

ACT of
SLOVAK NATIONAL COUNCIL
from April 24, 2003

on the Protection of Privacy against the Unauthorised Use of Technical-Intelligence
Measures and on Amendment and Supplementation of Certain Laws

(Act on the Protection against Interception)

The National Council of the Slovak Republic has passed the following law:

Article I

§ 1

(1) This Law stipulates the conditions required for the use of technical-intelligence measures without the prior consent of the person whose privacy is infringed upon by the state body, which uses the technical-intelligence measure.

(2) This Law does not apply to the use of technical-intelligence measures in the criminal proceeding in accordance with a specific law.¹⁾

1) Act No. 141/1961 in the Code on the Criminal Trial (Code of Criminal Procedure), as stated in later statutes.

§ 2

(1) For the purposes of this Law, the technical-intelligence measures are primarily electro-technical, radio-technical, photo-technical, optical, mechanical, chemical, and other technical measures and equipment or their sets, used in a covert manner in:

- a) Searching for, opening, examination, and assessment of mail²⁾ and other transported packages,
- b) Monitoring and recording of telecommunication activities,³⁾
- c) Making and using the visual, audio, and other recordings.

(2) Technical-intelligence measures can be used by the Police Corps, Slovak Information Service, Military Intelligence, Railway Police, Corps of Prison and Judiciary Guards, and Customs Board (hereinafter "the state body") to the extent pursuant to specific regulations.⁴⁾

(3) The use of technical-intelligence measures for the Railway Police, Corps of Prison and Judiciary Guards, and Customs Board is technically provided by the Police Corps following the submission of a written approval of the legitimate judge granted to the state body, for which the use of the technical-intelligence measure is provided.

(4) For monitoring and recording the telecommunication transmissions⁵⁾, only such a technical-intelligence measure shall be used, which enables immediately to identify the final telecommunication equipment having been used for monitoring and recording the telecommunication transmissions, which will not enable to delete the data identifying this equipment, and which will not enable to delete the time of monitoring and recording the telecommunication transmissions.

(5) The member or employee of the state body, who fulfils the tasks connected with the technical provision of the use of technical-intelligence measures, shall be required to undergo the psycho-physiological examination of veracity in terms set by the head of the state body.

(6) The local administration authorities, the private security services, and any other legal entity or natural

person shall not use any technical-intelligence measure.

2) § 4 of the Law No. 507/2001 in the Code on Postal Services.

3) § 2 of the Law No. 195/2000 in the Code on Telecommunications.

4) § 36 of the Law of the National Council of the Slovak Republic No. 171/1993 in the Code on the Police Corps, as stated in later statutes. § 10, Section 1 of the Law of the National Council of the Slovak Republic No. 46/1993 in the Code on the Slovak Information Service. § 10, Section 1 of the Law of the National Council of the Slovak Republic No. 198/1994 in the Code on the Military Intelligence. § 34 of the Law No. 57/1998 in the Code on the Railway Police, as stated in later statutes. § 23 and § 24 of the Law No. 4/2001 in the Code on the Corps of Prison Wardens and Judiciary Guards. § 24 of the Law No. 240/2001 in the Code on the Customs State Bodies.

5) § 5 of the Law No. 195/2000 in the Code.

§ 3

(1) A technical-intelligence measure shall be used only if it is inevitable in a democratic society to safeguard the security and defence of the country, to prevent and reveal criminal activities, or to protect the rights and freedoms of other persons. By using a technical-intelligence measure, the essential right or freedom can be infringed upon only to the inevitable extent and for a period of time not longer than inevitable to attain the legal goal, to which it serves.

(2) The data obtained by technical-intelligence measures shall be used exclusively for achieving the objective when fulfilling the tasks of the state, which meet the requirements in accordance with Section 1.

§ 4

(1) Technical-intelligence measures shall be used only on the basis of a prior written approval of the legitimate judge⁶⁾ (hereinafter “approval”) and only for a set period of time, not exceeding six months. The term shall go into effect on the day the approval is granted. If it is inevitable to use simultaneously or subsequently several kinds of technical-intelligence measures, each of them shall be used only to the extent of the expressly granted approval. If the technical-intelligence measure is to be used in places, which are not accessible to the public, the legitimate judge shall also decide whether his approval applies also to the entry into such places.

(2) The legitimate judge who has granted the approval to use the technical-intelligence measures can, on the basis of a new request, extend the duration of the time period, but in each case for no longer than other six months. This term shall go into effect on the day the further approval is granted (hereinafter “further approval”). Further approval shall be granted in writing not later than on the last day of the term in accordance with Section 1. If the term cited in Section 1 expires and the further approval is not granted, the use of the technical-intelligence measure shall be ceased on the last day of the term set in the approval.

(3) The request to grant approval to use a technical-intelligence measure (hereinafter “the request”) shall be submitted in writing to the competent court. The request shall contain the following data:

- a) Specification of the type of the technical-intelligence measure to be used and of the location of its use, the proposed time of duration of its use, data on the person against whom the use of this technical-intelligence measure is directed,
- b) Information on the previous ineffectual or considerably difficult revelation and documentation of activities, which constitute the reason of submitting the request,
- c) The rationale for using the technical-intelligence measure.

