

Act on State-owned Enterprises - 111/1990, wording of 5.3.2016
Slovakia
Excerpt

[...]

Section 19

Managing director

(1) The founder shall appoint the managing director by a selection procedure.

(2) The managing director is not an employee of the enterprise; the relationship between the enterprise and the managing director in the performance of his/her function is governed mutatis mutandis by provisions of the mandate contract, unless this Act stipulates otherwise. Other rights and obligations, and the manner of remuneration, shall be agreed by the founder with the managing director in the contract for performance of the function,¹⁷⁾ which must be concluded in writing, otherwise it is invalid. After completion of the function of the managing director the founder may delegate the function of managing director to any of the enterprise's management staff without a selection procedure until the selection procedure for the function of the managing director pursuant to this Act, for three months at maximum.

(3) The managing director shall govern the activity of the enterprise and act as the statutory body in all its matters; he/she is responsible for the effective management of the assets within the enterprise's administration. The managing director is required to execute his/her competence with professional care and in line with the interests of the enterprise. In particular he/she is required to obtain and, when making decisions, take account of all available information concerning the subject of decision-making, keep confidential information and facts the disclosure of which to third parties could damage the enterprise or threaten its interests, and when executing his/her competence, he/she must not favour his/her own interests or the interests of third parties before the interests of the enterprise.

(4) In the event of infringing his/her obligations in the performance of his/her function, the managing director shall compensate the damage caused to the enterprise. In particular, he/she is required to compensate damage incurred by the enterprise as a result of him/her providing performance or him/her acquiring assets in contradiction with this Act. The limit of damage compensation that the managing director is liable for is, at maximum, the annual earnings of the managing director granted under Section 19(7).

(5) The managing director is required to inform the board of all the facts which are known to him/her, and which may affect the business activities, the assets of the enterprise and its liquidity. At the request of the board the managing director is required to take part in sessions of the board and provides its members with information in the required scope with the submitted material.

(6) After review by the board, the managing director shall provide the founder with the annual accounts, the proposal for the distribution of profits and the business development plan for approval. The business development plan consists mainly of

- a)** the costs and yields plan,
- b)** the development plan for assets and sources to cover them,
- c)** the financial flows plan,
- d)** the credit burdening plan,
- e)** the investment and asset sale plan,
- f)** the profit distribution plan.

(7) Under the conditions and in the scope stipulated by this Act the managing director is entitled to

- a)** monthly salary and annual bonuses from the profit share,
- b)** further particulars relating to the performance of the function, which are specified by the contract for performance of the function.

(8) The managing director's monthly salary and annual bonuses from the profit share are determined by the founder; the amount of the managing director's monthly salary must not exceed 8 times the

average wage in the national economy and the annual bonuses from the profit share must not exceed 10% of the enterprise's disposable profit. If the managing director also receives a salary as a member of parliament in the National Council of the Slovak Republic, during the drawing of that salary, the managing director shall be entitled to the salary according to the first sentence at most at the amount of the minimum wage. The previous sentence also applies to annual bonuses from the profit share.

(9) A managing director is entitled to leave during the performance of his/her function, to which special legislation applies.

(10) The time of performing the function of managing director includes the time of taking leave and times of temporary inability to perform the function caused by an injury in connection with the performance of the function of director or in direct connection thereto, or caused by occupational disease; this does not apply if the injury was caused by his/her own fault.

(11) During the performance of his/her function, a managing director is assessed as an employee for the purposes of health insurance, sickness insurance, pension contributions and social security.²¹⁾

(12) The provisions of special legislation²²⁾ governing health and safety at work and damage compensation shall apply mutatis mutandis to the legal relationship resulting from the function of managing director.

(13) The managing director is entitled to travel expenses that he/she incurs during performance of the function pursuant to special legislation.²³⁾

(14) The managing director shall appoint and dismiss his/her deputy from the ranks of enterprise employees to fully represent his/her rights and obligations during his/her absence. If the managing director specifies several representatives, he/she shall also specify the order in which they represent him. Furthermore, he/she shall appoint and dismiss other employees of the enterprise directly subordinate to him/her.

(15) The managing director and management staff may not be members of the statutory body or the supervisory board of a commercial enterprise unless the founder has given its prior consent to their appointments to these functions.

