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First Evaluation Round

Evaluation Report on Slovak Republic

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I. INTRODUCTION

1. The Slovak Republic was the second country to be evaluated in the framework of the first evaluation round of the Group of States against Corruption -GRECO, according to Resolution (99)5 establishing the GRECO as well as the Rules of Procedures of the latter. According to the Programme of Activities of GRECO for the year 2000, the first evaluation round is to deal with Guiding Principles Nos 3, 6 and 7 of the Twenty Guiding Principles for the Fight against Corruption, relating to the functioning of the bodies and institutions in charge of the fight against corruption: Independence, autonomy and powers of persons or bodies in charge of preventing, investigating, prosecuting, and adjudicating corruption offences (GPC3); Immunities from investigation, prosecution or adjudication of corruption offences (GPC6); Specialisation, means and training of persons and bodies in charge of fighting corruption (GPC7).

2. The examiners were as follows: Ms Orsolya MerÈnyi, Captain of the Police, National headquarters of the Police of Hungary; Ms Krista Kull, Prosecutor, Public Prosecutor, Adviser on Foreign, Affairs State Public Prosecutor's Office of Estonia; Mr Tryggvi Axelsson, Head of Division, Ministry of Commerce of Iceland. The evaluation team, accompanied by a member of the GRECO Secretariat visited Bratislava, for three days (26-28 September 2000). Prior to the visit to the Slovak Republic, the examiners received a detailed reply to the GRECO mutual evaluation questionnaire and most of the relevant legislation.

3. The evaluation team appreciated the hospitality, openness and very good cooperation of the Slovak authorities, and notably the possibility given to hold discussions with all institutions active in the fight against corruption. The evaluation team held meetings with senior officials and representatives from the following Government bodies and institutions of the Slovak Republic: the Parliament, the Government, Ministries of the Interior, Justice and Foreign Affairs, the Office of the General Prosecutor, the Supreme Control Bureau as well as the private sector (Transparency International, the Chamber of Commerce and press associations). Subsequently, the examiners submitted to the Secretariat individual observations upon which basis this report has been prepared.

II. CORRUPTION PHENOMENON AND ANTI CORRUPTION POLICY IN THE SLOVAK REPUBLIC

Corruption phenomenon

4. The Slovak Republic is situated in central Europe and is bordered by Austria, the Czech Republic, Poland, Hungary and Ukraine. It has a population of approximately 5,3 million.

5. The crime rate has stabilised in recent years but is still considered as being very high and citizens show concern in this respect. In 1999, 36,000 cases were prosecuted and 20,000 brought before court. For the first half of 2000, the figures are: 19,000 cases prosecuted and 14,000 court proceedings. Organised crime was mentioned as being a feature of the crime situation in Slovakia. The primary problems relate to economic crime and common offences are unlawful business transactions, breach of export rules, tax evasion, larceny, embezzlement and fraud, as well as other offences damaging consumer rights and provoking unfair business practices. In addition, general crimes against property are prevalent. Drug production and trafficking also constitute as well a serious problem.

6. In 1999, 50 cases of corruption were prosecuted and eight people convicted of bribery. This constitute a substantial increase in the number of cases prosecuted in previous years amounting approximately to 15 in 1998 and 1997 and to 20 in 1996 and can be explained by the reintroduction of the criminal offence of active corruption in 1998. According to recent surveys, two thirds of adults have personally encountered corruption within at least one central authority of the state administration or institution. According to the information supplied, corruption appears to exist on a large scale within the health system, central and local administration authorities, government offices, the judiciary, customs services, State property fund and the police.

7. The transition to a market economy resulted in a tremendous increase in economic activity and capital movement, however necessary safeguards and control mechanisms are still lacking in several respects and this favours corruption. For instance, the loose control system over the privatisation process creates opportunities for corruption. The lack of clear rules regulating public sector activities, notably regarding fees to be paid by the public in exchange of services, as well as the grounds for obtaining various types of licences, also appears to constitute an important factor in the development of corruption. Moreover, the difficulties in setting up an efficient tax system, the fact that the Slovak economy is still to a very large extent cash based and the possibility to open anonymous accounts makes it difficult for the institutions in charge of fighting corruption to start controlling this phenomenon. All these factors, coupled with a lack of awareness among the public of the dangers of corruption as well as the wish among a large proportion of the population to rapidly increase their financial resources, makes Slovakia vulnerable and exposed to corruption.

Anti corruption policy in the Slovak Republic

8. The Slovak Government has decided that combating corruption effectively should become a key political priority. Corruption is regarded as a systemic problem entailing corrosive effects both in the economic and political life of the country. In spring 1999, the Government asked international organisations for assistance in mapping corruption in Slovakia and an in-depth survey of corrupt behaviour among public officials, enterprises and households was carried out. In this framework, individual steps towards reform were proposed. In November 1999 an Anti-Corruption Steering Committee was established within the Government Office. The Committee, which works under the direct auspices of the Prime Minister, includes representatives of several ministries, state administration offices, law enforcement agencies as well as representatives of international organisations and non-governmental agencies.

9. In view of the widespread nature of the problem, the Government prepared and presented in February 2000 for public discussion a National Programme for the Fight against Corruption (the National Programme). This programme was adopted by the Government on 21 June 2000, on this basis a detailed draft plan of action is foreseen. It is to be noted that a previous programme launched in 1996, the Clean hands programme, was said unsatisfactory as it remained a mere declaration of intent and had allowed no significant achievements. The Evaluators were advised that the major difference between the Clean Hands Programme and the National Programme was that the latter provides for a detailed analysis of the causes and consequences of corruption in Slovakia as well as a list of concrete actions to be carried out.

10. The legislative framework of the Slovak Republic does not contain any specific law addressing corruption in particular. Corruption is criminalized by the Penal Code which was recently amended by Law no 183/1999 of 6 July 1999 (entry into force - 1 September 1999) notably, to take into account international instruments in this field. The relevant provisions of the Penal

Code (Articles 160 to 163 – Appendix A) are comprehensive and concern passive and active corruption of national and foreign public officials, members of national and foreign public assemblies as well as parliamentary assemblies, judges and officials of international courts, active and passive corruption in the private sector, trafficking in influence.

11. Corruption is a predicate offence in relation to money laundering as criminalized under article 252 of the Penal Code (Appendix B). Prevention, detection and punishment of money laundering are more specifically dealt with by Act 249 on Combating the Legalisation of Proceeds from the most Serious Forms of Crime, mainly Organised Crime of 19 August 1994[1]. Articles 6 to 8 of this Act establish reporting obligations for banks without, however, imposing any administrative sanctions in case of failure to comply, whereas criminal sanctions would in this context be difficult to apply, in particular to legal persons.

12. Article 38 of the Banking Act is also relevant to the fight against corruption as it establishes an obligation for banks to lift banking secrecy upon written request from relevant authorities. More information is available on this issue in paragraph 44.

13. Regarding the criminal procedure system, the investigation of criminal offences is carried out in accordance with Section 2 and Sections 157 to 167 of the Criminal Procedure Code (Appendix C). According to Articles 174 and 175 of the same code (Appendix D) prosecutors have the duty to prosecute all criminal offences that come to their knowledge and supervise investigation, its legality and speed. It is to be noted that Sections 86-88b of the Code of Criminal Procedure (Appendix E) provide for a wide range of special investigative techniques for the detection and investigation of crime, including interception of communications, controlled deliveries, undercover operations and the use of special agents (agents provocateurs).

14. The Slovak Republic signed the Criminal Law Convention on Corruption on 27 January 1999 and ratified it on 9 June 2000 and the Slovak authorities consider that all measures required under the convention are implemented in national legislation. The Civil Law Convention on Corruption was signed on 8 June 2000 and necessary legislative amendments have been prepared and submitted to the Government in order to prepare the ratification of the Convention. The Slovak Republic is a party to a great number of international and bilateral conventions facilitating and organising cooperation with other states in judicial and police matters.

15. On 17 December the Slovak Republic signed the OECD Convention on bribery in international business transactions and ratified it on 24 September 1999. This convention entered into force with respect to the Slovak Republic on 23 November 1999. As part of the evaluation of the implementation of this convention in the Slovak legal framework the following actions were notably pointed out as necessary:
    - to cover in the relevant criminal offence the use of "third parties" in relation to the bribery of foreign public officials;
    - to introduce corporate liability;
    - to introduce equal criminal punishment for bribery of Slovak and foreign public officials;
    - to prolong limitation period under Section 67 of the Penal Act with respect to the offences of bribery;
    - to remedy the deficiencies of the anti money laundering legislation.

[1] A new act on the fight against money laundering was adopted by Parliament on 5th October 2000 (Act n°367/2000). This Act is only available in Slovak language at this stage.

III. INSTITUTIONS INVOLVED IN THE FIGHT AGAINST CORRUPTION

Role of institutions involved in combating corruption

(i) the Ministry of the Interior

16. The Ministry of the Interior plays a central role as regards the fight against corruption. It is involved in the establishment of a general policy against corruption as well as the drafting of relevant legislation. The Ministry of the Interior has overall responsibility for the detection and investigation of corruption cases.

