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Protection of Health as Public Interest *Par Excellence* in the Slovak Legal System

Abstract

The Constitution of the Slovak Republic in Article 40 provides for the right to health protection. The state is obliged to provide its citizens, under the conditions set by the law, on the basis of health insurance, with the right to free of charge health care and sanitary aids. The modern systems providing the citizens' right to health protection are influenced by three factors: tradition, the level of scientific knowledge and at last, but not least, by the state's economic possibilities. There exists no social consensus about an optimal organization of the health system.

The requirement of establishing a balance between the adequacy of the amount of the invested financial means and the real results of health care, measured in particular in the estimated living longevity, is constantly getting urgent. The state is obliged to provide the largest possible availability of health care in accordance with the newest knowledge of science, research and rational pharmacotherapy. If a forced restriction of the ownership right is inevitable for the achievement of this aim, the state finds a legal basis for it in domestic, community and international law. However, such intervention is legitimate only by keeping four cumulatively determined conditions: admissibility only to an inevitable extent, in public interest, under the law and for an adequate compensation. These legal institutions are legislatively not defined, are always assessed within the context of a concrete matter and are temporarily and locally altering.

Key words: *the right to health protection, forced restriction of ownership right, public interest, inevitable extent, adequate compensation.*

Ochrona zdrowia jako interes publiczny *par excellence* w słowackim systemie prawnym

Streszczenie

Konstytucja Republiki Słowackiej w art. 40 gwarantuje prawo do ochrony zdrowia. Państwo zobowiązane jest zapewnić swoim obywatelom, na podstawie przepisów ustawy, bezpłatną opiekę zdrowotną i pomoc w zakresie higieny, w oparciu o ubezpieczenie zdrowotne. Wpływ na kształt obowiązujących regulacji dotyczących prawa do ochrony zdrowia wywierają trzy czynniki: tradycja, doktryna i wreszcie, co wcale nie jest najmniej istotne, warunki ekonomiczne państwa. Brak jest porozumienia społecznego w sprawie optymalnej organizacji systemu opieki zdrowotnej.

Próba znalezienia równowagi pomiędzy adekwatnością zainwestowanych środków finansowych a rzeczywistą skutecznością systemu opieki zdrowotnej, z uwzględnieniem w szczególności wpływu na nią długości życia ludzi, wciąż jest problemem bardzo ważnym. Państwo jest obowiązane zapewnić obywatelom najlepszą dostępność opieki zdrowotnej w oparciu o najnowszą wiedzę medyczną, wyniki badań naukowych oraz racjonalną terapię farmakologiczną. Jeżeli dla osiągnięcia tego celu nieunikniona jest ograniczenie prawa własności, państwo znajduje podstawy do tego w prawie krajowym, unijnym i międzynarodowym. Jednakże taka interwencja państwa jest legitymowana jedynie wówczas, gdy spełnione są łącznie cztery niezbędne do tego warunki: dopuszczalna jest tylko w stopniu koniecznym, w imię interesu publicznego, na podstawie prawa i za odpowiednim odszkodowaniem. Te sytuacje prawne nie są określone przez prawo, należy je poddawać ocenie w każdej konkretnej sprawie oraz są one zmienne w czasie i przestrzeni.

Słowa kluczowe: *prawo do opieki zdrowotnej, konieczność ograniczenia prawa własności, interes publiczny, stopień niezbędny, odpowiednie odszkodowanie.*

The right to health protection is the right serving for the maintenance or reversal of the state of the lack of illness, i.e. physical, mental and social wellbeing. Its assertion always falls within the context of other constitutional rights, sometimes even remain in conflict with them.

The Constitution of the Slovak Republic No. 460/1992 Coll., as follows from its amendments and supplementations (hereafter the Constitution or the Slovak Constitution) sets

in Article 40: “Every person shall have the right to health protection. The citizens shall, upon health insurance, have the right to free of charge health care and sanitary aids under the conditions set by the law”.

Protection of this right is also contained in other articles of the Constitution. Article 36 of the Constitution in letter c) provides employees with the protection of security and health during work and article 38 guarantees the increased protection of heath during work for selected groups of citizens. Similarly, the right to adequate environment in the sense of article 44 section 1) of the Constitution, or the rights insured to protect consumers, are the examples of concretization of the right to health. But the most extensive system of relations, which such right is reflected to, arises within the provisions on health care[1]. Even from the perspective of modern scientific approach towards health protection, emphasizing the prevention and removal of factors causing illnesses and making us pay more attention to these fields of activities in the protection of the right to health as the priority ones, there still remains the problem of health protection realized by creating a functional and effective mechanism of providing availability of health care to the entitled objects.

