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RECORDS MANAGEMENT SYSTEM IN THE SLOVAK REPUBLIC

Izvleček:

Sistem upravljanja z dokumenti na Slovaškem

Sistem upravljanja z dokumenti na Slovaškem urejata Zakon 395/2002 o arhivih in evidencah in o amandmajih k določenim aktom ter Odločba 628/2002, s katero se izvršujejo nekatere določbe Zakona o arhivih in evidencah. Zakon v osnovnih definicijah razloži tudi termin »sistem upravljanja z dokumenti« kot določbo o registraciji, nastanku, hrambi, zaščiti dokumentov ter dostopu do njih in določbe o njihovem uničenju. V skladu s tem zakonom morajo sistem upravljanja z dokumenti na Slovaškem zagotoviti različni ustvarjalci, kot so državna uprava, samoupravna telesa in pravne osebe. Njihove pravice in dolžnosti določa 16. člen zakona.

Ključne besede:

sistem upravljanja z dokumenti, pravice in dolžnosti ustvarjalcev, normativa, osebje, materialne in tehnične določbe sistema upravljanja z dokumenti.

Abstract:

Records Management System in the Slovak Republic

Records management system in the Slovak Republic is regulated by the Act 395/2002 on Archives and Registries and on the Amendments of Certain Acts and by the Regulation no. 628/2002 by which some provisions of the Act on Archives and Registries are executed. The mentioned Act in basic definitions explains also the term "records management system" as the provision of registration, creation, storage, protection of registry records, access to them and provision for their disposal. According to this Act different creators in the Slovak Republic, such as the bodies of the state administration, self-government authorities, and legal persons, are obliged to ensure the records management system. Their rights and obligations are stated in article 16 of the Act no. 395/2002 on Archives and Registries.

Key words:

records management system, rights and obligations of the registry creators, normative, personnel, material and technical provisions of the records management system.

The field of records management systems in the Slovak Republic is regulated by the Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts and the Regulation no. 628 of the Ministry of Interior of the Slovak Republic by which some provisions of the Act on Archives and Registries are executed. This Act "regulates the organization and competence of state administration authorities in the field of Archives and registries, organization of Archives, rights and obligations of Archives founders, Archives, possessors of archives, access to archives, as well as the rights and obligations of registry creators".¹ The Act brought a new system of archives in the Slovak Republic: private Archives and public Archives.

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¹ HANUS, J., PĚKOVÁ, M., PAVLÍKOVÁ, L.: Access to archives in Slovak archival legislation. In: ATLANTI. 2010, vol. 20, p. 77.

RECORDS MANAGEMENT SYSTEM

The mentioned Act in basic definitions explains also the term **records management system** as the provision of registration, creation, storage, protection of registry records, access to them and provision for their disposal. In intentions of this Act different creators in the Slovak Republic are obliged to ensure the records management system, such as the bodies of the state administration, self-government authorities, and legal persons. Their rights and obligations are stated in article 16 of the Act no. 395/2002 on Archives and Registries.

Rights and obligations of a registry creator (Article 16)²

1. Rights of registry creators:
 - to ask the Ministry, through the State Central Archives or State Archives with regional territorial competence, for information, expert advice or instruction;
 - to entrust another person with the administration of the registry - a registry creator is allowed to entrust another person with the administration of registry records that are no longer necessary for him and the retention period of which has not yet expired. Only a person with a completed secondary education and three years of practice in the field or a person with university education under Article 6 paragraph 3 letter b) first point is allowed to execute the administration of registry of another registry creator.
2. Obligations of a registry creator:
 - a) to elaborate guidelines for records management system and schedule for retention and evaluation of records and submit it to the State Central Archives or State Archives with regional territorial competence for approval;
Guidelines for records management system means the internal guidelines, which deal with:
 - registering, creation, storage, protection and access to the registry records and their disposal,
 - personnel, areal, material and technical provision of the record management system,
 - tasks, scope and description of the activities performed by employees of the registry creator in individual aspects of the record management system.³

A schedule for retention and evaluation of records is also an internal guideline which structures the creator's registry into subject groups, future archival documents will be determined by the permanent documentary value and all registry records will be determined by their retention period. With respect to a registry creator under Article 16 paragraph 3, the schedule for retention and evaluation of records shall form an integral part of the guidelines for records management system. In connection with this obligation (to elaborate guidelines for records management system) the Department of Archives and Registries issued the aid to determine the obligation to elaborate these internal guidelines. The registry creators were divided into three groups:

- the registry creators, who are obliged to elaborate the guidelines for a records management system and also the schedule for retention and evaluation of records;

² Article 16 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts.

