

451/1991 Coll.

ACT

of 4th October 1991

determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic

Amendment: NA03/1992

Amendment: 555/1992 Coll.

Amendment: 254/1995 Coll.

Amendment: 422/2000 Coll.

Amendment: 147/2001 Coll.

Amendment: 151/2002 Coll., 312/2002 Coll.

Amendment: 413/2005 Coll.

The Federal Assembly of the Czech and Slovak Federative Republic has resolved to pass the following Act:

Section 1

(1) This Act determines some further prerequisites for certain positions filled by election, designation or appointment

- a) in bodies of state administration of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic;
- b) in the Czechoslovak Army;
- c) in the Federal Security Information Service, the Federal Police Force, the Castle Police Force;
- d) in the Office of the President of the Czech and Slovak Federative Republic, the Office of the Federal Assembly, the Office of the Czech National Council, the Office of the Slovak National Council, the Office of the Government of the Czech and Slovak Federative Republic, the Office of the Government of the Czech Republic, the Office of the Government of the Slovak Republic, the Office of the Constitutional Court of the Czech and Slovak Federative Republic, the Office of the Constitutional Court of the Czech Republic, the Office of the Constitutional Court of the Slovak Republic, the Office of the Supreme Court of the Czech and Slovak Federative Republic, the Office of the Supreme Court of the Czech Republic, the Office of the Supreme Court of the Slovak Republic, in the Presidium the Czechoslovak Academy of Sciences and the Presidium of the Slovak Academy of Sciences and at the Supreme Administrative Court;
- e) in the Czechoslovak Radio, the Czech Radio, the Slovak Radio, the Czechoslovak Television, the Czech Television, the Slovak Television, the Czechoslovak Press Agency of the Czech Republic and the Czechoslovak Press Agency of the Slovak Republic;
- f) in state enterprises, state organizations, joint stock companies where the state is the majority shareholder, foreign trade corporations, in the state organization Czechoslovak State Railways, state funds, state monetary institutions and the State Bank of Czechoslovakia;
- g) in offices of territorial self-governing units;

unless stipulated otherwise below.

- (2) Positions under section 1(1) b) in the Czechoslovak Army and at the Federal Ministry of Defence mean positions with the highest achievable ranks of Colonel and General and the positions of military attachés.
- (3) Positions under section 1 (1) f) mean positions of the head of an organisation and senior officers directly subordinate to him/her. At universities and public universities ⁵⁾ these posts mean also the positions of elected academic officials and positions approved by the Academic Senate of the university and faculty. Positions under paragraph (1) g) mean the positions of a head of the authority and senior officers.
- (4) This Act also determines some further prerequisites for the positions of a judge, lay judge, prosecutor, prosecution investigator, notary public, state arbiter and for persons serving as trainee judges, trainee prosecutors, trainee notaries public and arbitration trainees.
- (5) This Act also determines the conditions of reliability to allow the operation of some licensed businesses. ¹⁾

Section 2

- (1) A prerequisite for a position as referred to in section 1 is that during the period from 25/2/1948 to 17/11/1989 the citizen was not:
 - a) an officer of the National Security Corps assigned to the State Security Service;
 - b) registered in the State Security Service's files as a resident, agent, lent apartment holder, conspiracy apartment holder, informer or ideological collaborator of the State Security Service;
 - c) (expired)
 - d) a Secretary of a body of the Communist Party of Czechoslovakia or the Communist Party of Slovakia from the level of a District Committee or an equivalent committee upwards, a member of the presidium of these committees, member of the Central Committee of the Communist Party of Czechoslovakia or the Central Committee of the Communist Party of Slovakia, a member of the Bureau for the Management of Party Work in the Czech Lands or a member of the Committee for the Management of Party Work in the Czech Lands, except for those holding these posts only in the period from 1/1/1968 to 1/5/1969;
 - e) an employee of the system of structures as referred to in d) in a department in charge of the political running of the National Security Corps;
 - f) a member of the People's Militias;
 - g) a member of the National Front Action Committee after 25/2/1948, vetting commissions after 25/2/1948 or vetting and normalization commissions after 21/8/1968;
 - h) a student at Felix Edmundovic Dzerzinsky University of the Council of Ministers of the USSR for officers of the State Security Service, the University of the Ministry of the Interior of the USSR for officers of the Public Security Service, the Political College of the Ministry of the Interior of the USSR, or a postgraduate or a participant in courses lasting longer than 3 months at these schools.
- (2) expired
- (3) expired

