

**PARLIAMENTARY ACT**  
**No. 586/2003 Coll.**

**on the Legal Profession and on Amending Act No. 455/1991 Coll. on the Business and Self-Employment Services (Business Licensing Act) as amended,**

dated 4 December 2003

BE IT ENACTED, in this present Parliament assembled and by the authority of the same, as follows:

**CHAPTER I**

**PART ONE**

**RECITALS**

**Section 1**

**Role of the Legal Profession**

- (1) The legal profession helps to exercise the individuals' constitutional right to defence, and to protect any other individuals' and legal entities' (hereinafter jointly referred to as the "client") rights and interests in accordance with the Slovak Constitution, constitutional laws, applicable laws and other generally binding legal rules.
- (2) Practice of law shall mean representation of clients before courts of law, governmental authorities and other entities, acting for and defending individuals in criminal proceedings, legal consultancy, writing instruments about legal acts, making legal analyses, administration of clients' property and other forms of legal advice, assistance and legal services, if provided continuously and in return for a fee (hereinafter referred to as "legal services").
- (3) Legal services in the Slovak Republic are provided by lawyers as well as by other individuals and legal entities specified in Sec. 30, items b), c), d), e) and i) under the terms and conditions and in the manner herein laid down. Lawyers provide other services in accordance with separate legal rules.<sup>1)</sup>
- (4) Subsection 2 above shall not affect and prejudice the powers of
  - a) notaries, patent attorneys, chartered accountants and bailiffs or other persons to provide some legal services under separate legal rules,<sup>2)</sup>
  - b) any employee in the employment of a legal entity or of an individual to provide legal services to an entity, in the employment of which he is, or for whom he serves in any other similar capacity, if the provision of legal services is a part of his job duties arising out of his employment,
  - c) a person, who administers property in accordance with separate legal rules.<sup>3)</sup>

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<sup>1)</sup> E.g. Act No. 328/1991 Coll. on Bankruptcy and Composition as amended.

<sup>2)</sup> E.g. Parliamentary Act No. 323/1992 Coll. on Notaries (Notaries' Code) as amended, Parliamentary Act No. 78/1992 Coll. on Chartered Accountants and Slovak Chamber of Chartered Accountants as amended, Act No. 237/1991 Coll. on Patent Attorneys as amended, Parliamentary Act No. 233/1995 Coll. on Bailiffs (Bailiffs' Code), and on amending other laws as amended.

<sup>3)</sup> E.g. Sec. 143a of the Civil Code.

## **PART TWO**

### **LAWYER**

#### **Requirements for Admission and Practice of Law**

##### **Section 2**

- (1) A lawyer is a person whose name is entered on the roll maintained by the Slovak Bar Association (hereinafter referred to as the "Bar").
- (2) When providing his legal services, each lawyer shall act independently, shall be bound by the generally binding legal rules, and within the limits of the same also by the client's instructions.
- (3) Legal profession is a liberal profession, which may be practised and pursued only under this Act.

##### **Section 3**

- (1) The Bar shall admit anyone within two months from receiving his written application, provided that such a person:
  - a) has full capacity to do legal acts and is under no guardianship,
  - b) has a Master's degree in law of a law school in the Slovak Republic,<sup>4)</sup> or holds a recognised university diploma whereby the Master's degree was awarded to him by a law school in a foreign country other than the Slovak Republic,
  - c) served as a trainee lawyer to a practising lawyer for at least three years,
  - d) passed the prescribed Bar examination,
  - e) is a person of integrity,
  - f) was not imposed any final disciplinary action of disbarment, or a disciplinary action of removal from the roll of trainee lawyers [Sec. 56(2), item e] ,
  - g) was not subject to any disciplinary action of being struck off the roll of commercial lawyers, or any disciplinary action banning his practice as a notary, or any disciplinary action banning his practice as a bailiff, or any disciplinary action of being removed from the roll of prosecutors, or any disciplinary action of being removed from a judicial position under separate legal rules,<sup>5)</sup>
  - h) at the time of being admitted to the Bar is not employed by any employer, or does not serve in any other similar capacity, except for pedagogic, publishing, literary, research or art activities, and does not carry out any activities that are incompatible with the nature and ethical principles of the legal profession,
  - i) met all requirements laid down in Sec. 12(3), Sec. 27 and Sec. 28(1) below, and
  - j) took the oath in accordance with Subs. 6 below.
- (2) The Bar shall also admit university professors and associate professors in the field of law within two months from the date of receipt of their written applications, and after their having taken the oath on the condition they duly prove to have met the requirements laid down in Subs. 1, items a), b), e) through i).

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<sup>4)</sup> Sec. 2(5) of Act No. 131/2002 Coll. on Higher Education and on amending other laws as amended.

<sup>5)</sup> Parliamentary Act No. 323/1992 Coll. as amended.