17. In the field of detection, a specific body specialised in the fight against corruption has been established: the Department of Combating Corruption. It is part of the Bureau of Combating Organised Crime within the Criminal and Financial Police Administration of the Presidium of the Police Force. The Department was established in September 1998 and is responsible for the detection of corruption offences throughout the territory of Slovakia, notably cases of organised crime using bribery, cases in which members of central authorities, the judiciary, the prosecution services are involved as well as cases relating to privatisation. It has 18 members and 3 offices (Bratislava, Zilina, Kosice).

18. The investigation of the above-mentioned cases is the task of the Section of Investigation and Criminal Expertise Activities, which is part of the Ministry of the Interior. This section is composed of police officers.

19. Crimes committed by policemen (including corruption) are detected and handled by the Bureau of control and inspection service, which is also within the Ministry of the Interior. Victims can also bring the matter before a judge.

(ii) the Ministry of Justice

20. The Ministry of Justice plays an important role in the elaboration of legislation in the field of the fight against corruption and in the request of international mutual legal assistance. It is responsible for the administration of courts. The priority of the Ministry at the moment is the reform of the judiciary.

(iii) the Judiciary

21. The status of judges is governed by the Constitution and Act No. 335/1991 Coll. on Courts and Judges as amended[2]. When performing their duties, judges are independent and bound only by law. They are elected by Parliament on the Government's proposal for the initial period of four years. After the expiry of this period, they are elected by Parliament on the Government's proposal for life. There are 55 district and 8 regional courts in Slovakia and approximately 1100 judges.

22. The judicial procedure is governed by the principle of two-instance judicial proceedings, in which it is possible to lodge appeals against the decisions of courts acting in the first instance.

[2] A new act on judges was adopted by Parliament on 5th October 2000. It will enter into force gradually: most provisions will enter into force on 1st January 2001 while provisions regarding training and salaries will enter into force on 1st January 2002 and 2003 respectively.

Regional courts act as appellate courts for appeals against decisions of district courts falling under their territorial jurisdiction and as first instance courts in certain cases placed under their competence by law. The highest court is the Supreme Court, which is also the appellate court for appeal against first instance decisions of regional courts. The Supreme Court exercises judicial supervision over the lawfulness of judicial decisions and oversees a unified interpretation of the law by lower-instance courts. No judge is specialised on corruption cases.

(iv) Prosecutors

23. According to section 2 of the Act on Public Prosecution (Act No. 234/1998) the Prosecution Office is an autonomous and independent state body headed by a Prosecutor General. The Prosecutor General is appointed and removed from office by the President of the Slovak Republic upon proposal of the National Council of the Slovak Republic (Parliament). He is accountable before the Parliament. The Prosecution Office is independent from the executive bodies, i.e. from the Ministry of Justice. All prosecutors are appointed and removed by the Prosecutor General. The Prosecution Office constitutes a uniform, centrally governed and organised system in which prosecutors perform their functions on the basis of a relationship of subordination. The organisation of the prosecution service corresponds to the organisation structure of the courts. At the moment, there are approximately 800 prosecutors in the Prosecution Office (635 positions are filled).

24. Within the Prosecutor General's Office, an anti-corruption unit was established in 2000 (Prosecutor General's order No. 1/2000 of 30th March 2000 - entry into force on 1st April 2000). Previously the International Department of the Prosecutor General's Office was responsible for anti-corruption activity. The unit deals with important corruption cases and local prosecutors deal with small, so- called "everyday corruption". The unit also assists and coordinates prosecutors at lower level in the field of corruption, narcotic crimes, organised crime and money laundering. It comprises 5 prosecutors (including the head of the unit), 4 of the positions are filled. At regional level, there are specialised prosecutors.

(v) the Supreme Audit Office of the Republic of Slovakia ("SAO")

25. This independent body, whose chairman is elected by Parliament, is in charge of the audit control of Government budget and state assets management. In this context the SAO evaluates the value of State owned companies. The SAO is composed of 157 auditors out of a total staff of 230.

(vi) the Public Procurement Office

26. The Office was created by Act n° 263/1993 (entered into force on 17 November 1993) in order to assist the organisation of public tenders. Its role is to control public procurements.

IV. IMMUNITIES FROM CRIMINAL PROSECUTION

Diplomatic immunities

27. As to diplomatic and consular immunities, the Slovak Republic is party to the Vienna convention. There are no special internal rules regarding the lifting of diplomatic immunity if a Slovak diplomat was to be suspected of corruption abroad. In all events the provisions of the Vienna Convention would be followed. No systematic reply can be provided as the specific

situations of each case need to be considered, notably the country in which the diplomat is posted.

Immunities of Parliamentarians and Judges

28. According to article 78 of the Constitution of the Slovak Republic, no member of the National Council shall be prosecuted either during his or her term of office or at any other time in relation to opinions expressed during the work of the National Council or its committees. The members are subject to disciplinary powers of the National Council for any statement made in the Council or its committees while holding mandates. No member shall be prosecuted, sanctioned by any disciplinary measure or held in pre-trial detention without the approval of the National Council. The immunity can be lifted on the basis of a majority decision of the plenary of the National Council.

29. According to article 136 of the Constitution, the judges of the Constitutional Court enjoy the same immunity as members of the National Council. Article 147 of the Constitution and Article 55 of the Law on Court and Judges provide immunity to all other judges. According to this article, the judge or the associate judge can be prosecuted or taken into custody for acts committed in relation to the execution of his or her functions only after prior approval of the authority having elected or nominated the judge or associate judge.

V. EVALUATION OF THE INSTITUTIONS COMBATING CORRUPTION AND OF THE SYSTEM OF IMMUNITIES

1. General Comments

30. As pointed out in the National Programme, various actions need to be taken in a large number of sectors in order to eliminate corrupt behaviour in society and to counteract the deficiencies which may be considered to originate or sustain corrupt behaviour. In particular, and in order to allow bodies involved in the fight against corruption to succeed in their difficult tasks, the evaluators wish to emphasise the necessity to tackle the general issues referred to below.

31. The evaluators consider that priority must be given to the general policy in tax matters and in particular regarding tax declarations as well as taxation on the sale of real estate. In Slovakia special measures have been enacted or are underway in order to set special requirements in this area (e.g. the obligation for the judiciary to regularly declare their assets is included in the draft law on judges and the same obligation for all public officials is foreseen in the National Programme). Although such measures are a first step, a more far-reaching approach is needed. This would have a preventive effect and serve as an important tool in the investigation of corruption cases as well as to substantiate them. For the same reasons, steps should be taken to abolish anonymous and numerical accounts in financial. The evaluators suggest to Slovak authorities to consider the opportunity to introduce a general obligation for the public to make annual tax declarations on all income and assets. They further observe that it would useful to abolish anonymous and numerical accounts.

32. During the on-site visit, the evaluators were informed that it is a common and widely accepted practice that citizens pay "additional fees" to augment the fees legally due to persons who provide basic public services (such as health care and education). Such "additional fees" appear to constitute the crime of bribery. The evaluators hope that this problem will be tackled by the Slovakian authorities using all suitable means, including criminal law. Moreover, the provision of effective regret contained in the Slovakian law, which allows bribe-givers to be

exempt from prosecution if they report the bribe, should be of assistance. However, it is understood that these "additional fees" are not regarded as bribes by the citizens, so there is an attitudial problem that needs to be addressed.

33. The evaluators were also informed that for the purposes of the National Programme, ministries and other state administrations had been asked to prepare a list of all licenses, authorisations and state subsidies foreseen by law and regulations pertaining to the areas for which they are respectively competent. The Slovak authorities are aware of the fact that the way in which such licences, authorisation and state subsidies are granted at the moment is problematic, especially because many of them are not given on the basis of objective criteria. **The evaluators associate themselves with the conclusions of the Slovak authorities and consider that it is of utmost importance, for the business community and the public at large, that such practices be put to an end. They recommend that measures be taken to eliminate unnecessary licences and that objective and transparent criteria be determined for the granting of licences, authorisations and state subsidies that remain necessary. This would notably apply to export licences for natural resources.**

34. In Slovakia an ambitious programme is being carried out in order to privatise various parts of the public economic sector, e.g. banks as well as telecommunication services. It is important that the privatisation process is carried out on the basis of transparent and clear rules as well as clear objectives as far as State finances are concerned. Effective control mechanisms are also essential to avoid, notably, under-evaluation of state property or conflicts of interests. **The evaluators therefore recommend that transparent and clear rules as well as efficient control mechanisms be established regarding privatisation.**

35. There is no code of conduct for civil servants. The evaluators remark that it would be useful for a code of conduct to be drawn up for public servants, including rules designed to prevent corruption.

36. Moreover, in order to ensure an effective implementation of the measures indicated above, **the evaluators recommend that the following complementary action be taken:**

- **develop awareness among the population at large of the dangers of corruption with respect to the stability of democratic institutions as well as economic and social progress**;
- **inform the population of the measures taken to counter corruption, the sanctions that can be imposed in cases of corruption, the effective regret mechanism and the institutions involved in combating corruption to which the public can turn to;**
- **involve the media as well as non-governmental organisations in a coordinated awareness raising campaign**.

