

# **Act No. 403/2004 Coll.**

of 24 June 2004

## **on the European Arrest Warrant and on amending and supplementing certain other laws**

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

### **Article I**

#### **PART ONE BASIC PROVISIONS**

##### **Section 1 Scope of the Act**

(1) This Act lays down the surrender procedure between Slovak authorities and Member States of the European Union or any other State ("Member State" hereinafter) based on the European arrest warrant under the international treaty 1), and the related proceedings.

(2) Unless otherwise provided below, the provisions of the Code of Criminal Procedure shall apply to the procedure set out in this Act. The Code of Criminal Procedure shall also govern the procedure of handling requests from Member States to surrender persons for the purposes of criminal prosecution, or for serving a custodial sentence or executing a protective measure, insofar as the framework decision does not apply.<sup>1)</sup>

(3) This Act shall also govern the procedure with regard to any other State to which the European Union has expanded the use of the European arrest warrant under the international treaty in compliance with the conditions set out therein.

##### **Section 2**

###### **Definition of basic terms**

For the purposes of this Act

a) a third State shall mean other than a Member State, and the International Criminal Court, 2)

b) the European arrest warrant shall mean a judicial decision issued by a Member State with a view to the arrest and surrender by another Member State of a requested person, for the purposes of conducting criminal prosecution or carrying out a custodial sentence or a protective measure,

c) the State of origin shall mean a Member State whose judicial body has issued the European arrest warrant,

d) the executing Member State shall mean a Member State whose judicial body is to issue a decision on the execution of the European arrest warrant,

e) the executing judicial body shall mean the judicial body of a Member State competent to issue the decision on the execution of the European arrest warrant in conformity with its legal system,

f) the decision on executing a European arrest warrant shall mean the decision of the judicial body of the executing Member State, ascertaining compliance with this Act, on surrendering the requested person to the issuing Member State,

g) other documents shall mean any other documents subsequently requested by the judicial authority of the issuing Member State or by the executing judicial authority as necessary for deciding on the execution of the European arrest warrant.

### **Section 3**

#### **Relationship with international treaties**

(1) When acting in compliance with the provisions of this Act, the Slovak authorities shall not apply relevant provisions of the following international treaties providing for extradition, without prejudice to their application in the relations between the Slovak Republic and third countries:

a) the European Convention on Extradition of 13 December 1957, its additional protocol of 15 October 1975, its second additional protocol of 17 March 1978, and the European Convention on the suppression of terrorism of 27 January 1977 insofar as they provide for extradition,

b) the Agreement between the 12 Member States of the European Communities on the simplification and modernisation of methods of transmitting extradition requests of 26 May 1989, c) the Convention of 10 March 1995 on simplified extradition procedure between the Member States of the European Union,

d)

e)

(2) The Slovak authorities shall apply international treaties on extradition concluded between the Slovak Republic and another Member State only insofar as they simplify or facilitate the procedure under this Act.

(3) The Slovak authorities shall apply bilateral international treaties on extradition concluded between the Slovak Republic and another Member State also where they relate to the use of language in mutual communication between official bodies of these States based on the principle of reciprocity.

(4) For the purposes of paragraph 3, the Ministry of Justice of the Slovak Republic (the "Ministry of Justice" hereinafter) shall issue a reciprocity declaration which is binding for the Slovak authorities.

### **Section 4**

#### **Scope of the use of European arrest warrants**

(1) Surrender of persons under the European arrest warrant shall take place between the Member States in conformity with the principle of mutual recognition of the decisions of judicial authorities of Member States. The European arrest warrant shall have the same effects in the territory of the Slovak Republic as an arrest warrant issued under the Code of Criminal Procedure (3).

(2) A European arrest warrant may be issued for acts that constitute an offence under the law of the executing Member State punishable by a custodial sentence for a maximum period of at least one year.

(3) Where a European arrest warrant is issued with a view to the execution of a custodial sentence for a criminal offence according to paragraph 2, the length of the sentence to be executed or the remainder thereof shall have to be at least four months. Multiple sentences or remaining multiple sentences shall be added up.

(4) Subject to the requirements of paragraphs 2 and 3, a European arrest warrant may be issued also for the purpose of executing a protective measure.

(5) A European arrest warrant may be executed if it was issued in respect of an act that constitutes an offence under the law of the executing Member State, punishable by a custodial sentence for a maximum period of at least one year, unless one of the reasons for the refusal of its execution under this Act is present.

(6) A European arrest warrant issued with a view to the execution of a custodial sentence already pronounced in respect of a criminal offence according to paragraph 5 may be executed if the length of the sentence to be executed or the remainder thereof is at least four months and if no grounds for refusing its execution under this Act are present. Multiple sentences or remaining multiple sentences shall be added up.

