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MONEYVAL (2006) 09 ADDENDUM

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

COMMITTEE OF EXPERTS
ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES
(MONEYVAL)

THIRD ROUND DETAILED ASSESSMENT REPORT
ON S L O V A K I A

ANTI-MONEY LAUNDERING
AND COMBATING THE FINANCING OF TERRORISM

Annexes

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ANNEX 1 - Details of all persons and bodies met during the on-site visit

- Slovak delegation at the MONEYVAL
- Mr Vladimir Palko, Minister of Interior
- National Bank of Slovakia (NBS)
- Bar Association
- Slovak Chamber of Auditors
- Slovak Union of Accountants
- Bank Association and Compliance Officers of commercial banks
- Financial Intelligence Unit, Bureau of Organised Crime
- National Anti-Drug Unit, Bureau of Organised Crime
- Ministry of Justice
- Customs Directorate
- Financial Market Authority
- Office of the Prosecutor General and special prosecutors
- Ministry of Economy
- Ministry of Finance (casino regulator; casino representatives)
- Ministry of Interior (registration of NPO's)
- Exchange Offices
- Judges and Business Register
- Association of Securities Traders
- National Association of Real-Estate Agencies
- Slovak Information Service
- Slovak Insurance Companies Association
- Management Companies Association
- Counter Terrorism Unit, Organised Crime Bureau
- Anti-Corruption Bureau
- Chamber of Notaries
- Stock Exchange and Securities Centre

ANNEX 2 - Act No. 202/1995 Coll. Foreign Exchange Act

The full wording of Act of the National Council of the Slovak Republic No. 202/1995 Coll. dated 20 September 1995, the Foreign Exchange Act and the act amending and supplementing Act of the Slovak National Council No. 372/1990 Coll. on infringements, as amended by Act No. 45/1998 Coll., Act No. 200/1998 Coll., Act No. 388/1999 Coll., Act No. 367/2000 Coll., Act No. 442/2000 Coll., Act No. 456/2002 Coll., Act No. 602/2003 Coll. and Act No. 554/2004 Coll.

The National Council of the Slovak Republic has adopted this Act:

SECTION I

PART ONE INTRODUCTORY AND BASIC PROVISIONS

Article 1 Object of the Act

This Act regulates the following:

- a) the rights and obligations of residents and non-residents when trading in foreign exchange assets, acquiring real estate, granting financial credits to abroad, accepting financial credits from abroad, investing abroad, fulfilling the reporting obligation, fulfilling the obligation to transfer funds to the Slovak Republic, and in other foreign exchange legal relationships regulated by this Act;
- b) the power of foreign exchange authorities;
- c) foreign exchange supervision.

Article 2 Definition of Selected Terms

For the purpose of this Act:

- a) 'country' shall mean the territory of the Slovak Republic;
- b) 'residents' shall mean legal persons permanently based¹⁾ in the country, or natural persons with permanent residence²⁾ in the country; an organisational unit of a resident based abroad is also considered to be resident of the country;
- c) 'non-residents' shall mean legal persons or natural persons who are not residents in the country; a non-resident may also be understood as an organizational unit of a non-resident in the country, with the exception of a branch office of a foreign bank³⁾ operating in the country on the basis of a banking licence, in which case it has the position of a resident, unless otherwise stipulated by this Act;
- d) 'financial derivatives' shall mean rights and obligations that can be expressed in terms of money, derived from funds in foreign currencies;
- e) 'foreign exchange assets' shall mean funds in foreign currencies, foreign securities, and financial derivatives;
- f) 'securities' shall mean documents or book-entries⁴⁾ which replace them, and which relates to the right to a share in property^{4a)} or the right to financial benefits^{4a)};
- g) 'domestic securities' shall mean securities issued by a resident;
- h) 'foreign securities' shall mean securities issued by a non-resident;
- i) 'financial credit' shall mean the provision of funds in Slovak or foreign currency, repayable in financial form; a financial loan⁵⁾ and financial leasing^{5a)} shall also be considered to be forms of financial credit;
- j) 'trade in foreign exchange assets' shall mean the provision of services to third persons as part of a business activity,⁶⁾ the subject of which is the purchase or sale of foreign exchange assets for own account or another person's account in cash or non-cash form; the mediation or arrangement of such purchase or sale, including the receipt and delivery of instructions for its realisation or arrangement; the exchange of such assets is also deemed to be trade in foreign exchange assets; the repayment of a financial credit in a currency other than that in which the credit was granted, or

- accepted, is not considered to be an exchange of foreign exchange assets, if such repayment had been agreed on in a written credit agreement concluded before the credit was provided;
- k) 'direct investment' shall mean the utilization of funds or other appreciable property assets, or property rights, the purpose of which is to establish, acquire, or extend a permanent business relationship of a resident or residents acting in concert^{5b)} investing in a business abroad, or of a non-resident or non-residents acting in concert^{5b)} investing in a business located in the Slovak Republic, if the investment is made in one of the following ways:
1. establishment or acquisition of a 100% share in a business;
 2. participation in a newly established or existing business, provided the investor owns or acquires at least 10% of the equity capital of the commercial company⁶⁾, or at least a 10% share of the net worth⁷⁾, or 10% of the voting rights;
 3. acceptance or granting of a financial credit by the investor for business purposes, if the investor has a share as per items 1 or 2 in the business, or if the credit is subject to an agreement on the distribution of profits or is connected with influence over the control of the company which is comparable with influence given by a share as per items 1 or 2;
 4. employment of profits earned from an existing direct investment in such an investment (hereinafter referred to as "reinvestment of earnings from direct investment");
- l) 'non-cash transactions in funds' shall mean the conduct of transactions in foreign exchange assets, consisting in the purchase or sale of funds in one currency for funds in other currency for own account or another person's account, through money transfer in non-cash form, or the mediation or arrangement of such sale or purchase, including the receipt and delivery of instructions for its realisation or arrangement;
- m) 'currency exchange activity' shall mean the conduct of transactions in foreign exchange assets, consisting in the purchase of funds in foreign currency for Slovak currency in cash, or the sale of funds in foreign currency for Slovak currency in cash;
- n) 'foreign exchange services' shall mean the provision of services to third persons as part of a business activity,⁹⁾ the subject of which is the execution or mediation of cross-border transfers in Slovak or foreign currency, or the operation of commercial agencies for the execution or mediation of such cross-border transfers;
- o) a 'place of foreign exchange' shall mean:
1. a bank based in the country or a branch office of a foreign bank licensed to trade in foreign exchange assets or to effect cross-border transfers within the scope of the banking licence issued under a separate law¹⁰⁾;
 2. a legal or natural person who has been granted a foreign exchange licence under this Act, to trade in foreign exchange assets, or to render financial services in the foreign exchange area;
- p) 'person' shall mean a legal person or a natural person unless the individual provisions of this Act refer to only natural persons or legal persons.

Article 3

Natural persons-entrepreneurs¹²⁾, when carrying out their business, have the same rights and obligations as resident legal persons.

Article 4 Foreign Exchange Authorities and their Power

(1) Foreign exchange authorities are the Ministry of Finance of the Slovak Republic (hereinafter referred to as the 'Ministry') and the National Bank of Slovakia.

(2) The Ministry exercises power pursuant to this Act in matters relating to other ministries and central bodies of state administration; budgetary and subsidized state organizations; special purpose state funds; legal persons established by separate law, which are connected, through financial ties, to the state budget of the Slovak Republic; local communities and the budgetary and subsidized organizations established by them, with the exception of Article 6, paragraph 2; and in the case of credits granted or accepted by the Slovak Republic.

(3) The Ministry shall maintain foreign exchange records and documents pertaining to international negotiations on property claims, and shall implement the results of these negotiations within the country.

(4) The National Bank of Slovakia exercises power pursuant to this Act in matters relating to residents other than those specified in paragraph 2, and to non-residents.

Article 5 – repealed as of 1 January 2004

Article 6
Foreign Exchange Licence

(1) The issue of a foreign exchange licence to trade in foreign exchange assets or to provide foreign exchange services is within the competence of the National Bank of Slovakia. A foreign exchange licence is not granted to banks and branch offices of foreign banks operating according to this Act on the basis of a banking licence issued under a separate law,⁸⁾ dealers in securities, branches of foreign dealers in securities, and to mediators of investment services operating in accordance with this Act on the basis of a permit issued under a separate law.¹⁴⁾

(2) A foreign exchange licence is issued on the basis of a written application. A foreign exchange licence may not be transferred to another person or to a legal successor.

(3) Unless this Act stipulates otherwise, a natural person applying for a foreign exchange licence must meet the following conditions:

- a) be trustworthy person;
- b) be at least 18 years old;
- c) be eligible for legal acts;
- d) have full secondary education (comprehensive or technical)e) natural persons through which permitted activities will be conducted must meet the conditions set out in letters a) to d).

(4) Unless this Act stipulates otherwise, a legal person applying for a foreign exchange licence must meet the following conditions:

- a) the natural persons through which the permitted activity will be conducted, must meet the conditions set out in paragraph 3, letters a) to d);
- b) the natural person who is a statutory body or a member of a statutory body, must be a trustworthy person.

(5) For the purposes of this Act, a trustworthy person shall mean a natural person who has never been convicted of any property related criminal offence, any offence committed in connection with the performance of managerial tasks, or any other intentional offence; this does not apply to a person who was convicted of a serious deliberate criminal act but whose conviction has been cancelled or who is treated as if he had not been convicted of such crime. This fact is to be proved and documented with an extract from the Criminal Record Register,¹⁵⁾ no older than three months, or in the case of a foreign national, with a similar certificate issued by the appropriate body of his country of permanent residence or the country of usual residence.

(6) An applicant for a foreign exchange licence to conduct non-cash transactions in funds in foreign currency, must be an entrepreneur – legal person, and must meet the following conditions, along with those set out in paragraph 4:

- a) a contribution to share capital in the amount of at least Sk 10,000,000;
- b) a feasible business plan;
- c) coverage against risks and tools for the measuring, monitoring, and management of these risks;
- d) procedure for the preparation, conduct, conclusion, and settlement of transactions, including a mechanism and rules for price formation;
- e) material, technical, organisational, and personal conditions for activities related to the conduct of transactions;
- f) the natural person who is a statutory body or a member of a statutory body has:
 - 1. university education or
 - 2. full secondary comprehensive education and at least three years of experience in the area of economics;
 - 3. full secondary technical education and at least three years of experience in the area of economics.

(7) An applicant for a foreign exchange licence to provide foreign exchange services must be an entrepreneur – legal person, and must meet the following conditions, along with those set out in paragraph 4:

- a) a contribution to share capital in the amount of at least Sk 1,000,000;
- b) material, technical, organisational, and personal conditions for activities related to the provision of foreign exchange services;
- c) a contract signed with the person who shall be responsible for the cross-border transfers of funds;
- d) the natural person who is a statutory body or a member of a statutory body has:
 1. university education or
 2. full secondary comprehensive education and at least three years of experience in the area of economics;
 3. full secondary technical education and at least three years of experience in the area of economics.

(8) The applicant for a foreign exchange licence to provide currency exchange services, must meet the conditions set out in paragraphs 3 and 4; in the case of transactions in foreign exchange assets, the subject of which is the sale of funds in foreign currency for Slovak currency in cash, the applicant must meet also the following conditions:

- a) to conduct transactions in foreign exchange assets, the subject of which is the purchase of funds in foreign currency for Slovak currency in cash, uninterruptedly for at least 12 months, in accordance with the generally binding legal regulations and the foreign exchange licence;
- b) to prove that the person who will sell foreign currency on behalf of the applicant, has completed a training course in the identification of forged or altered banknotes organised by the National Bank of Slovakia or by a person appointed by the National Bank of Slovakia.

(9) The application for a foreign exchange licence must contain, in the scope of data specified in a separate law,^{15a)} the designation of the person who submits the application. The application must clearly indicate what is requested, and must contain a true description of all major facts and appropriate evidence of stated particulars. The application must also contain data, in the scope specified in a separate law,^{15a)} about persons other than the applicant, set out in paragraphs 3, 4, and 6 to 8, as well as about other participants in the proceeding, even without the consent of the persons concerned. The application must also contain data, in the scope specified in a separate law,^{15a)} about the deputies of the participants in the proceeding, if any, even without the consent of the persons concerned. In the annex, the application must contain the documents necessary for the National Bank of Slovakia to decide in the matter, mainly documents reliably certifying compliance with the conditions set out in paragraphs 3, 4, and 6 to 8. The application must also contain a statement about the completeness, correctness, authenticity, and relevance of the submitted application, including its annexes, while responsibility for the said statement shall be held by the applicant. The application must also indicate the place and date of preparation and the applicant's officially verified signature.

(10) The conditions set out in paragraphs 3, 4, and 6 to 8, must be met throughout the period of validity of the foreign exchange licence. During this period, the holder of the licence is obligated to notify in writing the National Bank of Slovakia of any change or prepared change in the conditions or data given in the foreign exchange licence application, as soon as the change has come to his knowledge. The fulfilment of the individual conditions, changes or prepared changes therein, shall be documented and reported to the foreign exchange authority primarily through the presentation of documents that reliably certify the fulfilment, change or prepared change of the said conditions.

(11) The grant of a foreign exchange licence will not affect the obligations pursuant to a separate law.¹⁶⁾ A person who has been granted a concession¹¹⁾ – trade licence for an activity which is the subject of the foreign exchange licence, shall be obligated to deliver an officially verified copy of this concession to the National Bank of Slovakia, within ten days of the date of its coming into effect.

(12) The foreign exchange licence specifies the permitted scope of transactions in foreign exchange assets or the provision of foreign exchange services, the period for which the foreign exchange licence is granted, and the conditions that are to be met by the licensee throughout the validity period of the foreign exchange licence.

(13) No person will be allowed to trade in foreign exchange assets or to provide foreign exchange services without appropriate authorisation granted through a banking licence or a foreign exchange licence or a permit to conduct such activity under a separate law,¹⁴⁾ unless this Act stipulates

otherwise. Such permit or foreign exchange licence is not required for foreign exchange services rendered or transactions in foreign exchange assets conducted by the National Bank of Slovakia.

(14) The National Bank of Slovakia shall keep a list of the places of foreign exchange that have been granted a foreign exchange licence; this list shall contain the scope of foreign exchange licences granted to individual places of foreign exchange. The list shall be made available at all organisational units of the National Bank of Slovakia. The National Bank of Slovakia shall also make this list public on the Internet web site of the National Bank of Slovakia.

(15) In a decree issued by the National Bank of Slovakia and promulgated in the Collection of Laws of the Slovak Republic (hereinafter referred to as 'Collection of Laws'), the National Bank of Slovakia may specify:

- a) the due form of an application for a foreign exchange licence according to paragraphs 6 to 9, including the annexes thereto;
- b) the details of the conditions set out in paragraphs 3, 4, and 6 to 8, and the way of indicating and documenting their fulfilment or change pursuant to paragraph 10.

PART TWO RIGHTS AND OBLIGATIONS OF RESIDENTS AND NON-RESIDENTS

Article 7 Rights of Residents and Non-Residents

(1) Unless this Act stipulates otherwise, a resident may enter into a contract with a non-resident and fulfil his contractual obligations in Slovak or foreign currency.

(2) Unless this Act stipulates otherwise, a resident may acquire foreign exchange assets and property abroad, and may import and export both Slovak and foreign currencies.

(3) Unless this Act stipulates otherwise, a non-resident may purchase foreign currency in the country, acquire other foreign exchange assets and real estate, and import or export Slovak or foreign currency.

Article 8 Foreign Exchange Reporting Obligation

(1) A resident and a non-resident's organisational unit in the country are obligated to report, even without the consent of the persons concerned, data in the scope specified in a separate law^{15a)} and data on facts related to the following:

- a) collections, payments, and transfers vis-à-vis residents abroad and non-residents, related to direct investments, financial credits, securities and financial market operations, including financial market operations conducted by non-residents; this shall not apply to collections, payments, and transfers vis-à-vis non-resident's organisational unit in the country, related to direct investments, financial credits, securities and financial market operations, including financial market operations conducted through non-residents;
- b) the opening, and the balance of bank accounts abroad; this shall not apply to natural persons who are residents of the country during their stay abroad.

(2) A resident entrepreneur and a non-resident's organisational unit in the country are obligated to report, even without the consent of the persons concerned, data in the scope stipulated by a separate law^{15a)} and data on facts related to assets and liabilities vis-à-vis residents abroad and non-residents, except for assets and liabilities in relation to a non-resident's organisation unit in the country.

(3) The Central Depository of Securities, members of the Central Depository of Securities, securities dealers, branch offices of foreign securities dealers, asset management companies, pension asset management companies, and branches of foreign asset management companies shall be obligated, even without the consent of the persons concerned, to report to the National Bank of Slovakia data maintained by them or known to them on issuers and owners of securities in the scope stipulated by a separate law,^{15a)} data on securities issued by these issuers and on securities held by these owners as well as summary data on securities registered, kept in custody, or deposited by them,

in a breakdown by the country of the issuer's registered office or residence, the type of security, its maturity, classification of the issuer's activities by economic sectors, and in the case of foreign securities, in a breakdown by the classification of the owner's activities by economic sector.

(4) The foreign exchange reporting obligation pursuant to paragraphs 1 to 3 is to be discharged by reporting complete, correct, reliable, and relevant data to the foreign exchange authority, free of charge and in time, directly or through a place of foreign exchange, as outlined in paragraph 8, or on request of the foreign exchange authority.

(5) The places of foreign exchange through the mediation of which the foreign exchange reporting obligation is fulfilled, are obligated to pass on to the foreign exchange authority without undue delay any information obtained within the scope of compliance with the reporting obligation, even without the consent of the persons concerned.

(6) Foreign exchange authorities and places of foreign exchange are obligated to handle the information obtained in complying with the reporting obligation so that the information could not be misused. Information concerning a specific person and enabling a direct or indirect identification of this person, may not be published or disseminated or used for other than statistical purposes without the written consent of the persons whom the information comes from and whom it concerns.

(7) Information obtained within the scope of compliance with the foreign exchange reporting obligation and the responsibility for the breach of the obligation set out in paragraph 6, are governed by a separate law.^{16a)}

(8) In a decree promulgated in the Collection of Laws, the National Bank of Slovakia shall specify the following:

- a) the structure of reports pursuant to paragraphs 1 to 3, including the scope, contents, structure, deadline, form, manner, procedure, and place of delivery of such reports, including a methodology for their preparation;
- b) method and date of delivery of the information mentioned in paragraph 5, to the foreign exchange authority.

Article 9 – repealed as of 1 April 1998

Article 10 – repealed as of 1 January 2004

Article 11 Other Obligations

(1) Cross-border transfers of funds may be made only through the National Bank of Slovakia, through places of foreign exchange within the scope specified in the banking or foreign exchange licence to provide foreign exchange services, or through payment systems within the scope specified in a permit issued under a separate law,^{16b)} unless a separate law^{16b)} stipulates otherwise; this is without prejudice to the provisions of Article 13, paragraph 2.

(2) Residents and non-residents are obligated to present a special permit mentioned in Article 39, paragraph 5, to the place of foreign exchange where required by this Act, and to document the purpose of the requested transfer and compliance with the foreign exchange reporting obligation, if required by the place of foreign exchange.

(3) Residents and non-residents are obligated, upon demand by the place of foreign exchange, to document compliance with the foreign exchange reporting obligation and to specify the purpose of transfers received from abroad, where the purpose is not already specified.

Article 12 Rights and Obligations of Places of Foreign Exchange

(1) A place of foreign exchange is obligated to demand the presentation of a special permit according to Article 39, paragraph 5, prior to the transfer, where required by the Act.

(2) In connection with the execution of a particular transfer, the place of foreign exchange is authorised to demand that the evidence be provided of the fulfilment of the foreign exchange reporting obligation and that the documents evidencing the purpose of the requested transfer be presented.

(3) The place of foreign exchange is authorised to ask the recipient of a transfer from abroad to document compliance with the foreign exchange reporting obligation and to specify the purpose of the said transfer, where such purpose was not already stated.

(4) The place of foreign exchange may only conduct transactions which are in compliance with the provisions of this Act, generally binding legal regulations issued for the implementation of the Act, international treaties binding the Slovak Republic and which regulate the relationships governed by this Act in a different way, and foreign exchange licences and special permits mentioned in Article 39, paragraph 5.

(5) The place of foreign exchange is obligated to notify, without undue delay, the relevant foreign exchange authority of any suspected violation of regulations, contracts, and decisions listed in paragraph 4 and of failures to meet the obligations set out in Article 11, paragraphs 2 and 3.

(6) By decree, which is to be promulgated by publication in the Collection of Laws, the National Bank of Slovakia shall stipulate the procedure to be used by places of foreign exchange when effecting payments to and from abroad, and transfers to non-residents.

Article 13 **Trade in Foreign Exchange Assets**

(1) Trade in foreign exchange assets or the provision of foreign exchange services shall be allowed only in the scope specified in the banking or foreign exchange licence, or in a permit to operate according to a separate law, unless this Act stipulates otherwise.

(2) A person who is authorised to conduct certain transactions in foreign exchange assets or to provide foreign exchange services as part of a business activity⁸⁾ according to a separate law,^{16c)} may conduct such transactions or provide such services without a foreign exchange licence only in the scope specified in a separate law.^{16c)}

(3) In purchasing or selling funds in foreign currency, a place of foreign exchange operating without a foreign exchange licence may not offer or conduct non-cash transactions in funds in foreign currency without a foreign exchange licence to conduct non-cash transactions in foreign currencies.

(4) A place of foreign exchange which operates without a banking licence and which has accepted funds from a customer in cash in connection with the purchase or sale of foreign currencies, may not transfer the counter value of these funds from its account to the customer's account without a foreign exchange licence to conduct non-cash transactions in foreign currencies.

(5) In purchasing or selling funds in foreign currency, a place of foreign exchange operating without a banking licence may not accept a counter value from a customer in the form of a non-cash transfer to his account, without a foreign exchange licence to conduct non-cash transactions in foreign currencies, except when accepting a counter value in connection with the purchase or sale of funds in foreign currency through a payment card.

(6) A place of foreign exchange authorised to purchase foreign currencies for Slovak currency in cash is also authorised to purchase cheques in foreign currency for Slovak currency, and a place of foreign exchange which is authorised to sell foreign currencies for Slovak currency in cash is also authorised to sell cheques in foreign currency for Slovak currency.

(7) Transactions in foreign exchange assets may be conducted only in offices or facilities the use of which has been approved by a building inspector pursuant to a separate law.¹⁷⁾

(8) A place of foreign exchange holding a foreign exchange licence to trade in foreign exchange assets or to provide foreign exchange services, is obligated:

- a) to keep a separate register of transactions in foreign exchange assets concluded and a separate register of foreign exchange services provided; such register must include data on the financial value of and the currencies involved in individual transactions in foreign exchange assets and on individual foreign exchange services provided, data on the customers for whom the individual transactions in foreign exchange assets were conducted or to whom the individual foreign exchange services were provided, in the scope specified in a separate law^{17a)}, and data on the identification of individual customers pursuant to letter c);

- b) to keep a catalogue of payment means in paper or electronic form in the scope of its currency exchange activity (provided the place of foreign exchange renders currency exchange services);
- c) to identify the customer in a manner and in the scope of data set out in a separate law^{17a)} for each transaction in foreign exchange assets and for each foreign exchange service; in providing currency exchange services, the place of foreign exchange is obligated to identify the customer for each transaction in foreign exchange assets in the amount exceeding EUR 1,000, unless a separate law^{17b)} stipulates otherwise;
- d) to set the price that is to be paid by the customer for the conclusion of a transaction in foreign exchange assets or for the provision of a foreign exchange service;
- e) to legibly display, on its operating premises, information on prices mentioned in letter d), procedures and time limits for dealing with claims and complaints in connection with the conduct of transactions in foreign exchange assets and the provision of foreign exchange services, including information on costs related to complaints and on procedures to be followed in solving disputes pursuant to this Act and separate regulations¹⁸⁾;
- f) to submit to the National Bank of Slovakia data on transactions in foreign exchange assets concluded and foreign exchange services provided, including data on their conclusion and provision;
- g) in conducting non-cash transactions in funds in foreign currency, the place of foreign exchange is obligated to ensure that the conduct, settlement, and internal control of such transactions are separated in both organisational and personnel terms; also, separate sub-ledger records are to be kept of these transactions within the system of book-keeping.

(9) A place of foreign exchange which has been granted a foreign exchange licence to trade in foreign exchange assets or to provide foreign exchange services, is subject to obligations pursuant to a separate law.^{17b)}

(10) A place of foreign exchange which has been granted a foreign exchange licence to trade in foreign exchange assets or to provide foreign exchange services, is obligated to make available and provide to the foreign exchange authority, even without consent from the persons concerned, any information the place of foreign exchange has about transactions in foreign exchange assets and about foreign exchange services, including data on customers and data on other persons who were involved in the transactions in foreign exchange assets or the foreign exchange services or who are responsible for the transactions in foreign exchange assets or the foreign exchange services.

(11) The National Bank of Slovakia may specify the details of facts and requirements outlined in paragraph 8, as well as the scope, contents, dates, form, manner, procedure, and place of delivery of the data on transactions concluded in foreign exchange assets and the provision of foreign exchange services, in the form of a decree, which is, in full wording, to be promulgated in the Collection of Laws.

Article 14 – repealed as of 1 January 2004

Article 15 – repealed as of 1 January 2003

Article 15a – repealed as of 1 January 2001

Article 16 – repealed as of 1 January 2003

Articles 17 and 18 – repealed as of 1 January 2001

Article 19 (the wording in force prior to the accession of the SR to the EU)

Acquisition of Real Estate within the Country

(1) A non-resident, with the exception of a non-resident who is a citizen of the Slovak Republic, may acquire ownership rights in real estate located in the country solely:

- a) by inheritance;
- b) for the purpose of establishing diplomatic representation of a foreign country under conditions of mutuality;
- c) where the real estate acquired by spouses is to be owned in tenancy by the entirety, and one of the spouses is a non-resident, or where a non-resident is to acquire real estate from a spouse,

- siblings, parents, or grandparents; this will not apply to cases where the acquisition of an ownership right in real estate is governed by a separate regulation^{18b)};
- d) through the exchange of domestic real estate owned by a non-resident for another domestic real estate, the price of which, determined in accordance with a separate regulation¹⁹⁾, does not exceed the price of the original real estate determined in accordance with a separate regulation¹⁹⁾;
 - e) where the non-resident has a preferential purchase right based on shared co-ownership of the real estate²⁰⁾; this will not apply to cases where the acquisition of an ownership right in real estate is governed by a separate regulation^{18b)};
 - f) where the acquisition involves a structure built by the non-resident on his or her own land;
 - g) where expressly permitted by a separate law²¹⁾.

(2) A non-resident, who has established an organisational unit in the country for the purpose of business under a separate law^{21a)}, may, except for cases of acquiring ownership rights to real estate under paragraph 1, also acquire the right of ownership to such real estate in the country, which is indispensable as business premises for this organisational unit.

(3) A non-resident, who is domiciled in a member state of the European Union or the Organization for Economic Co-operation and Development and has established an organisational unit in the country for the purpose of business under a separate law^{21b)}, may, in addition to cases of acquiring ownership rights to real estate under paragraphs 1 and 2, acquire the right of ownership to such real estate in the country, which is indispensable as business premises for this organisational unit.

Article 19 – will be repealed on the date of the accession of the SR to the EU

Article 19a – the wording effective starting from the accession of the SR to the EU

Acquisition of Real Estate within the Country

(1) A non-resident may acquire ownership rights to real estate located in the Slovak Republic with the exceptions mentioned in paragraph 2.

(2) A non-resident may not acquire ownership rights

- a) to land which forms part of the agricultural land fund¹⁹⁾ located outside the border of the built-up area of a municipality nor to land which forms part of the forest land fund²⁰⁾ located outside the border of a built-up area of a municipality; this limitation shall not be applicable to a non-resident who inherits the property and to a non-resident who is
 1. a citizen of the Slovak Republic;
 2. a citizen of a member state of the European Union and has the right to temporary residence on the basis of registration,²¹⁾ in the case of the acquisition of ownership rights to land which forms part of the agricultural land fund¹⁹⁾ and which he has been managing^{21a)} for at least three years following the date of the validity of the treaty on the accession of the Slovak Republic to the European Union;
- b) to real estate whose acquisition is restricted by separate regulations.^{21b)}

Article 20 and Article 21 – repealed as of 1 January 2004

Articles 20 and 21 – repealed as of 1 January 2004

Article 22 – repealed as of 1 January 2001

Article 23 – repealed as of 1 January 2003

PART THREE FOREIGN EXCHANGE SUPERVISION

Article 24 Foreign Exchange Supervision

(1) Foreign exchange supervision is implemented by foreign exchange authorities within the framework of their power; the foreign exchange supervision of how the entities listed in Article 4,

paragraph 2 discharge their reporting obligations set out in Article 8 is the responsibility of the National Bank of Slovakia.

(2) The foreign exchange authority shall supervise the fulfilment of obligations pursuant to this Act and the generally binding legal regulations issued in support of its implementation. In this connection, the authority is empowered to demand any cooperation necessary from persons subject to supervision, especially the presentation of the necessary documents and explanations.

(3) Where the foreign exchange supervision procedure occurs on site, the relations between the foreign exchange authority and the persons subject to supervision are governed by the provisions of a separate law,²³⁷ unless otherwise stipulated by this Act.

(4) Persons subject to supervision are required to provide any cooperation necessary to the foreign exchange authority in connection with the foreign exchange supervision.

(5) Should a foreign exchange authority detect deficiencies in a person's activities during on-site inspection, the person will be given^{23a)} an appropriate period of time to correct the shortcomings, or requested to terminate any unauthorized activities.

Article 24a **Corrective Measures and Fines**

(1) If the foreign exchange authority detects any shortcomings in the activities of a person consisting in the violation or circumvention of the provisions of this Act or other generally binding legal regulations issued for its implementation, in the non-observance or excess of the conditions stipulated in the foreign exchange licence or a special permit mentioned in Article 39, paragraph 5, the foreign exchange authority may, depending on the seriousness, form, and degree of the misdeed, the nature, scope and period of the infringement, or other shortcomings detected:

- a) impose on the person a corrective measure, namely an obligation to eliminate the shortcomings within a prescribed time limit;
- b) restrict or suspend the person's activities or some of his activities according to the foreign exchange licence;
- c) revoke the person's foreign exchange licence;
- d) impose on the person a fine under conditions stipulated in paragraph 2.

(2) A fine pursuant to paragraph 1, letter d) may be levied in the following amounts:

- a) for a failure to comply with the reporting obligation or the requirement to collaborate with the foreign exchange authority during inspection – up to Sk 1,000,000;
- b) for a failure to comply with the deposit requirement – up to 0.3% of the amount of compulsory deposit for each commenced calendar day;
- c) for a failure to implement a corrective measure as imposed pursuant to paragraph 1, letter a) – up to Sk 500,000;
- d) for the conduct of an unauthorised activity or for other cases that are not mentioned under letters a) to c):
 1. up to 50% of the amount to which the detected shortcoming relates;
 2. up to Sk 10,000,000, if the amount to which the shortcoming relates cannot be determined.

(3) Corrective measures, fines, and other sanctions pursuant to paragraphs 1 and 2 may be imposed concurrently, even by a single decision; a fine may be also levied repeatedly. Responsibility according to separate regulations^{16a)} shall not be affected by the imposition of a fine.

(4) Appeal against a decision of the foreign exchange authority may be lodged in accordance with paragraphs 1 and 2. An appeal made as per paragraph 1, letter a) or b) shall not have a delaying effect.

(5) Measures pursuant to paragraphs 1 and 2 may be taken within one year of the date of detection of the shortcomings, but no later than within three years of the date of their occurrence.

(6) On the day of coming into effect of the decision to revoke a foreign exchange licence, the trade licence^{23b)} shall expire within the scope of the foreign exchange licence revoked.

(7) The foreign exchange authority shall notify, without undue delay, the relevant Trade Licensing Office of any legally enforceable decision issued in accordance with paragraph 1, letters a), b), or c).

(8) A fine imposed shall be payable within 30 days of the legally enforceable decision to levy a fine and the income from the fine shall be a revenue for the State Budget of the Slovak Republic.

(9) Fines imposed by the foreign exchange authority shall be enforced by the appropriate financial control body according to the registered office, place of business, or permanent residence of the person under inspection.

Article 25 – repealed as of 1 January 2004

PART FOUR

Article 26 to 37 – repealed as of 1 January 2004

PART FIVE SPECIAL PROVISIONS

Article 38

(1) The deposit obligation is an obligation on the part of legal persons and natural persons to deposit a specified percentage of the volume of the funds in a special account at the bank in the interest of currency stability for a certain period of time and concerns:

- a) inter-bank deposits of foreign banks at domestic banks and branches of foreign banks within the country;
- b) deposits made by foreign non-bank residents at domestic banks and branches of foreign banks in the country;
- c) financial credits made by non-residents to residents;
- d) funds resulting from an issue of domestic bonds and other securities issued abroad and which carry beneficiary rights.

(2) For the duration of a deposit obligation, legal and natural persons subject to this obligation may not freely dispose of the funds in this account and may not transfer their rights to dispose of such funds to another person.

(3) The Ministry and the National Bank of Slovakia shall issue generally binding legal regulations stipulating a deposit obligation, its duration, extent, and persons being exempted herefrom, together with other details regarding the implementation of the obligation set out paragraph 1, and are to state the bank in which the special account is to be kept.

Article 39

State of Emergency in the Foreign Exchange Economy

(1) In the event of an unfavourable development in the balance of payments posing a serious threat to foreign solvency or the internal monetary balance of the Slovak Republic, the Government of the Slovak Republic (hereinafter referred to as 'Government'), at the instigation of the National Bank of Slovakia, may declare a state of emergency²⁰⁾ in the foreign exchange economy. A decision on the National Bank of Slovakia proposal is to be announced without undue delay. The state of emergency begins on the day the Government makes a public announcement of the fact and ends on the day set by the Government at the time of the announcement, but at the latest three months from the day of such announcement.

(2) In a state of emergency in the foreign exchange economy, where foreign solvency of the Slovak Republic is seriously threatened, the following shall be prohibited:

- a) the acquisition, by residents as well as non-residents, of foreign exchange assets in return for Slovak currency; this prohibition does not apply to places of foreign exchange;
- b) the payment of any kind of compensation from the country to a foreign country, including transfers of funds between banks and their branches;
- c) the deposit of funds in accounts abroad.

(3) In a state of emergency in the foreign exchange economy, where the internal monetary balance of the Slovak Republic is seriously threatened, the following shall be prohibited:

- a) the sale of domestic securities to non-residents;
- b) the acceptance of financial credits from non-residents;
- c) the opening of accounts in the country by non-residents and the deposit of funds in the accounts of non-residents;
- d) the transfer of funds from abroad between banks and their branches.

(4) In announcing a state of emergency in the foreign exchange economy, the Government shall, by naming the prohibitions that shall apply (those set out in paragraph 2 or 3, or in both), specify the particular state of emergency. At the same time, the Government, with the content of the National Bank of Slovakia, may specify entities or activities as being exempted from such prohibitions. The public announcement shall also state where the complete text of the decree may be viewed by the public.

(5) The foreign exchange authority may, in individual cases, where there is a risk to life or health of persons, or in the interests of improving the balance of payments and the stability of the currency, make special exemptions from the prohibitions set out in paragraph 2 or 3.

PART SIX COMMON, TEMPORARY AND FINAL PROVISIONS

Article 40 Common Provisions

Unless this Act stipulates otherwise, proceedings before a foreign exchange authority and the decisions taken by the same in performing its jurisdiction under this Act, with the exception of Article 24, paragraphs 3 and 5, shall be governed by a separate law;³⁰⁾ proceedings and decisions in the first instance shall fall under the power of a unit determined by the Rules of Organisation of the National Bank of Slovakia.

Article 41

The legal acts of the European Communities and the European Union listed in the Annex are hereby adopted.

Article 42 Relationship to International Treaties

The provisions of this Act shall apply only where an international treaty, to which the Slovak Republic is a party, does not stipulate otherwise.

Article 43 Temporary Provisions

(1) Where this Act continues to require their issue, foreign exchange permits issued pursuant to previous regulations are considered to be foreign exchange permits under the present Act.

(2) Persons listed in Article 2, letter o), items 2 and 3, who engage in activities on the basis of a foreign exchange permit according to the previous regulations, are required to apply to the foreign exchange authority for a foreign exchange licence according to this Act at the latest within one year from the date of its coming into force, otherwise the foreign exchange permit becomes invalid after elapse of that time. Provided the application is submitted on time, the foreign exchange permit shall expire on the day the decision on the application for foreign exchange licence comes into force.

(3) Where the term 'valuty' or 'devízy' appears in other generally binding legal regulations, it is understood to mean foreign currency funds at the rate of exchange announced by the National Bank of Slovakia.³¹⁾

Article 43a

Temporary Provisions Concerning the Acts effective from 1 January 2004

(1) Approval by the National Bank of Slovakia to the issue of a concession¹¹⁾ for currency exchange activity, issued before 1 January 2004, shall be regarded under this Act as a foreign exchange licence to conduct transactions in foreign exchange assets within the scope of purchases of funds in foreign currency for Slovak currency in cash. The restriction or suspension of an activity according to such foreign exchange licence and the revocation of such foreign exchange licence shall be governed by the provisions of this Act.

(2) Foreign exchange licences issued according to the regulations heretofore in effect shall be deemed to be foreign exchange licences under this Act, provided a foreign exchange licence is still required according to this Act. The holders of such foreign exchange licences shall be obligated to deliver to the National Bank of Slovakia an officially verified copy of a trade licence or concession¹¹⁾ for the activity that is the subject of the foreign exchange licence and to meet the conditions and requirements stipulated by this Act no later than 31 December 2004, otherwise the foreign exchange licence will expire at this date. Foreign exchange licences and foreign exchange permits issued under the regulations heretofore in effect, which are no longer required according to this Act, will expire on 31 December 2003.

(3) Proceedings before a foreign exchange authority commenced according to the regulations heretofore in effect and not completed before 1 January 2004, shall be completed according to the regulations heretofore in effect.

(4) Reports prepared in 2004 under the regulations heretofore in effect to discharge a reporting obligation for the year 2003, shall be compiled and presented according to the regulations heretofore in effect.

Article 43b

Interim Provisions to amendments effective from 1 January 2005

The foreign exchange licences or a part thereof issued pursuant to regulations hitherto, which are no longer required under this Act, cease to exist as from 1 January 2005.

Article 44

Repealing Provisions

The following are hereby repealed:

1. Act No. 528/1990 Coll., the Foreign Exchange Act, as amended by Act No. 228/1992 Coll., Act No. 228/1992 Coll., Act No. 264/1992 Coll., Act of the National Council of the Slovak Republic No. 26/1993 Coll., Act of the National Council of the Slovak Republic No. 106/1993 Coll., Act No. 161/1993 Coll., and Act of the National Council of the Slovak Republic No. 249/1994 Coll.
2. Decree of the Federal Ministry of Finance and the State Bank of Czech-Slovakia No. 303/1992 Coll., which implements the Foreign Exchange Act.
3. Decree of the Federal Ministry of Finance, the State Bank of Czech-Slovakia and the Federal Ministry of Foreign Trade No. 323/1990 Coll., stipulating the terms and conditions of property participation in business activities abroad and the transfer of property shares held by foreign exchange residents in foreign legal persons' business activities, to foreign exchange non-residents.
4. Article 36, paragraph, 1, letter b) and paragraphs 4 to 10 of Act of the National Council of Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia.

Article 44a

The following are hereby repealed:

1. Article 9 of the Decree of the Ministry of Finance of the Slovak Republic and the National Bank of Slovakia No. 203/1995 Coll., which implements certain provisions of The Foreign Exchange Act.
2. Decree of the Czech-Slovak State Bank dated October 1, 1992, which stipulates the procedure to be followed by resident legal persons when they receive a cash payment in foreign currency with

- respect to operational record keeping and financial reporting (registered in issue No. 103/1992 Coll.).
3. Decree of the National Bank of Slovakia No. 19 dated 17 June 1994, which sets out terms and conditions for certain foreign exchange transactions conducted by banks (Announcement No. 225/1994 Coll.).
 4. Decree of the National Bank of Slovakia No. 6 dated 25 September 1995, which sets out limits for foreign exchange cash purchases by resident natural persons (Announcement No. 205/1995 Coll.).
 5. Decree of the National Bank of Slovakia No. 7 dated 25 September 1995, which sets the extent of foreign exchange surrender obligation for resident legal persons (Announcement No. 206/1995 Coll.).

Article 44b
Repealing Provisions for Regulations
Effective from 1 January 2004

Decree No. 390/1999 Coll. of the Ministry of Finance of the Slovak Republic and the National Bank of Slovakia, implementing certain provisions of the Foreign Exchange Act, as amended by Decree No. 477/2000 Coll. and Decree No. 522/2001 Coll., is hereby repealed.

Act of the National Council of the Slovak Republic No. 202/1995 Coll. dated 20 September 1995, the Foreign Exchange Act and the act amending and supplementing Act of the National Council of the Slovak Republic No. 372/1990 Coll. on infringements, as amended, became effective on 1 October 1995.

Act No. 45/1998 Coll. became effective on 1 April 1998.

Act No. 200/1998 Coll. became effective on 1 July 1998.

Act No. 388/1999 Coll. became effective on 31 December 1999, with the exception of Section I, Part 2, Article 8, paragraph 1, which became effective on 1 January 2000.

Act No. 367/2000 Coll. became effective on 1 January 2001.

Act No. 442/2000 Coll. became effective on 1 January 2001.

Act No. 456/2002 Coll. became effective on 1 January 2003, with the exception of stipulations in Section I, item 4 [cancellation of Article 10], item 8 [the new title for Article 14], item 9 [the new wording of the introductory sentence in Article 14], item 10 [the new wording of Article 14, letter d), and item 15 [cancellation of Articles 20 and 21], which will become effective on 1 January 2004, and with the exception of stipulations in Section I, item 13 [cancellation of Article 19] and item 14 [insertion of new Article 19a], which became effective on the day of the coming into force of the treaty on the accession of the Slovak Republic to the European Community and the European Union (i.e. on 1 May 2004).

Act No. 602/2003 Coll. became effective on 1 January 2004, with the exception of stipulations in Section I, item 28 [amendment of Article 19a, paragraph 2, letter a)], which became effective on the day of the coming into force of the treaty on the accession of the Slovak Republic to the European Community and the European Union (i.e. on 1 May 2004).

Act No. 554/2004 Coll. became effective on 1 January 2005.

Footnotes to the references:

- 1) Article 2, paragraphs 3 and 4 of the Commercial Code.
- 2) Act No. 135/1982 Coll. on reporting and registration of citizen residency, as amended by Act No. 441/2001 Coll.
Act No. 253/1998 Coll. on the reporting of citizen residency and on the Registry of Inhabitants of the Slovak Republic, as amended.
Act No. 48/2002 Coll. on the stay of foreign nationals and on changes and amendments to certain laws, as amended.
- 3) Article 2, paragraphs 5 and 8 of Act No. 483/2001 Coll. on banks and on changes and amendments to certain other laws.
- 4) Article 2, paragraph 1 and Article 10, paragraph 1 of Act No. 566/2001 Coll. on securities and investment services and on changes and amendments to certain other laws (Securities Act).
- 4a) Article 2, paragraph 2 letters a) to k) and r) of Act No. 566/2001 Coll.
- 5) Articles 657 and 658 of Act No. 40/1964 Coll., the Civil Code, as amended by Act No. 509/1991 Coll.
- 5a) Article 5, letter g) of Act No. 483/2001 Coll. on banks and on changes and amendments to certain other laws.
- 5b) Article 66b of the Commercial Code.
- 6) Article 56 of the Commercial Code.
- 7) Article 6, paragraph 3 of the Commercial Code.
- 8) Act No. 483/2001 Coll., as amended.
- 9) Article 2, paragraph 1 of the Commercial Code.
- 10) Article 2, paragraph 2 and Articles 7 and 8 of Act No. 483/2001 Coll.
- 11) Article 10, paragraphs 1 and 2 letter a) and Articles 50 to 56 of Act No. 455/1991 Coll. on trading (the Trading Act), as amended.
- 12) Article 2, paragraph 2 of the Commercial Code.
- 13) E.g., Articles 27 to 40a of Act No. 92/1991 Coll. on conditions for the transfer of state property to other persons, as amended; Articles 34 to 36 of Act of the Slovak National Council No. 330/1991 Coll. on land parcel modifications, arrangement of land ownership, land registries, the land fund, and land parcel associations, as amended; Articles 4 to 21 of Act of the National Council of the Slovak Republic No. 387/1996 Coll. on employment, as amended; Articles 28 and 40 to 54a of Act of the National Council of the Slovak Republic No. 273/1994 Coll. on health insurance, the financing of health insurance, the establishment of the Public Health Insurance System, and on the establishment of sector, corporate, and public health insurance facilities, as amended; Articles 2 to 11 of Act of the National Council of the Slovak Republic No. 274/1994 Coll. on the Social Insurance System, as amended; Articles 122 to 129 of Act No. 413/2002 Coll. on social insurance; Act of the Slovak National Council No. 254/1991 Coll. on the Slovak Television, as amended; Act of the Slovak National Council No. 255/1991 Coll. on the Slovak Radio, as amended
- 14) Articles 54 to 56 and Article 61 of Act No. 566/2001 Coll.
- 15) Article 7 of Act No. 311/1999 Coll. on the Criminal Record Register, as amended by Act No. 418/2002 Coll.
- 15a) Article 34b, paragraph 1 letters a) to c) of Act of the National Council of the Slovak Republic No. 566/1992 Coll., as amended by Act No. 602/2003 Coll.
- 16) Act No. 455/1991 Coll., as amended.
- 16a) E.g., Article 41 of Act of the National Council of the Slovak Republic No. 566/1992 Coll., as amended by Act No. 149/2001 Coll. Article 81, letter e) of the Labour Code, Articles 17 to 20 of the Commercial Code, as amended by Act of the National Council of the Slovak Republic No. 249/1994 Coll., and Article 122 of the Criminal Code, as amended.
- 16b) Act No. 510/2002 Coll. on payment systems and on changes and amendments to certain other laws.
- 16c) E.g., Act No. 507/2001 Coll. on postal services.
- 17) Article 82 of Act No. 50/1976 Coll. on regional planning and building regulations (Building Act), as amended.
- 17a) Article 5, paragraph 1, letters a) to c) of Act No. 367/2000 Coll. on protection against the laundering of proceeds from criminal activities and on changes and amendments to certain other laws, as amended.
- 17b) Act No 367/2000 Coll., as amended.

