

**Security Council**

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Letter dated 23 January 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 November 2003 (S/2003/1064). The Counter-Terrorism Committee has received the attached third report from Slovakia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) Inocencio F. **Arias**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

Annex

Letter dated 21 January 2004 from the Chargé d'affaires a.i. of the Permanent Mission of the Slovak Republic to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In reply to your letter dated 22 October 2003, I have the honour to forward the third report of Slovakia, submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 (see enclosure).

I would like to reiterate my Government's appreciation for the work of the Committee as well as for its close and constructive cooperation. Slovakia stands ready to provide the Committee with any further information necessary.

(Signed) Klára Novotná
Ambassador
Chargé d'affaires a.i.

Enclosure*

THIRD REPORT OF SLOVAKIA SUBMITTED PURSUANT TO PARAGRAPH 6
OF SECURITY COUNCIL RESOLUTION 1373 (2001) OF 28 SEPTEMBER 2001

(REPLY TO THE LETTER OF 22 OCTOBER 2003 FROM THE COUNTER-
TERRORISM COMMITTEE CONTAINING ADDITIONAL QUESTIONS/COMMENTS
ON THE SUPPLEMENTARY REPORT OF SLOVAKIA)

Bratislava, 21 January 2004

* Annexes are on file with the Secretariat and are available for consultation.

1. Implementing measures

1.2

Article 2, paragraph 3 of the International Convention for the Suppression of the Financing of Terrorism provides that for an act to constitute an offence set forth in paragraph 1 it is not necessary that the funds were actually used to carry out an offence referred to in paragraph 1, sub-paragraph (a) or (b).

The question How the Government of the Slovak Republic intends giving effect to the aforementioned article may be answered making reference to Article 7, paragraph (1) and (2) of the Slovak Penal Code, which covers the 'preparation for a crime'. The mere "procuring" of funds intended for the commission of a criminal offence is a preparation for a crime and, as such, constitutes criminal liability. Such funds are not required to be actually used. The preparation for committing a criminal offence is subject to the same sentence as the crime for which it has been made.

If an act of terrorism has been completed or attempted, the abettor to such a crime, who assisted the offender, particularly by "procuring" the means for its commission, bears criminal liability pursuant to Article 10, sub-paragraph 1 (c). Also in this case it is not necessary for the funds to be actually used to commit the crime.

The provisions of Articles 7 and 10 of the Penal Code also apply to the crimes of terrorism, as confirmed also in the UNODC Report of 21 October 2003 on the results of technical assistance in the implementation of 12 universal anti-terrorist international instruments in the Slovak domestic law.

1.3

The Penal Code was amended by Act No. 421/2002, which entered into force as of 1 September 2002. The amended provisions of the Penal Code were adopted in the same wording as presented in the Supplementary Report of Slovakia in answer to the fourth question concerning the draft amendment (page 5 and 6).

Following the entry into force of Money Laundering Act No. 367/2000 (hereinafter "Act No. 367/2000"), i.e. after 1 January 2001, the Act had to be amended in reaction to a number of international impulses and recommendations. This included, in particular:

- adoption of eight new Special Recommendations of the FATF in October 2001 aimed at restricting the financing of terrorism,
- adoption (in October 2001) of EC Directive 2001/97/EC (the so-called "Second Directive") amending Council Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering,
- recommendations of the MONEYVAL Committee of the Council of Europe for the evaluation of anti-money laundering measures.

The need to amend Act No. 367/2000 was also prompted by the fact that, in the course of the first half of the year 2001, the Slovak legislative framework was assessed against 25 criteria of the Financial Action Task Force (FATF); the Report published on the outcome of this assessment concluded that certain shortcomings in the combating money-laundering existed also in the Slovak legislation. The main shortcoming identified in the Report were:

- abolition of "bearer passbooks" or adoption of a more stringent legislative framework that regulates transactions through such anonymous passbooks,
- issue of the actual beneficiary of transaction, i.e. identification of the actual beneficial owner of funds,

- scope of financial institutions to which the reporting obligations set forth in Act No. 367/2000 apply,
- supervision over the reporting entities and their compliance with the obligations set forth in the aforementioned Act.

The adoption of amendment to Act No. 367/2000 (which entered into effect on 1 September 2002) and the related amendment to the Civil Code removed all the above-mentioned deficiencies and, moreover, this basic anti-money laundering law ceased to be incompatible with *EU acquis communautaire*, since from the perspective of the Slovak and some foreign authorities or committees (e.g. MONEYVAL), the so-called Second Directive on the prevention of the use of the financial system for the purpose of money laundering has been fully implemented to Act No. 367/2000.

