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ACT

of 21 June 2007

on the prevention and remedying of environmental damage and amendments to some acts

The National Council of the Slovak Republic has resolved to pass the following Act:

Article I

PART ONE

BASIC PROVISIONS

Section 1

Subject of the Act

- (1) This Act lays down
- a) the rights and obligations of operators as regards the prevention and remedying of environmental damage, including bearing the associated costs,
 - b) the tasks of state administrative bodies in the prevention and remedying of environmental damage,
 - c) liability for infringement of the obligations under this Act.
- (2) This Act shall cover environmental damage or an imminent threat of such damage caused, regardless of culpability, by these occupational activities:
- a) operation of installations subject to permit pursuant to a special rule¹⁾, with the exception of installations or parts of installations used for research, development and testing of new products and processes,
 - b) collection, transport, recovery and disposal of waste, with the exception of application of sewage sludge to soil in accordance with a special rule,²⁾ which require permission pursuant to a special rule³⁾ or registration pursuant to a special rule,⁴⁾
 - c) transboundary shipment of waste requiring an authorisation pursuant to the relevant specific provisions,⁵⁾
 - d) discharge of waste water into surface waters and groundwaters requiring an authorisation pursuant to a special rule⁶⁾, including authorisation of associated hydraulic works,
 - e) discharge of pollutants into surface waters and groundwaters or injection of pollutants into groundwaters requiring an authorisation pursuant to a special rule⁶⁾, including authorisation of associated hydraulic works,
 - f) consumption of water and damming of water requiring an authorisation pursuant to the relevant specific provisions⁷⁾, including authorisation for associated hydraulic works,
 - g) manufacture, use, storage, processing, filling, release into the environment and onsite transport of
 - 1. dangerous chemical agents and dangerous chemical preparations pursuant to the relevant specific provisions,⁸⁾
 - 2. plant protection products including their marketing pursuant to a special rule,⁹⁾
 - 3. biocidal products including their marketing pursuant to a special rule,¹⁰⁾
 - h) transport by road, rail, inland waterways, sea or air of dangerous goods or polluting goods pursuant to special rules,¹¹⁾
 - i) operation of large atmospheric pollution sources, medium atmospheric pollution

- sources, waste incineration plants or co-incineration facilities and their modifications requiring permission pursuant to a special rule,¹²⁾
- j) contained use, including transport, involving genetically modified micro-organisms pursuant to the relevant specific provisions,¹³⁾
 - k) deliberate release of genetically modified micro-organisms pursuant to a special rule.¹⁴⁾
- (3) This Act covers environmental damage or an imminent threat of such damage to protected species of flora and fauna (hereinafter "protected species") and protected habitats caused by actions committed by the operators, as referred to in (2).
- (4) This Act shall not cover environmental damage or an imminent threat of such damage caused by
- a) hostilities¹⁵⁾ or states of war,¹⁶⁾
 - b) a natural phenomenon of exceptional, uncontrollable and inevitable character,
 - c) nuclear risks caused by the activities covered by the relevant specific provisions,¹⁷⁾ or an incident or activity in respect of which liability or compensation falls within the scope of an international treaty¹⁸⁾ to which the Slovak Republic is a signatory,
 - d) pollution of a diffuse character, where it is not possible to establish a causal link between the damage and the activities of individual operators.
- (5) This Act does not cover activities
- a) the main purpose of which is to serve national defence or international security,
 - b) the sole purpose of which is to protect from natural disasters.¹⁹⁾
- (6) This Act shall not cover environmental damage where more than 30 years have passed since the occurrence of the emission, event or incident resulting in the damage.

Section 2

Basic definitions

- (1) For the purposes of this Act:
- a) (a) environmental damage means damage to
 1. protected species and protected habitats that has significant adverse effects on reaching or maintaining the favourable conservation status of such habitats or species, with the exception of previously identified adverse effects which result from an act by an operator which was expressly authorised in accordance with the relevant specific provisions,²⁰⁾
 2. water which significantly adversely affects the ecological, chemical and/or quantitative status²¹⁾ and/or ecological potential, with the exception of adverse effects specified in a special rule,²²⁾ or
 3. land damage, which is any land contamination that creates a significant risk of human health being adversely affected²³⁾ as a result of the direct or indirect introduction, in, on or under land, of substances, preparations, organisms or micro-organisms,
 - b) imminent threat of environmental damage means a sufficient likelihood that environmental damage will occur in the near future,
 - c) damage means a measurable adverse change in a natural resource or measurable impairment of a natural resource service which may occur directly or indirectly,
 - d) occupational activity means any activity carried out in the course of an economic activity, a business or an undertaking, irrespective of its private or public, profit or non-profit character,
 - e) operator means any legal or natural person – entrepreneur who operates or controls the occupational activity or, where this is provided for in the relevant specific

provisions²⁴⁾, to whom decisive economic power over the technical functioning of such an activity has been delegated, including the holder of a permit or authorisation for such an activity or the person registering such an activity or person performing that activity based on its notification,

- f) natural resource means protected species and protected habitats, water and land,
- g) natural resources services mean the functions performed by a natural resource for the benefit of another natural resource or the public,
- h) protected species and protected habitats are
 - 1. protected species of European importance²⁵⁾ listed in a special rule,²⁶⁾
 - 2. species of European importance and migratory birds²⁷⁾ for protection of which protected areas given in the relevant specific provisions²⁸⁾ and their protected habitats²⁹⁾ are declared,
 - 3. breeding sites or resting places of the protected species of European interest listed in a special rule,³⁰⁾
 - 4. protected biotopes of European importance³¹⁾ listed in a special rule,³²⁾
- i) water means all waters covered pursuant to a special rule,³³⁾
- j) land means arable land,³⁴⁾ forest land,³⁵⁾ built-up areas and precincts³⁶⁾ and other areas,³⁷⁾
- k) baseline condition means the condition of the natural resources and functions at the time of the environmental damage that would have existed had the environmental damage not occurred, estimated on the basis of the best information available,
- l) conservation status, where it concerns
 - 1. a protected habitat means the sum of the influences acting on the protected habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species within, as the case may be, the territory of the Slovak Republic or its natural range,
 - 2. a protected species means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within, as the case may be, the territory of the Slovak Republic or its natural range,
- m) favourable conservation status of a protected habitat means a state when:
 - 1. its natural range and areas it covers within that range are stable or increasing,
 - 2. the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
 - 3. the status of its typical species is favourable, in accordance with (n),
- n) favourable conservation status of a protected species means a state when:
 - 1. population dynamics data on the protected species indicate that it is maintaining itself on a long-term basis as a viable component of its protected habitats,
 - 2. the natural range of the protected species is neither being reduced nor is likely to be reduced for the foreseeable future, and
 - 3. there is, and will probably continue to be, a sufficiently large protected habitat to maintain its populations on a long-term basis,
- o) emission means the release in the environment, as a result of human activities, of substances, preparations, organisms or micro-organisms,
- p) recovery, including natural recovery, where it concerns
 - 1. environmental damage to protected species and protected habitats and water, the return of damaged natural resources and/or impaired services to baseline condition,
 - 2. environmental damage to land, the elimination of any significant risk of adversely

affecting health,

- r) preventive measures means any measures taken in response to an event, act or omission that has created an imminent threat of environmental damage, with a view to preventing or minimising that damage,
 - s) remedial measures means any action, or combination of actions, including mitigating or interim measures to restore, rehabilitate or replace damaged natural resources and/or impaired services, or to provide an equivalent alternative to those resources or services,
 - t) costs means costs which are needed to ensure the proper and effective prevention and remedying of environmental damage, including the costs of assessing environmental damage, an imminent threat of such damage, alternatives for action, as well as the administrative, legal and enforcement costs, the costs of data collection and other general costs, as well as costs of monitoring and supervision of the place affected by or threatened with environmental damage,
 - u) originator is the state in the territory of which the occupational activity which caused transboundary environmental damage is performed or imminent threat of transboundary environmental damage,
 - v) affected party is the state on the territory of which the environmental damage or imminent threat of environmental damage occurred caused by the occupational activity in the territory of the originator who is not the affected party.
- (2) Environmental damage does not include damage to property or damage to health.
- (3) The significance of adverse effects on protected species and protected habitats as referred to in (1) (a) (1) shall be determined and assessed on the basis of the baseline condition and criteria specified in Annex 1.
- (4) The seriousness of the adverse affects to water pursuant to (1) (a), second point, is determined and judged pursuant to special rules.³⁸⁾
- (5) The basic state is established based on the best available information. It is based simultaneously on documentation drafted, stored or disseminated pursuant to special rules,³⁹⁾ from results of monitoring, research work, expert opinions and professional literature.

