



## DEVELOPMENT OF THE FOOD ACT OF THE SLOVAK REPUBLIC FROM 1995 TO 2021

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### ABSTRACT

Legislation in food is quite fragmented, it includes several regulations, amendments due to the rapid development both in the studied area and the influence of European law. It is a legal branch of a relatively hybrid nature. It contains agricultural legislation that intersects with environmental law. It also affects administrative, financial, and criminal law as a branch of public law. Nor can commercial and civil law as the basis of private law be circumvented here. The legal norm has undergone a relatively interesting development, which is characterized by several amendments. During the more than 25 years of validity of this legal norm, a total of more than twenty amendments. This certainly does not contribute to the stability of the legislation, the legal certainty of the entities concerned, or its clarity and system. The article provides an overview of the development of the legal regulation of the Food Act in Slovakia from 1995 to 2021.

**Keywords:** food law; Slovakia; food legislation; legal act; amendment

### INTRODUCTION

If we want to talk about the legislation in this legal norm, it is necessary to see it in a broader context. **Food Act No. 152/1995 Coll (NR SR, 1995a)** is a basic norm of food law in Slovakia. This is a legal sector of a relatively hybrid nature. Contains requirements related to agriculture and food production and the environment. It also affects administrative, financial, and criminal law as a branch of public law. Nor can commercial and civil law as the basis of private law be circumvented here. In addition, legislation in this area is characterized by the strong influence of European Union law. Overall, the lawyer can describe this branch of law as relatively fragmented, i.e. including several decrees, amendments, which are caused both by rapid developments in the area under study and the mentioned impact of European law.

The characteristic of food law is the fact that it regulates the activities of various entities, which often have conflicting interests. On the one hand, it is food businesses operators, it is the European Union and the Member States that must protect food safety as part of their policies, and it is also consumers who have their requirements. Comprehensively, food law should be the result of the compromise claims of all these entities. The European Commission enforces EU food law by checking that Member States incorporate EU legislation into their national law and implement it correctly, while national

agencies are responsible for ensuring that EU rules are respected (**European Union, 2021**).

Legislation in the food industry must pursue the protection of public health and economic objectives must protect consumers, but also prevent abuse of economic position in the market between manufacturers and dealers. It is a fact that food law is a matter of everyday life that we all encounter. Naturally, as food is a necessary segment, we are entering the legal position of a consumer, so we are directly affected by these issues. Then, in the legal plane, it is necessary to consider the legal protection of the consumer, which has a special course and protect the weaker party in the event of civil procedure, and at the same time, it is necessary to take into account public administration in case of damage to a wider range of consumers. Although it should be mentioned here that our legal system does not yet include the possibility of filing a so-called class action. Although Directive of the European Parliament and of the Council No. 2020/1828 of 25 November 2020 (**EU, 2020**) by wildcard actions to protect collective interests of consumers are opening new space and how they are planning in the Czech Republic, the Slovak Ministry of Justice is not concerning such a change. The Slovak Ministry of Justice wants to wait until the European Directive enters into force (and it can be a tool for solving the dual quality of food).

## DISCUSSION

### Several aspects in the historical development of the Food Act No. 152/1995 Coll. Of the Slovak Republic

The need for the legal regulation of food properties and the conditions for their exchange and marketing arose here relatively soon. Already in Roman law, we find provisions on agricultural land, the prohibition of its crushing within the inheritance, or e.g., classification of food as consumable. At first, it was about individual products, e.g., food ingredients (e.g., salt, spices, mushrooms, flour milling). Later in the 19th century, more systematic legal foundations of food law were laid. In our legal field, until the disintegration of Austria-Hungary in 1918, Austrian law was valid for the Czechs. In contrast to the Czech law on the territory of Slovakia to form the first Czechoslovak Republic was true Hungarian common law.

In the Austrian part of the monarchy (where there was no general health law), was adopted law No. 89/1897 on trade in food and certain useful objects and Hungary this issue was regulated within the legal regulation of public health (§ 14 of Act No. XIV/1876), supplemented by a special act. No. XLVI/1895 on the prohibition of adulteration of crops, products, and needs. Based on them, several implementing regulations were gradually issued for individual products and cross-sectional issues (packaging, dyes, etc.). Special laws were issued prohibiting wine adulteration (Act No. 210 of 12 April 1907 and Act No. XLVII/1908) (URL 1, 1995).

This legislation focused on food control, entrusted to a system of general bodies, and supplemented by special state or state-authorized institutes for technical testing of food. The legal regulation was supplemented by special regulations governing veterinary care and varietal law, general regulations on the protection of designations of origin, and, finally, regulations of a clear economic nature (e.g., making fixed milk prices for dairies by dairy treatment – Government regulation No. 76/1934), as and trade regulations.

To date, an important and valued step in Austrian law has been the adoption of the so-called Food Code by (*Codex Alimentaris Austriacus*). The standard was published in three volumes in 1911, 1912, and 1917 and unified for individual products' valid regulations, description of goods, its composition, testing, etc. During its translation into Czech and the current update in the 1930s (organized by the self-government of the food industry and officially confirmed by a government resolution of 23<sup>rd</sup> of June 1934), it was extended (then as the Czechoslovak Food Code) to the former Hungarian law. The legal nature of the code was multidirectional, it was intended for food control authorities and institutes for technical testing of food, it was a binding guide for the courts, it acted as an expert.