- 18) E.g., the Civil Court Procedures, Act No. 244/2002 Coll. on judicial procedure; Act of the National Council of the SR No. 233/1995 Coll. on court officers and distraintment (The Distraintment Code) and amending certain other laws, as amended.
- 18a) Cancelled as of 1 January 2001.
- 18b) Act No. 229/1991 Coll. on the arrangement of ownership relations to land and other agricultural property, as amended. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 19) Decree of the Ministry of Finance of the Slovak Republic No. 465/1991 Coll. on the prices of buildings, land, permanent vegetation, payments for the establishment of the right to the personal use of land and compensation for the temporary use of land, as amended. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 20) The Civil Code, as amended. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 21) E.g., Act No. 403/1990 Coll. on mitigation of consequences of property rights infractions, as amended, Act No. 427/1990 Coll. on transfers of state ownership of certain assets to other legal persons or natural persons, as amended, Act No. 92/1991 Coll., as amended. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 21a) Act No. 483/2001 Coll., as amended, Act No. 95/2002 Coll. on insurance and amending certain other laws, Act No. 385/1999 Coll., as amended, Act No. 566/2001 Coll., as amended. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 21b) Articles 21, paragraphs 3 and 4 of the Commercial Code. (N. B.: This footnote is effective until the Slovak Republic's accession to the European Union and, thereafter, will be repealed.)
- 19) E.g., Act of the National Council of the Slovak Republic No. 307/1992 Coll. on agricultural land fund preservation, as amended. (N. B.: This footnote shall be effective after the Slovak Republic's accession to the European Union.)
- 20) E.g., Act No. 61/1977 Coll. on forests, as amended. (N. B.: This footnote shall be effective after the Slovak Republic's accession to the European Union.)
- 21) Article 30 of Act No. 48/2002 Coll. on the stay of foreign nationals and on changes and amendments to certain other laws. (N. B.: This footnote shall be effective after the Slovak Republic's accession to the European Union.)
- 21a) Act No. 105/1990 Coll. on private business, as amended. (N. B.: This footnote shall be effective after the Slovak Republic's accession to the European Union.)
- 21b) E.g., Act No. 44/1988 Coll. on the protection and exploitation of mineral resources (the Mining Act), as amended, Act No. 184/2002 Coll. on water and on changes and amendments of certain other acts (The Water Act), Act of the national Council of the Slovak Republic No. 277/1994 Coll. on healthcare, as amended, Act of the National Council of the Slovak Republic No. 287/1994 Coll. on the preservation of nature and landscape, as amended, Act No. 135/1961 Coll. on roads, as amended, Act No. 27/1987 on the protection of monuments and historic sites, as amended by Act No. 183/2000 Coll. (N. B.: This footnote shall be effective after the Slovak Republic's accession to the European Union.)
- 22) Repealed as of 1 January 2003.
- 23) Article 36, paragraphs 1 to 6 and Articles 37 and 37a of Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia, as amended.
Part II of the Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in state administration, as amended.
- 23a) Article 37, paragraph 3, letter d) of Act of the National Council of the Slovak Republic No. 566/1992 Coll., as amended by Act No. 149/2001 Coll.
- 23b) Article 57, paragraph 1, letter e) of Act No. 455/1991 Coll., as amended.
- 24) to 28) Repealed as of 1 January 2001.
- 29) Article 119, letter d) and Article 118 of the Constitution of the Slovak Republic.
- 30) Articles 94 to 114 of Act No. 483/2001 Coll., as amended by Act No. 603/2003 Coll.
- 31) Article 28, letter a) of Act of the National Council of the Slovak Republic No. 566/1992 Coll.

**Annex to Act of the National Council
of the Slovak Republic
No. 202/1995 Coll. as amended**

**LIST OF ADOPTED LEGAL ACTS
OF THE EUROPEAN COMMUNITIES AND THE EUROPEAN UNION**

Council Directive 88/361/EEC of 24 June 1988 for the implementation of Article 67 of the Treaty (OJ L 178 of 8.7.1988).

ANNEX 3 - Act No. 483/2001 Coll. on Banks (sections 1-3, 5-8, 23, 25, 27, 28, 42, 50, 89, 91, 93)

The full wording of Act No. 483/2001 Coll. dated 5 October 2001 on banks and on changes and the amendment of certain acts, as amended by Act No. 430/2002 Coll., Act No. 510/2002 Coll., Act No. 165/2003 Coll., Act No. 603/2003 Coll., Act No. 215/2004 Coll., Act No. 554/2004 Coll., Act No. 69/2005 Coll., Act No. 340/2005 Coll., Act No. 341/2005 Coll. and Act No. 214/2006 Coll.

The National Council of the Slovak Republic has adopted this Act:

Section I PART ONE BASIC PROVISIONS

Article 1

This Act governs some relations associated with the establishment, organisation, management, business operations, and termination of banks in the territory of the Slovak Republic and certain relations in association with the operation of foreign banks in the territory of the Slovak Republic in order to regulate and supervise banks, branch offices of foreign banks and other entities with the objective of ensuring safe functioning of the banking system.

Article 2

(1) A bank is a legal entity with its registered office in the territory of the Slovak Republic, founded as a joint stock company,¹ which:

- a) accepts deposits and
- b) provides loans

and which holds a banking licence to perform activities according to a) and b) above. Any other legal form of a bank is prohibited.

(2) In addition to the activities specified in paragraph 1, a bank may carry out the following other activities, if these are specified in its licence:

- a) domestic fund transfers and cross-border fund transfers (hereinafter the "payments and clearing"),
- b) providing investment services^{1a} for clients and investments in securities for the bank's own account;

- c) trading for the bank's own account;
 1. in financial instruments of the money market in Slovak crowns and foreign currencies, including exchange services,
 2. in financial instrument of the capital market in Slovak crowns and foreign currencies,
 3. in precious metal coins, commemorative banknotes and coins, sheets of banknotes and sets of circulation coinage,
- d) management of receivables for the client's account, including advisory services,
- e) financial leasing,
- f) provision of guarantees,² and opening and endorsing of letters of credit,³
- g) issuing and administration of payment instruments,⁴
- h) business advisory services,
- i) issuing of securities, participation in securities issues, and provision of related services,
- j) financial brokerage,
- k) safe custody of assets,
- l) renting of safe deposit boxes,
- m) provisions of banking information,
- n) mortgage transactions pursuant to Article 67, paragraph 1,
- o) performing the function of a depository pursuant to separate regulations,⁵
- p) processing of banknotes, coins, commemorative banknotes and coins.

(3) A banking licence is a licence to establish a bank or branch office of a foreign bank and to perform banking operations by this bank or branch office of a foreign bank in the extent specified by this licence and according to conditions established therein or by provisions of this Act and separate regulations.

(4) If a special permit is required for providing certain activities listed in paragraph 2 pursuant to a separate regulation,⁶ a banking licence to perform these activities may only be issued after the special permit comes into force; this does not apply to foreign banks, which are subject to the provisions of Articles 11 to 20.

(5) Activities listed in paragraphs 1 and 2 (hereinafter referred to as "banking activities") may also be performed by foreign banks through their branch offices which have a banking licence to do so pursuant to Article 8.

(6) A bank may only issue registered shares in book entry form; a change of their form is prohibited.

(7) A foreign bank is a legal entity based outside the territory of the Slovak Republic, which has a licence to perform these activities granted in its home country.

(8) Branch office of a foreign bank is an organisational unit of a foreign bank located in the territory of the Slovak Republic⁷ which directly performs activities specified in paragraph 1 in particular; all branch offices of a foreign bank established in the territory of the Slovak Republic by a bank based in a Member State of the European Union or other country of the European Economic Area (hereinafter referred to as "a Member State") are deemed to constitute a single branch office for the purposes of the licence to perform banking activities.

(9) A bank or branch office of a foreign bank, except as provided in paragraph 10, may not carry out business activities other than banking activities.

(10) A bank or branch office of a foreign bank may carry out other than banking activities for a third person only if these are related to its operations. Approval from the National Bank of Slovakia shall be required for these activities. These activities shall not be recorded in the Business Register.

(11) In association with performing banking activities, a bank or branch office of a foreign bank shall also be obligated to perform tasks assigned by the National Bank of Slovakia in the field of monetary policy and payments and settlements pursuant to a separate law.⁸

(12) The provisions of a separate law¹ shall apply to a bank or branch office of a foreign bank unless this Act stipulates otherwise.

(13) Banks and branch offices of foreign banks shall perform payments and clearing between themselves in the Slovak Republic pursuant to a separate regulation.⁹

Article 3

(1) No person without a banking licence may accept deposits unless stipulated otherwise by a separate regulation.⁵ No person without a banking licence may offer interest or other compensation on deposits, which constitutes a tax expense according to a separate regulation.¹⁰

(2) Unless stipulated otherwise by a separate regulation,¹¹ no person may provide, without a banking licence, loans or credits as part of its business or other activity by using repayable funds obtained from other persons on the basis of a public offer.

(3) No person may perform payments and clearing for another person as part of its business or other activity without a banking licence, unless stipulated otherwise by a separate regulation.¹²

(4) No person may issue bank payment cards without a banking licence.

Article 4

(1) The words "bank" or "savings bank", their translations, or words the root of which derives therefrom, may only be used in a trade name by a legal person which has been granted a banking licence. When there is a danger of confusion, the National Bank of Slovakia may request that a bank or branch office of a foreign bank modify its name; a bank or branch office of a foreign bank has the duty to comply with the request.

(2) Provisions of paragraph 1 shall not apply to legal persons whose trade name or designation is established or recognized by law or by an international treaty binding upon the Slovak Republic, or where it is evident from the trade name that the person using the word "bank" or "saving bank" in its name does not engage in activities specified in Article 2, paragraph 1.

Article 5

For the purposes of this Act:

- a) a deposit means entrusted funds that represent an obligation towards the depositor to repay them,
- b) a loan means funds temporarily provided in whatever form, including factoring and forfeiting,
- c) branch office of a bank is its organisational unit located in the territory of the Slovak Republic or outside the territory of the Slovak Republic, and directly performing primarily banking activities pursuant to Article 2, paragraph 1,
- d) investments in securities for own account means the acquisition of securities with the objective of exercising long-term influence over the activity of a commercial company and obtaining property and other benefits, however, for a period of at least one year, or the purchase of bonds¹³ and their holding from acquisition until maturity,
- e) financial instruments of the money market are interbank deposits, securities payable within one year, futures contracts up to one year involving securities maturing within one year as well as securities with a maturity exceeding one year, other derivatives^{13a} and yields therefrom, foreign exchange and gold,
- f) financial instruments of the capital market are shares, temporary certificates, participation certificates and other securities accepted for trading in the stock exchange market^{13b} with maturity exceeding one year and dividends and interest thereon,
- g) financial leasing means items leased for an agreed rent for a definite period, paid usually in regular instalments with the objective to transfer the ownership of the item to the lessee,
- h) the client of a bank or branch office of a foreign bank means a person with whom the bank or the branch office of the foreign bank has concluded a transaction as part of its banking business,
- i) a transaction means the formation, alteration or termination of relations arising according to the law of obligation between a bank or branch office of a foreign bank and its client, and any operations relating to the banking business, including the disposal of deposits,
- j) banking information means information concerning a bank's client acquired by the bank in the pursuit of banking activities and provided subject to the client's consent,
- k) financial brokerage means the mediation of banking services or other financial services, including insurance or reinsurance or operations related to financial assets,
- l) a public offer means any announcement, offer or recommendation made by any person to collect funds in its favour or in favour of a third person made by any means of promulgation, including by personal contact with several persons, whether with one person at a time or with several persons at once; for the purposes of this Act, a notification, offer or recommendation made solely in the form of a personal contact and intended for no more than ten persons shall not be considered as a public offer,

- m) a bank payment card means a payment medium used to carry out non-cash and cash payment operations through technological devices, debiting or crediting an account opened by a bank or a foreign bank's branch, for which the payment card was issued.
- n) a person means any legal or natural person, unless only a natural or only a legal person is expressly designated in individual provisions hereof.

PART TWO GENERAL PROVISIONS ON BANKING SUPERVISION

Article 6

(1) Activities of banks and branch offices of foreign banks shall be subject to banking supervision exercised by the National Bank of Slovakia,⁸ in the extent specified by this Act. Activities of other persons and entities associated with operations or management of banks or branch offices of foreign banks shall also be subject to making supervision. Banking supervision shall be exercised in the scope stipulated by this Act over individual banks and branch offices of foreign banks, other entities, and also over consolidated groups and subconsolidated groups (Article 44) of which banks are members, and over financial conglomerates pursuant to Article 49c.

(2) The subject of banking supervision shall not be disputes arising from contractual relations between banks or branch offices of foreign banks and their clients, the investigation of which or decisions on which fall within the jurisdiction of courts or other authorities according to separate regulations.¹⁴

(3) Banking supervision on a consolidated basis (Articles 44 to 49) shall not replace supervision of individual persons included in the consolidated group and shall not replace either the conduct of banking supervision of individual banks or branch offices of foreign banks hereunder or supervision of financial institutions according to separate regulations.¹⁵

(4) Supplementary supervision of financial conglomerates shall not replace supervision on a consolidated basis, supervision of individual persons included in a consolidated group or a sub-consolidated group, supervision of individual persons included in a financial conglomerate, supervision of individual banks and branch offices of foreign banks under this Act, or supervision pursuant to separate regulations.^{15b}

(5) The conduct of supervision on a consolidated basis or the conduct of supplementary supervision of financial conglomerates shall not place the National Bank of Slovakia under the obligation to exercise supervision of individual persons included in a consolidated group, sub-consolidated group or a financial conglomerate which are not subject to banking supervision by the National Bank of Slovakia.

(6) A bank or branch office of a foreign bank shall be obligated to allow persons authorised to perform banking supervision to attend the bank's general meeting, meetings of its supervisory board, statutory body, or management of branch office of a foreign bank.

(7) The National Bank of Slovakia is responsible for performing banking supervision. Persons who perform banking supervision on behalf of the National Bank of Slovakia are not liable to third persons for consequences caused by performing banking supervision; this does not preclude their responsibility pursuant to the provisions of criminal law or their liability towards the National Bank of Slovakia pursuant to the regulations governing employment relations.

(8) When the National Bank of Slovakia finds in the course of banking supervision any facts indicating that a criminal offence has been committed, it shall inform the relevant law enforcement authority without delay.

(9) A banking supervisory authority of a foreign state may perform supervision in the territory of the Slovak Republic over operations of branch office of a foreign bank and over a bank subsidiary of a foreign bank, solely on the basis of an agreement concluded between the National Bank of Slovakia and the supervisory authority of the foreign state, unless this Act stipulates otherwise; the National Bank of Slovakia may only conclude such an agreement on a reciprocal basis. The banking supervisory authority of another country shall be obligated to notify the National Bank of Slovakia beforehand of performance by it of on-site supervision. In performing such supervision, commissioned persons of the banking supervisory authority of another country shall have the same powers, duties and responsibility as employees of the National Bank of Slovakia charged with the performance of on-site supervision according to a separate regulation^{15a}; they shall not however have the duty of making out a written protocol on supervision performed thereby and the duty of determining the time limits for the adoption and accomplishment of measures to remove the shortcomings revealed during supervision and of notifying of them the supervised entity in writing .

(10) The National Bank of Slovakia may perform supervision of branch offices of foreign banks operating in the territory of another country and over a bank subsidiary of a bank located in the territory of another state, if so permitted by legal regulations of that country and by an agreement concluded between the National Bank of Slovakia and the banking supervisory authorities of that country.

(11) The central securities depository¹⁶ and a member of the central securities depository¹⁶ shall have the duty of providing the National Bank of Slovakia with any information from the records they maintain, requested by the bank for the purposes of banking supervision.

(12) In performing banking supervision of individual banks and branch offices of foreign banks on a consolidated basis, the National Bank of Slovakia shall co-operate with the supervisory authorities supervising financial institutions and insurance companies in the Slovak Republic and authorities supervising banks and financial institutions and insurance companies of another country, with the Slovak Chamber of Auditors,¹⁷ with auditors, and with a specified legal entity⁹, and has the right to exchange information with them and draw their attention to deficiencies detected by banking supervision. The obligation of secrecy according to this Act and separate regulations¹⁸ shall not apply to disclosure of information in accordance with this paragraph.

(13) Information provided as stipulated in paragraph 12 may only be used for the purposes of banking supervision, oversight, audit, and payment and settlement by a designated legal entity⁹ and for purposes of control of auditors. Authorities and persons specified in paragraph 12 are obligated to ensure that such information remains confidential and maintain secrecy in accordance with this Act and separate regulations¹⁸. This information can be mutually exchanged by the entities specified in paragraph 12 only with the consent of the National Bank of Slovakia.

(14) The National Bank of Slovakia shall publish methodical guidelines and recommendations relating to banking supervision in the Gazette of the National Bank of Slovakia [Vestník Národnej banky Slovenska].

(15) A financial institution for the purposes of this Act is a legal entity other than a bank, which as its business activity performs as a principal or major activity one of the activities specified in Article 2, paragraph 1, letter b) or paragraph 2, or whose principal line of business is the acquisition of equity holdings as stipulated by a separate regulation,⁵ an electronic money institution¹⁹ as well as any entity based abroad with a similar line of business. For the purposes hereof, any mutual funds²⁰ managed by a legal person whose principal line of business is the acquisition of equity holdings according to a separate regulation⁵ shall constitute a part of such legal person.

PART THREE BANKING LICENCE

Article 7

(1) Decisions to grant a licence shall be made by the National Bank of Slovakia. Granting a banking licence pursuant to a separate regulation²¹ or a licence to provide mortgage transactions shall be decided by the National Bank of Slovakia following an agreement with the Ministry of Finance of the Slovak Republic (hereinafter referred to as the "Ministry"). An application for a banking licence shall be submitted to the National Bank of Slovakia.

(2) To obtain a banking licence as stipulated in paragraph 1, the following conditions must be met:

- a) a minimum monetary deposit towards a bank's registered capital of SKK 500,000,000 and a minimum monetary deposit towards the registered capital of a bank performing mortgage transactions of SKK 1,000,000,000,
- b) transparent and trustworthy origin of registered capital and other financial resources of the bank,
- c) eligibility and suitability of persons who would become shareholders with qualified interest in the bank, and transparency of their relations with other persons, above all transparency of their interests in registered capital and voting rights,
- d) proposal of members of the statutory body pursuant to Article 24, paragraph 1,
- e) professional competence and integrity of persons nominated as members of the statutory body, as a procurator, as members of the supervisory board, officers²², as the head of the internal control department and the head of the internal audit department,
- f) draft Articles of Association,
- g) a business plan drawing on a proposed strategy for the bank's operations supported by realistic economic calculations,
- h) transparency of a closely connected group which includes the bank's qualified shareholder,
- i) close links within the group according to h) do not obstruct banking supervision,
- j) the system of law and its application in the country, in the territory of which the group according to h) has close ties, does not obstruct banking supervision,
- k) the registered office, head office, and principal banking activities of the future bank must be located or carried out in the territory of the Slovak Republic; the bank may conduct banking activities also outside the territory of the Slovak Republic through its branch office or without establishing branch office according to conditions established by this Act,
- l) document the ability of shareholders establishing the bank to overcome a potentially difficult financial situation of the bank.

(3) The National Bank of Slovakia shall reject an application pursuant to paragraph 1 if the applicant does not meet one of the conditions specified in paragraph 2. The reason for rejecting an application pursuant to paragraph 1 may not be the economic needs of the financial market.

(4) Before commencing the licensed banking activities, a bank is obligated to demonstrate to the National Bank of Slovakia:

- a) that its registered capital has been fully paid up,
- b) technical, organisational, and personnel preparedness to conduct licensed banking activities of the bank, the existence of a management and control system of a bank, including an internal control department, an internal audit department, and a system of risk management,
- c) that it meets the requirements laid down in Article 27, paragraph 6.

(5) A bank may commence its banking activities specified in its licence on the basis of a written notification from the National Bank of Slovakia informing that the conditions pursuant to paragraph 4 have been met.

(6) A bank shall be obligated to observe the conditions stipulated in paragraphs 2 and 4 permanently throughout the validity of its banking licence.

(7) An applicant whose shareholder with a qualified interest is a foreign bank shall submit a statement from the banking supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of a bank in the territory of the Slovak Republic, as well as a written commitment by the banking supervisory authority that it will advise in writing the National Bank of Slovakia in time of any changes in the foreign bank's capital adequacy and liquidity and other facts that could adversely affect the ability of the foreign bank to meet its obligations.

(8) The National Bank of Slovakia shall discuss an application for a banking licence with the relevant supervisory authority of the Member State concerned pursuant to Article 7a, paragraph 1, where a banking licence is to be granted pursuant to paragraph 1 to an applicant:

- a) which will be a subsidiary of a foreign bank based in the Member State;
- b) which will be a subsidiary of the parent company of a foreign bank based in the Member State;
- c) which will be controlled by the same persons who/which control a foreign bank based in the Member State;
- d) which will be a subsidiary of an insurance company or a securities dealer based in the Member State;
- e) which will be a subsidiary of the parent company of an insurance company or a securities dealer based in the Member State;
- f) which is controlled by the same persons who/which control an insurance company or a securities dealer based in the Member State.

(9) The National Bank of Slovakia shall, by a decree²³ promulgated in the Collection of Laws of the Slovak Republic (hereinafter referred to as "Collection of Laws"), stipulate:

- a) the particulars of an application for a banking licence, including the particulars of an application of a bank that performs its activities according to a separate regulation²¹ and a bank that seeks to provide mortgage transactions, and documents to be attached to the application,
- b) details of conditions specified in paragraph 2 and how compliance is to be demonstrated,
- c) how compliance with provisions of paragraph 4 should be demonstrated.

(10) A person is deemed suitable for the purposes of this Act, if he reliably documents meeting the criteria set out in paragraph 2, letter b) and if from all circumstances it is evident that he would ensure proper and safe conduct of banking activities in the interest of stability of the

banking sector.

(11) Qualified interest for the purposes of this Act means direct or indirect interest or their sum representing at least 5 percent of registered capital of a legal entity or voting rights in a legal entity, or the ability to exercise influence on management of this legal entity comparable to influence corresponding to such interest (hereinafter referred to as "significant influence").

(12) Indirect influence for the purposes of this Act means interest held indirectly through a legal entity or entities over which it has control.

(13) For the purposes of this Act, a group of entities with close links means any relationship between two or more persons whereby one of the persons holds in the other, either directly or indirectly, 20 percent or more of registered capital or voting rights, or controls this person directly or indirectly, or any relationship between two persons controlled by the same person.

(14) For the purposes of this Act, professional competence of persons nominated as members of the statutory body, as a procurator, as the chief executive officer of branch office of a foreign bank or his deputy, bank officers, and the head of the internal control department and the head of internal audit department means completed university education, at least three years of experience in the area of banking or another financial area, and three years of management experience in banking or another financial area. Also a person with a completed secondary education, a completed technical/business college education or another similar education gained abroad and at least seven years of experience in the area of banking or another financial area, of which at least three years were spent in a managerial position may be recognized by the National Bank of Slovakia as a professionally competent person. For persons nominated as members of the supervisory board, professional competence means appropriate knowledge and experience in the area of banking or another financial area.

(15) For the purposes of this Act, a natural person shall be deemed trustworthy provided that:

- a) he or she has not been lawfully sentenced for any property related criminal offence of financial nature, any criminal offence committed in connection with a managerial office or for any intentional criminal offence; these facts shall be proven and documented by a transcript from the Criminal Record Register²⁴ not older than three months; in the case of a foreigner, these facts shall be proven and documented by a similar certificate issued by a competent authority in the state of his habitual residence,
- b) over the past ten years, he or she has not held an office specified in paragraph 2, letter e) or acted as the head of a foreign branch office in a bank, in branch office of a foreign bank or in a financial institution whose banking licence or another authorisation to conduct business was withdrawn, at any time within one year before the withdrawal of the licence,

- c) over the past ten years, he or she has not held an office specified in paragraph 2, letter e), in a bank or a financial institution placed under forced administration, at any time within one year before the imposition of such forced administration,
- d) over the past ten years, he or she has not held an office specified in paragraph 2, letter e) in a bank or a financial institution which entered liquidation or became insolvent,^{24aa} in respect of whose estate bankruptcy was declared, restructuring permitted, a forced settlement was confirmed or composition approved, in respect of which a bankruptcy petition was rejected or a bankruptcy proceeding suspended or terminated on the grounds of lacking assets or the bankruptcy was rejected on the grounds of lacking assets, at any time within one year before the rise of such circumstance,
- e) he or she was not lawfully charged a fine of more than 50% of the sum which could have been imposed according to Article 50, paragraph 2,
- f) he or she is not considered as untrustworthy according to separate regulations^{24a} in the financial sector,
- g) over the past ten years, he or she has been holding his or her office or doing business reliably, fairly and without breaching generally binding regulations and, regarding that, provides a guarantee that he or she will be holding the proposed office reliably, fairly and without breaching generally binding regulations, including the performance of duties following from the generally binding regulations, from the bank's or foreign bank's articles of association and/or their internal regulations and management acts.

(16) The National Bank of Slovakia may recognize a person mentioned in Article 15, letters b), c) and d), as a trustworthy person if from the nature of the matter it is clear that as regards the time spent in the office specified in paragraph 2, letter e), or Article 8, paragraph 2, letter c), this person could not have influenced the bank's or foreign bank branch's operations and caused the consequences specified in the provisions of paragraph 15, letters b), c) and d).

(17) A subsidiary for the purposes of this Act means a legal entity over which control is exercised and also any subsidiary of such a subsidiary.

(18) A parent company for the purposes of this Act means a legal entity that exercises control.

(19) Control for the purposes of this Act means:

- a) direct or indirect share or the sum of direct and indirect share exceeding 50% in the registered capital of a legal person or the voting rights of a legal person,
- b) the right to appoint, otherwise establish, or dismiss a statutory body, the majority of members of a statutory body, the majority of members of a supervisory body or other governing, supervisory, or control body of a legal person,
- c) the ability to exercise influence over management of a legal entity comparable to an influence corresponding to holdings according to letter a) (hereinafter referred to as "controlling influence") in which another natural person is a partner, shareholder, or member on the basis of a contract with a legal person, a legal person's articles of association, an agreement between the person and other partners, shareholders, or members of a legal person, or
- d) the ability to directly or indirectly exercise a controlling influence in any other way.

(20) For the purposes of this Act, an officer shall mean a person directly reporting to a statutory body of a bank or to the chief executive officer or his/her deputy of a branch office of a foreign bank who manages activities or a part thereof of the bank or branch office of the foreign bank.

Article 7a

(1) The National Bank of Slovakia shall discuss the granting of a banking licence with the following authorities:

- a) the banking supervisory authority of the Member State in which the foreign bank is based, when a banking licence is to be issued pursuant to Article 7, paragraph 8, letters a) to c);
- b) the supervisory body of the Member State in charge of the supervision of insurance companies or securities business entities and in which the foreign insurance company or securities dealer is based, when a banking licence is to be issued pursuant to Article 7, paragraph 8, letters d) to f).

(2) The National Bank of Slovakia shall discuss, with the relevant supervisory authority of the Member State referred to in paragraph 1, mainly the eligibility and suitability of persons who are shareholders with a qualified share of a foreign bank, and the professional qualification and credibility of natural persons who are members of the statutory body of persons referred to in paragraph 1 letter b).

(3) If, after being granted a banking licence, a bank becomes part of a consolidated financial group pursuant to Articles 44 to 49, including a financial holding institution, or part of a financial conglomerate pursuant to Articles 49a to 49o, including a mixed financial holding company, the granting of a banking licence shall be conditional upon the presentation of a proof of professional qualification and credibility in the case of natural persons, who are members of the statutory body of the aforementioned financial holding institution or mixed financial holding company.

(4) The professional qualification of persons referred to in paragraph 3 shall mean adequate knowledge of the financial sector and experience in the area of finance. The credibility of persons referred to in paragraph 3 shall also be verified according to Article 7, paragraph 15.

Article 8

(1) A decision to grant a licence to a foreign bank to conduct banking activities through its branch office located in the territory of the Slovak Republic shall be made by the National Bank of Slovakia. A foreign bank shall submit an application for the banking licence to the National Bank of Slovakia.

(2) To obtain a banking licence pursuant to paragraph 1, the following conditions must be met:

- a) a sufficient volume and transparent origin of funding provided by a foreign bank to its branch office in relation to the scope and risk exposure of the business operations of the branch office,
- b) trustworthiness of the foreign bank and its financial strength adequate to the scope of business operations of its branch office,
- c) professional competence and trustworthiness of persons nominated by the foreign bank to manage its branch office,
- d) the foreign bank's business plan drawing on a proposed strategy for the branch's operations supported by realistic economic calculations,
- e) transparency of a closely connected group that includes the foreign bank,
- f) close links within the group mentioned in e) do not obstruct banking supervision,
- g) the system of law and its application in the home country of the group specified in e) does not obstruct banking supervision,
- h) the foreign bank seeking to operate in the territory of the Slovak Republic through its branch office has its registered office and conducts a principal part of its activity in the same country.

(3) The National Bank of Slovakia shall reject an application pursuant to paragraph 1 if the applicant fails to meet any of the conditions specified in paragraph 2. The reason for rejecting an application according to paragraph 1 may not be the economic needs of the market.

(4) Before commencing the licensed banking activities, branch office of a foreign bank is obligated to demonstrate to the National Bank of Slovakia:

- a) the technical, organisational, and personnel preparedness to conduct licensed banking activities of the branch office of a foreign bank, the existence of a management and control system of branch office of a foreign bank, including an internal control department, an internal audit department, and a system of risk management,
- b) that it meets the requirements laid down in Article 27, paragraph 6.

(5) Branch office of a foreign bank may commence its banking activities specified in the licence on the basis of a written notification from the National Bank of Slovakia informing that the conditions pursuant to paragraph 4 have been met.

(6) Branch office of a foreign bank shall be obligated to observe the conditions stipulated in paragraphs 2, 4 and 9 permanently throughout the duration of validity of the banking licence.

(7) A foreign bank shall submit together with an application for a banking licence a binding written statement from the banking supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of its branch office in the territory of the Slovak Republic, as well as a written commitment by the banking supervisory authority that it will advise in writing the National Bank of Slovakia in time of any changes in the foreign bank's capital adequacy and liquidity and on other facts that could adversely affect the ability of the foreign bank to meet its obligations.

(8) In labelling its head office and in written communications, branch office of a foreign bank shall be obligated to always include in its name the words "branch office of a foreign bank".

(9) The banking licence pursuant to paragraph 1 may only permit mortgage transactions if the foreign bank applying for the licence pursuant to paragraph 1 has a licence to perform mortgage transactions in its home country and when the law of that country guarantees equal rights for mortgage or municipal loan borrowers and for holders of mortgage bonds issued in the Slovak Republic pursuant to a separate regulation⁶, including equal ranking in bankruptcy proceedings, as for mortgage or municipal loan borrowers and mortgage bond holders in the country where it has its registered office, however, at least in the extent of rights given to mortgage or municipal loan borrowers and mortgage bond holders by the law of the Slovak Republic.

(10) The National Bank of Slovakia shall, by a decree²³ to be promulgated in the Collection of Laws, stipulate:

- a) the particulars of an application for a banking licence pursuant to paragraph 1, including the particulars of the application for branch office of a foreign bank pursuant to paragraph 1 that is to provide mortgage transactions, and documents to be attached to the application,
- b) details of conditions specified in paragraph 2 and how compliance is to be demonstrated,
- c) how compliance with the requirements set out in paragraph 4 is to be demonstrated.

(11) A reason for rejection of an application for a banking licence pursuant to paragraph 1 may not be the fact that the legal form of the foreign bank does not correspond to the form of a joint stock company.

PART FIVE
ORGANISATION AND MANAGEMENT OF A BANK
OR BRANCH OFFICE OF A FOREIGN BANK

Article 23

(1) A bank shall be obligated to establish in its articles of association, apart from the particulars stipulated by a separate regulation,²⁵ its organisational structure and system of management so as to ensure a proper and safe conduct of banking activities specified in its licence and facilitate sound development and prosperity of the bank. A bank shall be obligated to set out in its Articles of Association relations and co-operation between the statutory body, the supervisory board, officers of the bank, the internal control department, and the internal audit department. A bank shall be obligated to assign and define in its Articles of Association the powers and responsibilities inside the bank for:

- a) the creation, implementation, monitoring, and control of the business goals of the bank,
- b) system of management of the bank with respect to Article 27, paragraph 1, letter d),
- c) internal control system, including the internal control department and internal audit department, adequate for the complexity and risks of its banking activities,
- d) risk management separated from banking activities, including a system for the management of significant risks to which the bank is exposed,
- e) a separate conduct of lending operations and investment operations (Article 34),
- f) separate monitoring of risks to which the bank is exposed when carrying out banking activities with persons with a special relationship to the bank,
- g) an adequate information system internally and externally,
- h) protection against legalisation of income from criminal activities.

(2) The internal control department and the internal audit department control compliance with laws and other generally binding regulations, internal regulations and procedures of the bank, examine and evaluate the functionality and effectiveness of the management and control system of the bank, the system of risk management, and compliance with prudent banking rules by the bank, examine and evaluate preparedness of the bank to carry out new types of transactions with respect to risk management, and examine and evaluate information pursuant to Article 37, paragraph 4.

(3) For the purposes of this Act, risks mean in particular loan-loss risk, market risk, liquidity risk, credit risk, operating risk and other risks, which may cause a loss for a bank or branch office of a foreign bank.

(4) For the purposes of this Act, the risk management means the prevention of potential own losses due to risks by way of their early identification, monitoring, measurement, minimisation and control.

(5) A bank shall provide without delay a copy of its valid Articles of Association to the National Bank of Slovakia.

(6) A bank may establish a branch abroad only with a prior approval from the National Bank of Slovakia issued at the bank's request. The National Bank of Slovakia shall stipulate the particulars of an application for prior approval, including documents to be attached to the application, by a decree²³ promulgated in the Collection of Laws.

(7) Details about the system and procedures of internal control, the system of risk management, and the principles of prudential banking business according to paragraph 2 shall be stipulated in a decree issued by the National Bank of Slovakia and promulgated in the Collection of Laws.

Article 25

(1) A member of a bank's statutory body may not constitute or be a member of the statutory body, a procurator, or a member of the supervisory board of another legal person which is a business person^{26a}. A bank's procurator or employee may not constitute or be a member of the statutory body, a procurator, or a member of the supervisory board of another legal person, which is a client of the same bank. The prohibitions and limitations stipulated by this paragraph in respect of members of the bank's statutory body or the bank's employees shall not apply to their membership in the statutory body or the supervisory board of the stock exchange^{26b}, the central securities depository¹⁶, or a legal person controlled by this bank in accordance with Article 29, paragraph 1.

(2) A member of the bank's supervisory board may not be a member of the statutory body or an employee of the same bank, or a member of another bank's supervisory board or statutory body and, at the same time, may not be a procurator or a person empowered according to an entry in the Business Register to act on behalf of the same or another bank, or another legal person, which is a client of the same bank; this shall not apply where such a client is another bank or foreign bank controlling the very same bank. A member of the supervisory board may be an employee of the same bank only when he or she is elected to the office by its employees.

(3) Members of the bank's statutory body or supervisory board, and employees may not misuse information acquired in association with performing their functions or employment to gain undue benefits either for themselves or for any other person.

(4) The head of the bank's internal control and internal audit department shall be appointed and dismissed with the prior approval of the supervisory board or at the proposal of the supervisory board. The remuneration of the head of the bank's internal control and internal audit department shall be determined according to the same conditions by the bank's statutory body. The bank's supervisory board shall be authorised to demand from the head of the internal control and internal audit department to conduct an audit in the bank to the extent it specifies.

(5) The head of the internal control and internal audit department shall be obligated to notify the bank's supervisory board and the National Bank of Slovakia without delay of any shortcomings found during the activity performed pursuant to Article 23, paragraph 2.

(6) The head of the internal control and internal audit department may not be a member of the statutory body or supervisory board of the same bank, or a member of the statutory body or supervisory board of another legal entity.

(7) A company providing auxiliary banking services means a legal person the principal activity of which consists in asset management, data processing services or any other similar activity that facilitates the conduct of the principal activity of one or more banks or branch offices of foreign banks.

PART SIX REQUIREMENTS FOR BANKING OPERATIONS OF A BANK OR BRANCH OFFICE OF A FOREIGN BANK

Article 27

(1) Banks and branch offices of foreign banks shall conduct transactions with their clients on a contractual basis. In conducting their activities, banks and branch offices of foreign banks shall be obligated to proceed in a prudent manner, in particular they shall be obligated to manage their risks and conduct transactions:

- a) in a manner that takes into account and minimises financial risks,
- b) in a manner that does not damage the interests of depositors in terms of repayment of their deposits or threaten the safety or health of the bank or branch office of a foreign bank or safe functioning of the banking system by violating laws or other generally binding regulations,
- c) according to economic and legal conditions advantageous for the bank or branch office of a foreign bank and its clients in transactions conducted for the client's account, while exercising due professional care,
- d) so that every transaction is effected by at least two persons acting on its behalf; where this is not possible for operating reasons, they shall be obligated to forthwith ensure that the executed transaction is checked by persons not involved in its execution.

(2) For the purposes of this Act, the disposal of deposits means any establishment, depositing, transfer, withdrawal or cancellation of a deposit, its assignment or pledging, blocking of its disbursement, making it possible for another person to use the deposit and also any change in the conditions for its depositing; an increase in a deposit shall not be deemed as its disposal.

(3) A bank or branch office of a foreign bank has the duty to credibly document having exercised due professional care. Exercising due professional care shall mean in particular that a bank or branch office of a foreign bank shall:

- a) compare bids for individual sales, purchases and other operations or document that it is inappropriate or impossible to consider several bids,
- b) document the method for conducting a transaction, control the objectiveness of recorded data and prevent the risk of its own financial loss,
- c) conduct an analysis of the economic benefits of transactions on the basis of available information,
- d) develop business and investment goals as a basis for executing individual transactions.

(4) A bank or branch office of a foreign bank that made an error, when executing clearing or payment and settlement, shall be obligated, without unnecessary delay, to ensure a corrective action at its own cost.

(5) A bank or branch office of a foreign bank may not enter into agreements under markedly unfavourable conditions for itself, especially agreements which commit it to economically unjustifiable performance or performance that apparently does not match the consideration provided in return or such agreements that apparently inadequately cover its claims.

(6) A bank shall be obligated to stipulate its legal relations with members of its statutory body, and branch office of a foreign bank shall be obligated to conclude with the chief executive officer of the branch office of a foreign bank a written contract to which a special regulation²⁷ does not apply, and which is in line with provisions of paragraphs 7 and 8.

(7) A member of a statutory body, while acting in his capacity, shall be fully liable for any damage resulting from violation of duties of a member of the statutory body of a bank ensuing for him or her from laws, generally binding regulations, Articles of Association, or the bank's internal management directives.

(8) The chief executive officer of branch office of a foreign bank shall be fully liable for any damage caused while acting in his capacity as a result of violation of duties of the chief executive officer of branch office of a foreign bank ensuing for him from laws, other generally binding regulations, or from internal management directives.

(9) A bank or branch office of a foreign bank may not take legal action in favour of members of the bank's statutory body, members of the bank's supervisory board or the chief executive officer of branch office of a foreign bank in connection with insurance of their liability for damage pursuant to paragraphs 7 and 8 or in connection with the insurance for the case of dismissal from their posts. If a bank or branch office of a foreign bank dismisses such persons from their office due to lack of integrity pursuant to Article 50, paragraph 2, it may not pay them any agreed remuneration or remuneration provided by internal regulations; the right to such remuneration shall expire.

(10) A bank's supervisory board shall be obligated to ensure the recovery of any damages incurred by the bank pursuant to paragraph 7.

Article 28

(1) Prior approval of the National Bank of Slovakia is required:

- a) to acquire or exceed a share in the bank's registered capital or voting rights of 5 percent, 10 percent, 20 percent, 33 percent, 50 percent or 66 percent, in one or a series of operations directly or through concerted action,
- b) consolidate, merge, or split a bank, including a merger of another legal entity with the bank, or to return its licence, as well as to reduce the bank's registered capital, unless the reduction is due to a loss,
- c) to dissolve a bank for reasons other than those specified in letter b) or to change its legal form; in this case, the bank is obligated to return its licence on the date specified in the decision on prior approval,
- d) sell a bank, branch office of a foreign bank, or their parts²⁸,
- e) for a bank to become a subsidiary of another parent company,
- f) for using the shares issued by a bank as the subject of security on obligations of the holder of these shares or of another person except for cases where the subject of such security are shares accounting on the whole for less than 5% of the bank's registered capital in one or certain operations directly or through concerted action.

(2) For prior approval pursuant to paragraph 1 to be granted, the conditions specified in Article 7, paragraphs 2 and 4, must be met as appropriate; for prior approval to be granted, transparent and credible origin, sufficient volume and suitable structure of finances must be documented to carry out the operation for which prior approval is sought. Splitting, consolidating, merging, or dissolving a bank, including merging another legal entity with a bank, or the sale of a bank or its part,²⁸ may not be to the detriment of the creditors of the bank; this applies equally to the sale of branch office of a foreign bank or its part.²⁸

(3) The provisions of a separate regulation²⁹ shall not be prejudiced by the provision of paragraph 1 above.

(4) It is only possible to proceed on the basis of a prior approval granted pursuant to paragraph 1 for one year, unless the decision stipulates a shorter period.

(5) Without prior approval of the National Bank of Slovakia as stipulated in paragraph 1 above, all legal acts requiring prior approval shall be null and void. Every legal act is also invalid that has been carried out on the basis of a prior approval granted on the basis of false data.

(6) An application pursuant to paragraph 1, letter a), above shall be submitted by persons acquiring a share in a bank. An application pursuant to paragraph 1, letters b) and c), shall be submitted by the bank and in the event of consolidation or merger, such an application shall be submitted jointly by the legal person and the bank to be consolidated or merged. An application pursuant to paragraph 1, letter d), shall be submitted jointly by the bank or the foreign bank and the person acquiring the bank, branch office of the foreign bank or its part. An application pursuant to paragraph 1, letter e), shall be filed by the bank that is to become a subsidiary. An application pursuant to paragraph 1, letter f), shall be filed by the holder of shares who wants to use them as the subject of security on his or her obligations.

(7) The particulars of an application for prior approval pursuant to paragraph 1, and the documents to be attached to such application, shall be stipulated by the National Bank of Slovakia in a decree²³ promulgated in the Collection of Laws.

(8) Each person shall be obligated to provide to the National Bank of Slovakia at its written request and within a deadline it sets information necessary in order to determine whether an action has taken place that requires prior approval pursuant to paragraph 1, above all information about holders of shares in commercial companies or co-operatives, and information about agreements on the exercise of voting rights.