Protection of a human being’s health is the requirement of its existence and thus also the necessary requirement of the right to life and keeping physical integrity of an individual[2].

In the sense of article 51 of the Constitution the right to health protection belongs to the ones which might be claimed only within the executive laws. In the reasoning of its decision in case of the plaintiff of the Prosecutor General of the Slovak Republic against the National Council of the Slovak Republic on the declaration of incompatibility of article 4 § 4 of the Act of the National Council of the Slovak Republic no. 7/1993 on the Establishment of the National Insurance Company and on Financing of Health, Sickness and Pension Insurance with the Constitution of the Slovak Republic and the Charter of Fundamental Rights and Freedoms, the Constitutional Court of the Slovak Republic stated: “(…) the form of the authority, which enables an executive organ (the government) to issue a generally binding legal regulation, the main content of which is to make more detailed the regulation of a fundamental right, is not in conformity with article 40 of the Constitution of the Slovak Republic, according to which the citizens shall, upon health insurance, have the right to free of charge health care and sanitary aids under the conditions set by the law”[3]. The Constitutional Court thus clearly defined the constitutional obligation of the public authorities

[1] J. Drgonec, *Constituional Rights and the Health System*, Archa, s.r.o., Bratislava 1996, *passim*.

[2] K. Klíma and coll., *K Ústavě a Listině (transl. on the Constitution and the Charter)*, Aleš Čeněk, s.r.o., Plzeň 2009, *passim*.

[3] Judgment of the Constituional Court of the SR file no. PL. ÚS 5/94.

in the Slovak Republic to prepare and adopt acts providing for real availability of free of charge health care upon public health insurance.

Health insurance may be assessed as a service in public interest, aimed at the assertion of the constitutional rights of individuals and as such is abstracted from economic competence. The state provides for the provision of this service for all the persons, thus fulfilling the obligation of assertion of the constitutionally guaranteed right to free of charge health care upon health insurance[4].

From the mentioned above there follows the position of the insurance company as an object fulfilling service in public interest, directed to the assertion of the rights of individuals. The health insurance company administers public means obtained from the obligatory health insurance and as a mediator fulfills the obligation of the state following from the Constitution towards the individual, consisting of free of charge health care under the legally set conditions. Thus it is in public interest to create a functional and effective mechanism of public health insurance. The purpose of the health system is the improvement of the citizens' health condition, meeting patients' needs, extending the period of their productive life without illnesses, supporting and maintaining their physical and mental health and protecting from financial problems during illnesses.

Modern systems for the securing of the citizens' right to health protection are influenced by three fundamental determinants: tradition, level of scientific knowledge and last but not least the economic possibilities of the state.

Sensitive and perceptive system of health provides that the people are treated with sufficient respect, the system is sufficiently directed on a client, without distinguishing between diverse groups of population. Financial contributions are considered to be just if health expenses are divided according to the ability to pay, rather than the risk of affection, and should ensure everyone to be financially protected against such a risk.

Health is undoubtedly a primary aim of the health system. However, this system besides health outputs has also another dimension. Perception of the people's expectations and fairness in financial contribution are also considered to be important final aims of health systems.

The European Charter of Patients' Rights states: "Despite their differences, national health systems in the European Union countries place the same rights of patients, consumers, users, family members, weak populations and ordinary people at risk. Despite solemn

[4] J. Drgonec, *The Constitution of the Slovak Republic. Comments*, 3 edition, Šamorín, Heuréka 2012, p. 684.

declarations on the "European Social Model" (the right to universal access to health care), several constraints call the reality of this right into question.

As European citizens, we do not accept that rights can be affirmed in theory, but then denied in practice, because of financial limits. Financial constraints, however justified, cannot legitimise denying or compromising patients' rights. We do not accept that these rights can be established by law, but then left not respected, asserted in electoral programmes, but then forgotten after the arrival of a new government")[5].