PART TWO

PREVENTATIVE AND REMEDIAL MEASURES

Section 3

Joint provisions

- (1) The operator is liable to prevent the occurrence of environmental damage and imminent threat of environmental damage.
- (2) The operator who caused environmental damage by occupational activity pursuant to Section 1 (2) and (3) is liable for it, unless this act stipulates otherwise.
- (3) The operator is responsible for assessment of the imminent threat of environmental damage and occurrence of environmental damage; in the event of doubt the district environment office or Slovak Environment Inspectorate (hereinafter “competent body”) may request consultation. The delivery of a request for consultation does not discharge the operator from the responsibility to act pursuant to this Act.
- (4) The liability of the operator for environmental damage transfers to its legal successor.
- (5) If environmental damage is caused by multiple operators, liability shall be apportioned to them according to their share in the environmental damage. In the event of doubt on the extent of the share of liability of individual operators for the environmental damage, the decision shall be made by the competent authority. If their share of liability for the environmental damage cannot be determined clearly or without disproportionate cost by decision, the

operators shall be responsible jointly and severally.

(6) If preventative measures or remedial measures are adopted and executed on property owned by another person than the originator of the imminent threat of environmental damage or occurrence of environmental damage, the provisions of the Civil Code⁴⁰⁾ shall apply to the limitation to the usual use of the property. After execution of preventative measures those who executed them are liable to return the property to the original state and, where possible, to a state corresponding to the previous use of the property. If damage occurs by execution of preventative measures or remedial measures, general regulations on damage compensation⁴¹⁾ shall apply to its compensation.

Section 4

Preventative measures

(1) With an imminent threat of environmental damage the operator is liable to take preventive measures without delay.

(2) The operator is required to inform the competent authority of all necessary data and circumstances of the specific case without delay, if, despite preventive measures taken, the imminent threat of environmental damage has not been dispelled or if the operator believes that, despite taking preventive measures, it will not manage to dispel the imminent threat of environmental damage. If, in the particular case, the territory of another state is affected pursuant to Section 14, the operator shall also provide the Ministry of Environment (hereinafter "ministry") with all necessary information. The operator's notification requirements pursuant to special rules remain unaffected.⁴²⁾

(3) The competent authority is authorised to

- a) require the operator to provide necessary information on any imminent threat of environmental damage or in suspected cases of such an imminent threat, arising from its occupational activity,
- b) decide on the imposition of the liability of the operator to take preventive measures, unless the operator has taken preventive measures to dispel an imminent threat of environmental damage and give him instructions to be followed on the necessary preventive measures to be taken, or
- c) take preventive measures itself if the operator
 1. does not itself, or based on a decision under (b), fulfil the liability under (1) or
 2. is not known or does not have a legal successor, or
 3. is not liable to bear the cost of the preventive measures or their part pursuant to Section 11 (3).

Section 5

Remedial action

(1) Where environmental damage has occurred the operator is liable to

- a) immediately notify the competent authority of the occurrence of environmental damage and, in the case of probable transboundary environmental damage pursuant to Section 14, the ministry as well,
- b) take all practicable steps to immediately control, contain, remove or otherwise manage the relevant contaminants and/or any other damage factors in order to limit or to prevent further environmental damage and adverse effects on human health or further impairment of functions of natural resources (hereinafter "mitigating measures"),
- c) draft a proposal of remedial measures pursuant to Sections 6-10 without delay and submit an application for approval of the proposal of remedial measures to the competent authority.

(2) The notification pursuant to (1) (a) cannot substitute the notification of the operator

pursuant to special rules.⁴²⁾

(3) The competent authority is authorised to

- a) require the operator to provide supplementary information on the environmental damage that has occurred,
- b) decide on the imposition of the liability of the operator to take remedial measures, including mitigating measures, where it has not fulfilled its liability under (1) (b) and (c) and give him instructions to be followed on the necessary remedial measures to be taken,
- c) take remedial measures if the operator
 1. does not itself, or based on a decision under (b), take mitigating measures or remedial measures and liabilities to mitigate and remedy environmental damage or
 2. is not known or does not have a legal successor, or
 3. is not liable to bear the cost of the remedial measures pursuant to Section 11 (4).

Section 6

Remedying environmental damage

(1) The objective of remediation of environmental damage to protected species, protected habitats and water is restoration of the environment to its baseline condition and elimination of significant risk of adversely affecting health. This is achieved by way of primary, complementary and compensatory remediation.

(2) The adequacy of options for remedying for environmental damage to protected species, protected habitats and water should be evaluated, using best available technologies, based on the following criteria:

- a) the effect on health and safety,
- b) costs of implementation,
- c) the likelihood of success,
- d) the extent to which each option will prevent future environmental damage and avoid collateral damage as a result of implementing the option,
- e) the scope of benefit for all components of the natural resource or its function,
- f) the extent to which each option takes account of relevant social, economic and cultural concerns and other relevant factors specific to the locality,
- g) the length of time it will take for the remediation of the environmental damage to be effective,
- h) the extent of restoration of the site of the environmental damage,
- i) the geographical linkage to the damaged site.

(3) The objective of remedying environmental damage to land is to ensure the remedying of land pollution so that the land does not represent a significant risk of adversely affecting human health.

Section 7

Primary remediation

(1) Primary remediation is any remedial measure which returns the damaged natural resources and/or impaired functions to, or towards, baseline condition (hereinafter “primary remedial measures”).

(2) When selecting primary remedial measures options comprised of actions to directly restore the natural resources and services towards baseline condition on an accelerated time frame, or through natural recovery, shall be considered.

(3) If primary remedial measures are selected which do not fully restore the protected species or natural habitat or damaged water to baseline or that restore it more slowly, simultaneously natural resources and/or services foregone as a result of the decision must be compensated for by increasing complementary or compensatory actions to provide a similar level of natural

resources and/or services as before their damage caused by environmental damage. These increasing complementary or compensatory actions are determined in line with the procedure under Section 8 (4) and Section 9 (4).

Section 8

Complementary remediation

- (1) Complementary remediation is any remedial measure taken when restoration of damaged natural resources and/or functions is not achieved by primary remediation (hereinafter “complementary remedial measures”).
- (2) The purpose of complementary remediation is to provide a similar level of natural resources and/or functions, as would have been provided if the damaged site had been returned to its baseline condition.
- (3) Complementary remedial measures can be taken at an alternative site to the site where environmental damage was caused; where possible and appropriate the alternative site should be geographically linked to the damaged site, taking into account the interests of the affected population.
- (4) When selecting supplementary remedial measures use of first choice resource-to-resource or service-to-service equivalence approaches are considered, whereas actions that provide natural resources and/or services of the same type, quality and quantity as those damaged shall be considered first. If this is not possible, replacement natural resources and/or services are secured, whereby, for example, reduced quality of natural resources and/or services is offset by an increase in the quantity of remedial measures.

Section 9

Compensatory remediation

- (1) Compensatory remediation is any remedial measure taken to compensate for interim losses of natural resources and/or services that occur from the date of damage occurring until restoration of damaged natural resources and/or services is achieved by primary remediation (hereinafter “compensatory remedial measures”). Compensatory remediation does not include financial compensation to members of the public.
- (2) Interim losses means losses which result from the fact that the damaged natural resources and/or functions are not able to perform their ecological functions or provide functions to other natural resources or to the public until the primary or complementary measures have taken effect; this does not include financial compensation to members of the public.
- (3) The purpose of compensatory remediation is compensation for the interim loss of natural resources and/or functions pending recovery.
- (4) Compensatory remedial measures consist of additional improvements to protected species and protected habitats or water at either the damaged site or at an alternative site.
- (5) When selecting supplementary remedial measures use of first choice resource-to-resource or service-to-service equivalence approaches should be considered, whereas actions that provide natural resources and/or services of the same type, quality and quantity as those damaged shall be considered first. If this is not possible, replacement natural resources and/or services are secured, whereby, for example, reduced quality of natural resources and/or services is offset by an increase in the quantity of remedial measures.

Section 10

Remedying environmental damage to land

- (1) Environmental damage to land is established by an analysis of risks of the pollution adversely affecting human health as a result of the direct or indirect introduction, in, on or under land, of substances, preparations, organisms or micro-organisms (hereinafter “risk analysis”); where environmental damage to land has occurred, the provisions of the relevant

specific provisions shall also apply to the risk analysis.⁴³⁾

(2) The operator is responsible for the risk analysis; a special rule applies to its performance.⁴⁴⁾ If the operator has not provided the risk analysis or if the competent authority performs it pursuant to Section 5 (3)(c), the competent authority shall provide the risk analysis.