2. Institutions combating corruption

A) Law enforcement

(i) General comments

37. The establishment of the Department of Combating Corruption within the Bureau of Combating Organised Crime of Criminal and Financial Police Administration has been an important step in strengthening the fight against corruption. This institution, compared with other specialised departments of the Presidium of the Police Force, seems to have easy access to available

technical means and well-skilled officers. Moreover, cooperation with other relevant law enforcement bodies as well as accessing necessary data do not seem to pose specific problems. However, the general perception of the evaluators is that the corruption phenomenon is widely spread in the Slovak Republic (notably on the basis of the general survey carried out in relation to the *National Programme*), they believe that this Department in its present form can only contribute to reveal a limited number of corruption cases. **With a view to obtaining a significant reduction in the corruption phenomenon, the evaluators recommend that the Department be reinforced, in order to allow for a more proactive approach in the detection of cases.**

38. In respect of the investigation, prosecution and adjudication of corruption cases there may be substantial changes, as a result of the current comprehensive reform of the criminal procedure. The texts available did not allow the evaluators to form a definite opinion on this issue. Nevertheless, they would like to underline the need to review the division between detection and investigation. Currently, there are two completely different institutions for these purposes. On several occasions the evaluators' attention was drawn to the fact that documents and information collected by the criminal police, in charge of detection, cannot be used as evidence in court proceedings because the official investigation only starts when the case is given to the investigator. This is time consuming, requires double work and makes the collection of evidence more difficult, sometimes even impossible. **The evaluators recommend that this system be revised in order to ensure that acts carried out by the police can be used as evidence in court.**

(ii) Independence and autonomy of bodies involved

39. The Police Presidium (which includes the Department combating corruption) and the Section of Investigation and Criminal Expertise Activities are both part of the Ministry of the Interior but are, at the same time, two separate bodies. The evaluators underlined the importance of strengthening the collaboration between these two institutions. Moreover, it has to be noted that prosecutors can investigate cases themselves where they think that the police or the investigators do not carry out their tasks properly.

40. The independence of investigators during the criminal process is specified in Section 164 of Code of Criminal Procedure (Act No. 141/1961 in Coll.); Appendix F. In conducting an investigation, an investigator shall generally act on his own initiative, except in special cases where the authorisation of a prosecutor is required. If the investigator does not agree with the prosecutor 's instructions concerning the charges, the definition of the criminal offence and the scope of the charges, or with instructions concerning the settlement of the case in pre-trial proceedings, he shall have the right to submit written objections to the latter; if the prosecutor turns down these objections, the investigator shall submit the case to the superior prosecutor who shall either invalidate the instructions issued by a subordinate prosecutor or shall assign the case to a different investigator. In all other cases, instructions issued by the prosecutor shall be binding for the investigator. The current system allows for the case to be stopped at the level of the superior prosecutor. **The evaluators recommend that measures be taken to ensure that the basis for the superior prosecutor's decision can be controlled (for instance, it could be required that the basis for decisions be indicated in writing).**

(iii) Means for collecting evidence

41. As mentioned above, the criminal procedure code provides for a wide range of investigative techniques including interception of communications, controlled deliveries, undercover

operations as well as the institute of the 'special agent' (agent provocateur). The "Police Act" also contains provisions in this respect, notably regarding operational activities (surveillance of persons and things, the use of undercover documents, trap and alarm systems, use of persons collaborating with the Police Force)

42. The evaluators positively assess the means available to carry out investigations. They however recommend reconsidering the procedure regarding the issuing of house-search warrants in cases of emergency. The question of urgency is regulated in respect of search of other premises and personal search, but not in respect of house search. In view of the fact that a house search may be critical to the success of a whole criminal procedure, including in cases of corruption. **The evaluators recommend that the measures which exist in urgent cases for search of other premises be adopted *mutatis mutandis* to house search.**

43. The institute of the agent provocateur is rather innovative (e.g. the use of civilians is possible, notably the recruitment of persons having specific diseases treated by physicians suspected of corruption). **The evaluators recommend elaborating guiding rules in the implementation of such a technique, taking full account of the case law of the European Court of Human Rights, in order that the results of this technique are not challenged in court as being contrary to human rights.**

44. For the purposes of criminal procedures, banking secrecy can be lifted according to Section 38 par. 3 of Act No. 21/1992 on Banks as amended. However, in pre-trial proceedings, data that are subject to bank secrecy regulations may only be requested by a prosecutor. An investigator or a police body may request such data only with a prior authorisation by a prosecutor. A recent amendment to Act 249 on Combating the Legalisation of Proceeds from the most Serious Forms of Crime of 19 August 1994 had been passed by Parliament (but rejected by the Executive power) and had foreseen, among other things, to strengthen the powers of the financial police to demand information on deposits from banks and other financial institutions. A new bill is now being prepared. **The evaluators recommend that this bill be elaborated and adopted as soon as possible as access to financial information (including the names of beneficial owners of numbered accounts) is indeed central to police work in the fight against corruption.[3]**

45. Measures for the protection of victims, witnesses and collaborators of justice have been adopted. General rights are laid down in some rules of Sections 100, 101, 101a and 101b of the Criminal Procedure Code. It includes the practice of allowing data to be concealed from key witnesses or the possibility to use written testimony in court. A specific law on witness protection came into effect on 1st January 1999 (No. 256/1998 in Coll.). It created a sophisticated witness protection programme and a special department has been established within the Criminal and Financial Police to operate this programme. Moreover, measures to preserve the anonymity of undercover agents have been adopted.

46. There are no specific legal provisions for the protection of judges, prosecutors and police officers. However, acts of intimidation are generally punishable under the Penal Code (gross compulsion/ racketeering - Section 235a and 235b, mayhem - Sections 221 par.. 2, 222 par.. 2 and extortion -Section 235). There are no specific legal measures and appropriate sanctions

[3] After the evaluation visit, the Slovak authorities informed the evaluation team that a new act on the fight against money laundering had been adopted by Parliament on 5th October 2000 (Act n°367/2000). This act will enter into force on 1st January 2001. As only a version in Slovak language of this act is available at this stage, it was not possible for the evaluation team to examine whether this act takes into account their concern.

regarding the intimidation of judges, prosecutors and police officers. Furthermore, measures to protect the physical integrity of judges, prosecutors and police officers and their relatives do not exist. **The evaluators recommend that, in relation to judges, prosecutors and police officers, specific legal measures and appropriate sanctions regarding intimidation as well as measures to protect physical integrity be elaborated.**

47. Cooperation of criminals with the judicial system is encouraged and those who cooperate in case of active corruption may not be punished (Section 163 and 163a of Penal Code).

48. As stated by the OECD Working Group on Bribery**, the evaluators recommend prolonging the limitation period (section 67 of the Penal Code) with respect to offences of corruption in order to allow extra time for investigation in complex cases.**

(v) Interagency cooperation

49. Cooperation between bodies involved in the fight against corruption, is notably based on regular meetings of representatives from the General Prosecutor's Office, Ministry of Interior and Ministry of Justice. In the case of urgency a meeting can be organised immediately.

50. The Department Combating Corruption has been integrated into the Bureau of Combating Organised Crime within the Criminal and Financial Police Administration. This ensures cooperation between bodies in charge of the repression of corruption and those in charge of organised crime cases.

51. Prosecutors have an obligation of supervision of preparatory procedure and investigators have to inform the Prosecution service within 48 hours of the start of investigation.

52. In the beginning of 2000, the programme FISH against corruption was adopted under the PHARE programme. This programme proposes to establish a network between the General Prosecutor's Office, Ministry of Interior and Ministry of Justice for exchanging information on combating corruption. The programme is notably aimed at setting up a joint database, operative information exchange, creating a training centre for prosecutors and other activities that are oriented towards enhancing technical equipment and making combating corruption more effective. The evaluators support this initiative which will foster interagency cooperation.

53. Interagency cooperation is developing. **Nevertheless, the evaluators recommend that cooperation between the Department combating corruption and the tax authorities be strengthened, notably when a more efficient tax declaration system is established, in order that tax information can be used to detect and substantiate corruption charges.**

(v) Training and prevention

54. Police officers have minimum secondary education. Those having management responsibilities must have an academic background as well as specialised training in the specific area for which they are responsible. Investigators need to be university graduates with a master's degree in law or in security services and must pass the final investigator's exam. Policemen with special tasks are required to participate in special training. Joint training with prosecutors is organised. The officers seem to have the possibility to acquire the education necessary to their tasks.

55. Part three of the law No. 73/1998 in Coll. on state service of members of the Police Force, of the Slovak Intelligence Service, of the Corps of Prison Wardens and Judiciary Guards of the Slovak Republic and of the Railway Police (hereinafter referred to as the "State Service Act") contains a "Service Discipline Code and Powers of Discipline Enforcement". It deals with investigators as well. This text creates a whole range of obligations in order to avoid conflicts of interests (e.g. to refrain from acts that can lead to conflicts between private interests and interests of service, to inform superiors of a blood relationship with persons they are in contact with for service purposes, and restrictions concerning participation in political parties or movements or the carrying out and management of business activities). The rules applicable in order to avoid conflicts of interest seem to be sufficient.