(9) A legal or a natural person intending to dispose of its holdings in the bank's registered capital or voting rights to an extent that would result in its share falling below 5%, 10%, 20%, 33%, 50 % or 66% shall be obligated to notify this intention, as well as the fact that the bank will no longer be its subsidiary, in writing beforehand to the National Bank of Slovakia.

(10) A bank is obligated to notify the National Bank of Slovakia in writing without delay of any facts specified in paragraph 1, letters a) to e), and paragraph 9.

(11) A bank shall be obligated, when requested, to inform the National Bank of Slovakia in writing without delay about its shareholders and other persons which exercised voting rights at a general meeting of the bank; a bank shall, when requested, be obligated to inform the Ministry in writing about its shareholders.

- (12) For the purposes of this Act, "concerted action" means:
- a) any action aimed at the acquisition of a share in the bank's registered capital or voting rights taken by:
 1. a legal person and its associates or members, statutory bodies, members of statutory or supervisory bodies, employees of the legal person who directly report to the statutory body or its member, the chief executive officers of an organisational unit entered in the Corporate Register, procurators, liquidators, receivers or trustees of this legal person and persons standing in close relationship with them³⁰ or between any of these legal or natural persons,
 2. persons who have concluded an agreement on concerted exercise of voting rights in a bank in matters concerning its management regardless of the form of such agreement or whether it is valid or not,

3. a controlling and controlled person or between persons controlled directly or indirectly by the same controlling person,
 4. closely related persons³⁰,
- b) any action of two or more legal persons aimed at the acquisition of a share in the bank's registered capital or voting rights, where one and the same natural person is the statutory body, a member of the statutory body, a member of the supervisory body, a procurator, or holds at least 5 percent of the legal person's registered capital or voting rights, or has the ability to exercise for other reasons influence over the management of these legal entities that is comparable to influence arising from such share.

(13) For the purposes of concerted actions as specified in paragraph 12, a controlling person means any person who holds a majority share in a legal person's voting rights as a result of holding an interest in the legal person to which the majority of voting rights is attached or because, on the basis of an agreement with other persons, this person is able to exercise the majority of voting rights.

(14) For the purposes of this Act, a controlled person means a legal person, in which the controlling person has the position defined in paragraph 13 above.

(15) If, by acquiring a stake pursuant to paragraph 1 letter a), a bank becomes part of a consolidated financial group pursuant to Articles 44 to 49, which also includes a financial holding institution, or if it becomes part of a financial conglomerate pursuant to Articles 49a to 49o, which also includes a mixed financial holding company, the granting of prior approval by the National Bank of Slovakia shall be conditional upon the presentation of documents certifying the professional qualification and credibility of all natural persons who are members of the statutory body of this financial holding institution or mixed financial holding company.

(16) The professional qualification of persons referred to in paragraph 15 means adequate knowledge of the financial sector and experience in the area of finance. The verification of the credibility of persons referred to in paragraph 15 shall also be governed by Article 7, paragraph 15.

(17) If the acquirer of a share in the bank's registered capital pursuant to paragraph 1 letter a) is a foreign bank, an insurance company from another Member State, or a non-resident securities dealer with a permit issued in another Member State, or the parent company of such persons or a person controlling such persons, as a result of which control over the bank is taken over by the acquirer, the National Bank of Slovakia shall discuss, with the relevant supervisory authority of the Member State concerned pursuant to Article 7a, paragraph 1, the eligibility and suitability of persons who are shareholders with a qualified share in the foreign bank and the professional qualification and credibility of natural person who are members of the statutory body of the persons referred to in Article 7a, paragraph 1, letter b).

Article 42

(1) Banks, foreign banks and branch offices of foreign banks are obligated to store copies of documents and data on verification of client identity, documents determining ownership of money used by clients to conduct transactions, and documents on conducted operations for at least five years after a transaction is concluded.

(2) Banks, foreign banks and branch offices of foreign banks shall be obligated to produce and present to the National Bank of Slovakia returns, statements, and other reports, within specified deadlines; the structure, scope, contents, form, classification, deadlines, method, procedure, and place of their presentation, including the methodology of preparation shall be stipulated by the National Bank of Slovakia in a decree²³ promulgated in the Collection of Laws. Data and other information in returns, notifications and other reports must be comprehensible, easy to follow, supportable, and give a true and fair picture of reported facts, and must be presented in a time. When presented returns, notifications and other reports fail to comply with the prescribed methodology, or when reasonable doubts arise as to their correctness or completeness, banks, foreign banks and branch offices of foreign banks shall be obligated to provide the National Bank of Slovakia with supporting material and explanation at its request within a set deadline.

(3) A bank, foreign bank or branch office of a foreign bank is obligated to submit to the Ministry and the National Bank of Slovakia annual financial statements⁴⁴ and, in cases covered by a separate regulation⁴⁴, also consolidated annual financial statements and data from its accounting and statistical records in the form of returns, reports and reviews, by established methods and deadlines; such data disclosures shall not be considered a violation of the bank secrecy as stipulated in Article 91. The scope, method, and deadlines for such submission shall be stipulated by a generally applicable legal regulation to be issued by the Ministry.

PART TEN CORRECTIVE MEASURES AND FINES

Article 50

(1) If the National Bank of Slovakia finds any shortcomings in the operations of a bank or branch office of a foreign bank consisting in a failure to comply with the terms specified in its bank licence or a decision on a prior approval, or the requirements and obligations specified in other decisions of the National Bank of Slovakia imposed on a bank or branch office of a foreign bank, a failure to meet the conditions stipulated in Article 7, paragraphs 2, 4, and 6, and Article 8, paragraphs 2, 4, and 6, or a violations or circumvention of other provisions of this Act, legally binding Acts of the European Communities and the European Union pertaining to banking activities, separate regulations⁴⁶, or generally binding regulations governing the conduct of banking operations, the National Bank of Slovakia may, depending on the seriousness, scope, duration, consequences, and nature of detected shortcomings:

- a) order a bank or branch office of a foreign bank to adopt recovery measures,
- b) order a bank or branch office of a foreign bank to submit special returns, reports, and statements,
- c) order a bank or branch office of a foreign bank that the unauthorised activity be terminated,
- d) impose on a bank or branch office of a foreign bank a penalty of SKK 100,000 to SKK 10,000,000, and in case of a recurrent or grave default up to SKK 20,000,000.
- e) limit or suspend the conduct of certain banking activities of a bank or branch office of a foreign bank or the conduct of certain types of transactions,
- f) revoke the banking licence for some banking activities,
- g) order a reconciliation of accounting books or other records on the basis of findings of the National Bank of Slovakia or an auditor,
- h) order the publication of a correction of incomplete, incorrect, or untrue information that a bank or branch office of a foreign bank published according to a disclosure obligation stipulated by law,
- i) order the settlement of a loss from business operations using registered capital, after using retained earnings, and funds created from profit, and capital funds to cover the loss,
- j) introduce forced administration over a bank for reasons stipulated in Article 53,
- k) revoke the banking licence of a bank or branch office of a foreign bank for reasons stipulated in Article 63.
- l) order a bank or a branch office of a foreign bank to adopt measures to improve its risk management.

(2) The National Bank of Slovakia may impose a fine on a member of the statutory body or supervisory board of a bank, the chief executive officer of branch office of a foreign bank or his deputy, a procurator or officer of a bank or branch office of a foreign bank, or a forced administrator or his deputy, or a member of a statutory body, supervisory body, or a senior officer of a financial holding institution pursuant to Article 44, paragraph 3 or a mixed financial holding company pursuant to Article 49c, paragraph 1, letters b) to e) for any violation of the provisions of this Act, separate laws⁴⁶ and generally binding regulations governing the conduct of banking activities on an individual basis, on a consolidated basis, and within a financial conglomerate, the bank's articles of association, and other internal regulations, and for any breach of conditions or obligations imposed by a decision issued by the National Bank of Slovakia, which fine may, depending on the gravity of guilt, and nature of violation, go up to twelve-times the person's monthly remuneration for the past year received from the bank or branch office of a foreign bank or from the members of a consolidated or subconsolidated group or the members of a financial conglomerate that the bank or branch office of a foreign bank is a part of; a bank officer²² may be charged a fine of up to 50% of his total remuneration for the past year received from a bank or branch office of a foreign bank or from the members of a consolidated or subconsolidated group that the bank or branch office of a foreign bank is a part of. If the person concerned has received income from a bank or branch office of a foreign bank and from the members of a consolidated or subconsolidated group or the members of a financial conglomerate that the bank or branch office of a foreign bank is a part of, only for a part of the

previous year, the monthly average will be determined by its total remuneration for the relevant part of the year. A bank, foreign bank, financial holding institution pursuant to Article 44, paragraph 3, or a mixed financial holding company pursuant to Article 49c, paragraph 1, letter b) are obligated to dismiss without delay from their office persons who lose their trustworthiness as a result of a lawfully imposed fine pursuant to Article 7, paragraph 15, letter e).

(3) Measures designed to ensure the recovery of a bank or branch office of a foreign bank mean:

- a) submitting a binding recovery program, which must contain:
 1. a plan for strengthening capital to achieve required capital adequacy,
 2. a plan projecting the present and anticipated development of the economic situation of the bank or branch office of the foreign bank at least in the scope of balance sheets, profit and loss accounts, the budget, a strategic business plan, profitability analysis of achieving the objectives of the program,
 3. other information that the National Bank of Slovakia finds necessary.
- b) limiting or suspending the payment of dividends⁴⁷, bonuses⁴⁸ and other profit shares, remuneration and non-pecuniary consideration to members of the statutory body, members of the supervisory board, and employees,
- c) limiting or suspending salary rises to members of the statutory body, members of the supervisory board, and all employees of the bank or branch office of the foreign bank ,
- d) introduction of daily monitoring of the financial position of the bank or branch office of the foreign bank ,
- e) limiting or suspending the expansion of new transactions of the bank or branch office of the foreign bank; the provision of such transactions may only start following a prior approval by the National Bank of Slovakia,
- f) adopting measures to improve the risk management.

(4) The National Bank of Slovakia is obligated to urge a bank to adopt recovery measures when its capital adequacy falls below 8 percent.

(5) The statutory body of a bank whose capital adequacy falls below 8 percent has the duty to submit to the National Bank of Slovakia a binding recovery program within 30 days of becoming aware of the fact. The binding recovery program must be approved by the statutory body and the supervisory board of the bank. The National Bank of Slovakia is obligated to approve or reject the binding recovery program within ten days of receiving it.

(6) Should the reasons cease for which the measure as stipulated in paragraph 1, letter e), was issued, the National Bank of Slovakia shall give a written notice to the bank or branch office of a foreign bank concerned.

(7) The fine stipulated in paragraph 1, letter d), may also be imposed by the National Bank of Slovakia on persons found to have violated the provisions of Article 4, paragraph 1, or Article 28. It may also impose a measure on them to redress the unlawful condition.

(8) A fine pursuant to paragraphs 1, 2, or 7, shall not prejudice liability according to separate regulations.

(9) A penalty and corrective measures stipulated in paragraph 1 may be imposed concurrently and repeatedly. A fine pursuant to paragraphs 1, 2, or 7, is payable within 15 days of the effective date of the decision imposing the fine. A fine imposed with finality shall be enforced by a financial control administration competent according to the registered office of a legal person and, in the case of a natural person, according to his or her place of business or permanent residence, if different from the place of business. Imposed fines shall constitute the revenue of the state budget of the Slovak Republic.

(10) The fines stipulated in paragraph 1, letter d), paragraph 7, Article 51, paragraph 1, Article 51a, paragraph 1, or Article 82, paragraph 2, may be imposed within two years of detecting the shortcomings, but no later than within ten years of their occurrence. The fine stipulated in paragraph 2 may be imposed within one year of detecting the shortcomings, but no later than within three years of their occurrence.

(11) The National Bank of Slovakia may, even outside corrective measure or fine proceedings, discuss shortcomings in the operation of a bank or branch office of a foreign bank with members of the bank's statutory body, chief executive officer of branch office of a foreign bank, members of the supervisory board of a bank, bank officers, and heads of the internal control and internal audit departments, who shall be obligated to afford the National Bank of Slovakia any requested assistance.

PART THIRTEEN BANK SECRECY

Article 89

(1) A bank or branch office of a foreign bank shall be obligated to demand proof of identity from their clients in each transaction, except for the transactions specified in paragraph 4; a client shall be obligated to comply with such requests of a bank or branch office of a foreign bank in each transaction. A bank or branch office of a foreign bank shall be obligated to refuse to conduct transactions for clients on an anonymous basis.

(2) For the purposes of paragraph 1, the identity of a client may be demonstrated by a document of identity⁷³ or by his signature, provided that the client is known in person and the signature is identical beyond any doubt with the client's specimen signature kept at the bank or branch office of a foreign bank and taken after the client had proved his identity by an identity document; in case of transactions concluded through electronic devices, a client shall be identified by his personal identification number or a similar code assigned to the client by a bank or branch office of a foreign bank, and an authentication code agreed by a bank or branch office of a foreign bank with the client, or an electronic signature pursuant to a separate law. In case of a juvenile client who has no identity document, the identity of his legal representative shall be verified and a document is presented which evidently demonstrates that he is authorised to act for and on behalf of the client, as well as the birth register certificate of the juvenile client concerned.

(3) A bank or branch office of a foreign bank shall be obligated in every transaction worth more than EUR 15,000 to determine the ownership of funds a client used for the transaction. For the purposes of this provision, ownership of funds shall be determined by a binding written statement of the client in which the client is obligated to declare whether these funds are his property and whether he is conducting the transaction for his own account; this written statement by the client that he is the owner of the funds may be a part of a written agreement concluded between the bank or branch office of a foreign bank and the client in connection with the agreed transaction. If the funds are owned by another person or if the transaction is conducted for the account of another person, the client's statement must specify the name, surname, birth register number or date of birth, and permanent residence of the natural person or the name, registered office, and identification number, if assigned, of the legal person, who is the owner of the funds and for whose account the transaction is conducted; in this case the client is also obligated to deliver to the bank or branch office of a foreign bank a written approval from the natural person or legal person concerned to use his funds for the conducted transaction and to execute the transaction for his account. The obligation to deliver a written approval according to the preceding sentence shall not apply to the National Bank of Slovakia, a bank, branch office of a foreign bank, the stock exchange, the commodity exchange, the central depository of securities, a securities dealer, branch office of a foreign securities dealer, an investment services intermediary, an insurance company, branch office of a foreign insurance company, reinsurance company, a branch office of a foreign reinsurance company, an asset management company or branch office of a foreign asset management company, if in a binding written statement delivered in accordance with this paragraph they state that they conduct transactions exclusively for their own account or for the account of their clients pursuant to a separate law⁶ and that in conducting the transactions they exclusively use their own funds or their clients' funds which have been entrusted to them and which they manage on behalf of their clients pursuant to a separate law⁶; this shall equally apply to a pension management company or a complementary pension company if they are obliged persons pursuant to a separate regulation.⁷⁴ Neither shall the obligation to deliver a written approval pursuant to this paragraph apply to a foreign bank based in a Member State, a foreign electronic money institution based in a Member State, nor to a foreign financial institution based in a Member State. If the client fails to meet the requirements laid down in this paragraph, the bank or branch office of a foreign bank shall decline to execute the requested transaction.

(4) Banks and branch offices of foreign banks shall not be obligated to demand the proof of identity for transactions conducted through exchange cash machines or for the disposal of a deposit except for its set-up, where an amount not exceeding EUR 2500 is involved, unless provided otherwise by a separate law⁷⁴.

(5) The provisions of paragraphs 1 and 3 are without prejudice to the duties of banks and branch offices of foreign banks pursuant to a separate regulation.⁷⁴

Article 91

(1) Subject to bank secrecy shall be all information and documents on matters concerning the clients of a bank or branch office of a foreign bank which are not publicly available, especially information on transactions, account and deposit balances. A bank or branch office of a foreign bank shall be obligated to keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters covered by bank secrecy may be disclosed by a bank or branch office of a foreign bank to a third person only subject to prior written consent of the client concerned or upon his written instruction, unless stipulated otherwise by this Act. In return for payment of practical costs, a client shall have the right to obtain information kept on him in the database of a bank or branch office of a foreign bank, and to receive a transcript of such information. Disclosure of information in summary form where the name of a bank or branch office of a foreign bank, the name and surname of a client is not evident, is not considered a violation of bank secrecy.

(2) For the purposes of bank secrecy and the joint register of banking information according to Article 92a, a person is deemed a client of a bank or branch office of a foreign bank, if the bank or branch office of a foreign bank has negotiated a transaction with him, even if the transaction eventually did not take place, a person who ceased to be a client of a bank or branch office of a foreign bank, as well as a person about whom a bank or branch office of a foreign bank received data hereunder from another bank or branch office of a foreign bank, data from the register of loans and guarantees according to Article 38, data from the register of clients according to Article 92, paragraph 6 or data from the joint register of banking information according to Article 92a.

(3) A bank or branch office of a foreign bank shall be obligated to submit a report on all facts that are subject to bank secrecy, also without the client's consent, to persons commissioned to exercise banking supervision, including invited persons^{15a} and persons specified in Article 6, paragraph 7 and in Article 49, paragraph 2 and auditors during assignments stipulated by this Act or a separate law,⁴⁰ and to the Deposit Protection Fund to perform tasks pursuant to a separate regulation;⁷⁷ a home savings bank shall disclose such information also to persons commissioned to control the use of government bonuses in home savings⁷⁸, and a mortgage bank shall disclose such information to its mortgage controller and his deputy and to persons commissioned to control the use of government bonuses in mortgage transactions.

(4) A report on matters concerning a client that are subject to bank secrecy shall be submitted by a bank or branch office of a foreign bank without the prior approval of the client concerned solely upon request made in writing by:

- a) a court of justice, including a notary public in the capacity of a court commissioner, for the purposes of civil proceedings to which the client of the bank or branch of a foreign bank is a party, or the subject of which is the property of the client of the bank or branch office of a foreign bank,⁷⁹
- b) a law enforcement authority for the purposes of criminal prosecution,⁸⁰
- c) a tax authority,^{80a} custom authority^{80b} or municipality being the tax administrator^{80c}, for the purposes of tax or customs proceedings to which the client of the bank or branch of foreign bank is a party pursuant to a separate regulation,⁸¹ including a client's participation in exacting tax arrears in tax or execution proceedings or exacting customs

- debt in customs execution proceedings,
- d) a financial control authority performing financial control pursuant to a separate regulation⁸² of the client of the bank or branch office of a foreign bank,
 - e) a court executor assigned to perform execution pursuant to a separate regulation,⁶⁷ or, for the purpose of auditing the accounts and execution proceedings of an executor who has been relieved from duty pursuant to a separate law,^{82a} by the Slovak Chamber of Executors,
 - f) a state administration authority for the purposes of executing a decision⁸³ imposing an obligation on the client of the bank or branch office of a foreign bank, or on a creditor of the client of the bank or branch office of a foreign bank, to make a certain payment,
 - g) the criminal police and financial police services of the Police Corps for the purposes of detecting criminal acts, tax evasions, illegal financial operations, and money laundering,⁸⁴
 - h) the Ministry in the course of control exercised hereunder or according to a separate regulation,⁸⁵
 - i) receiver and preliminary receiver in bankruptcy, restructuring, composition or debt restructuring proceedings or supervising administrator conducting supervisory administration if matters related to the client of the bank or branch office of a foreign bank whose estate is the subject of bankruptcy, restructuring, composition or debt restructuring proceedings or over whom supervisory administration pursuant to a separate regulation⁵⁸ has been introduced are affected,
 - j) a competent state authority for the purposes of discharging obligations arising from an international treaty binding upon the Slovak Republic⁸⁶, where the discharge of obligations according to this treaty may not be declined on account of bank secrecy,
 - k) the National Security Office, the Slovak Information Service, the Military Intelligence and the Police Corps for the purposes of performing security checks in accordance with a separate regulation,^{86aa}
 - l) the Office for Personal Data Protection for the purposes of supervising pursuant to a separate law³⁷ the processing and protection of personal data of a client of a bank or a branch office of a foreign bank,
 - m) the Supreme Control Office of the Slovak Republic for the purposes of an inspection pursuant to a separate law^{86b} of a client of a bank or a branch office of a foreign bank,
 - n) the Judicial Treasury for the purposes of collecting a judicial claim under a separate law^{86c} from a client of a bank or the branch office of a foreign bank.
 - o) the Slovak Information Service for the purposes of the fight against organised criminal activity and terrorism pursuant to a separate regulation.^{86d}

(5) A written request made pursuant to paragraph 4 shall contain information which enable a bank or branch office of a foreign bank to identify the matter in question, in particular a precise identification of the person on which data is requested, and the extent of requested data; such identification details need not be stated in a written request made according to paragraph 4, letters b) and g), and o). A written request made according to paragraph 4, letter a), must include an authorisation by the court commissioning a notary as a court commissioner; a written request made according to paragraph 4, letter e), must contain an authorisation by the court commissioning a court executor to conduct enforcement. A written request made according to paragraph 4, letter i) must contain a decision of the bankruptcy court on the appointment to the office of an administrator or a preliminary administrator or a reference to the Commercial Bulletin in which such decision has been published; if this refers to a written request made by the supervising administrator, the request must contain a reference to the Commercial Bulletin in which the notification of the introduction of the supervisory administration was published. The

court's decision on such a delegation or appointment must be delivered in the original or as a copy certified in accordance with separate regulations⁵⁰ if it has not been previously published in the Commercial Bulletin,

(6) Disclosure of information needed for proper execution of payments and settlements through a designated legal person⁹ is not deemed a violation of bank secrecy.

(7) Compliance with the obligation of banks and branch offices of foreign banks to report suspicious banking transactions pursuant to a separate law,⁷⁴ shall not be deemed a violation of bank secrecy. The same applies to the obligation of banks and branch offices of foreign banks to notify, pursuant to a separate law,⁸⁰ the law enforcement authorities of any suspicion of a criminal act committed or contemplated in connection with matters which are otherwise subject to bank secrecy.

(8) A bank and branch office of a foreign bank shall be obligated to provide the Ministry, within the deadlines set thereby, with a written list of clients subject to international sanctions imposed according to a separate regulation^{86a}; the provided list must also contain account numbers and account balances of these clients.

Article 93

(1) Employees of a bank or branch office of a foreign bank, members of a bank's statutory body or supervisory board, the mortgage controller and his deputy, and persons making translations or conducting activities pursuant to Article 92, paragraph 3, shall be obligated to keep confidential any matters relevant to the interests of the bank or branch office of a foreign bank and its clients, unless this Act stipulates otherwise. The aforementioned persons may be exempted from this obligation by the statutory body of the bank or the chief executive officer of the branch office of a foreign bank due to reasons listed in Article 91, paragraphs 3 to 7, and Article 92, paragraphs 1 to 5.

(2) Employees and members of bodies of a designated legal person⁹ ensuring the execution of payments and clearing shall be obligated not to disclose any matters associated with the execution of such payments and clearing to any third person, except to the National Bank of Slovakia in performing its tasks in accordance with this Act or a separate regulation⁸.

(3) The obligation of confidentiality shall extend beyond the term of employment or other work contract and the term of office pursuant to paragraphs 1 or 2.

(4) The provisions of paragraphs 1 to 3 are without prejudice to the obligation to prevent or report a criminal offence laid down in a separate law⁸⁸.

Article 93a

(1) For the purposes of ascertaining, reviewing and checking the identity of clients and their proxies, for the purposes of concluding and executing transactions with the clients and for other purposes listed in paragraph 3, the clients and their proxies, shall be obligated, any time a transaction occurs, at request from a bank and branch office of a foreign bank:

a) to provide:

1. if concerned is a natural person, including a natural person representing a legal person, the personal data^{88a} concerning the identity on the scope of the first name, surname, the address of permanent residence, the address of temporary residence, the birth register number, if assigned, the date of birth, citizenship, the type and number of identity document, and if concerned is a natural person who is a business person, to also supply the address of place of business, the line of business, the designation of an official register or another official records in which he is entered, and the number of entry in this register or records,
2. if concerned is a legal person, the identification data on the scope of the name, identification number, if assigned, the address of registered office, the line of business or other activities, the address of place of business or location of branches and another address of the place of performance of activities, as well as the list of persons constituting the statutory body of this legal person and the data on them on the scope prescribed by the first point, the list of persons constituting this legal person whose share in the registered capital or voting rights of this legal person exceeds 10% and their identification data; in the case of legal persons, on the scope of the name, legal form, headquarters address, identification number and country ISO code; in the case of natural persons, on the scope described in the first point, as well as the designation of an official register or another official records in which the legal person concerned is entered^{88b}, and the number of entry in this register or records,
3. contact telephone number, fax number and e-mail address, if any,
4. documents and data proving and documenting:
 - 4a. the client's ability to discharge his obligations from a transaction,
 - 4b. a security required in respect of the obligations from the transaction,
 - 4c. authorisation to representation, where a proxy is involved,
 - 4d. the fulfilment of other requirements and conditions for the conclusion and execution of a transaction stipulated by this Act and by separate regulations or agreed with a bank or branch office of a foreign bank;

b) to enable it to obtain through copying, scanning or other recording:

1. the personal data^{88a} concerning the identity from an identity document on the scope of the degree, first name, surname at birth, the birth register number, the date of birth, the place and district of birth, the address of permanent residence, the address of temporary residence, citizenship, any record of restriction of the capacity to legal acts, the type and number of an identity document, the issuing body, the issue date and the validity period of the identity document, and
2. other data from documents proving and documenting the data subject to letter a).

(2) For the purposes of ascertaining, reviewing and checking the identity of clients and their proxies, for the purposes of preparing, concluding and executing transactions with the clients and for other purposes listed in paragraph 3, a bank and branch office of a foreign bank shall be entitled, any time a transaction occurs, to request from the client and his proxy the data on the scope pursuant to paragraph 1 and to obtain it repeatedly at each transaction in the manner specified in paragraph 1, letter b). The client and his proxy shall be obligated to satisfy each such request from the bank and branch office of a foreign bank.

(3) For the purposes of ascertaining, reviewing and checking the identity of clients and their proxies, for the purposes of concluding and executing transactions between a bank and branch office of a foreign bank and their clients, for the purposes of protection and enforcement of the rights of the bank and branch office of a foreign bank against their clients, for the purposes of documenting the operations of the bank and branch office of a foreign bank, for the purposes of performing supervision over banks and branch offices of foreign banks and over their operations and with a view to performing the tasks and duties of banks and branch offices of foreign banks hereunder or according to separate regulations^{88c}, a bank and branch office of a foreign bank shall be entitled, even without consent from and advising of the persons concerned^{88d}, to ascertain, acquire, record, store, use or otherwise process^{88e} the personal data and other data on the scope prescribed by paragraph 1, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a; in so doing, the bank or branch office of a foreign bank shall be entitled, either by automated or non-automated means, to make copies of identity documents and process birth register numbers^{88f} and other data and documents on the scope prescribed by paragraph 1, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a.

(4) A bank and branch office of a foreign bank shall be obligated, even without consent from and advising of the persons concerned^{88d}, to make available and provide^{88g} the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a for processing to other persons determined by law only subject to the conditions stipulated by this Act or a separate law^{88h} and to the National Bank of Slovakia for the purposes of maintaining the register of bank loans and guarantees and performing the authority, supervision and activities pursuant to this Act and separate laws. For the purposes prescribed by paragraph 3, the National Bank of Slovakia shall be entitled to process and make available and provide^{88g} to banks and branch offices of foreign banks from its information system the data subject to paragraphs 1 to 3, Article 91, paragraph 1, and Article 92a that is entered in the register of bank loans and guarantees.

(5) A bank and branch office of a foreign bank shall be entitled, even without consent from and advising of the persons concerned^{88d}, to make available and provide^{88g} the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a from its information system only to persons and bodies to whom it is obligated by law to provide or to whom it is entitled according to the law to provide information protected by bank secrecy, but just on the scope prescribed for the provision of information protected by bank secrecy.

(6) A bank and branch office of a foreign bank may make available and provide abroad the data subject to paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a only subject to the conditions stipulated by a separate law⁸⁸ⁱ or where so stipulated by an international treaty binding on the Slovak Republic and taking precedence over the laws of the Slovak Republic.

(7) The premises of a bank, branch office of a foreign bank, and the National Bank of Slovakia can be monitored by means of a video or audio recorder even without the monitored space being marked,^{88ia} while the record may be used for the purposes of protection against money laundering, detection of illegal financial operations, judicial proceedings, criminal proceedings, proceedings in cases of offences, and supervision of the discharge of obligations stipulated by law by banks and branch offices of foreign banks.^{88ia} If a record is not used for such purposes, it shall be destroyed by the person who made it no later than 30 working days of the date of recording.^{88ia}

Article 93b

(1) Banks and branch offices of foreign banks shall be obligated to offer to their clients an irrevocable proposal for the conclusion of an arbitration agreement^{88j} to the effect that their mutual disputes that may arise from transactions [Article 5, letter i)] shall be decided in arbitration proceedings by a standing arbitration court established pursuant to a separate law^{88k}.

(2) Banks and branch offices of foreign banks shall be obligated to present a draft arbitration agreement according to paragraph 1 to their clients no later than on the conclusion of a transaction to which an arbitration agreement already concluded does not apply. The client shall not be obligated to accept the draft arbitration agreement presented pursuant to paragraph 1; should the client not accept the draft arbitration agreement presented pursuant to paragraph 1, any disputes that may arise from the transaction with such client shall be resolved through a procedure in accordance with separate regulations^{88l}.

(3) The provisions of Article 93a shall be likewise applied to an arbitration court established pursuant to a separate law^{88k}, namely to the provision, acquisition, disclosure and processing of data for the purposes of proceedings before and decisions taken by this arbitration court in respect of disputes between the clients and their banks and branch offices of foreign banks and also for the purposes of documenting the activities of such standing arbitration court. This standing arbitration court shall however make available and provide^{88g} the data subject to Article 93a, paragraphs 1 to 3, Article 91, paragraph 1, Article 38, paragraph 3 and Article 92a only to the National Bank of Slovakia for the purposes of performance of the authority, supervision and activities pursuant to this Act and separate laws and only to parties to arbitration proceedings before such standing arbitration court on the scope necessary for the purposes of such arbitration proceedings^{88m}.

ANNEX 4 – Provisions of the Criminal Code of Slovakia

1. Sections 4, 7, 10, 17-120, 51, 52, 55, 56, 73, 89 (9-13), 89(15), 89(26-27), 94, 126/a/b, 161-163, 185/a, 252/a

Causation Section 4

A criminal offence has been committed wilfully if the offender wanted to violate or endanger an interest protected under this Act in a manner described in this Act, or knew that by such conduct he could give rise to such violation or endangerment, and accepted this as a possible consequence of his conduct.

Section 7 Preparation for a crime

Preparation of a crime is such acting in a manner which is dangerous for the society that consists in organizing extremely serious (Section 41, par. 2) crime, in procuring or adapting means or instruments to commit it, in conspiring, assembling/getting together, in abetting/solicitation or assisting to commit such crime or in any other intentional creation of conditions to commit it, if no attempt nor completion of a crime came to/came about.

Preparation of a crime is punishable with the same severity of a sentence as provided for the crime which that preparation has been directed to unless provided otherwise in a separate part of this Act.

Punishability of the preparation of a crime ceases to exist if the perpetrator

voluntarily refrains from further acting directed to commit a crime and he/she eliminates a danger to the interest protected by this Act that had been created by previous preparation, or he/she voluntarily reported such preparation of a crime at the time where the danger to the interest protected by this Act was still possible to be removed that was created by the preparation to commit a crime. Such report shall be submitted to a prosecutor or to an investigator or to a policeman; a soldier may submit such report to his commander or chief instead of a prosecutor.

Provision of the para. 3 is without prejudice to the punishability of a perpetrator of any other accomplished crime that he/she had already committed through such his/her acting.

Section 10

(1) An accessory to a completed or attempted criminal offence is any person, who wilfully contrived or managed the commission of a crime (organizer), instigated another person to commit a crime (instigator), provided aid to another person, in particular by procuring the means, by removing the obstacles, by advice, by strengthening the determination, by a promise of acting as an accessory after the fact (aider).

Unless this Act provides otherwise, criminal liability and culpability of the accessory shall be governed by the provisions applied to criminal liability and punishability of the offender.

Section 17

Criminal liability for an action committed on the territory of the Slovak Republic shall be determined in accordance with the Slovak law.

A criminal offence is deemed as committed on the territory of the Slovak Republic if the offender committed an act herein, also if the violation or endangering of an interest protected under this Act took place or was intended to take place, in whole or in part, in a foreign country, or if the offender violated or endangered an interest protected under this Act, or if at least such effect was intended to take place, also if he committed such act abroad.

Slovak law shall also apply to determine criminal liability for an offence committed on the board of the Slovak vessel or Slovak aircraft outside the territory of the Slovak Republic. The place of the commission of such offence shall be determined similarly as under paragraph 2.

Section 18

Slovak law shall also apply to determine criminal liability for an offence committed abroad by a national of the Slovak Republic, or a stateless person with permanent residence on the territory of the Slovak Republic, or a foreign national with permanent residence on the territory of the Slovak Republic.

Section 19

Slovak law shall apply to determine criminal liability for subversion of the Republic (Section 92), terror (Sections 93 and 93a), terrorism (Section 94), destructive actions (Sections 95 and 96), sabotage (Section 97), espionage (Section 105), counterfeiting and forging money (Section 140), introduction of counterfeit and forged money (Section 141), production and possession of forging tools (Section 142), assault on a public authority according to Section 153, assault on a public official according to Section 155, forming, contriving and supporting a criminal group and a terrorist group according to Section 185a paragraph 2, illicit production, possession of and trafficking in narcotic and psychotropic substances, poisons and precursors (Sections 186 and 187), illicit production and possession of nuclear materials and hazardous chemical substances (Section 187a and Section 188), genocide (Section 259), crime against humanity (Section 259b), use of prohibited means of warfare and unlawful combat practices (Section 262), war atrocities (Section 263), persecution of the population (Section 263a), plundering in the war operations theatre (Section 264), abuse of internationally recognised and State symbols (Section 265), criminal offence against peace according to Section 1 of Act No 165/1950 Coll. for peace protection, also if such a criminal offence was committed abroad by a foreign national or by a stateless person who does not have permanent residence on the territory of the Slovak Republic.

Section 20

Slovak law shall apply to determine criminal liability for an offence committed abroad by a foreign national or by a stateless person who does not have permanent residence on the territory of the Slovak Republic also if

the criminal offence is punishable also under legislation effective on the territory where it was committed, and

the offender was apprehended on the territory of the Republic and was not extradited to a foreign State for criminal prosecution.

The offender may not, however, be imposed a sentence more severe than that set forth by the law of the State on whose territory the criminal offence was committed.

Forfeiture of Property

Section 51

1/ The court may according to circumstances under which the criminal offence has been committed and according to the circumstances of the offender impose the penalty of forfeiture of property if it sentences the accused to exceptional punishment or to unconditional imprisonment of a serious intentional offence through which the offender acquired or tried to acquire property.

2/ The court may, without fulfilling the requirements of par. 1 impose the penalty of forfeiture of property only in a case when this law allows the imposition of such penalty in its separate part. As an independent sentence the penalty of forfeiture of property may be imposed by the court if with regard to the character of the committed offence and the person of the offender the imposition of another sentence to achieve the purpose of the punishment is not needed.

Section 52

1/ Forfeiture of property catches the whole property of the convicted person or that part of it which has been ruled by the court. However, forfeiture does not apply to means or things which are inevitable for satisfying the needs of the convicted person or persons entitled to be maintained by the convicted person.

2/ The community of property expires after the court decision of forfeiture of property has been made.

3/ The State becomes the owner of the forfeited property.

Forfeiture of a thing

Section 55

The court shall impose a sentence of forfeiture of a thing, which was used for the commission of a criminal offence, intended to be used for the commission of a criminal offence, obtained through a criminal offence or as a reward for its commission, or acquired by the offender in exchange for a thing referred to under subparagraph c).

If the thing referred to in paragraph 1 is unavailable or unidentifiable, or merged with the offender's property or with other person's property acquired in compliance with law, the court may impose the sentence of forfeiture of the value equal to the value of such thing.

An unavailable thing means a thing destroyed, damaged, lost, stolen, made unusable, consumed, hidden, transferred to another person or otherwise removed, or costs saved.

A thing under paragraphs 1 to 3 means proceeds from crime, including profit, interest and other benefits arising from such proceeds or things.

The court may impose the sentence of forfeiture of a thing only if the thing belongs to the offender.

Unless otherwise decided by the court, the forfeited thing shall become State property, pursuant to a proclaimed international treaty, by which the Slovak Republic is bound.

The offender imposed the sentence of forfeiture of a thing as a single sentence shall be regarded as never having been convicted if the sentence is duly served.

The provision of paragraph one shall not apply if

the injured party is entitled to claim compensation for damages inflicted by the offence the satisfaction of which would be made impossible by forfeiture of a thing,

the value of the thing is apparently inadequate to the degree of seriousness of the offence, or the court discharged the offender without punishment.

Section 56

The court may impose the sentence of forfeiture of a thing as a single sentence only if this Act provides for it in its Special Section and if, considering the circumstances of the case and obvious prospects of reformation of the offender, no other sentence is required for attaining the purpose of punishment.

Section 73

Seizure of a thing

If the sentence of forfeiture of a thing referred to in Section 55 was not imposed, the court shall rule that such thing be seized

if it belongs to the offender, who may not be prosecuted or sentenced,

if it belongs to the offender who has been discharged by the court without punishment, or to the offender whose criminal prosecution was discontinued on the grounds specified under Section 172 paragraph 2 of the Code of Criminal Procedure, or to the offender whose criminal prosecution was conditionally discontinued, or to the offender whose criminal prosecution was discontinued as a result of the approval of pre-trial settlement,

if the circumstances of the case support the assumption that the thing could be a source of financing terrorism, or

if so required in the interest of safety of people or property or other similar general interest, in particular if the circumstances of the case support the assumption that the thing has been obtained through the commission of a criminal offence.

Unless otherwise decided by the court, the forfeited thing shall become State property, pursuant to a proclaimed international treaty, by which the Slovak Republic is bound.

The provision of paragraph one shall not apply if

the injured party is entitled to claim for damages inflicted by the offence the satisfaction of which would be made impossible by forfeiture of a thing,

the value of the thing is apparently inadequate to the degree of seriousness of the offence.

Section 79

Seizure of a thing

If a thing relevant for criminal proceedings is not surrendered upon request by the person having it in his possession, it may be seized upon an order made by the presiding judge of the panel, or in pre-trial proceedings upon an order made by the prosecutor, investigator or police authority. The investigator or a police authority shall issue such order only upon prior approval by the prosecutor.

If the body having issued the seizure order does not seize the object concerned itself, the seizure shall be effected by the police on the basis of an order.

The investigator or the police authority may, without prior approval under paragraph (1), issue an order only if such prior approval cannot be obtained and if the matter cannot bear any delay.

Whenever possible, a person not involved in the case shall be engaged to be present during the seizure of a thing.

The report on the surrender and seizure of a thing shall contain also an accurate description of the thing surrendered or seized sufficient to prevent its interchangeability to another thing.

The person who surrendered or was seized a thing shall be immediately issued a written acknowledgment of receipt of the thing or a copy of the report.

Section 79a

Taking over a thing seized

If a thing seized pursuant to a special law^{8a)} should be secured for the purposes of criminal proceedings, it shall be taken over by the prosecutor, investigator or a police authority.

The report on taking over a seized thing shall contain an accurate description of the thing surrendered or seized sufficient to prevent its interchangeability to another thing.

The body that has taken over the thing shall issue a written acknowledgment of receipt of the thing or a copy of the report to the person from whom the thing referred to in paragraph 1 was received. The person whose thing was seized shall be notified thereof.

Section 79b

Attachment of an account

If money held on the account in a bank or branch of a foreign bank⁹⁾ is relevant for criminal proceedings, the presiding judge of the panel or the prosecutor in pre-trial proceedings may issue an order to attach such money directly on the account.

If the matter cannot bear any delay, the prosecutor may issue the order pursuant to paragraph (1) also before commencement of criminal prosecution. Such order must be confirmed by the judge within three days at the latest, otherwise it becomes null and void.

An order pursuant to paragraphs (1) and (2) must be issued in writing and must be justified. It shall always specify also the amount in appropriate currency subject to attachment. In the order pursuant to paragraphs (1) and (2), unless otherwise decided by the presiding judge of the panel or prosecutor, any disposition of the money attached shall be prohibited up to the amount subject to attachment.

If attachment of an account is no longer necessary for the purposes of criminal proceedings, the attachment shall be cancelled. If the attachment is not necessary with respect to the originally specified amount, it shall be limited. The presiding judge of the panel and the prosecutor in pre trial proceedings shall decide on cancellation or limitation.

An order pursuant to paragraphs (1) and (2) shall be always delivered to the bank concerned⁹⁾. It shall be delivered to the account holder only if so decided by the presiding judge of the panel or the prosecutor.

If in the criminal proceedings the attachment of an account in a bank or branch of a foreign bank⁹⁾ is necessary in order to guarantee the injured party's claim for damages, paragraphs 1 to 5 shall be applied as appropriate.

Section 79d

Attachment of registered securities

If registered securities are relevant for criminal proceedings, the presiding judge of the panel or the prosecutor in pre-trial proceedings may issue an order to register suspension of the right to dispose of securities.

If attachment of registered securities is no longer necessary for the purposes of criminal proceedings, the presiding judge of the panel or the prosecutor in pre-trial proceedings shall issue immediately an order to register cancellation of the suspension of the right to dispose of securities.

An order pursuant to paragraphs must be issued in writing and must be justified.

If in the criminal proceedings the attachment of registered securities is necessary in order to guarantee the injured party's claim for damages, paragraphs 1 to 3 shall be applied as appropriate.

Section 82

Reasons for the search of premises and persons and search of other spaces and sites

^{8a)} Section 21 of Act of the National Council of the Slovak Republic No 171/1993 Coll. on the Police Force as amended by Act No 353/1997 Coll.

⁹⁾ Section 2 of Act No 483/2001 Coll. on banking and on amendments to certain other laws.

(1) Search of premises may be conducted if there is justified suspicion that a thing relevant for criminal proceedings may be found or a person suspect of crime is hiding in a flat or other places used for residential purposes or premises attached to them (dwellings).

(3) Search of a person may be conducted if there is justified suspicion that some person has on him a thing relevant for criminal proceedings.

Section 89

General provisions

In criminal prosecution, evidence shall have to be taken, in particular on:

f) proceeds from crime and means for its commission, their location, nature, legal state and value,

Section 89 paragraph 9

(9) Public official means an elected official or other competent member of State administration body or local government authority, court or other State authority, or a member of the armed forces or armed corps, president of the Slovak Republic, court bailiff, member of the forestry, water, fishery, hunting guard, member of nature guard and person, who has a power of nature guard member, if they take part in the fulfilment of tasks entrusted to them by the society and the State exercising the powers vested in them in connection with the fulfilment of such tasks. Under specific provisions of this Act, criminal liability of and protection granted to a public official shall be invoked if the criminal offence is committed in connection with his powers and responsibilities. A public official shall also be an official or another responsible officer of a body of another state acting in criminal proceedings when he performs acts of the sending state in the territory of the Slovak Republic; under the provisions of this act his protection require that the act of the criminal proceedings be conducted in compliance with an international treaty or with the consent of Slovak authorities.

Section 89 paragraph 10

(10) Foreign public official means any person holding the function

in the legislative or judicial body or in the body of public administration of a foreign country, or in an enterprise in which a foreign country exercises a decisive influence or in the international organisation established by the states or other subjects of the public international law,

if the power to manage the public affairs is connected with this function and the criminal offence has been committed in connection with this power.

Section 89 paragraph 12

(12) Possession of narcotic drug, psychotropic substance, poison or precursor for personal use means to have the narcotic drug, psychotropic substance, poison or precursor unlawful in the possession for any time, in the maximum generally of the one-shot dose quantity for using, and it for personal use.

Section 89 paragraph 13

(13) Larger than negligible damage means damage representing at least an amount of the minimum monthly earning, minor damage is damage representing at least 6-multiple of the minimum monthly earning,

substantial damage is damage representing at least 20-multiple of the minimum monthly earning, considerable damage is damage representing at least 100-multiple of the minimum monthly earning, extensive damage is damage representing at least 500-multiple of the minimum monthly earning. This aspect shall be use analogously for designation of profit, value of thing and extent of crime.

Section 89 paragraph 15

(15) Thing also means

- a) controllable force of nature,
- b) security paper irrespective of its form.