Section 3

- (1) A prerequisite for positions under section 1 at the Federal Ministry of the Interior, Federal Security Information Service, Federal Police Force and the Castle Police Force is that during the period from 25/2/1948 to 17/11/1989 the citizen was not
- a) an officer of the National Security Corps assigned to a counterintelligence unit in the State Security Service;
 - b) assigned to the State Security Service holding the post of a Chief of Department or higher;
 - c) a student at Felix Edmundovic Dzerzinsky University of the Council of Ministers of the USSR for officers of the State Security Service, the University of the Ministry of the Interior of the USSR for officers of the Public Security Service, the Political College of the Ministry of the Interior of the USSR, or a postgraduate or a participant in courses lasting longer than 3 months at these schools;
 - d) in the National Security Corps at the post of a Secretary of the Main Committee of the Communist Party of Czechoslovakia or the Main Committee of the Communist Party of Slovakia, a member of the Main Committee of the Communist Party of Czechoslovakia or the Main Committee of the Communist Party of Slovakia, a member of a Unit Committee* of the Communist Party of Czechoslovakia or a Unit Committee* of the Communist Party of Slovakia, or an officer of the National Security Corps assigned to the Department for Political Training and Educational, Cultural and Propaganda Activities of the Federal Ministry of the Interior;
 - e) a person as referred to in section 2 (1) b) through g).
- (2) expired.

Section 4

- (1) The citizen shall prove the facts as referred to in section 2 (1) a) and b) with a certificate issued by the Federal Ministry of the Interior.
- (2) expired
- (3) The citizen shall prove the facts as referred to in section 2 (1) d) through h) with an affidavit.
- (4) expired

Section 5

The citizen who is to hold a position in a body or organization as referred to in section 1 shall submit the certificate, affidavit or finding, as the case may be, to the head of this body or organization. The application for the certificate to be issued by the Federal Ministry of the Interior shall be lodged by the citizen, unless stipulated otherwise below.

Section 6

* The general term Unit refers here mostly to district and regional directorates etc. (trans. note)

(1) Instead of the citizen who is to hold a position in a body or organization as referred to in section 1 or a citizen who is holding such a position on the date this Act becomes effective, the subject to apply to the Federal Ministry of the Interior for the certificate shall be:

- a) for a citizen elected to such a position, the body competent to carry out the election;
- b) for a citizen designated to such a position, the body competent to designate the citizen to such a position;
- c) for a citizen appointed to such a position, the body competent to carry out the appointment.

At the same time, the head of the body or organization shall inform this citizen of his or her duty to submit the certificate within 30 days of its delivery.

(2) The application for a certificate made for a citizen who is holding a position as referred to in section 1 on the date this Act becomes effective must be sent to the Federal Ministry of the Interior within 30 days of the date this Act becomes effective.

(3) The Federal Ministry of the Interior shall send the certificate to the citizen concerned within 60 days of the date of delivery of the application and at the same time notify thereof the subject which has applied for the issuance of the certificate.

(4) If the citizen who is holding a position as referred to in section 1 on the date this Act becomes effective fails to submit the certificate to the head of the body or organization within 30 days of its receiving, the head of the body or organization shall request within seven days the Federal Ministry of the Interior for sending a duplicate of that certificate.

Section 7

(1) The President of the Czech and Slovak Federative Republic, the Presidium of the Federal Assembly, the Presidium of the Czech National Council, the Presidium of the Slovak National Council, the Government of the Czech and Slovak Federative Republic, the Government of the Czech Republic and the Government of the Slovak Republic, the Prosecutor General of the Czech and Slovak Federative Republic, the Prosecutor General of the Czech Republic and the Prosecutor General of the Slovak Republic shall apply to the Federal Ministry of the Interior for a certificate on persons to hold positions established by appointment for which they enjoy this right under special provisions. The Federal Ministry of the Interior must grant this application without delay.

Section 8

(1) Any citizen aged 18 and over is entitled to apply to the Federal Ministry of the Interior for the certificate under section 2 (1) a), b) and c), or a finding under section 13, as the case may be.