Current foods law was adopted by the Parliament of the Slovak Republic on the 27<sup>th</sup> of June 1995 with effect from 1<sup>st</sup> of January 1996 except for § 9 paragraph. 1 – food labeling and misleading advertising ban, which came into effect from 1 July 1996, is published in the Collection of Laws in part 51. The standard is designed as a special law governing the specific conditions of food production, handling, and circulation of food, including tasks and organization of food supervision in the interests of health and consumer protection in the food market. It is divided into seven sections and 32 paragraphs, which for the first time form a comprehensive legislative framework for the

food Slovak Republic. At the same time, it also regulates the conditions to produce tobacco products and cosmetics. It sets out the basic obligations of food producers, conditions for their placing on the market, import, packaging of food, food labeling and prohibition of misleading advertising, storage conditions, transport, sale of food, tasks, and organization of food control authorities, powers of departments in authorizing laboratories performing testing and monitoring for state administration, etc. and subsequently, the section on the number of fines is based on these chapters according to which obligations the entrepreneur violates by law. The Food Act is only a framework regulation that regulates the basic conditions of food production, handling, and placing on the market. It pursues the objective of promoting and protecting human health and consumer protection. The Food Code of the Slovak Republic will be decisive, especially in its scope and focus, following § 3 of the Food Act, Food Codex of the Slovak Republic. The law radically intervened in the system of technical standards (replaced ordinary standards – common provisions), and in legal regulations in the field of hygiene, control, etc.

The theory recognizes the division of food law standards into horizontal or vertical standards, depending on their focus on either a particular type of food or on all foods across them. Thus, the horizontal rules set out the requirements for food quality (safety for human health, labeling requirements) in general. The Food Act itself can be included in this group. In the category of vertical regulations, we include standards that regulate requirements for a specific type of food, e.g., milk products. Food law shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices to the foods they consume. It shall aim at the prevention of fraudulent or deceptive practices; the adulteration of food and any other practices which may mislead the consumer (Ryan, 2016).

### The European Union and food law

Governing food security is a global, complex problem (Skovrad, 2011). The Slovak Republic is stable and long-term oriented towards integration into the European Union. The European Union combines health policy and consumer protection. The safety of goods, including food safety and the food warning system, the safety of services, which are also considered healthcare, have a high degree of priority.

Food law is also clearly defined by European standards. The basic standard is **Regulation (EC) No. 178/2002 (EU, 2002)** on the general principles and requirements of food law, which contains the definition of food law and lays down food law in force within the EU or at the national level. Food law in the EU must respect the *Codex Alimentarius*, as a complex of international quality standards and processes in the field of the food industry. The definition of food is present in **Regulation (EC) No. 178/2002 (EU, 2002)**. Food is a substance or product intended for human consumption or in which it may be assumed give that person will consume it. Which is a very broad base. The regulation sets requirements for food quality and safety. It also contains a definition of food in a negative sense. It does not consider food, feed, live animals, tobacco products, medicinal products, etc. It does not apply

to the production of foodstuffs intended solely for personal consumption.

A further regulation, which can be included in the horizontal rules is for example a **Regulation (EC) No. 852/2004 (EU, 2004a)** on the hygiene of foodstuffs laying down hygiene requirements for the production, processing, and placing on the market of foodstuffs. The vertical norm here is e.g., **Regulation (EU) No. 1308/2013 (EU, 2013a)** on the common organization of the markets in agricultural products. This regulation is laying down requirements for milk products, wine, fresh fruits, etc. from wine grapes. It regulates legal names reserved for certain types of food, which must meet quality requirements. A similar example is a **Regulation (EC) No. 110/2008** of spirit drinks (EU, 2008).

Harmonization in the field of food law intensified mainly at the beginning of the 21st century. At a time of free movement of people and goods, and therefore of food, within the European Union, it is inconceivable that there should be obstacles to their functioning. Harmonization of rules is intended to prevent the creation of barriers to food trade between the Member States. During this period, food standards have changed their nature from a directive to a regulation, which makes the standard more binding. Where a directive indicates only an objective and leaves the choice of its attainment to national law, the regulation must already be directly incorporated into the laws of the Member States.

European legislation in this area is based on the basic premise of the protection of human health (see Regulation No. 178/2002) and the "farm to fork" principle. Thus, the legislation should cover the whole process of food production up to final consumption. At the same time, associated goals such as good conditions for farmed animals, the quality of their feed. At the same time, the European Union emphasizes the protection of consumers who have the right to product information. From the 13<sup>th</sup> of December 2014, it entered into force new **Regulation (EU) No. 1169/2011 (EU, 2011a)**, which regulates the new labeling requirements and stipulates that voluntary information may not be provided to the detriment of mandatory particulars. Respect for the principles of fair trade in the food market is another pillar at the level of European regulation.

If we are talking about harmonization, the area of food law, which is regulated only by the primary law of the European Union, cannot be circumvented. The Treaty of Lisbon prohibits the restriction of the European Union's internal market based on national technical national standards. However, European secondary law (i.e., regulations, directives, decisions of EU institutions) does not regulate all food requirements. The unadjusted ones fall into the non-harmonized area and are corrected by the legislation of the Member States. Mainly in so-called vertical requirements, such as e.g., requirements for the quality of fatty products, there are no harmonized requirements set at the EU level. The principle of mutual recognition applies in the non-harmonized sphere. It was based on the European Court of Justice (currently the Court of Justice of the European Union) in the well-known Cassis de Dijon case (Case 120/78, Rewe-Bundesmonopolverwaltung für Branntwein [1979] ECR 649) under French currant liqueur, the marketing of which was restricted regarding lower alcohol content in Germany

due to non-compliance with German national regulations. The principle of mutual recognition thus means that if a product is placed on the Union market in one Member State following its legislation, it must also be recognized on the market of another Member State (Čejka, 2014).