(7) Subject to the requirements of paragraphs 5 and 6, a European arrest warrant may be issued also for the purpose of imposing a protective measure.

(8) For the purposes of the decisions taken according to paragraphs 5, 6 and 7, the authorities of the executing Member State shall not examine whether the act constitutes a criminal offence under their law, if surrender is sought in respect of an act which constitutes a criminal offence under the law of the issuing Member State, if maximum length of sentence applicable under the law of the issuing Member State is at least three years, and if the act has been qualified by the judicial authority of the issuing Member State as

1. participation in a criminal organisation,
2. terrorism,
3. trafficking in human beings,
4. sexual exploitation of children and child pornography,
5. illicit trafficking in narcotic drugs and psychotropic substances,
6. illicit trafficking in weapons, munitions and explosives,
7. corruption,
8. fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of European Communities' financial interests of 26 July 1995,
9. laundering of the proceeds of crime,
10. counterfeiting of currency, including the euro,
11. computer-related crime,
12. environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
13. facilitation of unauthorised entry and residence,
14. murder, grievous bodily injury,
15. illicit trade in human organs and tissues,
16. kidnapping, illegal restraint and hostage-taking,
17. racism and xenophobia,
18. organised or armed robbery,

19. illicit trafficking in cultural goods, including antiques and works of art,
20. swindling,
21. racketeering and extortion,
22. counterfeiting and altering of products including acts violating intellectual property rights, and their distribution,
23. forgery of administrative documents and trafficking therein,
24. forgery of means of payment,
25. illicit trafficking in hormonal substances and other growth promoters,
26. illicit trafficking in nuclear or radioactive materials,
27. trafficking in stolen vehicles,
28. rape,
29. arson,
30. crimes within the jurisdiction of the International Criminal Court,
31. unlawful seizure of aircraft/ships,
32. sabotage.

(9) The designation or material elements of the criminal offence need not be identical in the law of both the issuing Member State and the executing Member State in order to enable the issuing Member State to classify the offence for which surrender is sought as belonging to one of the categories mentioned in paragraph 8.

## **Section 5**

### **Communication, service of process and commencement of the proceedings**

(1) Where the law of the issuing Member State or of the executing Member State does not require that the European arrest warrant and other documents be transmitted through the intermediary of a central authority, judicial authorities of the issuing Member State and those of the Member State executing a European arrest warrant communicate directly. Contact points of the European Judicial Network established in Member States under a separate provision may be used 4) to determine competent executing judicial authority.

(2) European arrest warrants and other documents may be dispatched to a Member State or received from a Member State by post or by using other safe methods enabling to produce a written text whose authenticity is verifiable by the executing authority. Communication is also possible through the intermediary of the International Criminal Police Organisation ("Interpol" hereinafter).

## **Section 6**

### **Costs**

(1) The costs incurred in connection with executing a European arrest warrant in the territory of the executing Member State shall be borne by that Member State. Other costs shall be borne by the issuing Member State.

(2) Compensation for the costs of transit shall be sought from the issuing Member State only if that Member State is not the only State liable for the costs incurred in connection with a Slovak transit request.

## **Section 7**

### **Translations**

(1) European arrest warrants shall be served on the executing judicial authority in the official language of the executing Member State or in one of the official languages of that Member State; subject to the consent of the executing Member State, translation into a different language may be used.

(2) European arrest warrants addressed to the Slovak authorities must be issued in Slovak.

(3) Other written documents and other information relating to the execution of European arrest warrants shall be served in the official language of the issuing Member State or in one of the official languages of that Member State.

(4) The provisions of paragraphs 1 to 3 shall apply with due regard to Section 3 paragraph 3 and to the reciprocity principle.

## **Section 8**

### **Transit**

(1) Where there is a need for the transit of a person transferred from a Member State on the basis of a European arrest warrant issued by a Slovak authority through the territory of another Member State, the competent Slovak authority shall ask the latter Member State' competent authority to grant permission with transit through its territory.

(2) The transit application must give

a) name, surname, date of birth, place of residence and nationality of the person concerned,

b) the existence of a European arrest warrant,

c) the nature and legal classification of the offence,

d) the description of circumstances of the offence, including the date and place.

(3) Applications from other Member States for transit through the territory of the Slovak Republic shall be decided by the Minister of Justice of the Slovak Republic (the "Minister of Justice" hereinafter); applications must give the data specified in paragraph 2. Personal liberty of the transferred person shall be restricted during the transit through the territory of the Slovak Republic to prevent the person absconding.

(4) No transit request shall be necessary in case of transport of a person by air without a scheduled stopover in the territory of a Member State. However, if an unscheduled landing in the territory of a Member State occurs, the competent authority of that Member State shall have to be served a request containing data pursuant to paragraph 2 within 24 hours from the unscheduled landing.