56. On the basis of discussions held during meetings as well as some proposals contained in the Action Plan determined by the Ministry of the Interior in the framework of the National Programme, **the evaluators recommend that measures be taken to implement the following proposals:**

- **establish guidelines in relevant fields of police activity about the way to prevent corruption as well as the action that should be taken to ensure the collection of evidence in cases of corruption with a view to criminal procedure;**
- **adopt regulations, based on objective criteria, to improve the selection of staff of the Police Force and prevent and sanction nepotism;**
- **establish a programme aimed at enhancing social standing and the financial and moral value of the work done by the Police Force members.**
- **Introduce, in the Code of Conduct, a prohibition of corruptive conduct and classify a violation of this prohibition as being a gross violation of work ethics;**
- **provide the Police Force with the necessary computer equipments to improve the capacity of data processing systems.**

B. The judiciary

(i) Independence, autonomy and powers

57. Under Article 141 par 2 of the Constitution, the judiciary functions independently, at all levels, from other state authorities, including bodies carrying out the State administration of courts. Intervention in courts' activities is allowed only in cases provided for strictly by law.

58. At the highest level of the judiciary, the Ministry of Justice performs the State court administration : the administration of the Supreme Court is entrusted to the Minister acting in conjunction with the President of the Supreme Court. The administration of lower-instance courts is entrusted to the presidents of such courts who are helped by a special administrative apparatus. The presidents of the regional and district courts are appointed and removed by the Minister without any obligation to motivate the decisions taken.

59. In his capacity as State court administration body, the Minister may interfere with judicial-making by filing a complaint on the points of law in criminal cases. The ruling on the Minister's petition is issued by the Supreme Court.

60. Though the main task of the court administration is to secure conditions for proper and smooth functioning of the courts, the State court administration also includes "court supervision". Because the responsibility to review judicial decisions is entrusted to courts of higher instance, "court supervision" only concerns the fulfilment of the responsibilities of the judges and

professional staff of the courts and uses the statutory disciplinary measures for remedying the situation by making proposals to the disciplinary senates which decide.

61. Disciplinary order and the disciplinary responsibility of the judges are regulated by the Law on Disciplinary Responsibility of the Judges no 412/1991 Coll. as amended. The possibility to recall a judge from his function comes only from stated reasons, the basis being the decision of the disciplinary senate of judges of the regional court, or of the Supreme Court respectively. Based on such a decision, a subsequent decision is issued by Parliament on the recall of the judge who has infringed his statutory duties or committed a crime or act incompatible with judicial ethics. In other cases, the judge cannot be recalled from his function nor can the judge be moved into another court without his consent. The evaluators were advised that the disciplinary system does not function properly, one reason being that the fact that judges undergoing a disciplinary procedure are examined by judges of the same district, challenges the impartiality of the procedure.

62. It is to be noted that the executive power is very much involved in the nomination of judges : judges are elected by Parliament on a proposal by the Government, Presidents of regional and district courts are appointed by the Minister of Justice and Presidents of Panels are in turn appointed by the Presidents of regional courts. However, in practice, since 1998 the Presidents of regional and district courts are elected by judges.

63. The Slovak authorities are aware of the fact that the judicial system is not satisfactory as far as independence and autonomy are concerned. In fact, the need for strengthening the independence of the Judiciary notably through self-governing judicial bodies (councils of judges) is a topical issue and a reform is underway in this area. **The evaluators recommend that this reform be carried out as a matter of urgency. They recommend that the Judiciary strengthens its independence vis à vis the political power, and also that measures be taken to improve the disciplinary procedure with a view to ensuring impartiality.**[4]

(ii) Training and prevention

64. Judges must have a university degree in law and pass a special exam to be eligible.

65. The courts should play a crucial role in the fight against corruption. However, according to public opinion (diagnostic Survey conducted by World Bank) the judiciary is, together with the health care system, the most corrupted area in the Republic. The reasons mentioned to explain this situation were insufficient social guarantees for judges (notably regarding health insurance and retirement), the possibility of reallocation of cases among judges giving the possibility to choose the files that they would try (a computer system to manage the allocation of judges is envisaged).

66. The evaluators are very concerned by this situation because judges should form a wall against corruption and certainly not form one of the most corrupt institutions in society. They appreciate that the reform of the judiciary underway is also aimed at decreasing corrupt behaviour in the judiciary as well as the measures foreseen by the National Programme. **Consequently, in line with the foreseen actions to improve the current situation and in view of the urgent need**

[4] After the evaluation visit, the Slovak authorities informed the evaluators that a law on judges dealing with these issues has been adopted on 5 October 2000 and should enter into force on 1st January 2001.

to change it and to prevent and detect corruption among judges, the evaluators recommend that the following measures be taken:

- **improve the professional level of judges. Special training should be established and objective criteria should be set for the selection of candidates to the judiciary, (the duration of preparation of candidate judges could be prolonged, the age requirements could be increased);**
- **adopt a Code of Ethics for judges and increase internal control among judges and restore the social image of judges in order to create a culture of morality in the judiciary;**
- **extend the powers of the Council of Judges by giving it a right to take part in the nomination process and increase the Council's role in assisting in the detection of corruption cases among judges, notably by monitoring the duration of procedures and the order in which they are dealt with;**
- **reform the disciplinary senates in order to make them play a more active and objective role and eliminate possible interferences and abuses resulting from personal or close contacts between judges and members of the senate;**
- **elaborate sufficient social and remuneration guarantees for both judges in office and those who are retired in order to decrease the attraction of additional income;**
- **oblige judges to disclose annually their property and income to an appropriate body (e.g. the Council of Judges).[5]**

67. It seems that most of these recommended measures are included in the Draft Law on Judges, which aims to strengthen the status of judges and to strengthen the role of self-governing bodies in the judiciary. Foreseen entry into force is approximately second half of the year 2001.

C. Prosecution services

(i) The anti-corruption unit

68. The special anti-corruption Unit of the prosecution service has close contacts with the special unit of criminal police in the Department of Combating Corruption whose aim is to detect corruption. The Police provide information regarding corruptive acts or other such activities of prosecutors, data on telephone calls, using of service links etc., and receives necessary information from prosecutors. The future development of the Unit is to achieve more independence from the Section for the fight against organised crime and establish close contacts and cooperation with both lower Prosecution Offices and other authorities responsible for the fight against corruption. Another aim of the future activity is the establishment of an internal control mechanism within the prosecution service. It means that the Anti-Corruption Unit will be responsible for internal control including preventing, detecting and dealing with corruption among prosecutors and, therefore, reduce insensitivity of colleagues to corruption, create a system of registration of cases indicating corruptive acts. There is a belief that they are objective, experienced and motivated enough to deal with corruption inside the Prosecution Office. The evaluators welcome the creation of such an anti- corruption unit as it will allow the necessary specialisation regarding anti corruption cases to develop and a more systematic approach to the fight against corruption within the prosecution service.

[5] After the evaluation visit, the Slovak authorities inform the evaluators that a law on judges dealing with these issues (art. 32) has been adopted on 5 October 2000 and should enter into force on 1st January 2001.

(ii) Independence, autonomy, powers

69. The prosecution service is organised in a very centralised and hierarchical fashion. For instance, senior prosecutors have the right to give instructions to junior prosecutors in a special case and the instructions are binding on the junior prosecutors. There are two grounds to refuse to fulfil these instructions, first, if they are illegal and, second, if they are contrary to a junior prosecutor's legal opinion. The refusal is not punishable. Instructions must be in writing so their legality can be controlled if necessary. In practice, the main aim of these instructions is to harmonise the implementation and interpretation of laws. Experts were advised that this does not violate the independence of a prosecutor dealing with specific cases and that, on the contrary, it allows control over junior prosecutors who are often more likely to be offered bribes.

70. According to the existing system in the Slovak Republic the Prosecutor General has wide powers. Control over his activity is exercised in different ways. The Prosecutor General is accountable before Parliament. He has to present an annual report on the activities of the Prosecution Office. Disapproval of the report by Parliament is a ground for removal of the Prosecutor General.

71. Regarding the Prosecutor General's activity in criminal cases, the courts as such, while deciding the case, also evaluate his work. In addition, the media also exercise a certain control over the activities of the Prosecutor General.

72. There is a two-level disciplinary system in the prosecution service: on Prosecutor General's Office level and on regional level. There have been very few cases regarding the violation of the office duty. 90% of cases are related to administrative offences (prosecutors are exempted from police powers and prosecutors' administrative offences are dealt by the disciplinary committee).

(iii) Training and other conditions

73. Prosecutors must have a University degree in Law and must take a specific exam. The Prosecutor General's Office has adopted an annual training schedule for the training of prosecutors.

74. At the time of the evaluation visit the salary of prosecutors was equal to that of judges, which is considered decent in comparison to salaries in other state institutions. Moreover, there is a high number of applicant prosecutors. This should enable the recruitment of good candidates and therefore to make prosecution more efficient. The evaluators observe that the Slovak authorities should ensure that salaries of prosecutors are at an appropriate level in order to dissuade corruption and attract applicant prosecutors.

(iv) Cooperation with the public and other agencies

75. Overall public opinion and the reluctance of society to report corruption cases and to cooperate with law enforcement authorities is a serious impediment to the fight against corruption. As recommended above, this is another reason to develop awareness campaigns on the dangers of corruption in order to build better cooperation with the public.