With the adoption of the Food Act, the conditions for food production, handling, and marketing in the Slovak Republic, as well as the tasks and organization of food supervision over compliance with this Act were established for the first time in the Slovak Republic. Based on empowering provisions in the Act, the *acquis* in the field of foodstuffs has been gradually implemented since 1996 by drafting horizontal and vertical legislation in the Slovak Republic in connection with EU Directives and Regulations and negotiations with the European Commission.

#### **Gradual development and changes in the Food Act No. 152/1995 Coll. Of the Slovakia Republic (NR SR, 1995a)**

From the point of view of a lawyer, the examined legal norm underwent a relatively interesting development, which is characterized by several amendments. During the more than 25 years of validity of this legal norm, a total of more than twenty amendments have been made. This certainly does not contribute to the stability of the legislation, the legal certainty of the entities concerned, or its clarity and system. So, let's try to approach the process of these changes gradually, although the study will certainly not be complete and exhaustive regarding the scope of the paper. The first change came a year after the law was passed.

#### **Act No. 290/1996 Coll. SR (NRSR, 1996a), which amends the Act of the National Council of the Slovak Republic No. 272/1994 Coll. SR (NRSR, 1994a) on the protection of human health, as amended by Act of the National Council of the Slovak Republic no. 222/1996 (NRSR, 1996b) Coll and amending certain other laws**

The amendment to the Act aimed to regulate the management of sources of ionizing radiation and to allow the qualitative and quantitative survey of environmental and occupational factors in terms of their possible impact on human health and to exclude these activities from the regime of Act No. 455/1991 Coll. SR (NRSR, 1991) on Trade Licensing (Trade Licensing Act) as amended. As stipulated by the new regulation "It is possible to use sources of ionizing radiation for irradiation of foodstuffs only with the permission of the Ministry of Health of the Slovak Republic. It is prohibited to place on the market foodstuffs accidentally irradiated or containing radionuclides from emergency areas."

#### **Act No. 470/2000 Coll. SR also addressed the effects of ionizing radiation (NRSR, 2000).**

The regulation of the protection of human health against the effects of ionizing radiation then contained in the Act of the National Council of the Slovak Republic no. 272/1994 Coll on the protection of human health, as amended by Act of the National Council of the Slovak Republic No. 290/1996 Coll (NRSR, 1996a). He has not suited the current requirements for the protection of health, in addition, does not address the issue of natural radioactivity and the issue of the use of ionizing radiation in medicine in healthcare. Act of the National Council of the Slovak Republic No. 152/1995 Coll (NR SR, 1995a) on foodstuffs has been amended as follows: "The addition of

radioactive substances in the production of food is prohibited. The import of food and ingredients for their production to which radioactive substances have been added is prohibited. Adding radioactive substances in the manufacture of cosmetic products and placing on the market of such cosmetic products".

**Act No. 553/2001 Coll (NRSR, 2001) on the abolition of certain state funds, on certain measures related to their abolition, and on the amendment of certain laws**

In § 28 par. 6 letter a) the words "State Health Fund" are replaced by the words "state budget". Until then, the fines imposed during the performance of food supervision by health protection authorities were the revenues of the State Health Fund - the amendment abolished the fund, and the fines became the revenues of the state budget.

**Act No. 23/2002 Coll (NRSR, 2002a) which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll on foodstuffs as amended and on the amendment of certain laws**

An extensive amendment came in 2002. The changes made eliminate non-compliance with EU legislation, for example in the use of terms, removed pre-market control (previously mandatory certification or mandatory conformity assessment before placing food on the market), food labeling was brought into line with **Directive No. 2000/13/EC (EU, 2000)**.

Other adjustments concerned the extension of the obligations of entrepreneurs, for example, the obligation to develop principles of good manufacturing practice, including the HACCP system following the Food Hygiene Directive, as well as the incorporation of new types of food, including labeling. All food businesses not related to primary production must comply not only with GHPs but also with procedures developed in the company based on the principles of the HACCP system (**Moran et al., 2017**). Benefits and constraints, as well as identifying needs for tailoring a HACCP system to suit the needs of small and less developed businesses like restaurants and eating places have been analyzed and discussed in several articles (**Dzwolak, 2014, Fielding et al., 2011, Pichler et al., 2014**).

This law also regulated the organization and scope, rights, and obligations of food supervisory authorities at all stages of the production process up to the sale of food in trade, which is in line with EU **Directive No. 89/397/EEC (EU, 1989)** on the official control of foodstuffs. An integrated body was created at the State Veterinary and Food Administration of the Slovak Republic.

The changes made were based on the White Paper on Food Safety of January 2000 as well as the proposal for a Regulation of the European Parliament and the Council of the European Union on the Food Act.

**Act No. 450/2002 Coll (NRSR, 2002b), Amending the Act of the National Council of the Slovak Republic No. 152/1995 Coll on Foodstuffs, as amended, and amending Act of the National Council of the Slovak Republic No. 277/1994 Coll (NRSR, 1994b) on health care as amended.**

In § 2 par. 1, in the third sentence, the words "are not" are replaced by the words "are also". Thus, foods according to the law are also dietary foods for special medical purposes as defined by a special regulation.

**Act No. 472/2003 Coll (NRSR, 2003a), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll on Foodstuffs, as amended, and on Amendments to Certain Acts.**

Changes based on where they need to incorporate into food law, certain provisions of **Regulation (EC) No. Regulation (EC) No. 178/2002 (EU, 2002)** of the European Parliament and of the Council of the 28<sup>th</sup> January 2002 establishing the general principles and requirements of Food Law, establishing the European Food Safety Authority, and laying down procedures in matters of food safety.