(3) In the risk analysis the type of soil is considered pursuant to Section 2 (1)(j), the type and concentration of the harmful substances, preparations, organisms or micro-organisms, their risk and the possibility of their dispersion. The land use is determined pursuant to special rules⁴⁵⁾ applicable at the time of the environmental damage to land; if the land use cannot be thus determined, the land use of the specific area is determined according to the nature of the relevant area where the environmental damage occurred, taking into account its expected development.

(4) Remedial measures for remedying environmental damage to land must ensure removal of contaminants, effective control and containment or diminishment of their quantity so that contaminated land, taking account of its current use or approved future use at the time of the environmental damage to land, no longer poses no significant risk of adversely affecting human health. If, at the time of assessment of environmental damage to land, land use changes, this change shall be reflected in taken remedial measures. Natural recovery shall be considered in the proposal of remedial measures.

PART THREE

COSTS FOR PREVENTION AND REMEDYING OF ENVIRONMENTAL DAMAGE

Section 11

Bearing of costs

(1) Costs for preventative and remedial measures adopted under this Act shall be borne by the operator, with the exception of cases referred to in (3) and (4).

(2) Implementation of preventive measures by the competent authority pursuant to Section 4 (3)(c) or remedial measures pursuant to Section 5 (3)(c) and securing a risk analysis by the competent authority pursuant to Section 10 (2) do not affect the liability of the operator to bear the costs of these measures.

(3) The competent authority shall decide based on an application of the operator that the operator is not liable to bear the cost of the preventive measures or their part if the operator proves that the environmental damage or imminent threat of such damage

- a) was caused by the actions of a third party and the damage or imminent threat occurred despite the fact that the operator made all efforts that could be required of it to prevent the occurrence of environmental damage or imminent threat caused by a third person, or
- b) was caused by fulfilment of a binding order, instruction or a permit to carry out work issued by a public administration body⁴⁶⁾, in the time before the occurrence of environmental damage or imminent threat of environmental damage.

(4) The competent authority shall decide based on an application of the operator that the operator is not liable to bear the cost of the preventive measures or their part if the operator proves that the environmental damage was caused by

- a) an emission or event permitted in the decision on performing work referred to in Section 1 (2), whereas the decision on performing this work must comply with special rules on the environment⁴⁷⁾ and be applicable at the date the emission or event authorised by, and fully in accordance with the conditions of, an authorisation conferred, and simultaneously proves that it did not cause the environmental damage,
- b) an emission or activity or any manner of using a product in the course of an activity

which the operator demonstrates was not considered likely to cause environmental damage according to the state of scientific and technical knowledge at the time when the emission was released or the activity took place, and simultaneously proves that it did not cause the environmental damage,

- c) the actions of a third party and the damage occurred despite the fact that the operator made all efforts that could be required of it to prevent the occurrence of environmental damage caused by a third person, or
- d) fulfilment of a binding order, instruction of a public administration body or a permit to carry out work issued by a public administration body, in the time before the occurrence of environmental damage.

Section 12

Compensation of costs

- (1) The competent authority shall decide on the level of costs for preventive or remedial measures which the operator is liable to pay to the competent authority if the competent authority has implemented preventive measures pursuant to Section 4 (3) (c) or remedial measures and pursuant to Section 5 (3) (c).
- (2) If the operator is under bankruptcy, payment of costs pursuant to (1) is a claim of the secured creditor and is recovered in the bankruptcy proceedings.²⁴⁾
- (3) Pursuant to Section 11 (3) (a) and Section 4 (c) the operator has the right to compensation of costs which it demonstrably expended on preventive or remedial measures from a third person who caused the environmental damage or the imminent threat of such damage; compensation is asserted pursuant to the relevant specific provisions.⁴¹⁾
- (4) Pursuant to Section 11 (3) (b) and Section 4 (d) the operator has the right to compensation of costs which it demonstrably expended on preventive or remedial measures from a public administration body which issued the binding order, instruction or permit to carry out work.
- (5) The public administration body which issued the binding order, instruction or permit to carry out work pursuant to (4) is required to compensate the operator for costs expended.

Section 13

Financial coverage of liability for environmental damage

- (1) The operator is required pursuant to Section 1 (2) to secure financial coverage of its responsibilities for environmental damage, including forecast costs for remedial activity and remedying environmental damage that could be caused by its occupational activity, continually for the whole time of operation.
- (2) The amount of financial coverage must correspond to the amount of forecast costs for remedial activity, including an analysis of risks and costs of remedying the environmental damage.
- (3) The operator is required to furnish the competent authority with evidence concerning the manner of covering its responsibilities for environmental damage, including forecast costs for remedial activity and remedying environmental damage at latest within 100 days of issue of the work permit and immediately inform it in writing of any changes.

PART FOUR

TRANSBOUNDARY ENVIRONMENTAL DAMAGE

Section 14

Transboundary environmental damage

- (1) If transboundary environmental damage or imminent threat of environmental damage occurs where the Slovak Republic is the originator or the affected party, the provisions of the second and third part of the Act shall apply commensurately, unless an international treaty to which the Slovak Republic is a signatory stipulates otherwise or unless the originator and the

affected party agree otherwise.

(2) Paragraph (1) applies only if mutuality and equality is guaranteed between the originator and the affected party.

(3) If the Slovak Republic is the originator, after delivery of the notification under Section 4 (2) or Section 5 (1) (a) the ministry shall inform the affected party without delay and agree the next step with it.

(4) If the Slovak Republic is the affected party, the competent body which detected the occurrence of environmental damage shall inform the ministry and provide it with available information, particular concerning

- a) the place and time of the occurrence or discovery of environmental damage,
- b) the occupational activity or an event of the originator which caused it, if it is known or probable,
- c) the nature and probable extent of environmental damage,
- d) preventive or remedial measures taken so far, including mitigating measures,
- e) other specific circumstances affecting the place of occurrence of environmental damage and its surroundings.

(5) The provisions of (3) and (4) do not affect the notification liability pursuant to special rules.⁴⁸⁾

(6) If the Ministry learns of the occurrence of environmental damage from a notification under (5), a notification of the originator or in another trustworthy manner, it shall immediately contact the originator and inform the European Commission of the environmental damage and proceed pursuant to (1).

PART FIVE STATE ADMINISTRATION Section 15

Bodies of state administration

State administration in the area of prevention and remedying environmental damage is executed by:

- a) the ministry,
- b) the regional environment office,⁴⁹⁾
- c) the district environment office,⁴⁹⁾
- d) the Slovak Environmental Inspectorate.⁴⁹⁾

Section 16

Ministry

(1) The ministry is the central body of state administration in the area of prevention and remedying environmental damage.

(2) The ministry

- a) executes state supervision in matters of the prevention and remedying of environmental damage (hereinafter “state supervision”),
- b) operates the information system of prevention and remediation of environmental damage pursuant to Section 20,
- c) recovers compensation of costs occurring to the State in connection with preventative and remedial measures,
- d) recovers compensation of costs occurring to the State by the occurrence of transboundary environmental damage or its imminent threat pursuant to Section 14,
- e) secures international cooperation in the area of detection, assessment, prevention and remediation of environmental damage and recommends adoption of preventative and remedial measures to the originator,

- f) reports to the European Commission on the application of this Act pursuant to Annex 2,
- g) ensures coordination of tasks in the area of prevention and remediation of environmental damage with the relevant central bodies of state administration and bodies of the European Union.

Section 17

Regional environment office

The regional environment office

- a) decides on appeals against decisions of district environment offices issued pursuant to this act,
- b) performs state supervision,
- c) decides in the case of doubts on which district environment office is competent for actions under this Act when environmental damage affects land under the jurisdiction of two or more district environment offices.

Section 18

District environment office

(1) The district environment office

- a) executes state administration in the first degree in matters of the prevention and remedying of environmental damage pursuant to this act and special rules⁵⁰), aside from provisions stated in Section 19 (b),
- b) receives and records notifications pursuant to Section 4 (2) and Section 5 (1) (a), informs the ministry of them and receives and records copies of agreements pursuant to Section 13 (3),
- c) receives notifications and acts pursuant to Section 26,
- d) has consultations pursuant to Section 24,
- e) approves a proposal of remedial measures pursuant to Section 6 to 10,
- f) decides pursuant to Section 3 (5), Section 4 (3) (b), Section 5 (3) (b), Section 11 (3) and (4) and Section 12 (1),
- g) adopts and executes preventive and remedial measures pursuant to Section 4 (3) (c) and Section 5 (3) (c),
- h) performs state supervision,
- i) imposes fines pursuant to Section 22.