As already stated above, public health insurance in the Slovak Republic is based upon the principle of solidarity, everyone pays health insurance depending on its income and the payer of the insurance for the economically inactive is the state. Financing health care is thus based upon the contributions of two economically active persons, i.e. the employees and the self-employed, being the payers of the insurance, as well as the taxes, from which the state settles insurance of the economically inactive insured.

The market cannot provide for solidarity. Without the state's intervention, solidarity would be limited to charity which in many cases appears to be insufficient. When defining solidarity, its risks should however be also taken into account. Lack of market managing mechanisms gradually makes the health system financially unsustainable and depending on effective state regulations. The decline of the quality of the offered health care and the increase of corruption within the system are also real threats here.

There does not exist generally accepted consensus how to organize successfully the health system. Within the health insurance there shall be distinguished a compulsory (public) health insurance and a non-compulsory (individual) one. The non-compulsory kind may further be divided into a supplementary, additional and substitute types.

Within the economic theory, there exist several systems of dividing the models of the health care financing. According to the object financing the provided health care there are two: direct and indirect. Within the direct one, the patient is directly the payer. The indirect one may further be divided into financing:

- within public resources,
- by means of compulsory public insurance,
- by means of voluntary contractual insurance
- by means of employee insurance,
- by the third sector.

[5] The Charter of Patients' Rights adopted by the Government of the Slovak Republic on 11 April 2001 by decision no. 326.

Upon the above classification, three basic models of financing health care have been created:

- Beveridge's universal system financing health by means of the public budget, which is thus based on direct and central position of the state within the health care system. It is used by the constituent parts of Great Britain, Scandinavian and Southern European states;
- Bismarck's employee system, based on compulsory public insurance, covering the basic extent of health care, supplemented by private insurance and the means from the public budget. Such system is typical for the Netherlands, Germany, Belgium, Austria and France.

Both systems are characterized by solidarity of the rich with the poor, healthy with the ill, young with the elder and economically active with economically inactive.

Enormous danger of the "free of charge" health care financing is the loss of the expenses awareness and the struggle to exhaust the most possible care. The real problem is the financial sustainability of this system in the future. In the developed countries the actual fact is the ageing process of the citizens and the increasing number of civilizational illnesses.

The American liberal system is based on the financing from private insurance sources supplemented by state re-distributional programs resolving the gravest failures of the market mechanism. The services are settled by a high percentage of direct payments and the state's role in the system of providing health care is only indirect. Such example exists in the USA[6].

As far as providing health care financing in Europe is concerned, there exist two basic models:

- tax model, which is applied in the following countries: Great Britain, Italy, Spain, Portugal, Sweden, Denmark, Ireland, Cyprus, Malta, Estonia and Island;
- contribution model, which is the basis for the financing in the remaining European countries.

From the point of view of the concurrence existing at the public insurance market, we distinguish:

- a unitary system (the country has one health insurance company or health fund), characterized by the impossibility of the insured to choose an insurance company and by non-profiting (all resources, except for operational costs, are used for health care);
- plurality system (there several health insurance offices in the country).

[6] Source: www.ess-europe.de, www.euro.who.int

The last one is further divided into the systems, where plurality arises from the reason of:

- objectivity (e.g. territorial division) or
- subjectivity (e.g. upon professions).

The majority of the European states prefer the model of health financing based on the plurality of health insurance companies, e.g.: Germany, France, the Netherlands, Belgium, Greece, Switzerland, Luxemburg, Lichtenstein, the Czech Republic and finally Slovakia. Upon the above mentioned, we may thus conclude that in current Europe the contribution model with the plurality of health insurance companies is prevailing.

The beginning of the Slovak health insurance dates back to the year 1919, as after the rise of the Slovak Republic the Act on obligatory health and accident insurance of all persons carrying out work or training was adopted. The first insurance companies were then founded. By Act no. 99/1948 on National insurance, the state regulated the entire system of health and pension surety and health insurance. At that time, the National Insurance Company was created. In 1951 the national health insurance ceased to exist and was switched to financing health care by means of the state budget.

Since 1990 the new system of public health insurance has being built. By the Act no. 7/1993 Coll. with the effect from 1.1.1993 the National Insurance Company with the Administration of Health Insurance Fund were established. Act 273/1994 Coll. with effect from 1.1.1995 created the General Insurance Company, establishing the system of plurality within the health insurance.