Section 89 paragraph 26

(26) Organised crime: is a partnership consisting of at least three offenders or accessories who have been joined to commit by a planned and co-ordinated action a criminal offence and who is indicated by division of tasks between a members of this partnership

Section 89 paragraph 27

(27) The Criminal group is a partnership consisting of at least three offenders or accessories who have been joined to commit a criminal activity for the purpose

a/ to obtain a gain or

b/ to infiltrate into the public power authorities and to obtain a control or influence of them in order to cover or legalise their criminal activity

c/ to infiltrate into enter-preneur s or non-enterpreneur s authorities and to obtain a control or influence of them in order to cover or legalise their criminal activity or the incomes from this activity who is indicated by high degree of a division of labour between the members of the criminal group within her internal organised settlement

Section 94

Terrorism

Any person who, with the intention to seriously intimidate the population, to seriously destabilize or destroy the constitutional, political, economic or social order of the country or of an international organization, or to force the government of a country or an international organization to take action or to refrain from acting, threatens to commit or has intentionally committed an extremely serious crime (Section 41 paragraph 2) endangering the life, health of people, their personal freedom or property, or illegally manufactures, obtains, owns, holds, transport, supplies or otherwise uses explosive, nuclear, biological or chemical weapons, or conducts unauthorized research and development of such weapons or weapons prohibited by law or by an international treaty, shall be liable to a term of imprisonment of twelve to fifteen years or to an exceptional sentence and forfeiture of property.

The offender shall be liable to an exceptional sentence and forfeiture of property if he commits the offence referred to in paragraph 1 in the capacity of a member of a terrorist group, commits such an offence in a particularly brutal manner, causes through the commission of such an offence serious bodily harm or death of several persons, commits such an offence against constitutional officials, persons protected by international law, armed forces, armed security corps or armed corps.

Damaging financial interests of the European Communities

Section 126

- (1) Any person, who uses or presents a false, incorrect or incomplete statement or document or fails to give mandatory data or uses funds of the general budget of the European Communities or budgets managed by or on behalf of the European Communities for purposes other than those for which they were originally dedicated and thus allows embezzlement or illegal withholding of the funds from the identified budget shall be liable to a term of imprisonment of six months to three years or ban of activity or pecuniary sanction.
- (2) The offender shall be liable to a term of imprisonment of one to five years if through the commission of the offence referred to in paragraph 1 he causes larger damage.
- (3) The offender shall be liable to a term of imprisonment of two years to eight years if he commits the crime referred to in paragraph 1 as a member of an organized group or, if he through the commission of such offence causes considerable damage.
- (4) The offender shall be liable to a term of imprisonment of five years to twelve years if through the commission of the offence referred to in paragraph 1 he causes an extensive damage.

Section 126a

- (1) Any person who out of negligence causes damage to the financial interests of the European Communities (Section 126 paragraph 1) shall be liable to imprisonment for a term not exceeding one year or ban of activity or pecuniary sanction.
- (2) The offender shall be liable to a term of imprisonment of up to three years or ban of activity or pecuniary sanction if through the commission of the offence referred to in paragraph 1 he causes a considerable damage.

Section 126b

- (1) Any person who violates or fails to comply with the obligations resulting from his employment, occupation, position or management function or supervision of subordinates and thus makes commission of crime referred to in Section 126 paragraph 1 possible shall be liable to a imprisonment for a term not exceeding two years or to a ban of activity or to a pecuniary sanction.
- (2) The offender shall be liable to a term of imprisonment of six months to three years or to a ban of activity or to a pecuniary sanction if through the commission of the offence referred to in paragraph 1 he causes a considerable damage.
- (3) The offender shall be liable to a term of imprisonment of one year to five years if through the commission of the offence referred to in paragraph 1 he causes an extensive damage.

Bribery **Section 161**

- (1) Any person who directly or through intermediary gives a bribe or an undue advantage or promises it to the other person in order to make this person abuse his employment, position or function for giving an undue advantage or the unreasonable priority to any person or by this reason directly or through intermediary gives,

offers or promises the bribe or another undue advantage to another person, shall be liable to a term of imprisonment up to two years or to the financial punishment.

(2) The sentence set out in paragraph 1 shall be imposed on any person, who directly or through intermediary gives a bribe or an undue advantage or promises it to the other person in order this person to act or to abstain from act so that he breaches his obligations, which follow for him from his employment, profession, position or function, or in this case directly or through intermediary he gives or promises a bribe or an undue advantage.

(3)The offender shall be liable to a term of imprisonment of one to five years if by committing the offence referred to paragraph 1 or 2

a/ causes an extensive damage or acquires an extensive gain for himself or for other person, or

b/ breaches an obligation which follows him from law, or ordinary obligation connected with his employment, profession, position or function, or obligation for which he extraordinary obliged himself.

Section 161a/

1/ Any person, who to another person in connection with providing the thing of the general interest directly or through intermediary offers, gives or promises the bribe or an undue advantage or for this reason gives, offers or promises a bribe or another undue advantage to another person, shall be liable to a term of imprisonment up to three years or to the financial punishment

2/ The offender shall be liable to a term of imprisonment of six months to three years if he commits the offence referred in paragraph 1/ against a public official

3/ The offender shall be liable to a term of imprisonment of one to five years if he commits the offence referred in paragraph 1/ as member of organised group or if he receives the extensive benefit

Section 161b/

1/ Any person who whether directly or through intermediary gives, offers or promises a bribe or an undue advantage to the foreign public official or to another person in connection with official duties of the foreign public official in order to receive or keep an undue advantage regarding the realisation of international business, shall be liable to a term of imprisonment of six month to three years or to the financial punishment.

2/ The offender shall be liable to a term of imprisonment of one to five years if he commits the offence referred to paragraph 1/ as a member of organised group or if he receives the extensive benefit

Section 161c/

1/ Any person who directly or through intermediary to the member of international parliamentary assembly, the judge or the official of international judicial institution accepted by the Slovak Republic, or the representative or employee of international, over-national, inter-governmental organisation or institution which the Slovak republic is a member or with which the Slovak Republic has conventional relationship, or as a person in similar function gives, offers or promises a bribe or another undue advantage in connection with his official duties or for this reason gives, offers or promises the bribe or another undue advantage to another person, shall be liable to term of imprisonment of six month to three years or to the financial punishment

2/ The offender shall be liable to a term of imprisonment of one to five years if he commits the offence referred in paragraph 1/ as member of an organised group or if he receives the extensive benefit.

Indirect corruption

Section 162

/1/ Any person who directly or through intermediary for himself or for another person receives, requests or lets to promise a bribe or an undue advantage in order that he/she will use his/her influence to exercise the duties of person referred in Sections 160, 160a/, 160b/ or 160c/, or because he/she did so, shall be liable to a term of imprisonment up to three years or to the financial punishment.

/2/ Any person who directly or through intermediary offers, gives or promises a bribe or an undue advantage to the other person in order that this person will use the influence to exercise the duties of person referred in section 160, 160a/, 160b/ or 160c/, or because she/he did so, or for this reason gives, offers or promises a bribe or another undue advantage to another person shall be liable to a term of imprisonment up to two years or to the financial punishment.

Special provision on effective regret

Section 163

Punishability of bribery under sections 161, 161a, 161b and 161c and indirect corruption under section 162 para. 2 vanishes if the offender has given the bribe or other undue advantage or 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.

Circumstances excluding the punishability of bribery and indirect corruption

Section 163a

Act accepted as criminal listed in under sections 161, 161a, 161b and 161c and indirect corruption under section 162 para. 2 committed by the manner listed by the Penal Procedure Code for the purpose of disclosure or detection of an offender of the criminal offence under sections 160, 160a, 160b, 160c 162 para. 1 or section 158 is not crime.

Section 185a

Forming, contriving and supporting a criminal group and a terrorist group

Any person, who forms or contrives a criminal group, is its member, is active or supports it, shall be liable to a term of imprisonment of three to ten years, or forfeiture of property.

Any person, who forms or contrives a terrorist group, is its member, is active or supports it, shall be liable to a term of imprisonment of five to fifteen years, or forfeiture of property.

Legalisation of proceeds from crime

Section 252

Any person, who makes the following uses of proceeds or other assets from crime:

transfers to himself or to other, lends, borrows, overdraws in the bank, imports, transits, exports, moves, rents, or otherwise procures for himself or other person, or

has in his possession, maintains, conceals, uses, consumes, destroys, alters, or damages them with the intention to conceal the existence of such proceeds or a thing, or to cover up their criminal origin, their designation or use for the commission of a crime, to prevent their seizure for the purposes of criminal proceedings, or their forfeiture or confiscation, shall be liable to a term of imprisonment of one to five years, or to a sentence of the ban on professional activity, or forfeiture of property, or to a pecuniary penalty.

The offender shall be liable to a term of imprisonment of two to eight years if through the offence referred to in paragraph 1 he obtains larger profit for himself or other.

The offender shall be liable to a term of imprisonment of three to ten years if he commits the offence referred to in paragraph 1 in the capacity of a member of an organised group, or if through such offence he obtains substantial profit for himself or other.

The offender shall be liable to a term of imprisonment of five to twelve years if he commits the offence referred to in paragraph 1 in the capacity of a public official, or in the capacity of a member of an organised group operating in several countries, or in connection with such group.

(5) The same sentence as set out in paragraph 4 shall be imposed on the offender if he obtains extensive profit for himself or other through the commission of the offence referred to in paragraph 1.

Section 252a

Any person, who fails to notify of or report

the facts suggesting that other person has committed a criminal offence of legalisation of proceeds from crime according to Section 252, or

an unusual bank operation,

in spite of his official duty to report or notify of the legalisation of proceeds from crime arising from his employment, profession, position or function, shall be liable to a term of imprisonment of two to eight years, or to a sentence of the ban on professional activity, or to a pecuniary penalty.

The offence referred to in paragraph 1 shall not be punishable if the offender could not have notified or reported without putting him or a close person under the risk of criminal prosecution.

2. Act of 19 June 2002 amending and supplementing Act No. 140/1961 Coll. Criminal Code as amended (excerpts)

NATIONAL COUNCIL OF THE SLOVAK REPUBLIC

Act

of 19 June 2002,

The National Council of the Slovak Republic has adopted this act:

Article I

Act No. 140/1961 Coll. Criminal Code as amended by Act No. 120/1962 Coll., Act No. 53/1963 Coll., Act No. 184/1964 Coll., Act No. 56/1965 Coll., Act No. 81/1966 Coll., Act No. 148/1969 Coll., Act No. 45/1973 Coll., Act No. 43/1980 Coll., Legal Measure No. 10/1989 Coll., Act No. 159/1989 Coll., Act No. 47/1990 Coll., Act No. 84/1990 Coll., Act No. 175/1990 Coll., Act No. 457/1990 Coll., Act No. 545/1990 Coll., Act No. 490/1991 Coll., Act No. 557/1991 Coll., Act No. 60/1992 Coll., Finding of the Constitutional Court of the Czech and Slovak Federal Republic of 4 September 1992 published in Part 93/1992 Coll., Act of the National Council of the Slovak Republic No. 177/1993 Coll., Act of the National Council of the Slovak Republic No. 248/1994 Coll., Act of the National Council of the Slovak Republic No. 102/1995 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 100/1996 Coll., Act No. 13/1998 Coll., Act No. 129/1998 Coll., Act No. 10/1999 Coll., Act No. 183/1999 Coll., Act No. 399/2000 Coll., Act No. 253/2001 Coll., Act No. 485/2001 Coll. and Act No. 237/2002 shall be amended and supplemented as follows:

(...)

8. In **Section 55** new paragraphs 2 to 4 are inserted after paragraph 1 and they read as follows:

“(2) If the thing identified in paragraph 1 is not achievable or identifiable or it is mixed with offender's property or with property of another person, which was acquired in compliance with the law, the court may impose the sentence of the forfeiture of a value corresponding the value of the thing concerned.

(3) Unachievable thing shall mean a thing destroyed, damaged, lost, dispossessed, made unusable, consumed, hidden, transferred to another person or otherwise removed or saved costs.

(4) The thing under paragraphs 1 to 3 shall also mean proceeds of criminal offence as well as profit, interest on capital and other gains from these proceeds or things.”.

Current paragraphs 2 to 4 shall be marked as paragraphs 5 to 7.

14. In **Section 73** paragraph 1 the words “paragraph 1” in the pre-clause shall be deleted.

15. In Section 73 paragraph 1 letter b) reads:

“b) if it belongs to the offender, the sentencing of who the court waived or to the offender the prosecution of whom was discontinued on grounds stipulated in Section 172 paragraph 2 of the Code of Criminal Procedure or to the offender the prosecution of whom was conditionally discontinued or to the offender the prosecution of whom was terminated on grounds of conciliation acceptance,”.

16. In Section 73 paragraph 1 new letter c) shall be inserted after letter b) that reads:

“c) if the circumstances of the case make it reasonable to believe that the thing could be a source for terrorism funding or”.

The present letter c) shall be marked as letter d).

(...)

19. In **Section 89 paragraph 9** the words “President of the Slovak Republic” shall be inserted after the words “armed corps” and the following sentence shall be supplemented at the end: “A public official shall also be an official or another responsible officer of a body of another state acting in criminal proceedings when he performs acts of the sending state in the territory of the Slovak Republic; under the provisions of this act his protection require that the act of the criminal proceedings be conducted in compliance with an international treaty or with the consent of Slovak authorities.”.

(...)

21. In **Section 89 paragraph 27** the words “criminal activity” shall be replaced with the words “particularly serious criminal activity, crime under Section 252 or some crimes under Sections 160 to 162”.

22. Section 89 shall be supplemented with paragraphs 28 a 29 that read:

(28) A terrorist group shall mean a grouping of at least three persons established for a certain period of time for the purpose of committing the crime of terror or terrorism.

(29) To lead another person in to mistake or to use of mistake of another person means also an unauthorised intervention into computer software and also another operation with the computer, intervention into an electronic or other technical device including intervention into an item used to control such device equipped with a micro chip, magnetic, optic or other special recording or making use of such operation or intervention performed by another person.”.

27. **Section 94** shall be inserted after Section 93a and it reads including its heading as follows:

“Section 94
Terrorism

(1) Any person who, with the intention to seriously intimidate the population, to seriously destabilise or destroy the constitutional, political, economic or social order of the country or of an international organisation or to force a government of a country or an international organisation to do something or to refrain from doing something, threatens to commit or has intentionally committed an particularly serious crime (Section 41 paragraph 2) imperilling the life, health of people or property shall be liable to a term of imprisonment of twelve to fifteen years or an exceptional sentence of imprisonment or confiscation of property.

(2) The offender shall be liable to an exceptional sentence of imprisonment and confiscation of property if

a) he commits the offence referred to in paragraph 1 as a member of a terrorist group,

b) he commits such an offence in a particularly brutal manner,

c) he causes through the commission of such an offence serious bodily harm or death of several persons,

d) he commits such an offence against constitutional officials, persons protected by international law, armed forces, armed security corps or armed corps.

30. Section 122 reads including its heading as follows:

“Section 122

Endangering trade, bank or tax secrecy

(1) Any person who elicits information subject to trade, bank or tax secrecy with the intention of disclosing it to an unauthorized person or who willfully discloses information subject to trade, bank or tax secrecy to an unauthorized person, shall be liable to a term of imprisonment not exceeding one year or disqualification.

(2) Any person who elicits information subject to trade, bank or tax secrecy with the intention of disclosing it to a foreign entity or who willfully discloses information subject to trade, bank or tax secrecy to a foreign entity, shall be liable to a term of imprisonment of six months to three years.

(3) The offender shall be liable to a term of imprisonment of one to five years if through the commission of the offence referred to in paragraphs 1 or 2 he causes a considerable damage.

(4) The offender shall be liable to a term of imprisonment of three to eight years if through the commission of the offence referred to in paragraphs 1 or 2 he causes an extensive damage.

31. **Section 126, Section 126a, Section 126b** shall be inserted after Section 125 and they read:

“Damaging financial interests of the European Communities
Section 126

(1) Any person, who uses or presents a false, incorrect or incomplete statement or document or fails to give mandatory data or uses funds of the general budget of the European Communities or budgets managed by or on behalf of the European Communities for purposes other than those for which they were originally dedicated and thus allows embezzlement or illegal withholding of the funds from the identified budget shall be liable to a term of imprisonment of six months to three years or disqualification or pecuniary sanction.

(2) The offender shall be liable to a term of imprisonment of one to five years if through the commission of the offence referred to in paragraph 1 he causes larger damage.

(3) The offender shall be liable to a term of imprisonment of two years to eight years if he commits the crime referred to in paragraph 1 as a member of an organised group or, if he through the commission of such offence causes considerable damage.

(4) The offender shall be liable to a term of imprisonment of five years to twelve years if through the commission of the offence referred to in paragraph 1 he causes an extensive damage.

Section 126a

(1) Any person who out of negligence causes damage to the financial interests of the European Communities (Section 126 paragraph 1) shall be liable to a term of imprisonment not exceeding one year or disqualification or pecuniary sanction.

(2) The offender shall be liable to a term of imprisonment of up to three years or disqualification or pecuniary sanction if through the commission of the offence referred to in paragraph 1 he causes a considerable damage.

Section 126b

(1) Any person who violates or fails to comply with the obligations resulting from his employment, occupation, position or management function or supervision of subordinates and thus makes commission of crime referred to in Section 126 paragraph 1 possible shall be liable to a term of imprisonment of up to two years or disqualification or pecuniary sanction.

(2) The offender shall be liable to a term of imprisonment of six months to three years or disqualification or pecuniary sanction if through the commission of the offence referred to in paragraph 1 he causes a considerable damage.

(3) The offender shall be liable to a term of imprisonment of one year to five years if through the commission of the offence referred to in paragraph 1 he causes an extensive damage.”.

(...)

37. In **Section 161** paragraph 1 the words “directly or through an intermediary” shall be inserted after the words “Any person who” as well as after the words “for this reason”.

38. In *Section 161* a new paragraph 2 shall be inserted after paragraph 1 and it reads:

“(2) Any person who directly or through an intermediary gives a bribe or another inappropriate advantage or makes such promise to another person to act or refrain from acting and thus, violating his duties resulting from the employment, occupation, position or function shall be punished identically with paragraph 1.”.

The current paragraph 2 shall be marked as paragraph 3.

39. In **Section 161 paragraph 3** the words “or 2” shall be inserted after the words “paragraph 1”.

40. In **Section 167 paragraph 1** the words “terrorism (Section 94),” shall be inserted after the words “terror (Section 93 and 93a),” the words “forming, contriving and supporting a criminal group and terrorist group (under Section 185a)” shall be inserted after the words “under Section 180c paragraph 2,” the words “sexual (venereal) abuse under Section 242,” shall be replaced with words “sexual abuse under Section 242, trafficking in people (Section 246 paragraph),” and the words “crime against humanity (Section 259b),” shall be inserted after the words “(Section 259),”.

(...)

54. In **Section 185 paragraph 4** letter a) the words “in paragraphs 2 and 3” shall be replaced with the words “in paragraph 2 or 3”.

55. In the heading of **Section 185a** the words “and terrorist group” shall be inserted after the word “group”.

56. Current text of Section 185a shall be marked as paragraph 1 and it shall be supplemented with paragraph 2 that reads:

“(2) Any person who forms or contrives a terrorist group, is its member, is active for it or supports it shall be liable to a term of imprisonment of five years to fifteen years and to confiscation of his property.”.

57. In Section 185b paragraph 1 the words “and terrorist group” shall be inserted after the words “criminal group” and the words “or terrorist group” shall be inserted after the words “criminal group”.

58. In the heading Section 185c the words “and terrorist group” shall be inserted after the word “group”.

59. In Section 185c paragraph 1 the words “or criminal group” shall be replaced with the words “or in terrorist group or such group” and at the ends the following words shall be supplemented “or terrorist group”.

60. In Section 185c paragraph 2 the words “or terrorist group” shall be inserted after the word “group”.

(...)

Article IV

This Act shall come into effect on 1 September 2002 except Section 259b that shall come into effect on the day of publication in the Collection of Laws of the Slovak Republic.

The President of Slovak Republic

The Head of National Council of Slovak Republic

The Prime Minister of the Slovak Republic Government

ANNEX 5 - Criminal Procedure Code of Slovakia (excerpts)

1. Act No. 141/1961 on Criminal Judicial Procedure

A C T
on Criminal Judicial Procedure
(Code of Criminal Procedure)

No. 141/1961 Coll. in the wording of acts No. 57/1965 Coll., No. 58/1969 Coll., No. 149/1969 Coll., No. 48/1973 Coll., No. 29/1978 Coll., No. 43/1980 Coll., No. 159/1989 Coll., No. 178/1990 Coll., No. 303/1990 Coll., No. 558/1991 Coll., No. 6/1993 Coll., No. 178/1993 Coll., No.247/1994 Coll., finding of the Constitutional Court of the Slovak Republic No 222/1998 Coll., acts No. 256/1998 Coll., No. 272/1999 Coll., No. 173/2000 Coll. And in the wording of the Act passed by the National Council of the Slovak Republic on 3 November 2000

Cooperation of Public Authorities,
Municipalities and Other Legal Entities
and Natural Persons

Section 8

/1/ Public authorities, municipalities and other legal entities as well as natural persons carrying out entrepreneurial activities under separate legislation shall assist the bodies active in criminal proceedings in the fulfilment of their tasks and, in particular, promptly respond to their request for legal assistance. Public authorities shall inform without delay the prosecutors or the police bodies of the facts indicating the commission of a criminal offence.

/2/ 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 authorization by a prosecutor. In judicial proceedings, such data may be requested by the presiding judge of a panel.

/3/ If the data specified in section 7 paragraph (2) are necessary to verify information and other motions (section 158 paragraph 4) reporting in particular serious offences (§ 41 paragraph 2 of the Penal Code), offences referred to the third section of the third chapter of separate part of the Penal Code (moreover "corruption") and the offence according to § 158 of the Penal Code, a prosecutor may request such data also outside pre-trial proceedings.

/4/ The provisions of sections 8 paragraphs (1) and (2) do not relieve of the obligation of non-disclosure of secret data.

Section 78

Duty to Surrender a Thing

/1/ Whoever is in the possession of a thing relevant for criminal proceedings shall have the duty to hand it over, when requested, to the court, prosecutor, investigator or police authority; if the purpose of criminal proceedings requires it, he shall have the duty to surrender, when requested, such thing to these bodies.

/2/ The duty under paragraph (1) shall not apply to a written document whose content deals with questions barred from interrogation unless the confidentiality or non-disclosure obligation has been lifted (section 99).

/3/ The authority to request that a thing be surrendered shall be vested with the presiding judge of a panel or, in pre-trial proceedings, a prosecutor, an investigator or a police body.

Section 79 Seizure of a Thing

/1/ If a thing relevant for criminal proceedings is not surrendered upon request by the person who has it in his possession, it may be seized upon an order issued by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor, investigator or police authority. An investigator or a police body shall issue such order only upon a prior authorization by a prosecutor.

/2/ If the body having issued the seizure order does not seize the object concerned itself, the seizure shall be effected by the police on the basis of an order.

/3/ Without a prior authorization under paragraph (1) an investigator or a police body may issue an order only if such prior authorization cannot be obtained and if the matter is urgent.

/4/ Whenever possible, a person who is not involved in the case shall be present during the seizure of a thing.

/5/ The report on the surrender and seizure of a thing shall give also an accurate description of the thing surrendered or seized which is sufficient to identify such thing.

/6/ The person who surrendered or was seized a thing shall be immediately issued the certificate on the taking over of the thing or a copy of the report.

Section 79a Safe-keeping of Surrendered and Seized Things

If a body active in criminal proceedings cannot ensure the safe-keeping of a surrendered or seized thing (sections 78 and 79), it shall provide for it through an appropriate legal entity or natural person which conducts business in the given field under separate regulations.

Section 79b Placing the Account on Hold

/1/ If money held on a bank account^{9/} is relevant for criminal proceedings held in respect of crimes specified under separate legislation^{2/}, the presiding judge of a panel or, in pre-trial proceedings, a prosecutor may issue an order to place the account on hold.

^{9/} Section 1 paragraph (1), section 2, section 3 paragraph (1) of Banking Act No. 21/1992 Coll. in the wording of later regulations.

/2/ In cases of emergency, a prosecutor may issue the order pursuant to paragraph (1) also outside of pre-trial proceedings. Unless such order is confirmed not later than within three days by a judge it becomes null and void.

/3/ The order pursuant to paragraphs (1) and (2) shall be issued in writing and shall give the justification. It shall always specify the financial amount placed on hold and its currency. As regards the orders issued under paragraphs (1) and (2) and unless the presiding judge of a panel or prosecutor decide otherwise the financial amount placed on hold shall be barred from any disposition orders.

/4/ If it is no longer necessary to keep the account on hold for the purposes of criminal proceedings, the order is withdrawn. If the surety is lower than the originally specified amount, the amount placed on hold shall be reduced. The ruling on canceling or reducing the surety shall be made by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor.

/5/ An order under paragraph (1) and (2) shall always be delivered to the bank concerned^{9/}. It shall be served on the owner of the account only if the presiding judge or the prosecutor issued a ruling to this effect.

Restituting the Thing Section 80

/1/ If the thing surrendered under section 78 or seized under section 79 is no longer needed for the purpose of the proceedings and if its forfeiture or confiscation is not considered, it shall be restored to the person who surrendered it or from whom it has been seized. If it is claimed by another person, it shall be restored to that person whose title to the thing is uncontested. When in doubt, the thing is deposited at the court and the person claiming the title to the thing shall be notified to lodge its claim through civil action. If the person having an unquestionable right to the thing fails to reclaim it when requested to do so, the thing shall be sold and the amount obtained shall be deposited at the court. The sale shall abide, as applicable, by the rules on the judicial sale of movable things obtained by execution.

/2/ If a thing that cannot be restored or surrendered under paragraph (1) is perishable and there is a danger of spoilage, it shall be sold and the amount received shall be deposited at the court. As applicable, the sale shall be governed by the rules on judicial sale of movable things obtained by execution.

/3/ Rulings made under paragraphs (1) and (2) shall be made by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor, an investigator or a police authority. The ruling on the restitution and surrendering of a thing and on its safe-keeping shall be liable for complaint having a suspensive effect.

Section 81

/1/ If the accused surrendered or was seized a thing obtained or probably obtained by means of crime and if the owner of the thing is not known or if the whereabouts of the injured are not known, the description of the thing shall be publicly announced. The announcement shall be made in the manner that is most likely to lead to reaching the injured and shall ask the injured to claim the object within six months from the announcement.

/2/ If a different party than the accused claims the thing within the time limit under paragraph (1), the section 80 paragraph (1) shall apply. If no other party has claimed the thing, the thing or the amount obtained for the sale of a perishable thing shall be surrendered to the accused on his request, unless he gained possession of the thing through crime. If the thing was obtained through crime or if the accused did not claim it, the thing shall be handed over to the body competent under separate prescriptions that will proceed with its sale. This shall not prejudice the right of the owner to claim the amount received for the sale of the thing.

/3/ If the thing is worthless it can be destroyed and, if it has a trifle value, it may be handed over to the body competent under separate legislation for the sale; in either case, no previous announcement of its description shall be required.

/4/ The measures and rulings under paragraphs (1) to (3) shall be made by the presiding judge of a panel or, in pre-trial proceedings, by a prosecutor, an investigator or a police body. The ruling on surrendering a thing, on handing a thing over to the body competent under separate legislation for the sale or for the destruction of the thing shall be liable for complaint having a suspensive effect.

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 offense or an intentional criminal offense the prosecution of which is mandatory under a promulgated international treaty, or a criminal offense 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 order is considered to be as it is secret data.** Interception and recording of private communications shall be conducted by a police body.

/3/ In criminal proceedings held in respect of other offenses 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/ In the course of disclosure, detection and conviction of the offenders of the especially serious criminal offences, corruption and criminal offence set out under the section 158 of the Penal Code it shall be possible to use an agent. The use of an agent shall only be admissible if the disclosure detection and conviction of the offenders of mentioned criminal offenses and identification of their perpetrators would otherwise be much more difficult and the acquired information motivate the suspicion that the crime has been committed or an intention of the offender to commit such crime .

/2/ Inaccessible acting of agent is, if all by himself initiative is acting in the aim, in order to acquire a gain or another advantage to himself or to another person, or another person could have had a loss, slides or underplays involuntary drug, money or other thing to another person as an evidence on his criminal behavior.

/3/ An agent operates under a temporary or a permanent legend or without legend. The legend of an agent shall consist of a set of cover personal data, in particular data on his identity, family status, education and

employment. As the cover personal data is not possible to use the data, which using as the cover data is forbidden by the special law.

/4/ 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.

/5/ Before start of the pre-trial proceeding and during this proceeding the order to use an agent shall be issued by the presiding judge of a panel on application by a prosecutor; the order is issued by the presiding judge of the panel without this application too, when the case is before court.

/6/ In cases of emergency, and if the use of an agent does not involve entering the home of another person, the order under paragraph (5) may be issued also outside of pre-trial proceedings and during pre-trial proceeding. Such order shall be confirmed by a judge not later than within three days; otherwise it shall become void.

/7/ The warrant issued under paragraphs (5) and (6) shall be in writing and shall specify the time period during which the agent will be deployed. **The warrant is considered to be as it is secret data.**

/8/ 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.

/9/ 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.

/10/ 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 (5) and (6) and to the presiding judge of a panel in judicial proceedings.

/11/ In pre-trial proceedings, the prosecutor shall make the examination of an agent on the facts important for criminal proceeding, adequate keeping the section 101b paragraph 3 (of the Code of Criminal Procedure to ensure that the true identity of the agent shall not be disclosed.

The agent shall be examined in the courtroom only with adequate using of section 105 para.5 section 101b para.3 and section 209 of the Code of Criminal Procedure by the means that true identity of the agent shall not be disclosed. The summon to appear at the main hearing on the agent shall serve a Police Corps officer appointed by the President of the Police Corps.

/12/ 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 the especially serious criminal offence, corruption and criminal offence set out under section 158 of the Penal Code

Section 230

If the court finds a reason for imposing a protective measure with respect to the defendant, it may do so also without a motion by the prosecutor.

If the court needs to take further evidence to rule about the protective measure, which cannot be taken immediately, then it shall reserve the decision on protective measure for the public hearing.

Paragraph 2 shall also be applied when the prosecutor filed a motion for seizure of a thing not belonging to the defendant.

Section 443

Seizure of property

(1) The court may, under the conditions stipulated by an international treaty, upon request of a foreign authority upon prosecutor's motion, make a decision on preliminary seizure of property belonging to a person against whom criminal prosecution is conducted abroad, or seizure of a part of such property located on the territory of the Slovak Republic.

Protective Therapy and Thing Seizure

Protective in-patient treatment and seizure of a thing

Section 239

Provided it is not a case in which the court has reserved the right to decide on protective in-patient treatment or seizure of a thing pursuant to Section 230 paragraph 2, the court may impose them at a public session only if the prosecutor makes such a motion.

A complaint against the decision on protective in-patient treatment and on the seizure of a thing is admissible and it shall have a suspensive effect.

Section 239a

/1/ If the owner of the thing which is to be seized cannot be identified with certainty or if his/her place of residence is not known during the seizure proceedings the presiding judge of panel shall appoint him/her a trustee. In the thing seizure proceedings the trustee shall have the same rights as the owner of the thing.

/2/ All written documents addressed to the owner of the thing are served only on the trustee. Summons of the owner of the thing to appear at the public session shall be published in an appropriate way. Public hearing shall then be held also in the absence of owner of the thing regardless whether the owner of the thing learned about it.

/3/ A complaint against the decision on trustee appointment is admissible.

CHAPTER TWENTY THREE

Section 371 through 374 - cancelled

CHAPTER TWENTY FOUR

LEGAL CONTACTS WITH FOREIGN COUNTRIES

Section 375

General Provisions

Provisions stipulated in this Chapter shall be applied only if a promulgated international treaty does not stipulate a different procedure.

Title One

Request for Extradition From a Foreign Country

Section 376

/1/ If the accused stays abroad and there is a need for his/her extradition the presiding judge of panel shall issue a warrant of arrest against him/her and based on it shall ask the ministry of justice for other measures. In the pre-trial proceedings this shall be done upon prosecutor's motion.

/2/ If the case does not permit any delay the presiding judge of panel shall ask the ministry of justice to arrange a preliminary arrest of the accused; the warrant of arrest shall be send to the ministry of justice subsequently.

/3/ The warrant of arrest shall include

a) the name and family name of the accused, his/her personal data and information on citizenship and/or a description of the person and a photo,

b) the legal concept of the criminal act together with the specification of the pertinent legal provisions and a description of the facts of the act with an exact identification of when, where and how it was committed,

c) the verbatim wording of legal provisions pursuant to which the criminal act is evaluated together with the specification of the term of sanction stipulated for it in the law and

d) if an extradition of a sentenced in order to enforce his/her sentence is concerned, then also information on which court imposed what sentence together with an attached copy of judgement with a validity clause.

Section 377

/1/ The accused extradited by a foreign country shall be taken over by police bodies. They shall turn the received person without delay to the presiding judge of panel which issued the warrant of arrest.

/2/ If the extradition is not effected to enforce a sentence the presiding judge of panel shall have the duty to hear the accused within **48 hours and regarding to particularly serious offences not later than 72 hours** from the delivery and rule on detention.

Section 378

/1/ If the accused was extradited by a foreign country with reservation it shall be respected.

/2/ The accused may be prosecuted only for criminal offences on the grounds of which he/she was extradited unless an additional consent for criminal prosecution for other criminal offences is given.

/3/ If the accused was requested or extradited from a foreign country only to serve the sentence for some of the criminal offences he/she was imposed an aggregate or cumulative sentence earlier, the court shall rule on an appropriate sentence for the criminal acts the extradition applies to in a public session.

/4/ If a foreign country extradites a person who was imposed a sentence or protective measure in a final judgement to enforce the sentence or protective measure and by doing so makes reservations to the judgement or proceedings preceding it the regional court shall cancel the judgement in the necessary scope in a closed session after police bodies received the sentenced and it shall also rule on further procedure as to satisfy the reservation. If the whole judgement is cancelled or only its verdict of sentence it shall rule on the detention at the same time. If there is a need for additional facts the whole case may be returned to the prosecutor for additional investigation.

/5/ A complaint against the decision pursuant to paragraph 3 and 4 is admissible and it has a suspensive effect unless it is a decision on detention.

Title Two

Extradition to a Foreign Country

Section 379

Preliminary Investigation

/1/ The prosecutor who was sent by the ministry of justice or prosecutor general a request for extradition by a foreign country or learned about a criminal offence for which a foreign country may request extradition shall conduct a preliminary investigation. The purpose of preliminary investigation is to find whether there are conditions for extradition and, mainly, whether it is a criminal offence pursuant to the laws of both countries for which an extradition is admissible and which culpability did not expire, and whether the person is not a citizen of the Slovak Republic.

/2/ In the extradition proceedings the person who is affected by the extradition shall have a defence counsel.

/3/ Prosecutor shall examine such a person and advise him/her on the content of the extradition request. If this person presents facts rebutting the suspicion and presents evidence on it which may be taken without substantial delay, then the preliminary investigation shall apply to it as well.

/4/ If the person whose extradition is concerned is taken into preliminary detention pursuant to Section 380b or into an extradition detention pursuant to Section 381 the regulations on the enforcement of detention^{12/} shall be applied as appropriate to the contacts with the defence counsel and lawyer and correspondence under detention.

12/ Section 8 and Section 9 of National Council of the Slovak Republic Act No. 156/1993 Coll. on the enforcement of detention.

Section 379 a

Summary Extradition Proceedings

(1) Summary extradition proceedings may be applied only with consent of the person claimed.

(2) If the person claimed expresses his/her consent with extradition in the course of preliminary investigation and after having been instructed according to section 379 subsection 4, the prosecutor shall submit the matter after completion of preliminary investigation to the ministry of justice with the motion for a decision. A provision of section 380 shall not be applied.

(3) If the person claimed withdraws his/her consent at anytime before the decision made the minister of justice on the granting of extradition, the matter shall be submitted to court for a decision according to section 380.

(4) Provisions of subsections 1-3 shall not be applied in the proceedings pertaining to the request of a foreign country for enlargement of extradition according to section 383.

Section 380

Court Decision

/1/ Upon a motion by the prosecutor the regional court in which district the person whose extradition is concerned has his/her residence or was captured, shall rule after the completion of the preliminary investigation as to the admissibility of extradition and shall submit the case to the ministry of justice.

/2/ If the minister of justice has doubts on the correctness of the regional court decision he/she may submit the case to the supreme court to review the decision.

Section 380a

Detention

Upon a request by the bodies of a foreign country the prosecutor conducting preliminary investigation may issue order to the police bodies to detain the person whose extradition is concerned. The reasons stipulated in Section 67 paragraph 1 and 2 shall not binding. If the prosecutor does not release the detained person within 48 hours from detention then he/she shall file a motion for preliminary detention with the court in this period.

Section 380b

Preliminary Custody

/1/ Upon a motion by the prosecutor the presiding judge of the panel shall rule on taking the detained person into preliminary detention **within 48 hours and regarding to particularly serious offences not later than 72 hours** from the delivery of the detained person. The reasons for detention pursuant to Section 67 paragraph 1 and 2 shall not be binding. If the presiding judge of panel does not take the detained person into preliminary detention in set the term, then he/she shall release the person to freedom.

/2/ If no foreign country request for extradition of the concerned person together with the pertinent documents arrives within 18 days from the detention of the person the presiding judge of panel of the regional court may release the person from a preliminary detention. A preliminary detention shall not last longer than 40 days from the day of person's detention. If a foreign country request for extradition arrives during the duration of the preliminary detention the presiding judge of panel may, upon the motion by the prosecutor conducting preliminary investigation, take this person into extradition detention provided the conditions stipulated in Section 381 paragraph 1 are satisfied.

/3/ A release from preliminary detention shall not exclude a new preliminary detention or extradition detention.

Section 381

Extradition Detention

/1/ Upon a motion by the prosecutor conducting preliminary investigation the presiding judge of panel of the regional court may take the person whose extradition is concerned into detention if this is necessary to prevent person's escape.

(2) If a decision was that extradition to a foreing country is admissible, a regional court takes the person claimed in provisional arrest if it was not made by the presiding judge of the panel of judges according to subsection 1. However, the judge is not bound by reasons for the arrest according to section 67.

(3) The presiding judge of the panel of judges of the regional court shall release the person from the provisional arrest,

- a) if the requesting country withdraws its request,
- b) if a decision has been made that the extradition is inadmissible, or if the extradition was not granted,
- c) on the day when the person claimed was transferred to the authorities of the foreign country,

- d) if the reasons for the arrest cease,
- e) if it was ordered by the minister of justice .

Section 382

Permission and Enforcement of Extradition

/1/ Minister of justice shall permit extradition to a foreign country provided the regional court or the supreme court ruled pursuant to Section 380 herein that extradition is admissible.

/2/ The presiding judge of panel of the regional court shall arrange the extradition after its permission as well as the related release of the person whose extradition is concerned.

Section 382a

(1) If the sentenced person is at the time of the service of the request of the foreign country for his/her extradition under arrest in connection with his/her criminal prosecution by the criminal justice authorities of the Slovak Republic or imprisoned on the grounds that the final judgement was rendered by the court of the Slovak Republic, the decision on provisional arrest (section 381 paragraph 2) shall be made by the regional court in whose district the person is under arrest (in custody) or imprisoned but the execution of the arrest shall be suspended.

(2) If the reasons for the arrest (custody) or imprisonment cease according to paragraph 1, suspension of the provisional arrest ceases and the person referred to in subsection 1 shall be taken in provisional arrest.

(3) Preliminary investigation according to paragraph 1 shall be conducted by the prosecutor competent according to section 379 paragraph 1.

Section 383

Extension of extradition to Another Crime

If the country to which a certain person was extradited requests the prosecution of this person for another crime or the enforcement of sentence imposed for another crime than the one for which the extradition was permitted, provisions on extradition shall be applied as appropriate.

Title Three

Taking-over and Transfer of the Criminal Case

Section 383 a

Taking-over of a Criminal Case from Abroad

The prosecution general shall rule on a motion by the pertinent body of a foreign country to have the criminal prosecution of a citizen of the Slovak Republic for crimes committed on the territory of that country taken over by the pertinent bodies of the Slovak Republic and in case of a decision in favor of the motion it shall immediately submit a petition to the competent body with substantive and territorial competence to commence criminal prosecution pursuant to the provisions of this act.

Section 383b

Transfer of a Criminal Case to a Foreign Country

If a criminal prosecution is conducted against a citizen of a foreign country for a crime committed on the territory of the Slovak Republic the prosecution general, and after filing the indictment the ministry of justice, may transfer the criminal prosecution to the appropriate body of the foreign country the accused persons is a citizen of.

Section 383c

Transport for the Purposes of Proceedings Abroad

If a transport of person for the purposes of criminal proceedings abroad is requested by a foreign country the supreme court shall rule on the admissibility of transport upon a motion by a foreign country. The provisions of Title Two are applied as appropriate to the decision on the admissibility of transportation and security measures.

Section 383d

Taking-over of a Person from a Foreign Country in Order to Perform a Procedure on the Territory of the Slovak Republic and His/Her Return

/1/ If the presence, either to serve as a witness or for confrontation, of a person is necessary for the purpose of a criminal prosecution on the territory of the Slovak Republic and this person is detained abroad or serves an imprisonment sentence abroad, the judge in the pre-trial proceedings upon a motion by the prosecutor and the presiding judge of panel in proceedings before a court shall rule that this person will be in detention on the territory of the Slovak Republic during the temporary transfer and shall ask the ministry of justice of the Slovak Republic for other measures.

/2/ In the decision pursuant to paragraph 1 the judge and in the proceedings before a court, the presiding judge of panel shall state that detention commences as of the day of such person's taking-over.

/3/ The person temporary transferred by a foreign country shall be taken-over by bodies of the Prison and Justice Guard Corps and they shall notify of the taking-over the body issuing the detention decision without delay .

/4/ After the performance of necessary procedures, however, the latest in the term stipulated by the foreign country, this person shall be returned.

/5/ The return of the person to the foreign country after the decision on release from detention ordered pursuant to paragraph 1 shall be arranged by the Ministry of Justice of the Slovak Republic.

Section 383e

Transfer of an Accused Foreigner or an Accused Person without Citizenship for the Performance of Procedures Abroad

/1/ Upon a motion by a foreign country an accused foreigner or an accused person without a citizenship who is in detention or serving a sentence of imprisonment may be temporary transferred to the territory of a foreign country in order to give testimony or confrontation.

/2/ Such a person may be temporary transferred provided the following conditions shall be satisfied:

a) the person stipulated in paragraph 1 will give his/her consent to it,

b) his/her absence shall not change the purpose of detention or execution of the sentence enforced on the territory of the Slovak Republic,

c) the temporary transfer shall not prolonge inappropriately duration of the custody enforced on the territory of the Slovak Republic,

d) the temporary transfer shall not prolonge inappropriately duration of the execution of the imprisonment sentence enforced on the territory of the Slovak Republic.

/3/ In the pre-trial proceedings the Prosecution General of the Slovak Republic and in the proceedings before a court the Ministry of Justice of the Slovak Republic shall rule on the permission of a temporary transfer of the person stipulated in paragraph 1 herein, after the conditions stipulated in paragraph 1 and 2 herein are satisfied. The Ministry of Justice of the Slovak Republic shall arrange the transfer of the person to the bodies of the foreign country.

/4/ The body deciding on the temporary transfer of the person stipulated in paragraph 1 herein shall, at the same time, determine the appropriate term during which the person temporary transferred shall be returned to the territory of the Slovak Republic. This term shall not be longer than 30 days.

/5/ The person transferred shall stay in detention on the territory of the foreign country and this shall be stated in the decision of the body which ruled pursuant to paragraph 3 herein. The same shall also apply when such a person is escorted over the territory of a third country.

/6/ The time spent in detention abroad shall not be included in the duration of terms pursuant to Section 71 paragraph 1 and 2. Ruling on this shall be made by the court and in the pre-trial proceedings by the judge upon prosecutor's motion (Section 71 paragraph 7). However, the time spent in custody abroad shall be included into the duration of the execution of a sentence served in the Slovak Republic. The court ordering sentence enforcement shall rule on it.

Title Four

Letters Rogatory

Section 384

/1/ Letters rogatory to foreign country courts and authorities to provide legal assistance as well as in providing legal assistance to foreign country courts and authorities shall be governed by regulations valid for relations with other countries in civil law cases as appropriate, provided it is not stipulated otherwise in an international treaty, and this shall also apply to criminal cases. .

/2/ Upon a request by a body of a foreign country a house search or personal search, seizure of things or other acts of legal assistance may be conducted in order to secure evidence for criminal proceedings held on the territory of a foreign country. Provisions of Title Three through Six of Chapter Six of the Code of Criminal Procedure shall be applied to the order of house or personal search, thing seizure or performance of another procedure.