(2) When taking remedial measures pursuant to Section 5 (3) (c) the district environment office shall proceed pursuant to Section 6 to 10.

(3) The taking of preventive and remedial measures pursuant to (1) (g) is secured by the district environment office itself or by a professionally and technically competent legal person or natural person - entrepreneur.⁵¹)

Section 19

Slovak Environmental Inspectorate

The Slovak Environmental Inspectorate

- a) performs state supervision,
- b) fulfils tasks pursuant to Section 18 (1) (b) to (e) and (2) and (3), if the environmental damage or the imminent threat of damage was exclusively caused by occupational activity governed by a special rule,⁵²)
- c) imposes fines pursuant to Section 22.

Section 20

Information system on the prevention and remediation of environmental damage

(1) An information system on the prevention and remediation of environmental damage is set

up (hereinafter "information system") to secure the gathering of data and provision of information in the area of prevention and remediation of environmental damage.⁵³⁾

(2) The information system contains information on

- a) the type of environmental damage or its imminent threat, place and date of occurrence and/or discovery, its extent and the date of the start and end of proceedings pursuant to the sixth part of this Act,
- b) the title or name and surname, address and code of the main activity⁵⁴⁾ of the operator,
- c) adopted and executed preventive or remedial measures, including mitigating measures and the result of correcting environmental damage,
- d) costs for preventive and remedial measures under this Act
 1. expended directly by the operator, when this information is available,
 2. acquired subsequently from the operator directly or from financial coverage of his liability pursuant to Section 13,
 3. not recovered from the operator with statement of the reasons why they were not recovered,
 4. expended from the State Budget,
- e) operators or other persons using court proceedings and their results,
- f) state of the environment and reference to places where it is possible to acquire necessary data for establishing the basic state pursuant to Section 2 (5) and other information on the environment, gathered, stored or disseminated pursuant to this Act or special rules.³⁹⁾

(3) The information system is operated and its content made accessible by the ministry. The ministry may delegate fulfilment of these tasks to a legal entity set up by it.⁵⁵⁾

(4) Bodies of public administration and legal entities managing public resources are required to provide the operator of the information system free-of-charge on request with data and information pursuant to (2), acquired through public resources which they dispose of. These bodies and legal entities have the right to free information and data from the information system required for fulfilling their tasks.

Section 21

State supervision

(1) State supervision establishes whether the operator meets requirements stipulated by this act and decisions issued on its basis.

(2) Execution of state supervision proceeds pursuant to basic rules of control activity in state administration,⁵⁶⁾ unless otherwise stipulated below.

(3) If the state supervisory body detects infringement of the liabilities of the operator, it is authorised pursuant to the seriousness of established facts to order in writing

- a) maintenance of the original state until clarification of the matter or documentation of the state at the time of executing the check,
- b) implementation of measures to eliminate shortcomings immediately or in a time limit set by it, including a prohibition or limitation on performing a certain activity in conflict with this Act and decisions issued on its basis; appeal against the decision on the imposition of measures has no delaying effect.

(4) The employee of the state administration body performing supervision is authorised for this purpose in a necessary scope to

- a) perform the necessary detection,
- b) take required samples,
- c) use technical means, if their use is not forbidden by a special rule,⁴³⁾ for making photodocumentation, video documentation and sound recordings necessary for documenting established facts required for execution of state supervision.

- (5) The operator is required to
- a) allow the employee of the state administration body executing state supervision
 - 1. to use of technical means for making photodocumentation, video documentation and sound recordings necessary for documenting established facts connected with fulfilment of tasks of the controlled subject under this Act,
 - 2. to provide him with full and true information associated with the prevention and remedying of environmental damage,
 - b) refrain from actions that could limit or inhibit the state supervisory body.

Section 22

Administration delicts

- (1) The competent body shall impose a fine up to SKK 200 000 on an operator who
 - a) does not inform the competent body of all necessary information and circumstances of the imminent threat of environmental damage pursuant to Section 4 (2),
 - b) does not provide the competent body at request with necessary information on the imminent threat of environmental damage pursuant to Section 4 (3) (a),
 - c) does not provide pursuant to Section 5 (3) (a) supplementary information on the environmental damage that has occurred at the request of the competent body,
 - d) does not furnish the competent body with evidence concerning the manner of covering its responsibilities for environmental damage, including forecast costs for remedial activity and remedying environmental damage or does not inform the competent body in writing without delay on all its changes pursuant to Section 13 (3),
 - e) does not provide full and true information pursuant to Section 21 (5) (a), second point, associated with the prevention and remedying of environmental damage.
- (2) The competent body shall impose a fine up to SKK 1,000,000 on an operator who
 - a) does not immediately adopt and execute preventative measures pursuant to Section 4 (1) despite an imminent threat of environmental damage,
 - b) does not adopt and execute preventative measures pursuant to Section 4 (3) (b),
 - c) does not follow the instructions of the competent body for adoption and execution of preventative measures pursuant to Section 4 (3) (b),
 - d) does not notify the competent body or ministry of the likely occurrence of transboundary environmental damage and, in the case of probable transboundary environmental damage pursuant to Section 5 (1) (a),
 - e) does not adopt and execute mitigating measures pursuant to Section 5 (1) (b),
 - f) does not draft a proposal of remedial measures pursuant to Section 5 (1) (c),
 - g) does not adopt and execute remedial measures, including mitigating measures pursuant to Section 5 (3) (b),
 - h) does not follow the instructions of the competent body for adoption and execution of remedial measures pursuant to Section 5 (3) (b),
 - i) does not secure financial coverage of its responsibilities for environmental damage, including forecast costs for remedial activity and remedying environmental damage pursuant to Section 13 (1) and (2),
 - j) does not allow the employee of the state administration body executing state supervision to use technical means for making photodocumentation, video documentation and sound recordings pursuant to Section 21 (5) (a), first point, necessary for documenting established facts connected with fulfilment of tasks of the controlled subject under this Act,
 - k) does not execute an order of the state supervisory body pursuant to Section 21 (3),

- 1) does not refrain from actions that could limit or inhibit the state supervisory body pursuant to Section 21 (5) (b).
- (3) The competent body shall impose a fine of up to SKK 1 000 000 on a legal entity or natural person-entrepreneur who adopted and executed preventive or remedial measures on property owned by another person than the originator of the imminent threat of environmental damage, if they did not return the property to the original state or to a state corresponding to the previous use of the property pursuant to Section 3 (6).
- (4) Proceedings on imposition of a fine may start in the time limit of one year from the date when the competent body became aware of the breach of liability, no later, however, than ten years from the day when the liability was breached.
- (5) When imposing fines the competent body takes account of the seriousness and duration of the illegal action, the extent of danger to health and the environment and the level of damage to them.
- (6) In decisions on imposing a fine on the liable subject the competent body may simultaneously order it to execute measures to eliminate the consequences of the illegal action for which the fine was imposed. If the liable subject does not execute these measures in the set time limit, the competent body may impose a further fine on it up to twice the sum specified in (1). The competent body may impose the additional fine on the operator within the time limit of one year from the date when the operator was meant to execute the remedial measures imposed in the decision on imposing the fine.
- (7) If the operator repeatedly breaches the liability for which the fine was imposed within one year of the validity of the decision on imposing the fine pursuant to this Act or does not execute the remedial measure, the competent authority shall impose a further fine of up to twice the sum specified in (1) to (3).
- (8) A fine is payable within 30 days of the date of legal applicability of the decision by which it was imposed, unless a longer maturity period is specified in that decision.
- (9) Revenue from fines is income of the Environment Fund.⁵⁷⁾

SIXTH PART PROCEEDINGS

Section 23

Joint provisions

- (1) The general regulation on administrative proceedings⁵⁸⁾ applies to actions under this act, unless this Act stipulates otherwise.
- (2) The general regulation on administrative proceedings⁵⁸⁾ does not apply to the procedure pursuant to Section 4 (3) (a) and Section 5 (3) (a), Section 24 and 26.

Section 24

Consultation

- (1) In the consultation pursuant to Section 3 (3) the competent body expresses in particular to whether there was an immediate threat of environmental damage or environmental damage occurred.
- (2) Where required, the competent body shall request the opinion of the affected body.
- (3) The result of the consultation is a written opinion of the competent body, which that body informs the operator of in a time limit of 60 days from the date of delivery of the request for consultation.

Section 25

Parties to proceedings

- (1) The operator is a party to proceedings.
- (2) A party to proceedings pursuant to Section 27 and 28 is also

- a) an owner, manager or tenant of an immovable property which is affected by environmental damage or in which preventive or remedial measures are to be taken,
- b) a municipality whose territory is affected by environmental damage or on whose territory preventive or remedial measures are to be taken,
- c) a natural or legal person whose rights or legally protected interests or liabilities may be directly affected by environmental damage.