In the Food Act **No. 152/1995 Coll. SR (NR SR, 1995a)** some of the requirements of these articles have already been enshrined in the wording of later regulations, such as the requirements for food safety placed on the market (Articles 14 and 16), the liability of businesses and the system of official controls and the adoption of measures and penalties for infringements (Articles 17 and 19 of the Regulation), traceability (Article 18), which is not contrary to the Regulation.

Other proposed amendments, as well as proposed amendments to some laws, are based, for example, on the requirements of the Dublin Mission, the creation of conditions and redistribution of responsibilities for origin marking and geographical indications (§9a), food supervision reserves, and knowledge of the application of food law in practice. Further adjustments were required by the Food Act after the accession of the Slovak Republic to the EU in 2005 in connection with findings from the application of other articles of the Regulation, other forthcoming regulations such as the Hygiene Directive, official food, and feed control, etc., to resolve the possibility of laws directly to the EU Regulation and thus the reconstruction and scope of areas.

It is stipulated that the application of this law does not apply to areas related to the needs of private persons, such as animal husbandry, vegetable and fruit growing, etc. up to their processing into finished products and if it is carried out exclusively for private domestic consumption. The wording of what is food and what is not food is clarified. At present, as in some Member States and after consulting the Commission's representatives, tobacco and tobacco products have remained within the scope of this law.

It defines what is meant by a system for the rapid exchange of food information through notifications between the authorities concerned in cases where food is shown to be harmful to health or there is a reasonable suspicion that it may pose a serious risk to the health and safety of consumers.

The Rapid Alert System for Food and Feed is organized by the European Commission (DG XXIV. Consumer and Health Protection) as a form of rapid information to the Member States on food problems and risks. RASFF database provides information on each report recorded, including the type and date of notification, the reason for notification, the hazard(s), the nature of the product involved, the country of notification, and the country of origin (**European Food Safety Authority, 2010; Djekic, Jankovic and Rajkovic, 2017**). The implementation of this system results from the commitments of the Slovak Republic in the accession process. The State Veterinary and Food Administration of the Slovak Republic is established

as a contact point. The principle of preventivity according to Art. 7 of the Regulation.

It provides for the redistribution of the competence of the Industrial Property Office of the Slovak Republic and the Ministry of Agriculture of the Slovak Republic in the administration of designations of origin and geographical indications of agricultural, **Regulation (EEC) No. 2081/92 (EU, 1992b)** requires an expert assessment of the product specification submitted by the applicants.

Professional assessment, as well as authorization of control bodies, falls fully within the competence of the Ministry of Agriculture of the Slovak Republic. The power of food control authorities to make copies or extracts from inspected documentation is added. The competence of the employees of the food supervisory authorities in the direct performance of control and the adoption of measures to eliminate the identified deficiencies, which are not covered by § 31 part 2 of the Act – general regulations on administrative proceedings.

In § 23, paragraphs 3 and 6 on the conditions for revoking the certificate of professional competence for the classification of carcasses according to § 6a and the control of food of plant origin at border crossings are added.

According to **Act No. 272/1994 Coll. SR (NRSR, 1994a)** on the protection of human health, as amended, control – health supervision in mass caterers is the responsibility of health protection authorities.

In the EU, however, regulations – Directives, Food Regulations also cover food in the provision of catering services. Inspection by health protection authorities must also be based on this Act and in particular the Food Codex and the interpretation of Art. 14 of the above-cited directive and not only regulations issued based on the Act on the Protection of Human Health.

Following the conclusions from the mission from Dublin, the responsibility of the Ministry of Defense of the Slovak Republic and the Ministry of Health of the Slovak Republic was redistributed within food law in individual areas (EU regulations or for national use) according to § 3 part 1, which stipulates the elaboration of the Food Codex and other generally binding legal regulations based on empowering provisions in the Act.

It specifies that the provisions of the Veterinary Care Act and the Health Protection Act do not apply to food supervision if it is carried out under this Act. As far as sampling and analysis are concerned, this procedure is not subject to the general rules on administrative procedure.

The EC maintains the maintenance of the food register as a barrier to the free movement of food. Based on this, the Decree of the Ministry of Justice of the Slovak Republic no. 240/2002 Coll. on the registration of manufactured and imported foodstuffs on the day of entry into force of the Treaty of Accession of the Slovak Republic to the EU.

It is further supplemented when the non-fulfillment of obligations is considered a misdemeanor or administrative offense.

A legal framework is being created for the establishment (**URL 2, 2003**).

**Act No. 546/2004 Coll. SR (NRSR, 2004), which amends the Act of the Slovak National Council No. 30/1992 Coll. SR on the Slovak Chamber of Agriculture and Food, as amended by Act No. 448/2001 Coll. SR and amending certain laws**

The main objective of Act no. 546/2004 Coll. SR, Amending the Act of the Slovak National Council No. 30/1992 Coll. SR on the Slovak Chamber of Agriculture and Food, as amended by Act No. 448/2001 Coll. SR is to abolish compulsory membership in the Chamber, clarification of cooperation between the Chamber and the relevant state bodies, an extension of the provision of services for members of the Chamber. This novelization also touched on genetically modified foods and the so-called novel foods. Novel foods and genetically modified foods are also marked on the consumer packaging with data according to special regulations.

Food produced or put into circulation in a Member State of the European Community or originating in one of the countries of the European Free Trade Association which is also a party to the European Economic Area may not be refused for placing on the market in the Slovak Republic provided that the food complies with the regulations and production methods which are binding for the production or placing on the market of the food in one of these States and which guarantee their health safety.

The national authority for the administration of special regulations and contact with the European Food Safety Authority is the Ministry.

