



FÉDÉRATION EUROPÉENNE DES MÉDECINS SALARIÉS
EUROPEAN FEDERATION OF SALARIED DOCTORS

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Dear colleagues,

as we have already announced in Slovakia we face another attack on doctors and health care workers. Here below you can find a summary of the proposed changes in the law that criminalize healthcare workers in Slovakia. These changes were approved by government's MP in Health Committee of Slovak Parliament on April 23, 2013, the Slovak Parliament will vote on them in the coming days in May. The ruling party SMER- "social democrats", member of the PES in the European Parliament, has a majority in Slovak Parliament...

They planned to adopt the similar changes in January 2013, but they withdrew the proposal after protests of Slovak medical organisations and the letter of President of FEMS.

The current proposal is to be adopted without proper amendment procedure, bypassing the standard legislative process.

It implements a change of the concept of good repute, which is essential to the performance of the medical profession in Slovakia, the Ministry of Health will be authorized to impose a fine resulting in a 10-year exclusion from health care profession without a court decision, it implements amendments to the Criminal Code according to a crisis situation which are very similar to military criminal offenses, even the more stringent due to the wide range of undefined procedure.

Institute of a state of emergency in Slovakia was abused to the power game and rejection of dialogue and negotiation. In November 2011 state of emergency was declared in time of peace, without the threat of an unforeseen disaster.

The proposed amendment discriminates one section of the population against others on the basis of their profession.

Declaration of the State of Emergency in time of peace, without the presence of sudden and unforeseen event, as a means of quelling protests because of unwillingness of political solutions and refusal agreements and negotiations by the government is, in our opinion, contrary to Article 1 of the ILO Convention on the Abolition of Forced Labour number 105 of 1957.

Each member / 3 / of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to use any form of forced or compulsory labour:

- a) as a means of political coercion or education or as a punishment for persons having or expressing political views or manifest ideological opposition to the established political, social or economic system,
- b) as a method of mobilizing and using labour for economic development

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- objectives,
- c) as a means of labour discipline,
 - d) as a punishment for participation in strikes;
 - e) as a means of racial, social, national or religious discrimination.

Does someone want to say that for specific professions such doctors and nurses can use the form of forced or compulsory labour as a means of political coercion as a means of labour discipline, as a method of mobilizing the goals of economic development, as punishment for participation in strikes as a means of racial, social, national or religious discrimination? None of the articles of the Convention do mandate an exemption for any type of person or employee.

This is the link to the Convention on the Abolition of Forced Labour N. 105 of 1957, /it includes version in English and French language too/ www.zbierka.sk/sk/predpisy/340-1998-z-z.p-4568.pdf

This is an expert legal analysis of the current amendment to the law:

The amendment to the Criminal Code and the Law on Health Care Providers

In Slovakia in November 2011 we have seen that the institute of an emergency situation had been abused to a routine power game of government and to refusing of dialogue and negotiations by government. The denial of right to terminate the job contract, which belongs to every person, fell into the extreme, because of cynicism of government representatives which relied on the emergency state.

The current amendment to laws criminalizes doctors, nurses and other healthcare workers. It introduces the possibility for Ministry of Health to impose fines for healthcare workers and on the basis of granting the fine will then be withdrawal of the rights to carry out medical work and this without a trial for 10 years, and it through the obligation of deregistration in a chamber which is the condition to perform medical work. Chambers of health professionals will be required to revoke the registration of medical worker, thus the Ministry of Health usurps the real powers of Chambers of health workers as independent institutions. This proposal was in fact (as expressed by Mr Secretary of State of Ministry of Health in the Health Committee of Parliament) proposed by the Ministry of Health and hyped the fact that through members of parliament being circumvented the normal legislative without proper expert and substantive discussion, without commenting by public and by mandatory bodies such as Ministries and without discussion in the Legislative Council of the Government.

i/ Changing of the meaning of good repute

Good repute (which is an essential condition for performing the health care profession by law) loses also the doctor convicted of negligence, it means for unintentional crime which subject matter linked with performing of a health profession.