- (3) For the purposes of this Act, a person of integrity shall not be a person who was sentenced for a malicious crime by a final court decision; as far as a serious malicious crime, abuse of powers by a public official, receipt of a bribe and other improper private favour, bribe-giving and indirect corruption is concerned, a person of integrity shall neither be a person, whose criminal record and conviction for the above-mentioned crimes has been expunged, or who is viewed as if he has never been sentenced for such a crime under a separate legal rule.<sup>6)</sup>
- (4) For the purposes of this Act, a person of integrity shall not be a person, whose honest and due performance of the legal profession may be reasonably contested and doubted.
- (5) Good character and integrity shall be evidenced by a certificate confirming absence of any criminal conviction (all records search) not older than three months.
- (6) The following oath shall be taken to the President of the Bar: "I hereby declare in witness of faith and honour that I will observe the Slovak Constitution, laws and other generally binding legal rules, Slovak Bar Association internal rules, code of ethics, and protect fundamental rights and freedoms, duly fulfil my duties and obligations as a lawyer, and treat any information learnt in connection with the practise of law as confidential."

#### **Section 4**

- (1) The Bar shall admit anyone within two months from receipt of his written application, provided that such a person:
  - a) is admitted as a registered European lawyer (Sec. 39),
  - b) took the oath under Sec. 3(6) above,
  - c) for a period of three years practised law and provided legal services in the Slovak Republic without any significant interruption under this Act, and
  - d) provided legal services and gave advice under item c) above on the Slovak law.
- (2) For the purposes of this Act, temporary interruption due to everyday arrangements and ordinary circumstances, usually not exceeding three weeks, shall not constitute significant interruption in the provision of legal services. When considering a case of significant interruption, account shall be taken of the reasons for such interruption, duration and frequency thereof.
- (3) During significant interruption in the provision of legal services under this Act, the 3-years' period set forth in Subs. 1, item c) above shall not apply. However, if the lawyer did not provide legal services under this Act for more than one year, the period specified in Subs. 1, item c) shall start to run from the beginning.
- (4) The person, who applied to the Bar for admission as a lawyer under Subs. 1 above, shall submit to the Bar all information and documentation, and give a clear explanation of a number and areas of legal services and advice, which he provided and gave on the Slovak law.

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<sup>6)</sup> Criminal Code.

- (5) The Bar shall waive the requirement laid down in Subs. 1, item d) above if the applicant while being interviewed by a three-member committee appointed by the President of the Slovak Bar Association [Sec. 71(3)] proves that as a registered European lawyer [Sec. 30, item c)] he effectively and regularly dealt with the Slovak legal system and is able to maintain such involvement. During the interview a due account is taken of the registered European lawyer's attendance at lectures, seminars and conferences focused on the Slovak law.
- (6) The registered European lawyer [Sec. 30, item c)] admitted to the Bar under Subs. 1 above may pursue his professional activities under the home-country professional title [Sec. 30, item g)] expressed in the official language of the country of registration. Should the registered European lawyer be a shareowner or a partner in a foreign legal entity or in a Slovak legal entity<sup>8)</sup> authorised to provide legal services, in addition to his professional title he may also use the corporate name and corporate type of such legal entity.
- (7) Once the European lawyer [Sec. 30, item a)] is registered in the roll of lawyers, the Bar shall strike his name off the roll of registered European lawyers (Sec. 39).

## Section 5

- (1) The Bar shall admit anyone within two months from receipt of his written application, provided that such a person:
  - a) is a national of the EU Member State or any other signatory of the EEA Treaty,
  - b) met the requirement of professional legal education and practice prescribed by this Member State for practising law individually under the professional title specified in Annex 1,
  - c) passed the aptitude test pursuant to Subs. 3 below, and
  - d) took the oath pursuant to Sec. 3(6) above.
- (2) Evidence of the applicant's professional competence in accordance with Subs. 1, items a) and b) above at the time of its submission shall not be more than 3 months old. All documents must be translated into the official language by a sworn translator.<sup>9)</sup>
- (3) The aptitude test is a test intended to measure the European lawyer's professional knowledge [Sec. 30, item a)] and his knowledge of the Slovak law, as well as of the Bar's internal rules. The aptitude test shall be taken in the official language.<sup>9)</sup> Details of the aptitude test shall be determined in the Bar's internal rule.
- (4) Within 6 months from receipt of a written application and from the payment of the application fee fixed by the Bar, the Bar shall enable each applicant, who has met requirements laid down in Subs. 1, items a) and b) above, to take the aptitude test.
- (5) The European lawyer [Sec. 30, item a)] admitted to the Bar under Subs. 1 may practise law under his home-country professional title [Sec. 30, item g)], which must be expressed in the official language of his particular Member State. If the European lawyer is a partner or shareowner in a foreign legal entity or a Slovak legal entity<sup>8)</sup> authorised to provide legal services, in addition to his home-country professional title he may also use the corporate name and corporate type of such a legal entity.

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<sup>8)</sup> Sec. 21 of the Commercial Code.

