

# **Criminal Procedure Code No. 301/2005 Coll.**

## **PART FIVE LEGAL RELATIONS WITH ABROAD**

### **CHAPTER ONE BASIC PROVISIONS**

#### **Section 477 Definitions**

For the purposes of this Chapter:

- a) an international treaty means a promulgated international treaty which is binding for the Slovak Republic,
- b) a foreign authority is an authority of another State which, under internal law of that State or under an international treaty, has jurisdiction to act, make or receive a request or carry out other forms of assistance regulated in this Chapter, including an international court,
- c) 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 for the Slovak Republic, and its authorities,
- d) a Slovak authority is an authority of the Slovak Republic having jurisdiction to act in matters regulated in this Chapter; a Regional Court has jurisdiction to act on request for an extradition abroad or recognition and execution of foreign decision, as well as in matters falling within the jurisdiction of the Special Court,
- 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.

#### **Section 478 International treaties**

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

#### **Section 479 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 not a kind of request whose execution in this Chapter is made conditional upon the existence of an international treaty. In case of a request for service of documents to a person on the territory of the Slovak Republic the compliance with the condition contained in the first sentence is not examined.

(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 of the Slovak Republic 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.

#### **Section 480 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.

#### **Section 481 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.

#### **Section 482 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 6.

(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; this restriction shall not be applied if the foreign authority gives its consent to making the information or evidence public or to using it for a different purpose.

#### **Section 483 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, unless that authority waives the requirement to submit the original of the request.

#### **Section 484 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 section 485 may also be exchanged through INTERPOL.

#### **Section 485**

## **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 for 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 543 shall be carried out by the police authorities designated by the Minister of Interior. During the transit the personal liberty of the transported person shall be limited in order to prevent his escape. Coercive measures provided for in a separate act shall be applicable to the restriction of personal liberty of the person in transit.

(4) The police authorities designated by the Minister of Interior shall also surrender and take over things under Article 550 as well as take over and return things surrendered by another State upon a request by Slovak authorities if it is not possible or opportune to send such things by post, and shall carry out the transit of a thing through the territory of the Slovak Republic upon a request by foreign authorities.

### **Section 486 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.

### **Section 487 Form of court decision**

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

### **Section 488 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 from the requesting State, 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.

## CHAPTER TWO

### EXTRADITION

#### Division one

#### Requesting extradition

##### Section 489

(1) The Ministry of Justice may request extradition of an accused<sup>1</sup> from another State on the basis of the request by the court which issued a warrant of arrest under Article 490.

(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 490.

##### Section 490

(1) If the accused stays abroad and if his extradition is necessary, the presiding 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 for preparatory proceedings shall issue the international warrant of arrest upon a motion by the prosecutor. The international warrant of arrest has, on the territory of the Slovak Republic, the same effects as a warrant of arrest.

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

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

a) details of the court imposing the sentence and of the sanction imposed, and

b) if the judgement was issued in the proceedings against a fugitive from justice or in

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<sup>1</sup> 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).

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 496.

(5) The original or an authenticated copy of the relevant judgement with the finality clause shall be appended to the warrant of arrest under paragraph 4.

(6) If more than three years lapsed between commission of an offence or final conviction and issuing of the international warrant of arrest, acts directed to criminal prosecution of the person or enforcement of the imposed sentence shall be included in the warrant of arrest or in its separate attachment.

(7) The international warrant of arrest shall bear the signature of the judge who issued it and the round 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.

(8) 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.

### **Section 491**

An international warrant of arrest shall become null and void by

- a) the surrender of the extradited person to the court under section 494 paragraph 1 or to the court which issued the warrant of arrest under section 73 paragraph 1,
- b) revocation; The court which issued the international warrant of arrest shall revoke it if the reasons for which it was issued no longer exist or if consequently finds out that the reasons did not exist; if the international warrant of arrest was issued upon the motion by the prosecutor, the court shall revoke it upon his motion,
- c) issuing of the new international warrant of arrest in the same criminal matter.

(2) After filing an indictment in the criminal matter in which an international warrant of arrest was issued, the court which the indictment was filed with, shall issue a new international warrant of arrest, if the reasons for its issuing remain. Otherwise it shall revoke the warrant of arrest issued in pre-trial proceedings. The same procedure shall be followed if during the criminal proceedings the subject matter jurisdiction or territorial jurisdiction of the court changes.

(3) Revocation of the international warrant of arrest does not exclude issuing of a new warrant of arrest in the same criminal matter.