Testing at official food controls is carried out by laboratories authorized by the Ministry or the Ministry of Health. The ability to perform the test is demonstrated by an accreditation certificate. Other accredited laboratories may perform testing based on authorization from the Ministry or the Ministry of Health within the scope of the subject of accreditation.

**Act No. 195/2007 Coll. SR (NRSR, 2007), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR on foodstuffs as amended**

Act No. 195/2007 Coll. SR lays down new requirements for the performance of official controls on foodstuffs, which are not addressed in the current legislation and are related to the adoption of **Regulation (EC) No. 882/2004**. It regulates at the national level the competence and tasks of state administration bodies for carrying out official food controls in practice following the procedures in the European Union valid from 1 January 2006. The aim of implementing Council **Regulation (EC) No. 882/2004 (EU, 2004b)** is to harmonize the performance of official food controls in the Slovak Republic. with the harmonized framework of general rules for the organization of inspections in the European Community.

**Act No. 318/2009 Coll. SR (NRSR, 2009), which amends the Act of the National Council of the Slovak Republic No. 270/1995 Coll. SR (NRSR, 1995b) on the state language of the Slovak Republic, as amended, and on amendments to certain laws**

In § 9 part 1, the words "in the state language" shall be replaced by the words "in the codified form of the state language". The aim of Act no. 318/2009 Coll. on the state language was to clearly define the position of the Slovak language in public life and to define the extent of the use of the Slovak language in public relations, but it also guarantees its protection and ensures its care.

**Act No. 114/2010 Coll. SR (NRSR, 2010) which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR on foodstuffs as amended and on**

**the amendment of Act No. 44/1988 Coll. ČSFR (ČSFR, 1988) on the protection and use of mineral wealth (the Mining Act), as amended**

The purpose of Act no. 114/2010 Coll. SR, it has been stricter to sanction those who do not comply with legal obligations by official food control authorities. Subsequently, because of these facts, it is desirable to legally establish the requirement of informing the public in the sense that the Ministry of Agriculture of the Slovak Republic and the Ministry of Health of the Slovak Republic within their competencies under this Act will inform the public about unsafe food, the risk to human health and the measures taken.

**Act No. 349/2011 Coll. SR (NRSR, 2011), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR on foodstuffs as amended**

The Ministry of Agriculture and Rural Development of the Slovak Republic prepared the above-mentioned novelization, especially regarding the significant dynamics in the adoption of legislation and its changes in the food area. When drafting the bill, the need for change or additions to the relevant provisions of Act no. 152/1995 Coll., in the implementation of which the bodies of official food control have encountered certain problems since the entry into force of the last amendment to the Act.

Among other things, the amendment amended the area of fines and other administrative offenses in a new way, introduced an information obligation for food business operators to place the results of inspections on a notice board, and deleted provisions that are already regulated by other directly applicable legal acts of the European Union. The subject of an amendment to Act no. 152/1995 Coll. SR. It was necessary to change the subject of the regulation and bring it in line with the current situation, given that a large area of food safety and quality is addressed by the currently directly applicable legal acts of the European Union. Terms that are governed by directly applicable EU acts are deleted. The regulation of tobacco products will be addressed comprehensively by the Tobacco Products Act.

Following the new concept, details on food safety, production, handling, and placing on the market will be regulated by regulations of the Government of the Slovak Republic, which will gradually repeal the Food Code. Health safety has also been regulated by a directly applicable legal act such as food safety.

Regarding the purpose of the submitted amendment, internet sales have also been added. § 6 paragraph 3 stipulates which foods the food business operator may place on the market, following directly applicable legal acts of the European Union. In § 6, a new paragraph 4 is inserted, which sets out the obligations of entities when placing food or nutritional supplements on the market through internet sales.

Established the early warning system and risk analysis. The Rapid Alert System for Food and Feed (RASFF) provides food and feed control authorities with an effective tool to exchange information about measures taken to respond to serious risks detected concerning food or feed (EC - DG Health and Consumers, 2021). The new requirements in § 7 set out the obligations of the consignee of a food consignment and the consignee of a consignment of materials and articles intended to come into contact with

food. Clarification of competencies and information towards the European Commission. It has been established which bodies carry out food controls within the scope of their competence.

The establishment of competencies of the Ministry of Agriculture and Rural Development of the Slovak Republic and the Ministry of Health of the Slovak Republic in the area of management and performance control the performance of state administration by official food control bodies, paragraph 2 specifies individual activities of the Ministry of Agriculture and Rural Development of the Slovak Republic and paragraph 3 specifies the activities of The Ministry of Health of the Slovak Republic. Both Ministry appoints one or more cooperating bodies, which cooperate with the authorities of other Member States as necessary. The role of the cooperating authorities is to assist and cooperate in the communication between the competent authorities, by sending and receiving requests for assistance. The Ministry of Agriculture and Rural Development of the Slovak Republic notifies the cooperating bodies to the European Commission and informs the European Commission and the other Member States of all relevant detailed data on the designated cooperating bodies and any changes to these data.

Regarding the aim of the amendment, a provision is added, the power of official control inspectors to perform control in another territorial district is extended to increase the effectiveness of official control and consumer protection. It is specified that laboratories must be accredited.

A new § 29a is inserted, which refers to the annex, which contains a list of legally binding acts of the European Union (URL 3, 2011).