(3) A party to proceedings under Section 27 shall also be a citizens association or other organisation based or established pursuant to special rules,⁵⁹⁾ the objective of which, in accordance with the articles of association, foundation deed or charter, or their amendments applicable for at least one year, is environmental protection (hereinafter “non-governmental organisation”) which has given notice under Section 26 (1) and simultaneously given notice in writing of its interest in taking part in proceedings at latest within seven days of delivery of the notification under Section 26 (5).

Section 26

Notification

(1) An owner, manager or tenant of an immovable property which is or could be affected by environmental damage, a natural or legal person whose rights or legally protected interests or liabilities may be directly affected by environmental damage, non-governmental organisations (hereinafter “informant”) shall be entitled to notify the competent authority of the facts indicating that environmental damage has occurred.

(2) The notification shall be delivered in written form and shall include particularly

- a) the name of the operator whose activity caused the environmental damage, if known to the informant,
- b) the place where the environmental damage occurred,
- c) a description of established facts,
- d) evidence supporting the content of the notification,
- e) the name, surname and place of permanent residence of the informant if the informant is a physical person,
- f) the name and seat of the informant and names and surnames of the statutory bodies of the informant if the informant is a legal person.

(3) The competent authority shall review the notification, if required, request further information from the informant and opinions from affected bodies, and request the operator’s response to the notification and to the submit information and opinions.

(4) If, during review of the notification, it is shown that environmental damage did not occur, the competent body shall defer the notification by memorandum and inform the informant, giving the reasons.

(5) If, during review of the notification, it is shown that environmental damage did occur, the competent body shall proceed pursuant to Section 5 (3) and Section 6 to 10, whereas it shall inform the informant of its procedure in writing, giving the reasons.

Section 27

Proceedings on the imposition of preventative and remedial measures

(1) The competent body shall begin proceedings on imposition of the liability to execute preventative measures pursuant to Section 4 (3) (b) and proceedings on imposition of the liability to execute remedial measures pursuant to Section 5 (3) (b) at its own initiative or on the basis of a notification pursuant to Section 26.

(2) In the proceedings the competent authority shall establish whether there is an imminent threat of environmental damage or whether environmental damage has occurred and which operator caused it; where it concerns environmental damage referred to in Section 1 (3), the

competent authority shall determine the culpability of the operator. Where required, the competent authority shall request the opinion of the affected body (Section 32 (2)).

(3) With the exception of cases stipulated by the general regulation on administrative proceedings⁶⁰) the competent body shall suspend proceedings if

- a) it finds that there was no imminent threat of environmental damage or occurrence of environmental damage, or
- b) the operator is not known.

(4) If, in the proceedings on imposition of a liability to take remedial measures, it is not possible to use the first choice resource-to-resource or service-to-service equivalence approaches as supplementary remedial measures or compensatory remedial measures, the competent authority shall use alternative valuation techniques.

(5) During the procedure under (4) the competent authority may impose the liability to make a monetary valuation to determine the extent of the necessary complementary and compensatory remedial measures. If valuation of the environmentally damaged or lost natural resources and/or services is practicable, but valuation of the replacement natural resources and/or services cannot be performed within a reasonable time-frame or at a reasonable cost, then the competent authority may choose remedial measures whose cost is equivalent to the estimated monetary value of the environmentally damaged or lost natural resources and/or services.

(6) The competent body shall impose the liability to take complementary and compensatory remedial measures so that these remedial measures provide for additional natural resources and/or functions, whereas the time required to achieve the baseline condition shall be considered so that the longer time required to achieve baseline is offset by an increase in the quantity of remedial measures.

(7) Where several instances of environmental damage have occurred in such a manner that the competent authority cannot ensure that the necessary remedial measures are taken for all of them at the same time, the competent authority shall be entitled to decide which instance of environmental damage must be remedied first. In making that decision regard shall be given to the nature, extent and gravity of the various instances of environmental damage concerned, and to the possibility of natural recovery, as well as risks to health.

(8) In cases pursuant to (7) the competent body may decide not to adopt any other remedial measures if

- a) remedial measures already adopted and executed secure that there is no longer any significant risk of adversely affecting human health, water or protected species and habitats,
- b) the cost of the remedial measures that should be taken to reach baseline condition or similar level would be disproportionate to the environmental benefits to be obtained.

Section 28

Proceedings on approval of a proposal of remedial measures

A proposal for commencement of proceedings on approval of a proposal of remedial measures is a written application for approval of a proposal of remedial measures pursuant to Section 5 (1) (c).

(2) The application for approval of the proposal of remedial measures includes, aside from general details of submission pursuant to the administrative procedure regulation⁶¹), the proposal of remedial measures divided into primary, complementary and compensatory measures pursuant to Sections 7 – 9 and risk analysis pursuant to Section 10, where environmental damage to land has occurred.

- (3) When deciding on approval of remedial measures the competent authority informs all known parties to proceedings and affected bodies of the start of proceedings and orders oral proceedings on local findings; simultaneously it informs them that they must make any observations and opinions by the oral proceedings at latest, otherwise they will not be considered in proceedings.
- (4) The competent authority may waive the local findings or oral proceedings if it is well acquainted with the conditions and circumstances of the occurrence of environmental damage and simultaneously the application for approval of the proposal of remedial measures provides sufficient grounds for assessment of matters.
- (5) The competent authority shall inform parties to proceedings of the start of proceedings at least seven working days before the oral proceedings. If the competent authority waives oral proceedings, it shall determine the deadline for parties to proceedings and affected bodies to submit observations and opinions and warn them that observations and opinions submitted later will be ignored.
- (6) Where environmental damage concerns an extensive area or with more than 50 parties, the competent authority shall inform parties of the start of proceedings by a public notice at least 15 days prior to the start of oral proceedings; if oral proceedings are not held, the competent authority shall inform parties at least 15 days prior to the expiry of the time limit for submitting observations and opinions under (5).
- (7) The competent authority shall notify affected bodies individually. These bodies are required to communicate their opinion in the same time limit as parties to proceedings may submit observations and opinions. If any of the affected bodies needs more time for proper assessment, the competent authority shall at its request extend the time limit accordingly. If the affected body does not communicate its opinion in the specified or extended time limit, it is taken that it agrees with the proposed remedial measures from the point of view of its interests.
- (8) If it is not possible to use the first choice resource-to-resource or service-to-service equivalence approaches in proceedings on approval of a proposal of supplementary remedial measures or compensatory remedial measures, Section 8 (4) or Section 9 (5) shall apply.

Section 29

Proceedings on the bearing of costs

- (1) A proposal to commence proceedings on the bearing of costs is a written request of an operator which, in addition to general details of a submission pursuant to the general regulation on administrative proceedings⁶¹) contains information confirming facts pursuant to Section 11 (3) or (4).
- (2) The operator may submit the application pursuant to Section 11 (3) at the time of imminent threat of environmental damage and if environmental damage has already occurred, in the time limit of six months from the date of legal applicability of the decision on imposing remedial measures pursuant to Section 27 or on approval of the proposal of remedial measures pursuant to Section 28.
- (3) The operator may submit the application pursuant to Section 11 (4) within one year of the date of legal applicability.
- (4) In decisions pursuant to Section 11 (3) (b) and (4) (a), (b) and (d) the competent body shall also decide on the amount and manner of return of costs expended by the operator or their part.

Section 30

Proceedings on determination of the extent of the share in the occurrence of environmental damage

- (1) A proposal to commence proceedings on determination of the extent of the share in the occurrence of environmental damage is a written request of an operator or several operators.
- (2) In addition to details of submission pursuant to a special rule⁶¹⁾ an application pursuant to (1) includes information on the occurrence of environmental damage and a proposal on determination of the extent of the share in the occurrence of environmental damage
- (3) Submission of a proposal to commence proceedings does not affect the liability of the operator to execute redial measures according to the second part of the Act.
- (4) If the operator has not meet the liability under (3), the competent body shall proceed pursuant to Section 5 (3) (c), first point.
- (5) If required, the competent body may combine proceedings on determination of the extent of the share in the occurrence of environmental damage with proceedings on compensation of costs pursuant to Section 31.