Since 1995 14 insurance offices have been gradually created. The majority of them ceased to exist through fusion with other health insurance offices. However, there are still two cases of health insurance offices existing (Perspektíva and Európska zdravotná poisťovňa, which left extensive unsettled obligations and the losses were transferred to the providers of health care and the state budget).

The system of public health insurance is characterized by compulsory public health insurance, universal coverage and existence of compulsory health insurance companies. Since 2005 health insurance companies have acted as joint stock companies, whilst until then they had acted as public institutions. In fact, three insurance companies provide for the system of compulsory health insurance: one state and two private joint stock companies.

Conditions for exercising the right for the free of charge health care upon compulsory public health insurance is regulated by the so called "hex of health laws", i.e.:

- Act no. 576/2004 Coll. on Health care, services related to the provision of health care, as amended;
- Act no. 577/2004 Coll. on the Extent of health care settled upon public health care and on the payment of services related to the provision of health care;
- Act 578/2004 Coll. on Providers of health care, health workers and professional associations in the health system, as amended;
- Act no. 579/2004 on Rescue health service, as amended;
- Act no. 5800/2004 on Health insurance, as amended by Act no. 95/2002 on Insurance, as amended,
- Act no. 581/2004 on Health insurance companies and supervision over health care, as amended.

None of the existing systems of health service financing appears to be ideal. Compared to other countries of the European Union, Slovakia displays a low level of the health service effectivity. In consequence of the population ageing, the increase of the number of persons with chronic illnesses and new methods of healing, the expenses for the health service increase in the entire world.

The requirement for the creation of balance between the effectivity of the invested financial means and the largest availability in health care providing, in accordance with the newest facts of science, research and rational pharmacotherapy are constantly getting urgent. The need for health is never ending, the resources are limited.

Effectivity of health care systems could also be characterized as adequacy of the amount of expended financial means to the real health care results. Among the monitored results of the respective health care system the most frequent variable is the expected longevity.

The decision to introduce the market model of health insurance in the Slovak Republic emerged from the assumption that the creation of concurrence environment in the field of public insurance will support the increasing of effectiveness of the financial means' investment to health care and will lead at the same time to increasing the quality of the provided health care and thus a greater satisfaction of the patients. This process was realized by adoption of the reform acts in 2004.

The study of the International Monetary Fund, which by use of the DEA method compared the development of ineffectiveness within health service in 37 countries of the Organisation for Economic Co-operation and Development (hereafter the „OECD"), showed that the Slovak Republic legs behind the other countries in effectivity, whereas exactly after

2004 this trend significantly worsened. At the same time it demonstrates that the dependency of the development of effectivity on the increasing amount of the financial resources spent on the health system does not exist[7].

The interest of the Slovak Republic in the efficiency of spending financial means on the health system, which would be in accordance with the Constitution of the Slovak Republic and realized by means of public health insurance by insurance companies, led to the decision of returning to a more efficient, administratively reduced and – from the point of view of expenses – effective model of financing health care by means of one public institution.

The Slovak Republic bases this step on the community regulations (article 168 § 7 of the Treaty on the functioning of the European Union), as well the judicature of the Constitutional Court of the Slovak Republic, which expressed, that the state protects economic competition only there and then, where and when there are no reasons for the restriction or exclusion of economic competition in public interest. Health and pension insurances belong to the social relations which are excluded from economic competition in public interest[8].

In case of constitutional acceptability of changes in the system of public health insurance, the Constitutional Court of the SR expressed, that the legislative may also accede to a more fundamental change in the system of public health insurance, in order to protect the legitimate public aim. However, it must reason this decision adequately and realize it within the limits provided by the Constitution of the Slovak Republic, moreover it must also take into account possible damages, which could be caused to legal entities contributing in good faith to the performance of public health insurance, until the new legal regulations become effective and settle it in a constitutionally acceptable way[9].

As in case of the transformation of the plurality public health insurance system to the unitary one, it is a fundamental conception change, from the material point of view of understanding the legal state, that the transformation legislature must also contain the attribute of respecting legitimate expectations connected with the exercising of property rights. Such change evokes forced restriction of the ownership right, i.e. the right of the owners of private health insurance companies by means of the fundamental restriction of their possibility to dispose with their own stocks as their property values, forming integral part of their

[7] Study of the International Monetary Fund, www.imf.org/external/pubs/ft/wp/2012/wp12173.pdf
[8] Judgment of the Constitutional Court of the SR, file no. PL. ÚS 13/1997.
[9] Judgment of the Constitutional Court of the SR, file no. PL. ÚS 3/2009.

ownership right. Such intervention may be executed in a democratic society only for an adequate compensation.