As mentioned in the Supplementary Report of the Slovak Republic, the approved amendment to Act No. 367/2000 also reacted to the new situation in the fight against terrorism. The new definition of the term of “unusual business operation” is exactly the same as the wording presented at the bottom of page 8 of the Supplementary Report, i.e. “the unusual business operation is a legal act or any other act indicating that the carrying out of such act could result in the legalisation of proceeds of crime or financing of terrorism”. Thus, the obligation to report unusual business operations applies also to a suspicion of terrorism financing. The reporting entities are obliged to report to the Financial Police also unusual business operations whenever suspicion of terrorism financing exists.

1.4

The competence of national courts of the Slovak Republic is specified in the Penal Code.

Article 17 deals with the principle of territoriality and contains the definition of state territory also used in international law. Article 18 contains the rule of the principle of personality based on the person’s nationality and permanent residence. Article 19 applies the principle of universality. Article 20 applies the principle of subsidiary universality in line with *aut dedere aut iudicare* principle. Article 20a regulates the application of the relevant international treaty. For further details see Articles 17, 18, 19, 20 and 20a of the Penal Code provided in Annex.

1.5

Prior to the commencement of criminal proceedings, Article 21 of the Police Force Act No. 171/1993 authorises the police officer to seize a thing (provisional seizure) if he/she suspects some relation of the thing to the commission of a criminal offence or misdemeanour.

The authorities acting in criminal proceedings may seize the property of the accused, or a part thereof, to secure the injured party’s claim for compensation of damages pursuant to Article 47 of the Code of Criminal Procedure.

Under Article 79 of the Code of Criminal Procedure, they may seize things considered important for the purpose of criminal proceedings.

Under Article 79a, for the purpose of criminal proceedings, these authorities may take over a thing that has been placed in police seizure.

Under Article 79c, if the object of seizure are funds, they may order their freezing.

Under Article 79d, if certified securities are the object of freezing, the authorities may order the suspension of transactions in such securities.

Under Article 82 et seq., a thing important for the purpose of criminal proceedings may also be seized during a home search.

Under Article 86, also shipments may be seized.

Under Article 348, the property of the accused may be seized if it is reasonable to expect a sentence of forfeiture with respect to his/her property.

Under Article 443, on the basis of a request from a foreign authority and upon a motion by the prosecutor and subject to the conditions specified in an international treaty, a court may order the provisional seizure of the property belonging to a person against which criminal proceedings have been initiated in a foreign state.

The above-mentioned provisions refer to property or things without any further qualification, i.e. including property and things connected with the acts of terrorism. Decisions on seizure in pre-trial criminal proceedings are issued by the prosecutor, whereas the court issues seizure decisions in judicial criminal proceedings. The person affected may appeal against such decisions. Once a decision on seizure has been issued, the person may no longer dispose of his/her property, whether physically or through legal transactions.

The provisions further specify how the seized things are stored, administered and returned provided that a sentence of forfeiture or confiscation has been issued or they are no longer necessary for the purposes of criminal proceedings.

Since 1 September 2002, the existing legislation in the Slovak Republic allows to freeze funds/accounts suspected of having terrorist links on the basis of a decree of the Slovak Government (No. 707/2002) which may be issued in accordance with Article 5 of the Act No. 460/2002 on the implementation of international sanctions maintaining international peace and security (Sanction Act) following a decision of the Security Council of the United Nations or the Council of the European Union on particular sanctions. This Sanction Act has replaced the Foreign Relations Act No. 42/1980.

1.6

Act of the National Council of the Slovak Republic No. 243/1993 on Weapons and Ammunition, as amended (effective at the time of submission of the 1st Supplementary Report to the CTC) defined types of weapons that could be held and carried, conditions for import, export and transit of weapons and ammunition and the rights and obligations of the holders of weapons and ammunition. However, effective from 1 January 2004, it was replaced by a new Act No. 190/2003 on Firearms and Ammunition. The Act specifies the types and categories of firearms and ammunition, conditions for the ownership, possession, carrying and use of firearms and ammunition, the rights and duties of the holders of firearms and ammunition, conditions for export, import and transit of firearms and ammunition, conditions for setting up and operating of shooting ranges, conditions for public display of firearms and ammunition, operation of information systems in the area of firearms and ammunition, supervision over compliance with the Act, and sanctions for breach of duties imposed by the Act.