(4) The court shall immediately inform the Ministry of Justice and prosecution office of a revocation or issuing of a new international warrant of arrest.

### **Section 492**

(1) 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.

(2) If some of the facts stated in paragraph 1 occur after issuing of the international warrant of arrest, the court may revoke it.

### **Section 493**

(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 period, the court shall proceed in this manner upon a motion by the prosecutor. Such request shall contain the information specified in Article 490 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 under section 490.

#### **Section 494**

(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. If the enforcement of the prison sentence for which the person was extradited has already been ordered, the person shall be surrendered to the competent prison facility.

(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 77 paragraph 1. The decision to this effect shall be made by the court and in the pre-trial by a judge for pre-trial proceedings 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.

#### **Section 495**

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

(2) If the requested State extradites a person for criminal prosecution in the Slovak Republic under condition that the Slovak authorities allow to execute potential sentence imposed by the Slovak court on the territory of the requested State, ministry of justice cannot in that case refuse to give a consent to transfer under Article 523 para. 1. Provision of the Article 523 para. 2 shall not be used.

(3) 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.

(4) 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.

(5) The court which adjudicated the case in the first instance shall have jurisdiction to

conduct the proceedings provided for in paragraph 4.

(6) An appeal against the decision under paragraph 4 lit. b/ shall be admissible and, with the exception of the ruling on custody, it shall have a postponing effect.

### **Rule of speciality Section 496**

(1) The criminal prosecution shall not be conducted against extradited person for other criminal offences committed before his extradition than for the offences for which the person was extradited.

(2) Paragraph 1 shall not be used if

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.

(3) Paragraph 1 does not prevent the Slovak authorities to take measures which interrupt the passing of the period of limitation.

(4) If the extradited person did not waive the application of the rule of speciality under paragraph 2 lit. d/ and if an international treaty so allows, the court which issued the international warrant of 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.

(5) 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 2, lit. c/. The same applies to laying of information by the requested State which may lead to criminal prosecution.

(6) 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 489 and 490.

(7) The provisions of paragraphs 1 to 4 and 6 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.

### **Section 497**

(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 550 shall apply *mutatis mutandis* to the arrangements for the temporary surrender of the extradited person.

## **Division Two**

### **Section 498 Extradition abroad**

(1) The requests by foreign authorities for extradition of a person from the Slovak Republic shall be submitted to the Ministry of Justice.

(2) The request shall be submitted in writing and shall be supported by

a) the original or an authenticated copy of the sentence, warrant of arrest or another order having equal effect,

b) a 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 Ministry of Justice shall request additional information and may impose a deadline for its provision.

### **Section 499 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 maximum prison sentence 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.

### **Section 500 Accessory extradition**

If the foreign authority requested extradition for several acts at least one of which fulfils the conditions set down in Article 499 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.

### **Section 501 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 for 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 offence, for which the extradition is requested, is a criminal offence only under legal



- system of the requesting State, but not under legal system of the Slovak Republic,
- e) the criminal offence for which extradition is requested is solely of a political or military nature,
  - 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 person has already been finally convicted or released by the Slovak court for the offence, for which the extradition is requested, or
  - h) 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.

### **Section 502** **Preliminary investigation**

(1) Preliminary investigation shall be conducted by the prosecutor of a regional prosecution office, to whom the ministry of justice forwarded the request by a foreign authority for extradition abroad, or in whose district the person to be extradited to the requesting State was arrested or lives. If the preliminary investigation was opened before delivery of the request for extradition the prosecutor informs about it immediately the ministry of justice.

(2) The goal of a preliminary investigation is to determine whether conditions for the admissibility of extradition are met.

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

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

(5) 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, the correspondence in custody and visits in custody shall be governed *mutatis mutandis* by the regulations relating to the enforcement of custody.

### **Section 503** **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 506 par. 2) and subsequently submit the case to the Ministry of Justice together with a proposal for a decision. The provision of Article 509 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 509.

(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 509.

#### **Section 504 Detention**

(1) Upon a request by the foreign authorities, the prosecutor responsible for 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 71.

(2) The person being sought by foreign authorities for extradition may be arrested by a police upon prior consent of the prosecutor. Without such a consent the person may be arrested only in cases of urgency and if there is no possibility to obtain such a consent in advance.

(3) Detention shall be immediately reported to the prosecutor. 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.

#### **Section 505 Provisional arrest**

(1) The presiding judge of the Regional Court shall within 48 hours 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 71. 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 purpose of the provisional arrest is to secure the presence of the arrested person on the territory of the Slovak Republic until the State which has an interest in his extradition, submits the request for his extradition under Article 498.