The basis for success in such a fundamental conceptual change is the adoption of a quality transformation legislature, complexly regulating not only the course of the entire process, but also further systemic changes of the relation towards the insured, payers of the insurance, providers of the health care and other objects of public administration. The adopted legislature must in the first row provide for the values protected by the Constitution, constitutional laws and international treaties not to be affected. The means of realizing the unitarization, the agreement on buying stocks from non-state health insurance companies or the process of expropriation must be conformed with the constitution. With regard to the voluntary character of the institution of the agreement in this case the threat of inconformity with the Constitution is marginal. The situation differs in case of a process of expropriation where all the conditions, which the valid Slovak legislation bounds to this legal institute, must be fulfilled.

The Constitution of the Slovak Republic guarantees the ownership right in article 20. The purpose of such regulation is to guarantee the protection from deprivation of ownership without the consent of an owner[10]. Article 20 § 4 of the Constitution determines the conditions of expropriation or forced restriction of this right, which may occur only in accordance with four, cumulatively set conditions, i.e.: only under the law, to an inevitable extent, in public interest and for an adequate compensation. The Constitution does not entitle the legislative power, i.e. the National Council of the Slovak Republic, to expropriate directly by law, however this may be acceded only under the law. The Constitution does not *de facto* recognize the expropriation, which would sufficiently be legalized by formal expropriation with the compensation. It recognizes only expropriation under the set conditions, where the owner is an ordinary object of the proceedings[11]. In case of the change in the system of health insurance from the plural one with a private element to the unitary one with one state insurer there are two mostly disputed matters from the professional and social point of view. The first one is the demonstration of public interest, prevailing over private interests, entitling to permanent deprivation of the property to the owner. The second one is the manner of determining the adequate compensation.

Public interest is not a formal institute. The reason, why the state accedes to such a serious permanent intervention with ownership rights, must be truly considerable and

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[10] J. Drgonec, *The Constitution* ..., p. 407.
[11] Judgment of the Constitutional Court, file no. PL. ÚS 19/09.

objectively superior over the owner's interest. Public interest is not defined by the legislation, as it may be various matters which must always be assessed within the context of a concrete case.

From the point of view of the international law, the Convention on the Protection of Human Rights and Fundamental Freedoms, in article 1 of its Protocol no. 1 (hereafter the Convention) provides that noone may be deprived of his property, except in public interest and under the conditions set by the law and general principles of the international law. A breaking decision, not only for the European protection of the ownership right, but also for the determination of mutual relations between public and private interest, was the one made in case of Sporrong and Lőnroth v. Sweden (of 23 September 1982). Before taking this decision the Strasbourg authorities of legal protection had examined only the legality of interventions of states into private rights. After it was taken the examination of lawfulness of such interventions extended also to proportionality, i.e. the search for a "fair balance" between society and individual interests, as well as the contextual definitions of the terms "public interest" and "private interest". The search for the fair balance gradually became a serious supranational intervention into the autonomous by that time will of states to intervene into the private interests of individuals and exclude them for the sake and need of the public interest[12].

The European Union law gives clear mandate to assess this institution at the national level. The decisions of the Constitutional Court of the Slovak Republic follow the abovementioned principles. The balance between public and private interest is an important criterion for the determination of the adequacy of limitation of each fundamental right and freedom[13].

The Constitutional Court of the Slovak Republic also stated that public interest is the use of property for public purposes and is the reason for the limitation of the ownership right by means of its restriction or expropriation[14]. The Constitutional Court of the Czech Republic maintained the view that public interest is not always identical to collective interest. Satisfying collective interests of certain groups may eventually be also in contravention with the general interests of the society[15].

[12] *Open society foundation, Forum of donors 2006: Public prosperity, legislature and practice*, Bratislava – Peter Rašla 2006.
[13] Judgment of the Constitutional Court, file no. PL. ÚS 7/96.
[14] Judgment of the Constitutional Court, file no. PL. ÚS 11/96.
[15] Judgment of the Constitutional Court of the Czech Republic, file no. I. ÚS 198/95, PI. ÚS 24/04.