The relevant District Directorates of the Police Force of the Slovak Republic are the competent authorities under this Act. The Ministry of Interior is the competent authority in the case of doubts as to the classification of individual types of firearms and ammunition under the Act (Article 3, paragraph 2). Ministry is authorised to grant exceptions from the ban on the ownership, possession and carrying of so-called "prohibited arms and ammunition (Article 8, paragraphs 2-5, Articles 9 and 10). Furthermore, it provides information on the transport of firearms and ammunition, issues permits to own or possess arms classified in Categories A, B or C under the conditions specified in Article 66, and, in co-

operation with the police departments and performs supervision over the compliance with the provisions of the Act.

The District Directorates of the Police Force monitor the validity of firearm permits and firearm licences and keep a register of all documents mentioned above.

A firearm permit is a public document that authorises its holder – a natural person – to hold or carry a firearm and ammunition to the extent specified for individual categories of firearm permits (Group A-F, depending on the purpose for which the firearm or ammunition is used and the extent of authorisation to carry or hold a firearm). On the basis of a written application a firearm permit is issued by the relevant police department to a person which:

- has a full legal capacity
- has attained the prescribed age pursuant to Article 18
- has no criminal record and is reliable
- has submitted a medical opinion confirming his/her capacity to hold or carry a firearm and ammunition
- has demonstrated professional skills to hold or carry a firearm by passing a test before a board of examiners
- has residence in the Slovak Republic
- has demonstrated a need to hold or carry a firearm and ammunition.

Other particularities and documents to be submitted with the application are laid down in Article 17 of the Act. The firearm permit is issued for a period of 10 years; in the case of a foreign national, the firearm permit is issued for the period of his/her permitted stay in the Slovak Republic if the stay is shorter than 10 years.

Under Article 28, sub-paragraph 4 (a), the holder of a firearm permit may not transfer the ownership of firearm and ammunition to a person not authorised to hold it. The transfer of firearm ownership takes place at a police department where a firearm is registered and subject to conditions specified in the Act.

A firearm licence is a public document that authorises a natural person-entrepreneur or a legal person to own and hold firearms and ammunition to the extent specified for individual categories of the firearm licence (A-G, depending on the purpose for which the firearms and ammunition are used).

A firearm licence is issued by the respective police departments to a natural person-entrepreneur or a legal person, which

- is the holder of the respective business licence, applied for the firearm permit of Group A, B, C or D, and submitted application for the firearm licence
- substantiates the need to have such a licence
- demonstrates the availability of suitable premises where the firearms and ammunition under this Act can be secured (these premises are subject to inspection)
- demonstrates that it is duly authorised to carry out the activities in respect of which it applies for firearm licence of Group E, F or G. At the same time, the applicant for a firearm licence or members of the applicant's statutory board (if an applicant is a legal person) have a full legal capacity and meets the condition of no criminal record and reliability pursuant to Article 19.

The holder of a firearm licence may not transfer the ownership of the firearm and ammunition to a person which is not duly authorised to acquire such firearms and ammunition into its ownership.

Subject to the conditions specified in Articles 40 to 43, the police departments also issue so-called 'firearm transport certificates' for the purpose of permanent or temporary export, import or transit through the Slovak Republic of specified types of arms and ammunition.

Article 46 sets out the conditions for the issuance of the European Firearm Passport.

An entrepreneur with registered office or residence of business in the Slovak Republic, or an entrepreneur with registered office or residence of business outside the Slovak Republic, may transport firearms in Categories A-C and ammunition to such firearms, if they are intended for export, import or transit, based on the permit issued by the Ministry of the Interior of the Slovak Republic.

1.7

The measures arising out of the implementation of the Register of undesirable persons are applied at all border checkpoints including international airports through the use of specialised on-line system for the blockage of persons. The system includes information on the persons appearing on the list of undesirable persons, in the database of police searches, and in the register of one-off or permanent blocking. Upon entry into force of Regulation No. 78/2002 of the Ministry of the Interior (1 January 2003), Slovakia has established a legislative framework for the inclusion of data provided by third countries into the system "Register of undesirable persons", which is available to the Border Control Departments of the Slovak Police Force at all border crossings (such as the inclusion of data on the persons appearing on the Unified List in accordance with the UN Security Council resolutions).