76. Due to a lack of resources to create databases and establish relevant networks, problems regarding exchange of information and access to information collected by other authorities

exist. Efforts are being developed to foster cooperation and **the evaluators recommend to continue such efforts notably regarding the sharing of computerised data.**

77. The efficiency of the police and prosecutors' work could be increased by organising joint training for investigators and prosecutors, as well as through creating co-operation systems (both permanent and ad hoc) between investigative and prosecution authorities. There is a lack of specialisation and relevant training for prosecutors, especially at a lower level. **The evaluators recommend that more training be offered to prosecutors, jointly with investigators, as necessary, and making use of international organisations whenever possible.**

D) Other institutions

78. As already mentioned, with respect to privatisation, control mechanisms on public finances are central to increasing transparency and securing public support for reforms undertaken in the public sector. Currently, the Supreme Audit Office has an important role to play in this respect. However, it does not seem to have necessary audit control tools, notably regarding the power to control the management of public property. **The evaluators recommend that the powers of the Office should be extended, notably to evaluate and make effective suggestions for improving the management of public entities.** This could limit the corrupt practices that seem to have developed among assessors when evaluating public assets to be privatised.

79. No specific body is in charge of the prevention of corruption in the Slovak Republic. However, several of the institutions involved in the fight against corruption are aware of the need to take preventive measures and, as indicated above, some are already foreseen in the National Programme or included in the recommendations made by the evaluators in this report.

3. System of immunities

80. There has been no case where diplomatic immunity has been lifted. However, cases of corrupt acts committed by Slovak officials under diplomatic immunity have been reported. In such cases, the person was recalled from his/her position and sometimes had to leave his/her position in the Ministry of Foreign Affairs. However, information has never been sufficient enough to start prosecution. If the information collected was precise and reliable, the case would have to be transmitted to the prosecution service.

81. The evaluators had the impression that before transmitting a case to the prosecution services, the Ministry of Foreign Affairs would want to acquire firm evidence that corruption existed. This attitude may be counterproductive as the Ministry is not competent in investigating such cases and might therefore render subsequent investigation more difficult or even impossible. **The evaluators recommend that measures be taken to ensure that the Ministry of Foreign Affairs complies with the obligation to report suspicions of corruption cases to law enforcement authorities in accordance with article 8 of the code of criminal procedure.**

82. Regarding immunity enjoyed by Parliamentarians, on the basis of a proposal made by the Mandate and Immunity Committee, the National Council decides whether or not to lift the immunity of parliamentarians suspected of having committed a criminal offence. During the last two years there have been 20 requests for lifting the immunity of MPs and 2 extra requests to take MPs into custody. The requests may be categorised as follows: 1 request regarding economic crime, 1 request regarding verbal offence and all other requests related to the abuse of official public powers. The Committee met a vast majority of the requests. More precisely,

there was only one case (verbal offence) where the Committee agreed to lift immunity but the National Council did not agree and three cases where the Committee found no sufficient grounds for lifting immunity but the National Council nevertheless accepted to lift the immunity of the MPs concerned.

83. At present, there are ample discussions regarding the question of limiting immunity and the members of the Committee confirmed that the existing system is not satisfactory and are in favour of changing it. A constitutional amendment is being prepared (regarding article 78). According to the draft, the scope of immunity will be reviewed; it will be limited regarding civil and criminal liability, to put MPs on a more equal footing with the rest of the population concerning civil and criminal infringements. The National Council postponed the deadline for discussion of the draft and the Committee is using the time to discuss further amendments. The initial plan is to adopt the act before the National Council's summer break of 2001.

84. The evaluators welcome the reform underway and insist that it should be adopted as soon as possible.

85. As mentioned in paragraph 29, according to the draft law on judges, a judge may be criminally prosecuted or taken into custody only with the approval of the National Council of the Slovak Republic. If the National Council of the Slovak Republic refuses to grant such permission to prosecute a judge, prosecution has to stop. So far, no judges have been prosecuted for corruption though the judiciary is seen as problematic in terms of corruption. The evaluators believe that action should be taken to ensure that judges suspected of corruption be investigated and prosecuted where supported by enough evidence.

86. In view of the fact that the judiciary seems to host certain corrupt members, it would be necessary to study the possibility to ensure that the mechanism involving the approval of the National Council of the Slovak Republic can function efficiently and in a timely manner, otherwise another mechanism should be envisaged, maybe by a decision of the competent Judicial Council.

CONCLUSIONS

87. The Slovak authorities have acknowledged the vulnerability of their State's structures to corruption and they have already reacted by establishing several relevant legal provisions and institutions, as well as a National Programme for the Fight against Corruption. This programme foresees the setting up of plans of action which would propose a series of concrete measures to be taken. The evaluators formulate the wish that the recommendations contained in this report be included in the plans of action and be effectively implemented. The effective implementation of the recommendations is essential to build an efficient anti-corruption system. Although certain measures have already been taken, the Slovak Republic still has a long way to go before the necessary measures are all in place and fully implemented and start to give tangible results.

88. In view of the above the GRECO address the following recommendations to the Slovak Republic:

i. that measures be taken to eliminate unnecessary licences and that objective and transparent criteria be determined for the granting of licences, authorisations and state subsidies that remain necessary;

ii. that transparent and clear rules as well as efficient control mechanisms be established regarding privatisation;

iii. that the following complementary preventive action be taken:

a) develop awareness among the population at large of the dangers of corruption with respect to the stability of democratic institutions as well as economic and social progress;
b) inform the population of the measures taken to counter corruption, the sanctions that can be imposed in cases of corruption, the effective regret mechanism and the institutions involved in combating corruption to which the public can turn to;
c) involve the media as well as non-governmental organisations in a coordinated awareness raising campaign;

iv. that the Department of combating corruption be reinforced, in order to allow for a more proactive approach in the detection of cases;

v. that the system for gathering evidence be revised in order to ensure that acts carried out by the police can be used as evidence in court.

vi. that measures be taken to ensure that the basis for superior prosecutor's decisions overruling prior decisions made by a prosecutor at a lower level can be controlled (for instance, it could be required that the basis for decisions be indicated in writing).

vii. that the measures which exist in urgent cases for search of other premises be adopted *mutatis mutandis* to house search.

viii. elaborating guiding rules for the use of "special agents", taking full account of the case law of the European Court of Human Rights, in order that the results of this technique are not challenged in court as being contrary to human rights.

ix. that the bill reforming Act 249 on "combating the legalisation of proceeds from the most serious forms of crime" be elaborated and adopted as soon as possible as access to financial information (including the names of beneficial owners of numbered accounts) is indeed central to police work in the fight against corruption.

x. that, in relation to judges, prosecutors and police officers, specific legal measures and appropriate sanctions regarding intimidation as well as measures to protect physical integrity be elaborated.

xi. prolonging the limitation period (section 67 of the Penal Code) with respect to offences of corruption in order to allow extra time for investigation in complex cases.

xii. that cooperation between the Department combating corruption and the tax authorities be strengthened, notably when a more efficient tax declaration system is established, in order that tax information can be used to detect and substantiate corruption charges.

xiii. that measures be taken to implement the following proposals:

a) establish guidelines in relevant fields of police activity about the way to prevent corruption as well as the action that should be taken to ensure the collection of evidence in cases of corruption with a view to criminal procedure;
b) adopt regulations, based on objective criteria, to improve the selection of staff of the Police Force and prevent and sanction nepotism;
c) establish a programme aimed at enhancing social standing and the financial and moral value of the work done by the Police Force members.
d) Introduce, in the Code of Conduct, a prohibition of corruptive conduct and classify a violation of this prohibition as being a gross violation of work ethics;
e) provide the Police Force with the necessary computer equipments to improve the capacity of data processing systems.

xiv. that the reform of the judicial system be carried out as a matter of urgency and that the Judiciary strengthens its independence vis à vis the political power, and also that measures be taken to improve the disciplinary procedure with a view to ensuring impartiality.

xv. that the following measures be taken in view of the urgent need to change the present situation and to prevent and detect corruption among judges:

a) improve the professional level of judges. Special training should be established and objective criteria should be set for the selection of candidates to the judiciary, (the duration of preparation of candidate judges could be prolonged, the age requirements could be increased,);
b) create a culture of morality in the judiciary notably by adopting a Code of Ethics for judges and increasing internal control among judges and restore the social image of judges by eliminating those judges that are corrupt;
c) extend the powers of the Council of Judges by giving it a right to take part in the nomination process and increase the Council's role in assisting in the detection of corruption cases among judges, notably by monitoring the duration of procedures and the order in which they are dealt with;
d) reform the disciplinary senates in order to make them play a more active and objective role and eliminate possible interferences and abuses resulting from personal or close contacts between judges and members of the senate;
e) elaborate sufficient social and remuneration guarantees for both judges in office and those who are retired in order to decrease the attraction of additional income;
f) oblige judges to disclose annually their property and income to an appropriate body (e.g. the council of judges).

xvi. to continue efforts regarding exchange of information and access to information among institutions involved in the fight against corruption, notably regarding the sharing of computerised data.

xvii. that more training be offered to prosecutors, jointly with investigators, as necessary, and making use of international organisations whenever possible.

xviii. that the powers of the Supreme Audit Office be extended, notably to evaluate and make effective suggestions for improving the management of public entities.

xix. that measures be taken to ensure that the Ministry of Foreign Affairs complies with the obligation to report suspicions of corruption cases to law enforcement authorities in accordance with article 8 of the code of criminal procedure.

89. Moreover, the GRECO invites the authorities of the Slovak Republic to take account of the observations made by the experts in the analytical part of this report.

90. Finally, in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of the Slovak Republic to present a report on the implementation of the above-mentioned recommendations before 31 December 2001.

