a trustworthy way, the police department shall not withdraw his/her right of residence.

(5) A police department shall determine, in the decision about the withdrawal of the right of residence, the duty of the family member of the Union citizen to leave the Slovak Republic territory within 30 days from the date when the decision comes into force and effect.

(6) A police department can, on the basis of a decision, withdraw the right of permanent residence from the family member of the Union citizen, if

- a) he/she resides outside the Slovak Republic territory for longer than two years which follow after each other;
- b) they discover that the marriage with the warrantor is a marriage of convention;
- c) they discover that he/she has obtained the right of permanent residence in a fraudulent way.

(7) A police department shall determine, in the decision about the withdrawal of the right of permanent residence, a duty of the family member of the Union citizen to leave the Slovak Republic territory within 30 days from the date when the decision comes into forces and effect.

(8) If the family member of the Union citizen fails to leave the Slovak Republic territory within the period as specified in the decision about the withdrawal of the right of residence, the police department shall provide for the performance of the decision about the withdrawal of the right of residence.

### **TITLE THREE DOCUMENTS FOR ALIENS**

#### **Article 73 Residence document**

(1) The police department shall issue a residence document to a third country national within 30 days from

- a) granting a residence permit, if he/she filed an application for granting a residence permit at the police department.
- a) meeting the requirements as per Article 111 para. 2 letter b), if he/she filed an application for granting a residence permit at the consulate;
- c) Filing a request for issuing a residence document,
- d) temporary residence permit renewal or permanent residence permit granting pursuant to Article 46 paragraph 1.

(2) In the case of a third country national as per Article 52 para. 1 letter a) who has been granted a long-term residence permit after having had the status of a long-term resident in another Member State based on granted international protection in this state, the police department shall issue a residence document immediately after receipt of a written information from the Member State which granted international protection to the third country national. The police department shall issue the third country national with a confirmation of receipt of the application on the date of its filing.

(3) A residence document shall contain data about the third country national as stated in a special regulation.<sup>59)</sup> and, if it is a temporary residence permit as per Articles 24 to 27, 29 or 30, the phrase “permitted to work”. The residence document shall be fitted with an electronic chip.

(4) A third country national who has been granted a temporary residence permit shall be issued with a residence document by the police department valid for to the time period for which the temporary residence permit was granted; if he/she has accommodation provided for a period of time shorter than the granted period of temporary residence, the police department shall issue a residence document for the period for which the accommodation is provided. The residence document must expire no later than 90 days prior to the expiration date of the travel document of the third country national. In the residence document the police department shall state, under “Notes”, a specific purpose of the temporary residence of the third country national.

(5) The police department shall issue to a third country national as per Article 37 para. 2 a residence document in which they state under the item “Type of Residence” “EU Blue Card” and under the item “Notes” a specific expertise which the third country national has higher professional qualification in.

(6) The police department shall issue a third country national as per Article 52 para. 1 with a residence document in which they state “Person with Long Term Residence – EU” under the item “Type of Residence”. In the case of a third country national as per Article 52 para. 1 letter c), the police department shall state “former holder of EU Blue Card” under the item “Notes”.

(7) In the case of a third country national as per Article 52 para. 1 letter a) who has been granted a long-term residence permit based on asylum granted on the grounds of persecution or based on subsidiary protection provided on the grounds of serious harm, the police department shall indicate under “Notes” the words “International protection granted in the Slovak Republic” and the date of granted asylum or subsidiary protection within the Slovak Republic.

(8) In the case of a third country national as per Article 52 para. 1 letter a) who has been granted a long-term residence permit after having had the status of a long-term resident in another Member State based on granted international protection in this state, the police department shall put under “Notes” the same text that appears in the note of the residence permit of a long-term resident issued in that Member State, in an official language;<sup>99)</sup>, this is unless the international protection was finally withdrawn. Before issuing a residence document pursuant to the preceding sentence, the police department shall inquire the Member State that provided international protection to the third country national as to whether or not the international protection persists.

(9) The police department shall issue a new residence document to a third country national who has been granted a permanent residence permit pursuant to Article 52 para. 1 letters a) and b) within the period under paragraph 1 letter c), if a Member State informs that the third country national has been provided with international protection and under "Notes" they put the text "International protection provided in" followed by the Member State which provided the international protection, and the date of providing of such international protection.

(10) A third country national who has been granted a permanent residence permit as per Article 43 shall be issued with a residence document valid for no more than five years by the police department; if he/she has accommodation provided for a period of time shorter than five years, the police department shall issue a residence document for the time period for which the accommodation is provided. A third country national who has been granted a permanent residence permit as per Articles 46 or 52 shall be issued with a residence document with the validity of up to ten years. The residence document must expire end no later than 90 days before the expiration date of the travel document of the third country national. The police department shall indicate in the residence document, if it is a permanent residence permit as per Articles 43 or 46, in the "Notes" section the phrase "permitted to work".

(11) An alien who has been granted asylum shall be issued with a residence document by the police department containing the text "Asylee". The residence document shall be valid for ten years; in the case of asylees who have been granted asylum for three years, the validity of the residence document shall be three years. The police department shall issue to an alien who has been provided subsidiary protection a residence document within 15 days which shall contain the designation "Subsidiary Protection"; the validity of the residence document shall be two years. After the expiry of the residence document the police department shall issue for an alien who has been granted subsidiary protection a new residence document valid for two years. The validity of a document issued pursuant to this paragraph shall end even prior to the expiry of the residence document, if the asylum or subsidiary protection provided to the alien has expired.

(12) A third country national who is legally entitled to residence under an international agreement, <sup>42)</sup> shall be issued by the police department, at his/her request, a residence document valid for up to five years.

(13) A third country national who has been issued with a residence document in accordance with paragraph 4 or 10 valid for a time shorter than the granted residence permit and a third country national who has been granted a permanent residence permit under Articles 46 or 52 shall apply for a new residence document no later than 30 days before the expiry of their residence document.

(14) The police department shall include in the residence document the name, surname and other names and surnames of the alien in Roman characters as stated in their travel document or in the decision on asylum granting or in the decision on the provision of subsidiary protection.

(15) The issue of a residence document pursuant to Article 66 para. 11, Article 67 para. 7, Article 70 para. 10 and Article 71 para. 7 shall also be governed by paragraphs 3, 13 and 14.

(16) An alien may hold only one residence document.

(17) A police department shall issue to a third country national as per Article 23 paragraph 1, together with a residence document also a document titled "Additional employment data", in which they shall indicate the name, address and identification number of the employer, place of work, type of work and the period of employment. The police department shall issue a new residence document pursuant to the preceding sentence, if

a) the third country national has met his/her obligation under Article 111 paragraph 1t), presented a new employment contract and the relevant Office of Labour, Social Affairs and Family issued a certificate as per Article 33 paragraph 3 containing an approval to fill a vacancy, and

b) it concerns a third country national as per Article 23 paragraph 1.

### **Article 73a Electronic chip**

(1) An electronic chip shall contain data that are or can be entered into the residence document pursuant to Article 73 para. 3. The electronic chip can also carry other data to the extent and under the conditions laid down by a special regulation; <sup>72a</sup>) if it is not possible to write all data on the electronic chip due to lack of space, the alien shall determine which data to write.

(2) The holder may verify the data that is entered into the electronic chip at the police department that issued the document.

(3) The residence document shall be accompanied by a personal security code that is used to confirm the identity of the holder in an electronic communication with information systems of the public administration or other natural or legal persons.

(4) The personal security code shall be a combination of six to ten digits, chosen by the alien when filing an application for a residence document or later at the police department; for aliens deprived of legal capacity the personal security code shall be selected by their guardian.

(5) The residence document holder shall be allowed to change the personal security code during the validity of the document. Changing of the personal security code shall be done at the police department or at another location published by the Ministry of Interior, or by means of an application software published for this purpose by the Ministry of Interior.

(6) If the holder of a residence permit enters a wrong personal security code in an electronic communication for five consecutive times, his/her ability to communicate electronically shall be blocked; Unblocking shall be done at the request of the residence document holder by the police department.

### **Article 74 Alien's Passport**

(1) An alien's passport is a document which enables a third country national to leave the country. An alien who was provided subsidiary protection and has no valid travel document of

his/her own shall receive an alien's passport from a police department which is a document enabling this alien to leave and return to the Slovak Republic.

(2) An alien's passport shall be issued by a police department to a third country national who does not have his/her own valid travel document and which cannot be provided by the consulate of the state of which he/she is the citizen; and

- a) who was granted tolerated residence;
- b) about whom it was decided that he/she would be administratively expelled or who was given the punishment of expulsion; or
- c) who was born in the Slovak Republic territory.

(3) A third country national shall be obliged to file an application for the issuance of an alien's passport in person at the police department; **this shall not apply if the third country national is kept in a facility based on a decision on detention under this Act.**

(4) A police department shall issue an alien's passport within 30 days from the filing of an application for the issuance of alien's passport.

(5) The validity of an alien's passport shall be determined by a police department for the necessary time period, however, maximum one year. The validity of an alien's passport can be repeatedly extended by the police department.

(6) The territorial validity of an alien's passport shall be determined by a police department according to the purpose for which it was issued.

(7) A police department shall withdraw an issued alien's passport, if the reasons for its issuance have expired.

(8) The police department and the Ministry of Foreign Affairs shall be entitled to process copies of travel documents, identity documents and other documents **submitted by persons** during proceedings as per this Act.

## **TITLE FOUR CONTROL OF RESIDENCE AND REGISTRATION OF PERSONS**

### **Section One Control of Residence**

#### **Article 75**

- (1) A police department shall be entitled to perform the control of the
- a) justification of residence, fulfilment of conditions of residence and fulfilment of alien's duties as per this Act;
  - b) fulfilment of duties by other natural persons and legal entities in relation to the residence as per this Act.

(2) When performing the control as per paragraph 1, a policeman shall be entitled to

- a) enter the places designed for business, employment or study and accommodation facilities; this shall not apply, if the particular place cannot be touched on the basis of a special regulation;<sup>61)</sup>
- b) request the demonstration of identity and request explanation of the facts which are the subject of control.

(3) If a police department discovers that an alien has provided a falsified or counterfeited proof of his/her identity, they shall be entitled to withhold such a document. They can also withhold a document which was not issued with the name of the controlled alien and which is provided by the alien as his/her own; or if the document was declared invalid or stolen by the issuing state body.

## **Section Two Registration of Persons**

### **Article 76**

(1) When fulfilling tasks, a police department shall keep the registers about the following in the information systems of the police force kept according to a special regulation<sup>62)</sup>

- a) aliens' entry, residence and leaving of the country;
- b) visa applicants, granted or non-granted visa;
- c) applicants for residence, third country nationals with granted residence and refused applications for the granting of residence;
- d) applications for the registration of Union citizens and Union citizens registered for residence;
- e) applications for the issuance of documents of residence of the family members of Union citizens and about issued documents of residence of family members of Union citizens;
- f) applicants for the issuance of alien's passports and alien's travel documents and about the extension of validity of these documents;
- g) third country nationals with invitation letters verified by the police department and about persons inviting third country nationals;
- h) lost and stolen travel documents and travel documents declared invalid or stolen by issuing state bodies;
- i) undesired persons;
- j) aliens, obtained during the provision of border control;
- k) aliens with unauthorised residence.

(2) Lists of personal data about aliens and further persons processed in registers as per paragraph 1 are specified in Art.128 and 129.

(3) The Ministry of Interior and police department shall provide information and personal data from registers kept according to paragraph 1 to the following

- a) prosecution office, Slovak Information Service, Military Defence Service, Military Police, Court Guard and Prison Warden Corps, Customs Administration, Ministry of

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61) Art. 4 of Act no. 131/2002 Coll. as amended by Act no. 528/2003 Coll.

62) Art. 69 to 69(f) of the Slovak Republic National Council Act no. 171/1993 Coll. as amended by further regulations.

- Justice of the Slovak Republic, Ministry of Foreign Affairs, National Security Authority and local police within the scope of their competence as per a special regulation;<sup>63)</sup>
- b) state bodies other than those as stated under (a) and municipalities, if necessary for the fulfilment of their tasks;
  - c) other legal entities which fulfil the tasks of the state or provide for health insurance, medical insurance, pension insurance; or fulfil the tasks at the department of employment within the scope of their competence as per a special regulation.<sup>64)</sup>

(4) The Ministry of Interior and the police department shall provide, on the basis of a written application of a legal entity, a notification about the place of alien's residence, apart from persons granted asylum and aliens provided subsidiary protection. An application must contain

- a) applicant's identification details;
- b) alien's name and surname, date of birth or birth registration number;
- c) justification of application.

(5) The Ministry of Interior shall process the data for the purpose of statistics within the scope as per a special regulation.<sup>65)</sup>

(6) The Slovak Information Service shall be entitled, for the purpose of fulfilling the tasks as per this Act, to process personal data as per paragraph 1; whereas the access into information systems as per paragraph 1 shall be enabled for the Slovak Information Service for this purpose.

(7) The Ministry of Foreign Affairs shall keep registers in its information systems which contain the data as per Art. 129 on visa applicants and on granted or non-granted visa.

(8) A police department and the Ministry of Foreign Affairs shall be entitled to process the copies of travel documents, identity documents and other documents submitted by aliens during proceedings as per this Act.

## **PART FOUR**

### **ADMINISTRATIVE EXPULSION, DETENTION AND PLACEMENT OF THIRD COUNTRY NATIONAL INTO FACILITY, POLICE TRANSPORT, POLICE ESCORT, AIR TRANSIT**

#### **TITLE ONE ADMINISTRATIVE EXPULSION**

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63) For example Art. 24 of the Slovak Republic National Council Act no. 564/1991 Coll. on Local Police as amended by further regulations, Art. 76 of Act no. 215/2004 Coll. on Protection of Confidential Data and on the amendment and supplementation of certain acts.

64) For example Art. 75 of Act no. 7/2005 Coll. on Bankruptcy and Restructuring and on the amendment and supplementation of certain acts as amended by further regulations, Art. 32 of Act no. 511/1992 Coll. on Administration of Taxes and Fees and on the Changes in the System of Regional Financial Authorities as amended by further regulations.

65) European Parliament and Council Regulation (EC) no. 862/2007 of July 11, 2007 on Community Statistics on Migration and International Protection and Repealing Council Regulation (EEC) No 311/76 on the Compilation of Statistics on Foreign Workers (O.J. EU L 199, 31.07.2007).

## Section One General Provisions

### Article 77

(1) Administrative expulsion is a decision of the police department that an alien does not have or has lost the entitlement to reside in the Slovak Republic territory and is obliged to leave the Slovak Republic territory with the option of determining the time by when he/she has to depart back to his/her country of origin, country of transit, <sup>78)</sup> or any third country, **which the third country national voluntarily decides to return to and** which would accept him/her or to the territory of a member state in which he/she has been granted the right of residence. A decision on administrative expulsion shall also contain the country into which the alien was expelled, if such a country can be defined, **or international protection provided.** In their decision on administrative expulsion the police department may place a ban on entry into the Slovak Republic territory or into the territory of all member states. In their decision on administrative expulsion the police department shall place a ban on entry into the Slovak Republic territory or into the territory of all member states, if the period for leaving the Slovak Republic territory is not specified in the decision on administrative expulsion..

(2) Mass expulsion of aliens on the basis of a single decision shall not be permitted.

(3) A police department shall provide, upon the application of an alien, a written translation of the reason for administrative expulsion, the reason for forbidden entry, duty to leave the country, period of forbidden entry and instruction about the possibility of appeal in the language which he/she understands or in the language about which we can reasonably assume that he/she understands.