The court must not make a decision on the request, which does not contain the data required by the law. It shall return the request to the applicant.

(4) The request is submitted by the state body, which intends to use a technical-intelligence measure to implement its legitimate activities (§ 2, Section 2).

(5) It is not possible to lodge a legal remedy against the decision on approval.

(6) The legitimate judge who has granted the approval to use the technical-intelligence measures shall be required to review systematically the existing rationale of their use. If the rationale no longer applies, he shall be required to issue a decree immediately that the use of these measures cease.

6) § 13, Sections 2 and 3, and § 20, Section 2 of the Law of the Slovak National Council No. 335/1991 in the Code on the Courts and Judges, as stated in Article III of the Law No. 185/2002 in the Code on the Judicial Council of the Slovak Republic and on the Amendment and Supplementation of Some Laws.

§ 5

(1) In an exceptional case, if there is a reasonable suspicion of a crime being committed and a technical-intelligence measure might be used by the Police Corps to fulfil its tasks, if the case is to be dealt with immediately and the approval of the legitimate judge cannot be obtained in advance, the Police Corps may use a technical-intelligence measure even without a prior approval. The Police Corps shall be required to notify the legitimate judge of the use of the technical-intelligence measure within one hour from the beginning of the use of this measure, and to submit the request, in accordance with § 4, Section 3, to the legitimate judge within six hours from the beginning of the use of the technical-intelligence measure. The request shall contain also the time datum on the beginning of the use of the technical-intelligence measure.

(2) If the Police Corps does not obtain a subsequent written approval of the legitimate judge within twelve hours from the beginning of the use of the technical-intelligence measure or if the legitimate judge does not grant the subsequent approval, the use of this measure shall be immediately ceased. Information obtained in this way shall not be used and it shall be immediately destroyed. The state body, which has destroyed this information, shall immediately notify the legitimate judge of the destruction.

§ 6

(1) During the period of using the technical-intelligence measures, the state body shall be required to review systematically the existing rationale of their use. If the rationale no longer applies, the state body shall be required to immediately cease using the technical-intelligence measures.

(2) Once the use of technical-intelligence measures has ceased in accordance with section 1, the state body shall be required to inform the legitimate judge, who is authorised to grant a decision in accordance with § 4.

(3) The state body keeps an overview of the number of issued approvals and dismissed requests, being responsible for its completeness.

§ 7

(1) The copy of an audio, visual or audio-visual recording (hereinafter “the copy”), which has been made by using a technical-intelligence measure, can be released only to the case-related and locally authorised state body, if the copy can serve as the evidence in a procedure lead before the authorised state body within the limits of its authority established by the law. The case-related and locally authorised state body, to which the recording has been released, is allowed neither to make a copy of the recording, nor to release its transcription for inspection or copying to another person, to another state body or to a body of the local government or of other self-administration.

(2) If the information obtained by using a technical-intelligence means is to be used as the evidence in a criminal procedure¹⁾, the state body shall produce a written record with the data on the location, time, and legitimacy of using the technical-intelligence measure. The state body shall enclose the recording and its verbatim transcription to the written record. Information obtained by using the technical-intelligence measures, which does not apply to the rationale of their use cited in the request, can be used in the criminal procedure only if it concerns the criminal activity, in connection with which a technical-intelligence measure can be used.

(3) If the technical-intelligence measure has been used in contravention of this law, no state body or another

body of public power is allowed to use the recording obtained in such a way, or any other result of the illegal use of the technical-intelligence measure as evidence, or to recognise it as evidence, except for a criminal or disciplinary procedure against the person, who has made the recording illegally or has ordered to make it. The recording or another result obtained illegally shall be destroyed in the presence of the legitimate judge, authorised to grant the approval, within twenty-four hours from the illegal use of the technical-intelligence measure.

(4) If a recording has been made by using a technical-intelligence measure and later no facts have been uncovered significant to attain the aim, established by the law, of using the technical-intelligence measure, the state body, which has made the recording, shall be required to destroy this recording immediately.

(5) A written statement shall be produced on the destruction of the recording or of any other result, including the reason of destroying this recording or result, the personal data of the person who has ordered or approved the use of the technical-intelligence measure (the title, name, surname, and position), the personal data of the person who has ordered or approved the destruction of the recording or of any other result (the title, name, surname, and position), and the personal data of the legitimate judge present during the destruction (the title, name, surname, position, and the identification of the competent court). Before being destroyed, the recording or any other result of the use of a technical-intelligence measure must not be copied or transcribed in written or in any other form.

§ 8

The use of a technical-intelligence measure, the production of a recording or making a copy of the recording, which is carried out in contravention of this law, creates the responsibility of the state⁷⁾, as well as of the person, who has violated the law by either ordering or approving the illegal conduct, or by committing this act in another way.⁸⁾

7) § 18, Section 1 of the Law No. 58/1969 in the Code on the Responsibility of the state body for damage caused by the decision of the state body or by its incorrect administrative procedure.