* * * *

Appendix A

Articles 160 – 163 of the Penal Code

Sub-chapter III
Corruption

Accepting of Bribe or Other Undue Advantage
Section 160

1. Who in exchange for the bribe or other undue advantage misuse his employment, position or function to provide the advantage to any person or to give priority to any person in relation to others, shall be punished by the imprisonment up to two years or by the monetary sanction.

2. Imprisonment for one year up to five years shall be imposed to the offender if he by the offence referred to in para. 1

a. causes damage of a large extent[6] or if he obtains for himself or anybody else the benefit of a large extent
b. infringes the specific duty resulting from the law, his employment, position or function or duty to the fulfilment of which he engaged himself.

Section 160a

1. Who, in connection with providing the thing of public interest, whether directly or through intermediary, for himself or for a third party, accepts or requests the bribe or other undue advantage or the promise thereof, shall be punished by the imprisonment up to three years or by the ban on activity or by the monetary sanction.

2. Imprisonment for one year up to five years shall be imposed to the offender who committed the offence referred to in para. 1 as public official.

Section 160b

Who as a foreign public official, whether directly or through intermediary, for that official or for a third party or requests the bribe or other undue advantage or the promise thereof, to act or refrain from acting in connection with the performing of official duties with the intention to obtain or retain business or other undue advantage in the conduct of international business, shall be punished by the imprisonment up to three years or by the monetary sanction.

Section 160c

Who as a member of a foreign public assembly, foreign parliamentary assembly, judge or official of international court whose jurisdiction is accepted by the Slovak Republic or the representative or employee of intergovernmental organisation or body, the Slovak Republic is a member of or has the relationship following from the treaty, or as a person in the similar function, whether directly or through intermediary, for himself or for a third party, accepts or requests the bribe or other undue advantage or promise thereof, to act or refrain from acting in performing his function, shall be punished by the imprisonment up to three years or by the monetary sanction.

[6] Advantage of large extent "and .. benefit of large extent" are the notions defined by the Criminal Code as the multiplex of the monthly salary.

Giving the Bribe
Section 161

1. Who provides the bribe or other undue advantage or promise thereof to other person, I order that that person misuse his employment, position or function, to provide advantage to any person or to give the priority to any person in relation to others, shall be punished by the imprisonment up to one year or by the monetary sanction.

2. Imprisonment for one year up to five years shall be imposed to the offender if he by the offence referred to in para. 1

a. causes damage of a large extent or if he obtains for himself or anybody else the benefit of a large extent
b. infringes the specific duty resulting from the law, his employment, position or function or duty to the fulfilment of which he engaged himself.

Section 161 a

1. Who, in connection with the providing of a thing of public interest, whether directly or through intermediary, gives, offers or promises a bribe or other undue advantage, shall be punished by imprisonment up to two years or by the monetary sanction.

2. The offender shall be punished by the imprisonment up to three years if he commits the offence referred to in para. 1 in relation to the public official.

3. Imprisonment from one year up to five years shall be imposed to the offender, if he commits the offence referred to in para. 1 as a member of the organised group or if he obtains the benefit of large extent by such offence.

Section 161b

1. Who offers, promises or gives a bribe or other undue advantage, whether directly or through intermediary, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties with the intention to obtain or retain business or other improper advantage in the conduct of international business, shall be punished by the imprisonment up to two years or by the monetary sanction.

2. The offender shall be punished by the imprisonment for one to five years, if he commits the offence referred to in para. 1 as the member of the organised group or if he through such offence obtains the advantage of large extent.

Section 161c

1. Who, whether directly or through intermediary, to a member of a foreign public assembly, foreign parliamentary assembly, judge or official of international court whose jurisdiction is accepted by the Slovak Republic or to the representative or employee of intergovernmental organisation or body, the Slovak Republic is a member of or has the relationship following from the treaty, or to a person in the similar function, offers or promises the bribe or other undue advantage, to act or refrain from acting in performing his function, shall be punished by the imprisonment up to two years or by the monetary sanction.

2. The offender shall be punished by the imprisonment for one to five years, if he commits the offence referred to in para. 1 as the member of the organised group or if he through such offence obtains the advantage of large extent.

Section 162
Trading in influence

1. Who, whether directly or through the intermediary, accepts or requests the bribe or other undue advantage or the promise thereof, in exchange for his influence directed to the fulfilment of powers of person referred to in sections 160, 160a, 160b or 160c or in exchange for doing so already, shall be punished by the imprisonment up to three years or by the monetary sanction.

2. Who, whether directly or through intermediary, gives, offers or promises the bribe or other undue advantage to other person, in exchange for his influence directed to the fulfilment of powers of person referred to in sections 160, 160a, 160b or 160c or in exchange for doing so already, shall be punished by the imprisonment up to two years or by the monetary sanction.

Section 163
Effective Regret

Giving the bribe under sections 161, 161a, 161b and 161c and trading in influence under section 162 para. 2 is not considered as the offence if the offender has given the bribe or other undue advantage or the promised thereof only because he was requested to do so and he reported it without delay to the prosecutor, investigator or police; a soldier can instead of this report to his commander or chief.

Appendix B

Article 252 of the Penal Code

Laundering Proceeds of Crime

1. Whoever a thing of considerable value which is an income from crime

a. transfers to himself or to another person, hires, loans, lends, imports, exports, moves, disposes at bank account or, otherwise, to himself or to another person acquires, or,

b. holds, hides, conceals, uses, destroys, damages, alters, or consumes with intent to hide its existence or to conceal the origin of a crime, or, its intent or purpose there of fro the commission for crime, or to frustrate its seizure or forfeiture for purposes of penal proceedings shall be punished by imprisonment for a term of one to five years or by pecuniary penalty or by prohibition of activity.

2. The offender shall be punished by imprisonment for a term of two to eight years if he commits the act defined in paragraph 1

a. for gain
b. as a member of an organised group
c. although he was obliged to inform or to report the legislation of incomes which originated from criminal activity because of his employment, profession, position or office
if by such act he acquires for himself or, for another person, considerable profit.

3. The offender shall be punished by imprisonment for term of five to twelve years if he commits the act defined in paragraph 1

a. as a public agent or,
b. as a member of an organised group which is operating in several states or with the junction with this group.

4. The same punishment as in paragraph 3 shall be imposed if act defined in paragraph 1 he acquires for himself, or for another person, extensive profit.

Appendix C

Section 2 and Sections 157 to 167 of the Criminal Procedure Code

Section 2
Basic Principles of Criminal Proceedings

/1/ No one shall be prosecuted as accused on other than the legal grounds and in any other manner than that provided for under the present Act.

/2/Any person charged with an offence shall be presumed innocent until proven guilty by a final sentencing judgment of a court.

/3/The prosecutors shall have the duty to prosecute all criminal offences of which they gained knowledge; exceptions shall only be admissible under a law or a promulgated international treaty.

/4/Unless the present Act provides otherwise, the bodies active in criminal proceedings shall act ex officio; they shall hear criminal cases without any undue delay and shall consistently observe human rights as guaranteed by the Constitution. The bodies active in criminal proceedings shall not consider the petitions whose content infringes on the fulfilment of this duty.

/5/ The bodies active in criminal proceedings shall proceed so as to properly establish the facts of the case to the extent necessary for making the decision. They shall thoroughly clarify the circumstances regardless of whether they prejudice or benefit the accused and they shall take evidence in both these directions without waiting for the motion of the parties. The confession of the accused shall not relieve the bodies active in criminal proceedings of their duty to review all the circumstances of the case.

/6/In evaluating the evidence, the bodies active in criminal proceedings shall act in accordance with their deep conviction based on the careful consideration of all the facts of the case, separately and jointly, irrespective of whether they were supplied by the bodies active in criminal proceedings or by one of the parties to the proceedings.

/7/All the bodies active in criminal proceedings shall co-operate with civil associations and shall make use of the educational impact thereof.

/8/Judicial criminal proceedings shall only be initiated on the basis of an indictment filed by a prosecutor.

/9/In judicial criminal proceedings, the decision shall be made by a panel of judges or by single judges; presiding judges of panels or single judges shall decide alone only when the law expressly provides for it. Decisions made in pre-trial proceedings by a first-instance court shall be taken by single judges.

/10/ Criminal cases shall be heard in open court to give the citizens a possibility to attend the hearing and to follow the trial. Public attendance may be excluded from the main hearing and open court hearing only in cases explicitly provided for under the present Act.

/11/ Judicial proceedings shall be oral; as a rule, the court shall take evidence on the basis of witness statements, expert testimonies and from the accused by interrogating these persons.

/12/ When deciding at the main hearing, open or closed court hearing, the court shall consider only evidence that was taken during the hearing.

/13/ The party against whom the proceedings has been instituted shall be advised of his right to defence and his right to choose a counsel at any stage in the proceedings; all the bodies active in criminal proceedings shall make it possible for this party to exercise his rights.

/14/ Every person shall have the right to use his mother tongue before the bodies active in criminal proceedings.

PART TWO
INVESTIGATION OF CRIMINAL OFFENCES
Section 157
General Provision

/1/A prosecutor, an investigator or a policy body shall have the duty to organize their activities so as to effectively contribute to the timely and justified criminal prosecution.
/2/A prosecutor shall have the right to entrust an investigator and a police body with procedures for which they have the necessary powers and which are necessary for the clarification of the case or identification of the offender. An investigator shall have the same rights in relation to a police body.