(5) In case of an unscheduled landing in the territory of the Slovak Republic, personal liberty of the transported person shall be restricted to prevent the person absconding; if the Ministry of Justice does not receive the request containing the data pursuant to paragraph 2 within 24 hours from the unscheduled landing, the transported person shall have to be released.

## **Section 9**

### **Transfer of a thing**

(1) Based on a request from a judicial authority of the issuing Member State or of its own motion, the executing judicial authority shall transfer a thing that may serve as evidence or a thing that the requested person derived from a criminal offence.

(2) The thing shall be transferred pursuant to paragraph 1 also where the European arrest warrant cannot be executed because the requested person has died or absconded.

(3) Where the thing necessary for criminal proceedings referred to in paragraph 1 is subject to forfeiture or confiscation in the territory of the executing Member State, that Member State may temporarily keep or surrender it to the issuing Member State with a proviso that it be returned.

(4) This shall be without prejudice to the rights of the executing Member State or of third persons relating to the thing referred to in paragraph 1. Should the existence of such rights be proven, the issuing Member State shall return such thing at its own costs to the executing Member State immediately after the termination of criminal proceedings in the former State.

## **PART TWO**

### **Procedures applied by Slovak authorities as those of the issuing Member State**

#### **Section 10**

##### **Issuing European arrest warrants**

(1) If the accused whose surrender is requested stays abroad or there are reasons to believe he stays in another Member State, presiding judge of a panel or judge of the competent court shall, together with the arrest warrant issued in conformity with the Code of Criminal Procedure (an "international arrest warrant" hereinafter), issue also a European arrest warrant pursuant to this Act.

(2) Where no international arrest warrant has yet been issued while the requirements for its issuing are complied with, and the person to be requested has been arrested in the territory of another Member State, the presiding judge of a panel of the competent court shall issue only a European arrest warrant under this Act; in the proceedings pending trial, a European arrest warrant shall be issued by a judge on a prosecutor's motion.

(3) The European arrest warrant shall be issued on a form whose specimen is given in Appendix No. 1; it must specify the data required therein, including the category of the criminal offence.

(4) The court shall immediately forward the European arrest warrant to the Interpol. If paragraph 2 applies, it shall forward it directly to the executing judicial authority. At the same time, it shall send a copy of the European arrest warrant to the Ministry of Justice.

(5) The court issuing the European arrest warrant shall, immediately after it has ascertained the location of the person to be surrendered or after that person has been arrested in the territory of another Member State, arrange for its translation into the language according to Section 7 by a translator chosen pursuant to separate law 5).

#### **Section 11**

##### **Temporary transfer of the requested person**

(1) Where the European arrest warrant was issued by the presiding judge of a panel, or by a judge on a prosecutor's motion in the proceedings pending trial, the court in question may ask the executing judicial authority to secure the hearing of the requested person or such person's temporary transfer to the territory of the Slovak Republic in case where the European arrest warrant was issued for the purpose of criminal prosecution. This procedure shall be used in particular where, although a decision was taken to execute a European arrest warrant, the executing Member State did not transfer the

requested person to the territory of the Slovak Republic because he/she is under criminal prosecution by the authorities of that Member State, or is due to serve a custodial sentence for an act other than that referred to in the European arrest warrant.

(2) When requesting the presence of the person for other reasons than to subject him/her to hearing, the court shall specify the reasons in its request addressed to the executing judicial authority; at the same time, it shall specify the date and the duration of temporary transfer.

(3) If the executing judicial authority permits the temporary transfer of the person, a judge - or in the proceedings pending trial a judge upon a prosecutor's motion - shall rule that the person be held in custody during temporary transfer to the territory of the Slovak Republic. The ruling shall determine the commencement of custody as from the date of receiving the person in the territory of the Slovak Republic.

(4) Other conditions for temporary transfer shall be agreed directly between the court and the executing judicial authority; concerning the date of surrender, the court shall reach agreement also with the Police Force department competent to take over the person.

## **Section 12**

### **The speciality principle and surrender with a reservation**

(1) Persons surrendered to the Slovak Republic on the basis of European arrest warrants issued by Slovak authorities may not be prosecuted, sentenced, imposed a protective measure involving deprivation of liberty, or otherwise deprived of their liberty for the offence committed prior to their surrender other than that for they are surrendered (the "speciality principle" hereinafter).