**Act No. 459/2012 Coll. SR (NRSR, 2012a), which amends Act No. 362/2011 Coll. SR (NRSR, 2011) on Medicinal Products and Medical Devices and on Amendments to Certain Acts, as amended by Act No. 244/2012 Coll. SR (NRSR, 2012b) and amending certain laws**

The aim of Act No. 244/2012 Coll. SR was the strengthening of the supervision of medicinal products for human use, market surveillance and sanctions for non-compliance with the relevant provisions, for marketing authorization holders of medicinal products for human use. The amendment to the Act amended the existing provisions on the production of medicinal products for human use, wholesale distribution of medicinal products for human use, and dispensing of medicinal products for human use following the **European Parliament and Council Directive 2011/62/EU (EU, 2011b)** to prevent the penetration of counterfeit medicines in the legal supply chain drug.

In § 31aa part 1, the words "31<sup>st</sup> December 2012" are replaced by "31<sup>st</sup> December 2014". The provisions of the Food Code remain valid and effective until the adoption of generally binding legislation in the relevant areas until 31<sup>st</sup> December 2014 at the latest.

**Act No. 42/2013 Coll. SR (NRSR, 2013), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR on Foodstuffs, as amended, and which supplements and amends certain laws**

The law aimed to achieve a high level of protection of human health and consumer protection in the market through new measures aimed at preventing the re-

importation of unsafe food and food unfit for human consumption from the Member States. Among other things, the Act expands the competencies of employees of the official food control body, the rates of fines have been adjusted, and it introduces a sanction for the municipality in the event of non-fulfillment of obligations under this Act.

The changes affected the Accredited Training Program, the minimum requirements for education and training, and the requirements for acquiring, maintaining, and demonstrating the required competence to perform tasks related to animal procedures.

**Act No. 36/2014 Coll (NRSR, 2014a), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll Food, as amended, for DPIs**

The purpose of the changes was to supplement the power to issue a decree on the labeling of foodstuffs with voluntary information, such as composition and origin (Slovak food) and their use for promotional and marketing purposes.

Another goal was to introduce measures to facilitate and simplify the feasibility of providing information on the percentage of sales of food produced in the Slovak Republic by turnover on food from the total supply of food sold and publishing a list of operators with this percentage.

The draft of the law regulated some ambiguities and inaccuracies of the **Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR (NRSR, 1995a)** on foodstuffs, as amended, on the obligations of the operator and the Ministry in submitting information and publishing the list. According to the current § 12a, § 28, part 2 letter q) and r) and § 30a par. 2 of the Act, the following problems were identified in their application:

- according to § 12a part 1 of the Act, it is not clear exactly to whom the obligation to provide information applies,
- according to § 12a part 2 of the Act, it is not clear in what form the list should be published,
- according to § 28, part 2 letter q) of the Act, a fine for breach of duty under § 12a part 1 of the Act is imposed by the body of official food control, in this case, the State Veterinary and Food Administration of the Slovak Republic, which, however, is not authorized by law to control the accuracy of the information provided,
- due to the ambiguity of § 12a part 1 of the Act, the forms of processing the list and the forms of its publication were also unclear.

By adjusting the publication of the list only for own establishments together, the publication of the list of other operators is prevented. In this way, the final consumer will have a clearer overview of the share of sales of food produced in the Slovak Republic by turnover in food from the total supply of food sold, broken down by individual branches of the food industry, which operator. It specifies the method of reporting the supply of food from another EU Member State.

The authorization of the Ministry to issue a generally binding legal regulation setting out details on the possibility of labeling food and agricultural products with voluntary claims and their use for promotional and marketing purposes, as well as the scope of effectiveness to which food and agricultural products are applied, is supplemented.

The obligation of the operator to submit information only for the Slovak Republic (originally for the first five countries of origin) and the obligation to publish this information in a visible place at the entrance to the

establishment intended for the final consumer on its website is regulated.

The operator who will be obliged to submit information to the Ministry according to this draft law is precisely defined. For example, e.g., operators, with their retail establishments, whose main activity is food production or exclusive food distributors, i.e., those operators whose main activity is not the sale of food to the final consumer, but the production, preparation, or serving food.

By publishing a model of the half-yearly report on which the operator will send information to the Ministry, the methodology for submitting information will be unified.

By publishing the list of operators on the Ministry's website, an overall overview of the share of food sales produced in the Slovak Republic according to turnover on food from the total supply of food sold and broken down by individual branches of the food industry of obligatory operators. The proposed legislation prevents the publication of the list of other operators by other operators when entering the establishment intended for the final consumer, thus achieving a clearer overview of the share of total sales of food produced in the Slovak Republic by turnover of food from the total supply of food sold and individual branches of the food industry, the operator of which.

The competence to perform official food control of the bodies of the state veterinary and food administration is extended to foods marked with voluntary data.

The Ministry is authorized to carry out an inspection, within which it will examine the accuracy, completeness, and veracity of the information submitted by the operator according to § 12a part 1 letter a). Competence is supplemented due to the need for retrospective control and verification of submitted data by obligated persons. The findings are then the basis for the possible imposition of a fine, if the information required by law has not been sent, or if data have been provided that do not correspond to the facts, resp. otherwise unsatisfactory.

A new factual basis is established, in the fulfillment of which it is possible to impose a fine in the range from 100 euros to 100,000 euros if the liable person does not entrust the half-year statement in the manner and at the time provided by law, as provided for in § 12a par. 1 letter b).

The number of fines for the second and further breach of obligations under § 28 part 4. The authority of the Ministry to impose a fine shall be extended if the liable person has not sent the required data to the Ministry in the form of a half-yearly report in the time and form required by law or has provided false information (**URL, 4, 2014**).

**Act No. 101/2014 Coll. SR (NRSR, 2014b), which amends Act No. 178/1998 Coll. SR (NRSR, 1998) on the conditions of sale of products and provision of services on marketplaces**

Requirements for the use of flavorings in foods for infants and young children and certain requirements for food fortification may be laid down in generally binding legislation issued by the Ministry of Health.

