

Collection of Laws of the Slovak Republic

Year 2024

Published: 4. 7. 2024

161

Act

from 12. June
2024,

**amending and supplementing Act No. 143/1998 Coll. on civil aviation
(aviation act) and on amendments and supplements to certain acts as amended and on
amendments to certain acts**

National Council of the Slovak Republic has concluded:

Article VIII

Act No. 541/2004 Coll. on the peaceful uses of nuclear energy (Atomic Act) and on amendments to certain laws as amended by Act No. 238/2006 Coll., Act No. 21/2007 Coll., Act No. 94/2007 Coll., Act No. 335/2007 Coll., Act No. 408/2008 Coll., Act No. 120/2010 Coll., Act No. 145/2010 Coll., Act No. 350/2011 Coll., Act No. 143/2013 Coll., Act No. 314/2014 Coll., Act No. 54/2015 Coll., Act No. 91/2016 Coll., Act No. 125/2016 Coll., Act No. 96/2017 Coll., Act No. 18/2018 Coll., Act No. 87/2018 Coll., Act No. 177/2018 Coll., Act No. 308/2018 Coll., Act No. 279/2019 Coll., Act No. 310/2020 Coll., Act No. 363/2021 Coll., Act No. 146/2023 Coll., Act No. 205/2023 and Act No. 309/2023 Coll., is amended and complemented as follows:

1. In § 4, paragraph 2 is extended with points i) and j), as follows:

„i) Issues an opinion on flight in airspace established for the protection of a nuclear installation,^{8a)} in which it determines the conditions for conducting the flight in order to maintain nuclear safety,

„j) publishes on its website a template for the request for an opinion referred to in (i).“

Footnote to the reference 8a:

„^{8a)} § 7 (4) of Act No. 143/1998 Coll. on civil aviation (Aviation Act) and on amendments to certain laws as amended.“

2. The third sentence of Section 8(3) reads as follows: 'A natural person or a legal person whose status results from an international treaty by which the Slovak Republic is bound shall also be a party to the procedure for the issuance of a permit.^{11baa)}“

Footnote to the reference 11baa:

„^{11baa)} Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 43/2006).“

3. Section 8 (10) reads as follows:

„(10) A Party to the proceedings under an international treaty, by which the Slovak Republic is bound,^{11bab)} or a Party to proceedings under a special regulation^{11bab)} shall be served by the Authority, in proceedings under this Act or under a special regulation,^{11a)} with a decision on the issuance of an approval or an authorisation, a call, a notification, a summons or other writ by public announcement.“

Footnote to reference 11bab:

„^{11bab)} Act No. 24/2006 Coll. on environmental impact assessment and on amendments to certain laws, as amended“.

4. Section 10 (1) (s) reads as follows:

„s) Immediately notify the Authority in writing in accordance with the approved physical protection plan of the flight¹³⁾ in the airspace established for the protection of a nuclear installation,“

5. After § 10, § 10a is inserted, which, including its heading, reads as follows:

„§ 10a

Flight in airspace established for the protection of a nuclear installation

(1) A consent to conduct a flight in airspace established for the protection of a nuclear installation shall be issued by the holder of license under § 5 (3) (a) to (d) based on an application by the operator of an aircraft^{14a)} or the operator of unmanned aerial system;^{14a)} the consent shall specify the conditions for the conduct of the flight in accordance with the conditions specified in the Authority's favourable opinion.

(2) The operator of an aircraft and the operator of an unmanned aerial system shall be required to submit an application for consent to conduct a flight in airspace established for the protection of a nuclear installation to the holder of a license pursuant to § 5 (3) (a) to (d) at least 20 days before the planned flight. A template for the application for consent to conduct a flight in airspace established for the protection of a nuclear installation shall be published by the holder of a license pursuant to § 5 (3) (a) to (d) on its website.

(3) The holder of a license under § 5 (3) (a) to (d) shall, before issuing consent to conduct a flight in airspace established for the protection of a nuclear installation, request the Authority's opinion on the conduct of the flight at least 15 days before the planned flight. In the request for an opinion, the holder of a license under § 5 (3) (a) to (d) shall indicate the name and surname of the pilot, the time of the flight and the type of aircraft to be used for the flight.