Upon accession to the Schengen area within the EU and implementation of the Schengen acquis, the mode of use and the content of the Register of undesirable persons will change, taking into account the fact that it will become a part of the Schengen Information System to the specified extent.

1.8

The upgrade of the old "AFIS" system and the delivery of a new hardware and software were completed in April 2003. Image taking device (camera) was installed into the system. The upgraded system is not only able to search the database of fingerprints at terminals abroad, but also the database of persons with criminal record and the database of wanted persons. The number of terminals increased from 60 to 80. They are located at all border crossings (including international airports); the AFIS terminal installed at the border crossing is used in both entry and exit directions.

With regard to the implementation of EURODAC in Slovakia, which is currently under way, EURODAC will be connected to the existing AFIS terminals at border crossings.

The "TERROR" list is a part of the Register of undesirable persons and is thus used at all border checkpoints (cf. section 1.7).

1.9

Where a person is justifiably suspected of terrorist activities, i.e. person who finances, plans, supports, or commits terrorist acts, or provides safe haven, the Police normally carries out an investigation.

In these cases the relevant identification data are put into the information systems of the Police. On the basis of what was mentioned above, the police unit operating at border crossings immediately find out these facts and act in accordance with laws and internal regulations of the Ministry of the Interior.

The fact that a person applied for the status of refugee is taken into consideration in all European countries and takes priority over all other proceedings. It means, in practice, when a person is suspected of committing a criminal act and the prosecution is in place, this prosecution can be held only after the issuing of a valid decision in the asylum proceeding.

Granting of asylum does not, however, prejudice subsequent criminal prosecution by the Slovak authorities. If a country, in whose territory an alleged offender has habitual residence or in whose territory the offence has been committed, requests for mutual legal assistance, the Slovak Republic shall

not extradite the alleged offender to the requesting country. In such a case the offender will be prosecuted in the Slovak Republic for the offence committed abroad pursuant to Articles 19 or 20 of the Slovak Penal Code and in accordance with the relevant legal norms (see also Articles 19 and 20 in Annex).

1.10

The criminal liability of those who plan, prepare or commit terrorist acts, is governed by Articles 7 and 10 of the Penal Code. If such acts are prepared in Slovakia and directed against another country, the criminal liability shall be considered in the light of the provisions of Articles 17 to 20a, as explained in answer to the question 1.4 concerning the territorial scope of application of the Slovak Penal Code. The wording of Article 7 and 10 is annexed and so are the provisions of Articles 379 and 389 of the Code of Criminal Procedure.

1.11

Also annexed is a new Chapter 23 on External Legal Relations of the Code of Criminal Procedure, which, upon entry into effect of the amendment to the Code of Criminal Procedure from 1 October 2003, replaced former Chapter 24 of the Code.

1.12

The extradition procedure is governed by the provisions of Chapter 23 “External Legal Relations“ of the Code of Criminal Procedure. Namely, Section II (Articles 383 to 407), Subsection “Enforcement of decisions in relation to other countries” (Articles 408 to 414) and Subsection “Transfer of sentenced persons” (Articles 415 and 416).

As regards the question whether the provisions of Chapter 23 can provide the basis for mutual assistance in criminal matters with other countries in the absence of a bilateral mutual assistance treaty between the Slovak Republic and requesting state, or vice versa, it is important to underline, that the provisions of Chapter 23 of the Code of Criminal Procedure are applicable in particular in the absence of such international treaty. Provisions of this Chapter shall apply unless an international treaty provides otherwise (Article 372).

1.13

The principle *aut dedere aut judicare* applies in accordance with international treaties, which are binding upon the Slovak Republic. In Article 20 of the Penal Code, the principle of subsidiary universality is established in line with the principle *aut dedere aut judicare*.

1.14

The obligations of carriers are laid down in Article 51 of Act No. 48/2002 on the Residence of Aliens. Under this Act, the carrier that has transported an alien to the territory of Slovakia is responsible for ensuring that the alien has all documents necessary for the entry. Under Article 51, if such an alien has been denied the entry to the Slovak Republic for the reason of missing documents, the carrier has an obligation to transport the alien back.

In connection with the upcoming implementation of the Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement into the Slovak legislation (aforementioned act), the obligations of carriers will be further broadened.

