



**Fédération Européenne
des Médecins Salariés**
European Federation
of Salaried Doctors

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Title:	Petition to the National Council of the Slovak Republic Changes to the Criminalization Law on Health Professionals		
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Petition to the National Council of the Slovak Republic

Stop criminalizing - Healthcare professionals are not criminals!

We, the citizens of the Slovak Republic, fundamentally reject the criminalization of health care workers, adopted on the basis of a proposal of MP Jozef Valocký to the Penal Code. It worsens the already dire conditions of patients and healthcare professionals. We urge the National Council of the Slovak Republic in order to:

1 professional organizations in the health sector (chambers) could not without a court decision on guilt medical professional, only by a decision of the Ministry of Health, unregister and thus prevent him/her from exercising the profession for two years and that the Ministry of Health could not impose fines to healthcare workers ten times higher compared to other citizens;

2 from the Penal Code was repealed violation of duties in a crisis situation and crime avoidance of duties in a crisis situation as adopted by the National Council;

3 Slovak government could not abuse the institute of emergency state to prevent the free choice of employment of healthcare workers within the European Union and that the government would bear the responsibility for the abuse of state of emergency.

i. Changing the meaning of good repute

Compared to the draft amendment there was a positive change in the concept of the term good repute. But with the notion of loss good repute we must not forget the context of the Act in the Penal Code, which was extended to two offenses (violations of obligations in a crisis situation and avoidance of duties in a crisis situation), which were added in connection with the healthcare professionals.

<p>§ 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:</p>		
<p>The current wording of good repute</p>	<p>The proposed wording</p>	<p>Adopted text</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 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>	<p>1) A person with integrity for the purposes of this Act, a person who has not been convicted for</p> <p>a) a particularly serious offenses, 29)</p> <p>b) an offense against human dignity, 29a) an offense in connection with child pornography, 29b) The offense of human trafficking or child custody to another power, 29c)</p> <p>c) the offense of accepting a bribe, for bribery crime and the offense of indirect corruption, 30)</p> <p>d) intentional offense in connection with the performance of healthcare profession. "</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- After commenting of the President of The Slovak republic, this period was changed to two years, no other changes were done.

- Switch the imposition of penalties for health workers from the district offices to the Ministry of Health,
- The consequence- 2 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 amendment of the Member of the National Council of the Slovak Republic Jozef Valocký</p> <p>(amendment to § 63b of Act no. 578/2004 Coll. concerning healthcare providers, health workers and professional organizations in the health and amending certain laws- the proposed wording does not differ from the adopted text of the law:</p>		
<p>The current wording</p>	<p>The proposed wording</p>	<p>Adopted text</p>
<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</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</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) to those who was imposed by the court decision a lifetime ban on the performance of health povolaniam.41a)</p>

<p>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>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>Plus self-accusatory paragraph</p> <p>§ 72a</p> <p>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>	<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>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 two years from the cancellation of the registration. ".."</p> <p>Plus self-accusatory paragraph</p> <p>§ 72a</p> <p>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> <p>In § 80, paragraph 1 is added with letter I), which reads as follows:</p> <p>"I) during a crisis situation 58f) perform a duty imposed by the competent authorities to ensuring provision of health care."</p> <p>The footnote to reference 58 f reads:</p> <p>"58f) Art. 1 Section 4 Constitutional Act. 227/2002 Z.z. on national security in time of war, hostilities, martial law and emergency. "</p>
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iii/ Changes in the Penal Code

The draft changes in Penal 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-

adopted text of the law is not different from the proposed text:

Proposed wording	Adopted text
<p style="text-align: center;">"§ 290a</p> <p style="text-align: center;">Infringements of obligations under a crisis situation</p> <p>(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.</p> <p>(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1</p> <p>a) and causes grievous bodily harm or death, or</p> <p>b) by more serious manner.</p> <p style="text-align: center;">§ 290b</p> <p style="text-align: center;">Evading the performance of duties in a</p>	<p style="text-align: center;">"§ 290a</p> <p style="text-align: center;">Infringements of obligations under a crisis situation</p> <p>(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.</p> <p>(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1</p> <p>a) and causes grievous bodily harm or death, or</p> <p>b) by more serious manner.</p> <p style="text-align: center;">§ 290b</p> <p style="text-align: center;">Evading the performance of duties in a crisis situation</p>

<p style="text-align: center;">crisis situation</p> <p>(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.</p> <p>(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1</p> <p>a) and causes grievous bodily harm or death, or</p> <p>b) by more serious manner.</p>	<p>(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.</p> <p>(2) imprisonment for two to five years the offender will be punished if commits the criminal offense referred to in paragraph 1</p> <p>a) and causes grievous bodily harm or death, or</p> <p>b) by more serious manner.</p>

Possible grounds of the unconstitutionality the present amendment to Act

1 unconstitutional restriction of the right to practice the profession,

2 insufficient definition of conditions for application of emergency which allow misuse of the possibility of declaring state of emergency as a means of restricting legitimate right of health care worker to give notice of withdrawal

3 restriction freedom of movement and freedom of movement of workers as a cornerstone of the EU,

4 cancellation of the possibility to practice - penalties that are criminal in nature has carried out by a government that can not and is not an independent arbiter in a case of declared emergency situation, withdrawal of registration / license / without trial for 2 years.

5 possible violation of the principle of "ne bis in idem"

6 discrimination against other citizens,

7 imbalance of rights and obligations,

8 imbalance of the necessitating a good repute towards other professions, unconstitutional and unwarranted restriction on the right to perform the profession