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## Infoservis – Data box

### ACT ON ELECTRONIC COMMUNICATION

Act No. 300/2008 Coll., on electronic communication and authorized conversion of documents (hereinafter only the “*Act*”) will come into force on July 1, 2009 and introduces substantial changes in the method of delivering of the public authorities’s documents and in the method of submission of the acts of the natural and legal persons towards public authorities. The subject matter of the legal regulation of this legal enactment are electronic acts of legal persons, natural persons, state and the other authorities, information system of data boxes and an authorized conversion of the documents.

### DATA BOX

So-called data boxes are boxes established and administered by the Ministry of interior affairs (hereinafter only the “*Ministry*”). The Act defines data box as an electronic storing place to be used for the delivery of the documents of the public authorities (courts, administrative bodies and others) and for submission of the legal and natural person’s acts towards public authorities. It is an instrument (we can imagine data box as an e-mail box even if it is not appropriate to specify data box as the e-mail box) used by the public authorities for delivering of the documents. Delivering by means of the data box has the same consequences as the delivering to addressee’s own hands (e. g. an invitation for the opinion on brought action, an invitation of the court for supplement of the given evidences). Acts of the natural and legal persons supplemented by means of the data box have the same consequences as the written and signed acts supplemented towards public authorities (e. g. an answer on invitation of the court, an action). If the data box is established for natural or legal person, these persons can still supplement all the acts in writing without use of the data box. It means they are not obliged to use the data box, use of the data box is voluntary. The public authorities must in any case supplement their acts towards natural or legal persons by means of the data box. Use of the data box is compulsory for the public authorities. Legal and natural persons are not authorized to communicate with each other by means of the data box.

Exclusively electronic acts (without need of subsequent supplement of the act in writing - within 3 days from the day of the supplement of electronic act without use of a guaranteed electronic signature) were used in communication between the public authorities and the legal and natural persons only in the case if these persons had established guaranteed electronic signature based on a qualified certificate issued by the accredited certification

service providers. For this situation was typical that respective persons were obliged to bear other expenses. By establishment of the data box is in principle compensated necessity of the use of the guaranteed electronic signature in the electronic communication with the public authorities. However there are still some situations in electronic communication where use of the electronic signature will be necessary (e. g. single document requires signatures of multiple persons).

### ESTABLISHMENT OF THE DATA BOX

Establishment of the data box for the natural persons and natural persons providing business activity (with exception of the attorneys, tax advisors and insolvency trustees) is conditioned by submission of a request with legalized signature. The request is free of charge. The establishment of the data box for legal persons and enterprise's organizational components (hereinafter only the "*legal person*") **registered to the Commercial Register at the effective day of the Act and later** (thus from July 1, 2009) is also free of charge. The data box will be established after the Ministry obtain information from a registration court established to keep the Commercial Register about registration of the respective persons to the Commercial Register (the court inform Ministry about registration without delay after performed registration). The data box for legal persons which are not registered in the Commercial Register will be established on their request.

The data box for the legal persons which are registered in the Commercial Register by the date June 30, 2009 will be established **automatically and free of charge** within 90 days from the effective day of the Act, thus till **September 28, 2009**. The Ministry will acquire information needed to establish data boxes from the courts established to keep the Commercial Register and from information system of evidence of persons, not from respective legal persons registered in the Commercial Register.

## PERSONS AUTHORIZED TO ACCESS TO THE DATA BOX

Two types of persons are authorized to access to the data box and to submit acts towards public authorities:

1. the persons data box is established for – a natural person, natural person performing business activity, statutory body (or members of the statutory body) of a legal person, head of an organizational component of a foreign enterprise and
2. so-called **commissioned persons** – within the scope stated in the commission granted by one of the persons named in the article 1.

Persons named in the art. 1 may establish that all the acts which can be made towards commissioned persons and Ministry and which are reserved for them by the Act (e. g. granting of the authorization to the commissioned person to access to the addressee's own hands documents including file of a motion addressed to the Ministry for accessing of the data box for the commissioned person, file of a request for disaccessing of the data box which was established on the request or announcement to the Ministry about cancellation of the commission – on the basis of the cancellation will be disvalidated access information of the commissioned person) can be provided by an **administrator**. The administrator is a natural person, or more precisely office occupied by the natural person which main aim is to take off the burden of many acts (with the respect to the commissions of the persons and other acts towards the Ministry) from the persons named in art. 1.

Use of the user name and password granted by the Ministry enable access to the data box. Access information will be delivered to the own hands of the natural person, natural person performing business activity and of the statutory body of the legal person for which data box is established (access information can be delivered to the administrator's or commissioned person's own hands only on the request of the persons named in art.1 or of the administrator). The data box is established on the first day of login, however at the latest on the 15<sup>th</sup> day after the day when access information was delivered to the addressee. If the statutory body of the legal person consists of multiple persons, every person will have at disposal different access information to one data box.

The Ministry will offer also other forms of access to the data boxes (with use of the certificates and smart cards), which will show higher degree of safety.

The persons authorized to access to the data box have to take care to avoid loss, eventually misusing of the access information and have to use the data box by way, which do not endanger safety of the information system of the data boxes (while using of the data box it is necessary to follow instructions set in operation documentation published by the Ministry, part of thereof is also user guide and security policy).

## DELIVERY OF THE DOCUMENTS

If the nature of the documents allows it (e. g. document has to be in format aided by the information system of data boxes; documents delivered by means of a public notice or by means of a personal service are not qualified to be delivered by means of the data box; it is possible to send messages with file size in the amount 10 MB), documents will be delivered by the public authorities by means of the data box, whereas the moment of the delivery will be the moment, when person who has with regards to the scope of her authorization access to the delivered document login into the data box. If this person does not login within 10 days from the day when the document was put into the data box, through that document will be considered as delivered (so-called fiction of the delivery). The fiction of the delivery will not apply in the cases when according to the law it is possible to deliver document only by means of the registered post to the own hands (e. g. delivering of the payment order, of the invitation for the opinion on brought action). Under the some conditions it will be possible to comply with the motion on ineffectiveness of the delivery – if the addressee prove that for a temporary absence or for another important reason he/she was not able without his/her own fault to pick up the document in the prescribed term (e. g. because of the stay in a hospital).

The Ministry is obliged to **inform the sender**, that the data message was delivered to the addressee's data box. As well the Ministry will always **notify addressee** about delivery of the data message to his/her data box (in this case addressee is obliged to reimburse administrative expenses which arise in connection with this notification with exception of notifying on the electronic address determined by the addressee).