1.15

Act No. 381/1997 on Travel Documents defines individual types of travel documents as follows:

Article 6 (Travel passport)

(1) The travel passport is issued to a citizen by the District Office with jurisdiction over the place of the citizen's permanent residence; if a citizen has no permanent residence in the Slovak Republic, then according to his last permanent residence in the Slovak Republic. If a citizen has never had a permanent residence in the Slovak Republic, the travel passport shall be issued by the Bratislava I District Office (hereinafter "Competent District Office").

(2) On the basis of a well-grounded application, the travel passport may be issued also by a district office other than the Competent District Office.

(3) The travel passport is issued with territorial validity for all states of the world.

(4) The travel passport is issued for a period of 10 years; to citizens below the age of 15 the travel passport is issued for a period of two years.

Article 9 (Travel Card)

(1) A travel card is a travel document valid for a single travel, the territorial and temporal validity of which is limited by the purpose of travel. The travel card is issued to the citizen who has no other travel documents issued by the Competent District Office or diplomatic missions, particularly for the purpose of a citizen's return to the Slovak Republic, and, in urgent cases, also for travel to states where a travel card is recognized as a travel document; On the basis of a well-grounded application, the travel card may be issued also by a district office other than the Competent District Office.

(2) Prior to issuing a travel card, a diplomatic mission abroad shall verify the information presented in the application for the issuance of the travel card with the Competent District Office, provided that the citizen himself is unable to prove their authenticity and completeness.

Article 10 (Travel Identity Card)

The travel identity card is issued with a validity of two years by the competent Police Department to a stateless person who has a permanent residence in the Slovak Republic.

Article 11 (Other document)

(1) Other document is a document, which under the provisions of an international treaty has a status of a travel document (e.g. Treaty between the Czechoslovak Socialistic Republic and the Federal Republic of Austria on Common State Borders (No. 95/1975));

(2) If a document is a citizen's identity card, the provisions of this Act applicable to other types of travel documents shall not apply to this identity card (e.g. Agreement between the Government of the Slovak Republic and Government of the Czech Republic on the Abolition of the Visa Requirement (No. 225/1993)).

Moreover, Act No. 48/2002 on the Residence of Aliens distinguishes two other types of travel documents - alien passport and alien travel document.

Pursuant to Article 47 of Act No. 48/2002 on the Residence of Aliens

- (1) Alien's passport is a document authorising the alien to exit the territory.
- (2) Police department shall issue Alien's passport to the alien who has no passport of his/her own and it is impossible to obtain the passport through the diplomatic mission of the state of which nationality, and
 - a) who has been granted a tolerated residence permit,
 - b) who is to be expelled from the territory of the Slovak Republic by an administrative decision or who has been given a sentence of expulsion, or
 - c) who was born in the territory of the Slovak Republic.
- (3) Police department shall set the validity of the Alien passport for the necessary period of time, but in no case for more than one year. Police department may extend the validity of an Alien passport repeatedly.
- (4) Police department shall specify the territorial validity of an Alien passport depending on the purpose for which the passport has been issued.
- (5) Police department shall revoke an Alien passport if the reasons for which it has been issued cease to exist.
- (6) The issuance and revocation of an Alien passport shall not be subject to the general regulation on administrative proceedings.

The Alien passport is issued for the purpose of the alien's exit from the Slovak Republic.

Under Article 48 of Act No. 48/2002 on the Residence of Aliens, the alien's travel document is issued to a stateless person (defined in Article 27 of the Convention Relating to the Status of Stateless Persons) who has been granted the residence permit in the Slovak Republic or the person who has been granted the refugee status in the Slovak Republic (defined in Article 28 of the 1951 Refugee Convention).

The alien travel document authorises an alien to exit the territory of the Slovak Republic and enter the territory of the Slovak Republic during the term of its validity as any citizen of the Slovak Republic who is the holder of an ordinary passport.

The system used for the issuance of such documents is fully computerized and individual offices that issue such documents (Departments of Alien Police and Passport Service) are interconnected.

1.16

The Slovak Republic does not permit a routine entry/exit of Slovak nationals or nationals of other states to/from its territory on the basis of the national identity card.

The entry into or exit from the Slovak Republic is in principle possible only on the basis of a valid travel document, i.e. travel passport, unless an international treaty binding upon the Slovak Republic provides otherwise. Currently, such an entry/exit on the basis of the national identity card is possible only with respect to Germany, the Czech Republic and Switzerland.