/3/ The body enforcing letters rogatory pursuant to paragraph 2 may suspend the transfer of seized things when they are needed in pending criminal proceedings.

/4/ In the transfer of things seized pursuant to paragraph 2 the competent body shall request the foreign country to return the things. However, it may explicitly waive this right.

(5) Under conditions specified in the international agreement by which the Slovak Republic is bound the court may upon request of the foreign country's authority and on the prosecutor's motion rule on provisional seizure of property belonging to the person prosecuted abroad, or on provisional seizure of part of such a property.

(6) Competent to rule on the motion according to paragraph 5 is the district court in whose district is situated the property which is the subject matter of the motion.

(7) For the proceedings according to paragraphss 5 and 6 provisions of this law concerning securing of the execution of sentence of seizure of property shall be applied accordingly, unless the international agreement by which the Slovak Republic is bound provides otherwise.

Enforcement of Judgements by Foreign Country Courts

Section 384a

If a judgement of a foreign country court in a criminal case is to be enforced pursuant to a proclaimed international treaty by which the Slovak Republic is bound, the ministry of justice shall submit the case to the supreme court with a motion to rule on the acknowledgement of foreign court decision on the territory of the Slovak Republic. The supreme court shall rule on the motion with a judgement after hearing the prosecutor general.

Section 384b

If the foreign country judgement was acknowledged pursuant to Section 384a the ministry of justice may give its consent to take over the sentenced person for sentence enforcement or to ask the country which court pronounced the judgement to transfer the sentenced person.

Section 384c

(1) The sentenced person extradited by the foreign country shall be taken over by the unit of the Police Corps specified by the minister of interior; the Police Force Unit shall transfer him/her immediately to the nearest penal institution (prison).

(2) Within 24 hours, the judge of the court specified in section 384d shall rule on taking the transferred person into custody. He is not, however, bound by reasons for custody according to section 67.

Section 384d

The court competent pursuant to Section 14 through 18 shall rule on the enforcement of a foreign country court decision (Section 384a) with a judgement in a public session. The sentenced shall always have a defence counsel in these proceedings.

Art. 384e/

Acceptation and exercise of judgement on confiscation of property

1. The foreign judgement on confiscation of property or of part of property, on confiscation of thing or on seizure of thing, if this property or their part, or this thing is occurring on the area of Slovak republic, shall be accepted on territory of Slovak republic and exercised in accordance with international treaty which has been obliged for Slovak republic.

The draft on acceptance on base of request of foreign country is submitted to the Supreme court by Ministry of Justice. The Supreme court decides on acceptance of judgement according to para. 1 by his own judgement after examination of a general prosecutor.

By effectual of the acceptance judgement according to para. mentioned before, the owner of the confiscated property or thing, or of the seized thing, is coming to be a state which law has been accepted.

The execution of the accepted foreign judgement shall be enacted by the appropriate district court, in area which the property or the thing occurs. On execution of the judgement on confiscation on the property or thing, or on seizure of thing, which has been accepted shall be accordingly used the provisions of this law, if an international treaty which has been obliged for Slovak republic, doesn't enact other

CHAPTER FIVE

PROVISIONAL AND CONCLUDING PROVISIONS

Section 385

From July 1, 1990 the regulations on criminal proceedings valid prior to this date may be applied only within the limits of the provisions of this chapter.

Section 386

/1/ Regulations valid prior to this date shall be applied to offence proceedings in cases in which the court was delivered a motion for sentence prior to July 1, 1990.

/2/ Regulations valid prior to this date shall be applied to execution of corrective measure sentence imposed prior to July 1, 1990.

/3/ Penal orders issued prior to July 1, 1990 shall be subject present regulations.

Section 387

/1/ In the proceedings on retrial of criminal proceedings concluded with final validity prior to the effect of this act provisions of this act shall be applied. However, in such a case the conditions for retrial permission shall be viewed pursuant to the law which is more favorable for the accused.

/2/ If the decision which is challenged by the retrial motion was issued in the first instance by a court which is not existing anymore then the retrial motion shall be ruled by a court having substantive and territorial competence; if the former State Court ruled in the first instance then the retrial motion shall be ruled by the regional (higher military) court which would have territorial competence pursuant to this act.

Section 388

/1/ The regional court shall also be competent to hold proceedings in the first instance on criminal acts pursuant to regulations with an earlier effect which in their nature and seriousness correspond the criminal offences stipulated in Section 17 paragraph 1.

/2/ Decisions and measures concerning the enforcement of judgements pronounced by the Supreme Court of the Slovak Republic as a first instance court shall be issued by the Municipal Court at Bratislava and in the military judiciary sector the Higher Military Court at Trenčín.

Section 389

/1/ The decision on the non-enforcement of a sentence imposed for an act which shall not anymore constitute a criminal offence as a consequence of Criminal Act amendment shall be made by the court which ruled in the case in the first instance.

/2/ The decision on a proportional shortening of an aggregate and cumulative sentence imposed for an act which shall not anymore constitute a criminal offence as a consequence of Criminal Act amendment and for another concurrent criminal offence shall be made in a public session by the court which ruled in the case in the first instance.

/3/ If a death penalty imposed prior to July 1, 1990 was changed into an imprisonment sentence the court which ruled in the case in the first instance, shall rule on its execution manner in a public session.

/4/ A complaint against the decisions pursuant to paragraph 1 through 3 is admissible and it has a suspensive effect.

Section 390

Act No. 64/1956 Coll. on court criminal proceedings (the Code of Criminal Procedure) shall be hereby cancelled.

Section 391

Minister of justice may stipulate which procedures commissioned to the presiding judge of panel pursuant to this act may be performed by another officer of the court.

Section 391a

/1/ Ministry of justice shall hereby be authorized to issue for district and regional courts standing orders stipulating in more detail the procedure by district and regional courts in the administration of criminal cases, as a generally binding legal regulation.

/2/ After an agreement with the Ministry of Interior of the Slovak Republic, the Ministry of Justice of the Slovak Republic shall hereby be authorized to stipulate the procedure for the enforcement of extradition sentence in a generally binding legal regulation .

Section 391b

After an agreement with the Prosecution General of the Slovak Republic and the Ministry of Finance of the Slovak Republic, the Ministry of Justice of the Slovak Republic shall hereby be authorized to stipulate the

procedure for competent bodies in securing and administering seized property, in a generally binding legal regulation .

Section 391c

/1/ The supreme court shall be competent to act in proceedings in pending cases in which the Supreme Court of the Czech and Slovak Federal Republic had substantive competence pursuant to the present regulations if a body acting in criminal proceedings with a seat in the territory of the Slovak Republic ruled in the first instance.

/2/ The supreme court shall be competent to act in proceedings on complaints against violation of the law which pursuant to the present valid laws were the competence of the Supreme Court of the Czech and Slovak Federal Republic provided a body acting in criminal proceedings with its seat in the territory of the Slovak Republic ruled the case in the first instance.

/3/ The supreme court shall be competent to act in proceedings on violation of the law in cases ruled by the former State Court or the former Supreme Court as the court of first instance if a court with its seat in the territory of the Slovak Republic was competent to act in the first instance pursuant to present valid regulations.

/4/ Proceedings on removal of the case from the court with its seat in the Slovak Republic and its assignment to a court in the Czech Republic and vice versa shall be not continued as of January 1, 1993.

2. Act of 20 June 2002 amending and supplementing the Criminal Procedure Act No. 141/1961 (excerpts)

NATIONAL COUNCIL OF THE SLOVAK REPUBLIC

Act
of 20 June 2002,
amending and supplementing Criminal Procedure Act No. 141/1961 Coll. (Code of Criminal Procedure) as amended, amending and supplementing certain other laws

The National Council of the Slovak Republic has enacted the following Act:

Article I

Criminal Procedure Act No. 141/1961 Coll. (Code of Criminal Procedure) as amended by Act No. 57/1965 Coll., Act No. 58/1969 Coll., Act No. 149/1969 Coll., Act No. 48/1973 Coll., Act No. 29/1978 Coll., Act No. 43/1980 Coll., Act No. 159/1989 Coll., Act No. 178/1990 Coll., Act No. 303/1990 Coll., Act No. 558/1991 Coll., Act of the National Council of the Slovak Republic No. 6/1993 Coll., Act of the National Council of the Slovak Republic No. 156/1993 Coll., Act of the National Council of the Slovak Republic No. 178/1993 Coll., Act of the National Council of the Slovak Republic No. 247/1994 Coll., Finding of the Constitutional Court of the Slovak Republic No. 222/1998 Coll., Act No. 256/1998 Coll., Act No. 272/1999 Coll., Act No. 173/2000 Coll., Act No. 366/2000 Coll., Act No. 253/2001 Coll., Act No. 182/2002 Coll. and Act No. 215/2002 Coll. shall be amended and supplemented as follows:

3. New paragraphs 13 and 14 shall be added to Section 12, reading as follows:

"(13) For the purposes of this Act, means of electronic surveillance shall mean electronic, radiotechnical, phototechnical, optic, mechanical, chemical and other technical devices and equipment or their sets used in a covert manner for intercepting and recording telecommunications (Section 88) or for making video, audio or other recordings (Section 88e), whose use interferes with fundamental human rights and freedoms. The processing of information obtained by means of electronic surveillance, its recording, documenting, storing and discarding shall be governed by separate legal regulations, unless this Act provides otherwise. Operators of public telephone networks, providers of public telecommunications services, providers of other telecommunications services and their employees shall be obliged, upon request, to cooperate at no costs and without delay in using the means of electronic surveillance; they shall not have the right to invoke an obligation of confidentiality laid down under separate laws.

(14) For the purposes of this Act, the means used for operational and search activities (undercover police tactics) shall include controlled delivery (Section 88a), deployment of undercover agents (Section 88b), pretended transfer (Section 88c) and surveillance of persons and things (Section 88d)."

23. Section 79c paragraph 1 shall read as follows:

"(1) Where money held on the account in a bank or in a subsidiary of a foreign bank is materially relevant for criminal proceedings,⁹⁾ the presiding judge of a panel or the prosecutor during formal investigation may issue an order to freeze the account."

24. In Section 79c paragraph 5, the text "or to a subsidiary of a foreign bank" shall be inserted after the text "the bank".

25. In footnote 9 the reference "Section 1 paragraph 1, Section 2 and Section 3 paragraph 1 of Banking Act No. 21/1992 Coll. as amended" shall be replaced by reference "Section 2 of Banking Act No. 483/2001 Coll. amending and supplementing certain other laws."

26. A new Section 79d shall be inserted after Section 79a which, including the heading, shall read as follows:

"Section 79d
Attachment of registered securities

(1) Where the registered securities are materially relevant for criminal proceedings, the presiding judge of a panel or the prosecutor during formal investigation may issue an order requesting registration of the suspension of the right of disposal with the securities.

(2) Where the attachment of registered securities is no longer required for the purposes of criminal proceedings, the presiding judge of a panel or the prosecutor during formal investigation shall forthwith issue an order requesting registration of the withdrawal of the suspension of the right of disposal with the securities.

(3) The order pursuant to paragraphs 1 and 2 shall be issued in writing and duly justified."

27. The text "telecommunications operations" in the heading of Title Six of Chapter Four and in Section 88 shall be replaced with the text "telecommunications activities".

28. Section 88 paragraph 1 shall read as follows:

"(1) Where criminal proceedings is conducted in respect of a particularly serious criminal offence, corruption, criminal offence under Section 158 of the Criminal Code, or in respect of a wilful criminal offence where so provided by a promulgated international treaty, it shall be possible to issue an order to intercept and record telecommunications activities if there are reasonable grounds to believe that it will reveal facts that are materially relevant for criminal proceedings. Where, in the course of intercepting and recording telecommunications activities, the defendant is found to be in communication with his counsel, no information thus obtained may be used for the purposes of criminal proceedings, and any such information must be forthwith destroyed in a prescribed manner; this shall not apply to information relating to a case in which counsel does not represent the defendant."

29. A new paragraph 2 shall be inserted after paragraph 1 Section 88, reading as follows:

"(2) The order to intercept and record telecommunications activities shall be issued in writing prior to the commencement of prosecution or during formal investigation by a judge acting on a proposal from a prosecutor or, in the proceedings before the court, by a judge or the presiding judge of a panel even in the absence of such a proposal. If the matter bears no delay and a prior written order from a judge cannot be obtained, the order may be issued by a prosecutor before the commencement of prosecution, unless interception and recording of telecommunication activities is connected with entering the dwelling of a person; such order shall have to be confirmed by a judge within 24 hours of its issuance; failing that, the order shall become null and void and information obtained on its basis may not be used for the purposes of criminal proceedings and shall have to be immediately destroyed in a prescribed manner".

Existing paragraphs 2 through 5 shall be designated paragraphs 3 through 6.

30. Section 88 paragraph 4 shall read as follows:

"(4) In criminal proceedings conducted in respect of a wilful criminal offence which is different than that referred to in paragraph 1, the order to intercept and record telecommunication activities prior to the commencement of prosecution or during formal investigation shall be issued by a judge acting on a proposal from a prosecutor or, in the proceedings before the court, by a judge or the presiding judge of a panel even in

the absence of such a proposal only with the consent of the subscriber to the telecommunications equipment subject to interception or recording."

31. The last sentence of Section 88 paragraph 5 shall be deleted.

32. New paragraphs 6 and 7 shall be inserted after Section 88 paragraph 5, reading as follows:

"(6) Competent police authority shall be obliged to continuously review the grounds for issuing the order to intercept and record telecommunication activities. Where such grounds cease to exist, interception and recording of telecommunication activities shall have to be discontinued, even before the expiry of the time limit referred to in paragraph 3. Competent authority of the Police Corps shall forthwith notify of this fact the entity that issued the order to intercept and record telecommunication activities.

(7) Recordings obtained by means of intercepting and recording telecommunications activities may be used in a different criminal case than the one for which it was initially ordered, only if criminal proceedings conducted in the other case involve a criminal offence referred to in paragraph 1."

The existing paragraph 6 shall be designated paragraph 8.

33. The text in Section 88 paragraph 8 reading "destroy in accordance with discarding rules that are binding on the criminal justice authority or competent body of the Police Corps" shall be replaced with the text "destroy forthwith in a prescribed manner".

34. The heading above Section 88b shall read:

"Title Eight"
Undercover agent"

35. In Section 88b paragraphs 5 and 6, the text "prior to the commencement of formal investigation" shall be replaced with the text "prior to the commencement of prosecution".

36. A new Title Nine shall be inserted after Section 88b which, including the heading, shall read:

"Title Nine
Pretended transfer, surveillance of persons and things and production of visual, audio and other recordings

Section 88c
Pretended transfer

(1) Pretended transfer shall mean feigned purchase, sale or other transfers of objects whose possession is subject to a special permit or prohibited, objects obtained by crime or intended to commit a crime. Pretended transfer may be carried out in criminal proceedings on wilful criminal offences liable to a sentence of imprisonment for a term whose upper limit exceeds three years, corruption, criminal offence according to Section 158 of the Criminal Code, or another wilful criminal offence provided for under a promulgated international treaty, if there are reasonable grounds to believe that it will reveal facts that are materially relevant for criminal proceedings.

(2) The order to carry out a pretended transfer shall be issued in writing prior to the commencement of prosecution or during formal investigation by a prosecutor or, during proceedings before the court, by a judge or presiding judge of a panel.

(3) Pretended transfer shall be carried out by the body authorised to this effect by the competent minister ("competent body" hereinafter), namely

- a) Minister of Interior for the Police Corps,
- b) Minister of Justice for the Corps of Prison and Court Guard,

- c) Minister of Finance for customs and tax authorities,
 - d) Minister of Defence for Military Police,
 - e) Minister of Transport, Post and Telecommunications for Railway Police.
- (4) The order to carry out a pretended transfer may be issued only on the basis of a written request from an investigator, police authority or competent body (paragraph 3), or from a prosecutor in the proceedings before the court. The request must be substantiated by information of criminal activities and, where available, by information on persons and things concerned by the pretended transfer.
- (5) Pretended transfer may be carried out even without the order referred to in paragraph 2 only where the matter bears no delay and where a prior order cannot be obtained; however, the competent body is obliged to forthwith request the order. Unless the order is issued within 24 hours, competent body shall have to discontinue the pretended transfer and no information thus obtained may be used and must be destroyed forthwith in a prescribed manner.
- (6) Where the records made in connection with a pretended transfer are to be used as evidence, provisions of Section 88 paragraph 5 apply.
- (7) Where necessary, suitable means may be used to record the course of the procedure referred to in paragraph 1.

Section 88d

Surveillance of persons and things

- (1) Surveillance of persons or things ("surveillance" hereinafter) shall mean the acquisition of information concerning movements and activities of persons, or movements of things by covert means; surveillance may be conducted in criminal proceedings concerning a wilful criminal offence if there are reasonable grounds to believe that it will reveal facts that are materially relevant for criminal proceedings.
- (2) The order to conduct surveillance shall be issued in writing prior to the commencement of prosecution or during formal investigation by a prosecutor or, during proceedings before the court, by a judge or presiding judge of a panel.
- (3) Surveillance shall be conducted by the competent body of the Police Corps. Where, in conducting surveillance, the defendant is found to be in communication with his counsel, no information thus obtained may be used for the purposes of criminal proceedings, and any such information must be immediately destroyed in a prescribed manner; this shall not apply to information relating to a case in which counsel does not represent the defendant."
- (4) If it is absolutely necessary to conduct surveillance in a dwelling (Section 82 paragraph 1), non-residential premises or on property that is not publicly accessible (Section 82 paragraph 2), or to use electronic means of surveillance (Section 12 paragraph 13), the surveillance order shall be issued prior to the commencement of prosecution or during formal investigation by a judge on a proposal from a prosecutor or, in the proceedings before the court, by a judge or presiding judge of a panel even in the absence of such a proposal, provided that no other surveillance method can lead to obtaining information that is materially relevant for criminal proceedings; the order shall specify in which dwelling, non-residential premises or on which property that is not publicly accessible shall the surveillance be conducted, or shall specify the means of electronic surveillance to be used. Where the matter bears no delay, the order may be issued – rather than by the competent judge or presiding judge of a panel (Section 18) – by the judge or the presiding judge of a panel having jurisdiction over the place where surveillance is to be conducted. No other steps of criminal procedure than those that are strictly necessary for surveillance purposes may be performed after the entry to the dwelling, non-residential premises or on property that is not publicly accessible.
- (5) The surveillance order may be issued only on the basis of a written request from an investigator, police authority or competent body of the Police Corps, or from a prosecutor in the proceedings before the court. The request must be substantiated by concrete suspicion of criminal activities and, where available, include information on persons and things to be placed under surveillance. The order must specify the duration of surveillance; it may not exceed six months. The entity that issued the surveillance order may extend the duration of surveillance in writing for an additional six-month period, even repeatedly.

(6) The competent body of the Police Corps shall be obliged to permanently review existence of the grounds for issuing the surveillance order. Where the grounds cease to exist, surveillance shall have to be discontinued, even before expiry of the time limit referred to in paragraph 5. The competent body of the Police Corps shall forthwith notify of this fact the entity that issued the surveillance order.

(7) Where the matter bears no delay and no prior written order can be obtained, surveillance may be initiated even without an order except for cases referred to in paragraph 4. However, the competent body of the Police Corps is obliged to forthwith request the issuance of the order. Unless the order is issued within 24 hours, the competent body shall have to discontinue surveillance; no information thus obtained may be used and must be destroyed forthwith in a prescribed manner.

(8) If the records made during surveillance are to be used as evidence, provisions of Section 88 paragraph 5 shall apply.

(9) In a different criminal matter from the one in which surveillance was conducted, records obtained may be used as evidence only if criminal proceedings conducted in the other case concern a wilful criminal offence liable to a sentence of imprisonment for a term whose upper limit exceeds three years, corruption, criminal offence under Section 158 of the Criminal Code, or another wilful criminal offence where so provided under a promulgated international treaty.

(10) If no facts relevant for criminal proceedings are established through surveillance, surveillance records must be destroyed forthwith in a prescribed manner.

Section 88e

Production of video, audio or other recordings

(1) In the criminal proceedings conducted in respect of a wilful criminal offence liable to a sentence of imprisonment for a term whose upper limit exceeds three years, corruption, criminal offence according to Section 158 of the Criminal Code, or another wilful criminal offence where so provided under a promulgated international treaty, video, audio or other recordings may be made if there are reasonable grounds to believe they will reveal facts that are materially relevant for criminal proceedings.

(2) The order to make video, audio or other recordings shall be issued in writing prior to the commencement of prosecution or during formal investigation by a judge on a proposal from a prosecutor or, during proceedings before the court, by a judge or presiding judge of a panel even in absence of such proposal. If the matter bears no delay and a prior written order from of a judge may not be obtained prior to the commencement of prosecution, such order may be issued by a prosecutor; this order shall have to be confirmed by a judge within 24 hours of its issuance; failing that, the order shall become null and void and information obtained on its basis may not be used for the purposes of criminal proceedings and shall have to be forthwith destroyed in a prescribed manner.

(3) Video, audio or other recordings shall be made by the competent body of the Police Corps. Where, in making video, audio or other recordings, the defendant is found to be in communication with his counsel, no information obtained in this manner may be used for the purposes of criminal proceedings and any such information must be forthwith destroyed in a prescribed manner; this shall not apply to information relating to a case in which counsel does not represent the defendant."

(4) Where it is absolutely necessary to make video, audio or other recordings in a dwelling (Section 82 paragraph 1), in non-residential premises or on property that is not publicly accessible (Section 82 paragraph 2), the order shall be issued prior to the commencement of prosecution or during formal investigation by a judge on a proposal from a prosecutor, in the proceedings before the court by a judge or presiding judge of a panel even in the absence of such a proposal, provided that information which is materially relevant for criminal proceedings may not be obtained through other means of making video, audio or other recordings; the order shall specify the dwelling, non-residential premises or property that is not publicly accessible in which video, audio or other recordings are to be made. Where the matter bears no delay, the order may be issued – rather than by the competent judge or presiding judge of a panel (Section 18) – by the judge or presiding judge of a panel that has jurisdiction over the place where video, audio or other recordings are to be made. No other steps of criminal procedure than those that are strictly necessary for surveillance purposes

may be performed after the entry to the dwelling, non-residential premises or on property that is not publicly accessible.

(5) The order to make video, audio or other recordings may be issued only on the basis of a written request which must be substantiated by concrete suspicion of criminal activities and information on persons and things involved in the pretended transfer, where available. The order must specify the length of time during which video, audio or other recordings can be made; this period may not exceed six months. The entity that issued the order to make video, audio or other recordings, may extend the period in writing for an additional six-month period, even repeatedly.

(6) The competent body of the Police Corps shall be obliged to permanently review existence of the grounds that led to the issuance of the order to make video, audio or other recordings. Where the grounds cease to exist, recordings shall have to be discontinued, even before the expiry of the period referred to in paragraph 5. The competent body of the Police Corps shall forthwith notify of this fact the entity that issued the order to make video, audio or other recordings.

(7) If video, audio or other recordings are to be used as evidence, provisions of Section 88 paragraph 5 shall apply.

(8) Video, audio or other recordings may be used as evidence in a different criminal case than the one for which they were obtained only if criminal proceedings conducted in the other case concern an offence referred to in paragraph 1.

(9) If no facts of relevance for criminal proceedings are revealed through video, audio or other recordings, competent body shall have to forthwith destroy the recordings thus obtained in a prescribed manner."

37. Section 89 paragraph 2 shall read as follows:

"(2) It shall be possible to use as evidence anything that may contribute to properly clarifying the matter and that has been obtained in a lawful manner from the means of evidence. The means of evidence shall include, in particular, interrogation of the defendant, examination of witnesses and expert statements, verification of the testimonies on the scene, identification line-up, re-enactment, investigation attempts, examination, things and documents materially relevant for criminal proceedings, information (Section 59 paragraph 2), electronic surveillance (Section 12 paragraph 13) and means of operational and search activities (undercover police tactics) (Section 12 paragraph 14)."

101. A new Chapter 23 shall be inserted after Section 370; it shall read, including the heading, as follows:

CHAPTER TWENTY THREE LEGAL RELATIONS WITH ABROAD

Section ONE General provisions

Article 371 Definitions

For the purposes of this Chapter:

a) an international treaty means such an international treaty which was promulgated in a manner prescribed by the law and which has priority over the law,

b) an international court means an international criminal court, set up by an international treaty or by a decision of an international organisation which is binding the Slovak Republic, and its authorities,

c) a foreign authority is an authority of another State which, under the internal law of that State or under an international treaty, has jurisdiction to act, to make or receive a request or carry out other forms of assistance regulated in this Chapter, as well as an international court,

d) a Slovak authority is an authority of the Slovak Republic having jurisdiction to act in matters regulated in this Chapter,

- e) a requested State or authority is the State or the authority to which a request for assistance regulated in this Chapter was transmitted,
- f) a requesting State or authority is the State or the authority which made a request for assistance regulated in this Chapter,
- g) a prison sentence includes also a protective measure connected with deprivation of liberty, unless the nature of the matter suggests otherwise.

Article 372
International treaties

Provisions of this Chapter shall be applied unless an international treaty provides otherwise.

Article 373
Reciprocity

(1) If the requesting State is not bound by an international treaty, its request shall only be executed by the Slovak authorities if the requesting State guarantees that it would execute a comparable request submitted by the Slovak authority and it is a kind of a request whose execution is not made in this Chapter conditional upon the existence of an international treaty.

(2) If the requested State, which is not bound by an international treaty, makes the execution of the request made by the Slovak authority conditional upon reciprocity, the Ministry of Justice or the Prosecutor General's Office of the Slovak Republic (hereinafter referred to as "the Prosecutor General's Office") may guarantee reciprocity to the requested State for the purposes of execution of a comparable request should it be made by the requested State provided it is a kind of a request whose execution is not made in this Chapter conditional upon the existence of an international treaty.

Article 374
International courts

(1) Procedures under this Chapter shall also be applicable to requests emanating from an international court.

(2) The procedure and the decision-making relating to the surrender of a person to an international court shall be governed *mutatis mutandis* by the provisions of Section Two of this Chapter on extradition.

(3) The enforcement of the judgement made by an international court in the territory of the Slovak republic shall be governed *mutatis mutandis* by the provisions of Section Three of this Chapter on recognition and enforcement of foreign decisions.

Article 375
Protection of the State's interests (Ordre Public)

A request by a foreign authority may not be executed if its execution would be incompatible with the Constitution of the Slovak Republic or a mandatory rule of the law of the Slovak Republic or if by the execution of the request an important protected interest of the Slovak Republic would be violated.

Article 376
Protection and use of information

(1) The provision of information by the Slovak authorities on their actions taken under this Chapter shall be governed *mutatis mutandis* by Article 8a.

(2) Slovak authorities shall neither make public nor forward information or evidence received from a foreign authority on the basis or in connection with a request received or made under this Chapter nor shall they use it for purpose other than that for which it was provided or requested if an international treaty contains an obligation to this effect or if the foreign authority provided the information or evidence only under the condition of compliance with such restrictions.

(3) The provision of paragraph 2 shall not be applied if the foreign authority gives its consent to consents to making the information or evidence public or to using it for a different purpose.

Article 377

Commencement of procedure

Slovak authorities may start acting under this Chapter on the basis of a request by a foreign authority which was transmitted by facsimile or other electronic means, if they have no doubt about its authenticity and if the matter is urgent. The original of the request must be submitted subsequently within the deadline imposed by the requested authority.

Article 378

Communication through INTERPOL

(1) Incoming or outgoing requests under this Chapter can also be transmitted through the International Criminal Police Organisation (hereinafter referred to as “INTERPOL”), in particular in urgent cases.

(2) Information on the dates and other modalities of surrender or transit of persons or things under Article 379 may also be exchanged through INTERPOL.

Article 379

Surrender of persons and things

(1) Person extradited or surrendered from another State on the basis of a request made under this Chapter shall be taken over from the foreign authorities by the police authorities designated by the Minister of Interior. Unless otherwise provided in this Chapter, the police shall surrender the person to the nearest custody or prison facility which shall inform the competent court without delay.

(2) Person extradited or surrendered to another State on the basis of a request made under this Chapter shall be taken over from the custody or prison facility by the police authorities designated by the Minister of Interior and surrendered to the foreign authorities.

(3) The transit of a person through the territory of the Slovak Republic under Article 435 shall be carried out by the police authorities designated by the Minister of Interior.

(4) Coercive measures provided for in a separate act shall be applicable to the restriction of personal liberty of the person in transit.

(5) The police authorities designated by the Minister of Interior shall also surrender and take over things under Article 442 as well as take over and return things surrendered from another State upon a request by Slovak authorities if it not possible or opportune to send such things by post, and shall carry out the transit of a thing trough the territory of the Slovak Republic upon a request by foreign authorities.

Article 380

Travel documents

Persons surrendered, on the basis of the provisions of this Chapter, to or by the foreign authorities shall not require either travel documents or a permission or visa to cross the national border.

Article 381

Form of court decision

If in the procedure under this Chapter the decision is taken by the court, it shall decide by a resolution, unless the provisions of this Chapter provide otherwise.

Article 382

Costs

(1) Costs incurred by the Slovak authority in execution of a request by a foreign authority under this Chapter shall be borne by the State and settled by the authority which incurred them.

(2) If an international treaty allows for reimbursement of costs referred to in paragraph 1 or a part of such costs, or in case of an absence of an international treaty, the authority which incurred the costs shall submit to the Ministry of Justice the enumeration of the costs, their justification and its bank account number in order to obtain the reimbursement from the requesting State.

(3) Costs incurred by the foreign authority in connection with a request made by a Slovak authority, the reimbursement of which is claimed by the requested State under an international treaty or due to its absence, shall be borne by the State and settled by the Slovak authority who initiated the request for assistance. Costs incurred by the foreign authority by effecting the transit of a person or a thing from a third State to the Slovak Republic in connection with a request made by a Slovak authority shall be settled by the Ministry of Interior of the Slovak Republic. These provisions are without prejudice to the possibility of reimbursement of these costs by the sentenced person in the context of the obligation to pay the costs of criminal proceedings.

SECTION TWO

Extradition

Subsection One

Requesting extradition

Article 383

(1) The Ministry of Justice may request extradition of an accused¹ from another State on the basis of the request by the court which issued a warrant of arrest under Article 384.

(2) The Ministry of Justice may refrain from making the request if extradition from abroad cannot be expected. It shall inform to this effect the court which issued the warrant of arrest under Article 384.

Article 384

(1) If the accused stays abroad and if his extradition is necessary, the presiding judge or the judge of the competent court shall issue a warrant of arrest (hereinafter referred to as the “international warrant of arrest”). In the pre-trial, the judge shall issue the international warrant of arrest upon a motion by the prosecutor.

(2) The court shall issue an international warrant of arrest in particular if:

¹ Explanatory note: the term „accused“ is used here in the sense of a definition provided earlier in the Code under which the term „accused“ includes also a „sentenced“ person unless the context of the provision suggests otherwise. *A contrario* when the term „sentenced“ is used in this Chapter it means (again in the sense of a definition earlier in the Code) *only* the sentenced (a.k.a. the person which was sentenced by a final judgement).

- a) by residing abroad the accused avoids his criminal prosecution and it is not possible to secure his personal appearance in the criminal proceeding, or
 - b) the sentenced person stays abroad and does not submit himself to the enforcement of the imposed prison sentence despite the fact that he was duly served the order to do so, or if by residing abroad he avoids the enforcement of the final prison sentence or of its remainder.
- (3) An international warrant of arrest for the purposes of extradition of an accused shall contain:
- a) the name and surname of the accused, the date a place of his birth, his nationality, his place of permanent residence in the Slovak Republic and other available data facilitating his identification, including his description and photograph, or information on his place of residence abroad,
 - b) the legal qualification of the criminal offence with reference to the applicable legal provisions and the description of the facts providing the exact time, place and manner of its commission,
 - c) the verbatim wording of the applicable legal provisions including the sanction which can be imposed, as well as the legal provisions relating to prescription, and
 - d) if a period longer than three years has passed between the commission of the offence and the issuance of the international warrant of arrest, the description of actions influencing the run of the prescription.
- (4) An international warrant of arrest for the purposes of extradition of a sentenced person shall, in addition to the information referred to in paragraph 3 lit. a/ to c/, contain also details of the court imposing the sentence and of the sanction imposed, and if the judgement was issued in the proceedings against a fugitive from justice or in absentia, information on how the rights of defence of the accused were guaranteed in the proceedings as well as the wording of the provision of Article 388. The original or an authenticated copy of the relevant judgement with the finality clause shall be appended to the warrant of arrest.
- (5) The international warrant of arrest shall bear the signature of the judge who issued it and the seal of the court. If in relation to the requested State a translation of the international warrant of arrest into a foreign language is required, the court shall attach to it a translation made by an official translator. If extradition for the enforcement of a sentence is requested, the same shall apply to the translation of the judgement.
- (6) If the surrender of the extradited person shall necessitate his transit through the territory of another State or States, the court shall submit the documents to the Ministry of Justice in the required number of copies and with translations into the required foreign languages.
- (7) An international warrant of arrest shall become null and void by the surrender of the extradited person to the territory of the Slovak Republic or by its revocation. The court which issued the international warrant of arrest shall revoke it if the reasons for which it was issued no longer exist. The court shall immediately inform the Ministry of Justice of such a revocation.

Article 385

The court shall not issue an international warrant of arrest, if

- a) imposition of only a sentence other than a prison sentence is anticipated or if a prison sentence shorter than 4 months is anticipated,
- b) the prison sentence, or its remainder, to be enforced is shorter than 4 months,
- c) by the extradition the Slovak Republic would incur expenses or suffer consequences incommensurate to the public interest in the criminal prosecution, or the enforcement of the sentence, of the person to be extradited,
- d) taking into account the age, social status or family circumstances of the person whose extradition is sought, he would be inadequately severely punished by his extradition in proportion to the level of gravity and the consequences of the criminal offence.

Article 386

(1) In a case of urgency, the Ministry of Justice or the court having jurisdiction to issue an international warrant of arrest may request the foreign authorities to arrange for the provisional arrest of the accused. In the pre-trial the court shall proceed so upon a motion by the prosecutor. Such request shall contain the

information specified in Article 384 par. 3 lit. a/ and b/ as well as a statement that an international warrant of arrest has been or will be issued against the accused and that his extradition will subsequently be requested.

(2) The court shall promptly inform the Ministry of Justice that it made such a request and submit to the Ministry an international warrant of arrest issued in accordance with the provisions of Article 384, paragraphs 3 to 5.

Article 387

(1) The police shall surrender the extradited person without delay to the court whose judge issued the international warrant of arrest. If the person is being extradited on the basis of several international warrants of arrest emanating from different courts, the person shall be surrendered to the court designated by the Ministry of Justice.

(2) Unless the person was extradited to serve a sentence, the judge shall hear the accused within 48 hours, and in cases of extremely grave offences within 72 hours, of his surrender and decide on his custody.

(3) The time spent in transit to the territory of the Slovak Republic shall not be counted against the deadlines provided for in Article 71. The decision to this effect shall be made by the court and in the pre-trial by a judge upon a motion by the prosecutor.

(4) The time specified in paragraph 3 shall, however, be deduced from the length of the sentence to be served in the Slovak Republic.

Article 388

(1) If the requested State granted extradition of a person while making a reservation, such reservation must be honoured.

(2) If the extradition of the person was requested or granted for the enforcement of the prison sentence only in respect of some of the several criminal offences for which a concurrent or combined sentence had been imposed, the court in a public hearing shall determine the sentence proportionate to the criminal offences for which extradition was granted.

(3) If the requested State granted extradition of a person for the enforcement of a prison sentence imposed in a final judgement while making a reservation in respect of the proceedings preceding such a judgement, the court in a public hearing shall hear the extradited person and

a) if the extradited person does not object against the enforcement of the imposed sentence, it shall order the enforcement of the judgement, or

b) if the extradited person objects against the enforcement, it shall annul the judgement and rule at the same time on custody. If it is necessary to gather further evidence, the court may return the case to the prosecutor for further investigation. Otherwise, the court, after its decision became final, shall continue the criminal proceeding on the basis of the original indictment.

(4) The court which adjudicated the case in the first instance shall have jurisdiction to conduct the proceedings provided for in paragraph 3.

(5) An appeal (5) against the decision under paragraph 3 lit. b) shall be admissible and, with the exception of the ruling on custody, it shall have a postponing effect.

Article 389

Rule of speciality

(1) The extradited person may only be prosecuted for criminal offences for which he was extradited, unless:

a) after his release from the custody or the prison sentence, he remains in the territory of the Slovak Republic for a period longer than 15 days in spite of the fact that he had an opportunity to leave,

b) he leaves the territory of the Slovak Republic and voluntarily returns or is lawfully returned there from a third State,

- c) the requested State waives the application of the rule of speciality, or grants additional consent for criminal prosecution for the other criminal offences, or
- d) the person to be extradited waives expressly, in the course of extradition proceedings, the application of the rule of speciality in general or in respect of specific offences committed before the extradition.
- (2) If the extradited person did not waive the application of the rule of speciality under paragraph 1 lit. d/ and if an international treaty so allows, the court which issued the international warrant of
- (3) arrest shall hear the person in the presence of his defence counsel and advise him of the possibility of his waiver of the rule of speciality and the consequences thereof. The consent of the extradited person to waive the application of the rule of speciality shall be recorded by the court in a protocol which shall include the specification of the offences in respect of which the waiver was made.
- (3) A request by the extraditing State for the transfer of criminal proceedings in respect of criminal offences committed in its territory prior to the extradition shall be construed as its additional consent under paragraph 1, lit. c/. The same applies to laying of information by the requested State which may lead to criminal prosecution.
- (4) Submission of a request to the requested State for the purposes of granting additional consent for the purposes of criminal prosecution for offences not included in the original request for extradition shall be governed *mutatis mutandis* by the provisions of Articles 383 and 384.
- (5) The provisions of paragraphs 1, 2 and 4 shall be applied *mutatis mutandis* also to cases of enforcement of a prison sentence which was imposed on the extradited person by the court of the Slovak Republic (henceforward “the Slovak court”) before his extradition and which was not object of the original request for extradition.

Article 390

- (1) If after the granting of extradition the requested State does not surrender the extradited person to the territory of the Slovak Republic due to the fact that the person is being prosecuted by the authorities of that State or that he must serve a prison sentence imposed by the authorities of that State in respect of criminal offences other than those which were the object of the request for extradition, the court whose judge issued the international warrant of arrest may ask the Ministry of Justice to request the temporary surrender of the extradited person to the territory of the Slovak Republic in order to carry out procedural acts necessary for the completion of the criminal proceedings.
- (2) The motion which the court submits to the Ministry of Justice shall specify the procedural acts for which the presence of the extradited person is necessary. It shall also specify the date or the period of time for which the personal appearance shall be arranged.
- (3) The provisions of Article 441 shall apply *mutatis mutandis* to the arrangements for the temporary surrender of the extradited person.

Subsection Two

Extradition abroad

Article 391

- (1) The requests by foreign authorities for extradition of a person from the Slovak Republic shall be submitted to the Prosecutor General’s Office. The request shall also be deemed received if submitted to the Ministry of Justice, which shall immediately forward the request to the Prosecutor General’s Office.
- (2) The request shall be submitted in writing and shall be supported by:
- a) the original or an authenticated copy of the sentence, warrant or arrest or another order having equal effects,
 - b) description of the criminal offences for which extradition is requested, including the date and place of their commission and their legal qualification,
 - c) the wording of the applicable legal provisions of the requesting State.

(3) If the request was not supported by the documents or information specified in paragraph 2 or if the information provided is insufficient, the Prosecutor General's Office shall request additional information and may impose a deadline for its provision.

Article 392

Extraditable offences

(1) Extradition shall be admissible if the act for which extradition is requested is a criminal offence under the law of the Slovak Republic and is punishable under the same law by a prison sentence for a maximum period of at least one year.

(2) Extradition for the purposes of the enforcement of a prison sentence imposed for the criminal offence specified in paragraph 1 shall be admissible if the sentence imposed or the remainder to be served is at least 4 months. Several sentences or non-served remainders of several sentences shall be added up.

Article 393

Accessory extradition

If the foreign authority requested extradition for several acts at least one of which fulfils the conditions set down in Article 392 paragraph 1, extradition shall also be admissible for criminal prosecution of other criminal offences, or enforcement of prison sentences, for which extradition would otherwise be inadmissible due to insufficient sanction or the remainder of the sentence.

Article 394

Inadmissibility of extradition

Extradition shall be inadmissible if:

- a) it concerns a Slovak national, unless the obligation to extradite own nationals is contained in an international treaty or a decision of an international organisation which is binding the Slovak Republic,
- b) it concerns a person who applied in the Slovak Republic for a refugee status or who was granted such a status, to the extent of the protection provided to such persons by a separate act or by an international treaty,
- c) the criminal prosecution or the enforcement of the sentence are prescribed under the law of the Slovak Republic,
- d) the criminal offence for which extradition is requested is solely of a political or military nature,
- e) the criminal offence constitutes a violation of tax, customs, foreign exchange regulations or any other fiscal rights of the State (hereinafter referred to as a "fiscal offence"),
- f) the criminal offence was committed in the territory of the Slovak Republic, unless, due to the specific circumstances of the commission of the offence, priority shall be given to the criminal prosecution in the requesting State, for reasons of establishment of the facts, the degree of punishment or the enforcement of the sentence,
- g) the capital punishment may be imposed for the criminal offence for which extradition is requested, unless the requesting State shall guarantee that such punishment shall not be imposed,
- h) the requesting State requests extradition for the execution of the capital punishment, or
- i) the person whose extradition is requested would not, under the law of the Slovak Republic, be considered criminally responsible at the time of the commission of the offence or there are other factors excluding his criminal responsibility.

Article 395

Preliminary investigation

(1) The prosecutor to whom the Prosecutor General's Office forwarded the request by a foreign authority for extradition of a person abroad, or who learns about an offence which may be the object of another State's extradition request, shall conduct a preliminary investigation. The goal of the preliminary investigation is to determine whether conditions for the admissibility of extradition are met.

(2) During the extradition proceedings the person whose extradition is sought shall be represented by a defence counsel.

(3) The prosecutor shall hear the person and inform him about the content of the extradition request. He shall serve a copy of the request and the sentence, the warrant of arrest or of another order on which the request is based.

(4) If the person whose extradition is sought was placed in provisional arrest or in custody pending extradition, his contacts with his defence counsel and attorney and the correspondence in custody shall be governed mutatis mutandis by the regulations relating to the enforcement of custody.

Article 396

Simplified extradition proceedings

(1) The prosecutor shall advise the person whose extradition is sought, during his hearing in the course of the preliminary investigation, of the possibility of simplified extradition proceedings should the person give his consent to extradition, about the consequences of such a consent, and of the possibility to withdraw such a consent as long as the Minister of Justice did not grant extradition.

(2) If the person whose extradition is sought gives his consent to extradition, the prosecutor shall advise him also of the possibility to waive the application of the rule of speciality and of the consequences of such a waiver.

(3) If the person whose extradition is sought gives his consent to extradition, the prosecutor in the presence of the person's defence counsel shall record the person's consent to extradition in a protocol as well as the person's statement whether he waives or not, and to what extent, the application of the rule of speciality.

(4) If the person whose extradition is sought gives his consent to extradition, the prosecutor shall, after the conclusion of the preliminary investigation, submit a motion to the court for the person to be taken into custody pending extradition (Article 399 par. 2) and subsequently submit the case to the Ministry of Justice together with a proposal for a decision. The provision of Article 402 shall not be applied.

(5) If the person whose extradition is sought withdraws his consent any time prior to the decision by the Minister of Justice, the case shall be submitted after the conclusion of the preliminary investigation to the court for a decision under Article 402.

(6) Even if the person whose extradition is sought gave his consent to extradition, the Minister of Justice may, before taking his decision on extradition, submit the case to the court for a decision under Article 402.

Article 397

Detention

Upon a request by the foreign authorities, the prosecutor conducting the preliminary investigation may order the police to detain the person whose extradition will be requested by the foreign authorities. The prosecutor shall not be bound by the grounds for custody specified in Article 67. If the prosecutor does not order the release of the detained person within 48 hours of his detention, he shall submit, within the same deadline, a motion to the court for the person to be taken into provisional arrest or into custody pending extradition.

Article 398

Provisional arrest

(1) The presiding judge of the Regional Court shall within 48 hours, or within 72 hours in very grave offences, of the person's surrender decide upon the motion by the prosecutor on the provisional arrest of the detained person. He shall not be bound by the grounds for custody specified in Article 67. Should the

presiding judge not place the detained person under provisional arrest within the deadline, he shall order his release.

(2) The Regional Court in whose territory the person resides or is detained shall have jurisdiction in the proceedings under paragraph 1.