CHAPTER NINE
PROCEDURE PENDING CRIMINAL PROSECUTION
Section 158

/1/A prosecutor, an investigator and a police body shall have the duty to accept information concerning circumstances that indicate the commission of a criminal offence and to act on it without unnecessary delay; they shall also advise the informer of his criminal liability for giving deliberately false information and, on the informer's request, they shall notify him of the effected measures, not later than one month after he laid in his information.
/2/ The police bodies shall have the duty to take all the measures that are necessary to expose criminal activities and identify their perpetrators; they shall also have the duty to take any necessary measure to prevent criminal acts.
/3/To verify information concerning the facts that indicate the commission of a criminal offence and other motions for criminal prosecution, a prosecutor, an investigator or a police body shall secure the necessary materials and explanations, and identify and secure the clues of criminal offences; investigator shall perform procedures pursuant to this provision in respect of those criminal offences that are punishable by a maximum imprisonment sentence of more than three years. Legal review of a criminal offence made by the investigator shall be binding for the police body.
/4/If criminal prosecution pursuant to section 160 cannot be initiated because the person to be charged is not yet known, an investigator or a police body may perform only urgent and unrepeatable procedures set out in Chapters Four and Five. It shall send a copy of the report on such procedures to a prosecutor not later than within 48 hours. This procedure shall not relieve the police body of its duty to hand the case over to the prosecutor if there are grounds to lay charges against a person, and does not relieve the investigator of the duty to arraign the person to be prosecuted in accordance with section 160.
/5/An official report shall be drawn up with respect to explanations that do not have an urgent or unrepeatable nature. The report shall serve the prosecutor and the accused to consider the proposal to hear the person having filed such information as a witness at the trial, and it shall serve the court to consider whether it will admit such evidence. The report itself shall not be used us evidence in judicial proceedings. If the person who gave an explanation is later examined as a witness or an accused, he may not be submitted the report.
/6/An urgent procedure pursuant to paragraph (4) shall be a procedure which, because of the danger of its suppression, destruction or loss, cannot be postponed until the commencement of criminal prosecution. An unrepeatable procedure pursuant to paragraph (4) shall be a procedure that cannot be performed before a court.
/7/Explanation pursuant to paragraph (3) cannot be requested from a person it this violated a non-disclosure obligation laid down or stipulated by the law, unless such person is relieved of such obligation by a competent body in whose interest it was imposed. Explanation may be denied by a person who would run the risk of criminal prosecution against himself or persons under section 100 paragraph (2).

Section 159

/1/If no suspicion of crime is present, a prosecutor, an investigator or a police body shall issue a ruling suspending the case unless no other settlement of the case may be reached. Such settlement may include, in particular:
a/handing the case over to a body competent to examine the misdemeanour or
b/handing the case over to another body for disciplinary proceedings.
/2/Prior to the commencement of criminal prosecution, a prosecutor, an investigator or a police body shall adopt a ruling suspending the case if criminal prosecution is inadmissible pursuant to section 11 paragraph (1).
/3/Prior to the commencement of criminal prosecution, a prosecutor, an investigator or a police body may issue a ruling suspending the case if criminal prosecution is irrelevant because of the circumstances set out in section 172 paragraph (2).
/4/If no facts were established to justify the commencement of criminal prosecution (section 160), an investigator or a police body shall issue a ruling on setting the case aside. Prior to setting a case aside, all the steps necessary to ensure the completion of criminal prosecution shall be taken. If the reasons for setting a case aside cease to exist, the procedure pursuant to section (159 paragraphs (2) or (3) or to section 160 shall apply. The ruling on suspending a case or setting a case aside shall be served on the injured. The ruling on suspending the case pursuant to paragraphs (2) and (3) or on setting a case aside pursuant to paragraph (4) shall be served on the prosecutor within 48 hours. The informant shall be notified about suspending the case at or setting the case aside if he asked for it under section 158 paragraph (1).

CHAPTER TEN

Section 163a - repealed

Section 164
Investigation Procedures

/1/An investigator shall normally conduct the investigation himself. The investigator needs not repeat the procedures performed prior to laying the charges and procedures performed after the charges have been laid by police bodies on investigator's instructions provided they were performed in conformity with the provisions of the present Act. The provisions of sections 158 paragraph (3) and (4) shall similarly apply to the execution of investigation procedures.
/2/In conducting an investigation, an investigator shall act on his own initiative with the aim of clarifying, without delay and in the extent required, all the facts relevant for the examination of the case, including the person of the perpetrator and consequences of the criminal act (section 89 paragraph (1)).
/3/The investigator secures evidence irrespective of whether it is beneficial or detrimental to the accused. Unless completely irrelevant, the defence of the accused and the evidence proposed by the accused shall have to be examined and corroborated. The accused may be in no way forced to make a statement or confession.
/4/Except for cases which, under the present Act, call for the authorization by a prosecutor, the investigator shall make in his own competence all the decisions concerning the process of investigation and investigation procedures, and shall take full responsibility for their lawful and timely execution. If the investigator does not agree with the prosecutor's instructions concerning the charges, the definition of the criminal offence and the scope of the charges, or with instructions concerning the settlement of the case in pre-trial proceedings, he shall have the right to submit written objections to the latter; if the prosecutor turns down these objections, the investigator shall submit the case to the superior prosecutor who shall either void the instructions issued by a subordinate prosecutor or shall assign the case to a different investigator. In all other cases, instructions issued by the prosecutor shall be binding for the investigator.

Section 165
Defence Counsel Participation in the Investigation

/1/A defence counsel shall have the right to be present in all investigation procedures already from the moment the charges have been laid; he shall have the right to pose questions to the accused and to other interrogated persons, but only after the body concerned has completed interrogation and handed him the floor.
/2/If a defence counsel informs an investigator of his intention to take part in an investigation procedure, the investigator shall have the obligation to give him an advance notice of the time and place of the procedure except when such notice cannot be ensured and the procedure cannot be postponed.

Section 166
Closure of Investigation

/1/If an investigator deems investigation completed and its results sufficient to file indictment, he shall make it possible for the accused and the counsel, for the injured or his proxy to examine, within a reasonable time, the files and to submit motions for additional investigation. He shall advise the accused and his counsel of such a possibility at least three days in advance. If the accused and the counsel agree, the above time limit may be reduced. If the investigator does not consider the proposed additional investigation necessary, he shall reject the motion. The investigator shall note down these procedures in the file and he shall notify the accused or his counsel and the injured of having rejected the motion for additional investigation.
/2/If the accused, his counsel or the injured do not take advantage of the possibility to examine the files even though they had been duly advised of it, the investigator shall note this fact down in the file and continue in the proceedings as if such procedure had been performed.
/3/After closing the investigation, the investigator shall submit the prosecutor the file with the motion to lay indictment, the list of proposed evidence and the reasons for rejecting the motion to take additional evidence, or shall execute one of the decisions pursuant to sections 171 through 173.

Section 167
Motion to Review Actions of an Investigator

The accused and the injured shall have the right to file application to a prosecutor to eliminate the delays in the investigation or irregularities in the actions of an investigator. The application shall be subject to no time limit. The prosecutor to whom such application shall have to be immediately submitted shall have to deal with it without delay. The applicant shall be notified of the result of the review.

Appendix D

Articles 174 and 175 of the Criminal Procedure Code

Title Five
Supervision by Prosecutor
Section 174

/1/ The prosecutor shall perform supervision over observance of the law in the pre-trial proceedings.

/2/ During the performance of this supervision the prosecutor shall be authorized:

a) to give binding instructions for criminal offences investigation,

b) to request, from the investigator or a police body, files, documents, materials and reports on committed criminal acts for reviewing investigator's early commencement of criminal prosecution and due procedure,

c) to participate in the performance of procedures by investigator or police body, to conduct individual procedures or the whole investigation personally and to issue decision in any case; while acting pursuant to the provisions valid for the investigator herein, and a complaint against his/her decision is admissible as it is against investigator's decision,

d) to return the case with instructions for additions to the investigator,

e) to cancel unlawful or unjustified decisions and measures by investigator, police body, which he/she may replace with own decisions; in rulings on stay and suspension of criminal prosecution or a transfer of the case he/she may do so within fifteen days from delivery; if the decision by investigator and police body was replaced with an own decision different from the complaint by the authorized person and against a decision by investigator or police body, a complaint against his/her decision is admissible in the same scope as against the decision by an investigator or police body,

f) to take any case from a particular investigator and to take measures to have the case assigned to another investigator.

Section 175

The prosecutor only shall be authorized:

a) to file indictment,

b) to order seizure of accused person's property and to determine to which means and things this seizure shall not apply or to cancel such a seizure,

c) to secure injured party's title to damage compensation and to restrict or cancel such security or to exclude the thing,

d) to order a corpse exhumation,

e) to file a request for extradition of the accused from a foreign country,

f) to perform preliminary investigation in the proceedings of extradition from a foreign country.