1.17

The acts that shall be criminalized under the 12 international conventions, are classified in the Penal Code as follows:

Terror under Articles 93 and 93a, Terrorism under Article 94, Illegal Crossing of State Border under Article 171a, paragraphs (2), (4) and (5), General Endangerment under Article 179, paragraphs (2) and (3), Endangerment of the Safety of an Aircraft and Civilian Vessel under Article 180a, Damaging and Endangering the Operation of a Generally Beneficial Establishment under Article 182, Prohibited Acquisition and Possessions of Firearms under Article 185, paragraphs (2), (3), (4) and (5), Establishing, Masterminding and Supporting a criminal group or a terrorist group under Article 185a, paragraphs (1) and (2), Illicit Production and Possession of Nuclear Materials and High-risky Chemical Substances under Article 187a, paragraph (3) and Article 188, Murder under Article 219, Bodily Harm under Article 221, paragraph (4) and Article 222, Deprivation of personal liberty under Article 232, Robbery under Article 234, paragraphs (2) and (3), Kidnapping of a Person and Keeping it Abroad under Article 233, Taking of Hostages under Article 234a, paragraph (3), Extortion under Article 235, paragraphs (2) and (3), Unlawful Appropriation under Article 249, paragraph (3) and (4), and Damage to Another's Property under Article 257, paragraphs (3) and (4).

1.18

The legislation of the Slovak Republic as a State Party to the 1951 Geneva Convention Relating to the Status of Refugees ("Convention") and the 1967 New York Protocol Relating to the Status of Refugees ("Protocol"), regulates, effective from 1 January 2003, the aspects of asylum by the Asylum Act No. 480/2002.

Under Article 13, paragraph (1) of the Asylum Act, the Ministry of the Interior shall not grant an asylum if there is a justified suspicion that the applicant

- a) has committed a crime against peace, war crime or crime against humanity according to international instruments related to such crimes,
- b) has committed a serious non-political crime outside the territory of the Slovak Republic prior to applying for asylum, or
- c) was found guilty of acts contradictory to the objectives and principles of the United Nations.

Under Article 13, paragraph 2, the Ministry shall not grant an asylum to an applicant who is a national of more than one State and who refuses the protection of the State of his/her nationality, while this is not a State under Article 8.

Hence, Article 13, paragraph (1) has incorporated the exclusive clause (Article 1 f of the Convention), according to which persons involved in terrorist acts may be excluded from the protection under the Convention for any of the reasons stipulated in Article 1f (Article 13, paragraph (1) of the Asylum Act).

If any state requests the Slovak Republic to return an applicant for asylum, a person granted an asylum, an alien applying for a temporary safe haven or a de facto refugee, the Slovak Republic is obliged to comply with Article 33 of the Convention and Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 1950). These provisions are reflected in Article 47 of the Asylum Act (Prohibition of Expulsion or Return), which reads as follows:

Article 47

- (1) No applicant, person granted an asylum, alien applying for a temporary safe haven or de facto refugee can be expelled in any way or returned to the borders of the territory of the country where his/her life or freedom would be threatened for reasons of his/her race, religion, nationality, membership of a certain social group or political opinion; the benefit of this provision shall, however, not apply to a person that can reasonably be regarded as a danger to the security of the Slovak Republic or who, after being convicted by a final judgment for a serious crime, constitutes a danger to the society.
- (2) No applicant, person granted an asylum, an alien applying for temporary safe haven or de facto refugee can be expelled in any way or returned to the borders of the territory of the country where he/she would be tortured or exposed to cruel, inhuman or degrading treatment or punishment.

If the investigation of the particular case concludes that any of the threats mentioned in Article 47 exists in the requested state, the Slovak Republic shall not expel the alien to such State.

It is necessary to mention that Article 58 of Act No. 48/2002 on the Residence of Aliens as amended by the Asylum Act No. 480/2002, sets forth the "limits to administrative expulsion", which must be taken into consideration in the proceedings involving administrative expulsion of aliens.

"Article 58 Limits to Administrative Expulsion

- (1) The alien can not be administratively expelled into a State, in which his/her life would be endangered for reasons of his/her race, religion, belonging to a certain social group, or for a political opinion. Similarly, it is not possible to administratively expel an alien to a State, in which he/she was sentenced to death, or it is assumed, that in an ongoing proceeding such penalty could be imposed.
- (2) The alien can not be expelled to a country, in which his/her freedom for reasons of his/her race, religion, belonging to a certain social group, or for political opinion would be endangered, or in which he/she would be in danger of torture, cruel, inhuman or degrading treatment or punishment; this does not apply his/her conduct threatens the security of the State or if he/she has been convicted for a serious crime and represents danger for the Slovak Republic.
- (3) A stateless person, who holds a permanent residence permit, may be expelled administratively only if he or she acts in a manner that constitutes a threat to security of the State and/or public order and is not covered by the provisions of paragraphs 1 and 2".