Section 31

Proceedings on the compensation of costs

- (1) The competent authority shall begin proceedings on the liability to compensate costs at its own initiative if it acted pursuant to Section 4 (3) (c) and Section 5 (3) (c).
- (2) A decision on the liability to compensate costs of preventive or remedial measures shall, aside from general details of a decision⁶²⁾, include:
 - a) determination of the amount of compensation of costs of preventive or remedial measures,
 - b) determination of the manner of recovery of costs of preventive or remedial measures,
 - c) determination of the time limit for compensation of costs of preventive or remedial measures,
 - d) the number of the bank account where the sum of cost compensation is to be paid.
- (3) If the operator or other liable person given in the decision under (2) does not pay the determined compensation of costs in the specified time limit or pays only part of them, the competent authority shall pass the matter to the ministry for recovery.
- (4) The ministry shall not recover the full costs where the expenditure required to do so would be greater than the recoverable sum or where the operator cannot be identified; this fact is indicated in the file.
- (5) The recovery of the compensation of costs under (4) is governed pursuant to a special rule.⁶³⁾
- (6) The competent authority shall not start proceedings on compensation of costs after expiry of five years from the day when preventive or remedial measures were taken or, if it is not possible to clearly determine that day, from the day when the operator or responsible third party was identified.

Section 32

Position

- (1) For the purposes of proceedings under this Act an opinion is an opinion, agreement, response or other administrative act of the affected body asserting interests protected by special rules.⁶⁴⁾ The content of the opinion is binding for the competent body and without reconciliation of the opinion with other opinions it cannot decide on the matter.
- (2) The affected body is authorised to assert requirements in the scope of its competence stipulated by a special rule.⁶⁴⁾ In its opinion it is always required to state the provisions of the special rule based on which it enforces its competence.
- (3) The affected body is bound by the content of the opinion which it issued in the matter. If the affected body issues a later opinion, it states in it whether it is confirming, supplementing, changing or replacing the prior opinion with statement of the reasons.

(4) In the case of contradiction between affected bodies emerging from the opinions of affected bodies, the competent body shall cancel the proceedings; the dispute shall be resolved by bodies superior to the affected body. If the dispute cannot be resolved by agreement of the bodies, the ministry shall decide on the resolution to the dispute following its consultation with competent central bodies of state administration.

(5) If a party to proceedings submits objections against the content of the opinion, the competent body shall suspend proceedings and request an opinion from the affected body on the objections. If the affected body does not change the opinion, the competent body shall request confirmation or amendment of the opinion of the body superior to the affected body. During suspension of proceedings, time limits for decisions on the matter by the competent body do not run.

(6) If an appeal against a decision under this act is directed against the content of the opinion, the appeal body shall suspend proceedings and request an opinion on the content of the appeal from the affected body competent to issue the opinion. The appeal body submits the appeal along with the opinion on the content of the decision from the affected body to the body superior to the affected body requests confirmation or amendment of the opinion from it. During suspension of proceedings, time limits for decisions on the appeal do not run.

(7) If a legally applicable decision under this Act is based on the content of an opinion of the affected body which was later annulled or amended due to conflict with the Act, it is a reason to review the decision outside the appeal proceedings.

SEVENTH PART

JOINT, TRANSITORY AND CONCLUDING PROVISIONS

Joint provisions

Section 33

If the environmental damage or the imminent threat of damage was caused by occupational activity governed by a special rule⁵²⁾ and simultaneously by other occupational activity of the same operator or other operator, the competent body is the district environment office.

Transitional provisions

Section 34

This Act does not govern

- a) damage caused by an emission, event or incident that took place before the date of applicability of this Act,
- b) damage caused by an emission, event or incident which took place subsequent to the date of applicability of this Act, but derives from a specific activity that took place and finished before the applicability of this Act.

Concluding provisions

Section 35

This Act adopts the legal acts of the European Communities and European Union given in Annex 3.

Article II

Slovak National Council Act No 145/ 1995 Coll. on administrative fees, as amended by Slovak National Council Act No 123/ 1996 Coll., Slovak National Council Act No 224/ 1996 Coll., Act No 70/1997 Coll., Act No 1/1998 Coll., Act No 232/1999 Coll., Act No 3/2000 Coll., Act No 142/2000 Coll., Act No 211/2000 Coll., Act No 468/2000 Coll., Act No 553/2001 Coll., Act No 96/2002 Coll., Act No 118/2002 Coll., Act No 215/2002 Coll., Act No 237/2002 Coll., Act No 418/2002 Coll., Act No 457/2002 Coll., Act No 465/2002 Coll., Act No 477/2002 Coll., Act No 480/2002 Coll., Act No 190/2003 Coll., Act No 217/2003 Coll., Act No 245/2003 Coll., Act No 450/2003 Coll., Act No 469/2003 Coll., Act No

583/2003 Coll., Act No 5/2004 Coll., Act No 199/2004 Coll., Act No 204/2004 Coll., Act No 347/2004 Coll., Act No 382/2004 Coll., Act No 434/2004 Coll., Act No 533/2004 Coll., Act No 541/2004 Coll., Act No 572/2004 Coll., Act No 578/2004 Coll., Act No 581/2004 Coll., Act No 633/2004 Coll., Act No 653/2004 Coll., Act No 656/2004 Coll., Act No 725/2004 Coll., Act No 5/2005 Coll., Act No 8/2005 Coll., Act No 15/2005 Coll., Act No 93/2005 Coll., Act No 171/2005 Coll., Act No 308/2005 Coll., Act No 331/2005 Coll., Act No 341/2005 Coll., Act No 342/2005 Coll., Act No 473/2005 Coll., Act No 491/2005 Coll., Act No 538/2005 Coll., Act No 558/2005 Coll., Act No 572/2005 Coll., Act No 573/2005 Coll., Act No 610/2005 Coll., Act No 14/2006 Coll., Act No 15/2006 Coll., Act No 24/2006 Coll., Act No 117/2006 Coll., Act No 124/2006 Coll., Act No 126/2006 Coll., Act No 224/2006 Coll., Act No 342/2006 Coll., Act No 672/2006 Coll., Act No 693/2006 Coll., Act No 21/2007 Coll., Act No 43/2007 Coll., Act No 95/2007 Coll., Act No 193/2007 Coll., Act No 220/2007 Coll., Act No 279/2007 Coll., Act No 295/2007 Coll., Act No 309/2007 Coll., Act No 342/2007 Coll., Act No 343/2007 Coll., Act No 344/2007 Coll., Act No 355/2007 Coll. and Act No 358/2007 Coll. is amended as follows:

In Part X “Environment” of the scale of administrative charges items 171m to 171o are inserted after item 171l, which read:

"Item 171 m

Submission of an application for consultation 39m) SKK 1,000

Item 171n

Submission of an application for approval of remedial measures 39n) SKK 1,000

Item 171o

Submission of an application for issue of a decision on the bearing of costs 39o) SKK 1000”.

Footnotes 39m to 39o read:

“39m) Section 3 (3) of Act No 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.

39n) Section 5 (1) (c) of Act No 359/2007 Coll.

39o) Section 29 (1) of Act No 359/2007 Coll.”.

Article III

Act No 543/2002 Coll. on the protection of nature and the countryside.

as amended by Act No 525/2003 Coll., Act No 205/2004 Coll., Act No 364/2004 Coll., Act No 587/2004 Coll., Act No 15/2005 Coll., Act No 479/2005 Coll. and Act No 24/2006 Coll., is amended as follows:

1. V Section 9 sa odsek 1 dopĺňa písmenom p), ktoré znie: “p) issue of decisions in proceedings concerning prevention and remediation of environmental damage to protected species and protected habitats pursuant to a special rule.37a)”.

Footnote 37a reads:

“37a) Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.”.

2. In Section 68 (f) the words “(d) to (f) and (k)” are replaced by the words “(d) to (f), (k) and (p)”.

Article 4

Act No 220/2004 Coll. on the protection and use of agricultural land and amendments to Act No 245/2003 Coll. on integrated prevention and control of environmental pollution and amendments to some acts, is amended as follows:

1. Section 8 (6) reads:

“(6) In matters of integrated prevention and control of environmental pollution^{7a)} the state administrative body shall impose measures for the protection of agricultural land against damage by hazardous substances or for elimination of such damage caused by activities of operations governed by a special rule⁷⁾ taking account of limit values of hazardous substances in agricultural soil pursuant to Annex 2 and taking account of measures proposed or imposed pursuant to (4) and (5).”.

Footnotes 7 and 7a read:

“7) Section 2 (4) of Act No 245/2003 Coll. on integrated pollution prevention and control and amendments to some acts.

7a) Section 28 of Act No 245/2003 Coll., as amended by Act No. 532/2005 Coll.”.

2. In Section 23 a new letter (e) is inserted after letter (d), which reads:

“e) is the affected body and issues an opinion from the point of view of protection of agricultural land in proceedings concerning prevention and remediation of environmental damage to soil pursuant to a special rule,^{13a)}”.