(3) The provisional arrest may not exceed the period of 40 days from the moment of the person's detention.

(4) If during the course of the provisional arrest the request for extradition by the foreign authorities was submitted, the Prosecutor General's Office shall notify to this effect the prosecutor conducting the preliminary investigation. Upon the prosecutor's motion the presiding judge may place the person in custody pending extradition if the conditions specified in Article 399 paragraph 1 are met.

(5) The release of the person from the provisional arrest shall not preclude his repeated placement in the provisional arrest or his being placed in custody pending extradition.

Custody pending extradition

Article 399

(1) If it is necessary to prevent the escape of the person whose extradition is sought, the presiding judge of the Regional Court shall place him in custody. He shall rule to this effect upon a motion by the prosecutor conducting the preliminary investigation.

(2) If the person whose extradition is sought gives his consent to extradition or if his extradition was declared admissible, the Regional Court shall place the person in custody pending extradition, unless this had already been done by the presiding judge earlier under paragraph 1.

(3) The presiding judge of the Regional Court shall release the person from the custody pending extradition as of the day of his surrender to the foreign authorities or if:

a) the requesting State withdrew its request,

b) the extradition was declared inadmissible by the Supreme Court or if the Minister of Justice refused to grant extradition,

the grounds for custody, extradition or the surrender ceased for other reasons, or

d) the foreign authorities, without giving reasons, did not take over the extradited person within 30 days from the agreed date of surrender.

Article 400

(1) If the person whose extradition is sought is already in custody in connection with criminal prosecution conducted by the Slovak authorities or serving a prison sentence imposed by a final judgement issued by the Slovak court, the court shall take that person into custody pending extradition, but the execution of such custody shall remain suspended.

(2) If the grounds for custody or the prison sentence under paragraph 1 cease to exist, the suspension of the execution of the ordered custody shall be lifted and the person whose extradition is sought shall be placed in custody pending extradition.

(3) The Regional Court in whose territory the person whose extradition is sought is in custody or serving the sentence shall have jurisdiction in the proceedings under paragraph 1.

(4) The prosecutor specified in Article 395 paragraph 1 shall conduct the preliminary investigation in the case provided for in paragraph 1.

Article 401

An appeal shall be admissible against the decision on custody under Articles 398, 399 paragraphs 1 and 400, but it shall have no postponing effect.

Article 402

Court decision

(1) After the conclusion of the preliminary investigation the court shall decide upon the motion of the prosecutor on the admissibility of extradition and shall subsequently submit the case to the Ministry of Justice.

(2) The Regional Court which took the decision on provisional arrest or custody pending extradition shall have jurisdiction to conduct the proceedings under paragraph 1; if no decision on provisional arrest or custody pending extradition was taken, the Regional Court in whose district the person whose extradition is sought resides shall have jurisdiction.

(3) The court shall decide on the admissibility of extradition in a closed hearing. Before giving its decision, the court shall enable the person whose extradition is sought and his defence counsel to make a written statement on the request for extradition. If the person or his counsel in the statement so request, or if the court itself finds it necessary, it shall take its decision on admissibility of extradition in a public hearing.

(4) An appeal solely on one of the grounds of inadmissibility of extradition under Article 394 by the prosecutor or by the person whose extradition is sought shall be admissible against the decision of the Regional Court on admissibility of extradition; the appeal shall have a postponing effect. The decision of inadmissibility shall be subject to an appeal solely by the prosecutor.

(5) The appeal shall be decided upon by the Supreme Court in a closed hearing which shall rule whether extradition is admissible or not. Article 399 paragraph 2 shall be applicable *mutatis mutandis*.

Article 403

Granting of extradition

(1) The Minister of Justice shall have the authority to grant extradition; he may not grant extradition if either the Regional Court or the Supreme Court under Article 402 found that extradition was inadmissible.

(2) If the court found the extradition admissible, the Minister of Justice may decide not to grant extradition if:

a) there is reasonable ground to believe that the criminal proceedings in the requesting State did not or would not comply with the principles of Articles 3 and 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms or that the prison sentence imposed or anticipated in the requesting State would not be executed in accordance with the requirements of Article 3 of the said Convention,

b) there is reasonable ground to believe that the person whose extradition is sought would in the requesting State be subjected to persecution for reasons of his origin, race, religion, association with a particular national minority or class, his nationality or political opinions or that due to these factors his status in the criminal proceedings or in the enforcement of the sentence would be prejudiced, or

c) taking into account the age and personal circumstances of the person whose extradition is sought, he would most likely be inadequately severely punished by extradition in proportion to the level of gravity of the criminal offence he allegedly committed.

Article 404

Postponement of surrender or temporary surrender

(1) If the presence of the person whose extradition is sought is necessary in the Slovak Republic for the purposes of termination of the criminal prosecution or the enforcement of the prison sentence for criminal offences other than those which are the object of the extradition request, the Minister of Justice may, after granting extradition, postpone the surrender of the person to the requesting State.

(2) The Minister of Justice may authorise a temporary surrender of the person to the requesting State for the purpose of carrying out necessary procedural acts. The temporary surrender may be repeated.

(3) The provisions of Articles 437 paragraph 2 lit. b/ to d/, 438 paragraph 2 and 439 shall be applied *mutatis mutandis* to the cases of temporary surrender.

(4) If during the temporary surrender the person was sentenced in the territory of the requesting State by a final judgement for the criminal offence for which extradition was granted, the Minister of Justice may decide, upon a request by the requesting State, to postpone the return of the person to the territory of the

Slovak Republic until the person will have terminated serving the imposed prison sentence in the territory of the requesting State. Such decision may not be taken if the criminal prosecution in the Slovak Republic was not effectively terminated.

(5) The time the person spent in custody during the temporary surrender abroad shall be counted against the length of the sentence carried out in the territory of the Slovak Republic to the extent in which it had not been counted against the length of the sentence carried out in the territory of the requesting State. The time spent serving the sentence imposed in the requesting State shall not be counted against the length of the sentence carried out in the Slovak Republic.

Article 405

Concurrent extradition requests

(1) If several States submitted their requests for the extradition of the same person to the Slovak authorities, the conditions of admissibility shall be established in respect of each of the States separately.

(2) If the court decided that extradition was admissible to several States, or if the person whose extradition is sought gave his consent to extradition to several States, the Minister of Justice when granting the extradition shall decide also to which State the person shall be surrendered first.

Article 406

Waiver of enforcement of remainder of sentence

(1) The Minister of Justice may waive the enforcement of the prison sentence or its remainder when he grants extradition of a sentenced person. If subsequently the extradition is not effected, the court shall rule that the sentence or its remainder shall be enforced.

(2) An appeal against the decision of the court under paragraph 1 shall be admissible.

Article 407

Additional consent and consent to re-extradition

(1) The provisions of this Section shall be applicable *mutatis mutandis* to the request by the State of extradition to be given consent to:

a) prosecute the person for a different offence or to enforce a different prison sentence than the one for which extradition had been granted,

b) extradite the person to a third State for criminal prosecution or execution of a sentence.

(2) The authorities which proceeded on the original extradition request shall have jurisdiction to proceed on the new request.

The simplified extradition proceedings under Article 396 shall not be admissible.

SECTION THREE

Enforcement of decision in relation to other Countries

Subsection One

Recognition and enforcement of foreign decisions

Article 408

For the purposes of this Section a foreign decision shall mean a decision issued by a foreign authority in respect of an act which constitutes a criminal offence under the law of the Slovak Republic by which:

the guilt was established, but the imposition of a sanction was suspended,

a prison sentence or a suspended sentence were imposed,
a fine or a disqualification were imposed,
a suspended sentence or a fine were transformed into a prison sentence, or
e) the confiscation of property or of its part or the forfeiture or confiscation of a thing were imposed (hereinafter referred to as “a foreign property decision”).

Article 409

Conditions for recognition

A foreign decision may be recognised in the Slovak Republic if:

- a) an international treaty so provides,
- b) the decision was made in proceedings which comply with the principles contained in Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms,
- c) the person was not sentenced for a criminal offence which is exclusively of a political or military nature,
 - d) the enforcement of the sentence is not prescribed under the law of the Slovak Republic,
- e) the person had not already been sentenced for the same act by the Slovak court,
 - f) no decision of another State in respect of the same person for the same act had been recognised in the Slovak Republic, and
- g) the recognition is not contrary to the interests protected by Article 375.

Article 410

Conversion of sanction

(1) A foreign decision shall be recognised by the Slovak court by converting the sanction imposed therein into a sanction which the court would have imposed if it had proceeded on the committed criminal offence itself. The Slovak court must not, however, impose a more severe sanction than the one imposed in the foreign decision, nor may it convert it into a different kind of sanction.

(2) If the length and type of the prison sentence imposed in the recognised foreign decision are compatible with the law of the Slovak Republic, the court in its decision on recognition shall decide that the enforcement of the sentence imposed in the foreign decision shall be continued without the conversion referred to in paragraph 1. This procedure shall, however, not be admissible if the court recognised the foreign decision only in respect of some of the several offences for which the foreign decision was imposed.

(3) In its decision on the recognition of a foreign property decision, the Slovak court shall also decide who shall receive the title to the confiscated property, its part or to a thing. If it does not rule otherwise, the title to the property, its part or to a thing shall fall to the Slovak Republic.

Article 411

Procedure for recognition

(1) The motion for recognition of a foreign decision shall be submitted on the basis of a request by a foreign authority by the Ministry of Justice to the court which shall decide in a closed hearing after obtaining a written statement from the prosecutor.

(2) The Regional Court in whose district the sentenced person has his residence shall have jurisdiction to proceed under paragraph 1. If the sentenced person does not have his residence in the Slovak Republic, the Regional Court in Bratislava shall have jurisdiction. If the subject of the proceeding is a foreign property decision, the Regional Court in whose territory the property or the thing to which the foreign decision relates are located shall have jurisdiction.

(3) The Regional Court shall decide by a judgement which shall subsequently be served on the sentenced person, the prosecutor and the Ministry of Justice. If the sentenced person, at the time of the recognition proceedings, is serving his prison sentence abroad, the court shall serve the judgement on him always through the good offices of the Ministry of Justice.

(4) An appeal against the judgement on recognition of a foreign decision shall be admissible. The appellate court shall decide on recognition or non-recognition of a foreign decision in a closed hearing.

Article 412

Effects of recognised foreign decision

(1) The recognised foreign decision shall have the same legal effects as a judgement of a Slovak court.

(2) If the foreign decision contains sentences in respect of several persons, the recognition shall have effects only in relation to the sentenced person in respect of which the motion for recognition was made.

(3) If the recognised foreign decision relates only to an individual act of a continuous criminal offence committed in the territory of another State, the recognised foreign decision shall not be an obstacle to the criminal prosecution of the sentenced person for other individual acts of the continuous criminal offence which were committed in the territory of the Slovak Republic.

(4) The Regional Court shall, upon the finality of the judgement on recognition of a foreign decision, forward without delay all information necessary for the criminal records to the Prosecutor General's Office.

Article 413

Custody

(1) If it is necessary for the purposes of securing the enforcement of a foreign decision, the court having jurisdiction under Article 411 paragraph 2 may, anytime between the submission of the motion for recognition of a foreign decision and the writ of enforcement of the recognised foreign decision, order custody for the person who was sentenced by the foreign decision to a prison sentence and who is in the territory of the Slovak Republic; the court shall not be bound by the grounds for custody specified in Article 67.

(2) An appeal against the decision on custody shall be admissible, but it shall have no postponing effect.

Article 414

Enforcement procedure

(1) The District Court in whose district the sentenced person has his residence shall have jurisdiction to order the enforcement of the recognised foreign decision. If the sentenced person does not have his residence in the Slovak Republic, the District Court in Bratislava 1 shall have jurisdiction.

(2) The jurisdiction to order the enforcement of a foreign property decision shall vest in the District Court in whose district the property or the thing to which the decision relates are located.

(3) The court specified in paragraphs 1 and 2 shall have jurisdiction for all subsequent issues of the enforcement proceeding, including the motion for the erasure of the sentence imposed by the recognised foreign decision.

(4) If the sentenced person serves abroad his prison sentence imposed by a foreign decision which has been recognised by the Slovak court, the court shall order the enforcement of the recognised foreign decision before the date of the transfer of the sentenced person to the territory of the Slovak Republic. Should the transfer of the sentenced person to the territory of the Slovak Republic be not effected, the enforcement of the recognised foreign decision shall be inadmissible in the territory of the Slovak Republic, if the sentenced person served the sentence abroad in full or was paroled.

(5) Together with the writ of enforcement, or in cases under paragraph 4 following the surrender of the sentenced person to the territory of the Slovak Republic, the court shall rule on the length of the sentence to be served while counting against it the custody under Article 413, the custody and the sentence already served abroad as well as the time spent in transit.

(6) The court shall terminate the enforcement of the recognised foreign decision as soon as the State of origin of the decision informed it about an amnesty, pardon or another measure making the foreign decision non-enforceable any longer. If the amnesty, pardon or another measure has only the consequence of reduction of

the sentence imposed, the court shall decide what sentence remains to be served by the sentenced. An appeal against such a decision shall be admissible.

(7) Otherwise the enforcement of the foreign decision shall be governed *mutatis mutandis* by the provisions of this Code relating to the enforcement proceedings.

Subsection Two

Transfer of sentenced person to serve prison sentence

Article 415

Transfer of sentenced person from abroad

(1) The Ministry of Justice shall have the authority to decide, on the basis of an international treaty, on the transfer of a sentenced person to the territory of the Slovak Republic to serve the prison sentence imposed by a foreign decision, upon a request by the sentencing State or by the sentenced person.

(2) The Ministry of Justice may give its consent to the transfer of the sentenced person or itself request the transfer from the sentencing State only if the foreign decision has been recognised under Subsection One of this Section.

(3) These provisions shall be applied *mutatis mutandis* also to the transfer of the enforcement of the prison sentence imposed by a foreign authority in cases where the sentenced is located in the territory of the Slovak Republic.

Article 416

Transfer of sentenced person abroad

(1) The Ministry of Justice shall have the authority to take the decision, on the basis of an international treaty, to transfer abroad a person sentenced by a Slovak court to a prison sentence.

(2) Such transfer may be granted upon the motion by the sentenced person, the State of transfer or the court which imposed the sentence in the first instance. If the motion was not made by the competent court, the granting of transfer shall be conditional on the court's agreement.

(3) The transfer of the sentenced person to serve the sentence in another State shall result in the loss of the jurisdiction of the Slovak authorities to continue the enforcement of the sentence, unless the sentenced person shall return to the Slovak Republic without having served the sentence in the State of transfer in full or without being paroled there. If, after the return of the sentenced person, the enforcement shall be continued, the sentence already served abroad shall be counted against the sentence to be enforced.

(4) These provisions shall be applied *mutatis mutandis* to the transfer of the enforcement of the prison sentence imposed by a Slovak court to another State if the sentenced is already in the territory of that State.

Subsection Three

Transfer of enforcement of suspended sentence

Article 417

Decision on transfer of suspended sentence from abroad

(1) If an international treaty so provides, the Ministry of Justice may upon a request by a foreign authority decide that the Slovak authorities shall:

a) supervise the behaviour of the sentenced person during the suspended sentence imposed by a foreign decision, or

b) decide, in addition to the supervision of the behaviour of the sentenced person, whether the sentenced complied with the conditions of the suspended sentence or whether the suspended sentence or its remainder shall be enforced.

(2) The prerequisite for the decision under paragraph 1 shall be the recognition of a foreign decision under Subsection One of this Section.

Article 418

Procedure by Slovak Authorities

(1) Following the decision under Article 417 the behaviour of the sentenced person during the suspended sentence according to the conditions imposed shall be supervised by the District Court in whose district the sentenced person resides.

(2) The court shall inform the Ministry of Justice of all circumstances which may influence the decision whether the sentenced person complied with the conditions.

(3) If a decision under Article 417 paragraph 1 lit. a/ was taken, the court, after the term of the suspended sentence has run, shall report to the Ministry of Justice on the behaviour of the sentenced person during the term of the suspended sentence. The court shall neither take a decision whether the sentenced complied with the conditions nor whether the sentence shall be enforced nor shall it order the enforcement of such a sentence.

(4) If a decision under Article 417 paragraph 1 lit. b/ was taken, the court referred to in paragraph 1 shall have jurisdiction to decide whether the sentenced complied with the conditions or whether the suspended sentence shall be enforced. If the court rules that the sentence shall be enforced, it shall also issue a writ of its enforcement. The provisions of Article 414 shall be applied *mutatis mutandis*.

Article 419

Transfer of enforcement of suspended sentence abroad

If an international treaty so provides, the court which imposed a suspended sentence on a person who resides abroad or suspended the prison sentence of such a person may submit to the Ministry of Justice a motion to the effect that the authorities of the State of the sentenced person's residence should take over:

- a) supervise the behaviour of the sentenced person during the term of the suspended sentence, or
- b) decide, in addition to the supervision of the behaviour of the sentenced person, whether the sentenced person complied with the conditions or, should he not, to enforce the suspended sentence.

Article 420

Effects of transfer

(1) If the requested State has decided under Article 419 lit. a/ , the Slovak court shall retain its jurisdiction to decide whether the sentenced person has complied with the conditions of the suspended sentence or whether the sentence shall be enforced. In the latter case, the final decision shall be, where appropriate, submitted to the Ministry of Justice for the purpose of its enforcement in the requested State.

(2) If the requested State has decided to take over the enforcement of the suspended sentence should the sentenced person not comply with the conditions (Article 419 lit. b/) , the further enforcement of the sentence in the Slovak Republic is no longer admissible if:

- a) the foreign authority decided on the enforcement of the suspended sentence and the sentenced person served the sentence in full, or
- the foreign authority decided that the sentenced complied with the conditions.

(3) Foreign decisions under paragraph 2 shall have the same effects in the Slovak Republic as if they had been issued by the Slovak court.

SECTION FOUR

Transfer of criminal proceedings

Article 421

Transfer of criminal proceedings from abroad

(1) The Prosecutor General's Office shall have jurisdiction to take the decision on the request by a foreign authority to take over the criminal proceedings it is conducting.

(2) If the Prosecutor General's Office accepts the request under paragraph 1 it shall instruct without delay the competent prosecutor's office to proceed under the provisions of this Code.

(3) Any procedural act carried out by the authorities of the requesting State in accordance with the law of that State, shall have in the Slovak Republic the same validity as if it had been carried out by the Slovak authorities, provided that its admission does not give this act a greater evidentiary weight than it has in the requesting State.

Article 422

Transfer of criminal proceedings abroad

(1) If the accused in the criminal proceedings carried out in the Slovak Republic is a foreign national or resides in another State, the Slovak authorities may initiate the transfer of the criminal proceedings to that State.

(2) The decision to request the transfer of criminal proceedings abroad shall be taken in the pre-trial stage by the Prosecutor General's Office and after the indictment by the Ministry of Justice.

(3) The transfer of the criminal proceedings abroad may be initiated in particular if:

a) the extradition of the accused from the requested State is not possible, was not granted or if extradition was not requested for another reason,

b) it seems effective and opportune to carry out the criminal prosecution in the requested State, in particular for the purposes of finding of facts, degree of punishment or the execution of the sentence,

c) if the accused was or shall be extradited to the requested State or if it is likely, for a different reason, that his personal appearance in the criminal proceedings in that State shall be possible,

d) the extradition of the person sentenced to a prison sentence by the Slovak court in a final judgement is not possible or was not granted by the requested State and the enforcement of the sentence in that State is not possible.

(4) After the decision of the requested State to accept the transfer of the criminal proceedings it shall be inadmissible in the territory of the Slovak Republic to continue the criminal prosecution of the accused, or to enforce the sentence imposed (paragraph 3 lit. d/), for a criminal offence in respect of which criminal proceedings were transferred.

(5) The Slovak authorities may continue the criminal proceedings or order the enforcement of the sentence, if the requested State:

a) declares that it shall not proceed in the matter,

a) subsequently revokes its decision on the transfer of the criminal proceedings, or

b) declares that it shall not continue the proceedings.

Article 423

Decision on subsidiary jurisdiction

Upon the request by a foreign authority conducting or intending to conduct criminal proceedings in respect of a criminal offence committed abroad, the General Prosecutor's Office shall decide whether the Slovak authorities shall exercise their jurisdiction to conduct the criminal proceedings in respect of the same offence.

SECTION FIVE

International Legal assistance

Article 424

Scope of legal assistant

Procedural acts carried out after the commencement of the criminal proceedings in the Slovak Republic in the territory of another State on the basis of a request by the Slovak authorities or such acts carried out in the territory of the Slovak Republic on the basis of a request by foreign authorities, in particular service of documents, hearing of persons and taking of other evidence, shall be understood as legal assistance.

Article 425

Requests by Slovak authorities

(1) Requests for legal assistance emanating from the Slovak pre-trial authorities shall be transmitted abroad through the General Prosecutor's Office. Requests for legal assistance emanating from the Slovak courts shall be transmitted abroad through the Ministry of Justice. Diplomatic channels shall not be excluded.

(2) If an international treaty provides so, the Slovak authorities may transmit their requests abroad through other channels than the ones provided for in paragraph 1. The investigator or the police may transmit their requests abroad solely through the good offices of a prosecutor.

Article 426

Contents and form of request

(1) A request for legal assistance shall, in addition to a precise description of the required act of assistance, contain a description of the facts of the offence which is the basis of the request, the legal denomination of the offence together with a verbatim wording of the pertinent legal provisions, the personal data of the accused or, as the case may be, of the victim or the witnesses if their examination is requested, as well as further details required for the proper execution of the requested legal assistance.

(2) The request shall contain the exact specification of the requesting authority, its file number, the date of the request and it shall bear the signature of the responsible officer and the seal of the requesting authority.

(3) The request and the supporting documents shall be accompanied by a translation into a foreign language done by an official translator if in relation to the requested State such translation is required.

Article 427

Postal service

Service of documents on a person abroad by post shall be admissible only if so permitted by an international treaty.

Article 428

Validity of procedural acts

Service effected by a foreign authority upon a request by the Slovak authority as well as evidence taken by such authorities shall be valid if they were carried out in accordance with the law of the requested State or if they comply with the law of the Slovak Republic.

Article 429

Summoning persons from abroad

(1) If the personal appearance of a person who stays abroad is required at a procedural act, he must be served the summons by a request for legal assistance. His appearance must not be compelled by the threat of the use of coercive measures.

(2) The person who appears in the territory of the Slovak Republic on the basis of a summons must not be subjected to criminal prosecution, convicted or restricted in his personal liberty in respect of a criminal offence committed prior to his entering the territory of the Slovak Republic.

(3) Criminal prosecution, conviction or restriction of personal liberty of the summoned person shall, however, be admissible:

a) in respect of the criminal offence for which the person was summoned as accused,

b) if, after giving evidence, the summoned person remains in the territory of the Slovak Republic for a period of more than 15 days, having had an opportunity to leave,

c) if the summoned person leaves the territory of the Slovak Republic and returns voluntarily or is lawfully returned to the Slovak Republic from another State.

Article 430

Requests by foreign authorities

(1) Slovak authorities shall carry out the legal assistance requested by foreign authorities in the manner provided for in this Code or in an international treaty. If the legal assistance shall be provided on the basis of an international treaty by a procedure not provided for in this Code, the responsible prosecutor shall decide how such assistance shall be carried out.

(2) At a request by the foreign authority the assistance may be provided on the basis of the legal provisions of another State, unless the requested procedure is contrary to the interests protected by Article 375.

(3) If requested by the foreign authority, witnesses, experts and parties may also be examined under oath.

(4) The wording of the oath for the witnesses and parties shall be the following: "I swear on my honour that I shall say the truth and nothing but the truth and withhold nothing."

(5) The wording of the oath for the expert witness shall be the following: "I swear on my honour that I shall give my expert opinion according to my best knowledge and conscience."

Article 431

Responsibility for execution of requests

(1) The district prosecutor's office in whose district the requested assistance shall be carried out shall have the responsibility for the execution of the request for legal assistance made by a foreign authority. This shall not effect the authority of the General Prosecutor's Office under a separate act to transfer the responsibility for the execution of the request to another prosecutor's office.

(2) If the foreign authority requests that the examination of a person or another act of legal assistance shall be executed by the court, the prosecutor shall submit the request in that part for execution to the District Court in whose district the requested assistance shall be carried out.

Article 432

Authorisation of assistance by court

(1) If under this Code the taking of evidence requested by the foreign authority requires an authorisation by the court, such authorisation shall be given by a judge upon a motion by the prosecutor responsible for the execution of the request.

(2) If the assistance shall be provided on the basis of foreign legal provisions, the judge shall decide upon a motion by the prosecutor whether the foreign procedure does not conflict with the interests protected by the provisions of Article 375. If he does not find such a conflict he shall authorise the provision of the assistance and shall at the same time decide how the evidence shall be taken. An appeal by the prosecutor, with a postponing effect, shall be admissible against the court's decision.

(3) The District Court in whose district the assistance shall be carried out shall have jurisdiction to decide under the paragraphs 1 and 2.

Article 433

Acts by foreign authorities

(1) Foreign authorities may not execute any acts of legal assistance in the territory Slovak Republic by themselves.

(2) A foreign consular office having jurisdiction for the territory of the Slovak Republic may carry out, if so mandated by the authorities of the State it represents and on their behalf, procedural acts for criminal proceedings only with the prior consent given by the Prosecutor General. Service of documents on the national of the represented State or the examination of a person who appears voluntarily shall not require any prior consent by the Prosecutor General.

(3) The presence of representatives of the foreign authorities as well as other persons at the execution of legal assistance carried out by the Slovak authority shall only be possible with the prior consent by the responsible prosecutor or the court if the court authorised the execution of the assistance or shall execute it itself.

Article 434

Service of documents

(1) If the document to be served on an addressee in the Slovak Republic is written in the Slovak language or in a language which, taking into account all circumstances of the case, is deemed to be understood by the addressee, or if a translation into such language is attached to the document and no personal service is requested, the document shall be served on the addressee in accordance with the provisions of this Code governing the service in proper hands (Article 63). Service by deposit shall be admissible only after a repeated attempt to serve.

(2) If the document is not in the language specified in paragraph 1 and no translation into such language is attached to the document, and the requesting authority was not required under an international treaty to provide such translation, the authority executing the assistance shall arrange for the Slovak translation and subsequently serve the document as provided for in paragraph 1. Otherwise it shall serve the document on the addressee only should he accept it voluntarily after being advised of the possibility to refuse the service.

(3) If the requesting authority requests personal service of the documents, the documents shall be served on the addressee in person. In such an event, the service under paragraph 1 shall not be admissible and should even the repeated attempt to serve the document in person fail, the authority effecting the service shall return the request non-executed and in the cover letter it shall specify the reasons for the failure of service. The addressee shall confirm the effected service by signing the receipt provided by the requesting authority or in the protocol of the authority effecting the service. If the addressee refuses to accept the documents for reasons specified in paragraph 2, the authority effecting the service shall record this fact in the receipt provided by the requesting authority or in the cover letter by which it returns the request to the requesting authority.

Article 435

Transit

(1) The Minister of Justice shall have the authority to grant the transit of a person through the territory of the Slovak Republic for the purposes of criminal prosecution or execution of a prison sentence upon a request by a foreign authority.

(2) The decision granting the transfer for purposes which imply the return transfer through the territory of the Slovak Republic shall be deemed as a decision granting such return transfer as well.

Article 436

Cross-border observation and pursuit

(1) In accordance with the terms of an international treaty the police authority may, in observing or pursuing a person, enter the territory of another State and continue abroad the observation or the pursuit of the person.

(2) The authorisation to proceed under paragraph 1 shall be issued by the presiding judge or in the pre-trial by the prosecutor.

(3) If the case of urgency, the procedure under paragraph 1 shall be possible also without an authorisation solely on the basis of a consent by the Chief of Police. The authority having jurisdiction to authorise under paragraph 2 shall be informed without delay.

(4) Foreign authorities may carry out the observation or the pursuit in the territory of the Slovak Republic in accordance with the terms of an international treaty. If the international treaty does not specify which Slovak authority has jurisdiction to grant the permission to carry out the cross-border observation or pursuit in the territory of the Slovak Republic, the permission shall be given by the Chief of Police.

Temporary surrender of detained person abroad

Article 437

(1) At the request of a foreign authority a person in custody or serving a prison sentence in the Slovak Republic may be temporarily surrendered abroad for the purposes of giving evidence.

(2) The person specified in paragraph 1 may be temporarily surrendered only if:

a) he is not the accused in the proceedings abroad and he consents with the surrender,

b) his absence does not alter the purpose of the custody or the enforcement of the sentence carried out in the Slovak Republic,

c) the temporary surrender does not inadequately extend the length of custody in the Slovak Republic,

d) the temporary surrender does not extend the length of the prison sentence served in the Slovak Republic.

Article 438

(1) The Minister of Justice shall have the authority to grant the temporary surrender abroad. In his decision he shall set out an appropriate deadline for the return of the person to the territory of the Slovak Republic.

(2) After the temporary surrender was granted, the decision to transfer the person abroad shall be made by the district court in whose district the person is in custody or serving the prison sentence.

Article 439

(1) The time the person spent in custody abroad shall not be counted against the deadlines under Article 71. The decision to this effect shall be taken by the court and in the pre-trial by the judge upon the motion of the prosecutor.

(2) The time specified in paragraph 1 shall be counted against the length of the sentence served in the Slovak Republic.

(3) An appeal against the decisions under the paragraphs 1 and 2 shall be admissible.

Article 440

Articles 437 to 439 shall be applied *mutatis mutandis* to the transfer of a person abroad to participate in an act of legal assistance carried out in the territory of another State upon a request by the Slovak authorities.

Article 441

Temporary surrender of detained person from abroad

(1) If in the criminal proceedings in the Slovak Republic the personal appearance of a person other than the accused is necessary for evidentiary purposes and such person is in custody or serving a prison sentence abroad, the prosecutor or the judge may request the Ministry of Justice to arrange the temporary surrender of the person to the territory of the Slovak Republic. The motion submitted to the Ministry of Justice shall specify the procedural acts for which the presence of the person is necessary as well as the date or the period of time for which the personal appearance shall be arranged.

(2) If the requested State authorised the temporary surrender to the territory of the Slovak Republic, the judge, in the pre-trial upon the motion by the prosecutor, shall decide that during the period of the temporary surrender in the Slovak Republic such person shall be held in custody. The judge shall specify in his resolution that the custody shall commence on the day of the surrender of the person to the territory of the Slovak Republic.

(3) The provisions of the paragraphs 1 and 2 shall be applied mutatis mutandis to the surrender of a person from abroad to participate in an act of legal assistance carried out in the territory of the Slovak Republic upon a request by the foreign authorities.

Article 442

Surrender of things

(1) Upon a request by a foreign authority the seizure of a thing and its subsequent surrender abroad can be effected.

(2) The requested authority may postpone the surrender of the seized thing if the Slovak authorities need it in their criminal proceedings.

(3) When surrendering the seized thing the requested authority shall request its return from the foreign authority. It may, however, expressly waive this right or may agree that the thing shall be returned directly to its rightful owner.

(4) These provisions shall be applicable mutatis mutandis to the surrender of a thing seized with the person whose extradition is sought. Such thing shall be surrendered to the foreign authorities, whenever possible, together with the extradited person.

Article 443

Seizure of property

(1) Under the conditions specified in an international treaty the court may, on the basis of a request by the foreign authority, and upon a motion by the prosecutor, order the provisional seizure of the property located in the territory of the Slovak Republic, or a part of it, of a person who is being criminally prosecuted against abroad.

(2) The District Court in whose district the property or its part are located shall have jurisdiction to decide on the motion under paragraph 1.

(3) The proceedings under the paragraphs 1 and 2 shall be governed mutatis mutandis by the provisions of this Code which regulate the securing of the enforcement of the sentence of the confiscation of property.

Article 444

Information from criminal records

Any request by a foreign authority for information from the criminal records shall be submitted to the Prosecutor General's Office.

102. Chapter 24 shall be deleted.

103. Existing Sections 385 through 392 shall be designated as Sections 445 through 455.

ANNEX 6 - Act No. 460 of 2 July 2002 on the application of international sanctions assuring international peace and security, supplemented and amended by Act No. 127 of 16 March 2005

1. Act of 2 July 2002 on implementing international sanctions to secure international peace and security

The National Council of the Slovak Republic has ruled as follows:

§ 1

Object of the Act

This Act regulates the implementation of international sanctions to secure international peace and security, as well as competences of public service bodies in respect of imposition of sanctions for violation of the responsibilities under this Act in the business and non-financial services, transport, posts and telecommunications sectors, in technical infrastructure, in scientific, technical, cultural and sports relations.

§ 2

Imposition of sanctions

(1) If United Nations Security Council or Council of the European Union (hereinafter “international body” takes a decision on international sanctions to maintain or restore international peace and security residing in the restrictions, orders or prohibitions as mentioned in §§ 4 through 8, international sanctions in the Slovak Republic shall be announced by a Regulation of the Government of the Slovak Republic.

(2) Where the international body repeals a decision on international sanctions which contributed to maintaining or restoring international peace and security, the Government of the Slovak Republic shall repeal the Regulation issued under paragraph 1.

(3) Everybody shall be liable to abide by international sanctions announced by the Government of the Slovak Republic under this Act.

§ 3

Definition of terms

For the purposes of this Act,

a) “international sanction” shall mean a set of restrictions, orders or prohibitions introduced to maintain or restore international peace and security under

1. decision of the United Nations Security Council adopted under art. 41 of the United Nations Charter (hereinafter referred to as “decision”); or

2. common positions of the Council of the European Union acceded by the Slovak Republic based on the call of the European Communities (hereinafter „common position “),

b) “sanctioned territory” in a decision or common position shall mean the determined territory, fully or partly controlled by a sanctioned person, including the airspace and coastal waters,

c) “sanctioned person” shall mean the person identified in the decision or common position -

1. a natural person living in the sanctioned territory,
2. another natural person or another organised power and representatives thereof usually dwelling in the sanctioned territory, save Slovak Republic nationals,
3. a legal entity with principal offices in the sanctioned territory,
- d) “Slovak person” shall mean
 1. the Slovak Republic,
 2. a national of the Slovak Republic,
 3. another natural person dwelling in the territory of the Slovak Republic pursuant to a separate law,²
 4. a legal entity³ with the principal office in the territory of the Slovak Republic, including territorial self-governing units,⁴
- e) “goods” shall mean any chattels, including raw materials and electric energy, products or services, save articles of cultural value regardless of whether provided against compensation or free,
- f) “sanctioned goods” in a decision or common position shall mean determined goods owned by, in possession of or otherwise controlled by a sanctioned person,
- g) “Slovak goods” shall mean goods owned by, in possession of or otherwise controlled by a Slovak person,
- h) “other goods” shall mean goods which are not Slovak goods or sanctioned goods,
 - i) “transport vehicle” shall mean a facility suitable to transport mainly persons, luggage, goods mentioned in letter e), or mail,
- j) “sanctioned person’s transport vehicle” shall mean also transport vehicles sailing under the flag of, matriculated, owned by, in possession of, used or otherwise controlled by a sanctioned person or to the benefit thereof,
- k) “Slovak transport vehicle” shall mean also any transport vehicle sailing under the flag of, matriculated, owned by, in possession of, used or otherwise controlled by a Slovak person or to the benefit thereof,
- l) “another transport vehicle” shall mean any transport vehicle which is not a Slovak transport vehicle or a transport vehicle of a sanctioned person,
- m) “article of cultural value” shall mean
 1. any work of art and articles of museum value and gallery value,⁵
 2. any national cultural monument⁶ and groups thereof,
 3. historical library documents and historical book stock,⁷
 4. registered assets of churches and religious societies,⁸
 5. archive documents,⁹
- n) “control” shall mean effective actual or legal opportunity to materially influence by one’s actions, the actions of another person, use or exploitation of an article or course of events in a certain territory,

² Act No.48/2002 Coll.LL. on residence of foreign nationals and on amendments and supplements to some laws.

³ 2) § 18 of Civil Code.

⁴ Act of the Slovak National Council No. 369/1990 Coll. on municipal system, as amended from time to time.

Act No.302/2001 Coll. LL. on regional self-governments (Regional Self-Governments Act), as amended by Act No.445/2001 Coll.LL.

⁵ Act No. 115/1998 Coll.LL. on museums and galleries, and on the protection of articles of museum value and gallery value, as amended by Act No. 387/2001 Coll.LL.

⁶ Act No.49/2002 Coll.LL. on the protection of monuments.

⁷ § 19 of Act No.183/2000 Coll.LL. on libraries, and on additions to Act of the Slovak National Council No. 27/1987 Coll. on state care of monuments and on additions to Act No.68/1997 Coll.LL. on Matica slovenská (Slovak Cultural Society).

⁸ Act No.308/1991 Coll. on freedom of religious faith and on the position of churches and religious societies.

⁹ Act No.149/1975 Coll. on archives, as amended from time to time.

o) “implementing regulation” shall mean a decision made by the international body by which a range of international sanctions was imposed upon sanctioned territory or sanctioned person.

§ 4

Business and non-financial services

International sanction in the sector of business and non-financial services shall mainly be restriction, order or prohibition of

- a) imports¹⁰ or purchases of sanctioned goods, their sales or any other handling of them by Slovak persons or in the Slovak territory,
- b) exports,¹¹ sales or allowing other handling of Slovak goods by sanctioned person or in sanctioned territory,
- c) transit of Slovak goods across sanctioned territory and transit of sanctioned goods across the territory of the Slovak Republic,
- d) passage of other goods across the territory of the Slovak Republic to sanctioned territory or intended to sanctioned person,
- e) any other performance by Slovak persons to the benefit of sanctioned person in sanctioned territory, including any deals with them,
- f) provision of accommodation or catering services to sanctioned person in the territory of the Slovak Republic, or
- g) provision of tourist services by a Slovak person in sanctioned territory.

§ 5

Financial services

International sanction in the financial services sector shall mainly be restriction, order or prohibition of

- a) transmittal of money from accounts kept in banks or foreign bank branches to sanctioned persons, to be performed in the territory of the Slovak Republic or to be performed by a Slovak Republic national, another natural person dwelling in the territory of the Slovak Republic or a legal entity with the principal offices in the territory of the Slovak Republic,
- b) interest to be paid on funds on accounts mentioned in letter a),
- c) any other provision of funds, financial and economic resources by Slovak persons or from the territory of the Slovak Republic to sanctioned person, or
- d) making or performing under insurance policies to the benefit of sanctioned person.

§ 6

Transport, posts, and telecommunications

(1) International sanction in the transport sector shall mainly be restriction, order or prohibition of

- a) allowing Slovak transport vehicles to enter sanctioned territory,
- b) allowing other transport vehicles to enter the territory of the Slovak Republic from sanctioned territory or to enter sanctioned territory from the territory of the Slovak Republic, where justified suspicion exists that sanctioned goods or sanctioned person are carried by the transport vehicle in question,
 - c) sanctioned person’s transport vehicles passing the state borders of the Slovak Republic for the purpose of crossing the territory of the Slovak Republic or exiting the territory of the Slovak Republic,
- d) any physical or legal disposition with transport vehicles of sanctioned person dwelling in the territory of the Slovak Republic,
- e) provision to sanctioned person of Slovak transport vehicles, or

¹⁰ § 2 letter n) of Act No.238/2001 Coll.LL., Customs Act, as amended by Act No.553/2001 Coll.LL.

¹¹ § 2 letter o) of Act No.238/2001 Coll.LL.

f) carrying out repairs and modifications and provision to sanctioned person of spare parts, components or tools needed for repairs or modifications of transport vehicles.

(2) International sanction in the posts and telecommunications sector is mainly restriction, order of prohibition of

a) acceptance for transport from the territory, to the territory or across the territory of the Slovak Republic of mail, parcels or other consignments carried by postal enterprise¹² to sanctioned territory or intended to sanctioned person,

b) allowing telephone, telegraph or other similar connection with sanctioned person or sanctioned territory,

c) radio, TV or other broadcasting¹³ to sanctioned territory.

§ 7

Technical infrastructure

International sanction in the technical infrastructure sector shall mainly be restriction, order or prohibition of supplies of energies, raw materials, machines and their parts and components, materials, computer equipment, including technologies and know-how, and other facilities needed to produce them, from or across the territory of the Slovak Republic to sanctioned person or sanctioned territory.

§ 8

Scientific, technical cultural and sports relations

(1) International sanction in respect of scientific and technical relations is mainly restriction, order or prohibition of

a) implementation of scientific research or technical research, programmes or projects with the joint involvement of Slovak persons and sanctioned person,

b) provision of devices and equipment by Slovak persons or from the territory of the Slovak Republic to sanctioned person for the purpose of their use for scientific research or technical research, programme or project,

c) provision to sanctioned person or to sanctioned territory of information on scientific research and technical research, programmes and projects of Slovak persons and their results in any form, including provision of information via facsimile, electronic means or by telephone, unless such information are publicly available,¹⁴ or

d) making patents available or granting patent rights¹⁵ owned by Slovak persons to sanctioned person.

(2) International sanction in respect of cultural relations shall mainly be restriction, order or prohibition of

a) provision by Slovak persons or from the Slovak territory to sanctioned person or sanctioned territory of articles of cultural value,

b) acceptance by Slovak persons or in the Slovak territory from sanctioned person or from sanctioned territory of articles of cultural value, unless such acceptance is for short period of time only for the purpose

¹² § 5 of Act No.507/2001 Coll.LL. on postal services.

¹³ Act No.308/2000 Coll.LL. on broadcasting and retransmission and on amendments to Act No. 195/2000 Coll.LL. on telecommunications, as amended by Act No. 147/2001 Coll.LL.

¹⁴ Act No.211/2000 Coll.LL. on free access to information and on amendments and additions to some laws (Free Access to Information Act).

¹⁵ Act No.435/2001 Coll.LL. on patents, additional certificates of protection, and on amendments and additions to some laws (Patent Act).

of salvation, protection or maintenance of articles of cultural value directly threatened due to war conflict or natural disaster, or return to Slovak person of articles of cultural value,

- c) staging by Slovak persons of public cultural event¹⁶ for exclusively sanctioned person or in sanctioned territory, or
- d) granting by Slovak persons to sanctioned person of copyright or other materially related rights.¹⁷

- (3) International sanction in respect of sports relations shall be restriction, order or prohibition of
 - a) participation of persons or groups representing sanctioned person in sports events organised in the territory of the Slovak Republic or by Slovak persons,
 - b) participation of Slovak persons or groups representing the Slovak Republic in sports events organised by sanctioned person or in sanctioned territory.

§ 9

Exceptions from the sanction regime

The provisions of this Act shall not be used to

- a) provision of health care,¹⁸
- b) humanitarian aid unless restricted by decision, binding resolution or common position of relevant international bodies (§ 2 par.1); such aid mainly includes supplies of
 - 1. food,
 - 2. clothes,
 - 3. medicinal drugs,
 - 4. medical materials, or
 - 5. other humanitarian needs to protect health and rescue lives of persons not involved in activities which were the reason for imposing international sanction,
- c) provision of social assistance benefits, state social allowances, pension insurance benefits, sickness insurance benefits, material security benefits to job seekers, and allowances for payments of social security insurance and allowances for state employment policy, and insurance premium towards general health insurance,
- d) payments of wages, payments en lieu of wages, severance payments and other payments under employment or equivalent contracts,
- e) payments of alimonies,
- f) damages caused by activity which is not in causative relation with the implementation of international sanctions under this Act, and to payments of associated insurance premium,
- g) acquisition of articles inherited from sanctioned person,
- h) payment by sanctioned person of receivables unless they have arisen by violation of international sanctions, or
- i) enforcement of decision and to general commitments under international agreements.

§ 10

Administrative infractions

- (1) The following penalties may be imposed in accordance with a separate Act¹⁹ upon legal entities and natural persons – entrepreneurs for violation of restrictions, orders or prohibitions imposed under §§4 through 8 announced by government regulation:

¹⁶ Act of the Slovak National Council No.96/1991 Coll. on public cultural events.

¹⁷ Act No.383/1997 Coll.LL., Copyright Act, and act which amends and supplements Customs Act, as amended from time to time, as amended by Act No.234/2000 Coll.LL.

¹⁸ Act of the National Council of the Slovak Republic No.277/1994 Coll.LL. on health care, as amended from time to time.

- a) fine up to Sk 5,000,000,
- b) confiscation of article.

(2) Natural persons who own or legally hold rights to industrial or other intellectual property^{14,16} and have violated a restriction, order or prohibition as mentioned in § 8 par.1 letter d) and §8 par.2 letter d) may be imposed upon fines up to Sk 100,000 Sk.

(3) Where especially important foreign policy or security interests of the Slovak Republic were violated or threatened by an action as mentioned in paragraph 1, fines up to Sk 20,000,000 may be imposed.