(2) An application for the certificate must be accompanied with a CZK 200 duty stamp and an authenticated signature of the applicant.

Section 9

(1) The certificate shall be issued by the Federal Ministry of the Interior, which shall deliver it in the citizen's own hands; this shall not apply for certificates issued under section 7.

(2) If documents to support the issuance of the certificate are owned by another state body, this body, upon the request from the Federal Ministry of the Interior, must within seven days provide this Ministry with all the documents and other information necessary for the issuance of the certificate.

Section 10

For the purposes of this Act and for the purposes of court proceedings, the certificate, the finding and the data contained therein shall not constitute classified information.

Section 11 expired

Section 12 expired

Section 13 expired

Section 14

(1) If the citizen fails to satisfy the prerequisites as referred to in section 2, his or her employment shall terminate by a notice of dismissal served by the organization concerned within 15 days of the date when the organization learnt this fact, unless the employment terminates by mutual agreement or in another manner on an earlier date or unless the citizen is assigned to another position than the one as referred to in section 1.

(2) The provision of paragraph (1) shall apply accordingly to the termination of service by dismissal ²⁾ if the citizen fails to satisfy the prerequisites for his or her position as referred to in section 3.

(3) If the citizen has refused to make an affidavit of the facts as referred to in section 2 (1) d) through h), or if the affidavit is not true, paragraphs (1) or (2) shall be applied.

Section 15

If a prosecutor or prosecution investigator fails to satisfy the prerequisites for his or her position as referred to in section 2, this fact shall be a reason for terminating his or her employment.

Section 16

Under the conditions as referred to in section 14 (1), the competent body shall file a motion to remove the judge or lay judge from his or her position.

Section 17

The provisions of the Labour Code allowing an organization to give a notice of dismissal only upon a previous consent from the relevant trade union body ³⁾ shall not apply to the termination of employment under sections 14 and 15.

Section 18 expired

Section 19

It is forbidden to publish any facts contained in the certificate or finding or to publish the certificate or finding itself, as well as to publish any of the documents supporting the issuance without a previous consent from the citizen.

Section 20

The provisions of section 1 through 3 shall not apply to citizens born after 1 December 1971. These citizens shall not be required to submit the certificate or affidavit under section 4 hereof.

Section 21

(1) Publishers of press periodicals and licensed operators of radio and television broadcasting, news agencies and audiovisual programmes may for themselves or for their employee who is involved in forming the content production of the above media, upon his or her previous written consent, apply to the Federal Ministry of the Interior for issuing a certificate or a commission for issuing a finding; provisions of section 6 (3), section 9 (1), sections 10, 12, 13, section 18 through 20 thereof shall apply accordingly for these purposes.

(2) Presidents or equivalent representatives of political parties, political movements and associations ⁴⁾ may for themselves or for a member of the management of their political party, political movement or association, upon his or her previous written consent, apply to the Ministry of the Interior for issuing a certificate or a commission set up under section 11 for issuing a finding. The provisions of paragraph (1) shall apply accordingly to these relationships.

Section 22

(1) Should Acts of the National Councils empower the Ministers of the Interior and the Ministers of Justice of the Czech Republic and the Slovak Republic to ascertain facts as referred to in section 2 (1), the Federal Ministry of the Interior and the Commission must grant their applications for a certificate or finding.

(2) Termination of service of officers of the Penitentiary Service of the Czech Republic and the Corps of Prison and Court Guards of the Slovak Republic and officers of the Police of the Czech Republic and of the Police Force of the Slovak Republic shall be governed by Acts of the National Councils.

Section 23

This Act shall become effective on the date of promulgation.

Havel signed
Battěk signed
Vice Chairman of the Federal Assembly of the CSFR[°]
Čalfa signed

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1) Section 27 (2) of Act No. 455/1991 Coll., on trade business (Trade Act), and Annex 3 to this Act.

2) Section 16 (1) c) of Act No. 334/1991 Coll.1, on the service of officers of the Federal Police Force and the Castle Police Force.

3) Section 59 (2) through (4) of the Labour Code.

4) Act No. 83/1990 Coll., on association of citizens, as amended by Act No. 300/1990 Coll.

5) Act No. 111/1998 Coll., on universities and amendment to other acts (Universities Act), as amended.

[°] p.p. Chairman of the FA CSFR (trans.note)