(2) A person who was surrendered may be prosecuted, sentenced or otherwise deprived of his/her liberty also for an offence committed prior to his/her surrender other than that for which he/she was surrendered

a) when the person having had an opportunity to leave the territory of the Member State to which he/she has been surrendered has not done so within 45 days of his/her final discharge from custody or execution of sentence or from the protective measure connected with deprivation of liberty,

b) leaves the territory of the Slovak Republic and voluntarily returns to it or is transported to the territory of the Slovak Republic from a third country in a lawful manner,

c) this other criminal offence is not punishable by a custodial sentence or protective measure restricting personal liberty, or criminal prosecution does not result in the imposition of a measure restricting personal liberty,

d) when the person is liable to a penalty or a measure not involving the deprivation of liberty, in particular a financial penalty or a measure in lieu thereof, even if the penalty or measure, in particular an alternative imprisonment sentence, may give rise to a restriction of his/her personal liberty,

e) when the person explicitly consented to be surrendered to the Slovak Republic and renounced the speciality rule in accordance with paragraph 1,

f) when the person, after his/her surrender to the Slovak Republic, has expressly renounced the speciality rule with regard to specific offences preceding his/her surrender, or

g) when the executing Member State renounced the speciality rule in accordance with the framework decision 1), or when it was renounced by a judicial authority of that Member State, or when this authority granted consent with prosecution for other offences preceding the surrender, or with the execution of sentence for such offence.

(3) Renunciation according to paragraph 2 (f) shall be given by the person on the record before a court in counsel's presence; the court shall have to instruct the person of the possibility to renounce the speciality rule pursuant to paragraph 1 and of the consequences thereof. The renouncement may not

be revoked. Competent court for the proceedings referred to this paragraph shall be the court that issued the European arrest warrant. The court shall inform the executing judicial authority about the content of the renouncement.

(4) Where a person is to be prosecuted for a criminal offence preceding his/her surrender, which is not referred to in the initial European arrest warrant, or is to serve a custodial sentence, or be imposed a protective measure decided by a court of the Slovak Republic before his/her surrender, which is not referred to in the initial European arrest warrant, paragraphs 1 to 3 and Section 10 shall apply, as appropriate, to the request for additional consent with criminal prosecution or with the execution of sentence or of protective measure.

(5) Also deemed as additional consent pursuant to paragraph 2 (g) shall be the request of the executing Member State to be transferred criminal prosecution of a person surrendered for criminal offences committed in its territory prior to the surrender. The same applies to criminal information lodged by the executing Member State.

(6) If the executing Member State surrenders a person with a reservation, the reservation must be respected.

### **Section 13**

#### **Informing the Ministry of Justice of the delays**

The court shall immediately inform the Ministry of Justice if no decision concerning the execution of a European arrest warrant is taken in another Member State within 60 days from the arrest of the requested person or from the date of service of the European arrest warrant or within 90 days in case of extended time limit.

## **PART THREE**

# **PROCEDURES APPLIED BY SLOVAK AUTHORITIES ACTING AS EXECUTING JUDICIAL AUTHORITIES**

### **Section 14**

#### **Refusal to execute a European arrest warrant**

(1) Execution of a European arrest warrant issued by the judicial authority of the issuing Member State shall be refused

a) if the offence on which the European arrest warrant is based is covered by amnesty in the Slovak Republic, and jurisdiction for prosecuting the offence is vested with Slovak authorities under the Slovak law,

b) if the executing authority is informed that the requested person has been finally sentenced by a Member State or a third state in respect of the same acts provided that he/she has already served the sentence, is currently serving the sentence, or the sentence may no longer be executed under the law of the Member State or a third state in which the sentence was pronounced, or that he/she was finally acquitted from such offence by the decision of a judicial authority of the Member State or a third State,

c) if, for reasons of age, the requested person is not criminally liable under the law of the Slovak Republic for the act on which the European arrest warrant is based,

d) if the offence on which the European arrest warrant is based does not constitute a criminal offence under the law of the Slovak Republic, unless it is an offence set out in Section 4 paragraph 8; in relation to taxes or duties, customs and exchange, execution of the European arrest warrant shall be not refused on the ground that the law of the Slovak Republic does not impose the same kind of tax or

duty or does not apply the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing Member State,

e) where the person who is the subject of the European arrest warrant is being prosecuted in the Slovak Republic for the same act as that on which the European arrest warrant is based,

f) where the Slovak authorities have decided either not to prosecute for the offence on which the European arrest warrant is based or to halt proceedings, or where a final judgment has been passed upon the requested person in a Member State in respect of the same acts which prevents further proceedings; execution of a European arrest warrant shall, however, not be prevented if, in view of special circumstances of the case, criminal proceedings should be preferably conducted in the issuing Member State, in particular with a view to establishing the truth and ensuring due process, to guaranteeing protection of a legitimate interest of injured parties, to pronouncing or executing the sentence, or where the proceedings was terminated due to the lack of evidence or omission to file a motion, or omission to present the power of attorney issued by the injured party,

g) where the executing judicial authority established that criminal prosecution or punishment of the requested person is statute-barred according to the law of the Slovak Republic, and the acts fall within the jurisdiction of the Slovak Republic under its own criminal law,

h) when a European arrest warrant is based on the offences regarded by the law of the Slovak Republic as having been committed in whole or in part in the territory of the Slovak Republic, on the board of a Slovak vessel or a Slovak aircraft; in such case, the execution of a European arrest warrant shall be inadmissible even when the act is not qualified as a criminal offence under the law of the Slovak Republic, or

i) the European arrest warrant is based on an offence committed outside of the territory of the issuing Member State, and the law of the Slovak Republic does not allow criminal prosecution for similar acts committed outside of the territory of the Slovak Republic.