(4) Sanctions may be imposed within three years of the date on which the authority competent to impose sanctions acquired knowledge of the person who committed an act as mentioned in paragraphs 1 through 3, but not later than ten years after the date when the action was committed. In imposing sanctions, account shall be taken of the severity, method, duration and consequences of the illicit action.

(5) Decision on confiscation of articles may be made separately or in combination with a fine. Articles may be confiscated provided that they are owned by the person who violated a restriction or prohibition under §§4 through 8 of this Act, announced by government regulation and which

- a) were used or intended to commit an illicit action that violates these obligations,
- b) were acquired by such action or received in compensation for such action, or
- c) were acquired en lieu of an article mentioned in letter b).

(6) The ownership of confiscated articles shall go over to the state.

(7) The authority competent to make decisions under paragraphs 1 and 2 within the scope of its jurisdiction²⁰ shall be

- a) Ministry of Economy of the Slovak Republic,
- b) Ministry of Transport, Posts and Telecommunications of the Slovak Republic,
- c) Ministry of Culture of the Slovak Republic,
- d) Ministry of Education of the Slovak Republic,
- e) Ministry of Interior of the Slovak Republic,
- f) Industrial Property Authority of the Slovak Republic.

(8) Where the matter is not subject to the jurisdiction of the bodies mentioned in paragraph 3, the authority competent to make decisions under paragraphs 1 and 2 shall be Ministry of Finances of the Slovak Republic.

(9) The authority competent to make decisions in rem shall be liable to obtain, prior to issuing the decision, position of the Ministry of Foreign Affairs of the Slovak Republic on the extent and intensity of the violation of foreign policy or security interests of the Slovak Republic. Ministry of Foreign Affairs of the Slovak Republic shall be liable to present the authority with its position within ten business days after the receipt of a request for position.

(10) Yields of fines shall represent revenues of the State Budget.

¹⁹ § 2 of Act No.513/1991 Coll., Commercial Code, as amended from time to time.

²⁰ Act No.575/2001 Coll.LL. on the organisation of government's activities and organisation of central public service.

(11) Unless provided differently by this Act, the sanction-imposing procedure mentioned in paragraphs 1 and 2 shall be subject to general regulations on administrative proceedings;²¹ remonstrance against a decision shall have no suspensory effect.

Common and repealing provision
§ 11

Details of sanctioned persons and sanctioned territories to which government regulation relates shall be laid down by a generally binding legal regulation to be issued by Ministry of Foreign Affairs of the Slovak Republic.

§ 12

The following shall be repealed:

1. § 56a of Act No. 42/1980 Coll. on economic relations with other countries, as amended by Act No. 483/2001 Coll.LL.
2. Regulation of the Government of the Slovak Republic No.273/2002 Coll.LL. which announces sanctions of the United Nations Security Council.

§ 13
Effectivity

This Act shall become effective on 1 September 2002.

Rudolf Schuster s.m.
Jozef Migaš s.m.
Mikuláš Dzurinda s.m.

²¹ Act No.71/1967 Coll. on administrative procedures (Administrative Rules).

2. Act of 16 March 2005 which amends and supplements Act No. 460/2002 Coll.LL. on implementing international sanctions to secure international peace and security

The National Council of the Slovak Republic has adopted the following law:

Art. I

Act No.460/2002 Coll.LL. on implementing international sanctions to secure international peace and security shall be amended and supplemented as follows:

1. The word “of some” shall be inserted after the word “implementation” to §1.
2. §§ 2 and 3 shall read as follows:

„§2

Definition of terms

For the purposes of this Act,

- a) “international sanction” shall mean a set of restrictions, orders or prohibitions introduced to maintain or restore international peace and security under
 1. decision of the United Nations Security Council adopted under art. 41 of the United Nations Charter (hereinafter referred to as “decision”); or
 2. single actions of the European Union Council (hereinafter “the Council”) under art. 14 of the European Union Treaty (hereinafter “single action”), and common positions of the Council in accordance with art. 15 of the European Union Treaty (hereinafter „common position “); or
 3. an emergency measure taken under art. 60 and 301 of the European Union Treaty (hereinafter “emergency measure”),
- b) “sanctioned territory” in a decision, common position, single action or emergency measure shall mean the determined territory, including the airspace and coastal waters,
- c) “sanctioned person” shall mean the person identified in the decision, single action, common position or emergency measure -
 1. a natural person living in the sanctioned territory,
 2. another natural person or another organised power and representatives thereof usually dwelling in sanctioned territory, save Slovak Republic nationals,
 3. a legal entity with principal offices in sanctioned territory.
- d) “Slovak person” shall mean
 1. the Slovak Republic,
 2. a national of the Slovak Republic,
 3. another person dwelling in the territory of the Slovak Republic pursuant to a separate law,¹⁾
 4. a legal entity²⁾ with the principal office in the territory of the Slovak Republic,
- e) “goods” shall mean any chattels, including raw materials and electric energy, products or services, save articles of cultural value regardless of whether provided against compensation or free,
- f) “sanctioned goods” in a decision, single action or emergency measure shall mean determined goods owned by or in possession of sanctioned person,
- g) “Slovak goods” shall mean goods owned by or in possession of a Slovak person,
- h) “other goods” shall mean goods which are not Slovak goods or sanctioned goods,
- i) “transport vehicle” shall mean a facility suitable to transport mainly persons, luggage, goods mentioned in letter e), or mail,

- j) “sanctioned person’s transport vehicle” shall mean also transport vehicles, matriculated, owned by, in possession of or used by sanctioned person or to the benefit thereof,
- k) “Slovak transport vehicle” shall mean also any transport vehicle matriculated, owned by, in possession of or used by a Slovak person or to the benefit thereof,
- l) “another transport vehicle” shall mean any transport vehicle which is not Slovak transport vehicle or a transport vehicle of sanctioned person,
- m) “article of cultural value” shall mean
 - 1. any work of art and articles of museum value and gallery value,⁴⁾
 - 2. any national cultural monument⁵⁾ and groups thereof,
 - 3. historical library documents and historical book stock,⁶⁾
 - 4. registered assets of churches and religious societies,⁷⁾
 - 5. archive documents.⁸⁾

§3

- (1) By Government Regulation, the Government of the Slovak Republic shall announce
 - a) decision, unless the Council has taken it over by common position or single action,
 - b) international sanction directed against nationals of the European Union Member States nationals or against legal entities with the principal offices in the territory of a European Union Member State,
 - c) common position or single action not implemented by the Council by emergency measure.
- (2) Everybody shall be obligated to abide by international sanctions imposed by the Government of the Slovak Republic under this Act.
- (3) Where the United Nations Security Council or the Council have repealed decisions on international sanctions under §2 letter a), the Government of the Slovak Republic shall repeal Government Regulations by which decisions on international sanctions were imposed in the territory of the Slovak Republic under §2 letter a).“.

3. Footnote to reference 3) shall be omitted.

4. The footnote to reference 8) shall read as follows:

„8) Act No..395/2002 Coll.LL. on archives and registries and on additions to some laws, as amended by Act No. 515/2003 Coll.LL.“.

5. The words “by binding resolution or common position of the relevant international bodies (§2 par. 1) in §9 letter b) shall be replaced by the words “ „by decision, common position, single action and emergency measure“.

6. Paragraphs 1 and 2 of §10 shall read as follows:

„(1) For violation of an international sanction or for violation of a sanction announced by Government Regulation issued under §3, the competent authority according to paragraph 7 shall make a decision to impose upon legal entities or natural persons - entrepreneurs

- a) a penalty of between Sk 100,000 and Sk 10,000,000,
- b) confiscation.

(2) Authors,¹⁸⁾ patent owners or other natural persons whose rights to intellectual property are protected by a separate regulation, may be imposed penalties of between Sk 100,000 and Sk 500,000 for transferring such rights upon another person or giving consent for they being used or exploited in contradiction with an international sanction or Government Regulation.“.

7. In the footnote to reference 18, reference „§2 of Act No.513/1991 Coll. Commercial Code, as amended from time to time”, shall be replaced by the reference “§6 of Act No. 618/2003 Coll.LL. on copyrights and rights related to copyrights (Copyright Act).“.

8. The footnote to reference 18a shall read as follows:

„18a)Act No. 435/2001 Coll.LL. on patents, additional certificates of protection, and on amendments and supplements to some laws (Patent Act), as amended by Act No.402/2002 Coll.LL.
Act No.478/1992 Coll. on applied design, as amended from time to time.
Act No.444/2002 Coll.LL. on designs.
Act No.55/1997 Coll.LL. on trademarks, as amended from time to time.“.

9. §11 shall be omitted.

10. §12a shall be inserted after §12, which reads as follows:

„§12a
Regulation of the Government of the Slovak Republic No. 707/2002 Coll.LL. which announces international sanctions securing international peace and security, as amended by Regulation of Government of the Slovak Republic No. 185/2003 Coll.LL., Regulation of the Government of the Slovak Republic No. 240/2003 Coll.LL., Regulation of the Government of the Slovak Republic No. 447/2003 Coll.LL., and Regulation of the Government of the Slovak Republic No. 137/2004 Coll.LL. shall be repealed“.

Art. II

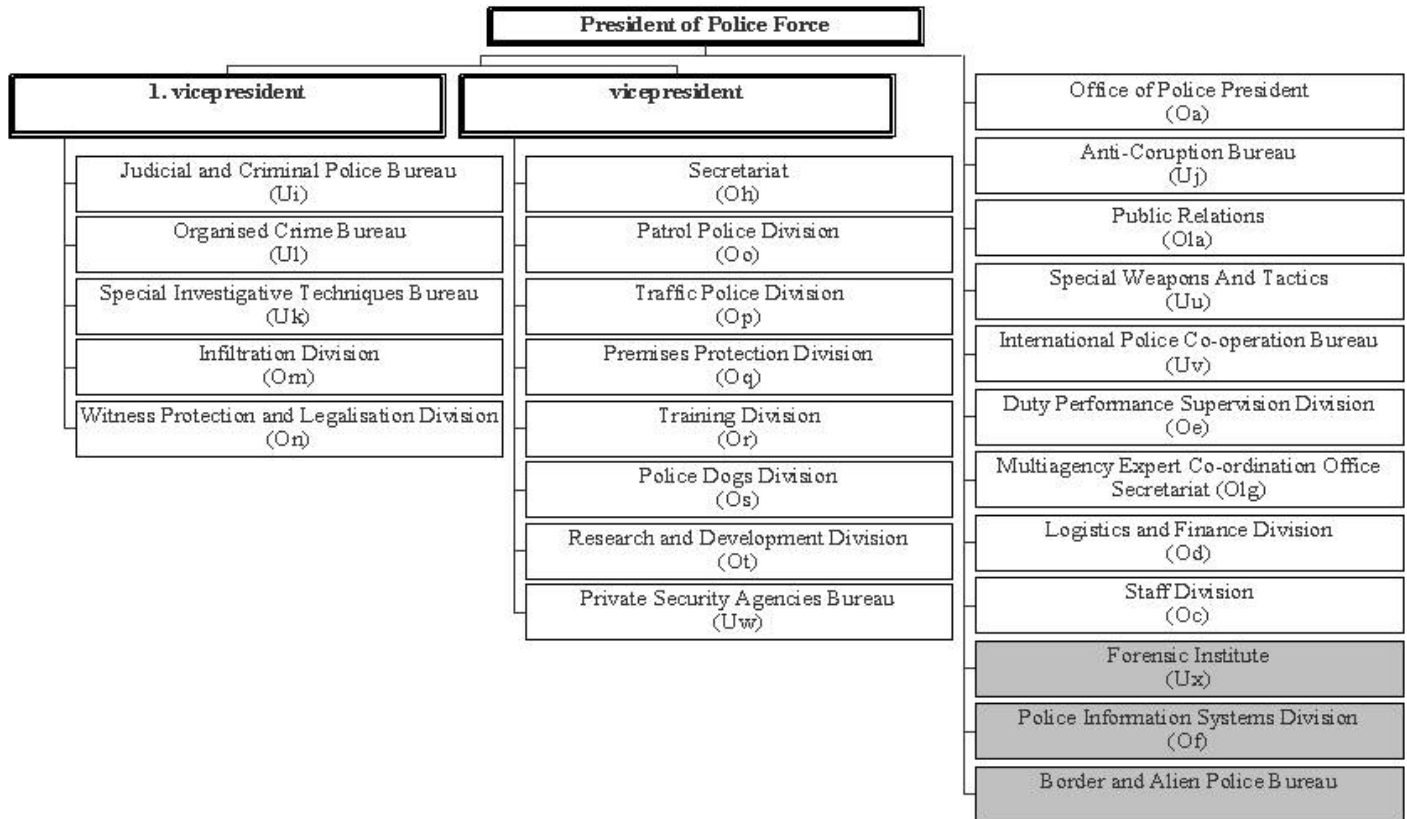
This Act shall become effective on 1 May, 2005.

Ivan Gašparovič s.m.
Pavol Hrušovský s.m.
Mikuláš Dzurinda s.m.

ANNEX 7 – Charts on structure of the Presidium of Police Forces

**Presidium of Police Force
(as of 1st January 2004)**

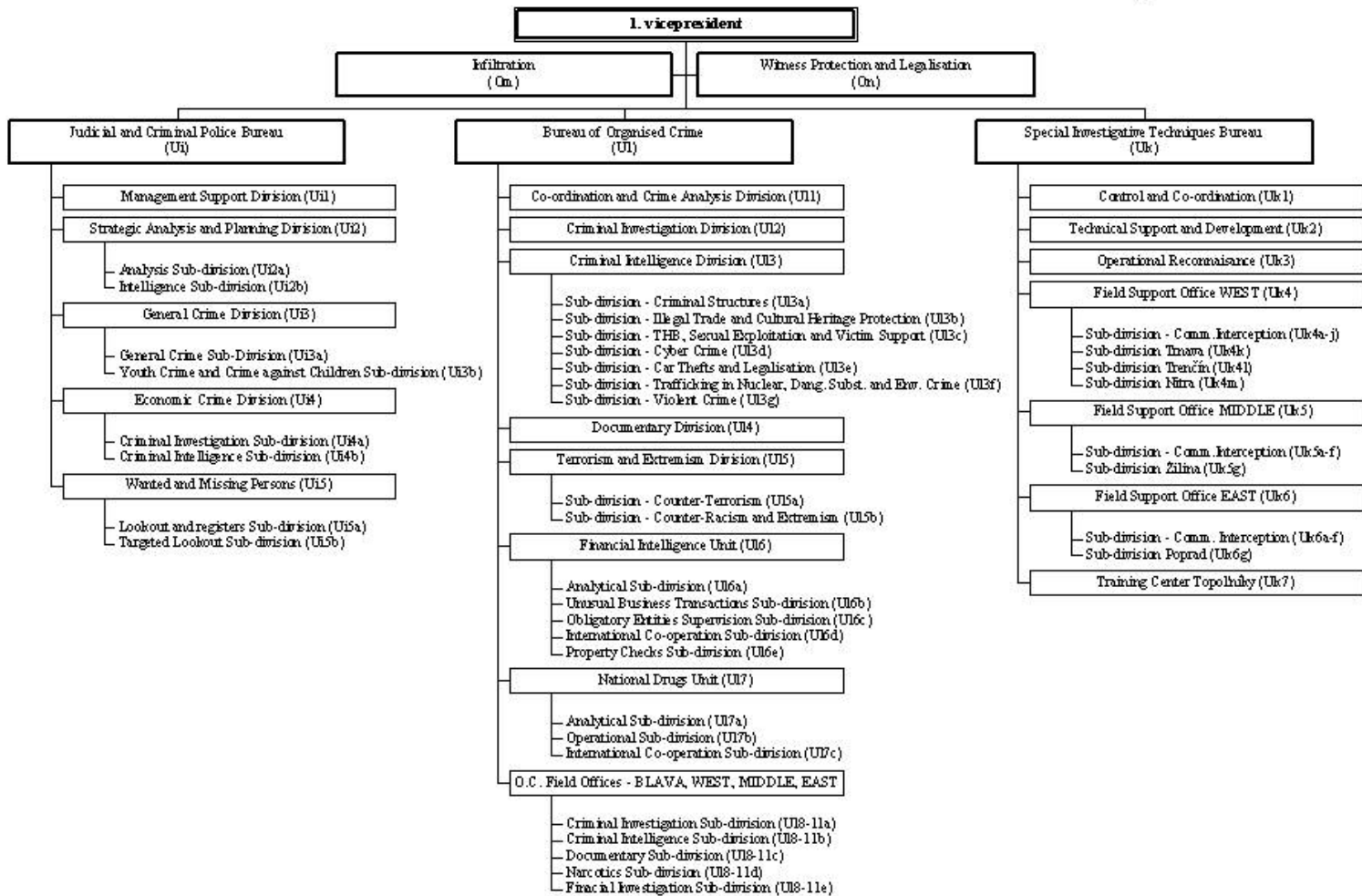
Diagram 3



Border and Alien Police Director reports to President of Police Force

2.5.2006

Diagram 3b



2.5.2006

ANNEX 8 - Act No. 154/2001 on Prosecutors and Trainee Prosecutors of the Public Prosecution Service (article 26)

CHAPTER THREE

BASIC RIGHTS AND DUTIES OF THE PROSECUTOR AND THE HEAD PROSECUTOR

Part One

Prosecutor's Basic Rights and Duties

Prosecutor's Basic Duties

Article 26

- (1) The prosecutor is obliged to
- a) perform his duties and obligations as resulting from the Slovak Republic Constitution, constitutional laws, laws and other generally binding regulations as well as the tasks and instructions entrusted and given by the superior prosecutor provided that the prosecutor was duly and properly informed thereabout; the prosecutor is obliged to refuse performance of certain tasks or instructions if by performing the same he would commit a crime, offence, tort or a disciplinary misconduct,
 - b) advance and protect public interest and serve the same,
 - c) discharge his professional duties duly, properly, impartially and without any undue delays,
 - d) stay free from any individual or partial interests, interests of the political parties or political movements, not to succumb to the public opinion pressure, withstand the pressure of the media and refuse any interference, pressure, influence or request that might impair his impartiality,
 - e) always act objectively and take into account all the relevant circumstances and information regardless of their benefits or detriments to the litigants,
 - f) protect human dignity, fundamental human rights and freedoms, not to show favouritism towards or discriminate and impair the litigants on the grounds of their gender, race, skin colour, mother tongue, faith and religion, political or any other affiliation, national origin or social background, nationality, ethnic group, property, family or status,
 - g) extend his professional knowledge and qualification,
 - h) in case of a pending matter not to make any public comments thereon if such comments might reasonably be expected to affect its outcome or impair its fairness,
 - i) refrain from any activity that might result in the conflict of professional and personal interests, especially not to misuse the information gathered and learnt in connection with practising the prosecutor's profession to his own benefit or to the benefit of any other parties,
 - j) refrain from the activity that is incompatible with the prosecutor's profession,
 - k) refrain from rendering legal services; however, legal services shall not mean representation under a separate law,¹
 - l) when practising the prosecutor's profession, behave with great dignity, live up to the prosecutor's reputation and refrain from anything that might be to the detriment of the prosecutor's honour or might ruin the confidence in his impartiality,

¹ E.g. Art. 22-33b of the Civil Code, Art. 22 - 24, Art. 27 and 28 of the Civil Procedure Code, Art. 16 Sec. 1, 4 and 5 of the Act No. 71/1967 Coll. on Administrative Procedure (Administrative Procedure Code)

- m) when practising the prosecutor's profession comply with the prosecutor's Model Code of Professional Responsibility,
- n) when appearing before the courts of law be appropriately attired; at the main hearing or a public court sitting as well at the civil hearing the prosecutor shall wear a robe and at the main hearing or a public sitting of the military court a military uniform,
- o) to the full extent use his working hours and respect the scheduled working hours per week,
- p) inform his appropriate prosecution office about all and any changes in his personal details,
- q) without any undue delay inform his appropriate prosecution office about the loss or theft of his professional card.

(2) The prosecutor may not strike or in any other manner hinder a due performance of the profession and may not be engaged in any political activity.

(3) Even after the termination of his professional service, the prosecutor is obliged to treat any information learnt in connection with the prosecutor's profession confidential, save for the cases when the disclosure of confidential information is authorised by law. The disclosure of the confidential information by the prosecutor may be authorised by the Attorney General, even after the termination of the prosecutor's professional service.

ANNEX 9 - Persons falling under the jurisdiction of both the Special Court and the Special Prosecutor's Office

The following persons fall under the jurisdiction of both the Special Court and the Special Prosecutor's Office:

- a) Deputies of the National Council (Parliament) of Slovakia
- b) Members of Government
- c) State Secretaries
- d) Heads of central administrative authorities
- e) both President and Vice-President of the Supreme Audit Office
- f) Judges of the Supreme Court
- g) Judges
- h) Prosecutors
- i) Ombudsman
- j) Head of the Government Office
- k) Director of the National Security Office
- l) Director of the Slovak Intelligence Service
- m) Members of the Banking Board of the National Bank of Slovakia if they are suspected of having committed a criminal offence in connection with their powers and responsibilities.

ANNEX 10 - Act No. 367/2000 Coll. of 5 October 2000 on protection against legalisation of incomes from illegal activities and on amendment of some Acts

1. Version of Act No. 367 received during the on-site visit

ACT No. 367

on protection against legalisation of incomes from illegal activities and on amendment of some acts

The National Council of the Slovak Republic has resolved upon the following act:

Article I

Section 1

Subject of law

This act defines rights and duties of legal entities and natural persons in preventing and detecting cases of legalisation of incomes from illegal activities.

Section 2

Legalisation of incomes from illegal activities

1. Legalisation of incomes derived from illegal activities (hereinafter as “legalisation”) means the use or other disposal with income or other property acquired or reasonably suspicious of being acquired from illegal activity¹ or participation in an illegal activity carried out on the territory of the Slovak Republic or outside the territory of the Slovak Republic.
2. Use of income or other property defined in subsection 1 means the ownership, possession or use of a real estate, movables, securities, monies or other financially valuable subjects.
3. Disposal with an income or other property defined in subsections 1 and 2 is a transfer of ownership, possession or use of such property with the aim to keep secret or to hamper finding origin of such property or the owner thereof.

Section 3

Reporting entity

A reporting entity shall be:

- a) Export – Import Bank of the Slovak Republic², bank or a subsidiary of a foreign bank³,
- b) administration company or a depository⁴, organiser of the securities market, tradesman with securities, securities exchange⁵, securities centre⁶, commodity exchange⁷, subsidiary of foreign insurance company, reinsurance company and subsidiary of foreign insurance company⁸,

¹ Sections 7 to 10 of the Act No. 140/1961 Coll. Commercial Code as later amended.

² Act No. 80/1997 Coll. on Export-Import Bank of the Slovak Republic as later amended.

³ Act No. 21/1992 Coll. on Banks as later amended.

⁴ Act No. 385/1999 Coll. on Collective Investment.

- c) post enterprise office⁹, executor^{9a}, auditor¹⁰, tax advisor¹¹,
- d) legal entity or a natural person who is entitled to carry out auctions except of executions¹², financial leasing or other financial activities defined by special law¹³,
- e) casino operator, bookmaker, real agent, exchange office, deposit house¹⁴,
- f) legal entity operating lotteries or other gambles¹⁵,
- g) the person who provides legal assistance under special rule, ^{15a)} if he/she prepares or carries out for clients activities connected with
 1. purchase and sale of real estate or commercial share in commercial company,
 2. administering financial means, securities or other property,
 3. opening or administering account in a bank or in a subsidiary of foreign bank or account of securities,
 4. establishment, activity or management of commercial company, foundation, corporation or similar legal person or
 5. acting on behalf of a client or for a client in any financial operation or property operation,
- h) legal entity or natural person carrying out activity of accountant, organisational and economic advisers, services of public carriers and messengers or forwarding business, ¹⁴⁾
- i) operator of auction room, legal entity or natural person trading in works of art, articles for collections, antiquities, ^{15b)} precious metals or precious stones or puts the products made of precious metals or precious stones on market ^{15c)} or trades in other articles of high value, if he/she carries out cash operation in value at least of 15 000 EUR, ”.
- j) other legal entity or a natural person defined by a special law.

Section 4

Unusual business activity

An unusual business activity is a legal action or other action that may enable legalisation or financing terrorism.

Section 5

Identification

(1) Identification is finding the following data:

- a) name, surname and number or date of birth, type and number of identity card ¹⁶⁾ of natural person and nationality of a foreigner; the place of enterprising and identification number as well shall be ascertained in natural person who is authorised to do business,

⁵ Act No. 214/1992 Coll. on Securities Exchange as later amended.

⁶ Act No. 600/1992 Coll. on Securities as later amended.

⁷ Act No. 229/1992 Coll. on commodities exchanges as amended by the Act No. 249/1994 Coll.

⁸ Act No. 95/2002 Coll. on system of insurance and on amendment and supplement of some acts”.

⁹ Act No. 507/2001 Coll. on post services.

9a) paragraph 2 Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial executors and execution activity (Execution Regulation) and on amendment and supplement of some acts.”.

¹⁰ Act of the Slovak National Council No. 73/1992 Coll. on auditors and on Slovak Chamber of Auditors as later amended.

¹¹ Act of the Slovak National Council No. 78/1992 Coll. on tax advisors and on Slovak Chamber of Tax Advisors as later amended.

¹² Act No. 174/1950 Coll. on auctions except of executions as amended by the Act No. 513/1991.

¹³ Section 29 of the Act of the National Council of the Slovak Republic No. 289/1995 Coll. on VAT as later amended.

¹⁴ Section 2 subsection 2 of the Act No. 513/1991 Coll. Commercial Code.

- b) name, residence a identification number of legal entity and data of natural person who is authorised to act on behalf of his/her name within letter a)
- c) name, surname and number or date of birth, type and number of identity card of a parent, or a legal representative by special rules in case of a minor who has no identity card,
- d) identification number of similar code which was granted to a client by an obliged person under special rules for managing business by means of technical equipment. ¹⁹⁾

(2) Obligated person /reporting entity/ shall identify each natural person or legal entity if he/she ascertains that this person prepares or carries out

- a) unusual business activity,
- b) business activity in value of at least 15 000 EUR,
- c) more linked business activities the value of which will be at least 15 000 EUR in a period of twelve months which follow one after another.

(3) Each natural person shall be also identified by insurance company and subsidiary of foreign insurance company if regular amount of premium from life insurance, which is due within a calendar year, reaches the value at least 2 500 EUR.

(4) Each natural person shall be identified by operator of casino at entry to casino.

(5) Obligation of identification does not relate to identification of legal entity if such a legal entity is Export-import Bank of the Slovak Republic, bank or subsidiary of foreign bank ³⁾, administration company and depository ⁴⁾, organiser of the securities market, tradesman with securities, securities exchange ⁵⁾, central depository ⁶⁾, commodity exchange ⁷⁾ or insurance company, subsidiary of foreign insurance company, reinsurance company and subsidiary of foreign reinsurance company ⁸⁾.

(6) Subsection 2 - 4 does not impact provisions of special regulations¹⁵.

Section 6

Duties of a reporting entity

(1) A reporting entity shall

- a) prepare and actualise the program of his own activities aimed to combat the legalisation that should contain mainly the review of forms of unusual business activities operations according to the subject of his activities; content and time schedule of professional education of the employees held at least once a year, identification of a person or organisational unit who are responsible for protection against legalisation and methods to prevent and detect a legalisation,
- b) stores, for purposes under this Act, during period of five years
 1. identification document since termination of contractual relation ,
 2. all data and documents about it including identification since execution of business activity,
- c) upon an inquiry of the financial police of the Police Corps¹⁶ (hereinafter referred to as the "financial police") a reporting entity shall provide the financial police with information and written documents confirming his duties as defined in letter a) were fulfilled.

(2) Obligated person is finding out, in business activity to which identification obligation applies to, if natural person or legal entity acts under his/her own name. If obliged person finds out that natural person or legal

¹⁵ the Act 171/2005 Coll. on gambling as later amended.

entity does not act under his/her own name, the obliged person calls for documenting his/her name, surname, number or date of birth of natural person or business name, residence and identification number of legal entity in whose name business operation is being carried out by binding declaration in writing; obliged person shall use the same procedure provided there are any doubts if natural person or legal entity acts under his/her own name.”

- (3) A reporting entity also shall
- a) consider whether the prepared or realised business activity is unusual,
 - b) refuses to execute a business activity if such activity is within competency of obliged person or is subject of his/her activity
 1. it is unusual business activity and its execution means legalisation or financing terrorism,
 2. natural person or legal entity refuses identification under paragraph 5,
 3. natural person or legal entity refuses documentation under subparagraph 2 in whose name he/she is acting,
 - c) enable the financial police to view all documents or IT means and to data on technical media that deal with legalisation; to review them, make excerpts, notes and copies; the obliged person shall provide the financial police with professional written statement on subject of his activity,
 - d) after a written inquiry provide the financial police in a defined period data on business activities that are to be identified, submit documents on such activities and provide information about persons who joined such business activities.

(4) Duty of reporting entity according to paragraph 1 letter b) and c) and paragraph 3 letter c) and d) refer to legal person and natural person which was excluded from the list of reporting entities.

Section 7

Reporting duty

(1) A reporting entity shall inform the financial police about an unusual business activity without unnecessary delay.

(2) Information duty means that a reporting entity shall submit a report on an unusual trade operation provided such information was kept confident

- a) orally,
- b) in a written form,
- c) by phone if the case is urgent with a written confirmation of such information submitted within three days after the phone information,
- d) by electronic form.

(3) Report about an unusual business activity shall contain mainly

- a) trade name, address and identification number of the obliged person,
- b) data found by identification of legal entities and natural persons who deal with the unusual business activity,
- c) data on an unusual business activity, mainly the reason of unusualness, time course of action, account numbers, dates when the accounts were opened, owners of the accounts, persons disposing with such accounts, copies of documents according to which the accounts were opened, identification of persons authorised to dispose with the accounts, copies of account contracts and other documents and information,
- d) data on any third person who possesses any information on an unusual business activity.

(4) After a written inquiry the reporting entity shall inform the financial police about supplementary information and shall provide the financial police with documents on the unusual business activity.

(5) A reporting entity shall without any delay inform the financial police also about refusing any business activity under Section 6 subsection 3 letter b).

(6) Duties defined in Section 6 and duty to inform the financial police about an unusual business activity under subsection 1 is not limited by the duty defined by law to keep information confident as defined by special regulations if not stated otherwise by this Act.¹⁷

(7) Reporting duty does not relate to obliged person under paragraph 3 letter g) provided it concerns information which he/she got on a client in connection with providing legal assistance under a special rule. 15a),

(8) Reporting unusual business operation do not impact duty of reporting the facts indicating commission of crime

Section 8

Duty of confidence

1. A reporting entity must keep information about the reported unusual business activity and measures taken by the financial police confident.
2. Any employee of the reporting entity who reported an unusual business activity as well as any legal entity or a natural person who acts on behalf of the reporting entity according to an agreement is obliged to keep such information confident.
3. Persons defined in subsection 2 are obliged to keep the duty of confidence also after completion of their work contract, a similar work relationship or other agreed relationship.
4. Financial police can relieve a reporting entity from the duty of confidence in case of a proceeding
 - a) carried out by criminal prosecution,
 - b) carried out by a court in a civil proceeding,
 - c) carried out by a body authorised under a special regulation on such motion as defined in Section 10 letter d).
5. Financial police can relieve a reporting entity from the duty of confidence also in case of a compensation of a loss (Section 12).
6. Persons infringing the duty of confidence as defined in subsections 1, 2 and 3 have caused an offence and within a proceeding according to a special law¹⁸ such persons can be imposed a penalty up to the amount of 100,000 SKK; this provision does not influence any liability for loss of person injured by such information or any possible criminal liability of a person who infringed the duty of confidence¹⁹.

Section 9

Delay of unusual business activity

¹⁸ Section 24 subsection 1 letter e) of the Act of the Slovak National Council No. 372/1990 Coll. on offences as amended later.

1. Obligated person/ reporting entity can postpone an unusual business operation until financial police receives the reporting on the unusual business operation.
2. Obligated person can postpone an unusual business operation if its execution may hamper or substantially impede reinsurance of proceeds from crime or if financial police ask for such delay in writing until obliged person receives the reporting of financial police on execution of the unusual business operation; 48 hours at the latest. This period shall not involve Saturday and the day of public holiday. Obligated person shall inform financial police immediately about such delay.
3. Obligated person shall delay an unusual business operation after having received the reporting of financial police in writing that the case was submitted to judicial authorities within 24 hours. This period shall not involve Saturday and the day of public holiday.
4. Obligated person shall not delay an unusual business activity for
 - a) for operational or technical reasons; obliged person shall inform the financial police immediately about such fact.
 - b) according to previous indication by financial police, the delay of an unusual business activity could be hampered by checking an unusual business activity.

”Paragraph 9a

Payment of bearer investment

Payment of bearer investment or the rest of a cancelled bearer investment the value of which is at least 15 000 EUR in a period of twelve months following one after another may be paid by a bank or a subsidiary of foreign bank on the basis of a bearer request in writing within seven days after the request has been submitted; bank and subsidiary of foreign bank have to inform the financial police on receiving such a request for payment whereby the paragraph 7 will be applied accordingly.

Section 10

Duties of financial police

Financial police

- a) shall require and control duties of reporting entities defined by this law,
- b) shall submit a motion on imposing a penalty to the reporting entity for infringing or not meeting his duties defined by this law to a body authorised under special regulations²⁰ to impose such penalty if this body has not start such proceeding as defined in Section 13,
- c) shall submit a motion to suspend an authorisation for entrepreneurial or other self-employment activity of the reporting entity for repeated infringement or not meeting the duties defined by this law to a body authorised under special regulations²² to decide on such motion,
- d) shall require information about how such motion was completed and about measures adopted by respective bodies under letter b) and c); these bodies are obliged to inform the financial police,
- e) shall keep the information acquired from the reporting entity confident,
- f) shall provide the tax administrator with the information acquired if such information can start a tax proceeding or if it is important for pending tax proceeding if it does not threaten duties of the financial police.

Section 11

²⁰ For instance the Act No. 21/1992 Coll. as later amended, the Act of the National Council of the Slovak Republic No. 566/1992 Coll. as later amended, the Act of the Slovak National Council No. 24/1991 Coll. as later amended.

Duties of a member of the financial police

Member of the financial police²⁰ authorised by this law has to officially record how provisions of Section 6 subsection 3 letter c) are met, the record shall contain mainly the list of documents, identification of IT means, other technical means and records on technical media, accessible for the financial police with indicating those copied and list of participants with their signatures.

Paragraph 11a

Reporting duty of authority carrying out supervision, control, national supervision or national surveillance

Authority carrying out supervision, control, national supervision or national surveillance over activities of obliged persons informs the financial police of violation of this Act or of unusual business activity immediately after its having discovered them within its competency under special rules.^{25a)}

Section 12

Liability for loss

1. Neither obliged person nor his/her employee are liable for casual loss which arose by reporting an unusual business activity or by its delay provided the both parties proceeded bona fide. In doubts it means that obliged person or his/her employee should proceed bona fide in reporting an unusual business activity or in its delay.
2. The state is liable for a loss caused by a delay of business activity under subparagraph 1. Loss compensation on behalf of state will be provided by Ministry of Interior of the Slovak Republic.

Section 13

Administration torts

1. Obligated person who violates his/her duty defined in paragraph 5 subparagraphs 2, 3 and 4, paragraph 6, paragraph 7 subparagraphs 1,4 and 5, paragraph 8 subparagraphs 1 and 2, paragraph 9 and paragraph 9a may be imposed a penalty by financial police in control execution of fulfilment of duties provided for in this Act up to two million Slovak crowns.
2. If a reporting entity was imposed a penalty within the previous three years under this law and such entity repeatedly infringed the same duty, the financial police can impose a penalty which is twice as high as the penalty defined in subsection 1.
3. A penalty as defined in subsections 1 or 2 can be imposed within one year after the day when the financial police found the infringement of a duty and three years at the latest when the infringement of such duty occurred.
4. In defining a penalty the seriousness of the illegal action and caused loss are considered.
5. A penalty imposed under subsections 1 or 2 does shall neither impact the liability of the reporting entity for caused loss nor any action against the employees according to labour regulations.
6. Torts under this law are governed by general regulations of administration proceedings.

Section 14

Abrogation provisions

The following acts shall be abrogated:

1. Art. I of the Act of the National Council of the Slovak Republic No. 249/1994 Coll. on fight against legalisation of incomes of the most serious mainly organised forms of criminal action and on amendments of some other acts as later amended.
2. Regulation of the Ministry of Interior of the Slovak Republic No. 181/1997 Coll. on suspicious bank operations.

Article II

The Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Corps as later amended by the Act of the National Council of the Slovak Republic No. 251/1994 Coll., the Act of the National Council of the Slovak Republic No. 233/1995 Coll., the Act of the National Council of the Slovak Republic No. 315/1996 Coll., the Act No. 353/1997 Coll., Act No. 12/1998 Coll., Act No. 73/1998 Coll., Act No. 256/1998 Coll., Act No. 116/2000 Coll. and Act No. 323/2000 are amended as follows:

Section 29a is supplemented by a subsection 5 as follows:

”(5) The financial police members enforce authorisations in preventing and detecting legalisation of incomes of criminal action under a special regulation.11g

Footnote 11g is as follows.

”11g Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts.”

Article III

The Act of the National Council of the Slovak Republic No. 202/1995 Coll. the Foreign Exchange Act and act amending the Act of the Slovak National Council No. 372/1990 Coll. on offences as later amended, amended by the Act No. 45/1998 Coll., Act No. 200/1998 Coll. and Act No. 388/1999 Coll. is amended as follows:

1. After Section 8 subsection 5 a new subsection 6 is inserted as follows:

”(6) The foreign exchange body after a written inquiry shall provide the financial police16a with information learned by meeting the information duty under Section 4.”

The previous subsection 6 is marked as subsection 7.

The footnote No 16a is as follows:

”16a Section 4 subsection 1 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Corps as later amended by the Act No. 116/2000 Coll.”

2. In Section 8 subsection 7 words ”customs bodies” are replaced by words ”customs bodies and service of financial police 16a”.

Article IV

The Act No. 21/1992 Coll. on Banks as amended by the Act No. 264/1992 Coll., Act of the National Council of the Slovak Republic No. 249/1994 Coll., Act of the National Council of the Slovak Republic No. 374/1994, Act of the National Council of the Slovak Republic No. 58/1995 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 58/1996 Coll., Act of the National Council of the Slovak Republic No. 118/1996 Coll., Act of the National Council of the Slovak Republic No. 386/1996 Coll., Act No. 12/1998 Coll., Act No. 44/1998 Coll., Act No. 170/1998 Coll., Act No. 252/1999 Coll. and Act No. 215/2000 Coll. is amended as follows:

1. Footnote No. 7 is supplemented by the following sentence:

”Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts.”

2. In Section 37 subsection 2 the text "disposal with deposits of unregistered bankbooks in cash, disposal with deposits in form of unregistered securities in cash and" is omitted.
3. In Section 38 subsection 3 in second sentence at the end the point is replaced by a comma and the following text is added: "these date are to stated in written inquiry under letters b) and e)".
4. In Section 38 subsection 4 the text "suspicious bank operations" are replaced by the text: "unusual trade operations".

Article V

The Act of the Slovak National Council No. 372/1990 Coll. on offences as later amended by the Act of the Slovak National Council No. 524/1990 Coll., Act of the Slovak National Council No. 266/1992 Coll., Act of the Slovak National Council No. 295/1992 Coll., the Act of the Slovak National Council No. 511/1992 Coll., Act of the Slovak National Council No. 237/1993 Coll., Act of the Slovak National Council No. 42/1994 Coll., the Act of the Slovak National Council No. 248/1994 Coll., Act of the Slovak National Council No. 249/1994 Coll., Act of the Slovak National Council No. 250/1994 Coll., Act of the Slovak National Council No. 202/1995 Coll., Act of the Slovak National Council No. 207/1995 Coll., Act of the Slovak National Council No. 265/1995 Coll., Act of the Slovak National Council No. 285/1995 Coll., Act of the Slovak National Council No. 160/1996 Coll., Act of the Slovak National Council No. 168/1996 Coll., Act of the Slovak National Council No. 143/1998 Coll., Ruling of the Constitution Court of the Slovak Republic No. 319/1998 Cool., Act of the Slovak National Council No. 298/1999 Coll., Act of the Slovak National Council No. 313/1999 Coll. and the Act of the Slovak National Council No. 195/2000 Coll. is amended as follows:

1. In Section 24 subsection 2 is as follows:
"(2) For an offence under subsection 1 letter a) and b) can be imposed a penalty in amount of 5,000 SKK, for an offence under subsection 1 letters c) and d) can be imposed a penalty in amount of up to 10,000 SKKK and for an offence under subsection 1 letter e) a penalty in amount up to 100,000 SKK can be imposed. Ban of activity up to a period of one year can be imposed for an offence under subsection 1 letter a) to c) and e)."
2. In Section 52 letter b) after the word "traffic" words "if not offences caused by infringing the duty defined by a special regulation4a" are inserted.

Footnote No. 4a is as follows:

"4a) Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts."

Article VI

Efficiency

This act shall come into force on 1 January 2001.

Rudolf Schuster
Jozef Migaš
Mikuláš Dzurinda

2. Version of Act No. 367 received after the on-site visit

Amendment of the A C T No. 367 (come into force on 1 September 2002) of 5 October 2000

on protection against legalisation of incomes from illegal activities and on amendment of some acts

The National Council of the Slovak Republic has resolved upon the following act:

Article I

Section 1

Subject of law

This act defines rights and duties of legal entities and natural persons in preventing and detecting cases of legalisation of incomes from illegal activities.

Section 2

Legalisation of incomes from illegal activities

(1) Legalisation of incomes derived from illegal activities (hereinafter referred to as the "legalisation") means the use or other disposal with income or other property acquired or reasonably suspicious of being acquired from illegal activity¹ or participation in an illegal activity carried out on the territory of the Slovak Republic or outside the territory of the Slovak Republic.

(2) Use of income or other property defined in subsection 1 means the ownership, possession or use of a real estate, movables, securities, monies or other financially valuable subjects.

(3) Disposal with an income or other property defined in subsections 1 and 2 is a transfer of ownership, possession or use of such property with the aim to keep secret or to hamper finding origin of such property or the owner thereof.

Section 3

Reporting entity

A reporting entity shall be:

- a) Export – Import Bank of the Slovak Republic², bank or a subsidiary of a foreign bank³,
- b) administration company or a depository⁴, organiser of the securities market, tradesman with securities, securities exchange⁵, securities centre⁶, commodity exchange⁷, subsidiary of foreign insurance company, reinsurance company and subsidiary of foreign insurance company⁸,

¹ Sections 7 to 10 of the Act No. 140/1961 Coll. Commercial Code as later amended.

² Act No. 80/1997 Coll. on Export-Import Bank of the Slovak Republic as later amended.

³ Act No. 21/1992 Coll. on Banks as later amended.

⁴ Act No. 385/1999 Coll. on Collective Investment.

⁵ Act No. 214/1992 Coll. on Securities Exchange as later amended.

⁶ Act No. 600/1992 Coll. on Securities as later amended.

- c) post enterprise office⁹, auditor¹⁰, tax advisor¹¹, executor^{9a}
- d) legal entity or a natural person who is entitled to carry out auctions except of executions¹², financial leasing or other financial activities defined by special law¹³,
- e) real agent, exchange office, deposit house¹⁴,
- f) operator of gambling¹⁵,
- g) the person who provides legal assistance under special rule, ^{15a)} if he/she prepares or carries out for clients activities connected with
 1. purchase and sale of real estate or commercial share in commercial company,
 2. administering financial means, securities or other property,
 3. opening or administering account in a bank or in a subsidiary of foreign bank or account of securities,
 4. establishment, activity or management of commercial company, foundation, corporation or similar legal person or
 5. acting on behalf of a client or for a client in any financial operation or property operation,
- h) legal entity or natural person carrying out activity of accountant, organisational and economic advisers, services of public carriers and messengers or forwarding business, ¹⁴⁾
- i) operator of auction room, legal entity or natural person trading in works of art, articles for collections, antiquities, ^{15b)} precious metals or precious stones or puts the products made of precious metals or precious stones on market ^{15c)} or trades in other articles of high value, if he/she carries out cash operation in value at least of 15 000 EUR,“.
- j) other legal entity or a natural person defined by a special law.

Section 4

Unusual business activity

An unusual business activity is a legal action or other action that may enable legalisation or financing terrorism.

Section 5 Identification

(1) Identification is finding the following data:

- a) name, surname and number or date of birth, type and number of identity card ¹⁶⁾ of natural person and nationality of a foreigner; the place of enterprising and identification number as well shall be ascertained in natural person who is authorised to do business,
- b) name, residence a identification number of legal entity and data of natural person who is authorised to act on behalf of his/her name within letter a)

⁷ Act No. 229/1992 Coll. on commodities exchanges as amended by the Act No. 249/1994 Coll.