(4) The provisional arrest may not exceed the period of 40 days from the moment of the person's detention. The presiding judge of a panel of the Regional Court may, upon a motion by the prosecutor conducting the preliminary investigation, decide to release the person from provisional arrest.

(5) If during the course of the provisional arrest the request for extradition by the foreign authorities was submitted, the ministry of justice shall notify to this effect the prosecutor conducting the preliminary investigation. Upon the prosecutor's motion the presiding judge of a panel may place the person in custody pending extradition if the conditions specified in Article 506 paragraph 1 are met.

(6) 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 Section 506**

(1) If it is necessary to prevent the escape of the person whose extradition is sought, the presiding judge of a panel 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 a panel of the Regional Court shall order the release of the person from the custody pending extradition as of the day of his surrender to the foreign authorities, at the latest by the 60th day from the decision of the Minister of Justice granting extradition; in the case set out in Article 507 by the 60th day from the commencement of the custody pending extradition at the latest, provided the decision by the Minister of Justice granting extradition was taken before that date. In addition he shall order the release from the custody pending extradition 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,
- c) the grounds for custody, extradition or the surrender ceased for other reasons.

### **Section 507**

(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 502 paragraph 1 shall conduct the preliminary investigation in the case provided for in paragraph 1.

### **Section 508**

(1) An appeal shall be admissible against the decision on custody under Articles 505, 506 paragraph 1 and 507, but it shall have no postponing effect.

(2) The court shall inform the ministry of justice about all decisions concerning the custody.

### **Section 509 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 after the decision become final.

(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 501 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 and such appeal shall have a postponing effect.

(5) The appeal shall be decided upon by the Supreme Court. An appellate court in a closed hearing shall dismiss the appeal if it finds the appeal unsubstantiated. If it upholds the appeal, it shall revoke the appealed decision and after taking additional evidence, if necessary, it shall itself decide by a resolution, whether the extradition is admissible or not. Article 506 paragraph 2 shall be applicable *mutatis mutandis*.

### **Section 510** **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 509 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,
- 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,
- d) in the case of the criminal offence, for which the extradition is requested, the capital punishment may be imposed in the requesting State, unless the requesting State gives a guarantee to the effect that the capital punishment will not be imposed, or
- e) requesting State requests the extradition in order to execute capital punishment.

(3) If the minister of justice does not allow the extradition to proceed, the ministry of justice shall submit the matter to the General Prosecution Office in order to commence criminal prosecution in compliance with the legal order of the Slovak Republic.

### **Section 511** **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 545 paragraph 2 lit. b/ to d/, 546 paragraph 2 and 547 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.

### **Section 512**

#### **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.

### **Section 513**

#### **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.

### **Section 514**

#### **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.

(3) The simplified extradition proceedings under Article 503 shall not be admissible.

(4) The court shall always decide on the admissibility of extradition in a closed hearing. The court acts in the matter together with the defence counsel of the requested person and delivers all documents to him. An appeal against the decision on admissibility of extradition may be lodged by the defence counsel.

## **CHAPTER THREE**

### **ENFORCEMENT OF DECISION IN RELATION TO OTHER COUNTRIES**

#### **Division One**

#### **Recognition and enforcement of foreign decisions**

## **Section 515**

### **Foreign decision**

(1) A decision of a court of a foreign State in a criminal matter (hereinafter referred to as a „foreign decision“) has legal effects on the territory of the Slovak Republic only if there is a provision in an international treaty or in a law to that effect. The foreign decision imposing a sentence may be enforced on the territory of the Slovak republic only if it was recognised by the Slovak court.

(2) A foreign decision may be recognised in a sentence by which

- a) the guilt was established, but the imposition of a sanction was suspended,
- b) a prison sentence or a suspended sentence were imposed,
- c) a fine or a disqualification were imposed,
- d) 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 if they are on the territory of the Slovak Republic (hereinafter referred to as “a foreign property decision”).

(3) A foreign decision changing an already recognised foreign decision in the establishment of guilt, has effects on the territory of the Slovak Republic without the need for any further recognition.