³ Article 17 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts.

- the registry creators, who are obliged to elaborate only the schedule for retention and evaluation of records;
- the registry creators, who are not obliged to elaborate guidelines for records management system nor the schedule for retention and evaluation of records;
- b) to register records originated from activity of the creator and records received - keeping an exact and complex evidence in specific aids of the records management system;
- c) to provide for the records management system - it means a normative, personnel and material-technical provision of the records management system;
- d) to provide for the stability of a registry record - may include preventive and specialized activities to ensure a registry record longevity in good physical condition. If a registry record is made on paper, the paper has to comply with requirements specified by a technical standard.⁴ In this context we can not forget the question of stability of the electronic registry records or electronic archival documents;
- e) to ensure that the records management system is executed by persons with a completed secondary education as a minimum;
- f) to locate the registry in premises that guarantee its preservation;
- g) to enable the execution of expert /professional/ state supervision over the records management system. The ways of execution of expert state supervision are control and survey. The Ministry shall execute professional state supervision in state authorities a minimum of once in five years. In legitimate cases, it is allowed to agree on an even longer period. Professional state supervision at other legal persons and physical persons is executed on dates agreed with them by the Ministry.

A civil servant executing professional state supervision is entitled:

- to enter the Archives premises and premises in which archives are stored and the premises of registries;
- to require the necessary records, data, information and explanations referring to the observance of the obligations stipulated by this act; he is not allowed to make abstracts, transcripts or copies from archives and registry records;
- to require demonstration of the identity of persons performing activities pursuant to this act in Archives and at the registry administration;

A civil servant executing professional state supervision is obliged:

- to present himself in advance with an identity card authorizing him for the execution of professional state supervision; the Ministry issues the identity cards;
- to provide information, expert advice or instruction, as requested;
- to keep confidential all matters that he learns during the execution of professional state supervision;
- to make a written report after the completion of the control and submit or deliver it to the founder of Archives, possessor of archives, or creator of a registry and the registry administrator of another creator;⁵

⁴ Article 16 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts.

⁵ Article 28 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts.

- h) to regularly dispose of registry records only upon approval given by the Ministry - the registry creator shall only dispose of records from the registry within the disposal procedure. A registry creator shall propose registry records with an expired retention period for disposal. If any of the registry records with an expired retention period are still needed, the extension of the retention period shall be discussed within the disposal procedure. The registry creator must not include registry records with an unexpired retention period into the recommendation for the proposal for disposal of registry records. In this context should be noted that the Act on Archives and Registries does not impose any retention period. Retention period are stated by the acts governing the area of business of individual companies. For example the Act on Personal Data Protection, the Act on Accounting, the Act on Health Insurance etc. Each creator of a registry is obligated to dispose at least once every five years. In a reasonable case, the registry creator is allowed to agree upon a different period.⁶
- i) to identify the registry record to which he wishes to restrict access, with the words "restricted access"⁷, whilst stating the period of restriction;
- j) to immediately inform the Ministry, through the State Central Archives or State Archives with regional territorial competence, of any change in creator's name or the location of the registry, change of legal form as well as other relevant facts;
- k) to transfer archival documents, after the disposal procedure, to the Archives within a period specified by the Archives, together with a list of archival documents submitted and registry finding aids pursuant to guidelines for records management system;
- l) to immediately give the registry over to a legal successor or; if ceased without any legal successor:
- to give registry records with permanent documentary value over to the Ministry, arranged pursuant to its instructions through the State Central Archives or State Archives with regional territorial competence;
 - to keep registry records without permanent documentary value until the expiry of the retention period and advise the Ministry of the place in which these are kept;

Despite the fact that the obligation to provide the records management system is supported by law, in practice we often face resistance from the business community. They consider the records management system as a marginal issue and excessive administration. Our task remains to convince them that good records management system is one of the basic principles for the successful operation of companies.

⁶ Article 18 and 19 of Act no. 395/2002 on Archives and Registries and on the Amendments of Certain Acts.

⁷ For example, Article 17 of the Commercial Code, Act No. 527/1990 Coll. on inventions, industrial designs and improvement proposals, as amended, Act No. 478/1992 Coll. on utility designs, as amended, Act No. 132/1989 Coll. on the protection of rights to new varieties of plants and breeds of animals, as amended, Act No. 146/2000 Coll. of Laws on the protection of the topography of semiconductor products, Act No. 211/2000 Coll. of Laws on free access to information and on the amendment and supplement of certain acts (Freedom of Information Act), Act No. 483/2001 Coll. of Laws on banks and on the amendment and supplement of certain acts, as amended.