(2) The court, ruling on the execution of a European arrest warrant, may make its execution conditional on the provision of adequate guarantees by the issuing Member State enabling the requested person, in accordance with that State's law and considering the circumstances of the case, to request retrial in that State in the event that the requested person was not personally served the summons or otherwise informed of the date and place of the proceedings, or was not duly represented by defence counsel in the proceedings that were preceded by the decision on imposing a custodial sentence or a protective measure.

(3) Where the issuing Member State does not provide adequate guarantees in accordance with paragraph 2, the court ruling on the execution of a European arrest warrant may decide not to execute the warrant.

(4) The fact that the requested person is a national of the Slovak Republic shall not be used as the ground for refusing execution of a European arrest warrant. Analogical procedure shall apply in relation to the requested person which, under the international law, is entitled to equal treatment as a national of the Slovak Republic.

## **Section 15**

### **Arrest**

Police Force officers shall arrest the person in respect of whom the European arrest warrant was issued, located in the territory of the Slovak Republic. Information about the arrest shall be immediately communicated to the competent prosecutor with a view to conducting a preliminary enquiry. If the prosecutor does not release the arrested person within 48 hours from the arrest, he shall file a motion to the court within the aforesaid time limit to place the person in custody.

## **Section 16**

### **Jurisdiction**

(1) The authority competent to initiate proceedings concerning the European arrest warrant is the regional prosecution office which has jurisdiction over the place where the requested person was arrested; it shall inform the Ministry of Justice of the commencement of the proceedings and, at the same time, send it a copy of the European arrest warrant.

(2) The prosecutor conducting a preliminary enquiry shall immediately inform the judicial authority of the issuing Member State of the arrest of the requested person in the territory of the Slovak Republic using the language pursuant to Section 7.

## **Section 17**

### **Detention**

(1) The presiding judge of a panel of the regional court shall rule on the prosecutor's motion to place the arrested person in custody within 48 hours of his/her presentation. Where Section 4 paragraph 8 applies, the presiding judge of a panel shall place the arrested person in custody regardless of the grounds for custody set out in a separate law 6). Where Section 4 paragraph 8 does not apply, the presiding judge of the panel shall place the arrested person in custody if concrete facts warrant the fear that the arrested person may abscond or hide to obstruct criminal prosecution or execution of sentence or protective measure.

(2) The court competent to act pursuant to paragraph 1 is the regional court that has jurisdiction over the place where the person was arrested.

(3) If the requested person consents to his/her surrender or if it was decided to execute a European arrest warrant, the regional court orders to place that person in custody, unless this has already been done by the presiding judge of a panel pursuant to paragraph 1.

(4) The presiding judge of a panel of the regional court shall issue a custody discharge order as from the date of the person's surrender by the issuing Member State, or

a) if the executing judicial authority is not served the original of the European arrest warrant with a translation into Slovak, where required, within 40 days from the arrest; the court may discharge the person on a prosecutor's motion also if the executing judicial authority does not receive the European arrest warrant with a translation into Slovak, where required, within 18 days from his/her arrest,

b) if the judicial authority of the issuing Member State cancelled or withdrew the European arrest warrant in relation to the Slovak Republic,

c) if the regional court decided not to execute the European arrest warrant,

d) if the authorities of the issuing Member State do not take the requested person over within 10 days from the final decision of the prosecutor or of the court to execute the European arrest warrant or from the decision of the Minister of Justice pursuant to Section 26 or, if there are circumstances beyond the control of the issuing Member State and of the executing Member State, within 10 days of the newly agreed date of surrender; the aforesaid shall not apply where the surrender is temporarily postponed due to the danger to health or life of the requested person; in such cases, release from custody shall take place not later than on the tenth day from reaching agreement on a new date of surrender, or

e) if the grounds for custody or for the execution of surrender otherwise lapse.

(5) The discharge from custody does not rule out a repeated custody.

(6) The custody decision pursuant to paragraphs 1 and 4 may be challenged by a complaint that does not have suspensive effect.

## **Preliminary enquiry**

### **Section 18**

1) A preliminary enquiry shall be carried out by a prosecutor of a regional prosecution office in conformity with Section 16 paragraph 1. The purpose of a preliminary enquiry shall be to verify compliance with the requirements for executing the European arrest warrant.