## **Section 516**

### **Conditions for recognition**

(1) A foreign decision shall be recognised in the Slovak Republic if:

- a) an international treaty includes a possibility or an obligation to recognise or enforce an foreign decision,
- b) it is final in the State of conviction or if there is no possibility to lodge an ordinary remedy against it,
- c) the act for which the penalty was imposed, is a criminal offence under both legal systems, that of the State of conviction and that of Slovak Republic,
- d) 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,
- e) the person was not sentenced for a criminal offence which is exclusively of a political or military nature,
- f) the enforcement of the sentence is not prescribed under the law of the Slovak Republic,
- g) the person had not already been sentenced for the same act by the Slovak court,
- h) no decision of another State in respect of the same person for the same act had been recognised in the Slovak Republic, and
- i) the recognition is not contrary to the interests protected by section 481.

(2) If the reason for the proceedings on recognition is the procedure under second and third subsection of this chapter, the withdrawal by the convicted person at any stage of the proceedings of the consent with extradition is not an obstacle to recognition of the foreign decision, in cases where such consent is required, or if one of the other conditions of the procedure under second or third chapter lapsed. The section 519 para. 4 shall be used *mutatis mutandis* for the effects of that recognised decision.

## **Section 517**

### **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 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.

### **Section 518** **Procedure for recognition**

(1) The motion for recognition of a foreign decision shall be submitted 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.

(4) An appeal against the judgement on recognition of a foreign decision by the sentenced, the prosecutor or the Minister of Justice shall be admissible. The appellate court in a closed hearing shall reject the appeal, if it finds it unsubstantiated. If it does not reject the appeal, it shall revoke the appealed decision and after taking additional evidence, if necessary, it shall itself decide by a judgement, whether the foreign decision shall be recognised or not.

(5) When the judgment on recognition of foreign decision becomes final, the regional court shall immediately return to the ministry of justice the judgment together with the attachments of its proposal, the request of the foreign authority and its attachments, and it shall send to General Prosecution Office all information about the convicted person, which is necessary in order to make an entry into the Criminal Register.

### **Section 519** **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) If the convicted person revoked his consent with extradition for enforcement of the penalty after recognition of the foreign decision, and if such a consent is required for the procedure under the second or the third division of this chapter, or if the transfer did not take place due to other reason, the recognised foreign decision may be enforced on the territory of the Slovak Republic, only if the convicted person did not serve in full the imprisonment

sentence in the State of conviction, or in case he was released on probation only if the State of conviction asks for enforcement of the rest of imposed penalty because the convicted person did not prove himself while on probation.

### **Section 520 Custody**

(1) If it is necessary for the purposes of securing the enforcement of a foreign decision, the court having jurisdiction under Article 518 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 71.

(2) An appeal against the decision on custody shall be admissible, but it shall have no postponing effect.

### **Section 521 Enforcement procedure**

(1) A foreign decision may be enforced in the Slovak Republic in cases specified in Article 522 and Article 524 only after the Ministry of Justice has given its consent.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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 520, the custody and the sentence already served abroad as well as the time spent in transit.

(7) 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.

(8) Otherwise the enforcement of the foreign decision shall be governed *mutatis mutandis* by the provisions of this Code relating to the enforcement proceedings.

## **Division Two**

### **Transfer of sentenced person to serve prison sentence**

#### **Section 522**

#### **Transfer of sentenced person from abroad to serve prison sentence**



(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 sentenced person to 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.

### **Section 523**

#### **Transfer of sentenced person abroad to serve prison sentence**

(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) When the transfer is allowed, the district court, in the district of which the person serves the imprisonment sentence, shall issue the order to transfer the sentenced person to foreign authorities or the order to transfer the sentenced person abroad.

(4) 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.

(5) With the exception of paragraph 3 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.

### **Division Three**

#### **Transfer of enforcement of suspended sentence under surveillance**

### **Section 524**

#### **Decision on transfer of suspended sentence under probational surveillance 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.

### **Section 525**

#### **Procedure by Slovak Authorities**

(1) Following the decision under Article 524 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 by probation and mediation official.

(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 524 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 524 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 521 shall be applied *mutatis mutandis*.

### **Section 526**

#### **Request for 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.

### **Section 527**

#### **Effects of transfer of enforcement of suspended sentence**

(1) If the requested State has decided under Article 526 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 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

b) 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.

## **CHAPTER FOUR**

### **TRANSFER OF CRIMINAL PROCEEDINGS**

#### **Section 528**

##### **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. The Prosecutor General's Office shall inform the ministry of justice accordingly.

(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.

(4) If the requesting State revokes its request for transfer of criminal proceedings by the reason of continuing the criminal proceedings by itself, Slovak authorities shall lose the jurisdiction to continue in the criminal proceedings.