(4) If an alien against whom the proceedings on administrative expulsion or proceedings on the ban on entry as per this Act is exercised files an application for the granting of asylum, a police department shall issue a decision on the suspension of proceedings on administrative expulsion by the time of deciding about his/her application on the granting of asylum and further proceeds as per a special regulation;<sup>3)</sup> proceedings on forbidden entry shall be stopped by the police department upon the decision. If an alien is neither granted asylum, nor provided subsidiary protection, the police department which has suspended proceedings on administrative expulsion shall continue with proceedings on administrative expulsion.

(5) The police department shall issue a decision on suspension of the expulsion proceedings, if the alien has been granted asylum or subsidiary protection. **If the suspended proceedings as per paragraph 4 are suspended for more than two years, the police department shall terminate the proceedings..**

(6) If an alien files an application for the granting of asylum, when the decision on his/her administrative expulsion or forbidden entry enters into force and effect, the police department shall not exercise the decision up to the time of deciding about his/her application for the granting of asylum. If the decision on administrative expulsion determined the period for the leaving of the country, this period shall start to elapse again, when the decision about his/her application for the granting of asylum enters into effect.

(7) An alien against whom proceedings on administrative expulsion is exercised can be represented by an attorney or other representative that he/she chooses; the representative can be only a natural person with full competence for legal action, unless provided otherwise in paragraph 8. The person mentioned in the first sentence can only have one chosen representative for the same case.

(8) A third country national shall be entitled to obtain legal representation within the extent and under the conditions as per a special regulation.<sup>66)</sup>

(9) A police department shall instruct an alien against whom the proceeding on administrative expulsion is exercised about his/her rights and duties, especially about the rights as per paragraphs 7 and 8.

### Article 78

(1) The police officer shall be entitled, during proceedings on administrative expulsion **and proceedings on entry ban** of an alien, to **perform a body search** and search of his/her personal belongings in order to find if he/she is carrying any items that could compromise the safety of persons or property, items that could assist in an escape, drugs or items which, due to their quantity or nature, could threaten or damage health..

(2) An alien shall be obliged to undergo the search. **The body search** shall be conducted by a person of the same sex..

(3) The police officer shall be entitled to withhold a travel document, **money**, objects and substances stipulated in paragraph 1 found during **the search as per paragraph 1**.

(4) A policeman shall prepare a record on the performance of a search as per paragraph 1 and a list of retained objects as per paragraph 3, whereas 1 copy of the list shall be submitted to the alien.

(5) If an alien is not detained by the police unit, immediately after the issuance of a decision on administrative expulsion he/she shall be returned withheld financial resources, apart from the financial resources used as per Art. 80 par. 2, and withheld travel document, objects and substances, apart from those the keeping of which is in conflict with the Slovak Republic law.

### Article 79

(1) The police officer shall be authorized to bring an alien to the police department in connection with proceedings on administrative expulsion, proceeding on the prohibition of entry, execution of the decision on administrative expulsion, or execution of the sentence of expulsion.

**(2) After bringing the alien to the police department the police officer shall write an official record about it and a report with giving an explanation pursuant to special regulation.<sup>37)</sup>**

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66) Art. 3 of Act no. 327/2005 Coll. on Provision of Legal Aid to Persons in Material Need and on the amendment and supplementation of Act no. 455/1991 Coll. on Trade Licensing (Trade Licensing Act) as amended by further regulations as amended by Act no. 8/2005 Coll. as amended by further regulations.

(3) If after having produced the report the police department does not intend to take further steps in the matter of administrative expulsion, refusal of entry, prohibition of entry, or if it finds that there are no reasons to hand the alien over to law enforcement agencies, other competent authority or competent facility, the alien shall be immediately released.

## **Article 80**

### **Payment of Costs Related to Administrative Expulsion**

(1) The costs related to administrative expulsion consist of the costs for accommodation, meals and transport of an alien, the costs related to the detention of a third country national and all the other necessary financial costs related to an alien.

(2) The costs related to administrative expulsion shall be paid by an alien at his/her own cost, this shall not apply in the case of a third country national who was illegally employed.

(3) If the costs related to administrative expulsion cannot be paid as per paragraph 2, they shall be paid by

- a) the person who made a commitment in the verified letter of invitation; or
- b) the carrier who did not fulfil his/her obligation as per Art. 108.

(4) The costs related to administrative expulsion of a third country national who was illegally employed shall be paid by

- a) the person who illegally employed the third country national;
- b) the person who has mediated illegal employment for the third country national;
- c) the one for whom the person, who illegally employed the third country national, supplies labour or goods or provides services on the basis of a contract;
- d) the one who, on the basis of a contract on the supply of labour, goods or provision of service, participates through an intermediary on the supply of labour, goods or provision of service as per (c).

(5) The responsibility for the payment of costs related to administrative expulsion shall apply in the order as stated in paragraph 4.

(6) The provisions of paragraph 4(c) and (d) can apply only then, if the violation of the ban on illegal employment was known to the person who closed the contract on behalf of the person as per paragraph 4(c) or (d).

(7) If the costs related to administrative expulsion cannot be paid as per paragraphs 2 to 6, they shall be paid by the state via the Ministry of Interior.

## **Article 81**

### **Obstacles to Administrative Expulsion**

(1) An alien cannot be administratively expelled into the state in which his/her life would be threatened for the reasons of his/her race, nationality, religion, membership in a particular social group or for his/her political conviction, or in which he/she would be threatened by torture, cruel, inhuman or degrading treatment or punishment. Similarly, an alien cannot be administratively expelled into the state in which he/she was imposed the death penalty or it

can be assumed that he/she can be imposed such a penalty in the ongoing criminal proceedings.

(2) An alien cannot be administratively expelled into the state in which his/her freedom would be threatened for the reasons of his/her race, nationality, religion, membership in a particular social group or for his/her political conviction; this shall not apply, if an alien threatens the state safety by his/her actions or if he/she was sentenced for crime and represents a threat for the Slovak Republic.

(3) A person without any citizenship can be administratively expelled only then, if he/she threatens the state safety or public order by his/her actions and the obstacles to administrative expulsion as per paragraphs 1 and 2 do not apply to him/her;

(4) An alien cannot be administratively expelled to any State where there is a threat for him/her to be forced to return to the State under paragraph 1 or 2.

## **Section Two Administrative Expulsion of Third Country National**

### **Article 82 Reasons of Administrative Expulsion and Ban on Entry**

- (1) The police department shall administratively expel a third country national if
  - a) he/she has illegally crossed the external border or intentionally avoided or refused to undergo a border check when crossing the external border;
  - b) his/her residence in the territory of the Slovak Republic is illegal.
  
- (2) The police department may administratively expel a third country national if
  - a) he/she represents a serious threat to the national security or public order;
  - b) he/she threatens the national security, public order or public health;
  - c) he/she was lawfully sentenced for a pre-mediated criminal act and was not imposed the punishment of expulsion;
  - d) he/she violated the regulations on narcotic drugs and psychotropic substances;<sup>80)</sup>
  - e) he/she presented a falsified or counterfeited document or a document of another person when checked as per this Act;
  - f) he/she entered into a marriage of convenience;
  - g) he/she interferes with a decision of a public authority;
  - h) he/she has his/her visa annulled or revoked by the police department;<sup>36)</sup>
  - i) he/she provided false, incomplete or misleading data or presented falsified or counterfeited documents or a document of another person during the proceedings as per this Act;
  - j) he/she performs activities other than those for which the temporary residence or visa was granted to him/her;
  - k) he/she resides within the territory of the Slovak Republic on the grounds of an international treaty or a decision of the government of the Slovak Republic and acts in conflict with such an international treaty or decision of the government of the Slovak Republic;

- l) he/she refuses to prove his/her identity in a trustworthy way;
- m) it is discovered that the purpose for which a third country national was granted temporary residence has expired and that the third country national failed to report this fact to the police department;
- n) he/she failed to depart as per Article 111 paragraph 1p); or
- o) he/she has otherwise seriously or repeatedly violated general statutes.

(3) A police department can impose a ban on entry in the decision on administrative expulsion

- a) as per paragraph 2(a) for ten years;
- b) pursuant to paragraph 1 and paragraph 2 b) to i) for one year to five years;
- c) as per paragraph 2(j),(k) and (o) for one to three years;
- d) as per paragraph 2(l) to (n) for one year.

(4) When imposing administrative expulsion and ban on entry, a police department shall take into particular account that there was already more than one decision on administrative expulsion related to the third country national or the third country national has entered the Slovak Republic territory during his/her ban on entry.

(5) If a police department discovers during the proceedings on administrative expulsion the facts as per paragraph 4, they will impose a ban on entry into the territory of all the member states in the decision on administrative expulsion.

(6) A police department shall decide about the ban on entry into the Slovak Republic territory or into the territory of all the member states for the time period as determined in the decision on administrative expulsion; this shall not apply, if he/she was imposed a ban on entry in the decision on administrative expulsion already.

(7) A police department can decide on the ban on entry into the Slovak Republic territory for three to five years for a third country national who has submitted a falsified or counterfeited document or a document of another person at the entry during border check.

(8) If there are several reasons for administrative expulsion as per paragraph 1 and 2 and also a ban on entry was imposed by the police department in the decision on administrative expulsion, the time period for the ban on entry shall be imposed according to the strictest provision.

(9) The police department shall issue a decision on administrative expulsion under paragraph 1 letter b) without the imposition of a ban on entry, if the third country national voluntarily comes to the police department and asks for a return to his/her home country by means of assisted voluntary return.

(10) The period of ban on entry shall start to elapse

- a) on the date of administrative expulsion exercise;
- b) on the date of leaving the country within assisted voluntary return; or
- c) after the elapse of the period for the leaving of the country determined in the decision on administrative expulsion, if it is not the case as per (a) or (b).

- (11) If the police department finds that the person failed to leave the territory of the Slovak Republic after the period of the ban on entry recorded into the database of personas non gratas started to lapse, such period shall start to lapse anew from the date of execution of the administrative expulsion.
- (12) The entry ban period shall expire at the end of the day bearing the same name as the day when the event determining the start of the period took place. If there is no such a day in the month, the period shall end by the last day of the month
- (13) The police department in its decision on administrative expulsion of a third country national, who has been granted the status of a long-term resident in another member state based on granted international protection in that member state, shall designate that member state as the country to be expelled to; this shall not apply to administrative expulsion under paragraph 2 letter a) or letter b).

### **Article 83** **Deciding on Administrative Expulsion**

(1) A third country national who has been issued with a decision on administrative expulsion shall be obliged to leave the country within the period specified in the decision. The police department shall determine a period for leaving the country of no less than 7 days and no more than 30 days from the date of enforceability of the decision; this period of time can be reasonably extended taking into consideration the previous length of residence, personal and family relations or health condition of the third country national. The police department shall set the deadline for departure of maximum 90 days from the date of enforcement of the decision pursuant to Article 82 paragraph 9; in justified cases in connection with the implementation of assisted voluntary return this period may be repeatedly extended..

(2) A police department shall not determine the period for the leaving of the country in the decision on administrative expulsion, if

- a) it can be assumed that the third country national would escape or would otherwise obstruct or hinder the exercise of the decision on administrative expulsion, especially if his/her identity cannot be discovered;
- b) the third country national can be detained as per Art. 88; or
- c) the third country national threatens the state safety, public order, public health or rights and freedoms of others.

(3) A police department shall record the data about the third country national, time period of ban on entry and about the reasons for the decision into the register of undesired persons, and if there are reasons, they can also create a record in the Schengen information system.<sup>11)</sup> A third country national with a record in the Schengen information system shall be informed about the consequences of such a measure. The Ministry of Interior shall remove the third country national from the register of undesired persons after

- a) the granting of the Slovak Republic citizenship;
- b) the granting of permanent residence as per Art. 46 par. 2;
- c) the elapse of the time period of ban on entry;
- d) the cancellation of ban on entry;
- e) the elapse of punishment of expulsion;

- f) the remission of punishment of expulsion on the basis of granting pardon by the President of the Slovak Republic;
- g) the reaching of 80 years of age; or
- h) his/her death or being declared dead.

(4) A police department can shorten the time period of ban on entry as per Art. 82 par. 3 or not administratively expulse a third country national who is a vulnerable person or who has been granted residence, if the consequences of the procedure as per Art. 82 par. 1 and 2 would be inappropriate with regard to the personal and family life of the third country national, length of his/her residence, health condition, age of the third country national or relationships with the country of origin.

(5) A police department can administratively expulse a third country national who has permanent residence of unlimited duration, a third country national who has extended tolerated residence as per Art. 58 par. 3 or a third country national who was granted tolerated residence as per Art. 59 par. 6 only then, if he/she seriously threatens the state safety or public order.

(6) A police department can administratively expulse a third country national who has been granted long term residence only then, if he/she seriously threatens the state safety or public order. A police department can impose a ban on entry for five years for such a third country national in the decision on administrative expulsion.

(7) Before making the decision on administrative expulsion of a third country national who was granted long-term residence permit after having been granted the status of a long-term resident in another member state based on provided international protection in that member state, the police department shall inquire the authorities of that member state as to whether or not the international protection persists. If the international protection in the member state persists, the police department in its decision on administrative expulsion shall determine that member state as the country which the person should be expelled to; it shall not apply to administrative expulsion pursuant to Article 82 para. 2 letters a) or b). The police department shall issue a decision on administrative expulsion immediately upon receipt of a written information from that member state.

- (8) A police unit cannot administratively expulse
- a) a child younger than 18 years of age; this shall not apply, if the expulsion of such a child is in his/her interest;<sup>67)</sup>
  - b) a third country national who falls ill with a disease which threatens public health after the granting of residence; this shall not apply if he/she falls ill with a disease which threatens public health within three months from the entry of the third country national into the Slovak Republic territory; or
  - c) a third country national as per Art. 58 par. 2(c) during the period as per Art. 58 par. 4(d).

(9) If a police unit administratively expulses a third country national who has the status of a person with long term residence in another member state and who has been granted residence in the Slovak Republic territory, they shall be obliged to inform the member state which has granted him/her long term residence; in the case of administrative expulsion of such a third country national for especially serious reason outside the territory of member

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67) Convention on the Rights of the Child (Notification no. 104/1991 Coll.).

states, the police department shall consult the decision with the state who has granted him/her long term residence.

#### **Article 84**

##### **Implementation of Decision on Administrative Expulsion**

- (1) A police department shall provide for the implementation of the decision on administrative expulsion, if
  - a) the period for the leaving of the country has not been specified by the police department in the decision on administrative expulsion;
  - b) a third country national has not left the country within the time period as specified in the decision on administrative expulsion;
  - c) a third country national should be returned to the territory of the contractual state according to an international treaty<sup>78)</sup>; or
  - d) a third country national cannot leave the country because he/she does not have any valid travel document or resources for leaving the country, or
  - e) **the third country national failed to leave the country under the assisted voluntary return within the period specified in the decision on administrative expulsion pursuant to Article 82 para. 9 or upon notification of the organization that runs the assisted voluntary return program, that the third country national intentionally avoided the execution of the assisted voluntary return.**
  
- (2) A third country national who has been administratively expelled into a neighbouring state shall be transported by the police to the border crossing point.
  
- (3) If a police department performs administrative expulsion or punishment of expulsion by air or thorough the territory of a third country on the basis of an international treaty, the third country national can be transported to the territory of the state in which his/her acceptance is provided. A special regulation<sup>68)</sup> applies for expulsion by air.
  
- (4) A police department shall not implement the decision on administrative expulsion, if
  - a) it is impossible to provide for a travel document for a third country national who does not have his/her own valid travel document even via the consulate of the state of which he/she is the citizen, the detention period has elapsed and it is impossible to provide for the leaving of the country by the third country national by means of an alien's passport; or
  - b) **the third country national before the decision on administrative expulsion asked for assisted voluntary return; this shall not apply if the events referred to in paragraph 1 letter e) took place..**
  
- (5) A police department shall suspend the implementation of the decision on administrative expulsion, if
  - a) there are obstacles to expulsion as per Art. 81; the decision on administrative expulsion shall be implemented following to the removal of these obstacles; or

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68) Decision of Council 2004/573/EC of April 29, 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (Special Edition of O.J. EU, chap. 19/vol. 07; O.J. EU L 261, 06.08.2004).

b) the police department has extended the time period for the leaving of the country as per Art. 83 par. 1.