In case of an intervention with the ownership right, in changing the concept of the protection of the Constitutionally guaranteed right to health, public interest was defined as an interest of the Slovak Republic in the effective use of financial means in the health service.

As it was already stated before, the entire mortality in the Slovak Republic belongs to the highest in the countries of the European Union, as well in the OECD, in particular in the field of cardiovascular illnesses and oncology. Even more alarming is the fact that the differences in the effectiveness of the Slovak health service form other comparable countries keep increasing. The organisation and management of the health system, including the organisation of payers (health insurance companies) also plays a considerable part in this process. The duplicity in the activities and processes leading to higher expenses of payers and providers for the organisation and management of this activity may be a direct reason of this state of affairs. High incomes on the incomplete insurance market, drawing off a part of means for health care and difficulty in operative and effective organisation and coordination of activities between different parts of the health system may be the indirect ones. The state of health insurance, together with the unavailability of the fundamental right to the free of charge health care within the expenses of health insurance jointly create a set of reasons, each of which would be enough to be considered it public interest, to be able to intervene with the rights of health insurance companies to peaceful enjoyment of their property. In the concurrence of these reasons, the urgency of such broadly defined public interest to remove the existing insufficiencies in the health insurance may be considered to be justified[16]. Thus, improving health care is undoubtedly a legitimate aim, and therefore the legislative initiative, the purpose of which is to provide for the improvement of health care, should be considered as a measure following this aim[17].

During each intervention with the constitutionally guaranteed rights, there must exist adequacy between the purpose and the used means. Within asserting the principle of proportionality, it shall be proceeded in such a way, that there would exist a rational connection between the sufficiently important purpose and the means used to achieve it. Purposeless restriction of the fundamental rights is inadmissible from the constitutional point of view.

It is admissible only to select truly inevitable means for the achievement of the purpose. The respective legislative measure causing the restriction of constitutionally

[16] Project of the introduction of a unitary system of public health insurance in the Slovak Republic, Government of the SR session 32/2012, 31.10.2012, no. of material: UV-35445/2012.
[17] Judgment of the Constitutional Court of the SR, file no. PL. ÚS 3/2009.

guaranteed rights must be truly inevitable under the circumstances of the assessed case. As far as a less restricting legislative solution for the achievement of the legitimate aim exists, it shall be used.

Despite the similarity of several conditions of lawful expropriation in domestic, as well as in public international law, one should take into account their different content and eliminate any failure in keeping the standards and conditions of the lawful expropriation, set in the respective agreement on the support and protection of investments. International obligations of the Slovak Republic in the field of the protection of cross-border investments, in particular the agreement on the support and mutual protection of investments, on the basis of which foreign investors assert claims against the Slovak Republic in cases they presume that their investment were frustrated through the state activity in connection with the process of expropriation, shall not be neglected.

When adopting measures, directly or indirectly depriving investors from their investments, the following conditions must be met:

a) measures must be adopted in public interest and performed under the law;

b) measures must not be discriminating;

c) measures must be accompanied by the determined payment of a fair compensation, which must contain a true value of the concerned investments, be most effective for the claimant and therefore transferred without any inconvenient delay to the country determined by the claimants concerned, in any freely convertible currency the claimants have agreed upon.

Expropriation under the principles of the international law is thus possible, unless it is unlawful, i.e. if it meets all the set conditions, which must be fulfilled jointly: the measure in issue must be adopted in public interest, under the law, it may not be discriminating and the concerned person must immediately be indemnified for any delay by an adequate compensation.

Conclusion

The Constitution of the Slovak Republic in its Article 40 guarantees every person, both citizens and foreigners, the right to health protection. The state is obliged to provide its citizens, under the conditions set by the law, with the right to the free of charge health care and sanitary aids un the basis of health insurance. Such obligation corresponds to the right of the state to build an insurance system in such a way, that it would provide its citizens with health care in accordance with the principles of efficiency and effectivity of financial means'

assertion. In connection with this, the state has the right to change the existing health care system, in order to introduce a higher extent of efficiency and effectivity into it, even if it means permanent intervention with the ownership right of the owners of private health insurance companies. Efficiency and effectivity are the two elements, being the basis of the material fulfilment of the constitutionally guaranteed right to health protection. The Slovak Republic undertakes these steps on the basis of the Constitution, domestic, as well as the international law, when strictly adhering to the set conditions. Citizens' health is a public interest par excellence.