**Act No. 30/2015 Coll. SR (NRSR, 2015), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll (NRSR, 1995a) on foodstuffs as amended**

Ministry of Agriculture and Rural Development of the Slovak Republic the Ministry of Health of the Slovak

Republic shall regulate the areas specified by a generally binding legal regulation.

Requirements for food safety and their quality, hygiene must be observed by everyone who produces, handles, and places food on the market.

An operator who packages foodstuffs in connection with their production, handling, or placing on the market, other than the primary producer, is obliged to have a professional or other legally qualified people in the field of food or veterinary medicine.

The amendment affected the production of sprouts. The term "internet sales" is replaced throughout the text of the law by the words "distance selling"

**Act No. 376/2016 Coll. SR (NRSR, 2016), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR (NRSR, 1995a) on foodstuffs as amended and on the amendment of Act No. 39/2007 Coll. SR (NRSR, 2007) on veterinary care as amended**

The amendment regulates the possibility of using food after the date of minimum durability within the global trend to reduce the loss of food and food waste, including the determination of responsibility for the safety of these foods. Furthermore, the amendment imposes an obligation on legal entities and natural persons – entrepreneurs who perform food analysis to report to the ŠVPS SR a finding that the food is harmful to health.

After the date of minimum durability, only if it is safe, the operator may transfer the food free of charge to a person performing a public benefit activity (Charity Organization) free of charge.

A producer of small quantities of food, which sells its products directly to the final consumer or delivers them to a retail establishment in the Slovak Republic, is not obliged to label its products with nutrition information or include this information in the accompanying documents. A producer of small quantities of food is a producer under special regulations or a producer who employs a maximum of 15 people who carry out food production in an employment relationship, a similar employment relationship, or another employment relationship and whose annual turnover does not exceed EUR 700,000.

**Act No. 91/2019 Coll. SR (NRSR, 2019a) on Unreasonable Conditions in the Food Trade and on Amendments to Certain Acts.**

The amendment aimed to clarify the current provisions governing unfair terms, to incorporate new provisions governing unfair terms based on knowledge from the development of business relations between food suppliers and food buyers and on experience from application practice, to introduce a general unfair terms clause, violation of which can be sanctioned. the controller's streamlining of control by introducing a separate control process, enabling the submission of anonymous complaints drawing attention to possible violations of the law, application of the provisions of the law even if the contractual relations of the participants in the business relationship are governed by other laws than the Slovak Republic.

A detailed definition of unfair terms was necessary to protect those parties to the business relationship to those whose unfair terms are required, agreed upon, or applied. Unreasonable conditions are the result of the abuse of

economic power by one of the parties to the business relationship. They are manifested by requiring, agreeing, or applying unilaterally advantageous business conditions, most often in the form of various monetary benefits or non-monetary benefits of the supplier beyond the agreed purchase price or in the form of discounts on the purchase price, which clearly benefits the customer and conversely, significantly weakens the supplier. Abuse of a stronger position in the business relationship and practices in the form of imposing unfair terms can seriously damage the food supply chain as such, which can have a subsequent negative impact on the whole economy as well as final consumers and can pose a serious risk to the food sovereignty of the Slovak Republic. Business relations are significantly distorted and the so-called factor of fear that causes a party with a weaker bargaining position not to fully exercise its rights and, out of fear of jeopardizing trade relations, prefers to accept the often unilaterally favorable terms of a counterparty with greater bargaining power.

In recent years, the issue of unfair trading practices (translated from the term "unfair trading practices" used at the European level) has begun to receive increasing attention. Analyzes and surveys have shown that unfair commercial practices are common in the food supply chain. Most Member States of the European Union have assessed their existence and application in trade relations as a risk to the proper functioning of the food supply chain and have introduced or plan to introduce legislation to eliminate them.

The issue of unfair trade practices (as part of the complex issue of strengthening the position of farmers in the food supply chain) was one of the priorities of the Slovak Presidency of the Council of the European Union in the second half of 2016. at the European level ([URL 5, 2019](#)).

**Act No. 303/2019 Coll. SR (NRSR, 2019b), which amends the Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR (NRSR, 1995a) on foodstuffs as amended**

The Ministry of Agriculture and Rural Development of the Slovak Republic submitted an amendment based on the requirements of the European Union and the requirements that emerged from practice. The amendment was necessary to bring the current legislation into line with European Union food law. This need for harmonization arose in particular following the adoption of the new **Regulation (EU) No. 2017/625 (EU, 2017)** of the European Parliament and of the Council of 15<sup>th</sup> March 2017 on official controls and other official activities performed to ensure the application of food and feed law and animal health and animal welfare rules, on plant health and plant protection products, amending **Regulation (EC) No. 1907/2006 (EU, 2006a)** of the European Parliament and of the **Council 999/2001 (EU, 2001a)**, **(ES) No. 396/2005 (EU, 2005)**, **(ES) No. 1069/2009 (EU, 2009a)**, **(ES) No. 110/2008 (EU, 2008)**.

This regulation has become mandatory throughout the range and directly applicable in the Slovak Republic as well as in the other Member States of the European Union of 14<sup>th</sup> December 2019 but in response to its application in practice will require amendment of the Act particularly in the area of competence and the tasks of bodies of state administration on the section of official food control.

On the basis of **Regulation (EU) 2017/625 (EU, 2017)** the amendment to the law empowers state veterinary and food authorities and public health authorities to designate border inspection posts for official controls on food entering the EU from third countries while being entitled to suspend or cancel border inspection posts if they do not meet the minimum requirements set out in **Regulation (EU) 2017/625 (EU, 2017)**.