(6) A police department shall give a written confirmation about the suspension of the implementation of the decision on administrative expulsion to a third country national which contains the reason and the time period for which the implementation of the decision is suspended.

(7) A decision on administrative expulsion shall lose validity

- a) by the decision on the granting of asylum or provision of subsidiary protection;
- b) by the granting permanent residence as per Art. 46 par. 2; or
- c) by the granting of tolerated residence as per Art. 58 par. 1 (b) or par. 2(b).

(8) The Ministry of Interior shall inspect the implementation of the decision on administrative expulsion and the execution of the sentence of expulsion in cooperation with non-governmental organisations or the Office of the U.N. High Commissioner for Refugees.

(9) Inspection of the implementation of the decision on administrative expulsion and the execution of the sentence of expulsion (hereinafter referred to as “the removal”) shall mainly include the inspection:

- a) of respecting the rights and obligations of third country nationals placed in the facility;
- b) of the police department’s and facility’s compliance with obligations in connection with detention of third country nationals;
- c) during preparation and during removal;
- d) after the transfer in the country to which the person was removed.

## **Article 85**

### **Implementation of Decision on Expulsion of Issuing State**

(1) A police department shall provide for the implementation of the decision on expulsion issued by a member state (thereafter referred to as the “issuing state”), if

- a) the third country national was sentenced in this state for at least one year of imprisonment;
- b) there is a justified suspicion that the third country national has committed, has attempted to commit or has prepared for the commitment of a crime<sup>69)</sup> in this state; or
- c) the third country national has violated the regulations of this state which regulate the entry and residence of third country nationals.

(2) Prior to the implementation of the decision as per paragraph 1 the police department shall be obliged to request a statement from the issuing state in which the third country national has permitted residence.

(3) Prior to the implementation of the decision as per paragraph 1 the police department shall inspect whether the implementation of the decision as per paragraph 1 complies with international treaties and this Act.

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69) Art. 11, 13 and 14 of Criminal Code.

(4) A police department shall announce the implementation of a decision on expulsion as per paragraph 1 to the issuing state.

(5) If a police department implements a decision on expulsion of an issuing state, the Ministry of Interior shall request the issuing state for the payment of resultant costs.

(6) Art. 84 par. 2 to 4 shall apply to the implementation of the decision on expulsion as per paragraph 1.

(7) If another member state performs a decision on expulsion, the police department shall provide, upon the request of such a state, for information and documents about the third country national to whom the decision was issued. If another member state starts implementing the decision on expulsion, such a decision cannot be amended or cancelled.

(8) If the decision on expulsion is performed by another member state, the Ministry of Interior shall pay to this state for the resultant costs.

### **Article 86**

(1) The Ministry of Interior can cancel the ban on entry for such a third country national who was administratively expelled, if he/she demonstrates that he/she has left the country within the time period as specified by the police department in the decision or if he/she has left the country within assisted voluntary returns.

(2) A third country national who was imposed a ban on entry in the decision on administrative expulsion or in the decision on ban on entry can be allowed entry by the Ministry of Interior, if

- a) the purpose of residence are humanitarian reasons, in particular death or visit of a seriously ill person who is a close person of the third country national;<sup>70)</sup> or
- b) his/her residence is in the interest of the Slovak Republic and the issue cannot be dealt with abroad.

(3) A general regulation on administrative proceedings<sup>37)</sup> shall not apply for the deciding about the permission of entry as per paragraphs 1 and 2.

### **Section Three**

#### **Administrative Expulsion of Union Citizen and Family Member of Union Citizen**

### **Article 87**

(1) A police department can administratively expulse a Union citizen who has the right of residence as per Art. 64 or Art. 65 or the family member of the Union who has the right of residence as per Art. 69 or Art. 70 and impose a ban on entry up to five years, if he/she threatens

- a) state safety;
- b) public order; or

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70) Art. 116 of Civil Code.

c) public health; this shall not apply in the case of a disease which threatens public health after three months from the entry of the Union citizen or of the family member of the Union citizen into the Slovak Republic territory.

(2) A police department can administratively expulse a Union citizen who has the right of permanent residence as per Art. 67 or the family member of the Union citizen who has the right of permanent residence as per Art. 71, if he/she represents a serious threat for the state safety or public order. The police department can impose a ban on entry in the decision on his/her administrative expulsion up to ten years.

(3) A police department shall record the data about the Union citizen or a family member of the Union citizen, the period of entry ban and reasons for the decision into the register of undesirable persons. The Interior Ministry shall remove a Union citizen or a family member of the Union citizen from the register of undesirable persons after

- a) granting the citizenship of the Slovak Republic;
- b) elapse of the entry ban period;
- c) nullification of the entry ban;
- d) elapse of the sentence of expulsion;
- e) remission of the sentence of expulsion on the grounds of a pardon granted by the President of the Slovak Republic;
- f) reaching 80 years of age; or
- g) his/her death or being declared dead.

(4) A police department shall not administratively expulse a Union citizen who

- a) has had an authorised residence in the Slovak Republic territory for at least ten years; this shall not apply, if he/she represents a serious threat for the state safety; or
- b) is a child younger than 18 years of age; this shall not apply, if the expulsion of this child is in his/her interest.<sup>81)</sup>

(5) A police department shall, when deciding about administrative expulsion of a Union citizen or family member of a Union citizen,

- a) evaluate each case individually, whereas the reasons of expulsion cannot be misused for economic purposes and cannot be based on the aspects of general prevention;
- b) take into account the appropriateness of administrative expulsion with regard to personal and family conditions of a Union citizen or the family member of the Union citizen, his/her age, health condition, family and financial situation, length of previous residence, level of his/her integration into the society as well as the scope of relationships with his/her country of origin.

(6) A crime which was committed by a Union citizen or family member of the Union citizen in the past as such does not represent any reason for administrative expulsion. The personal behaviour of the Union citizen or family member of the Union citizen must represent an actual, existing and sufficiently serious threat for the state safety, public order or public health.

(7) A police department can request police records about a Union citizen or family member of the Union citizen who represents a threat to the state safety or public order from

member states, when issuing a registration confirmation or when issuing a document of residence.

(8) A Union citizen or family member of a Union citizen shall be issued a written decision on administrative expulsion by a police department in which they specify the time period for the leaving of the Slovak Republic territory at least 30 days from the date, when the decision enters into force. This time period can be shortened by the police department only for serious reasons which shall be specified in the decision. The police department shall also state in the decision the reasons for expulsion, instruction about remedy and time period for appeal. The police department shall provide for the translation of the content and reasons of the decision on administrative expulsion into the language which the Union citizen or family member of the Union citizen understands. The police department may not exclude the suspensory effect of an appeal against the decision on administrative expulsion of the Union citizen or family member of the Union citizen.

(9) A Union citizen or family member of the Union citizen can request for the cancelling of the time period of the ban on entry as specified in the decision on administrative expulsion on the basis of evidence which confirm a substantial change of circumstances for which he/she was administratively expelled and imposed the time period of the ban on entry. The Ministry of Interior shall decide about his/her request within 180 days from its receipt.

(10) If a Union citizen or family member of the Union citizen fails to leave the Slovak Republic territory within the time period as specified in the decision of administrative expulsion, the police department shall provide for the implementation of the decision on administrative expulsion.

(11) If the police department provides for the implementation of a decision on administrative expulsion more than two years after its issuance, they shall verify the duration of the threat for the state safety or public order by the Union citizen or family member of the Union citizen and evaluate, whether there was a substantial change in the circumstances for which he/she was administratively expelled. If the police department discovers the facts for which the Union citizen or family member of the Union citizen is not a threat to the state safety or public order, they shall not implement the decision on administrative expulsion.

## **SECOND TITLE DETENTION**

### **ARTICLE 88**

- (1) The police officer shall be entitled to detain the third country national
- a) subject to administrative expulsion proceedings in order to ensure his/her departure to the country pursuant to Art. 77 par. 1 if
    1. there is a risk he/she would escape, or
    2. the third country national avoids or prevents the preparation process of his/her administrative expulsion to be executed,
  - b) for the purpose of administrative expulsion execution or expulsion punishment execution,
  - c) for the purposes of his/her transfer or preparation thereof under a special regulation,<sup>85</sup>) if there is a significant risk of him/her escaping, or

d) for the purpose of his/her return under an international treaty, <sup>78)</sup> if he/she have illegally crossed the external border or is residing illegally in the territory of the Slovak Republic.

(2) The risk of escape of a third country national shall mean the condition when there is a justified reason to believe or a direct threat, that the third country national will escape or hide, especially if it is impossible to identify him/her immediately, if he/she has not been granted a residence permit pursuant to this Act or if it is imminent that he/she would be banned entry for a period of more than three years..

(3) Lodging the asylum application or the request of the third country national for assisted voluntary return shall not be the reason to release the detained third country national. Pursuant to special regulation<sup>3)</sup> the proceedings shall not be affected by the third country national detention.

(4) The third country national may be detained for the time as reasonably necessary, but for not more than six months. The police department is authorized to repeatedly extend the detention of a third country national during this period, with the total time of detention not exceeding six months. If it can be anticipated that in spite of necessary steps taken to execute the administrative expulsion of the third country national, the execution will be prolonged due to poor cooperation of the third country national or due to a failure of the consulate to issue an emergency travel document within the period of time under the first sentence, the police department may decide, even repeatedly, to extend the period of detention, where the total period of extension may not exceed 12 months. The period of detention may not be extended in the case of a family with children or vulnerable people. A third country national is detained as of the date of issue of the detention decision.

(5) The police department shall issue a detention decision forthwith to the third country national and they shall place him/her in the facility. If the third country national cannot be identified immediately, the police department shall attach the evidence to the decision on his/her detention in order to prevent substitution of this person with another one.

(6) The detained third country national who is subject to started proceedings on surrendering to a territory of a neighbouring state pursuant to a international treaty, may be, contrary to what is stipulated in paragraph 5, temporarily kept at the police department. Of the total period of detention stipulated by the police department in the decision on detention under paragraph 4, the third country national may be temporarily kept at the police department for no more than seven days from the moment of detention. If the third country national is failed to be surrendered within seven days of his/her detention, he/she must be placed into a facility.

(7) The detained third country national may lodge a legal remedy against the decision on the extension of the detention period to the authority that issued the decision within 15 days of the date of receipt of the decision. The authority that issued the decision shall submit the legal remedy together with the related dossier and a written position to the remedy to the relevant regional court within five working days. Lodging a legal remedy shall not have a suspensory effect.

(8) The legal remedy shall be decided by the court in a proceeding under the Civil Procedure Code.<sup>85a)</sup>

(9) The provision of paragraph 1 shall not apply the minor with no legal guardian. Other vulnerable persons may be detained only in unavoidable cases and for as short period of time as possible.

(10) The detention decision shall become ineffective upon the inclusion of the person in the programme of support and protection of victims against trafficking in human beings of the Ministry of Interior.

(11) If a third country national is detained under paragraph 1 letter a) and the police department fails to issue a decision on administrative expulsion within 48 hours of the detention, the police department shall immediately release the third country national; this shall not apply if the police department does not issue a decision on administrative expulsion due to suspension of the administrative expulsion proceeding pursuant to Article 77 para. 4 or requesting information pursuant to Article 83 para. 7.

#### Article 88a Asylum seeker detention

(1) A police officer is entitled to detain an asylum seeker if the purpose of detention cannot be achieved by any less severe means

- a) in order to ascertain or verify his/her identity or nationality;
- b) in order to ascertain the facts that constitute the basis of his/her asylum application, which could not be obtained without detention, especially if there is a risk of absconding;
- c) in the case of a third country national detained under Article 88 paragraphs 1a) or 1b) who applied for asylum, if there is reasonable suspicion that he/she applied for asylum in order to delay or frustrate his/her administrative expulsion;
- d) if it is necessary due to a threat to national security or public order; or
- e) for the reason stipulated in Article 88 paragraph 1c).

(2) An asylum seeker may be detained for the time strictly necessary, as long as the reasons referred to in paragraph 1 exist. The total time of detention of an asylum seeker under paragraphs 1a), 1b), 1c) or 1e) shall not exceed six months. The total time of detention of an asylum seeker under paragraph 1d) shall not exceed the time of detention as per Article 88 paragraph 4.

(3) Provisions of Article 88 paragraphs 4, 5 and to 7 to 9 shall also apply, as appropriate, to asylum seeker detention proceedings.

(4) An asylum seeker shall be entitled to obtain legal representation to the extent and under the conditions stipulated by a special regulation.<sup>79)</sup>

(5) The provisions of Articles 89 to 100 shall also apply, as appropriate, to asylum seekers.

#### Article 89

(1) The police department acting in the matter of administrative expulsion may impose the duty on the third country national to report the place of residence

- a) or give warranty deposit
- b) instead of his/her detention.

(2) The kind and method of the duty imposition under paragraph 1 shall be decided by the police department taking account of the person of the third country national, his/her background and the level of risk for the purpose of the detention. However, the duty under this paragraph 1 cannot be imposed in case of proceedings relating to administrative expulsion due to reasons pursuant to Art. 82 par. 2 a) or b).

(3) The police department may impose the duty under the paragraph 1 only in the third country national provides the proof of accommodation for the duration of this period and financial cover for the residence in the amount according to Art. 6. The decision on the imposition of the duty according to paragraph 1 b) may be made by the police department also during the detention of the third country national. The decision on the imposition of the duty according to paragraph 1 is unappealable.

(4) The third country national who was imposed the duty according to paragraph 1 a) shall be obliged to reside at the address specified and report regularly in person at the police department within the defined period.

(5) The third country national who was imposed a duty according to paragraph 1 b) shall be obliged to pay a warranty deposit, in the amount and within the period specified by the police department, to the account of the police department, reside at the place specified and report any changes to the place of residence. The warranty deposit on behalf of the third country national may be paid by a person close to the third country national. **The person paying a warranty deposit shall be required to notify the police department of a bank account number which the warranty deposit should be returned to, or the address where he/she will be residing at for the purposes of returning the warranty deposit.**

(6) If the third country national breaches the obligation to report the residence or avoids the execution of the administrative expulsion, the police department shall decide on his/her detention and at the same time on the forfeiture of the warranty deposit, if given.

(7) The police department shall return the warranty deposit to the person who paid it immediately after the execution of the administrative expulsion of the third country national, after his/her departure within assisted voluntary returns or if he/she was granted a residence permit, asylum or provided subsidiary protection. The costs of returning the warranty deposit shall be borne by the person who paid it. **If the person fails to collect his/her warranty deposit within one year from the date of the decision on the return of the warranty deposit becoming effective, the warranty deposit shall be forfeited to the state..**

## Article 90

- (1) The police department shall be obliged
- a) to ensure the third country national is advised immediately after his/her detention in the language he/she understands of
    1. detention reasons,
    2. the possibility to make the representative office of the country which he/she is national of aware of his/her detention
    3. the possibility to inform any of persons close to him/her and his/her legal representative on his/her detention; and
    4. of the possibility to examine the legality of the detention decision,

- b) to notify the representative office forthwith if the third country national requests to notify of his/her detention the representative office of the country he/she is the national of; if the representative office of such country has no registered office in the territory of the Slovak Republic, the Ministry of Foreign Affairs shall be notified of the detention of the third country national by the police department,
- c) to allow the third country national to inform any of persons close to him/her and his/her legal representative upon his/her request of his/her detention,
- d) examine if the reason of detention exists during the entire time of detention of the third country national,
- e) advise the third country national in the language he/she understands or in the language which can be reasonably anticipated as the language he/she understands, of the possibility to request for the assisted voluntary return, possibility to contact non-governmental organizations and, if the third country national requested for asylum or expressed his/her intention to file such request, possibility to contact the United Nations High Commissioner for Refugees.