This means that any failure of a health care professional, although there will be a extenuating circumstance will mean the exclusion from the healthcare profession.

Also minimal intentional offenses unrelated to the performance of health profession (such as



poaching, perverting the course of official decisions, copyright infringement) will mean the loss of good repute.

§ 38 par. 1 of the Act. 578/2004 Z. z. on health care providers, health workers and professional organizations in the health and amending certain laws:	
The current wording of good repute	The proposed wording of good repute
<p>(1) A person with good repute for the purposes of this Act is considered a person who has not been convicted for</p> <p>a) a particularly serious offense, 29)</p> <p>b) the offense of accepting a bribe, for bribery crime and the offense of indirect corruption, 30)</p> <p>c) intentional offense in connection with the performance of healthcare profession.</p>	<p>(1) A person with good repute for the purposes of this Act is considered a person who has not been convicted for</p> <p>a) a criminal offense which matter is connected with the performance of healthcare profession or for an offense committed intentionally, 29)''.</p> <p>b) the offense of accepting a bribe, for bribery crime and the offense of indirect corruption, 30)</p> <p>c) violation of duties in a crisis situation or crime avoidance of duties in a crisis situation, 30a)''. * (amendment of Member of Parliament for SMER-SD Mr. Valocký)</p>

ii/ Crisis situations and authority to the Ministry of Health impose a fine resulting in a 10-years exclusion from health care profession without a court decision

- **Switch the imposition of penalties for health workers from the district offices to the Ministry of Health,**
- **The consequence- 10 years without the possibility to perform health work - this will happen without a court decision,**
- **10 times the higher fine for healthcare professionals than that imposed on other people for do not fulfill working obligations,**
- **Introduction of self-accusatory obligations of doctor- report him/her/self about the breach of good repute**

	<p>Draft Ministry of Justice and</p> <p>amendment the</p> <p>Member of the National Council of the Slovak Republic Jozef Valocký</p> <p>(amendment to § 63b of Act no. 578/2004</p>
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	Coll. concerning healthcare providers, health workers and professional organizations in the health and amending certain laws:
The current wording	The proposed wording
<p>§ 63b Cancellation of registration</p> <p>(1) The Chamber will cancel the registration to those who</p> <p>a) applied for cancellation of the registration in connection with termination of healthcare profession,</p> <p>b) has ceased to fulfill the conditions for the performance of healthcare profession according to § 31 par. 1 point. a) to d).</p> <p>(2) Chamber will decide cancellation of the registration within 30 days from the date on which he became aware of the facts referred to in paragraph 1. The decision to cancel registration will be delivered to healthcare worker and in case the employees to her/his employer also.</p>	<p>6. In § 63b paragraph 1 reads:</p> <p>"(1) The Chamber shall cancel the registration to those,</p> <p>a) who has applied for cancellation of the registration in connection with the termination of healthcare profession,</p> <p>b) has ceased to fulfill the conditions for performance of healthcare profession according to § 31 paragraph. 1 point. a) to d),</p> <p>c) who was prohibited lifetime the performance of healthcare profession.41a) "</p> <p>d) has breached an obligation according to § 80 paragraph. 1 point. h) and was fined according to § 82 paragraph. 5 point. b). '</p> <p><i>Statement of reasons:</i></p> <p><i>As a reason for canceling the registration of health professionals is added a breach of duty during the crisis perform an obligation imposed by the competent authorities to ensure the provision of health care, a breach of this obligation will be decided by the Ministry of Health of the Slovak Republic. Under this decision, the relevant Chamber cancels healthcare professional registration.</i></p> <p>In § 63c behind the first sentence following new second sentence, which reads: "If the registration of healthcare professional was canceled due according to § 63b paragraph. 1 point. d), health care worker may ask for restoration earliest after the expiration of ten years from the cancellation of the registration. ".."</p>