(2) If information provided to the judicial authorities of the issuing Member State in a European arrest warrant is not sufficient to decide on its execution, in particular if the European arrest warrant does not comply with all the requirements set out in Appendix No. 1, or if the warrant was issued by the authority manifestly lacking competence, or if the legal qualification of the act as one warranting surrender or not warranting examination of dual criminality is manifestly incorrect, the prosecutor carrying out preliminary enquiry shall immediately request the judicial authority of the issuing Member State to provide additional information. At the same time, the prosecutor may set a reasonable time limit for providing such additional information.

(3) The prosecutor shall hear the requested person, inform him/her of the content of the European arrest warrant and serve him/her a copy of the European arrest warrant. At the same time, when a decision is taken to execute the European arrest warrant, the prosecutor shall instruct the person of the scope of application of speciality rule.

(4) The prosecutor carrying out the preliminary enquiry shall send the European arrest warrant back to the issuing Member State without deciding on its execution if

a) the requested person has died or has been declared as dead,

b) the requested person cannot be arrested,

c) if the place of stay of the requested person in the territory of the Slovak Republic is not known, or the person does not stay there for a prolonged period, or it is not possible to identify the location of the person,

d) if, not even where paragraph 2 applies, the issuing Member State does not provide sufficient information for deciding on the execution of the European arrest warrant,

e) if the European arrest warrant was served on the Slovak authority after the person had been surrendered for the execution of a custodial sentence to another Member State or to a third State, or after it had been decided to surrender the person to a third State, or

f) if the Member State or a third State that surrendered the person to the Slovak Republic did not agree with the subsequent surrender.

## **Section 19**

(1) In the proceedings concerning execution of a European arrest warrant, the requested person must be represented by a counsel.

(2) In the proceedings on a European arrest warrant, the requested person shall have a right to be assisted by an interpreter and a translator.<sup>7)</sup>

(3) If the requested person is placed in custody, his/her contacts with counsels and lawyers, correspondence and visits during custody shall be governed by separate provisions concerning custody.<sup>8)</sup>

## **Section 20**

### **Execution of the European arrest warrant with the requested person's consent to surrender**

(1) During preliminary enquiry, the prosecutor shall instruct the requested person of the possibility to surrender to a Member State without submitting the matter for judicial decision, subject to the requested person's consent with surrender, and of the consequences of such consent. At the same time, he shall instruct the person that the consent may not be revoked.

(2) If the requested person consents to surrender to a Member State, the prosecutor instructs him/her of the possibility to renounce the speciality rule if such rule were applicable in relation to the issuing Member State.

(3) If the requested person consents to surrender to a Member State, the prosecutor shall draw up a protocol in the presence of counsel and interpreter, in which the person's consent to surrender is noted down, including his/her statement, where applicable, on renouncing the speciality rule and on the scope of renouncement.

(4) If the requested person consents to surrender to a Member State, and there is no reason to apply paragraph 5, the prosecutor – after closing a preliminary enquiry – shall decide by a resolution that the European arrest warrant issued by the judicial authority of the issuing Member State be executed. The resolution shall, in addition to the data concerning the person, designate the European arrest warrant on the basis of which the person is being surrendered, data concerning the guarantee of the right to defence, consent to surrender and scope of renouncement to speciality rule. If there is a reason to proceed pursuant to Section 27, the prosecutor shall include in the resolution also the decision to suspend the surrender.

(5) If the prosecutor establishes the presence of any of the grounds for refusing execution of the European arrest warrant pursuant to Section 14 paragraph 1 (a) to (c) he shall – even if the requested person consents to surrender – refer the matter to a court pursuant to Section 21; however, in case of grounds set out in Section 14 paragraph 1 (b), he shall do so only if the judgment was issued by a Member State.

(6) The competent prosecutor shall serve the resolution concerning the execution of a European arrest warrant, the grounds preventing the surrender, or postponement of the surrender on the requested person, the General Prosecution Office of the Slovak Republic, and the judicial authority of the issuing Member State. At the same time, a counterpart of the resolution shall be sent immediately to Interpol for the purpose of agreeing the date of surrender, and to the Ministry of Justice. No translation of the decision shall be required. The prosecutor shall, however, arrange for the translation into a language pursuant to Section 7 of the notification of his decision to execute the European arrest warrant or of the reasons for adopting a different procedure.

(7) No remedies shall be admissible against the prosecutor's decision concerning the execution of a European arrest warrant.

(8) The provisions of paragraphs 1 to 6 shall not apply if, during the preliminary enquiry, the prosecutor finds out that another Member State also seeks the surrender of the requested person. In that event, after closing the preliminary enquiry, the prosecutor shall refer the matter to a court for a decision pursuant to Section 21.