Under Article 15, sub-paragraph 2 (g) of the Asylum Act, the Ministry shall revoke an asylum if there is a suspicion that the person granted an asylum committed an act under Article 13, paragraph (1) of the Asylum Act.

Under Article 15, sub-paragraph 4 (b) of the Asylum Act, the Ministry may revoke asylum if it was granted on the basis of false information or forged documents or a person granted asylum withheld facts essential for establishing the merits of the case in a reliable way.

The Slovak Republic perceives the application of the exclusion clause as a very sensitive issue and, in the practical application of this clause, will follow e.g. the UNHCR Guidelines for the Application of the Exclusion Clauses /Geneva, December 1996/ and the conclusions, information and experiences obtained at conferences and seminars on the application of the exclusion clause.

Neither the Penal Code, nor any other provisions of the Slovak legislation defines the term “political” or “non-political” criminal offence. However, as noted also in the UNODC Report of 21 October 2003, there is no political (and fiscal) excuse for non-extraditing: Article 372 on *International Treaties* gives precedence to international treaties over the provisions of the Code of Criminal Procedure including the Article 394 on *Inadmissibility of Extradition*. This means that offences listed in the International Convention for the Suppression of Terrorist Bombings, the International Convention for the Suppression of the Financing of Terrorism and the European Convention on the Suppression of Terrorism will not be considered as offences of political nature. Political (and fiscal) offences would not be grounds for refusal of extradition, Article 394 of the Code of Criminal Procedure will not be applied in these cases.

In Article 394, the Code of Criminal Procedure provides for situations where an expulsion is inadmissible (see also Article 394 in Annex).

In connection with Annex 4 on page 26 of the Supplementary Report of the Slovak Republic for the CTC, we correct the information stating that the Migration Office of the Ministry of the Interior is a part of the organisational structure of the Slovak Police Force Presidium or the Office of Border and Alien Police. In fact, the Migration Office is an organisational unit of the Security Section of the Ministry of the Interior.

1.19

The following documents are annexed:

1. Questionnaire of the Multidisciplinary Working Group on Organized Crime on Firearms based in Brussels (in connection with the 3rd Protocol supplementing the UNTOC Convention) of 28 May 2003,
2. Evaluation Report for Slovakia from GRECO of March 2003,
3. UN ODC Report of 21 October 2003.

2. Assistance and guidance

2.1

Slovakia does not have any particular area, in which assistance or advice would be specifically necessary. On the other hand, she is open and appreciates any form of technical assistance or advice.

The UN Security Council Resolution 1373 (2001) is being implemented in Slovakia through relevant implementing legislation. Slovakia however, is not for the time being in a position to offer sufficient assistance or advice to other States. If this changes, we will inform the CTC subsequently.

2.3

On 23 and 24 June 2003 the Ministry of the Interior in Bratislava hosted a workshop in co-operation with the UNODC of Vienna with the purpose to evaluate the compliance of the Slovak legislation with the UN Convention against Transnational Organized Crime and the Protocols thereto, as well as the compliance with the 12 anti-terrorist universal international legal instruments.

The follow-up meeting of the Slovak and the UNODC experts took place on 20 October 2003 in Bratislava. The Report of the UNODC dated 21 October 2003 on the workshop and its results is annexed.

In this connection, we should like to inform the CTC that on 13 September 2002 the Slovak Republic deposited with the UN Secretary General the instrument of ratification to the International Convention

for the Suppression of the Financing of Terrorism and, on 3 December 2003, the instrument of ratification to the UN Convention against Transnational Organized Crime. UN Convention against Transnational Organized Crime entered into force for the Slovak Republic on 2 January 2004.

Annexes:

1. Chapter 23 of the Code of Criminal Procedure
 2. Most recent version of Articles 7 and 10 of the Penal Code concerning the preparation for and participation in the commission of a criminal offence and Articles 17 to §20a of the Penal Code
 3. Most recent version of Act No. 367/2000 on Money Laundering.
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