	<p style="text-align: center;">Plus self-accusatory paragraph</p> <p style="text-align: center;">§ 72a</p> <p style="text-align: center;">Healthcare worker is obliged immediately notify the Chamber information decisive for the temporary suspension of the license (§ 73) and the withdrawal of the license (§ 74) and submit certified copies of documents proving these data. "</p>
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iii/ Changes in the Criminal Code

The draft changes in Criminal Code introduces vague constituent elements that are very similar to military criminal offenses, even the more stringent due to the wide range of undefined procedure:

"§ 290a

Infringements of obligations under a crisis situation

(1) Any person who in emergency situation refuses to perform or intentionally fails obligation imposed by public authorities on national defense and maintain its safety, to protect the life and health of persons, protection of property, the respect for fundamental rights and freedoms, to avert danger or to restore the disturbed economy, particular the proper functioning of the supply, transport and public services in the municipalities and the proper functioning of constitutional bodies shall be punished by imprisonment of up to two years.

(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1

a) and causes grievous bodily harm or death, or

b) by more serious manner.

§ 290b

Evading the performance of duties in a crisis situation

(1) Any person who in a crisis situation by the intention of avoiding the obligations imposed by public authorities on national defense and maintain its safety, to protect the life and health of persons, protection of property, the respect for fundamental rights and freedoms, to avert danger or to restore economic disruption , particular the proper functioning of the supply, transport and public services in the municipalities and the proper functioning of constitutional bodies harms



himself on health, pretends illness, falsifies document, abuse addictive substance or uses other artifice, shall be punished by imprisonment of up to two years.

(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1

a) and causes grievous bodily harm or death, or

b) by more serious manner.

Dear colleagues,

we ask for international support and express rejection of such amendment to laws that are undemocratic and discriminatory. Please send your expression in the highest volume from your members to e-mail address of the Government Office, the Ministry of Health, all members of the National Council of the Slovak Republic, who will vote on the proposal in the coming days and to media also as well as to our e-mail address loz@loz.sk. I send you a mailing list below.

Sending you draft statement, feel free to write your own one as to your opinion. We also want to ask you for sending the official statement of your organisation as well as common statement of all EMOs for Slovak authorities.

If you have any questions feel free to write me. On behalf of Slovak doctors and healthcare workers thank you for your support. We'll need it.

Pavel Oravec

LOZ Slovakia

Draft e-mail letter to Slovak officials:

Mr,

We have decided to address you on behalf of, because according to our information there is an effort to criminalize health professionals in Criminal Code in Slovakia. We feel that it is only for their efforts to improve conditions for workers in the health sector, and for the overall effort to improve the situation in health sector in Slovakia. Besides a plethora of objections to the law, which has no parallel in democratic Europe, we are convinced that changes in the law no. 578/2004 Z. z. on health care providers, health workers and professional organizations in the health and amending certain laws, as amended, and on amendments to certain laws / printing. no. 371 / push the physicians almost to the level of professional soldiers and policemen but without the benefits these jobs naturally share.

The draft law does not respect the independence of the professional chambers of healthcare workers. It is not acceptable if the Ministry of Health could exclude health care professional from



the medical profession for 10 year by imposition of fines for breach work duty without court proceedings only by its decision. Even under the current Slovak Criminal Code so far are penalties of disqualification from one to ten years.

Please note that the experience of the last period in Slovakia convinces us that the intention of the promoter for the adoption of this amendment is contrary to Article 1 of the ILO Convention on the Abolition of Forced Labour number 105 of 1957, under which forced labour not be used to enforce labour discipline. The reason for limiting the right to strike should be a crisis situation, not vice versa. Realization of the right to the free performance of the medical profession cannot justify the declaration of emergency. Right to freedom of movement for workers, as one of the four pillars of the freedoms of European citizens would become illusory if it depended only on the authority of the government, when decides limiting the free movement of people.

From the above reason, we decided to inquire about the situation all our members, European institutions, MEPs, because we believe that such laws have no place in modern Europe. Therefore we urge you not to support proposed changes in the laws.

If you have further questions please contact us. Thank you in advance for your reply.

With regards

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