(2) The facility shall be obliged

- a) carry out forthwith actions and acts necessary to expel or identify the third country national,
- b) release the third country national detained forthwith
  1. if the purpose of detention ceased to exist,
  2. on the basis of valid court decision,
  3. when the period of detention expired
  4. if the detention decision ceased to be effective pursuant to Art. 88 par. 10,
  5. if the third country national gave warranty deposit on the account of the Police Force in accordance with the decision of the police department,
- c) allow employees of the International Organization for Migration, other non-governmental or intergovernmental organizations to enter the facility with the consent of facility director during the period of detention,
- d) examine if the reason of detention exists during the entire time of detention of the third country national,
- e) advise the third country national in the language he/she understands or in the language which can be reasonably anticipated as the language he/she understands, of the possibility to request for the assisted voluntary return, possibility to contact non-governmental organizations and, if the third country national requested for asylum or expressed his/her intention to file such request, possibility to contact the United Nations High Commissioner for Refugees,
- f) advise the third country national immediately after his/her placement in the language he/she understands or in the language which can be reasonably anticipated as the language he/she understands, of where he is, rights and duties resulting from his/her placement at the facility as well as internal rules; during the period of detention the advising shall be repeated regularly
- g) follow the paragraph 1 letters b) and c) if the third country national failed to request the same with the police department,
- h) issue the travel document for the third country national upon his/her release and hand over the things taken over pursuant to Art. 100 except for funds used pursuant to Art. 80 par. 2 and things holding of which is contrary to jurisdiction of the Slovak Republic.

## Article 91

## **Food for Detained Third Country National**

(1) Food for the detained third country national shall be arranged depending on local conditions and at the appropriate time in accordance with healthy nutrition principles and taking account of the age, health condition and religion of the concerned third country national. The first food shall be provided to the third country national after the time of detention exceeds six hours; the same shall not apply if the health condition and age of the third country national need to be taken into account with other serious circumstance the police officer is aware of.

(2) If the third country national refuses the food provided, the police officer shall make an official record of the same and advise the detained third country national of this record forthwith in the language he/she understands and in presence of other police officer the official record shall be presented for signing to the third country national who refused the food. If the third country national refuses to sign the official record on refusing the food, the fact shall be recorded by police officers in the official record to be provided to their superior.

(3) Food expenses shall be paid by third country national that was provided the food; if he, his/her current situation prevents the same, food expenses shall be borne by the state. If the third country national was detained in order to execute his/her administrative expulsion, the payment of food expenses shall be governed by Art. 80.

(4) Maximum amount of food expenses including material used to be borne by the state and other details on food including the method of food providing shall be specified by generally binding legal regulation issued by the Ministry of Interior.

## **Article 92 Facility**

(1) The facility shall correspond to the purpose for which it was established, it shall meet hygienic standards and be equipped to prevent life threatening or health injuring situations.

(2) The facility consists of rooms for accommodation including social, cultural and visit rooms with other area where third country nationals can move freely except for third country nationals placed in premises of the facility with a separate regime of detention pursuant to Art. 93.

(3) The accommodation room is equipped with electric lighting, table, chairs, beds and cases for personal belongings the number of which corresponds to the number of third country nationals accommodated.

(4) In the facility, the premises are specified with a separate regime of detention.

(5) The facility is operated by the Police Force. The director of the facility shall issue the internal rules adjusting details on rights and duties of the third country nationals placed in the facility.

## **Article 93 Separated Detention Regime**

(1) The third country national shall be placed in the premises with separated detention regime in the facility

- a) if there is a justified concern that he/she will jeopardize the purpose of detention,
- b) if he/she is aggressive or requires increased supervision for other reason or in order to protect health, rights and freedoms of other third country nationals,
- c) if he/she breaches internal rules of the facility,
- d) during the period of quarantine due to infectious illness or other health-related reason.

(2) The premises with a separated detention regime consist of the accommodation room which may be locked only from outside and it is equipped with a separated sanitary facility and signalling device.

(3) The premises of the facility for separated detention regime include the space for walking.

(4) The facility shall immediately notify the prosecutor about the location of the detained third country national in a facility with a separate detention regime

#### **Article 94**

##### **Placement of Detained Third Country Nationals**

(1) The placement of the third country nationals is based on the age, health condition, kinship and family relations and religious, ethnic or national peculiarities.

(2) Men, women and persons younger than 18 shall be placed separately. The exception may be granted to third party nationals in kinship relation.

(3) The family shall be placed together in the facility. If the facility decides to separate a family it shall always be taken into account that consequences of this separation must correspond to reasons.

#### **Article 95**

##### **Health Care for Detained Third Country National**

(1) The third country national shall be obliged to undergo a medical examination as specified by a doctor including necessary diagnostic and laboratory examination, vaccination and precautionary measures defined by the health protection authority; special attention shall be paid to vulnerable persons.

(2) If the health condition of the third party national requires the health care which the facility is unable to provide it shall be arranged by the facility at the health care facility outside the facility.

(3) If the third country national causes intentional injury to his/her health, he/she shall be obliged to pay costs of health care provided and actual costs incurred for supervision and transport to the health care facility.

#### **Rights and Duties of Third Country National Placed in the Facility**

## **Article 96**

(1) The third country national shall be entitled to a continuous eight-hour period of sleeping and two walks per day in the specified area not less than one hour each.

(2) A third country national younger than 15 years of age shall be entitled to have access to

- a) education, if the period of detention exceeds three months;
- b) leisure time activities including games and recreational activities that are appropriate to their age.

(3) The third country national shall be obliged to observe internal rules of the facility, follow the orders and instructions of the police officer.

## **Article 97**

(1) The third country national shall be allowed to send documents at his/her own expense.

(2) In order to exercise his/her rights the third country national may lodge requests and complaints with public bodies of which shall be sent forthwith by the police department.

(3) The third country national shall be allowed to order at his/her own expenses books, daily press and magazines including foreign ones if they are distributed in the Slovak Republic.

## **Article 98**

(1) The third country national shall be entitled to admit visits of not more than two persons once in three weeks for the period of 30 minutes. In justified cases, the director of the facility may allow an exception.

(2) The third country national shall be allowed to admit without limitation the persons who provide legal protection to him/her.

## **Article 99**

(1) The third country national may receive a delivery once in two weeks containing items up to five kilograms for his/her personal use. This limitation shall not apply to the delivery containing clothes.

(2) The facility will check the content of the delivery. Items and substances mentioned in Art. 78 par. 1 shall not be handed over to the third country national but sent back to the sender at his expense.

(3) The third country national shall be allowed to receive money without limitation. The facility shall arrange it is deposited.

## **Article 100**

## **Inspection of Detained Third Country National**

- (1) Prior to the placement of the detained third country national into a facility, the police officer shall be entitled to carry out **body search** and search of personal belongings in order to find out if he/she is carrying any items that could compromise the safety of persons or property, items that could assist in an escape, drugs or items which, due to their quantity or nature, could violate internal rules of the facility or threaten or damage health..
- (2) The detained third country national shall be obliged to undergo the search. **The body search** shall be conducted by a person of the same sex.
- (3) The police officer shall be entitled to withhold a travel document and items stipulated in paragraph 1 found during **the search as per paragraph 1**.
- (4) The police officer shall make an official record of the inspection carried out under paragraph 1 with the list of items and substances taken away under paragraph 3 and one copy shall be handed over to the detained third country national.

## **THIRD TITLE POLICE TRANSPORT, POLICE ESCORT, AND AIR TRANSIT**

### **First Section Police Transport and Police Escort**

#### **Article 101 Police Transport**

- (1) The police transport shall be performed by the police department in accordance with the international treaty if the party to the treaty requests for the transport of the third party national through the territory of the Slovak Republic to the border of the neighbouring state.
- (2) The police department shall implement appropriate measures to protect life and health of the transported third country national and, if necessary, emergency health care shall be arranged for him/her.
- (3) During the police transport, the police officer shall be entitled to restrict the personal freedom of the third country national transported.
- (4) The third country national shall be obliged to undergo a personal inspection carried out by the person of the same sex.
- (5) The police department shall provide food to the third country national usually every six hours following the time of his/her takeover for the police transport.
- (6) Police transport costs shall be borne by the party who requested for the police transport.

#### **Article 102 Police Escort**

(1) The police escort shall be carried out by the police department upon the request of the carrier performing the air transport of persons; if there are serious reasons for the carrier to believe that the third country national to be transported pursuant to Art. 108 par. 2 may threaten the safety of the aeroplane, persons or property in the plane or the order and discipline on board the plane.

(2) The number of police officers necessary to provide for the escort shall be decided by the police department on the basis of the escort-related risk evaluation.

(3) The police department shall arrange the police escort usually within 24 hours following the time the request was lodged by the carrier but not later than by the expiration of the period laid down by Article 108 par. 2.

(4) The carrier shall be obliged to pay for all police escort related costs including the refund of expenses and travel costs of police officers carry out the police escort.<sup>71)</sup>

## **Second Section Air Transit**

### **Article 103**

- (1) The Ministry of Interior shall
- a) receive and decide on the written request of the Member State for the air transit (hereinafter referred to as "Air Transit Request");
  - b) lodge a written request with the Member State for the air transit to be performed if it is impossible to use a direct flight from the territory of the Slovak Republic to the country of destination or if the flight may not be performed due to serious reasons;
  - c) receive back the third country national forthwith if
    1. the permission for air transit was rejected or withdrawn,
    2. during the transit, the third country national left the transit area of the public airport without permission,
    3. the air transit to other transit state or country of destination or boarding the connecting flight was unsuccessful or
    4. the air transit is impossible for other reasons;
  - d) pay costs for food and emergency health care provided to the third country national pursuant to c) by the Member state, if these costs are real and quantifiable, and costs related to the return of the third country national,
  - e) claim costs related to the return of the third country national pursuant to Art. 105 par. 2,
  - f) determine contact places for transit airports.

(2) The Ministry of the Interior shall deliver the request under paragraph 1 b) not later than 48 hours prior to the air transit; in exceptionally urgent and justified cases the Ministry of Interior may ask for remission of this period. The sample request under paragraph 1 letters a) and b) is contained in Annex 1; the request may also be sent in a different language.

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<sup>71)</sup> Art. 110 No. 73/1998 Coll. on the State Service of the Members of the Police Force, Slovak Intelligence Service, Corps of the Prison and Court Guard of the Slovak Republic and Railway Police as amended.

(3) If the requested country fails to respond to the request of the Ministry of Interior under paragraph 1 b) within 48 hours, the Ministry of Interior may commence the air transit; the requested country shall be notified of the commencement of the air transit.

#### **Article 104**

(1) The Ministry of Interior shall decide on the request for the air transit within the period of 48 hours following its receipt and it shall inform the requesting Member State (hereinafter referred to as "Requesting State") forthwith; in reasonable cases the period to make a decision may be extended by following 48 hours more maximum.

(2) If the Ministry of Interior fails to communicate its decision within the period under paragraph 1, the Requesting State may commence the air transit; the commencement of the air transit shall be communicated to the Ministry of Interior.

(3) The air transit shall be performed within the period of 24 hours following the decision under paragraph 1 or the notification under paragraph 2.

(4) The Air Transit Request may be turned down by the Ministry of Interior if

- a) the accusation was brought against the third country national of if the third country national is wanted, because he/she is avoiding the execution of lawfully imposed punishment,
- b) it is impossible to carry out the air transit via other countries or the acceptance may not be performed by the country of destination,
- c) the action taken for the transport of the third country national requires the change in the public airport,
- d) the assistance requested is not available at the moment for justified reasons,
- e) the third country national could threaten the safety of the state, public order, public health or international relations of the Slovak Republic or
- f) the Requesting State delivers this request later than 48 hours prior the air transit

(5) The Ministry of Interior may withdraw the decision on the air transit already issued, if facts under paragraph 4 are detected subsequently.

(6) The Ministry of Interior shall inform the Requesting State forthwith on the decision

- a) to cancel the transit and on the reason behind the cancellation,
- b) on turning down the air transit under paragraph 4, on the reason of turning it down and in case of turning it down under paragraph 4 d) also on the term of the next possible air transit.

(7) The Ministry of Interior shall hand over the third country national if

- a) the permission for air transit was turned down or withdrawn,
- b) during the transit, the third country national left the transit area of the public airport without permission,
- c) the air transit to other transit state or country of destination or boarding the connecting flight was unsuccessful or
- d) the air transit is impossible for other reasons.

#### **Article 105**

(1) If the Ministry of Interior permits the air transit based on the Air Transit Request, the police department will provide the necessary assistance and it will arrange especially

- a) meeting the third country national at the aeroplane and escorting him/her in the premises of the transport aeroplane particularly to his/her connecting flight,
- b) provision of the emergency health care to the third country national and to his/her escort if needed,
- c) provision of food to the third country national and to his/her escort if needed,
- d) receipt, keeping and sending travel documents especially in case of air transit without escort,
- e) notification of the Requesting State of the place and time of third country national departure from the territory of the Slovak Republic in case of the air transit without the escort,
- f) notification of the Requesting State of all serious incidents occurring during the air transit.

(2) The Ministry of Interior will claim the compensation of costs of food and emergency health care provided if the costs incurred are actual and quantifiable.

(3) The police department shall provide cooperation in case of the third country national return pursuant to Art. 104 par. 7.

(4) The Ministry of Interior shall inform the Requesting State on important facts occurring during the air transit and it will claim for compensation of costs related to provision of assistance.

### **Article 106**

(1) If the air transit is with the escort, the escort shall be obliged to observe legal regulations of the Slovak Republic, prove their identity upon request, and provide the permission of air transport or notification pursuant to Art. 104 par. 2.

(2) The escort shall be any person from the Requesting State who is responsible for accompanying the third country national including persons responsible for health care and interpreters.

(3) The escort of the third country national shall wear civil clothes and no arms.

(4) The escort shall be entitled to use coercive measures for necessary security or in cases of utmost need; the escort shall be entitled to use coercive measures in order to prevent the escape of the third country national or protect the property only if there are no police officers present or as a support.

**PART FIVE**  
**DUTIES OF ALIENS, NATURAL PERSONS, LEGAL ENTITIES AND PUBLIC**  
**AUTHORITIES OF THE SLOVAK REPUBLIC, OFFENCES AND OTHER**  
**ADMINISTRATIVE DELICTS**

**FIRST TITLE**  
**DUTIES**

**First Section**  
**Duties in the Field of Border Control**

**Article 107**  
**Duties of Natural Persons in the Field of Border Control**

Everyone shall be obliged to refrain from behaviour which may damage, destroy or impair a technical mean in other way or make its use more difficult.

**Article 108**  
**Duties of the Carrier**

(1) The carrier<sup>72)</sup> transporting persons to the territory of the Slovak Republic crossing the external air or water border and the carrier transporting persons within regular international bus line services excluding the transport near boarders, must not transport to the border crossing the third country national without valid travel document including visa, if required. The visa may be replaced with a residence permit in accordance with the special regulation.<sup>9)</sup>

(2) Not later than 24 hours from the arrival or within the period as specified upon the agreement with the police department at the border crossing, the carrier<sup>87)</sup> that transported the third country national to the border crossing shall be obliged to transport him/her back to the country he/she was transported from, to the country which issued the travel document he/she travelled with or to any other country where his/her admission is arranged if

- a) the entry of the third country national to the Slovak Republic was refused;
- b) the third country national transited the territory of the Slovak Republic and authorities of other country refused his/her entry to their territory and returned him/her to the territory of the Slovak Republic; or
- c) other carrier that should have transported the third country national to other country refused the transport.

