

440/2004 Coll.

DECREE
of the Ministry of Labour, Social Matters, and the Family of the
Slovak Republic,

dated 16 July 2004,

defining the meaning of incorrect or misleading information,
service or performance that are not related to retirement pension
saving

Amendment: 774/2004 Coll.

Under the provisions of Article 112 paragraph 2 of Act No. 43/2004 Coll. on retirement pension saving and on amendments to certain laws in the wording of Act No. 439/2004 Coll. (hereinafter referred to as 'Act'), the Ministry of Labour, Social Matters, and the Family of the Slovak Republic has enacted the following:

Article 1

(1) Incorrect or misleading information is defined as:

- a) information on retirement pension saving that is not compliant with law, mainly information on participation in retirement pension saving, the period of retirement pension saving, the payment of contributions to retirement pension saving, the conditions of retirement pension payment, and the rules of retirement pension saving;
- b) information on the competent pension management company or on another pension management company which violates the rules of fair competition¹⁾ or is against morality²⁾;
- c) the naming of a person with a qualified interest³⁾ in the pension management company, without naming the other persons who have a qualified interest in the pension management company;
- d) information the veracity of which cannot be proved;
- e) an untrue statement made by a natural person, or about a natural person, that
 1. he/she made and signed an retirement pension saving agreement with the pension management company that is the object of promotion and advertising;

2. he/she is or was a saver of the pension management company that is the object of promotion and advertising;

3. he/she is or was a pension beneficiary receiving retirement pension as a disposable surplus from the pension management company that is the object of promotion and advertising;

f) information on statistical data without specifying the source of origin;

g) an estimate of the amounts of pension from social insurance and pension from retirement pension saving, except for the individual estimate of the amount of retirement pension for life from retirement pension saving, which is made for a natural person on the basis of an application and which contains:

1. the age of the natural person and his survivors;

2. the natural person's expected basis of assessment for the payment of contributions to retirement pension saving;

3. the expected level of fees charged by the pension management company;

4. the expected real revenue in the pension management company's growth pension fund before the deduction of the fees charged by the pension management company, in an amount no greater than five per cent per annum; the expected real revenue in the pension management company's balanced pension fund before the deduction of the fees charged by the pension management company, in an amount no greater than three and a half per cent per annum; or the expected real revenue in the pension management company's conservative pension fund before the deduction of the fees charged by the pension management company, in an amount no greater than two per cent per annum;

5. the value of the discount factor⁴⁾;

6. the expected period of retirement pension saving in a growth pension fund of the pension management company, the expected period of retirement pension saving in a balanced pension fund of the pension management company, or the expected period of retirement pension saving in a conservative pension fund of the pension management company;

7. the expected age of the natural person at which he asks for the payment of retirement pension for life from retirement pension saving;

8. the expected technical interest rate, at the level of maximum 90% of the actual technical interest rate;

9. the calculation of retirement pension for life from retirement pension saving pursuant to Annex 1 of the Act;

h) information on the pension management company's fees, without information on fees pursuant to Article 63 paragraph 1 letters a)

and b) of the Act;

i) information on the pension management company's fees, without notice of the possibility of their change with effect pursuant to Article 63 paragraph 7 of the Act;

j) information on changes in the fees pursuant to Article 63 paragraph 7 of the Act, without their level before the changes and the date of effect of these changes being given;

k) information on the level of fees charged by the pension management company in the future, except information on the level of fees in the future pursuant to Article 63 paragraph 6 of the Act;

l) information on the pension management company's fees, without the basis of their calculation being specified;

m) information on a comparison of fees charged by the pension management company with the fees of another pension management company, without a comparison of the fees of all pension management companies;

n) information on the amount of nominal revenue in a pension fund of the pension management company, without information on the amount of real revenue in the same pension fund of the management company;

o) information on the amount of revenue in a pension fund of the pension management company, without the specification of the period during which this revenue was generated, and the name of the pension fund in which the revenue was achieved;

p) information on the amount of revenue earned in a pension fund of the pension management company over a period shorter than 12 months, from the time the pension fund started to be created by the pension management company, or information on the amount of revenue in a pension fund of the pension management company, which was not achieved

1. during the period of the last 12 months, 36 months, 60 months, or 120 months preceding the year in which this information is released;

2. during the period of the last 12 months, 36 months, 60 months, or 120 months preceding the year in which this information is released, or

3. during the entire period since the time the pension fund was set up by the pension management company;

q) information on the amount of revenue earned in a pension fund of the pension management company, compared with the amount of revenue in a corresponding pension fund of another pension management company, without a comparison of revenues in corresponding pension funds in all pension management companies over the same period;

r) information on the portfolio or current value of the pension unit of a pension fund of the pension management company, compared with the portfolio or current value of the pension unit of a corresponding pension fund of another pension management company, without a comparison of the portfolios or current values of pension units of the corresponding pension funds of all pension management companies;

s) information on revenues earned in a pension fund of the pension management company, the amount of which is not determined according to law;

t) information on the expected level of revenues in a pension fund of the pension management company in the future;

u) information on the pension management company's services, compared with the services of another pension management company, without a comparison of the services of all pension management companies;

v) information concerning retirement pension saving, which is not up to date;

w) information on the future balance on a natural person's personal pension account, except an estimate of the future balance on the saver's personal account, which is made for the saver on the basis of his application and which contains:

1. the age of the saver;
2. the saver's expected basis of assessment for the payment of contributions to retirement pension saving;
3. the expected level of the pension management company's fees;
4. the expected real revenue in a growth pension fund of the pension management company, amounting to no more than five per cent per annum; the expected real revenue in a balanced pension fund of the pension management company, amounting to no more than three and a half per cent per annum; or the expected real revenue in a conservative pension fund of the pension management company, amounting to no more than two per cent per annum;
5. the expected period of retirement pension saving in a growth

pension fund of the pension management company, the expected period of retirement pension saving in a balanced pension fund of the pension management company, or the expected period of retirement pension saving in a conservative pension fund of the pension management company;

6. the expected term of pension payment from retirement pension savings, requested by the saver;

7. information that the personal pension account balance must be used for the purchase of retirement pension for life from old age pension savings pursuant to Article 33 of the Act;

x) information on the basis of which an incorrect judgement may be made as to which entity creates and manages pension funds for the implementation of retirement pension saving according to law;

y) information on the number of savers belonging to a pension management company or information on the number of concluded retirement pension saving contracts released within 18 months of the day on which the pension management company started to set up the currently managed pension funds.

(2) Services or activities that are not related to retirement pension saving are the following:

a) promise to provide a service or activity in the future;

b) the provision of a service or activity that is not related to the management of pension funds pursuant to Article 47 paragraph 2 of the Act, or the provision of an allowance for such a service or activity for a natural person;

c) participation in the lottery or in a similar game.⁵⁾

Article 2

This Decree shall become effective on 1 August 2004.

Decree No. 774/2004 Coll. came into effect on 1 January 2005.

Miroslav Beblavý

1) For example, Articles 44 to 55 of the Commercial Code.

2) Article 6 paragraph 3 of Act No. 634/1992 Coll. on consumer protection as amended by Act No. 310/1999 Coll.

3) Article 48 paragraph 2 letter c) of Act No. 43/2004 Coll. on retirement pension saving and on amendments to certain laws.

4) Annex 1 to Act No. 43/2004 Coll.

5) Act No. 194/1990 Coll. of the Slovak National Council on lotteries and similar games, with subsequent amendments.