## **Section 21**

### **Judicial decisions on executing a European arrest warrant**

(1) The court, after the preliminary enquiry has been closed, and based on a prosecutor's motion, shall rule on the execution of a European arrest warrant in those cases where the requested person does not consent to surrender and in the cases set out in Section 20 paragraphs 5 or 8. The court shall inform the judicial authority of the issuing Member State of its decision forthwith, using the language pursuant to Section 7. If the court needs more information to make its decision, it shall ask the prosecution authority to supplement the motion.

(2) The competent authority pursuant to paragraph 1 is the regional court that made the custody decision or, if no custody proceedings were held, the regional court having jurisdiction over the place of stay of the requested person, or over the regional prosecution authority whose prosecutor conducted the preliminary enquiry.

(3) The court shall decide the execution of a European arrest warrant by passing a resolution at a closed hearing. Before its decision the court shall allow the requested person or his/her counsel to submit written comments concerning the European arrest warrant. If the requested person or his/her

counsel demand that the European arrest warrant be dealt with at a public hearing, if the court itself considers this necessary, or if a request to this effect is made by the judicial authority of the issuing Member State, the court shall decide in public hearing.

(4) If the court finds that there are grounds to refuse the execution of a European arrest warrant pursuant to Section 14, it shall rule that the European arrest warrant not be executed.

(5) The court shall serve the decisions made pursuant to paragraphs 3 and 4 on the prosecutor and on the requested person. The decisions shall also be sent to the Ministry of Justice and to the judicial authority of the issuing Member State; the decision shall be sent to the judicial authority of the issuing Member State without translation; it shall, however, contain information about its content in a language pursuant to Section 7. The court shall notify the decision taken in conformity with paragraph 3 to Interpol with a view to agreeing the date and the act of surrender of the person.

(6) Decisions of regional courts concerning the execution of European arrest warrants may be challenged by prosecutors or by requested persons only on the grounds for refusing the execution of European arrest warrants set out in Section 14; the complaint shall have suspensive effect.

(7) The complaint shall be heard by the Supreme Court of the Slovak Republic at a closed hearing. The Supreme Court shall decide, if necessary after additional proceedings, whether the European arrest warrant is to be executed or not.

## **Section 22**

### **Time limits**

(1) Where the requested person consents to surrender, the prosecutor shall decide on the execution of the European arrest warrant within a period of 10 days after the consent.

(2) In other cases, the final decision on the execution of the European arrest warrant shall be taken within a period of 60 days after the arrest of the requested person.

(3) Where in specific cases the European arrest warrant cannot be executed within the time limits laid down in paragraphs 1 or 2, they shall be extended by a further 30 days. The prosecutor or the judge in cases referred to in paragraph 2 shall immediately inform the judicial authority of the issuing Member State thereof. Where a Member State cannot decide on the execution of a European arrest warrant even within these extended time limits, the executing judicial authority shall inform the Ministry of Justice, giving the reasons for the delay, which shall subsequently inform Eurojust.<sup>9)</sup>

(4) The surrender of the person to the authorities of the issuing Member State shall take place not later than within 10 days from the final decision on executing the European arrest warrant.

(5) The provision of paragraph 4 shall not apply if the grounds set out in Section 26 are present, or if circumstances beyond the control of the issuing Member State or of the Slovak Republic prevent the execution of a European arrest warrant, or if the surrender must be temporarily postponed for serious humanitarian reasons, in particular if it would endanger the requested person's life or health. In that event, the surrender shall take place within 10 days of the new date thus agreed.

(6) The final decision on the execution of a European arrest warrant shall not be executed if the Minister of Justice decides to surrender the requested person to another Member State or to a third State pursuant to Section 26.

(7) If, for any reason, it is impossible to execute a European arrest warrant, the prosecutor conducting a preliminary enquiry or the court deciding on the execution of the European arrest warrant shall immediately submit the Ministry of Justice all the documents necessary for obtaining consent with surrender from a third State. The time limits under this provision shall start running as from the date on which the impediments for surrendering the person to the issuing Member State ceased to exist.

(8) The time limits under paragraphs 1 to 6 shall cease to run

- a) if the issuing Member State failed to attach a Slovak translation, where required, to the European arrest warrant,
  - b) if the executing judicial authority asked for additional information or for supplementing the European arrest warrant in order to be able to make a decision on its execution,
  - c) in case of pending proceedings concerning the waiver of privileges or immunities.
- (9) The time limits under paragraph 8 shall start running as from the date when the reasons for their suspension are eliminated.