### **Section 529** **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 by the Minister of Justice; in the pre-trial stage s/he decides upon the motion of the Prosecution General Office.

(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 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,
- b) subsequently revokes its decision on the transfer of the criminal proceedings, or
- c) declares that it shall not continue the proceedings.

### **Section 530** **Information on exercising of 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 inform whether the Slovak authorities exercise their jurisdiction to conduct the criminal proceedings in respect of the same offence.

## **CHAPTER FIVE**

## **INTERNATIONAL LEGAL ASSISTANCE**

### **Division One Scope of legal assistance**

#### **Section 531 Definition of the matter**

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.

### **Division Two Requests by Slovak authorities**

#### **Section 532 Form of transmission of requests**

(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 policeman may transmit the requests abroad solely through the good offices of a prosecutor.

#### **Section 533 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 round 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.

#### **Section 534 Postal service**

Service of documents on a person abroad by post shall be admissible only if so permitted by an international treaty.

#### **Section 535 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.

### **Section 536**

#### **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.

### **Division Three**

#### **Requests by foreign authorities**

### **Section 537**

#### **Manner and form of execution of request**

(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 481.

(3) In order to execute the letter rogatory under section 539 para. 1 it is required that the act which the letter rogatory concerns is a criminal offence not only under the legal system of the requesting State but also under the legal system of the Slovak Republic.

### **Section 538**

#### **Responsibility for execution of requests**

(1) Requests of a foreign authority for legal assistance shall be sent to the Ministry of Justice.

(2) 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. If more prosecutors' offices have territorial jurisdiction, the ministry of justice shall send the request to the General Prosecution for the decision on which prosecution office shall provide for its execution.

(3) If the foreign authority requests that the examination of a person or another act of legal assistance shall be executed by the court by the reason of applicability of the act in the criminal proceedings in requesting State, 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. If the exclusive subject of the request is the act, which has to be executed by a court, the request shall be sent to the court directly by the Ministry of Justice.

**Section 539**  
**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 481. 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. The decision of the court on contradiction of procedure under foreign provision is not required if it concerns delivery of a document or instruction of a person under foreign provision.

(3) The District Court in whose district the assistance shall be carried out shall have jurisdiction to decide under the paragraphs 1 and 2.

**Section 540**  
**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 Ministry of Justice. 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 Ministry of Justice.

(3) The presence of representatives of the foreign authorities as well as other persons at the execution of legal assistance by the Slovak authority shall only be possible with the prior consent by the responsible prosecutor; if the request shall be executed by the court, the consent shall be given by this court.

**Section 541**  
**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. 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.

#### **Section 542 Examination under oath**

(1) If requested by the foreign authority, witnesses, experts and parties may also be examined under oath; prior to the oath they must be advised of importance of the statement and of the consequences of perjury.

(2) 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 intentionally."

(3) 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. I declare that I am aware of criminal consequences of false expert opinion."

#### **Division Four Some special forms of legal assistance**

##### **Section 543 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. During the transfer the personal liberty of the transferred person will be restricted in order to prevent his escape; in order to restrict the personal liberty of the transferred person the coercive measures under special law shall be used.

(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.

##### **Section 544 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) In the case of urgency, the procedure under paragraph 1 shall be possible also without an authorisation solely on the basis of 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 Section 545**

(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 temporary 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, or the temporary surrender does not extend the length of the prison sentence served in the Slovak Republic.

#### **Section 546**

(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.

#### **Section 547**

(1) The time the person spent in custody abroad shall not be counted against the deadlines under Article 76. 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.

#### **Section 548**

Articles 545 to 547 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.

#### **Section 549**

##### **Temporary surrender of detained person from abroad for execution of procedural acts**

(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 presiding judge of a panel, or in the pre-trial upon the motion by the prosecutor judge for pre-trial proceedings, shall decide that during the period of the temporary surrender in the Slovak Republic such person shall be held in custody. In this resolution shall be specified 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.

### **Section 550 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.

### **Section 551 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 thing, account, stocks or another property located in the territory of the Slovak Republic and belonging to the person who is being criminally prosecuted against abroad.

(2) The District Court in whose district the property to be seized is located shall have jurisdiction to decide on the motion under paragraph 1.

(3) The District Court shall revoke the provisional seizure on the basis of a motion of the foreign authority which asked for the provisional seizure. The District Court may also revoke the provisional seizure if the foreign state in proper time does not ask for execution of foreign property decision concerning the seized property.

### **Section 552 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.