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EXTENSIVE AMENDMENT TO THE ACT ON SLOVAK STATE CITIZENSHIP

Chief causes for the amendment to the act on Slovak citizenship

Adoption of Act 250/2010 Coll., which amends and supplements Slovak National Council Act 40/1993 Coll. on Slovak state citizenship, as amended, is the response to steps taken by Hungary, which adopted an amendment to their act on dual citizenship. According to said amendment, Hungarian citizenship may be obtained even by persons not having a permanent residence in Hungary or having ever lived there. All that is required is Hungarian ancestry. This Hungarian law will come into force on 1 January 2011.

The aforementioned law stirred up justified fears of mass conferrals of foreign citizenship to Slovak citizens, which would ultimately result in dual citizenship.

Thus, the objective of the amendment is an effort to limit dual citizenships and the negative aspects therewith associated, which are compounded by the mass conferral of citizenship of a foreign country. This is attempted by introducing a new manner by which under Slovak law a person can lose citizenship.

Loss of Slovak citizenship pursuant to existing law

Prior to adoption of the amendment to the act on Slovak state citizenship, Slovak citizenship could be lost only by officially renouncing Slovak citizenship. In this case, a person may be released from their alliance with the Slovak Republic if he/she demonstrates citizenship of another country or the promise of conferral of foreign citizenship in the event of renouncement of Slovak citizenship. In such a case, the petition is lodged in person at the district office in the regional seat, diplomatic mission or consulate of the Slovak Republic and the district office in the regional seat will decide on the petition within six months of its receipt.

Another means of loss of Slovak citizenship under the new governance of the act on Slovak state citizenship

This amendment institutes into Slovak law a new means of losing Slovak citizenship in addition to release from alliance with the Slovak Republic at one's own request. This new means of losing Slovak citizenship is *ex lege* as the consequence of obtaining citizenship of a foreign country by express manifestation of will¹.

According to § 9.16 of the act on Slovak state citizenship, a citizen of the Slovak Republic will lose Slovak citizenship on the day on which he/she voluntarily obtains citizenship of a foreign country pursuant to express manifestation of will, such will being a petition, declaration or other act tending toward obtaining citizenship of a foreign country. In other

¹ § 9.1b) of Act 30/1993 Coll. on Slovak state citizenship

words, a person will lose Slovak citizenship *ex lege* on the day he/she obtains citizenship of a foreign country. It is important to note, however, that § 9.17 and § 9.18 of this act set out exceptions to this rule to which the aforementioned procedure will not apply.

- § The first exception is that citizenship will not be lost if a Slovak citizen obtained citizenship of a foreign country in connection with marriage to a citizen of that country, assuming that this person obtained the foreign citizenship during the course of the marriage.
- § The aforementioned rule will further not apply in cases where citizenship of a foreign country was acquired by birth.

In both of the aforementioned cases, Slovak citizenship will not be lost due to the obtaining of citizenship of a foreign country pursuant to express manifestation of will.

Reporting duty associated with loss of Slovak citizenship upon obtaining citizenship of a foreign country pursuant to express manifestation of will

The amendment sets out that a person who has lost Slovak citizenship in the aforementioned manner must notify² the district office in the regional seat forthwith of such loss of citizenship. According to § 9b.1d), a person who fails to make immediate notification of his/her loss of Slovak citizenship is guilty of a misdemeanor, for which there is a fine of € 3,319.

The district office in the regional seat will notify the city of permanent address, police department, tax office, customs office, social security agencies and public health insurance bureau of the loss of state citizenship in this manner (likewise with loss of Slovak citizenship by renouncement).

Holding an office that is tied to Slovak citizenship and the new manner of loss of Slovak citizenship

According to the subject amendment, the day on which a person loses his/her Slovak citizenship in the aforementioned manner he/she will also be terminated from state employment, service employment or other similar labour relationship that constitutes an office, employment or profession, the performance of which requires one to be a citizen of the Slovak Republic. Likewise, any security clearance authorizing access to classified information will also be revoked. In both cases, however, the condition must be met that special law does not set out otherwise.³

Conclusion

The amendment to the act on Slovak state citizenship institutes into Slovak law, *effective as of 17 July 2010*, a new manner of losing Slovak citizenship by laying down loss of citizenship in cases where citizenship of a foreign country is obtained if such other citizenship was obtained in accordance with one's express manifestation of will. However, this provision is not applicable to cases where citizenship of a foreign country is obtained by birth or through marriage. It is our opinion that this amendment is not effective retroactively and therefore

² § 9.19 of Act 30/1993 Coll. on Slovak state citizenship

³ § 9.22 and § 9.23 of Act 30/1993 Coll. on Slovak state citizenship

those persons who have already obtained and now have dual citizenship will not lose their status.

The subject act deals with loss of Slovak citizenship on the basis of certain circumstances laid down by the act. This means that if a foreign national applies for Slovak citizenship and meets the requirements, under Slovak law such person can have dual citizenship – Slovak citizenship and citizenship of another country.

In our opinion the controversy may be over the applicability of provision of § 9.3 of the act on Slovak state citizenship, which upon fulfillment of the conditions set out prohibits release from alliance with the Slovak Republic in the following cases: (i) if the person is under criminal prosecution or is serving a sentence, or has yet to commence serving a sentence pursuant to a judgment handed down by a Slovak court of law, or (ii) if the person has outstanding tax liabilities and outstanding social security and public health insurance liabilities in the Slovak Republic. It is therefore debatable whether we would be able to apply this provision even in cases of loss of Slovak citizenship if a Slovak citizen petitioned for citizenship other than Slovak citizenship and was granted such other citizenship. The question, therefore, is whether in such a case a person would lose Slovak citizenship *ex lege* as presumed by the amendment to the act despite the fact that the existing version of the act, which remains in effect, presumes in cases of loss of citizenship that said person is not under criminal prosecution and has no outstanding tax liabilities, as stated above.