## **Section 23**

### **Hearing and temporary transfer of the requested person**

- (1) On a request from the judicial authority of the issuing Member State, the executing judicial authority shall hear or temporarily transfer the requested person to the issuing Member State under conditions agreed with the former authority.
- (2) Where the executing judicial authority grants a hearing it shall, when so requested, enable the representatives of the judicial authority of the issuing Member State to be present at the hearing. The representative of the latter authority may pose questions to the requested person through the intermediary of the prosecutor or of the judge.
- (3) If temporary transfer is more appropriate, the court shall authorise temporary transfer of the person on a request from the judicial authority of the issuing Member State and rule to hold the person in custody during his/her temporary transfer. If the judicial authority of the issuing Member State does not specify the duration of the requested temporary transfer, or the procedures it intends to carry out, the executing judicial authority shall demand that the request be supplemented. It may also set an appropriate time limit for receiving such supplementary information. Temporary transfer may be authorised only if it does not prejudice the person's participation in a hearing connected with the surrender.

## **Section 24**

### **Privileges and immunities**

Where power to waive the privilege or immunity lies with an authority of the Slovak Republic, the regional prosecutor shall request it to exercise that power to waive the requested person's privilege or immunity. Where power to waive the privilege or immunity lies with an authority of another Member State or a third State, international organisation, or the European Union, it shall be for the prosecutor conducting a preliminary enquiry to inform of this fact the judicial authority of the issuing Member State.

## **Section 25**

### **Decisions concerning multiple European arrest warrants**

- (1) If two or more Member States have issued European arrest warrants for the same person, the procedure set out in Section 20 shall not be applicable. After completing the preliminary enquiry of each European arrest warrant, the competent regional court shall decide on the execution of each of them individually. It shall also decide to which of the issuing Member States the person will be surrendered. The court shall decide with due consideration of all the circumstances, and especially of the relative seriousness and place of the offence, the respective date and purpose of the European arrest warrant. Before its decision it may seek the advice of Eurojust.<sup>9)</sup>
- (2) In parallel with the decision pursuant to paragraph 1, the court shall rule on the surrender of a person to another issuing Member State, provided it has decided to execute a European arrest warrant issued by that State pursuant to paragraph 1, and the speciality rule is respected in surrendering the requested person.

(3) The court shall forward these decisions to all Member States whose European arrest warrants it determined.

(4) The time limits set out in Section 22 shall start to run as from the date of service of the last European arrest warrant.

## **Section 26**

### **Decisions in case of competing European arrest warrants and requests for surrender submitted by a third State or by another Member State**

(1) When the Slovak authorities are served a European arrest warrant and a request for surrender from a third State or another Member State concerning the same person, the procedure under Section 20 shall not apply.

(2) The decision on competing European arrest warrants and surrender requests concerning the same person, presented by a third State or by another Member State, shall be made by the Minister of Justice after a decision of the regional court on the execution of the European arrest warrant and on admissibility of surrender to a third State or to another Member State.

(3) The executing judicial authority shall inform the Ministry of Justice of these circumstances immediately after it becomes aware of them. The court shall refer the matter to the Ministry of Justice as soon as its decisions under paragraph 2 become final.

(4) The Minister of Justice, deciding on surrender requests from third States or other Member States or on the execution of European arrest warrants from Member States, shall consider in particular the seriousness of the offence, the date of the European arrest warrant and of the surrender request, and the purpose of issuing the European arrest warrant and the surrender request.

(5) The Minister's decision shall be forwarded to the executing judicial authority. A copy of the decision shall be sent to Interpol with a view to agreeing the date and to carrying out the surrender of the person.

## **Section 27**

### **Postponement of the surrender**

The court or prosecution authority that decided on the execution of the European arrest warrant may decide to postpone the surrender when the person is under prosecution in the territory of the Slovak Republic, is serving or is to serve a custodial sentence relating to the act other than that referred to in the European arrest warrant. In the cases set out in Section 26, the postponement decision shall be made by the Minister of Justice. The Minister's decision will specify the duration of the postponement.

## **Section 28**

### **Other surrenders from the Slovak Republic**

This Act does not prejudice the commitments of the Slovak Republic arising from international treaties in relation to third States, where the Slovak Republic was surrendered the requested person by a third State applying the speciality rule.

## **PART FOUR**

### **COMMON AND TRANSITIONAL PROVISIONS**

## **Section 29**

This Act transposes the legal acts of the European Communities and of the European Union specified in Appendix 2.

### **Section 30**

Where a Member State had requested the surrender of the person prior to the entry into effect of this Act, the Slovak authorities shall proceed in accordance with the provisions that were in force at that time.

### **Section 31**

Slovak authorities shall issue European arrest warrants also in respect of the offences committed prior to the entry into effect of this Act.

## **Article VII**

This Act shall enter into effect as of 1 August 2004 except for point 53 of Article III and Articles IV and V that shall enter into effect as of 1 September 2004 and Article VI that shall enter into effect as of the date of promulgation of this Act.