Appendix E

Sections 86-88b of the Code of Criminal Procedure

Intercepting and Opening Mail Consignments
Section 86

Title Five
Intercepting Mail Consignments

/1/ If the clarification of facts relevant for criminal proceedings makes it necessary to ascertain the content of undelivered telegrams, letters or other private communications dispatched by or addressed to the accused, the presiding judge of a panel or, in pre-trial proceedings, a prosecutor or an investigator shall issue an order to the post office or the mail delivery organisation to surrender such private communications; the investigator may do so upon a prior authorization by a prosecutor.
/2/ In criminal proceedings carried out in respect of criminal offences set out in Chapter One of a separate section of the Penal Act and under separate legislation[2/], a prosecutor or an investigator, upon a prior authorization by a prosecutor, may order the post office or the mail delivery organisation to surrender the mail consignment in respect of which there are reasonable grounds to believe that it was used to commit a criminal offence or is related to a criminal offence, and that the clarification of facts in criminal proceedings requires the determination of the content thereof.
/3/ The delivery of a mail consignment may be withheld on the order of an investigator or a police body even in the absence of the order pursuant to subsections (1) and (2), but only if such order cannot be obtained in advance, and in cases of emergency. If, in such a case, the post office or the mail delivery organisation does not receive within three days an order from the presiding judge of a panel, a prosecutor or an investigator to surrender the mail consignment, the post office or the mail delivery organisation shall not withhold the delivery of the communication any longer.

Section 87
Opening Mail Consignments

/1/ Mail consignments surrendered under section 86 paragraphs (1) or (2) may be opened only by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor, an investigator or a police body; the investigator or the police body shall have to obtain a prior authorization by a prosecutor.
/2/ The opened mail consignment shall be delivered to the addressee or, if his whereabouts are unknown, to a person close to him. If, however, there is a reason to believe that the delivery of a mail consignment could prejudice the proceedings, the mail consignment shall be attached to the files if its size and character make this possible; otherwise it shall be placed in safe-keeping. If appropriate, the addressee shall be informed of the contents of a letter or a telegram. If his whereabouts are not known, a person close to him shall be notified of the contents thereof.
/3/ The mail consignment that was not deemed necessary to open shall be handed over to the addressee without any further delay or returned to the post office or organisation having surrendered it.

Section 87a
Supplanting the Content of Consignments

To identify the persons involved in the handling of a consignment that contains narcotics, psychotropic substances, poisons, nuclear or similar radioactive materials, counterfeit money and public papers, firearms or mass destruction weapons, ammunition and explosives, a prosecutor or an investigator with a prior authorization by a prosecutor may order that the content of such consignment be surrendered pursuant to sections 86 paragraphs (1) and (2), that a different content be supplanted and that the

altered consignment be released for the delivery. The substitution shall be done by a police body that shall draw up a protocol and secure the safe-keeping of the supplanted items or materials.

Title Six
Interception and Recording of Private Communications
Section 88

/1/ If the criminal proceedings are held in respect of an intentional and exceptionally serious criminal offence or an intentional criminal offence the prosecution of which is mandatory under a promulgated international treaty, or a criminal offence set out in a separate legislation[2/], the presiding judge of a panel or, in pre-trial proceedings, a prosecutor or an investigator may order the wiretapping of telephone lines and the recording of private communications if there are reasonable grounds to believe that important facts for criminal proceedings may thus be revealed. It shall not be allowed to intercept and record the private communications between the counsel and the accused.
/2/ The order to intercept and record private communications shall be issued in writing and shall contain a justification. The order shall also specify the time limit for intercepting and recording telecommunication messages. The time limit for intercepting and recording shall not exceed 6 months. The presiding judge of a panel or, in pre-trial proceedings, a prosecutor may extend this time limit by another six months. The organisation which is in charge of the operation of the telecommunication network and in whose district the interception and recording of private communications is to be effected shall be always informed of the order and of the time limit for interception and recording. Interception and recording of private communications shall be conducted by a police body.
/3/ In criminal proceedings held in respect of other offences than those listed in paragraph (1), the body active in criminal proceedings shall issue an order to intercept and record private communications or carry it out itself only with the consent of the telephone subscriber concerned.
/5/ If the interception and recording did not produce any facts relevant for criminal proceedings, the body active in criminal proceedings shall have to destroy the obtained records pursuant to the shredding regulations applicable to the body active in criminal proceedings.

Title Seven
Controlled Delivery
Section 88a

/1/ A controlled delivery means that a consignment being imported, exported, or transported is subjected to surveillance if there are reasonable grounds to believe that it is an illegal consignment containing narcotics, psychotropic substances, poisons, nuclear and other similar radioactive materials, counterfeit money and public papers, firearms or mass destruction weapons, ammunition and explosives, in order to identify the persons who took part in the handling of such consignment.
/2/ The order to proceed pursuant to paragraph (1) shall be issued by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor.
/3/ In cases of emergency, a prosecutor may issue an order pursuant to paragraph (2) also outside of pre-trial proceedings. Such order shall be confirmed by a judge not later than within three days; otherwise it shall become void.
/4/ The surveillance of a consignment shall be conducted by the competent bodies of the Police Corps in conjunction with the Customs Administration bodies which shall be given an advance notice of any such procedure.
/5/ When proceeding pursuant to paragraph (1) it shall be possible to use, under conditions set out in separate prescriptions, information technology and operational and searching devices[10/] and to duly record the procedure also in other ways (section 55, Code of Criminal Procedure).

[10/] Sections 35 and 39, Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Corps.

Title Eight
Agent
Section 88b

/1/ When investigating criminal offences set out under separate legislation[2/] and identifying their perpetrators, it shall be possible to use an agent. The use of an agent shall only be admissible if the disclosure of criminal offences and identification of their perpetrators would otherwise be much more difficult.
/2/ An agent shall be a member of the Police Corps who operates under a temporary or a permanent legend. The legend of an agent shall consist of a set of cover personal data, in particular data on his identity, birth, birth certificate, education, family status and employment. In the framework of his assignment pursuant to subsection (1), an agent may use his cover in legal relations.
/3/If the construction or preservation of the legend make it necessary, cover documents may be produced, altered and used in keeping with the provisions of a separate legislation.[11/]

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[11/] Section 40, Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Corps.
/4/The order to use an agent shall be issued by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor. If the use of an agent involves entering the home of another person, the order for using an agent in criminal proceedings shall be issued by a judge on application by a prosecutor.
/5/In cases of emergency, and if the use of an agent does not involve entering the home of another person, the order under paragraph (4) may be issued also outside of pre-trial proceedings. Such order shall be confirmed by a judge not later than within three days; otherwise it shall become void.
/6/ The warrant issued under paragraphs (4) and (5) shall be in writing and shall specify the time period during which the agent will be deployed.
/7/Written materials obtained in connection with the use of an agent shall be included into the file only after a prosecutor has made a motion in the indictment that the evidence be taken on the basis of facts ascertained by the agent.
/8/When acting under a legend, an agent may enter a home with the consent of an entitled person. Such consent, however, may not be obtained on the basis of pretending to have the right of entry.
/9/The true identity of an agent shall have to remain secret even after the termination of his deployment. Upon request, the true identity of an agent shall be disclosed to the presiding judge of a panel, a prosecutor and a judge competent to decide pursuant to paragraphs (4) and (5) and to the presiding judge of a panel in judicial proceedings.
/10/ In pre-trial proceedings, the facts ascertained by an agent shall be reported by a Police Corps officer appointed by the President of the Police Corps; the same officer shall personally serve the summons to appear at the main hearing on the agent. In the course of judicial proceedings, the presiding judge of a panel shall order the defendant to leave the courtroom while the agent is being examined as a witness; however, upon returning to the courtroom, the defendant shall have to be informed of the content of the agent's statement and given a chance to comment on it. The true identity of the agent shall, however, not be disclosed to the accused.
/11/ The facts related to criminal offences that are not linked to the case to which the agent was assigned may be used as evidence in other proceedings only if such proceedings are held in respect of a criminal offence set out under separate legislation.

Appendix F

Section 164 of the Code of Criminal Procedure

Section 164
Investigation Procedures

/1/An investigator shall normally conduct the investigation himself. The investigator needs not repeat the procedures performed prior to laying the charges and procedures performed after the charges have been laid by police bodies on investigator's instructions provided they were performed in conformity with the provisions of the present Act. The provisions of sections 158 paragraph (3) and (4) shall similarly apply to the execution of investigation procedures.

/2/In conducting an investigation, an investigator shall act on his own initiative with the aim of clarifying, without delay and in the extent required, all the facts relevant for the examination of the case, including the person of the perpetrator and consequences of the criminal act (section 89 paragraph (1)).

/3/The investigator secures evidence irrespective of whether it is beneficial or detrimental to the accused. Unless completely irrelevant, the defence of the accused and the evidence proposed by the accused shall have to be examined and corroborated. The accused may be in no way forced to make a statement or confession.

/4/Except for cases which, under the present Act, call for the authorization by a prosecutor, the investigator shall make in his own competence all the decisions concerning the process of investigation and investigation procedures, and shall take full responsibility for their lawful and timely execution. If the investigator does not agree with the prosecutor's instructions concerning the charges, the definition of the criminal offence and the scope of the charges, or with instructions concerning the settlement of the case in pre-trial proceedings, he shall have the right to submit written objections to the latter; if the prosecutor turns down these objections, the investigator shall submit the case to the superior prosecutor who shall either void the instructions issued by a subordinate prosecutor or shall assign the case to a different investigator. In all other cases, instructions issued by the prosecutor shall be binding for the investigator.