(3) If the carrier is unable to fulfil the duty specified in paragraph 2; it shall be obliged to arrange the alternative transport of the third country national and bear the costs of transport, or, if immediate alternative transport is impossible, the carrier shall be obliged to arrange the payment of costs of third country national's residence and return.

(4) The air carrier shall be obliged to provide data under paragraph 5 on passengers transported to the territory of the Slovak Republic through the external border upon the request of the police department at the border crossing. The air carrier shall be obliged to send these electronic data not later than by the time the registration of passengers is completed

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<sup>72)</sup> Art. 2 par. 14 of Regulation (EC) No. 562/2006.

prior to departure. If the electronic connection fails, the air carrier shall be obliged to send the data in other appropriate way.

- (5) The data which the air carrier shall be obliged to provide under paragraph 4 contain
- a) the number and type of the travel document of the passenger to prove his/her
  - b) nationality,
  - c) full name and full surname,
  - d) date of birth
  - e) border crossing of entry,
  - f) flight number,
  - g) date and time of departure and date and time of plane arrival,
  - h) total number of passengers,
  - i) initial boarding airport.

(6) The air carrier shall be obliged to inform the passenger on provision of data under paragraph 4; the data provided shall be disposed of by the air carrier within 24 hours following the arrival of the plane.

### **Article 109** **Duties of Airport Operator**

- (1) International airport operator shall be obliged
- a) to notify the police department performing the border check of the plane arrival from the third country and departure of the plane to the third country,
  - b) not to allow the crew and passengers to board the plane without the border check of the crew and passengers performed by the police department,
  - c) to take actions to prevent the crew and passengers from leaving the airport for other than border check premises after the arrival of the plane from the third country.

(2) The operator of the international airport where no police department is established shall be obliged to notify of the arrival of the plane from the third country and the departure of the plane to the third country not later than 24 hours prior to arrival or departure; if the plane arrives or departs on Saturday, Sunday or bank holiday, the air carrier will notify of the fact not later than on the last working day. If the international airport operator learns about a departure or arrival later than 24 hours prior to departure or arrival, the operator shall be obliged to inform the police department forthwith. The notification of the arrival or departure shall contain anticipated list of passengers with their name, surname, date of birth and nationality.

(3) If the plane arriving from the third country lands at the airport which is not international for the reason specified in special regulation<sup>73)</sup>, the operator or, if the operator is not present and the airport, the authority permitting the plane to land shall be obliged to notify the relevant police department of the fact forthwith. If the airport operator is present at the airport, he/she shall be obliged to prevent the passengers from leaving the airport premises except for providing emergency health care. The plane may continue its flight from this airport only with the consent of the competent police department.

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<sup>73)</sup> Annex VI par. 2.1.4 of Regulation (EC) No. 562/2006.

(4) The third country under paragraphs 1 to 3 shall be the state not exercising the provisions of the special regulation on the abolition of border control at internal borders .<sup>16)</sup>

## **Article 110** **Duties of Landowner**

(1) Within the scope necessary for the Police Force to fulfil their assignments of the border surveillance, the landowner shall be obliged to allow the police officer and a mean of transport to enter the land near the external border and the entry of the police officer and a mean of transport to the land in areas near external border during the search for persons suspected of having committed crime or offence related to border control.

(2) The landowner shall be obliged to accept the placement of a technical mean in the area near the external border for reasonable compensation; provisions of special regulations on compensation of damages shall remain unaffected herewith.

(3) The decision on reasonable compensation for restriction of land-related rights under paragraphs 1 and 2 shall be made by the Ministry of Interior, unless the agreement is reached by and between the owner and the Police Force.

## **Second Section** **Duties in the Field of Residence**

### **Article 111** **Duties of Third Country National**

- (1) The third country national shall be obliged to
- a) notify the police department in writing that he/she will stay away from the territory of the Slovak Republic continuously for more than 180 days if he/she has a residence permit granted,
  - b) provide all required data in a true and complete manner within the scope set out by this Act,
  - c) prove identity and rightfulness of the residence upon the request of the police officer by presenting a valid travel document and residence document or identity card issued by the Ministry of Foreign Affairs to persons enjoying diplomatic privileges and immunity pursuant to international law,
  - d) take out health insurance policy not later than within three working days following the date the residence document is taken over and prove health insurance at the territory of the Slovak Republic at the residence check,
  - e) prove, at the residence inspection, financial means for the **granted** residence amounting to at least the subsistence minimum for every remaining month of the residence, but for maximum of one year ahead; in the case of a minor third country national, it shall be a half of the subsistence minimum for every remaining month of the residence, but for maximum of one year ahead,
  - f) prove financial means at the residence check necessary to cover costs related to the residence of the third country national in the territory of the Slovak Republic under Article 6 per every day of the remaining residence, if Schengen visa was approved for the third country national

- g) report to the police department the change in his/her the name, surname, family status, nationality and data in the travel document within five working days following the date the change occurred; and travel document change,
- h) protect documents issued pursuant to this Act against loss, theft, damage or misuse,
- i) report the loss, theft or damage of the travel document or documents issued pursuant to this act to the police department within the period of five working days following the date he/she became aware of the same,
- j) answer a call of the police department in connection with proceedings pursuant to this act,
- k) present a travel document upon the request of the accommodation provider,
- l) sign filled in official form on reporting the residence which contains the name and surname, date and place of birth, nationality , permanent residence, purpose of the residence, number of the travel document, visa number, address of the residence in the Slovak Republic, name of the accommodation provider and names and surnames of co-travelling children,
- m) provide data necessary for statistical information about the residence,
- n) notify the police department within three working days of the fact that the purpose for which the residence permit was granted ceased to exist,
- o) undergo biometric data enrolment if requested by the police department or representative office for purposes of proceedings pursuant to this Act or special regulation<sup>74)</sup>
- p) depart not later than on the last day of the legal residence; if the application for the temporary residence permit of the third country national was rejected due to a change in the purpose, the application for the temporary residence permit renewal was rejected, the temporary residence permit was withdrawn, the application for a permanent residence permit for unlimited period of time was rejected, a permanent residence permit was withdrawn, the application for tolerated residence was rejected, the application for extension of the tolerated residence was rejected or the tolerated residence withdrawn, the third country national shall be obliged to leave the country within 30 days of the date of **enforceability** of the decision, unless he/she is authorised to reside in the territory of the Slovak Republic on other grounds,
- q) apply within five working days for the new residence document to be issued, if data recorded in this document fail to correspond with reality or if circumstances under h) occur,
- r) hand over the invalid residence document or invalid document issued pursuant to this Act, or the found document of other alien to the police department,
- s) notify the police department that he/she intends to residence away from the place of the residence granted for more than 30 continuous days,
- t) **notify the police department of any changes in his/her document as per Article 76 paragraph 17 sentence one within five working days.**

(2) The third country national shall be obliged to report to the police department within three working days of the date of entry

- a) the beginning, place and anticipated length of the residence if he/she was granted a Schengen visa or a national visa, or if no visa is required from him/her and the duty is not with the accommodation provider; the police department shall issue the confirmation of the residence of the third country national upon his/her request,
- b) the commencement of the residence, if he/she was granted a residence permit.

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<sup>74)</sup> For example Art. 4b of Regulation (EC) No. 1030/2002 as amended; Article 13 of Regulation (EC) No. 810/2009, the Treaty between the Slovak Republic and the Ukraine on Minor Border Communication (Notification No. 441/2008 Coll.).

(3) The third country national with a legal residence shall be obliged to report the change of the place of residence to the police department within the period of five working days following the date of change.

- (4) The holder of a Blue Card issued pursuant to this Act shall be obliged to
- a) notify the police department within five working days of the commencement and termination of unemployment period,
  - b) to report the change of employer to the police department not later than five days prior to commencement of a new job; when a Blue Card holder reports the change of employer, he/she shall be obliged to present documents pursuant to Art. 38 par. 5 letters a) to b).

(5) The provision of paragraph 1 e) shall not apply to a Blue Card holder during the period of his/her unemployment reported to the police department under paragraph 4 a).

(6) The third country national who proclaims to be an unaccompanied minor shall be obliged to undergo medical examination to specify his/her age, the same shall not apply if the person is obviously minor.

## **Article 112**

### **Duties of the Union Citizen and the Family Member of the Union Citizen**

- (1) The Union citizen shall be obliged to
- a) provide all required data in a true and complete manner within the scope set out by this Act,
  - b) present the evidence proving the fact on the basis of which he/she acquired or maintained the right of residence, if the police department proceeds pursuant to Art. 65 par. 5,
  - c) report to the police department the change of his/her the name, surname, family status, nationality and data in the travel document or identity card within ten working days following the date the change occurred; and travel document or identity card change,
  - d) protect residence document issued pursuant to this Act against loss, theft, damage or misuse,
  - e) report the loss, theft or damage of the travel document or residence document issued pursuant to this act to the police department within the period of ten working days following the date he/she becomes aware of the same,
  - f) answer a call of the police department in connection with proceedings pursuant to this Act,
  - g) undergo biometric data enrolment upon the request of the police department for residence document to be issued,
  - h) provide data necessary for statistical information about the residence,
  - i) present a travel document upon the request of the accommodation provider,
  - j) sign filled in official form on reporting the residence containing name and surname, date of birth, nationality, travel document or identity card number,
  - k) apply within ten working days for the new residence document called "Residence Card of an EU Citizen" to be issued, if data recorded in this document fail to correspond with reality or if circumstances under e) occur,
  - l) depart from the territory of the Slovak Republic if right of residence of the third country national pursuant to Art. 64 par. 3 is forfeited or if his/her right of residence was terminated pursuant to Art. 68,

- m) hand over the residence document if its validity terminated, if he/she was issued a new residence document under c) or his/her right of residence was terminated pursuant to Art. 68,
- n) notify of voluntary termination of the right of residence pursuant to Art. 65 or the right of permanent residence pursuant to Art. 67 and the country of departure.

(2) A family member of the Union citizen shall be obliged to

- a) appear at the police department for the new residence document to be issued not later than on the last day "Residence Card of a family member of an EU citizen",
- b) provide all required data in a true and complete manner within the scope set out by this Act,
- c) present the evidence proving the fact on the basis of which he/she acquired or maintained the right of residence, if the police department proceeds pursuant to Art. 70 par. 6,
- d) report to the police department the change of his/her the name, surname, family status, nationality and data in the travel document or identity card within ten working days following the date the change occurred; and travel document or identity card change,
- e) protect residence document issued pursuant to this act against loss, theft, damage or misuse,
- f) report the loss, theft or damage of the travel document or residence document issued pursuant to this act to the police department within the period of ten working days following the date he/she became aware of the same,
- g) answer a call of the police department in connection with proceedings pursuant to this act,
- h) undergo biometric data enrolment upon the request of the police department for residence document to be issued,
- i) provide data necessary for statistical information about the residence,
- j) present a travel document upon the request of the accommodation provider,
- k) sign filled in official form on reporting the residence containing name and surname, date of birth, nationality, travel document or identity card number,
- l) apply within ten working days for the new residence document called "Residence Card of a Family Member of an EU Citizen" to be issued, if data recorded in this document fail to correspond with reality or if circumstances under f) occur,
- m) depart from the territory of the Slovak Republic if right of residence of the third country national pursuant to Art. 69 par. 3 is forfeited or if his/her right of residence was terminated pursuant to Art. 72,
- n) hand over the residence document if its validity terminated, if he/she was issued a new residence document under c) or his/her right of residence was terminated pursuant to Art. 72,
- o) notify of voluntary termination of the right of residence pursuant to Art. 70 or the right of permanent residence pursuant to Art. 71 and the country of departure.

### **Article 113** **Duties of Accommodation Provider**

The accommodation provider shall be obliged to

- a) verify the identity of the alien when providing accommodation,
- b) specify the nationality and date of birth of an alien in the book of accommodated<sup>75)</sup>,

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<sup>75)</sup> Art. 24 of Act No. 253/1998 Coll. on Reporting the Residence of Citizens of the Slovak Republic and the Register of Inhabitants of the Slovak Republic as amended by Act No. 216/2008 Coll.

- c) ensure the official form to report the residence of the alien is filled in and deliver the form to the police department within five days following the date of accommodation; the delivery can also be made using electronic service made to this end,
- d) allow the police department to enter all premises of the accommodation facility in order to control the fulfilment of duties set out by this Act.

**Article 114**  
**Duties of Corps of the Prison and Court Guard**

Remand Prison, Correctional Institution, Correctional Institution for Juvenile and the Hospital for Inmates shall be obliged to inform the competent police department depending on the seat of the prison and institution or hospital forthwith on taking the alien in and releasing him/her from custody and on the commencement and termination of the sentence of imprisonment of the alien.

**Article 115**  
**Duties of Some Legal Entities and Natural Persons**

- (1) The Central Labour Office shall inform the police department within three working days, in writing or electronically, of revoking its confirmation of the possibility to fill a vacancy corresponding to highly qualified employment. The Office of Labour, Social Affairs and Family shall notify the police department within three working days, in writing or electronically, of
  - a) granting and revoking of an employment permit;
  - b) revoking its confirmation of the possibility to fill a vacancy.
- (2) The Office of Labour, Social Affairs and Family shall be obliged to send to the police department on quarterly basis the name, surname, date of birth, nationality and the residence document number of all aliens who requested benefits in material need.
- (3) Trade Licensing Office shall be obliged to send changes made to the list to the Ministry of Interior in writing every six months pursuant to Article 130.
- (4) The school where the third country national goes as a pupil, undergraduate or student, shall be obliged to notify the police department within three working days of the commencement, stop-out, giving up, exclusion from or completion of studies of the third country national with a temporary residence permit for purposes of study.
- (5) The employer shall be obliged to notify the police department in writing within three working days of the termination of employment of the third country national.
- (6) The person who finds or acquires the travel document from the alien or the residence document or a document issued pursuant to this Act shall be obliged to hand it over to the nearest police department forthwith.
- (7) The person inviting the third country national to the territory of the Slovak Republic shall be obliged to pay for the financial damage incurred by the state if the obligation specified in the verified invitation fails to be met.

(8) The Finance Office shall, within three working days, notify the police department in writing of any complimentary or amended tax returns<sup>90a)</sup> submitted by a third country national.

(9) The Finance Office, Social insurance and health insurance companies shall be obliged, if requested by the police department, to issue a certificate pursuant to Article 34 para. 11.

(10) Trading companies or cooperatives shall be obliged to notify the police department, within three working days, that a third country national which has been granted a temporary residence permit for business purposes as per Article 22 para. 1 letter b) no longer acts on behalf of the trading company or cooperative

## **SECOND TITLE OFFENCES AND OTHER ADMINISTRATIVE DELICTS**

### **First Section Offences and Other Administrative Delicts in the Field of Border Control**

#### **Article 116 Offences**

(1) The third country national commits an offence in the field of border control if

- a) he/she crosses the external border in an unauthorized manner,
- b) he/she deliberately avoids or refuses to undergo the border check when crossing the external border,
- c) he/she provides other person's travel document or other document entitling to cross the external border or a visa as his/her own at the border check.

(2) The Union citizen of the family member of the Union citizen commits an offence in the field of border control if

- a) he/she crosses the external border in an unauthorized manner,
- b) he/she deliberately avoids or refuses to undergo the border check when crossing the external border,
- c) he/she provides other person's travel document or other document entitling to cross the external border as his/her own at the border check.

(3) He/she who does the following, will commit an offence in the field of border control

- a) fails to allow the police officer or a mean of transport to enter the land in vicinity of the external border,
- b) fails to allow the police officer or a mean of transport to enter the land in the area near the external border during searching for persons suspected of having committed a crime or an offence related to the border control,
- c) fails to allow the technical mean to be placed and used in the area near the external border,
- d) deliberately damages, destroy or deteriorates a technical mean or makes the use of the technical mean more difficult,
- e) violates a prohibition under Article 9 b).