8) § 158, §178, and § 257a of the Law No. 140/1961 in the Code – the Penal Code, as stated in later statutes. § 11 to 16 of the Law No. 40/1964 in the Code – the Civil Code, as stated in later statutes.

§ 9

(1) To exercise its constitutional power to oversight the observance of the laws, the National Council of the Slovak Republic shall twice a year, during the plenary meeting, discuss the report of the Committee, authorised to oversight the use of technical-intelligence measures, on the state of their use. The report submitted to the plenary meeting shall cover every ascertained case of the illegal use of technical-intelligence measures, including the information about the responsibility of persons in accordance with § 8. The report shall neither reveal the identity of persons against whom the technical-intelligence measures have been used, nor infringe their right of privacy. Nor the identity of the person, who has participated in using the technical-intelligence measure in accordance with the law, shall be revealed by the report.

(2) The report discussed at the plenary meeting can be published by the media. The report published by the media must not include classified information. The costs of publishing are not covered by the state budget.

(3) Within ten working days following the day of receiving the request of the Committee authorised in accordance with Section 1, the head of the state body authorised to use the technical-intelligence measures shall be required to provide the requester with all required information on the use of technical-intelligence measures. During his absence, the head of the state body shall be required to appoint a person who shall fulfil this duty on behalf of the head.

Article II

The Law of the National Council of the Slovak Republic No. 46/1993 in the Code on the Slovak Information Service, as stated in the Law of the National Council of the Slovak Republic No. 72/1995 in the Code, in the Law No. 73/1998 in the Code, in the Law No. 256/1999 in the Code, and in the Law No. 328/2002 in the Code, shall be amended as follows: § 12, §13, and § 14 are omitted.

Article III

The Law of the National Council of the Slovak Republic No. 171/1993 in the Code on the Police Corps, as stated in the Law of the National Council of the Slovak Republic No. 251/1994 in the Code, in the Law of the National Council of the Slovak Republic No. 233/1995 in the Code, in the Law of the National Council of the Slovak Republic No. 315/1996 in the Code, in the Law No. 353/1997 in the Code, in the Law No. 12/1998 in the Code, in the Law No. 73/1998 in the Code, in the Law No. 256/1998 in the Code, in the Law No. 116/2000 in the Code, in the Law No. 323/2000 in the Code, in the Law No. 367/2000 in the Code, in the Law No. 490/2001 in the Code, in the Law No. 48/2002 in the Code, in the Law No. 182/2002 in the Code, and in the Law No. 422/2002 in the Code, shall be amended as follows:

1. § 35 is omitted.
2. In § 36, Section 2 is omitted. Simultaneously, the mark of Section 1 is omitted.
3. § 37 and § 38 are omitted, including the footnote related to the reference 17a.
4. In § 69a, Section 3, the words “special categories of personal data 27c)” are replaced by words “personal data revealing the race or ethnic origin, political opinions, religious belief or world-view, membership in political parties or political movements, membership in trade unions, and data related to health condition or sexual life” (hereinafter “special categories of personal data”).
5. § 76a is supplemented by Section 8, as stated below: “(8) The personal data in accordance with Sections 1, 2, and Sections 4 to 7 include the name, surname, birth identification number, date and place of birth, and the residence address. The provisions of the special law 27) on the duty to inform the person on the state of processing the personal data shall not be applied to provide data in accordance with Sections 1 and 2.

Article IV

The Law of the National Council of the Slovak Republic No. 198/1994 in the Code on the Military Intelligence shall be amended as follows: § 12, §13, and § 14 are omitted.

Article V

The Law No. 57/1998 in the Code on the Railway Police, as stated in the Law No. 73/1998 in the Code, in the Law No. 422/2002 in the Code, and in the Law No. 513/2002 in the Code, shall be amended as follows:

1. § 33 is omitted.
2. In § 34, Section 2 is omitted. Simultaneously, the mark of Section 1 is omitted.
3. § 35 and § 36 are omitted.

Article VI

The Law No. 4/2001 on the Corps of Prison Wardens and Judiciary Guards, as stated in the Law No. 422/2002 in the Code, shall be amended as follows:

1. In § 23, Sections 2 and 3 are omitted. Simultaneously, the mark of Section 1 is omitted.
2. In § 24, Sections 2 to 6 are omitted. Simultaneously, the mark of Section 1 is omitted.
3. § 25 is omitted.

Article VII

Law No. 240/2001 in the Code on the Customs State Bodies, as stated in the Law No. 422/2002 in the Code, shall be amended as follows:

- In § 24, Section 1 and Sections 3 to 12 are omitted.
Simultaneously, the mark of Section 2 is omitted.

Article VIII

This Law comes into effect on the date of proclamation, except § 2, Section 4 in Article 1, which comes into effect on July 1, 2004.

signed by:

Rudolf Schuster
Pavol Hrušovský
Mikuláš Dzurinda