(4) The holder of a license under § 5 (3) (a) to (d) may issue consent with the flight in the airspace established for the protection of a nuclear installation only if the Authority issues a favorable opinion on the flight.

(5) Where the holder of a license under § 5 (3) (a) to (d) is the operator of an aircraft or the operator of an unmanned aerial system, the provisions of par. 1 to 4 shall not apply to the conduct of a flight in airspace established for the protection of a nuclear installation by the holder of a license under § 5 (3) (a) to (d).

(6) A favourable opinion on the conduct of a flight in airspace established for the protection of a nuclear installation shall be issued by the Authority based on an application of the holder of license under § 5 (3) (a) to (d), who is the operator of an aircraft or the operator of an unmanned aerial system. The holder of a license under § 5 (3) (a) to (d) shall request the Authority's opinion at least 15 days before the planned flight.“

Footnote for references 14a and 14b:

„^{14a)} § 2 (e) of Act No. 143/1998 Coll.

^{14b)} Article 2 (2) Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft OJ. v. EU L 152, 11. 6. 2019) as amended.“.

Unofficial translation of Art. VIII.

6. After § 25, § 25a is inserted, which, including its heading reads as follows:

PHYSICAL PROTECTION

§ 25a

(1) For the purposes of physical protection:

- a) **a guarded area** means a defined area containing a nuclear installation and nuclear material, to which access is restricted and controlled for physical protection purposes;
- b) **a protected area** means an area within a guarded area containing category I or II of nuclear material or sabotage targets, bounded by a physical barrier with additional physical protection measures,
- c) **an inner space** with additional protective measures inside the protected area, where Category I nuclear material is used or stored;
- d) **a vital space** means an area within the protected area containing systems or equipment or nuclear material, the sabotage of which could lead directly or indirectly to major radiological consequences.

(2) The license holder is required to identify areas within the site of a nuclear installation, based on the design-basis threat, risk analysis and other potential threats, and incorporate their identification into the physical protection plan.

(3) For the purposes of this Act, a person shall not be deemed to be reliable, who:

- a) demonstrably consumes alcoholic beverages to excess or demonstrably consumes narcotic substances or preparations, the use of which may cause persons to become addicted,
- b) has been found guilty in the last two years of an offence relating to the protection against alcoholism and other toxic addictions, an offence relating to the use of explosives, an offence relating to firearms and ammunition, for which a fine of more than EUR 100 has been imposed, an offence in the field of defence of the Slovak Republic, an offence against public order committed by disobeying the call of a public official in the exercise of his authority, an offence against civil co-existence committed by minor intentional bodily harm or an offence against property,
- c) has been finally convicted of a deliberate criminal offence; or
- d) does not, based on the findings of the ministry of interior or the Police Service, provide assurance that he/she is a person of integrity and reliability for the purposes of permitting unaccompanied entry to the premises of a nuclear facility.

(4) The licence holder shall request in writing the Police Service to verify the reliability of any natural person who is to be authorised to enter the interior space and vital space of a nuclear installation unaccompanied pursuant to paragraph 9, except for natural persons whose reliability is required and demonstrated for the purpose of carrying out activities pursuant to special regulations.³⁰⁾ The licence holder shall attach to the application the identification data of the natural person to be screened to the extent provided for in § 26(6). Reliability shall be checked once every 5 years. The Police Service shall inform the licence holder of the result of the screening within 40 days of receipt of the request pursuant to the first sentence.

(5) The rights and obligations under paragraph 4 shall apply mutatis mutandis to the licensee's contractor and to persons carrying out activities on the nuclear installation for the licensee, if agreed in writing between the licensee and its contractor.

(6) A person shall also be deemed to be trustworthy if he or she is a security trustworthy person according to a special regulation.^{36e)}

(7) The licence holder shall ensure that the entry of a person and a vehicle into the guarded area, protected area, inner space and vital space of a nuclear installation shall be permitted solely for the purpose of carrying out approved work activities and shall be limited to the time strictly necessary.