In contrast to the previous legislation, the amendment to the Act extended the competencies of the official food control bodies of the Ministry of Health of the Slovak Republic, namely in the area of official control of food of plant origin in the places specified in the **Regulation (EU) No. 2017/625 (EU, 2017)** and the field of official control of agricultural products and foodstuffs with a protected designation of origin, a protected geographical indication, an indication of a traditional specialty guaranteed, an indication of optional quality terms or a geographical indication spirit drink in mass caterers.

The amendment to the Act also makes some legislative and technical amendments concerning the compliance of the Act with the **Regulation of the European Parliament and of the Council (EU) No. 609/2013 from 12 June 2013 (EU, 2013b)** on food intended for infants and young children, food for special medical purposes and the total diet replacement for weight control which repealing **Directive No. 92/52/EEC (EU, 1992a)**, **Directive Commission No. 96/8/EC (EU, 1996)**, **No. 1999/21/EC (EU, 1999)**, **2006/125/EC (EU, 2006b)** and **2006/141/EC (EU, 2006c)** **Directive** of the European Parliament and Council **Directive 2009/39/EC (EU, 2009a)** and **Regulation Commission (EC) No. 41/2009 (EU, 2009b)** and **(ES) No. 953/2009 (EU, 2009c)** in force as amended, and the Regulation of the European Parliament and of the Council **(EU) 2015/2283 (EU, 2015)** of 25<sup>th</sup> November 2015 on novel foods, which was amended Regulation of the European Parliament and Council **Regulation (EU) No. 1169/2011 (EU, 2011a)**, which was repealed Regulation of the European Parliament and Council **Regulation (EC) No. 258/97 (EU, 1997)** and **Commission Regulation (EC) No. 1852/2001 (EU, 2001b)**.

The amendment also removes some of the existing shortcomings in the law, which resulted from the application practice of official food control authorities. The shortcomings concerned the notification of the arrival of consignments imported by food business operators from third countries, the method of entrusting accredited official laboratories to perform the analysis of samples taken during official food control, and issuing official certificates by official food control authorities to food business operators producing food in the Slovak Republic. food on the third-country market.

To ensure the legal certainty of the addressees of the legal norm and to fulfill the informative function of footnotes, the draft law regulates footnotes due more consistently to their updating and obsolete footnotes to references to which there are no longer relevant references in the law and which they have not yet been omitted from the law (**URL 6, 2019**).

**Act No. 198/2020 Coll. SR (NRSR, 2020) amending certain laws concerning the improvement of the business environment affected by measures to prevent the spread of dangerous contagious human disease COVID-19**

The provision deleting the suspensory effect of an appeal against a decision imposing a fine has been deleted, thus rendering the decision imposing a fine enforceable after it has been served on the addressee and the fine has become due on the expiry of the parity period. Re-granting the suspensory effect of an appeal as an appeal is of irreplaceable importance for the entities affected by the decision of the administrative body, as until the end of the appeal proceedings these entities are not obliged to fulfill the obligation imposed in the decision, the so-called pay the fine imposed.

This legislation repealing the **Act. No. 478/2019 Coll. SR (NRSR, 2019c)**, Amending the Act of the National Council of the Slovak Republic **No. 152/1995 Coll. SR (NRSR, 1995a)** on foodstuffs, as amended, which was to enter into force on 1 January 2024. This amendment to the Food Act, which has entered into force but not yet in force, contains, following the explanatory memorandum, legislation that is contrary to the principle of legal certainty (Article 1 (1) of the Constitution of the Slovak Republic) and is significant interference with contractual freedom. of the food business operator resulting from the principle of contractual freedom, i.e. donation should always be a voluntary and gratuitous fulfillment of the gift, not an obligation, as provided for in the amendment to the Food Act. For this reason, it is proposed to repeal this amendment to the Food Act (**URL 7, 2020**).

**Law No. 83/2021 Coll. SR (NRSR, 2021), which amends Act No. 469/2003 Coll. SR (NRSR, 2003b) on Designations of Origin and Geographical Indications of Products and on Amendments to Certain Acts, as amended, and amending Act of the National Council of the Slovak Republic No. 152/1995 Coll. SR (NRSR, 1995a) on foodstuffs as amended**

In § 9a par. 2, the word "technical documentation" is replaced by the word's "specification". Before applying for protection of a designation of origin or geographical indication, the specification of an agricultural product or foodstuff and the specification of spirits applying for registration of a geographical indication and established geographical indications of spirits must be professionally assessed and approved by the Ministry of Agriculture and Rural Development of the Slovak Republic.

## CONCLUSION

The Food Act is the broadest standard that legislates all procedures and processes in the food industry to guarantee food safety for the consumer. The Food Act can also be called a competent standard, as it establishes a supervisory authority and sets all the rules for food throughout the production process. Current changes also bring a lot of considerations. Despite the socially and ecologically welcome idea, allowing food to be sold after the minimum durability period raises the question of the degree of risk to the life and health of the consumer, depending on the use-by date and the date of minimum durability. A reflection on the price of such foods would also be appropriate. The very significant reduction in the price of the consumer already informs that the food is not in the normal mode.

Act No. 152/1995 also raises questions in the field of criminal law. The provisions contain disproportionate punishment in violation of the EC requirement. The legislator abolishes exclusively the "disproportionate"

lower limit of the fine, for EUR 1,000,000, which the supervisory authority imposed according to § 28 section 8 and replaces it with the amount of EUR 50,000. For the first violation of the law, it is possible to impose an order of magnitude higher fine than for its repeated violation.

As can be seen, the legislation in this area is not final and there is a presumption of dynamic development in the future.

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