(4) He/she who does the following during the period of temporary reintroduction of border controls at internal borders, will also commit an offence in the field of border control

- a) crosses the internal border in an unauthorized manner,
- b) deliberately avoids or refuses to undergo the border check when crossing the internal border,
- c) provides other person's travel document or other document entitling to cross the internal border or a visa as his/her own at the border check.

(5) Paragraphs 1 and 2 shall not apply to aliens who filed an asylum application immediately after their entry to the territory of the Slovak Republic **and to victims of trafficking in human beings..**

(6) For the offence under

- a) paragraph 1 a) and b) a fine of up to EUR 800 may be imposed;
- b) paragraph 1 c) a fine of up to EUR 1,600 may be imposed;
- c) paragraph 2 a fine of up to EUR 300 may be imposed;
- d) paragraph 3 a) to d) a fine of up to EUR 1,600 may be imposed;
- e) paragraph 3 e) a fine of up to EUR 800 may be imposed;
- f) paragraph 4 a fine of up to EUR 300 may be imposed;

(7) For offences under paragraphs 1 to 4 a fine of up to EUR 165 may be imposed within the fine proceedings.

(8) Offences under paragraphs 1 to 4 shall be dealt with by the police department.

(9) General offence regulation shall apply to offences and their dealing,<sup>76)</sup> unless otherwise stipulated in paragraphs 5 to 8.

## **Article 117** **Administrative Delicts**

(1) The administrative delict in the field of the border control is committed by

- a) a carrier in breach of the duty under Art. 108 par. 1 or par. 2,
- b) air carrier that fails to provide data under Art. 108 par. 4 or the data provided are incomplete or incorrect,
- c) a legal entity or natural person – entrepreneur that failed to meet the duty under Art. 109,
- d) a legal entity or natural person – entrepreneur if they fail to allow the entry or access of the mean of transport in the land in vicinity of the external border,
- e) a legal entity or natural person – entrepreneur if they fail to allow the entry or access of the mean of transport in the land in the area near the external border during the search for persons who are suspected of having committed a crime or offence related to the border control,
- f) a legal entity or natural person – entrepreneur, if they fail to allow the placement or use of a technical mean in the area near the external border,
- g) a legal entity or natural person – entrepreneur, if they damage, destroy or deteriorate the technical mean in any other way or make its use more difficult.

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<sup>76)</sup> Act of the National Council of SR No. 372/1990 Coll. as amended.

(2) The police department shall impose a fine between EUR 3,000 and EUR 5,000 per each transported third country national for administrative delict under paragraph 1 a).

(3) The police department shall impose a fine between EUR 3,000 and EUR 5,000 per each flight made for administrative delict under paragraph 1 b) or c).

(4) The police department shall impose a fine of up to EUR 3,300 for administrative delict under paragraph 1 d) to g).

(5) The fine under paragraphs 2 to 4 may be imposed within one year as of the date the police department becomes aware of the breach of duty, not later, however, than within three years as of the date the breach of duty occurred. In determination of the fine amount, materiality, time of duration and consequences of illegal action shall be taken into account with the potential recurring breach of duty or if more than one duty was breached.

(6) The fine shall be due within the period of 30 days following the date the decision to impose the duty becomes valid and effective.

(7) Fine income shall be the income of the state budget of the Slovak Republic.

## **Second Section Offences and Other Administrative Delicts in the Field of Residence**

### **Article 118 Offences**

(1) The third country national will commit an offence in the field of residence if

- a) his/her residence in the territory of the Slovak Republic is unauthorized,
- b) he/she breaches duty under Art. 27 par. 6, Art 32 par. 9, 10 or. 11, Art. 38 par. 8 or par. 9, Art. 59 par. 5 or par. 9, Art. 62 par. 3, Art. 73 par. 13, Art. 96 par. 3 or Art. 111 par. 1 b) to f), h), j) to l), o) to r);
- c) he/she breaches duty under Art. 111 par. 1 a), g), i), m), n) or s) or par. 2, 3 or par. 4.

(2) A Union citizen will commit an offence in the field of residence if he/she breaches the duty under Art. 64 par. 2, Art. 66 par. 1 or Art. 112 par. 1 a) to e) or l).

(3) A family member of the Union citizen will commit an offence in the field of residence if he/she breaches the duty under Art. 69 par. 2, Art. 70 par. 8, Art. 71 par. 8 or Art. 112 par. 2 a) to f), h), l) or m).

(4) A residence related offence shall be committed by anybody who

- a) violates the obligation under Article 115 para. 6,
- b) gives false, incomplete or misleading information in their invitation verification request or submits false, counterfeit or another person's documents..

(5) Paragraph 1 shall not apply to aliens who applied for asylum after having immediately registered at the police department and have shown a sufficient reason for their illegal residence and to aliens who applied for assisted voluntary return to their country of origin.

## 6) Minor offences under

- a) paragraphs 1a), 1b) and 4b) may be subject to a penalty of up to 1 600 EUR,
- b) paragraphs 1c, 2 and 3 may be subject to a penalty of up to 300 EUR.

(7) For offences under paragraphs 1 to 3 and para 4 letter b) a fine of up to EUR 165 may be imposed within the fine proceedings.

(8) Offences under this provision shall be dealt with by the police department.

(9) General offence regulation shall apply to offences and dealing with them,<sup>91)</sup> unless otherwise stipulated in paragraph 6 to 8.

## **Article 119 Administrative Delicts**

(1) An administrative delict in the field of residence will be committed by

- a) an accommodation provider if he/she breaches the duty under Art. 113,
- b) a school in breach of the duty under Art. 115 par. 4,
- c) an employer in breach of duties under Art. 115 par. 5,
- d) legal entity or a natural person – entrepreneur that failed to allow immediate access of the police officer to exercise his/her authorizations under Art. 75.
- e) a legal or natural person - an entrepreneur, gives false, incomplete or misleading information in their invitation verification request or submits false, counterfeit or another person's documents,
- f) a trading company or cooperative, which have failed to fulfil its obligation under Article 115 para. 10.

(2) The police department shall impose a fine of up to EUR 3,300 for administrative delict under paragraph 1.

(3) The fine under paragraph 2 may be imposed within one year as of the date the police department becomes aware of the breach of the duty, but not later than within three years as of the date the breach of the duty occurred. In determination of the fine amount, materiality, time of duration and consequences of an illegal action shall be taken into account with the potential recurring breach of the duty or if more than one duty were breached.

(4) The fine shall be due within the period of 30 days following the date the decision to impose the duty becomes valid and effective.

(5) Fine income shall be the income of the state budget of the Slovak Republic.

## **PART SIX COMMON, TEMPORARY AND FINAL PROVISIONS**

### **Article 120 Relation to the Code of Administrative Procedure**

(1) Unless otherwise stipulated in this Act or special regulation<sup>13)</sup>, general regulation on administrative procedure shall apply to proceedings hereunder.<sup>37)</sup>

- (2) In a justification of its decision, the police department shall provide only the fact that this is in the interest of security of the Slovak Republic, if following decisions are concerned
- a) a decision on rejection of the application for the temporary residence under Art. 33 par. 6 b), if there is a reason to believe that the third country national will threaten the state security during the time of his/her residence,
  - b) a decision to withdraw the temporary residence under Art. 36 par. 1 b), if there is a reason to believe that the third country national will threaten the state security during the time of his/her residence,
  - c) a decision to reject the application for a Blue Card application under Art. 39 par. 1 c), if the third country national poses a threat to the state security,
  - d) a decision to reject the application for a Blue Card renewal or withdrawal under Art. 41 par. 1 d), if the Blue Card Holder poses a threat to the state security,
  - e) a decision to reject the application for a permanent residence under Art. 48 par. 2 b), if there is a reason to believe that the third country national will threaten the state security during the time of his/her residence,
  - f) a decision to withdraw the permanent residence under Art. 50 par. 1 a), if there is a reason to believe that the third country national will threaten the state security during the time of his/her residence,
  - g) a decision to reject the application for a long-term residence under Art. 54 par. 2 b), if there is a reason to believe that the third country national will threaten the state security,
  - h) a decision to withdraw the tolerated residence under Art. 61 par. 1 b), if the third country national threatens the state security,
  - i) a decision on the administrative expulsion under Art.82 par. 2 a) if the third country national poses a serious threat to the state security or Art. 82 par. 2 b) if the third country national threatens the state security.

3) Proceedings under this Act shall be suspended on the date of the decision to suspend the proceedings. The deadline for the third country national stipulated in the decision on suspending the proceedings shall begin to run from the date of receiving the decision.

(4) If a third country national applying for a residence permit indicates an address abroad to be his/her address for service of documents, the decision of the police department in the matter of granting a residence permit shall be serviced to that address abroad by means of relevant consulate. If the relevant consulate services decisions of the police department by means of public notices, the decision shall be posted on the official notice board of the consulate for 15 days. The last day of this period shall be the date of service.

(5) The decision on granting a temporary residence permit, renewal of temporary residence permit, granting a permanent residence permit for five years, permanent residence permit for an unlimited time and the decision on granting residence permit to a third country national born in the territory of the Slovak Republic or a Member State cannot be appealed against.

## **Article 121**

### **Integrity**

(1) The third country national shall prove his/her integrity by providing an extract from the Crime Register of the county he/she is a national to and the country where the third

country national has resided during last three years for the period longer than 90 days within six consecutive months. If no such extract is issued in the given state, it can be substituted with an equivalent document issued by the competent judicial authority or administrative authority of the country of origin; or it can be substituted with a statutory declaration to be made by the third country national before the competent judicial authority or administrative authority or the notary of the country of origin or last residence. The document on integrity shall prove the integrity in the whole territory of the country issuing the document; otherwise the police department shall not accept such document.

(2) An asylum seeker and alien with the additional protection provided shall not need to prove his/her integrity by the extract from the Crime Register of the country he/she escaped from in order to avoid persecution or serious injustice;<sup>77)</sup> instead, he/she shall be obliged to provide a statutory declaration proving his/her integrity in that country.

(3) When deciding on an application for a residence permit the police department shall be obliged to request an extract from the Crime Register.<sup>94)</sup>

(4) He/she who commits an act which is qualified as intentionally committed offence in the Slovak Republic and he /she is finally convicted and the period of time from the date of punishment required for the conviction to be annulled in the Slovak Republic has not expired<sup>78)</sup> shall not be deemed irreproachable for the purposes hereof.

#### **Article 122** **Provision of Accommodation**

The document confirming the provision of accommodation shall be

- a) the title deed or the extract from the title deed of the Real Estate Register issued in favour of the third country national,
- b) lease contract concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or
- c) confirmation of the accommodation facility on the provision of accommodation,
- d) statutory declaration of the natural person or legal entity on provision of accommodation to the alien in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate.

#### **Article 123** **Health Insurance**

The document confirming the health insurance shall be the confirmation issued in favour of the alien on health insurance in the territory of the Slovak Republic or on insured medical expense in the territory of the Slovak Republic.

#### **Article 124** **Public Health**

(1) Medical opinion that the third country national does not suffer from any disease which could impose a risk to the public health, should be issued by a specialist in infectology.

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<sup>77)</sup> Art. 8 and 13a of Act No. 480/2002 Coll. as amended.

<sup>78)</sup> Art. 92 of the Criminal Code.

(2) Details on issuance of the medical opinion under paragraph 1 and the list of diseases posing a risk to public health shall be specified by a generally binding legal regulation to be issued by the Ministry of Health of the Slovak Republic.

## Article 125

(1) The police department shall act in the matters related to the residence hereunder depending on the location of the residence or anticipated residence, unless stipulated otherwise by this Act or special regulation. In case of the third country national regularly commuting to work crossing the state border from the neighbouring state, the police department shall act depending on the location of the employment site; and in case of the third country national regularly commuting to school crossing the state border from the neighbouring state, the police department shall act depending on the location of the school.

(2) The matter of administrative expulsion of an alien **or a return of an alien under a special regulation<sup>85)</sup>** shall be acted upon by the police department that found reasons for his/her expulsion **or return under a special regulation<sup>85)</sup>**; the police department which granted the residence permit to the third country national, registered his/her residence or issued the residence document for the family member of the Union citizen shall inform him/her of the decision on administrative expulsion. **Matters pursuant to Article 82 para. 6, Article 84 para. 1 letter b) and Article 88 para 1 letter b) shall be acted upon by the police department that discovered reasons for these proceedings.**

(3) For purposes of **proceedings under this Act** a passport issued by a state not recognized by the Slovak Republic shall also be considered a valid travel document, if it meets specifications of the International Civil Aviation Organization on machine readable travel documents.<sup>96)</sup>

(4) The police department which considers the threat to the public order in accordance with the procedure under Art. 15 par. 2, Art. 16 par. 5 b), Art. 16 par. 6 second sentence, Art. 33 par. 4 b), par. 5, Art. 34 par. 10, Art. 36 par. 1 b), Art. 39 par. 1 c), Art. 41 par. 1 d), Art. 48 par. 2 b), Art. 50 par. 1 a), Art. 58 par. 2 b), Art. 59 par. 12 b), Art. 61 par. 1 b), Art. 81 par. 3, Art. 82 par. 1 a) and b), Art. 83 par. 2 c), par. 5, 6 or Art. 104 par. 4 e) shall assess the level of threat to the public order resulting from the acting of the third country national and its materiality or resulting from the danger the third country national could pose; and if consequences of procedures under these provisions were clearly disproportionate to reasons of the threat to the public order, the police department shall not use those provisions.

(5) Following the issuance of the decision pursuant to Art. 34 par. 10 or par. 11, Art. 36 par. 1, Art. 41 par. 1, Art. 48 par. 2, Art. 50 par. 1 or par. 4, Art. 54 par. 2, Art. 56 a), Art. 59 par. 12, Art. 61 par. 1, Art. 72 par. 8 or the decision on administrative expulsion the police department shall be obliged to advise the alien on the possibility to use the assisted voluntary return.

(6) In order to consider an application for a temporary residence permit of **a third country national over 14 years of age** the police department shall request a position of the Slovak Intelligence Service which shall send its position to the police department within ten days from the date of receipt of the request.

(7) During the period of decision making on the application for residence permit to be granted the police department may request Member State authorities for information on the previous residence of the third country national. The police department shall provide the information on the third country national's residence in the territory of the Slovak Republic upon the request of Member State authorities.

(8) If there is a reasonable concern the state security or public order could be threatened by the Union citizen or the family member of the Union citizen who reports his/her residence, requests for registration or issuance of the document on the residence of the family member of the Union citizen, the police department may request Member State authorities to provide the information related to previous police records on the given person. The police department may request for the information on the Union citizen or family member of the Union citizen within three months following his/her entry in the territory of the Slovak Republic or reporting the residence at the police department.

(9) At the request of a Member State, within 30 days of receipt of such request, the Ministry of Interior shall inform the Member State that granted the third country national the status of a long-term resident, whether or not he/she has been granted asylum or provided subsidiary protection.

(10) The police department shall notify, within three working days, in writing or electronically,

a) the Central Labour Office of

1. refusal of a Blue Card application;
2. refusal of a Blue Card renewal application;
3. Blue Card termination;

b) Office of Labour, Social Affairs and Family of

1. rejection of an application for temporary residence for the purpose of employment;
2. rejection of an application for temporary residence of a third country national who has the status of a person with long term residence in another Member State;
3. termination of the temporary residence for the purpose of employment;
4. termination of temporary residence for the purpose of family reunification;
5. termination of temporary residence of a third country national who has the status of a person with long term residence in another Member State;

c) the employer of

1. Blue Card termination;
2. termination of the temporary residence for the purpose of employment;
3. termination of temporary residence for the purpose of family reunification;
4. termination of temporary residence of a third country national who has the status of a person with long term residence in another Member State.