(16) The persons specified in paragraph 14 and persons close to them¹⁹⁾ may not have ownership interests in a commercial²⁰⁾ enterprise with a similar subject of business as any enterprise they are employed by, or in a commercial enterprise that is a supplier to that enterprise, except for ownership interests pursuant to special regulation.⁶⁾

(17) Performance of the function of a managing director ends with his/her death, resignation or dismissal. The founder dismisses the managing director.

Section 19a

Selection procedure for the managing director of an enterprise, board chairperson and members

(1) A selection procedure for a managing director, a board chairperson and members who the founder appoints on the basis of the selection procedure shall be declared by the founder in the press or other commonly available medium of mass communication at least five weeks prior to its commencement, stating the following information

- a)** name of the enterprise, including its registered office,
- b)** qualification prerequisites for performing these functions,
- c)** specific criteria and requirements for candidates,
- d)** a list of required documents,
- e)** the date and place for submitting the selection procedure entry application.

(2) A selection procedure is held by a selection panel appointed by the founder. A selection panel has five members, at least one member of which is appointed by employees of the enterprise. If a

member of the panel finds that he/she may not be impartial, he/she shall communicate this fact to the founder.

(3) The selection panel will send a candidate who meets the requirements set out in paragraph 1(b) and (c) an invitation to the selection procedure at least seven days prior to its commencement.

(4) The selection panel shall evaluate the results of the selection procedure and rank the candidates based on them. The order of candidates is mandatory for appointment to the post of managing director of an enterprise, board chairperson or member.

(5) The selection panel shall inform the candidates in writing of the results of the selection procedure within seven days after its completion.

(6) The founder shall publish the results of the tender, and the order and fulfilment of the required criteria by individual candidates in the same manner as when declaring the selection procedure.

(7) If the selection panel does not select a candidate, the founder shall declare a new selection procedure.

Section 20

Composition and term of office of the board

(1) The number of board members specified by the founder is always odd and can be a maximum of nine.

(2) The board chairperson is appointed to the function on the basis of a selection procedure from persons who are not employees and is dismissed from the function by the founder. Half of the other members of the board are appointed and dismissed from the members of the working collective by the working collective or its delegates by secret ballot; if a trade union organisation is active in the enterprise, the trade union organisation shall delegate one member to represent the working collective from among its members. The other half of the board members is appointed to the function on the basis of a selection procedure from persons who are not employees and dismissed from the function by the founder.

(3) The managing director or his/her deputy cannot be members of the board.

(4) The relationship between the enterprise and the supervisory board member in the performance of his/her function is governed mutatis mutandis by provisions of the mandate contract, unless this Act stipulates otherwise. Other rights and obligations, and the manner of remuneration shall be agreed by the founder with the board members in the contract for performance of the function,¹⁷⁾ which must be concluded in writing. After appointment, the board chairperson and members are required to provide the founder with a declaration of assets to the extent provided for in Section 19(3) and (4) and their ownership shares in other legal entities and ownership shares of those close to them¹⁹⁾ in other legal entities within a period of 30 days.

(5) The board chairperson and members shall execute their competence with professional care and in line with the interests of the enterprise. In particular, they are required to obtain and, when making decisions, take account of all available information concerning the subject of decision-making, keep confidential information and facts the disclosure of which to third parties could damage the enterprise or threaten its interests, and when performing their functions, they must not favour their own interests or the interests of third parties before the interests of the enterprise.

(6) Board members are entitled to view all documents and records related to the enterprise's activities. They shall check the correctness of financial statements and check whether the business activity of the enterprise is performed in accordance with legislation, internal rules and the founder's instructions.

(7) Board members who infringe their obligations in the performance of their function shall be jointly and severally liable to compensate the damage caused to the enterprise.

(8) The chairperson shall convene the council and lead its sessions. The board shall appoint a vice-chairperson from its members to represent the chairperson in times of his/her absence.

(9) The term of office of the board is 5 years. A board member may resign his/her function by giving written notice to the board before the expiration of the term of office. If the number of board members appointed by the founder decreases, the founder is required to appoint a new board member without delay. If the number of board members appointed by the working collective decreases, it shall proceed according to the election code for the election and dismissal of a council member.

(10) Monthly remuneration of a board member may not exceed 5 times the average wage in the national economy. The annual bonus from the profit share of the enterprise for a board member is 5% of the remuneration awarded to the managing director of the enterprise pursuant to Section 19(8).

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