(8) Only a natural person whose integrity has been verified pursuant to paragraph 12, or who is deemed to be trustworthy pursuant to paragraph 13, may enter the guarded area and the protected area unaccompanied.

(9) Only a natural person whose integrity has been verified in accordance with paragraph 12 or who is deemed to be trustworthy in accordance with paragraph 13 and whose trustworthiness has been verified in accordance with paragraph 4 or who is deemed to be trustworthy in accordance with paragraph 6 shall be allowed to enter the inner space and the vital space unaccompanied.

(10) The holder of the licence may allow another natural person to enter the guarded area, the protected area and, in exceptional cases, the inner space and the vital space, provided that the natural person is accompanied at all times in the said areas by an employee of the holder of the licence with the right of unaccompanied entry to those areas or by a member of the physical protection service with the right of unaccompanied entry to those areas designated by the holder of the licence.

(11) Verification of integrity pursuant to paragraphs 8 and 9 shall be carried out by the licence holder.

(12) A natural person who is to be authorised to enter the premises of a nuclear installation unaccompanied shall prove his or her integrity by an extract from the criminal record not older than three months, submitted to the licence holder every two years.

(13) A person shall also be deemed to have integrity if his or her integrity has been verified in accordance with a special regulation.^{36e)}

(14) A natural person who is authorised to enter the premises of a nuclear installation pursuant to paragraph 8 or paragraph 9 shall immediately notify the licence holder of any fact which may affect the outcome of the verification of his/her integrity or reliability.

(15) In verifying the reliability of a nuclear safety inspector for the purpose of exercising his powers under section 31, the Authority shall proceed in accordance with paragraph 4 *mutatis mutandis*. Verification of the integrity of a nuclear safety inspector shall be carried out by the Authority every two years by means of an extract from the criminal record. A nuclear safety inspector shall also be deemed to be reliable and of integrity if he or she is deemed to be safety reliable in accordance with a special regulation.^{36e)}

(16) When verifying the reliability of other persons exercising state supervision in a nuclear installation pursuant to special regulations^{36f)} their service office shall proceed in accordance with paragraph 4 *mutatis mutandis*. Verification of the integrity of the persons referred to in the first sentence shall be carried out by their service office every two years by means of an extract from the criminal record. A person referred to in the first sentence who is considered to be reliable and of high integrity shall also be considered to be security reliable pursuant to a special regulation.^{36e)}

(17) The licence holder is obliged to send the Authority a comprehensive evaluation of the provision of physical protection for the previous year once a year, always by 31 March.“.

Footnotes for references 36e and 36f:

^{36e)} § 53 (2) of Act No. 473/2005 Coll. on the provision of private security services (Private Security Act) as amended.

^{36f)} For example: Act No. 314/2001 Coll. on fire protection, as amended, Act No. 315/2001 Coll. on Fire and Rescue Service, as amended, Act No. 124/2006 Coll. on occupational health and safety, as amended, Act No. 128/2015 Coll. on prevention of major industrial accidents, as amended, Act No. 87/2018 Coll. as amended“.

7. The heading § 26 is deleted.
8. In § 26 (5) points (a) and (b) are deleted. At the same time, designation of point (c) is deleted.
9. In § 26, after para 10, new paras 11 to 18 are inserted:

„(11) Where a camera on a drone is used for the purpose of ensuring the physical protection of a nuclear installation or for the purpose of carrying out inspections and determining the condition of the facilities and equipment of a nuclear installation, the holder of a licence pursuant to Section 5(3)(a) to (d) shall make a video recording by means of a camera on a drone in the guarded area ^{37a)} of a nuclear installation (hereinafter only as “flight record“). The holder of a licence under § 5(3)(a) to (d) shall be obliged to keep information on the reason, date, duration and route of the flight, the personal data of the remote pilot, the name and surname and the personal data of the person who ordered or approved the execution of the flight, in the scope of title, name, surname and function.

(12) The use of a camera on a drone must be implemented in such a way that it does not interfere with the privacy of individuals and that the external area behind the guarded area of the nuclear installation is recorded to a minimum extent.