(11) The Ministry of Interior shall designate contact points for receiving and delivering information pursuant to Article 33 para. 8, Article 36 para. 4, Article 38, para. 11, Article 39 para. 2, Article 54 para. 1, Article 73 para. 2, 8 and 9, Article 83 para. 7 and 9 and pursuant to paragraph 9.

(12) Terms pursuant Article 33 para. 6, Article 34 para. 13, Article 38 para. 10, Article 40 para. 6, Article 45 para. 9, Article 47 para. 6, Article 53 para. 6 and Article 59 para. 7 may be extended, in particularly complex cases, by the appeal authority by up to 30 days.

## Article 126

(1) An alien may enter into an employment relation within the scope and under conditions stipulated by a special regulation.<sup>97)</sup>

(2) An alien pursuant to Article 22, Article 24 para. 3, Article 26 para. 1, Article 27 para. 6, Article 29 para. 3, Article 30 para. 1 letter a) and Article 65 para. 1 letter b) may conduct business under conditions stipulated by a special regulation.<sup>97a)</sup>.

(3) The alien shall be obliged to provide applications and documents issued in a foreign language and necessary for proceedings hereunder officially translated<sup>98)</sup> into the state language<sup>99)</sup> in its original or a certified copy;<sup>100)</sup> documents in the Czech language issued or certified by relevant authorities of the Czech Republic shall also be accepted. An alien may submit applications and supporting documents issued in a foreign language also officially translated into Czech language, the translation of which the consulate shall certify for compliance with the original by consulate's certification clause..

(4) Signatures of statutory declarations, powers of attorney and lease contracts and notarial deeds submitted in proceedings hereunder shall be certified; the same shall not apply if the power of attorney is declared in the records before an administrative authority or if it concerns a statutory declaration or a power of attorney in the proceedings on administrative expulsion or proceedings on detention.

(5) Official forms necessary in proceedings hereunder shall be issued by the Ministry of Interior; these forms shall be issued in bilingual versions.

(6) The Ministry of Interior and the Ministry of Foreign Affairs publish the basic information on rights and duties of foreign nationals hereunder on their web sites with sample applications necessary for proceedings hereunder; in addition to the state language the information is published in English language as well.

## Article 127

(1) If a third country national refuses to undergo a medical examination pursuant to Article 111 para. 6, he/she shall be deemed major for purposes of proceedings hereunder; if he/she undergoes a medical examination, he/she shall be deemed major until a result of the medical examination to determine his/her age is available. The result of the medical examination to determine his/her age shall be presented by the physician in the form of an expert opinion. The police department shall be obliged to advise the third country national of the entitlement to order the medical examination to determine his/her age, method to be used and consequences of the examination for proceedings hereunder and consequences of the refusal to undergo such examination.

(2) Legal representative shall act in matters related to the residence on behalf of the minor. The minor aged more than 15 shall be able to act on his/her own in matters related to the residence for purposes of his/her study or special activity; however, the application for the temporary residence to be granted for these purposes shall be signed by the legal representative of the minor and the signature of the legal representative shall be certified.

(3) The appointed guardian shall act on behalf of the minor without a legal representative in matters related to the residence.

(4) The police department shall be obliged to notify the authority responsible for social and legal protection of children and social guardianship forthwith if a minor third country national is found in the territory of the Slovak Republic in order to arrange the procedure pursuant to special regulation.<sup>79)</sup>

### **Article 128** **Personal and Other Data Processing in Border Control**

(1) The police department shall be authorized to process the following personal and other data in order to ensure the border control:

- a) name, surname, surname at birth, previous surnames, date of birth, sex, place and state of birth, citizenship, nationality, family status, data on travel document, other document authorizing to cross the external border, data on visas, biometric data, country of destination,
- b) names, surnames, previous surnames of family members, date and place of birth of family members, their citizenship, domicile of family members, previous permanent residences of family members,
- c) data on the place and time of entry and departure through the external border, mean of transport, co-passengers in one mean of transport, period of time and the purpose of residence,
- d) data on unauthorized crossing of the state border, prohibition on entry, rejection of entry and denial of entry.

(2) The police department shall keep the data on passengers sent by the air carrier pursuant to Art. 108 par. 4 in a temporary file. The police department shall be obliged to dispose of these data within 24 hours of the time they are received following the entry of passengers; the same shall not apply if the data are necessary to fulfil other assignments of the Police Force.

### **Article 129** **Personal and Other Data Processing in Case of Visas and Residence**

(1) For purposes of visa proceedings the police department, representative office and the Ministry of Foreign Affairs shall be entitled to process the following personal data

- a) name and surname of the visa applicant, his/her surname at birth, previous surnames, date of birth, sex, place and country of birth, citizenship, family status, data on travel documents, biometric data,
- b) occupation of the visa applicant; name and surname of his/her father; name, surname and maiden name of his mother; name, surname and surname at birth of his/her spouse; date and place of birth of his/her spouse, name, surname and date of birth of his/her child, previous residence of the visa applicant in the Slovak Republic,
- c) previous citizenship of the visa applicant, data on his/her domicile, data on his/her employer, country of destination, visa kind, requested number of entries, period of time of residence, data on visas granted by the Slovak Republic, purpose of the journey, arrival date, departure date, type of a mean of transport, place of the first entry, data on the

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<sup>79)</sup> Art. 27 par. 1 of Act No. 305/2005 Coll. on Social and Legal Protection of Children and on Social Guardianship and on amendment and supplement of some acts as amended by some regulations

contact person in the Slovak Republic, method of financial coverage in the Slovak Republic,

- d) the name, surname date and place of birth, nationality, address of residence in the Slovak Republic, proof of identity, occupation of the inviting person and his/her relationship to the invited third country national, if the inviting person is a natural person.
- e) the name, address, entity identification number, core activity of the inviting entity and its relationship to the invited third country national, if the inviting person is a legal entity, as well as data under letter d) of the statutory body or a member thereof.

(2) For purposes of residence proceedings the police department, consulatesentative office and the Ministry of Foreign Affairs shall be authorized to process personal data of the third country national under paragraph 1 a) and b); and

- a) his/her degree, nationality, purpose of residence, the highest education achieved, data on employment prior to and following the arrival to the Slovak Republic, place and state of the domicile, address of the last domicile, domicile in the Slovak Republic, name of the accommodation provider,
- b) previous surnames, country of birth, citizenship, permanent domicile and domicile in the Slovak Republic of his/her spouse,
- c) date of birth and citizenship of his/her parents, place of birth, citizenship, permanent domicile and domicile of his/her child in the Slovak Republic, names, surnames, date and place of birth, citizenship and permanent domicile of his/her siblings.

(3) For purposes of registration, the police department shall be authorized to process the personal data of the Union citizen and the family member of the Union citizen under paragraph 1 a) and data on the highest education achieved, address of permanent domicile abroad, domicile in the Slovak Republic and data on the accommodation provider.

(4) For purposes of administrative expulsion proceedings and detention proceedings, the police department shall be authorized to process personal data under paragraph 1 a) and data on the address of the permanent domicile of the alien.

## **Temporary Provisions**

### **Article 130**

Within 30 days of the date this Act becomes valid and effective, the Trade Licensing Office shall be obliged to send to the Ministry of Interior the written list of issued, suspended, ceased and cancelled licences to carry on a trade by the third country national with a residence permit in the territory of the Slovak Republic.

### **Article 131**

(1) A visa granted in accordance with present rules shall be deemed the visa granted pursuant to this Act.

(2) Temporary residence permit granted in accordance with present rules shall be deemed the temporary residence hereunder.

(3) The first permanent residence permit granted in accordance with present rules shall be deemed the permanent residence hereunder.

(4) Following permanent residence permit granted pursuant to Art. 38 par. 1 a) or d) of Act. No. 48/2002 Coll. on the Residence of Aliens and on amendment and supplement of some acts as amended shall be deemed a permanent residence for unlimited period of time hereunder.

(5) Following permanent residence permit granted pursuant to Art. 38 par. 1 b) or c) of Act. No. 48/2002 Coll. on the Residence of Aliens and on amendment and supplement of some acts as amended shall be deemed a long-term residence hereunder.

(6) Tolerated residence permit granted in accordance with present rules shall be deemed the tolerated residence hereunder.

(7) The Union citizen who resides in the territory of the Slovak Republic for more than three months and who has no first or following permit registered in accordance with present rules, shall be obliged to apply for registration of his/her residence in the territory of the Slovak Republic within 30 days of the date this Act becomes valid and effective,

(8) The residence document issued for the Slovak national living abroad in accordance with present rules shall become invalid not later than on June 30, 2012.

(9) The term of the prohibition on entry in accordance with present rules shall remain valid.

(10) Proceedings commenced before this Act becomes valid and effective shall be completed in accordance with present rules; the proceedings shall be completed pursuant to this Act only if it is more favourable for the concerned person.

(11) If, in present rules, the term "temporary residence permit" is used in all forms, "permanent residence permit" in all forms and "tolerated residence permit" in all forms, it shall mean "temporary permit" in the relevant form, "permanent residence" in the relevant form and "tolerated residence" in the relevant form hereunder.

### **Article 131a**

#### **Transitional provisions for regulations effective as of 1 May 2013**

(1) Proceedings under this Act commenced prior to 1 May 2013 shall be completed in accordance with regulations in force before 30 April 2013; they may be completed under the provisions of this Act effective from 1 May 2013 only if it is more favourable to the person in question.

(2) A third country national who has been issued with a certificate of a Slovak living abroad and whose proof of residence expired on 30 June 2012 under Article 131 para. 8, may apply, from 1 May 2014, for a temporary residence permit pursuant to Article 29 in person even at the police department, if he/she has not left the territory of the Slovak Republic after the expiry of this document.

(3) If a third country national stays in the territory of the Slovak Republic as per paragraph 2, it shall not be considered an illegal residence.

(4) Before 30 November 2013 residence documents may be issued with no electronic chip.

### **Article 131b**

#### **Transitional provisions for regulations effective as of 1 January 2014**

(1) Proceedings under this Act commenced prior to 1 January 2014 shall be completed in accordance with regulations in force before 31 December 2013.

(2) A confirmation of the possibility to fill a vacancy corresponding to highly qualified employment issued by the Central Labour Office based on a request filed before 1 January 2014 shall be considered for the purposes of Article 38 paragraph 10, Article 40 paragraph 6 or Article 41 paragraph 3 as a confirmation of the possibility to fill a vacancy corresponding to highly qualified employment stating an approval to fill that vacancy.

(3) A work permit issued by the Office of Labour, Social Affairs and Family based on a request filed before 1 January 2014 shall be considered for the purposes of Article 33 paragraph 3 or Article 34 paragraph 4 as a confirmation of the possibility to fill a vacancy stating an approval to fill that vacancy.

(4) Extension of a work permit issued by the Office of Labour, Social Affairs and Family based on a request filed before 1 January 2014 shall be considered for the purposes of Article 34 paragraph 4 as a confirmation of the possibility to fill a vacancy stating an approval to fill that vacancy.

### **Article 132**

#### **Cancellation Provisions**

The following shall be cancelled

1. Act No. 48/2002 Coll. on Residence of Alien and on amendment and supplement of some acts as amended by Art. III of Act No. 408/2002 Coll., Art. IV of Act No. 480/2002 Coll., Art. I of Act No. 606/2003 Coll., Art. III of Act 69/2005 Coll., Art. IV of Act No. 474/2005 Coll., Art. I of Act No. 558/2005 Coll., Art. I of Act No. 693/2006 Coll., Art. IV of Act No. 342/2007 Coll., Art. III of Act No. 643/2007 Coll., Art. II of Act No. 233/2008 Coll., Art. XXIII of Act No. 445/2008 Coll., Art. II of Act No. 451/2008 Coll., Art. I of Act No. 594/2009 Coll. and Art. IV of Act No. 223/2011 Coll.,
2. Act No. 477/2003 Coll. on the State Border Protection as amended by Art. VI of Act No. 558/2005 Coll., Art. VI of Act No. 342/2007 Coll. and Art. XXXI of Act No. 445/2008 Coll.,
3. Decree of the Ministry of Health of the Slovak Republic No. 07478/2009-OL of 8 April, 2009 laying down details on issuance of the document that the alien does not suffer from a disease posing a threat to the public health (Notice No. 146/2009 Coll.).

### **Article 133**

Legally binding acts of the European Union specified in Annex 2 shall be transposed hereby.

## Art. II

Act No. 145/1995 Coll. on Administrative Fees as amended by Act No. 123/1996 Coll., Act No. 224/1996 Coll., Act No. 70/1997 Coll., Act No.1/1998 Coll., Act No. 232/1999 Coll., Act No. 3/2000 Coll., Act No. 142/2000 Coll., Act No. 211/2000 Coll., Act No. 468/2000 Coll., Act No. 553/2001 Coll., Act No. 96/2002 Coll., Act No. 118/2002 Coll., Act No. 215/2002 Coll., Act No. 237/2002 Coll., Act No. 418/2002 Coll., Act No. 457/2002 Coll., Act No. 465/2002 Coll., Act No. 477/2002 Coll., Act No. 480/2002 Coll., Act No. 190/2003 Coll., Act No. 217/2003 Coll., Act No. 245/2003 Coll., Act No. 450/2003 Coll., Act No. 469/2003 Coll., Act No. 583/2003 Coll., Act No. 5/2004 Coll., Act No. 199/2004 Coll., Act No. 204/2004 Coll., Act No. 347/2004 Coll., Act No. 382/2004 Coll., Act No. 434/2004 Coll., Act No. 533/2004 Coll., Act No. 541/2004 Coll., Act No. 572/2004 Coll., Act No. 578/2004 Coll., Act No. 581/2004 Coll., Act No. 633/2004 Coll., Act No. 653/2004 Coll., Act No. 656/2004 Coll., Act No. 725/2004 Coll., Act No. 5/2005 Coll., Act No. 8/2005 Coll., Act No. 15/2005 Coll., Act No. 93/2005 Coll., Act No. 171/2005 Coll., Act No. 308/2005 Coll., Act No. 331/2005 Coll., Act No.341/2005 Coll., Act No. 342/2005 Coll., Act No. 473/2005 Coll., Act No.491/2005 Coll., Act No. 538/2005 Coll., Act No.558/2005 Coll., Act No. 572/2005 Coll., Act No.573/2005 Coll., Act No. 610/2005 Coll., Act No. 14/2006 Coll., Act No. 15/2006 Coll., Act No. 24/2006 Coll., Act No. 117/2006 Coll., Act No. 124/2006 Coll., Act No. 126/2006 Coll., Act No. 224/2006 Coll., Act No. 342/2006 Coll., Act No. 672/2006 Coll., Act No. 693/2006 Coll., Act No. 21/2007 Coll., Act No.43/2007 Coll., Act No. 95/2007 Coll., Act No. 193/2007 Coll., Act No. 220/2007 Coll., Act No. 279/2007 Coll., Act No. 295/2007 Coll., Act No. 309/2007 Coll., Act No. 342/2007 Coll., Act No. 343/2007 Coll. , Act No. 344/2007 Coll., Act No.355/2007 Coll., Act No. 358/2007 Coll., Act No.359/2007 Coll., Act No. 460/2007 Coll., Act No.517/2007 Coll., Act No. 537/2007 Coll., Act No. 548/2007 Coll., Act No. 571/2007 Coll., Act No. 577/2007 Coll., Act No. 647/2007 Coll., Act No. 661/2007 Coll., Act No. 92/2008 Coll., Act No. 112/2008 Coll., Act No. 167/2008 Coll., Act No. 214/2008 Coll., Act No.264/2008 Coll., Act No. 405/2008 Coll., Act No. 408/2008 Coll., Act No.451/2008 Coll., Act No. 465/2008 Coll., Act No. 495/2008 Coll., Act No.514/2008 Coll., Act No. 8/2009 Coll., Act No. 45/2009 Coll., Act No. 188/2009 Coll., Act No. 191/2009 Coll., Act No. 274/2009 Coll., Act No. 292/2009 Coll., Act No.304/2009 Coll., Act No. 305/2009 Coll., Act No. 307/2009 Coll., Act No. 465/2009 Coll., Act No. 478/2009 Coll., Act No. 513/2009 Coll., Act No. 568/2009 Coll., Act No. 570/2009 Coll., Act No. 594/2009 Coll., Act No. 67/2010 Coll., Act No.92/2010 Coll., Act No. 514/2010 Coll., Act No. 556/2010 Coll., Act No. 39/2011 Coll., Act No. 119/2011 Coll., Act No. 200/2011 Coll., Act No. 223/2011 Coll., Act No. 254/2011 Coll., Act No. 256/2011 Coll., Act No. 258/2011 Coll. and Act No. .../2011 Coll. shall be amended and supplemented as follows:

1. The wording of the footnote to ref. 16a shall be as follows:  
"16a) Art. 25 of Act No. .../2011 Coll. on the Residence of Aliens and on amendment and supplement of some acts."
2. In the schedule of administrative charges, part II, Internal Administration, the wording of item 24 is as follows:  
"Item 24

- a) Application for the temporary residence permit to be granted for purposes of
  - 1. entrepreneurial activity or pursuant to Art. 30 par. 1 a) of Act No. .../2011 Coll. on the Residence of Aliens and on amendment and supplement of some acts (hereinafter referred to as "Act No. .../2011 Coll.") ..... EUR 232
  - 2. employment or pursuant to Art. 30 par. 1 b) of Act No. .../2011 Coll. .... EUR 165.50
  - 3. seasonal employment ..... EUR 33
  - 4. special activity or pursuant to Art. 30 par. 1 d) of Act No. .../2011 Coll. .... EUR 99.50
  - 5. family reunification or pursuant to Art. 30 par. 1 e) of Act No. .../2011 Coll. .... EUR 132.50
  - 6. service of civil armed forces ..... EUR 66
- b) Application for European Union Blue Card ..... EUR 165.50
- c) Application for permanent residence to be granted ..... EUR 165.50
- d) Application for renewal of the temporary residence for purposes of
  - 1. entrepreneurial activity or pursuant to Art. 30 par. 1 b) of Act No. .../2011 Coll. .... EUR 132.50
  - 2. employment or pursuant to Art. 30 par. 1 b) of Act No. .../2011 Coll. .... EUR 99.50
  - 3. seasonal employment ..... EUR 16.50
  - 4. special activity or pursuant to Art. 30 par. 1 d) of Act No. .../2011 Coll. .... EUR 33
  - 5. family reunification or pursuant to Art. 30 par. 1 e) of Act No. .../2011 Coll. .... EUR 66
  - 6. service of civil armed forces ..... EUR 33
- e) Application for renewal of the European Union Blue Card..... EUR 99.50
- f) Issuance of the residence document ..... EUR 4.50
- g) Issuance of the residence document as a replacement of destroyed, lost, stolen or damaged document ..... EUR 16.50
- h) Issuance of the residence document as a replacement of the destroyed, lost, stolen or damaged residence document repeatedly within the period of two consequent years ..... EUR 33
- i) Application for tolerated residence to be granted ..... EUR 99.50
- j) Application for renewal of tolerated residence ..... EUR 33
- k) Confirmation of the residence of alien in the territory of the Slovak Republic ..... EUR 3
- l) Issuance of alien´s passport for the alien ..... EUR 33
- m) Issuance of alien´s passport for the alien from 5 to 15 years old ..... EUR 13
- n) Issuance of alien´s passport for the alien younger than 5 years ..... EUR 8

#### Exemption

- 1. Persons applying for family reunification with an asylum seeker or alien with additional protection provided shall be exempted from charges under a) and d) hereof.
- 2. Persons who are pedagogical employees or university teachers shall be exempted from charges under a), b), d), e) hereof.
- 3. Persons younger than 18 shall be exempted from charges under a), c), d), i) a j) hereof.

4. Interns who are awarded the scholarship by the Ministry of Education, Science, Research and Sports of the Slovak Republic or the scholarship based on commitments resulting from international treaties; and lecturers in foreign languages coming to schools in the Slovak Republic on the basis of commitments resulting from international treaties shall be exempted from charges under a) and d) hereof on the basis of reciprocity.
5. Persons who applied for the permanent residence to be granted under Art. 43 par. 1 a) of Act No. .../2011 Coll. shall be exempted from the charge under c) hereof.
6. Persons applying for the issuance of a new residence document if data recorded in the document fail to correspond to reality due to a reason beyond the control of the applicant, for example a change of the name of municipality, street or street numbering, shall be exempted from the charge under f).
7. Persons applying for the tolerated residence to be granted under Art. 58 par. 1 a) and b), par. 2 a) and c) and par. 3 of Act No. .../2011 Coll. shall be exempted from charges under i) and j) hereof.
8. Persons with the tolerated residence granted under Art. 58 par. 2 c) and par. 3 of Act No. .../2011 Coll. shall be exempted from charges under l) hereof.
9. The following persons shall be exempted from charges under l) to n) hereof
  - a) persons applying for tolerated residence to be granted under Art. 58 par. 1 a) and b) and par. 2 a) Act No. .../2011 Coll.,
  - b) persons who are to be issued the alien's passport under Art. 74 par. 2 b) and c) of Act No. .../2011 Coll.,
  - c) persons with additional protection provided pursuant to Act No. 480/2002 Z. z. on Asylum and on amendment and supplement of some acts as amended.

#### Authorization

The administration authority may refrain from levying a charge hereunder or they may reduce the amount of the charge for humanitarian or reciprocity reasons".

3. In the schedule of administrative charges, part II, Internal Administration, in exemption within item 26, two new points 2 and 3 shall be inserted after point 1 having the following wording:
  - "2. Family members of the Union citizen shall be exempted from the charge hereunder.<sup>16c)</sup>
  3. Family members of the Slovak Republic citizens within the extent of family members of Union citizens under point 2 shall be exempted from the charge hereunder".

The wording of the footnote to ref. 16c shall be as follows:

"16c) Art. 2 par. 5 of Act No. .../2011 Coll."

Present points 2 and 3 shall be marked as points 4 and 5.

4. In the schedule of administrative charges, part XVIII, Consular Charges, item 240 shall be amended with e) having the following wording:
  - "e) Lodging an appeal against the decision rejecting the application for Schengen visa to be granted or cancelling or revoking the Schengen visa granted  
 ..... EUR 30".
5. In the schedule of administrative charges, part XVIII, Consular Charges, the exemption in item 240 shall be supplemented with point 4 having the following wording:

- "4. Persons lodging an appeal against the decision of the Police Force and family members of the asylum seeker and alien with additional protection provided shall be exempted from the charge under e)".
6. In the schedule of administrative charges, part XVIII, Consular Charges, the authorization in item 240 shall be supplemented with point 5 having the following wording:  
"5. The Administrative authority shall refund the charge under e) if the appeal is allowed".
7. In the schedule of administrative charges, part XVIII, Consular Charges, the wording of item 242 is as follows:  
"Item 242
- a) An application for a temporary residence to be granted for purposes of
    1. entrepreneurial activity or pursuant to Art. 30 par. 1 a) of Act No. .../2011 Coll. .... EUR 232
    2. employment or pursuant to Art. 30 par. 1 b) of Act No. .../2011 Coll. ....EUR 165.50
    3. seasonal employment ..... EUR 33
    4. special activity or pursuant to Art. 30 par. 1 d) of Act No. .../2011 Coll. .... EUR 99.50
    5. family reunification or pursuant to Art. 30 par. 1 e) of Act No. .../2011 Coll. ....EUR 132.50
    6. service of civil armed forces ..... EUR 66
  - b) Application for European Union Blue Card .....EUR 165.50
  - c) Application for the temporary residence to be granted for five years .....EUR 165.50

#### Exemption

1. Persons applying for family reunification with an asylum seeker or alien with the additional protection provided shall be exempted from charges under a) hereof.
2. Persons younger than 18 shall be exempted from charges under a) and c) hereof.
3. Interns who are awarded the scholarship by the Ministry of Education of the Slovak Republic or the scholarship based on commitments resulting from international treaties; and lecturers in foreign languages coming to schools in the Slovak Republic on the basis of commitments resulting from international treaties shall be exempted from charge under a) hereof on the basis of reciprocity.
4. Persons who applied for the permanent residence to be granted under Art. 43 par. 1 a) of Act No. .../2011 Coll. shall be exempted from the charge under c) hereof.

### Art. III

Act No. 143/1998 Coll. on Civil Aviation (Aviation Act) and on amendment and supplement of some acts as amended by Act No. 37/2002 Coll., Act No. 136/2004 Coll., Act No. 544/2004 Coll., Act No. 479/2005 Coll., Act No. 11/2006 Coll., Act No. 278/2009 Coll., Act No. 513/2009 Coll., Act No. 136/2010 Coll. and Act No. 241/2011 Coll. shall be supplemented as follows:

Art. 32a with the following wording shall be inserted instead of Art. 32:

"Art. 32a

(1) Prior the licence is issued to operate an airport for international flights to the country not invoking the provisions of the special regulation on the abolition of internal border control<sup>8aa</sup>) (hereinafter referred to as "third country"), the Civil Aviation Authority shall be obliged to request the Ministry of Interior for an opinion whether the airport concerned meets the conditions for securing the border control by the department of the Police Force. The Civil Aviation Authority shall not issue the licence to operate the airport, if, according to the opinion of the Ministry of Interior, the concerned airport fails to meet the conditions for securing the border control by the department of the Police Force.

(2) The conditions to secure the border control by the department of the Police Force in accordance with paragraph 1 shall include especially the following

- a) infrastructure constructed<sup>8ab</sup>) in form of changes in construction preventing mutual physical contact of persons travelling within internal lines<sup>8ac</sup>) with persons travelling on lines from and to third countries;
- b) constructed and marked corridors in accordance with special regulation<sup>8ad</sup>) and related infrastructure for border check of persons to be<sup>8ac</sup>) performed;
- c) secured area not publicly available including transit area in order to prevent the area is left by passengers for premises outside border control.

(3) Conditions under paragraph 2 shall be observed by the airport throughout the entire period of operation. The Ministry of Interior shall file a proposal to the Civil Aviation Authority to withdraw the licence for the airport operation if the airport concerned fails to meet any of conditions under paragraph 2. The opinion of the Ministry of Interior shall be binding for the Civil Aviation Office.

(4) Prior the proposal to withdraw the licence for an airport operation is filed under paragraph 3 the Ministry of Interior shall be obliged to request the operator of the concerned airport to ensure forthwith the conditions specified in paragraph 2 are met. The Ministry of Interior shall be obliged to provide the airport operator a reasonable period of time for conditions under paragraph 2 to be met.

(5) The condition under paragraph 2 a) shall not need to be met by the airport where the intensity of transport poses no danger of mutual physical contact between persons travelling within internal lines and persons travelling within lines from and to third countries".

The wording of footnotes to ref. 8aa to 8ae shall be as follows:

"8aa) Title III of the Regulation of the European Parliament and Council (EC) No. 562/2006 of 15 March 2006 establishing the Community Code on rules governing the movement of persons across borders (Schengen Border Code) (EU OJ L 105, 13. 4. 2006) as amended.

8ab) Annex VI clause 2.1.1. of Regulation (EC) No. 562/2006.

8ac) Art. 2 par. 3 of Regulation (EC) No. 562/2006.

8ad) Art. 9 par. 1 of Regulation (EC) No. 562/2006.

8ae) Art. 2 par. 10 of Regulation (EC) No. 562/2006".

#### **Art. IV**

This Act shall become valid and effective on 1 January, 2012.

The President of the Slovak Republic

The Chairman of National Council of the Slovak Republic

The Prime Minister of the Slovak Republic

**Annex 1**  
**to Act No. .../2011 Coll.**

SAMPLE

**Request for Air Transit of Alien**

(Requesting unit)	Place/date:
Authority:	Tel./Fax/e-mail:

Address:	Name of Officer:
	Signature

(Requested unit)
Authority:
Address:

**General Information on the Third Country National the Request Relates to**

Request No.	Surname	Name	M/F	Date of birth	Place of birth	State citizenship	Travel document No./type/validity	Number of visa issued by the third country (if requested)
1								
2								

**Flight Data**

Flight number	From	Departure date	Hour	To	Arrival date	Hour

Detailed information

Is the third country national escorted?	<input type="checkbox"/> yes <input type="checkbox"/> no	Names and functions:
Is the police escort recommended to be present at the airport?	<input type="checkbox"/> yes <input type="checkbox"/> no	

Is medical care necessary?	<input type="checkbox"/> yes <input type="checkbox"/> no	If yes, please, specify:
Any identifiable contagious diseases? <sup>(*)</sup>	<input type="checkbox"/> yes <input type="checkbox"/> no	If yes, please, specify:
Any previous failed attempts for removal?	<input type="checkbox"/> yes <input type="checkbox"/> no	If yes, specify reasons:

Other notes


(\*) The information is provided in accordance with the applicable national or international law.

Note: No reasons were known for the request to be rejected under Article 3 par. 3 and 5 of Directive 2003/110/EC at the time of request.

Decision of the Requested Unit

The transit is permitted	<input type="checkbox"/>
The transit is not permitted	<input type="checkbox"/>
Reasons: _____	
_____	
_____	
Name/signature/date	

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

1. Directive of the Council 2001/40/EC of 28 May 2001 on Mutual Recognition of Decisions on the Expulsion of Third Country Nationals (Special edition of EU OJ, chap.19/vol.04; OJ EC L 149, 2/6/2011).
2. Directive of the Council 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (Special edition of EU OJ, chap.19/vol.04; OJ EC L 187, 10/7/2001).
3. Directive of the Council 2003/86/EC of 22 September 2003 on the Right to Family Reunification (Special edition of EU OJ chap.19/vol.06; EU OJ L 251, 3/10/2003).
4. Directive of the Council 2003/109/EC of 25 November 2003 concerning the Status of Third Country Nationals who are long-term residents (Special edition of EU OJ, chap.19/vol.06; EU OJ L 16, 23/1/2004).
5. Directive of the Council 2003/110/EC of 25 November 2003 on the Assistance in Cases of Transit for Purposes of Removal by Air (Special edition of EU OJ, chap.19/vol.06; EU OJ L 321, 6/12/2003) as amended by regulation of the European Parliament and Council (EU) No. 492/2011 of 5 April 2011 (EU OJ L 141, 27/5/2011).
6. Directive of the European Parliament and the Council 2004/38/EC of 29 April 2004 on the Right of the Citizens of Union and their Family Members to Move and Reside freely within the territory of the Member States which is amended and supplements the regulation of (EEC) 1612/68 and cancels directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (Special edition of EU OJ, chap.5/vol.05; EU OJ L 158, 30/4/2004) as amended by the regulation of the European Parliament and Council (EU) No. 492/2011 of 5 April 2011 (EU OJ L, 27/5/2011).
7. Directive of the Council 2004/81/EC of 29 April 2004 on Permanent Residence Permits issued to third country national who are the victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration and who cooperate with the competent authorities (Special Edition EU OJ, chap.19/vol.07; EU OJ L 261, 6/8/2004).
8. Directive of the Council 2004/82/ES of 29 April 2004 on the obligation of carriers to communicate passenger data (Special edition of EU OJ, chap.19/vol.07; EU OJ L 261, 6/8/2004).
9. Directive of the Council 2004/114/EC of 13 December 2004 on conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (EU OJ L 375, 23/12/2004).
10. Directive of the Council 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (EU OJ L 289, 3/11/2005).
11. Directive of the European Parliament and Council 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (EU OJ L 348, 24/12/2008).

12. Directive of the Council 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (EU OJ L 155, 18/6/2009).
13. Directive of the European Parliament and Council 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (EU OJ L 168, 30/6/2009).