⁸ Act No. 95/2002 Coll. on system of insurance and on amendment and supplement of some acts“.

⁹ Act No. 507/2001 Coll. on post services.

9a) paragraph 2 Act of the National Council of the Slovak Republic No. 233/1995 Coll. on judicial executors and execution activity (Execution Regulation) and on amendment and supplement of some acts“.

¹⁰ Act of the Slovak National Council No. 73/1992 Coll. on auditors and on Slovak Chamber of Auditors as later amended.

¹¹ Act of the Slovak National Council No. 78/1992 Coll. on tax advisors and on Slovak Chamber of Tax Advisors as later amended.

¹² Act No. 174/1950 Coll. on auctions except of executions as amended by the Act No. 513/1991.

¹³ Section 29 of the Act of the National Council of the Slovak Republic No. 289/1995 Coll. on VAT as later amended.

¹⁴ Section 2 subsection 2 of the Act No. 513/1991 Coll. Commercial Code.

- c) name, surname and number or date of birth, type and number of identity card of a parent, or a legal representative by special rules in case of a minor who has no identity card,
- d) identification number of similar code which was granted to a client by an obliged person under special rules for managing business by means of technical equipment. ¹⁹⁾

(2) Obligated person /reporting entity/ shall identify each natural person or legal entity if he/she ascertains that this person prepares or carries out

- a) unusual business activity,
- b) business activity in value of at least 15 000 EUR,
- c) more linked business activities the value of which will be at least 15 000 EUR in a period of twelve months which follow one after another.

(3) Each natural person shall be also identified by insurance company and subsidiary of foreign insurance company if regular amount of premium from life insurance, which is due within a calendar year, reaches the value at least 2 500 EUR.

(4) Each natural person shall be identified by operator of casino at entry to casino.

(5) Obligation of identification does not relate to identification of legal entity if such a legal entity is Export-import Bank of the Slovak Republic, bank or subsidiary of foreign bank ³⁾, administration company and depository ⁴⁾, organiser of the securities market, tradesman with securities, securities exchange ⁵⁾, central depository ⁶⁾, commodity exchange ⁷⁾ or insurance company, subsidiary of foreign insurance company, reinsurance company and subsidiary of foreign reinsurance company ⁸⁾.

(6) Subsection 2 - 4 does not impact provisions of special regulations¹⁵.

Section 6

Duties of a reporting entity

(1) A reporting entity shall

- a) prepare and actualise the program of his own activities aimed to combat the legalisation that should contain mainly the review of forms of unusual business activities operations according to the subject of his activities; content and time schedule of professional education of the employees held at least once a year, identification of a person or organisational unit who are responsible for protection against legalisation and methods to prevent and detect a legalisation,
- b) stores, for purposes under this Act, during period of five years
 - 1. identification document since termination of contractual relation ,
 - 2. all data and documents about it including identification since execution of business activity,
- c) upon an inquiry of the financial police of the Police Corps¹⁶ (hereinafter referred to as the "financial police") a reporting entity shall provide the financial police with information and written documents confirming his duties as defined in letter a) were fulfilled.

(2) Obligated person is finding out, in business activity to which identification obligation applies to, if natural person or legal entity acts under his/her own name. If obliged person finds out that natural person or legal entity does not act under his/her own name, the obliged person calls for documenting his/her name, surname, number or date of birth of natural person or business name, residence and identification number of

¹⁵ the Act 171/2005 Coll. on gambling as later amended.

legal entity in whose name business operation is being carried out by binding declaration in writing; obliged person shall use the same procedure provided there are any doubts if natural person or legal entity acts under his/her own name.”

(3) A reporting entity also shall

- a) consider whether the prepared or realised business activity is unusual,
- b) refuses to execute a business activity if such activity is within competency of obliged person or is subject of his/her activity
 1. it is unusual business activity and its execution means legalisation or financing terrorism,
 2. natural person or legal entity refuses identification under paragraph 5,
 3. natural person or legal entity refuses documentation under subparagraph 2 in whose name he/she is acting,
- c) enable the financial police to view all documents or IT means and to data on technical media that deal with legalisation; to review them, make excerpts, notes and copies; the obliged person shall provide the financial police with professional written statement on subject of his activity,
- d) after a written inquiry provide the financial police in a defined period data on business activities that are to be identified, submit documents on such activities and provide information about persons who joined such business activities.

(4) Duty of reporting entity according to paragraph 1 letter b) and c) and paragraph 3 letter c) and d) refer to legal person and natural person which was excluded from the list of reporting entities.

Section 7

Reporting duty

(1) A reporting entity shall inform the financial police about an unusual business activity without unnecessary delay.

(2) Information duty means that a reporting entity shall submit a report on an unusual trade operation provided such information was kept confident

- a) orally,
- b) in a written form,
- c) by phone if the case is urgent with a written confirmation of such information submitted within three days after the phone information,
- d) by electronic form.

(3) Report about an unusual business activity shall contain mainly

- a) trade name, address and identification number of the obliged person,
- b) data found by identification of legal entities and natural persons who deal with the unusual business activity,
- c) data on an unusual business activity, mainly the reason of unusualness, time course of action, account numbers, dates when the accounts were opened, owners of the accounts, persons disposing with such accounts, copies of documents according to which the accounts were opened, identification of persons authorised to dispose with the accounts, copies of account contracts and other documents and information,
- d) data on any third person who possesses any information on an unusual business activity.

(4) After a written inquiry the reporting entity shall inform the financial police about supplementary information and shall provide the financial police with documents on the unusual business activity.

(5) A reporting entity shall without any delay inform the financial police also about refusing any business activity under Section 6 subsection 3 letter b).

(6) Duties defined in Section 6 and duty to inform the financial police about an unusual business activity under subsection 1 is not limited by the duty defined by law to keep information confident as defined by special regulations if not stated otherwise by this Act.¹⁷

(7) Reporting duty does not relate to obliged person under paragraph 3 letter g) provided it concerns information which he/she got on a client in connection with providing legal assistance under a special rule.^{15a)}

(8) Reporting unusual business operation do not impact duty of reporting the facts indicating commission of crime

Section 8 Duty of confidence

(1) A reporting entity must keep information about the reported unusual business activity and measures taken by the financial police confident.

(2) Any employee of the reporting entity who reported an unusual business activity as well as any legal entity or a natural person who acts on behalf of the reporting entity according to an agreement is obliged to keep such information confident.

(3) Persons defined in subsection 2 are obliged to keep the duty of confidence also after completion of their work contract, a similar work relationship or other agreed relationship.

(4) Financial police can relieve a reporting entity from the duty of confidence in case of a proceeding
a) carried out by criminal prosecution,
b) carried out by a court in a civil proceeding,
d) carried out by a body authorised under a special regulation on such motion as defined in Section 10 letter d).

(5) Financial police can relieve a reporting entity from the duty of confidence also in case of a compensation of a loss (Section 12).

(6) Persons infringing the duty of confidence as defined in subsections 1, 2 and 3 have caused an offence and within a proceeding according to a special law¹⁸ such persons can be imposed a penalty up to the amount of 100,000 SKK; this provision does not influence any liability for loss of person injured by such information or any possible criminal liability of a person who infringed the duty of confidence¹⁹.

Section 9 Delay of unusual business activity

(1) Reporting entity shall postpone an unusual business operation until financial police receives the reporting on the unusual business operation.

¹⁸ Section 24 subsection 1 letter e) of the Act of the Slovak National Council No. 372/1990 Coll. on offences as amended later.

(2) Reporting entity shall postpone an unusual business operation if there is danger that its execution may hamper or substantially impede seizure of proceeds of crime or if financial police ask for such delay in writing form until reporting entity receives the reporting of financial police on execution of the unusual business operation; 48 hours at the latest. This period shall not involve Saturday and the day of public holiday. Reporting entity shall inform financial police immediately about such delay.

(3) Reporting entity shall delay an unusual business operation after it receives the reporting of financial police in writing form that the case was submitted to judicial (law enforcement) authorities at most for 24 hours. This period shall not involve Saturday and the day of public holiday.

(4) Reporting entity shall not delay an unusual business operation, if

- a) it is impossible to delay it for operational or technical reasons; reporting entity shall inform the financial police immediately about such fact.
- b) delay according to previous warning given by financial police could hamper checking of the unusual business operation.

”Paragraph 9a

Payment of bearer investment

Payment of bearer investment or the rest of a cancelled bearer investment the value of which is at least 15 000 EUR in a period of twelve months following one after another may be paid by a bank or a subsidiary of foreign bank on the basis of a bearer request in writing within seven days after the request has been submitted; bank and subsidiary of foreign bank have to inform the financial police on receiving such a request for payment whereby the paragraph 7 will be applied accordingly.

Section 10

Duties of financial police

Financial police

- a) shall require and control duties of reporting entities defined by this law,
- b) shall submit a motion on imposing a penalty to the reporting entity for infringing or not meeting his duties defined by this law to a body authorised under special regulations²⁰ to impose such penalty if this body has not start such proceeding as defined in Section 13,
- c) shall submit a motion to suspend an authorisation for entrepreneurial or other self-employment activity of the reporting entity for repeated infringement or not meeting the duties defined by this law to a body authorised under special regulations²² to decide on such motion,
- d) shall require information about how such motion was completed and about measures adopted by respective bodies under letter b) and c); these bodies are obliged to inform the financial police,
- e) shall keep the information acquired from the reporting entity confident,
- f) shall provide the tax administrator with the information acquired if such information can start a tax proceeding or if it is important for pending tax proceeding if it does not threaten duties of the financial police.

Section 11

Duties of a member of the financial police

Member of the financial police²⁰ authorised by this law has to record officially how provisions of Section 6 subsection 3 letter c) are met, the record shall contain mainly the list of documents, identification

²⁰ For instance the Act No. 21/1992 Coll. as later amended, the Act of the National Council of the Slovak Republic No. 566/1992 Coll. as later amended, the Act of the Slovak National Council No. 24/1991 Coll. as later amended.

of IT means, other technical means and records on technical media, accessible for the financial police with indicating those copied and list of participants with their signatures.

Paragraph 11a

Reporting duty of authority carrying out supervision, control, national supervision or national surveillance

Authority carrying out supervision, control, national supervision or national surveillance over activities of obliged persons informs the financial police of violation of this Act or of unusual business activity immediately after its having discovered them within its competency under special rules.^{25a)}

Section 12

Liability for loss

(1) Neither obliged person nor his/her employee are liable for casual loss which arose by reporting an unusual business activity or by its delay provided the both parties proceeded bona fide. In doubts it means that obliged person or his/her employee should proceed bona fide in reporting an unusual business activity or in its delay.

(2) The state is liable for a loss caused by a delay of business activity under subparagraph 1. Loss compensation on behalf of state will be provided by Ministry of Interior of the Slovak Republic.

Section 13

Administration torts

(1) A legal person and natural person who violates his/her duty defined in paragraph 5 subparagraphs 2, 3 and 4, paragraph 6, paragraph 7 subparagraphs 1,4 and 5, paragraph 8 subparagraphs 1 and 2, paragraph 9 and paragraph 9a may be imposed a penalty by financial police in control execution of fulfilment of duties provided for in this Act up to two million Slovak crowns.

(2) If a legal person and natural person was imposed a penalty within the previous three years under this law and such entity repeatedly infringed the same duty, the financial police can impose a penalty which is twice as high as the penalty defined in subsection 1.

(3) A penalty as defined in subsections 1 or 2 can be imposed within one year after the day when the financial police found the infringement of a duty and three years at the latest when the infringement of such duty occurred.

(4) In defining a penalty the seriousness of the illegal action and caused loss are considered.

(5) A penalty imposed under subsections 1 or 2 does shall neither impact the liability of the legal person and natural person for caused loss nor any action against the employees according to labour regulations.

(6) Torts under this law are governed by general regulations of administration proceedings.

Section 14

Abrogation provisions

The following acts shall be abrogated:

1. Art. I of the Act of the National Council of the Slovak Republic No. 249/1994 Coll. on fight against legalisation of incomes of the most serious mainly organised forms of criminal action and on amendments of some other acts as later amended.
2. Regulation of the Ministry of Interior of the Slovak Republic No. 181/1997 Coll. on suspicious bank operations.

Article II

The Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Corps as later amended by the Act of the National Council of the Slovak Republic No. 251/1994 Coll., the Act of the National Council of the Slovak Republic No. 233/1995 Coll., the Act of the National Council of the Slovak Republic No. 315/1996 Coll., the Act No. 353/1997 Coll., Act No. 12/1998 Coll., Act No. 73/1998 Coll., Act No. 256/1998 Coll., Act No. 116/2000 Coll. and Act No. 323/2000 are amended as follows:

Section 29a is supplemented by a subsection 5 as follows:

”(5) The financial police members enforce authorisations in preventing and detecting legalisation of incomes of criminal action under a special regulation.11g

Footnote 11g is as follows.

”11g Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts.”

Article III

The Act of the National Council of the Slovak Republic No. 202/1995 Coll. the Foreign Exchange Act and act amending the Act of the Slovak National Council No. 372/1990 Coll. on offences as later amended, amended by the Act No. 45/1998 Coll., Act No. 200/1998 Coll. and Act No. 388/1999 Coll. is amended as follows:

1. After Section 8 subsection 5 a new subsection 6 is inserted as follows:

”(6) The foreign exchange body after a written inquiry shall provide the financial police16a with information learned by meeting the information duty under Section 4.”

The previous subsection 6 is marked as subsection 7.

The footnote No 16a is as follows:

”16a Section 4 subsection 1 of the Act of the National Council of the Slovak Republic No. 171/1993 Coll. on Police Corps as later amended by the Act No. 116/2000 Coll.”

2. In Section 8 subsection 7 words ”customs bodies” are replaced by words ”customs bodies and service of financial police16a”.

Article IV

The Act No. 21/1992 Coll. on Banks as amended by the Act No. 264/1992 Coll., Act of the National Council of the Slovak Republic No. 249/1994 Coll., Act of the National Council of the Slovak Republic No. 374/1994, Act of the National Council of the Slovak Republic No. 58/1995 Coll., Act of the National Council of the Slovak Republic No. 233/1995 Coll., Act of the National Council of the Slovak Republic No. 58/1996 Coll., Act of the National Council of the Slovak Republic No. 118/1996 Coll., Act of the National Council of the Slovak Republic No. 386/1996 Coll., Act No. 12/1998 Coll., Act No. 44/1998 Coll., Act No. 170/1998 Coll., Act No. 252/1999 Coll. and Act No. 215/2000 Coll. is amended as follows:

1. Footnote No. 7 is supplemented by the following sentence:

”Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts.”

2. In Section 37 subsection 2 the text ”disposal with deposits of unregistered bankbooks in cash, disposal with deposits in form of unregistered securities in cash and” is omitted.

3. In Section 38 subsection 3 in second sentence at the end the point is replaced by a comma and the following text is added: "these date are to stated in written inquiry under letters b) and e)".

4. In Section 38 subsection 4 the text "suspicious bank operations" are replaced by the text: "unusual trade operations".

Article V

The Act of the Slovak National Council No. 372/1990 Coll. on offences as later amended by the Act of the Slovak National Council No. 524/1990 Coll., Act of the Slovak National Council No. 266/1992 Coll., Act of the Slovak National Council No. 295/1992 Coll., the Act of the Slovak National Council No. 511/1992 Coll., Act of the Slovak National Council No. 237/1993 Coll., Act of the Slovak National Council No. 42/1994 Coll., the Act of the Slovak National Council No. 248/1994 Coll., Act of the Slovak National Council No. 249/1994 Coll., Act of the Slovak National Council No. 250/1994 Coll., Act of the Slovak National Council No. 202/1995 Coll., Act of the Slovak National Council No. 207/1995 Coll., Act of the Slovak National Council No. 265/1995 Coll., Act of the Slovak National Council No. 285/1995 Coll., Act of the Slovak National Council No. 160/1996 Coll., Act of the Slovak National Council No. 168/1996 Coll., Act of the Slovak National Council No. 143/1998 Coll., Ruling of the Constitution Court of the Slovak Republic No. 319/1998 Cool., Act of the Slovak National Council No. 298/1999 Coll., Act of the Slovak National Council No. 313/1999 Coll. and the Act of the Slovak National Council No. 195/2000 Coll. is amended as follows:

1. In Section 24 subsection 2 is as follows:

"(2) For an offence under subsection 1 letter a) and b) can be imposed a penalty in amount of 5,000 SKK, for an offence under subsection 1 letters c) and d) can be imposed a penalty in amount of up to 10,000 SKKK and for an offence under subsection 1 letter e) a penalty in amount up to 100,000 SKK can be imposed. Ban of activity up to a period of one year can be imposed for an offence under subsection 1 letter a) to c) and e)."

2. In Section 52 letter b) after the word "traffic" words "if not offences caused by infringing the duty defined by a special regulation^{4a}" are inserted.

Footnote No. 4a is as follows:

"4a) Act No. 367/2000 Coll. on protection against legalisation of incomes of criminal action and on amendment of some acts."

Article VI

Efficiency

This act shall come into force on 1 January 2001.

Rudolf Schuster
Jozef Migaš
Mikuláš Dzurinda

ANNEX 12 - Recommendation No. 3/2003 of the Banking Supervision Division to banks and branch offices of foreign banks for the implementation of the anti-money laundering procedures

The Banking Supervision Division of the NBS within the scope of its risk-based supervision monitors also the implementation of the anti-money laundering procedures (hereinafter “AML procedures”) in banks and branches of foreign banks. As the risk of the misuse of a bank or a branch of a foreign bank for the purpose of money laundering has to be considered as an ongoing risk, with possible impacts on the security of the banking system as a whole, the following recommendation is issued, based on the generally accepted standards issued by the international institutions, such as:

- Customer Due Diligence of 2001 – The Basel Committee on Banking Supervision (www.bis.org),
- 40 FATF recommendations of 2003 – The Financial Action Task Force (www.fatf-gafi.org),
- The 2003 WB/IMF methodology of the assessment of implementation and enforcement of the AML procedures and procedures directed against financing of terrorism - The World Bank, the International Monetary Fund (www.amlcft.org or www.imf.org respectively).

In addition to the obligations based on the Act No. 367/2000 Coll. on prevention of laundering of proceeds from criminal activities and on amendments and supplements to certain Acts as amended, and the Act No. 483/2001 Coll. on Banks and on amendments and supplements to certain Acts as amended, a bank or a branch office of a foreign bank (hereinafter a “bank”) should apply in their actions more rigid principles, procedures and rules, especially in the following areas:

organisation of the internal system aimed at reporting unusual business activities and at prevention of misuse for money laundering;

organisation of the internal auditing system;

training of the staff, including hiring of new staff;

identification of clients and beneficial owners of the financial funds;

ongoing monitoring of transactions on the clients’ accounts, and

keeping of the documents with regard to the identification of clients and beneficial owners of the financial funds, as well as on the data related to the transactions.

1. Organisation of the system aimed at the reporting of unusual business operations and of ensuring prevention of misuse of a bank for money laundering:

Pursuant to the Act on Banks and to the Act on prevention of laundering of proceeds from criminal activities, each bank is obliged to appoint a person or an organisational unit responsible for the prevention of money laundering.

The internal programme of the actions of each bank aiming at the prevention of money laundering and of financing terrorism should be laid down in the internal regulation that assigns to the relevant organisational unit and persons the tasks and responsibilities in this area.

The person responsible for the system of prevention of misuse of the bank for money laundering and of financing of terrorism should be a manager of a bank, one of the bank’s top management.

As the implementation of measures against the misuse of a bank for money laundering and financing of terrorism is important, and relates to the substantial part of banking activities, i.e. services provided via a number of business venues, the best solution is to create a special team within the organisational structure of

a bank to guarantee the implementation of all the required measures. The team should be led by the person in charge of reporting to the financial police on unusual business operations, i.e. the Anti-Money Laundering Compliance Officer (hereinafter “AML CO”). In addition to the obligations laid down in the Act on prevention of laundering of proceeds from criminal activities, this team’s tasks should also include:

- enforcement and regular review of a bank’s policy in the area of prevention of money laundering and financing of terrorism (e.g. acceptance and classification of clients by risk level, a system of monitoring of unusual operations, etc.);
- organisation of staff training in this area, including training for new staff, with special attention to the specific nature of their jobs;
- regular training of the staff who are in direct contact with clients;
- ensuring that the relevant managers are informed (a review of compliance with the current working procedures and regulations, proposals to impose corrective measures, contents of the reports on unusual business operations, etc.).

A special team, including the AML CO, may also be composed of the staff of more than one bank’s units; however, it should not operate within the internal control and audit unit. It is not correct to subordinate these persons to the manager responsible for making contracts for banking transactions, carrying out such contracts or settling them. A team must be composed of persons with civic integrity who are professionally competent and also, as far as their position in the bank is concerned, adequately independent. The reason for this is, that the team members’ decisions in terms of reporting on unusual business transactions to the financial police should meet legal requirements and the managers should not interfere in the scope of competence of the team with the intention of preventing their timely reporting of unusual business operations or, as the case may be, silencing the report. It has to be considered that, pursuant to the law, reporting on unusual business operations need not necessarily be based upon a documented ascertained case of money laundering; as an unusual business operation is a legal act itself, or any other operation (e.g. transfer of financial funds) that “only” indicates that, once carried out, it may lead to money laundering or to financing of terrorism, and not that these illegal actions have taken place for sure.

2. Organisation of a bank’s internal control system:

A bank’s internal control and audit unit should regularly, in line with the relevant provisions of the Act on Banks, control and assess functionality of the system aimed at the prevention of misuse of a bank for money laundering and the reporting of unusual business operations as part of verification of the risk management’s efficiency. When carrying out the tasks, the responsible top manager and the AML CO, together with members of the special team, should also cooperate with the bank’s internal control and audit unit, which is responsible for the compliance with laws, other generally binding regulations, internal regulations, and the assessment of the risk management system.

3. Staff training, including hiring of new staff:

Professional training of the staff aimed at the prevention of money laundering and of financing of terrorism must be part of a bank’s internal regulation – a bank’s programme adopted pursuant to the Act on prevention of laundering of proceeds from criminal activities. Within the professional training, there should be a special attention paid to the staff working with clients’ accounts and in the area of “private banking” in a sense that these members of the staff should be informed, on a regular basis, about the techniques of laundering of proceeds from criminal activities.

New staff of a bank hired to the organisational units where they work directly with clients, in addition to the professional competence required from them, should also be requested to submit an extract from their criminal records.

4. Identification of clients and beneficial owners (or users) of financial funds:

Each bank should proceed in line with its own policy of selection and acceptance of clients. The policy should be taken with regard of the risk level of the individual categories of clients before the bank establishes a business relationship. The following data may be used as indicators: purpose of a client's opening of an account, type of his business operations, his financial situation, business profile, the country of origin of the client, the country where the client's business partners have their domicile, or the involvement of a client in public positions, etc. Additional information in the necessary scope should be required for certain groups of clients. When a client appears to be more risky, the decision on his acceptance should be transferred to the higher decision-making level, e.g. in case of a client who is interested in "private banking", in addition to the person in charged of the management of this area, the AML CO should also decide on his acceptance.

The procedures applied in the selection of clients should, as an integrated part of the "Know Your Customer" principle, be followed by the procedures at and after the establishment of the business relationship, especially the identification of clients and beneficial owners (or end-users) of the funds used by the client in banking transactions.

The identification of a client and the subsequent verification of the submitted documents should be carried out on an ongoing basis, in particular in the case of the significant change in behaviour of a client or change in the circumstances connected with the business of a client. When determining the documents used for the identification of a client, it is necessary to infer from the rule that the most suitable are such documents which can be counterfeited only with great difficulty.

The minimum extent of a natural person's documents requested for identification is stipulated in the Act on Banks and the Act on prevention of laundering of proceeds from criminal activities. If the persons are publicly exposed in the Slovak Republic or abroad, it is useful to concentrate also on the identification of their closely connected persons (natural and also legal) and to acquire a sufficient overview of the sources of their financial incomes. Before the opening of a bank account for such a person it is recommended that the approval of a person on a higher decision making level, or the approval of the AML CO, is required.

If the client is a legal person, it is useful to require documents allowing an understanding of the nature of the client's business, its organizational structure (the organizational structure of a whole group if the client is a part of a larger business group mutually connected personally or by property), a verification of the management identity, the persons authorised to act on behalf of a legal person and the owners of a legal person. Special attention should be paid to the clients – joint-stock companies, the shares of which are in a bearer form; the owners of such a legal person should not, in any case, remain unknown to the bank for the reason that such a company has the said type of shares.

The correspondent foreign banks constitute the other group of legal persons to which a special procedure for identification should be applied. Before the establishment of the correspondent relationship, it is useful to verify not only the range of the licensed activities of these banks, but also their financial results, identification of owners and managers, policy of the bank in the field of clients' identification and of the beneficial owners of the funds, and monitoring of the transactions on clients' accounts. It is important to verify also the level of enforcement of the preventive AML and financing of the terrorism procedures in the country of the origin of such a bank. The list of the FATF international organization of the so-called non-cooperative countries (Non-Cooperative Countries and Territories – "NCCT"), which is regularly updated and available on the internet, could serve as a basic orientation in this field. It is important to monitor changes in this field; to this end it is needed to request on a regular basis from the partner correspondent banks the actual information.

5. Permanent monitoring of accounts:

Each bank should utilize its own suitable software system of monitoring of transactions on clients' accounts. This system should allow the monitoring of transfers on the accounts, e.g. according to the risk category, and /or according to the range and time intervals of the "usual" operations on the individual accounts. Whatever business operations which exceed the usual pattern and regime, have no economic or legal justification or comprehensible reason, should be clearly identified on the basis of this system.

The higher risk categories of clients should be assigned special key indicators, e.g. according to the country of origin and business, according to the type of transaction. The relevant bank's member of top management should be informed in time and regularly on the unusual operations, missing data or information, or such transactions should be subject to the consent of the AML CO.

6. Record keeping:

Minimum periods for record keeping stipulated in the Act on Banks and in the Act on prevention of laundering of proceeds from criminal activities are related to the documents on both a client's identifications and beneficial owners (end-users) of the funds and also to the operations on the clients' accounts. It is recommended that, for a period of 5 years from termination of the business relation or execution of a transaction, not only the reports on the unusual business operations sent to the financial police, or the documents about these operations, should be kept, but also the documents about the operations reported as suspicious by the individual organisational units of a bank, but which, following a bank's assessment, were not reported to the financial police after all.

The Banking Supervision Division of the National Bank of Slovakia recommends the application of the presented procedures to all new clients and accounts and, step-by-step, also to existing clients and their accounts.

Ing. Milan Horvath
Chief Executive Director
Banking Supervision Division

December 2003

ANNEX 13 - Procedure for the anti-money laundering area in banks and branches of foreign banks - Internal “*aide-mémoire*” providing a benchmark for supervisors (not available)

To follow

ANNEX 14 - Guidance by the Financial Intelligence Unit (FIU) supplemented in 2003

Certain changes relating to the amendment of the
Act on protection against legalization of
income from illegal activities.

Since 1 January 2001 there has been in force in Slovakia Act no.367/2000 Coll. on protection against legalization of income from illegal activities, with consequential amendments (hereinafter referred to as Act no. 367/2000 Coll."), the purpose of which is to regulate the system of protection against the legalization of income originating from illegal activities (AML system).

During the first half of 2001, Slovakia and its legislative environment addressed the 25 evaluation criteria of the Financial Action Task Force (FATF – an international organization established by the G-7 Summit held in Paris in 1989 in order to examine measures taken in the fight against money laundering). According to the extent to which they have fulfilled the 25 evaluation criteria, countries and territories are either included or not included on the "List of Non-co-operative Countries and Territories" (NCCT List) in the fight against money laundering. Based on evaluation results, the FATF Report published on 22 June 2001 noted certain shortcomings in the AML system in Slovakia (particularly in regard to the existence of bearer passbooks). Although the Slovak side during the course of discussions outlined the measures it had taken in this area (a new Act on Banks, an amendment of the Civil Code), FATF conveyed its dissatisfaction with the adopted measures in a letter from the FATF President to the Slovak Minister of Interior, and it raised the possibility of reassessing whether to include Slovakia on the NCCT List. The identified shortcomings concerned mainly the following issues:

- the termination of bearer passbooks or tightening of the legislative environment regulating the use of bearer passbooks;
- the actual beneficiary of a transaction;
- the comprehensiveness with which financial institutions are covered by the requirements of Act no. 367/2000 Coll. and the supervision of individual obliged entities, in other words the supervision of the fulfilment of obligations arising under the said statute.

Moreover, in October 2001 the Council of the European Community approved an amendment to Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering, the publication of which on 28 December 2001 meant that Act 367/2000 Coll. was incompatible with the Directive. The shortcomings lay mainly in designating who fell within the group of obliged entities, in identifying and verifying the beneficial owners of funds, and in the need to stipulate the non-application of legal liability in cases where certain obligations imposed on obliged entities by the statute are fulfilled in good faith.

The above-mentioned grounds, along with the fact that the FATF in October 2001 adopted eight new special criteria aimed at restricting terrorist financing, prompted the adoption of an amendment to Act no. 367/2000 Coll. that eliminated the shortcomings.

The respective amendment was published in the Collection of Laws as Act no. 445/2002 Coll. and entered into force on 1 September 2002. Act no. 367/2000 Coll. thus amended, along with the amendment to the Civil Code (terminating bearer deposits under bearer passbooks as at 31 December 2003), removed all

the shortcomings hitherto identified in the legal regulation and also, beyond what full compatibility with the Directive required, ensured a positive evaluation of Slovakia by the FATF. In drafting the amendment to Act no. 367/2000 Coll., account was also taken of the United Nations Transnational Organised Crime Convention.

The next part highlights some of the changes introduced by Act no. 367/2000 Coll., especially the expansion of the group of obliged entities and particular changes in the obligations of obliged entities and in particular the obligations laid down in Section 6(1).

The list of entities to which Act no. 367/2000 Coll. applies is enumerated in Section 3 and they are altogether called "OBLIGED ENTITIES". The group of obliged entities was expanded by Act no. 445/2002 Coll. to include the entities indicated as follows in bold:

- a) the Export-Import Bank of the Slovak Republic, banks, and the branches of foreign banks;
- b) asset management companies and depositaries, the organizer of the securities market, stockbrokers, the stock exchange, the central securities depositary, the commodity exchange, insurance companies, **branches of foreign insurance companies, reinsurance companies, and branches of foreign reinsurance companies;**
- c) postal enterprises, **executors**, auditors, and tax advisors;
- d) legal or natural persons authorized to conduct auctions outside executions, financial leasing, or other financial activities mentioned in a separate statute (*Section 29 of Act no. 289/1995 Coll. on VAT, as amended*);
- e) casino operators, bookmakers, real estate agencies, exchange offices, pawnbrokers;
- f) legal persons operating lotteries and other similar games;
- g) **anyone providing legal assistance in accordance with a separate regulation** (*for example, Act of the Slovak National Council no. 132/1990 Coll. on Advocacy, as amended by Act no. 302/1999 Coll.; Act of the Slovak National Council no. 129/1991 Coll. on commercial lawyers, as amended; Act of the Slovak National Council no. 323/1992 Coll. on notaries and notarial activities (the Notarial Code), as amended*), **if they prepare or perform for a customer any acts relating to:**
 - 1. **the purchase and sale of real estate or business interests in commercial companies;**
 - 2. **the administration of funds, securities or other property;**
 - 3. **the opening or administration of an account with a bank or the branch of a foreign bank, or a securities account;**
 - 4. **the founding, activities or management of a commercial company, foundation, association or similar legal person; or**
 - 5. **acting on behalf of a customer or for a customer in any financial transaction or property transaction;**
- h) legal or natural persons carrying on the activity of an accountant, organizational and economic advisor, public carrier and courier service, or forwarding business;
- i) operators of auction rooms, legal or natural persons who trade in works of art, collector's items, antiques, precious metals or precious stones, or who bring products made from precious metals or precious stones to market, or who trade in other valuable goods, where they prepare or carry out a cash transaction with a consideration of not less than EUR 15 000;
- j) other legal or natural persons where stipulated by a separate law.

The provisions of Act no. 367/2000 Coll. apply unconditionally to these persons, with the exception of the obliged entities mentioned in letter g), who are not subject to the reporting obligation where the reporting concerns customer information acquired in connection with the provision of legal assistance under a separate regulation. Apart from the reporting obligation, however, such obliged entities must fulfil the other obligations imposed on them by Act no. 367/2000 Coll.

It should also be noted in this part that the fulfilment of obligations under Section 6, and the obligation to report unusual business transactions to the Financial Police in accordance with subsection (1), is not restricted by the legal duty of confidentiality laid down by separate regulations (as regulations governing the activities of individual obliged entities) unless otherwise provided by this law.

The next part gives a more detailed explanation of the tasks laid down by Section 6(1)(a) of Act no. 367/2000 Coll. The aim of these tasks is to harmonize the procedures followed by all members and employees of obliged entities when fulfilling tasks related to protection against legalization, and to ensure that the respective provisions of Act no. 367/2000 Coll. receive a unified interpretation when implemented in practice. The said measure is particularly important in cases where the obliged entity has several branches, sub-branches or other organizational units operating in the territory of Slovakia.

For this purpose, the law requires obliged entities to draw up and update a PROGRAMME OF OWN ACTIVITIES AGAINST LEGALIZATION (hereinafter referred to as the "programme", which **must include in particular:**

- a.) a summary of the forms of unusual business transactions (hereinafter "UBTs") according to the scope of its activities;
- b.) the contents and schedule of the professional training of staff conducted at least once a year;
- c.) the designation of the person or organizational department responsible for protection against legalization; and
- d.) the methodology of the procedure for preventing legalization.

Recommended structure of the programme:

1. Task, purpose and authority of the programme.
2. Legislative basis of the programme.
3. Contents of the programme which, among other things, must include:
 - a. a summary of the forms of UBTs according to the scope of the obliged entity's activities;
 - b. a schedule for the professional preparation of employees,
 - c. the designation of the person or organizational department responsible for protection against legalization; and
 - d. the methods and procedures for preventing and detecting legalization;
4. Specimen forms and papers related to the fulfilment of tasks arising under the law.

The programme may be implemented in the form of a directive, instruction or other suitable method that ensures that each employee of an obliged entity is informed of its contents. At least one of the current printouts of the programme must be made out in the Slovak language.

Re. 1) TASK, PURPOSE AND AUTHORITY OF THE PROGRAMME

1.

The task of the programme is to establish a systemic measure for the implementation of individual provisions of the law by the obliged entity, as well as to fulfil the requirement laid down in Section 6(1)(a) of Act no. 367/2000 Coll.

2.

The purpose of the programme may be, for example:

 - to set specific work procedures aimed at preventing legalization;

- to lay down measures to prevent deliberate aiding of and participation in legalization;
- to define the liability of the rights and obligations of obliged entities' employees when implementing measures against legalization;
- to ensure the flow of information on measures implemented in relation to protection against legalization.

3.

This part may stipulate the extent to which the programme is binding within the organizational structure of the obliged entity.

Re. 2) LEGISLATIVE BASIS OF THE PROGRAMME

This part should include mainly information on:

- Act no. 367/2000 Coll. as the legislative basis for protection against legalization,
- the Financial Police as the umbrella authority in the protection against legalization of income from illegal activities (authorization, registered office, contact and so on).

Re. 3) CONTENTS OF THE PROGRAMME

3a.) Summary of the forms of UBTs according to the scope of the obliged entity's activities

The programme of an obliged entity *must* include a summary of the forms of UBTs according to the scope of the entity's activities. It is not possible to assign a generally applicable summary since legalization, although it pursues basically the same goal, occurs in a different form in each institution depending on the scope of the obliged entity's activities.

It may, however, be considered a common feature of legalization that it is a process in which the persons carrying out the legalization are seeking any way to conceal the actual origin of the funds derived from illegal activities. In other words, the result of the legalization is the acquisition of an official document or confirmation on the issue or remittance of a certain monetary amount, with which this person evidences the legitimate origin of this monetary amount. An auxiliary feature of legalization is that the "money launderer" is prepared to sacrifice sometimes up to 40% of the amount within the process of trying to legalize it.

The ways in which these funds reach a particular institution may take various forms:

- complex and involved money transfers through foreign financial institutions;
- various multi-level assignments;
- the concluding of various contracts for large financial amounts and the repudiation of such contracts soon after they were concluded;
- funds deposited, forwarded or transferred "erroneously" and a subsequent requirement for their immediate repayment;
- in certain cases, the arranging of contracts or execution of transactions, especially for foreigners, through an authorized entity, etc.

The obliged entity must therefore monitor those customer activities which, in the event of arousing any suspicions, are to be reported under the legally stipulated obligation, and must also include the form of any such transaction in the summary of the UBT forms with which its employees should be familiar. In compiling the UBT forms, it would certainly be appropriate to point out the financial services offered by the obliged entity or the scope of its activities.

At the present time it is practically essential that obliged entities with a similar scope of activities work intensively to develop mutual cooperation and sharing of information in regard to protection against legalization, as well as in processing new forms of UBTs. As regards this part of the programme, it may be noted that the compiling of the summary is strictly an internal matter of the obliged entity or obliged entities with a similar scope of activity.

It should be noted in conclusion that the listing of the individual UBT forms should correspond to the degree of the risk that the obliged entity may be misused for the legalization of income from illegal activities.

Some obliged entities may find assistance in the repealed Decree of the Slovak Interior Ministry no. 181/1997 Coll. on suspicious banking transactions, in which are stated several forms of UBTs.

3b.) Schedule for professional training of staff

The mandatory points of the programme also include drafting a schedule for the professional training of staff (hereinafter the "schedule"). The Act requires that professional training be conducted at least once a year. The schedule must be drawn up in writing and must state when the training will take place (where this can be given in advance) and state what it will involve. It may also state which entity of the obliged entity is responsible for the training. There should be drawn up a written document on the conduct of the training, for example a list of attendance, which states:

- the place and date of the training,
- the contents of the training,
- the name, position and handwritten signature of the participants in the training,
- who conducted the training.

A written document on the conduct of the training is required to be provided to the Financial Police in accordance with Section 6(1)(c) of Act no. 367/2000 Coll.

It is also recommended to make the whole programme accessible on the internal computer network of the obliged entity. In order to meet the said legal requirements, however, it is not enough to simply make the programme accessible in this way.

The Financial Police provides, on request, training and professional seminars on protection against legalization of income from illegal activities. Since the scope of obliged entities is very large, such training is predominantly conducted in cooperation with various associations, chambers or other expert associations in which certain types of obliged entities are grouped. An authorized employee of the obliged entity who has previously attended such training may then use the knowledge gained to conduct the professional training of other employees within the obliged entity. The substance of this training should at least include familiarization with Act no. 367/2000 Coll. and with the obliged entity's programme of own activities against legalization. In order to conduct training in protection against legalization within the obliged entity, the authorized person of the obliged entity is not required to have attended such training.

3c.) Designation of the person or organizational department responsible for protection against legalization.

There must be specified the person or organizational department responsible for protection against legalization. In designating the organizational department, it is recommended to state also the head of this department and the person who deputizes for him in his absence.

3d.) Methodology of the procedure for preventing and detecting legalization.

The methodology of the procedure for preventing and detecting the legalization of income from illegal activities may have the following structure:

3d. 1) Explanation of certain terms

This part may state and give further details about basic terms related to legalization, including mainly:

- the legalization of income from illegal activities,
- the use of income or other property ...,
- the handling of income or other property...,
- the reporting obligation,
- unusual business transactions,
- transactions used for the obligation to identify a natural or legal person, and other terms related to this or that obliged entity depending on the scope of their activities.

3d. 2) Criminalization of aiding and abetting the legalization of income from illegal activities

This part may contain:

- a more detailed interpretation of Section 252a of the Penal Code, which deals with the criminal liability of any person who fails to report or notify:
 - facts indicating that another person has committed the crime of legalizing income from criminal activity,
 - UBTs
- information on the criminal sanction for aiding and abetting the legalization of income from illegal activity, intentionally concealing such activity, and cooperating in legalization;
- a more detailed interpretation of Section 252 of the Penal Code (Legalization of Income from Illegal Activity).

3d. 3) Obligations of employees carrying out the activities of an obliged entity

1. Customer identification:

This is addressed by Section 5 of Act no. 367/2000 Coll., and there may be stated here the obliged entity's additional own measures aimed at the thorough identification of customers (e.g. the use of different technical and communications equipment...).

2. Evaluation of UBTs in ... (the field in which the particular obliged entity operates, e.g. banking, insurance...)

- state the principles for the evaluation of customers, transactions, or business transactions;
- circumstances marking a transaction to be unusual, for example:
 - ◆ cash payments,

- ◆ payments from abroad,
- ◆ a transaction involving an unusually large amount,
- ◆ a transaction linked to an off-shore territory or to a risky entity,
- ◆ problems in identifying the customer when arranging the transaction or trade,
- ◆ the inappropriateness of the trade or transaction for the customer (in regard to the amount, complexity of the operation ...),
- ◆ other circumstances, for example the manners and behaviour of the customer, his partners, intellectual maturity, appearance and so on.

3d. 4) Reporting of unusual business transactions

This part should further explain Section 7 of Act no. 367/2000 Coll. with reference to the actual UBT reporting process as it is implemented in the obliged entity. That means from the moment when the employee conducting the transaction with the customer evaluates it to be a UBT, to the moment when the report is sent to the Financial Police (who reports to whom, which entities examine the initial reporting, who decides on the reporting, and so on).

It should be added that the process ought not to be a complex matter with decision-making at several levels. Ideally, every UBT would be reported to the Financial Police by the obliged entity's employee who detected it, or consulted with the obliged entity's organizational unit responsible for legal aspects or control and then reported. It should be noted here that the amendment to Act no. 367/2000 Coll., in force since 1 September 2002, requires obliged entities to report UBTs to the Financial Police **without undue delay**. This means in effect that **an obliged entity reports the detected UBT at the earliest opportunity**. It is necessary each time to consider the particular circumstances of the situation in which the detection and reporting of the UBT is carried out and to report the UBT as soon as possible. A failure by an obliged entity to report a UBT in due time shall formally constitute the corpus delicti of a crime under Section 252a of the Penal Code.

This means that the procedural methodology for reporting a UBT should also meet the above-mentioned requirement. The actual fulfilment of the reporting obligation is a frequent problem among obliged entities (especially in regard to the time factor). Several obliged entities have been fined for breaching this obligation and also charged with committing a crime under Section 252a of the Penal Code.

This part may also cover:

- guidance on completing the form "Report of an Unusual Business Transaction" (who should fill it in, when and how they should do so, ways in which it may be sent to the Financial Police, the designation of the sendee's address and the time limit for sending). The form is to be completed in its full printed version and in as much detail as possible;
- the method of further communication with the Financial Police, and the documentation of files related to a reported UBT.

3d. 5) Duty of confidentiality

This part should include

- a designation of the group of persons obliged to keep confidential the reported UBTs and any measures taken by the Financial Police;
- a designation of the time limit for the duty of confidentiality;
- guidance on legal liability for breaching the duty of confidentiality (Section 24(1)(e)).

3d. 6) Refusing and delaying UBTs

This part should further explain the following provisions:

- Section 6(2) on determining in whose name the person carrying out the transactions is acting;
- Section 6(3)(b) on refusing to perform a requested UBT, with adjustment made for the organizational structure of the obliged entity (technical and procedural policies, and so on); and
- Section 9 on delaying UBTs.

3d. 7) Procedure for preventing and detecting legalization

This may refer to the legislative, technical, organizational, and personnel measures which an obliged entity has taken against legalization and which may include:

- the system of internal control for programme compliance;
- the system of external cooperation with institutions dealing with the issue of legalization;
- the imposition of sanctions for non-compliance with the programme.

3d. 8) Final provisions

This may include:

- familiarization with the tasks of the Financial Police mentioned in Section 10(a), (b), (c) and the sanctions mentioned in Section 13;
- information on the fulfilment of the obligations of the obliged entity laid down by Section 6(1)(c) of Act no. 367/2000 Coll.;
- the time horizon for re-evaluating the programme in regard to its topicality and effectiveness, and designation of the legal force within the obliged entity.

We note in conclusion that this structure of the programme is only a guide, and may assist an obliged entity in drawing up and managing its own programme. **The programme must, however, include at least the part stated in Section 6(1)(c) of Act no. 367/2000 Coll. in written form.**

At the end of this article there is a specimen of the form Report of an Unusual Business Transaction.

Collective authors of the Office of the Financial Police of the
Slovak Police Force Presidium

ANNEX 15 – Internal decree of the Director of the Bureau of Organised Crime (not available)

To follow