(13) The information referred to in paragraph 11 and the flight record data shall be retained in the licence holder's information system referred to in points (a) to (d) of Section 5(3) for two months from the day following the day on which the flight record was made. After the expiry of that period, the holder of a licence referred to in points (a) to (d) of Section 5(3) shall destroy the flight record.

(14) The holder of a licence under § 5 (3) (a) to (d) shall make a record of the destruction of a flight record, which shall include the personal data of the person who ordered or approved the flight, including the title, name, surname and function, the reason for the flight and the method of use of the flight record, if the flight record was used, the date and duration of the flight, the route of the flight, the personal data of the remote pilot, including the name and surname, and the date of the destruction of the flight record.

(15) The licence holder pursuant to § 5 (3) (a) to (d) is an operator according to a special regulation. ^{37b)}

(16) A flight record shall not be copied or transcribed into written or any other form before destruction, except for the purpose of providing a flight record for the purposes of a criminal or misdemeanour proceeding or an administrative offence proceeding under this Act or an administrative offence proceeding under special regulations. ^{37b)} The record of destruction shall be kept for one year from the year, in which the record was destroyed.

(17) The holder of a licence pursuant to Article 5(3)(a) to (d) shall implement appropriate technical and organisational measures, ^{37c)} to ensure that the information referred to in para 11 and and the data from the flight record are only made available to law enforcement authorities, authorities dealing with misdemeanours or administrative offences pursuant to this Act or authorities dealing with administrative offences pursuant to special regulations ^{37c)} or employees of the holder of a licence pursuant to § 5(3)(a) to (d) involved in ensuring the physical protection of a nuclear installation or in inspecting and checking the condition of the facilities and equipment of a nuclear installation.

(18) The area of a nuclear installation in which a drone flight is conducted pursuant to paragraph 11 shall be clearly marked at each entrance to the nuclear installation and along the boundary of the guarded area from the outside so that a notice of the monitoring of the nuclear installation area is visible at each point. A drone referred to in paragraph 11 shall be visibly marked 'NUCLEAR FACILITY'.

The present paragraph 11 is now paragraph 19.

Footnotes for references 37da to 37dd:

^{37da}) § 2 (b) of Decree No. 51/2006 Coll..

^{37db}) Article 4 (7) of Regulation (EU) 2016/679 as amended.

^{37dc}) For example, Act No. 223/2001 Coll. on wastes, as amended, Act No. 364/2004 Coll. on waters and on amendments to Act of the Slovak National Council No. 372/1990 Coll. on offences, as amended (Water Act) as amended, Act No. 18/2018 Coll. on personal data protection as amended, Act No. 146/2023 Coll. as amended by Act No. 272/2023 Coll.

^{37dd}) Articles 24 and 32 of Regulation (EU) 2016/679 as amended.“

10. In § 34, after para 6, a new para 7 is inserted:

„(7) The Authority shall impose a fine of up to EUR 2,000 for breach of the obligation referred to in § 10a (3) (4) and 6.“

The present paras 7 to 11 are now 8 to 12.

11. In § 35 para 1 shall be supplemented by the following point g):

„g) issuing an opinion pursuant to § 4 (2) (i).“

12. After § 37be the following § 37bea is inserted, which including its heading reads:

„§ 37bea

Transitional provisions to the arrangements effective from 15 July 2024

(1) By 15 January 2025, the licence holder shall send to the Authority for approval an update of the physical protection plan referred to in Section 25a(2).

(2) The reliability of a natural person who enters unaccompanied into the inner space and vital space of a nuclear installation must be verified pursuant to Section 25a(4) by 15 January 2026.“

13. In Annex 1(C)(k), the words '(aviation activities¹³) on or near the premises of a nuclear installation' shall be replaced by 'flight in airspace established for the protection of a nuclear installation“.

14. In Annex 1(D) (f) the words “aviation activities³) on or near a nuclear installation” shall be replaced by “flight in airspace established for the protection of a nuclear installation”.

Čl. XII

This act shall come into effect 15. July 2024.

Peter Pellegrini v. r.

v z. Peter Žiga v. r.

v z. Robert Kaliňák v. r.