The existing letters (e) to (i) are labelled as letters (f) to (j).

Footnote 13a reads:

“13a) Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.”.

Article 5

Act No 364/2004 Coll. on water and amendments to Slovak National Council Act No 372/1990 Coll. on offences, as amended (water act), as amended by Act No 587/2004 Coll., Act No 230/2005 Coll., Act No 479/2005 Coll. and Act No 532/2005 Coll. is amended as follows:

Section 73 is appended by paragraph 19, which reads:

“(19) The state water administration body is the affected body and issues opinions in proceedings pursuant to a special rule^{66c)}”.

Footnote 66c reads:

“66c) Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.”.

Article 6

Act No 326/2005 Coll. on forests is amended as follows:

In Section 60 (2) a new letter (i) is inserted after letter (h), which reads:

“i) is the affected body and issues an opinion from the point of view of protection of soil in proceedings concerning prevention and remediation of environmental damage to forest land pursuant to a special rule,^{87a)}”.

The existing letters (i) to (k) are labelled as letters (j) to (l).

Footnote 87a reads:

“87a) Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.

Article 7

Zákon č. 126/2006 Z. z. o verejnom zdravotníctve a o zmene a doplnení niektorých zákonov v znení zákona č. 295/2007 Z. z. sa dopĺňa takto:

1. The following sentence is added at the end of footnote 14: “Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.”.

2. In Section 10 (10) the words “and in proceedings under a special rule^{22a)}” are inserted after the word “abatement”.

Footnote 22a reads:

“22a) Act No. 359/2007 Coll. on the prevention and remedying of environmental damage and amendments to some acts.”.

Article VIII

This Act comes into force on 1 September 2007, aside from Article I, Section 13, which comes into force on 1 July 2012 and Article I, Section 20, which come into force on 1 January 2008.

Ivan Gašparovič, own hand

Pavol Paška, own hand

Robert Fico, own hand.

**THE CRITERIA OF SIGNIFICANCE OF ADVERSE EFFECTS ON PROTECTED
SPECIES AND PROTECTED HABITATS PURSUANT TO SECTION 2 (1)(A), FIRST
POINT AND (3)**

When assessing the significance of any damage that has adverse effects on reaching or maintaining the favourable conservation status of protected habitats or protected species, reference is made to the conservation status at the time of the damage, the functions provided by the amenities they produce and their capacity for natural regeneration.

Significant adverse changes to the baseline condition shall be determined by means of measurable data such as:

- a) the number of individuals of the protected species; their density or the area covered,
- b) the role of the particular individuals or of the damaged area in relation to the protected species or to the protected habitat conservation, the rarity of the protected species or protected habitat (assessed at local, regional and higher level including at Community level),
- c) the protected species' capacity for propagation (according to the dynamics specific to that species or to that population), its viability or the habitat's capacity for natural regeneration (according to the dynamics specific to its characteristic protected species or to their populations),
- d) the protected species' or protected habitat's capacity, after damage has occurred, to recover within a short time, without any intervention other than increased protection measures, to a condition which leads, solely by virtue of the dynamics of the species or habitat, to a condition deemed equivalent or superior to the baseline condition.

Damage with proven effects on human health must be classified as significant damage.

The following can also be classified as significant damage:

- a) negative variations that are smaller than natural fluctuations regarded as normal for the protected species or habitat,
- b) negative variations due to natural causes or resulting from intervention relating to the normal management of sites, as defined in protected habitat records or target documents or as carried on previously by owners or administrators,
- c) damage to protected species or protected habitats for which it is established that they will recover, within a short time and without the need of intervention, either to the baseline condition or to a condition which leads, solely by virtue of the dynamics of the protected species or protected habitat, to a condition deemed equivalent or superior to the baseline condition.

CONTENT OF THE REPORT SUBMITTED TO THE EUROPEAN COMMISSION ON
THE APPLICATION OF THIS ACT

The report shall include a list of instances of environmental damage and instances of liability with the following information and data for each instance:

1. Type of environmental damage, date of occurrence and/or discovery of the environmental damage and date on which proceedings were initiated under this Act.
2. Main activity code.¹⁾
3. Information on whether the parties to proceedings used legal remedies; the parties to proceedings and results of proceedings are indicated.
4. Resulting state following remedial measures.
5. Date of closure of proceedings.
6. Other information which is considered necessary for correct application of this Act, such as:

Costs incurred with remediation and prevention measures
directly by persons responsible for compensation of costs pursuant to
the provisions of the Act,
recovered ex post facto from parties liable for cost compensation,
not recovered subsequently from persons responsible for compensation
of costs; simultaneously the reasons for non-recovery of these costs are stated.

Results of the actions to promote and the implementation of the financial instruments for covering liability for financial damage.

An assessment of the additional administrative costs incurred annually by the public administration body in setting up and operating the administrative structures needed to implement and enforce this Act.

1) Statistical Office of the Slovak Republic Decree No 552/2002 Coll. issuing the statistical classification of economic activities.

LIST OF TRANSPOSED LEGAL ACTS OF THE EUROPEAN COMMUNITIES AND
EUROPEAN UNION

Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ special edition in Chapter 15/Vol. 8)

- 1) Section 2 (4) of Act No 245/2003 Coll. on integrated pollution prevention and control and amendments to some acts.
- 2) Act No 188/2003 Coll. on the application of sewage sludge and bottom sediment into soil and amendments to Act No 223/2001 Coll. on waste and amendments to some acts, as amended, as amended by Act No 364/2004 Coll.
- 3) Section 7 (1) (a) to (e), (g), (h), (j), (l) to (o) and (r) of Act No 223/2001 Coll. on waste and amendments to some acts, as amended by Act No 24/2004 Coll.
- 4) Section 15 (1) of Act No 223/2001 Coll. as amended by Act No 525/2003 Coll.
- (5) Council Regulation (EC) No 259/1993 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L 030, 6. 2. 1993).
- 6) Section 21 (1) (c) and Section 26 (1) of Act No 364/2004 Coll. on water and amendments to Slovak National Council Act No 372/1990 Coll. on offences, as amended (water act).
- 7) Section 21 (1) (a), first and second point, and (b), first and second point, and Section 26 (1) of Act No 364/2004 Coll.
- 8) Act No 163/2001 Coll. on chemical agents and chemical preparations, as amended.
- 9) Act No 193/2005 Coll., on phytosanitary care, as amended by Act No 295/2007 Coll.
- 10) Act No 217/2003 Coll. on the conditions of placing biocidal products on the market and amendments to some acts.
- 11) For example, Ministry of Foreign Affairs Notice No 64/1987 Coll. on the European agreement concerning the international transport of dangerous goods by road (ADR), as amended (Notification No 444/2005 Coll.), Slovak National Council Act No 168/1996 Coll. on road transport, as amended, Code for the international transport of dangerous goods by rail (RID), as amended (Notification No 598/2005 Coll.), Slovak National Council Act No 164/1996 Coll. on railways and amendments to Act No 455/1991 on trades licensing (Trades Licensing Act), as amended, Act No 338/2000 Coll. on inland navigation and amendments to some acts, as amended, Act No 435/2000 Coll. on maritime navigation, as amended, Act No 143/1998 Coll. on civil aviation (aviation act) and amendments to some acts, as amended.
- 12) Section 22 (1) (a) and Section 23 (1) (a) of Act No 478/2002 Coll. on atmospheric protection and amendments to Act No 401/1998 Coll. on charges for air pollution, as amended (air act), as amended by Act No 203/2007 Coll.
- 13) For example, Sections 8 to 14 of Act No 151/2002 Coll. on the use of genetic technologies and genetically modified organisms, as amended by Act No 77/2005 Coll., Slovak National Council Act No 168/1996 Coll., as amended, Decree No 64/1987 Coll. (Notice No 444/2005 Coll.).
- 14) Sections 15 to 22 of Act No 151/2001 Coll., as amended by Act No 77/2005 Coll.
- 15) Article 2 of Constitutional Act No 227/2002 Coll. on state security in times of war, states of war, extraordinary situations and states of emergency, as amended by Constitutional Act No 566/2005 Coll.

- 16) Article 3 of Constitutional Act No 227/2001 Coll., as amended by Constitutional Act No 566/2005 Coll.
- 17) For example, the Treaty establishing the European Atomic Energy Community, Act No 541/2004 Coll. on the use of nuclear energy in peacetime (atomic act) and amendments to some acts, as amended.
- 18) Vienna Convention on Civil Liability in the Field of Nuclear Energy (Notification No 70/1996 Coll.). The Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention (Notification No 71/1996 Coll.).
- 19) Section 3 (2) (a) of Slovak National Council Act No 42/1994 Coll. on civil defence of the population, as amended.
- 20) Section 12 (g), Section 13 (2) (a), Section 14 (2) (a), Section 15 (2) (a) and (c), Section 16 (2), Sections 28, 28a, 40 and 67 (1) of Act No 543/2002 Coll. on nature and landscape protection, as amended.
- 21) Section 4 of Act No. 364/2004 Coll. as amended by Act No. 230/2005 Coll.
- 22) Section 16 (5) of Act No 364/2004 Coll.
- 23) Section 2 (b) of Act No 126/2006 Coll. on public healthcare and amendments to some acts.
- 24) For example, Section 88 of Act No 7/2005 Coll. on bankruptcy and restructuring and amendments to some acts, as amended.
- 25) Section 2 (2) (x) of Act No 543/2002 Coll.
- 26) Annex 5 and 6, Part A of the Slovak Ministry of Environment Decree No 24/2003 Coll., implementing Act No 543/2002 Coll. on the protection of nature and the countryside, as amended by Decree No 492/2006 Coll.
- 27) Section 2 (2) (p) of Act No 543/2002 Coll.
- 28) Section 2 (2) (x) of Act No 543/2002 Coll., Annex 4, Part A and B of Decree No 24/2003 Coll., as amended by Decree No 492/2006 Coll.
- 29) Section 2 (2) (w) of Act No 543/2002 Coll.
- 30) Annex 6 of Decree No 24/2003 Coll., as amended by Regulation No 492/2006 Coll.
- 31) Section 2 (2) (s) of Act No 543/2002 Coll.
- 32) Annex 1, Part B of Decree No 24/2003 Coll., as amended by Decree No 492/2006 Coll.
- 33) Section 3 of Act No 364/2004 Coll.
- 34) For example, Section 2 (b) of Act No 220/2004 Coll. on the protection and use of agricultural land and amendments to Act No 245/2003 Coll. on integrated prevention and control of environmental pollution and amendments to some acts, Section 9 (a) to (f) of Slovak National Council Act No 162/1995 Coll. on the land registry and registration of ownership and other rights to real estate (cadastral act).
- 35) For example, Section 3 of Act No 326/2005 Coll. on forests, Section 9 (g) of Slovak National Council Act No 162/1995 Coll.
- 36) Section 9 (i) of Slovak National Council Act No 162/1995 Coll.
- 37) Section 9 (j) of Slovak National Council Act No 162/1995 Coll.
- 38) For example, Section 4 (14) (e) of Act No 364/2004 Coll., Slovak Government Decree No 296/2005 Coll. laying down quality objectives for surface waters and pollution indicator limit values for waste waters and special waters, Slovak Ministry of Environment Decree No 221/2005 Coll. laying down details for surveying of the occurrence and assessment of the status of surface waters and groundwaters, their monitoring and records on waters and the water balance
- 39) For example Sections 13 and 17 of Act No 313/1999 Coll. on geological work and state geological management (the geology act), Section 5a of Act No 261/2002 Coll. on the

prevention of the occurrence of serious industrial accidents and amendments to some acts, as amended by Act No 277/2005 Coll., Sections 51, 54 and 56 of Act No 543/2002 Coll., Sections 6 and 18 of Act No 245/2003 Coll., as amended by Act No 572/2004 Coll., Sections 4 to 7 of Act No 205/2004 Coll. on the gathering, storage and dissemination of information on the environment and amendments to some acts, Sections 4, 8, 10 and 24 (3) of Act No 220/2004 Coll., Section 4, 6, 12 to 19, 29 and 65 of Act No 364/2004 Coll., as amended, Section 29, 38 and 44 to 46 of Act No 326/2005 Coll., Sections 27, 31, 36, 37 and 58 of Act No 24/2006 Coll. on environmental impact assessment and amendments to some acts.

40) Article 128 (1) of the Civil Code, as amended by Act No 509/1991 Coll.

41) Sections 415 to 450 of the Civil Code, as amended, Section 373 to 386 of the Commercial Code.

42) For example, Section 33a (3) and (4) of Act No 17/1992 Coll. on the environment, as amended by Act No 211/2002 Coll., Section 24 of Act No 261/2002 Coll., as amended, Section 41 of Act No 364/2004 Coll.

43) Section 8 of Act No 220/2004 Coll.

44) Section 9 of Act No 126/2006 Coll.

45) For example, Act No 220/2004 Coll., Act No 326/2005 Coll., Slovak National Council Act No 162/1995 Coll., Act No 50/1976 Coll. on land planning and the building code (building act), as amended.

46) For example, Slovak National Council Act No 369/1990 Coll. on municipal administration, as amended, Slovak National Council Act No 171/1993 Coll. on the Police Force, as amended Act No 315/2001 Coll. on the Fire and Emergency Brigade, as amended.

47) For example, Act No 17/1992 Coll., as amended, Act No 223/2001 Coll., as amended, Act No 151/2002 Coll., as amended, Act No 261/2002 Coll., as amended, Act No 478/2002 Coll., as amended, Act No 543/2002 Coll., as amended, Act No 245/2003 Coll., as amended, Act No 220/2004 Z. z. , Act No 364/2004 Coll., as amended, Act No 127/2006 Coll. on persistent organic pollutants and amendments to Act 223/2001 Coll. on waste and amendments to some acts, as amended.

48) For example, Section 62 (8) of Act No 364/2004 Coll., Section 4 of Act No 129/2002 Coll. on the integrated rescue services, as amended by Act No 10/2006 Coll.

49) Act No 525/2003 Coll. on state administration of the environment and amendments to some acts, as amended.

50) For example, Act No 151/1992, as amended, Act No 543/2002 Coll., as amended, Act No 364/2004 Coll., as amended, and Act No 126/2006 Coll., as amended by Act No 295/2007 Coll.

51) For example, Sections 4 to 9 of Act No 313/1999 Coll., as amended by Act No 205/2004 Coll., Sections 76 to 77a of Act No 223/2001 Coll., as amended by Act No 24/2004 Coll., Section 9 (2) to (7) of Act No 151/2002 Coll., as amended by Act No 77/2005 Coll., Section 12 and 14 to 17 of Act No 261/2002 Coll., as amended by Act No 277/2005 Coll., Section 24 to 26 of Act No 478/2002 Coll., as amended, Section 55 and 56 of Act No 543/2002 Coll., Section 7 of Act No 245/2003 Coll., Section 4 to 8 and 24 of Act No 220/2004 Coll., Sections 29 and 42 of Act No 326/2005 Coll., Sections 60 to 62 of Act No 24/2006 Coll., Section 9 (4) and (5) of Act No 126/2006 Coll.

52) Section 2 (4) of Act No 245/2003 Coll.

53) Act No 275/2006 Coll. on information systems of public administration and amendments to some acts, as amended by Act No 678/2006 Coll.

54) Statistical Office of the Slovak Republic Decree No 552/2002 Coll. issuing the statistical classification of economic activities.

- 55) Sections 21 to 28 of Act No 523/2004 Coll. on budgetary rules of public administration and amendments to some other acts, as amended.
- 56) Sections 8 to 13 of Slovak National Council Act No 10/1996 Coll. on controls in state administration, as amended by Act No 502/2001 Coll.
- 57) Section 3 (t) of Act No 587/2004 Coll. on the Environmental Fund and amendments to some acts, as amended by Act No 276/2007 Coll.
- 58) Act No 71/1967 Coll. on administrative proceedings (Administrative Code), as amended.
- 59) For example, Act No 83/1997 Coll. on citizens associations, as amended, Act No 147/1997 Coll. on non-investment funds and amendments to Slovak National Council Act No 207/1996 Coll., Act No 213/1997 Coll. on non-profit organisations providing public services, as amended by Act No 35/2002 Coll., Act No 34/2002 on funds and amendments of the Civil Code, as amended.
- 60) Section 30 of Act No 71/1967 Coll., as amended by Act No 527/2003 Coll.
- 61) Section 19 of Act No 71/1967 Coll., as amended.
- 62) Section 47 of Act No 71/1967 Coll., as amended by Act No 527/2003 Coll.
- Decision on imposition of remedial measures pursuant to Section 27 or approval of the proposal of remedial measures pursuant to Section 28.
- 63) Slovak National Council Act No 233/1995 Coll. on court executors and executionary actions (the Executionary Code) and amendments to some acts, as amended.
- 64) Act No 543/2002 Coll., as amended.
- Act No 220/2004 Coll.:
- Act No 364/2004 Coll., as amended.
- Act No 326/2005 Coll.:
- Act No 126/2006 Coll., as amended by Act No 295/2007 Coll.