<sup>9)</sup> Parliamentary Act No. 270/1995 Coll. on the Official Language in the Slovak Republic as amended.

## **Section 6**

- (1) The Bar shall deem a judicial, notarial or prosecutor's examination passed in the Slovak Republic equivalent to the Bar examination. The Bar may also deem any other legal examination passed in the Slovak Republic equivalent to the Bar examination. Terms and conditions of other legal examination to be equivalent to the Bar examination shall be established in the Bar's internal rule.
- (2) The Bar shall include the practice of a judge, judicial candidate, prosecutor, prosecutor trainee and notary in the obligatory trainee lawyer's apprenticeship. The Bar may include other legal practice (work) in the trainee lawyer's apprenticeship. Terms and conditions of counting other legal practice (work) into the trainee lawyer's apprenticeship shall be established in the Bar's internal rule.
- (3) Within 6 months from receipt of the written application for permission to take the Bar examination, the Bar shall enable anyone, who has met requirements laid down in Sec. 3(1), items a), b), e) through g), to take the Bar examination provided that the applicant paid the examination fee and proved that not later than on the date of the Bar examination scheduled by the Bar he has practised law as a trainee lawyer for a period specified in Sec. 3(1), item c).
- (4) Within 2 months from receipt of the written application for permission to take the oath and for admission the Bar shall enable anyone, who proved to have met all requirements laid down in Sec. 3(1), items a) through i), Sec. 3(2), Sec. 4(1), items a), c) and d), or Sec. 5(1), items a) through c), to take the oath and be admitted to the Bar.

## **Section 7**

- (1) The Bar shall disbar anyone, who
  - a) died or has been declared to be dead,
  - b) has been deprived of his legal capacity, or whose legal capacity has been limited,
  - c) requested disbarment in writing,
  - d) was sentenced for a malicious crime under a final court decision,
  - e) under a final order was subject to any disciplinary action resulting in his disbarment,
  - f) is in arrears with payment of the membership fee for more than six months and failed to pay the membership fee within one month after being asked to do so by the Bar, provided that he was duly notified of possible consequences of any such default,
  - g) was admitted to the Bar, even though he had not met the requirements for admission,
  - h) has not effected and does not maintain any compulsory professional indemnity insurance,
  - i) has been adjudged to be bankrupt, in respect of whom the bankruptcy petition was rejected due to the lack of assets, or who agreed to a scheme of arrangement, or who is a partner or shareowner in a legal entity, which was established for the purposes of joint practice of law and has been adjudged to be bankrupt, or in respect of which the bankruptcy petition was rejected due to the lack of assets, or which agreed to a scheme of arrangement.
- (2) The Bar may disbar anyone, who was sentenced for a malicious crime under a final court decision; however, Subs. 1, item d) above shall not be prejudiced thereby.

- (3) The Bar may decide about disbarment under Subs. 1, item g) above within one year after it learnt about the failure to meet the requirement for admission; this shall not apply in the case of requirements laid down in Sec. 3(1), items a), b), e) through g).

### **Section 8**

- (1) The Bar shall temporarily suspend the lawyer from the practice, if he:
- a) after having been admitted to the Bar failed to terminate his employment or was employed by any other employer, or started to serve in any other salaried capacity, except for pedagogic, publishing, literary, research or art activities, and if he carries out any other activities which are incompatible with the principles of the practice of law,
  - b) started to serve the sentence of imprisonment, or who was taken into custody, or who has had a disciplinary action of temporary suspension from the practice imposed upon him,
  - c) was found guilty of having committed a malicious crime under a court order made by the appropriate first instance court, until such court order becomes final,
  - d) filed a written application for his temporary suspension from the practice and proved to have appointed a substitute.
- (2) The Bar may temporarily suspend the lawyer from the practice, if:
- a) the proceeding to deprive him of or limit his legal capacity has commenced, until the final decision in the matter is made,
  - b) a criminal prosecution has been brought against him, until the final decision in the matter is made.

### **Section 9**

- (1) During the temporary suspension from the practice:
- a) the lawyer shall not provide legal services under this Act,
  - b) the lawyer shall cease to be a member of the Bar's governing bodies under Sec. 66(4), items b) through d),
  - c) the lawyer cannot be elected to the Bar's governing bodies under Sec 66(4), items b) through d),
  - d) the lawyer's duty set forth in Sec. 27(1) shall cease to exist.
- (2) Upon the lawyer's temporary suspension from the practice
- a) the lawyer shall not cease to be a member in the partnership of lawyers under Sec. 13, a general non-commercial partnership or a limited liability partnership under Sec. 14, or a limited liability company under Sec. 15,
  - b) the lawyer's duty to make payments under Sec. 29(1) shall not cease to exist,
  - c) the lawyer shall not be released from his liability for loss or damage (Sec. 26), including his liability for any professional misconduct committed during his temporary suspension from the practice.

### **Section 10**

Any temporary suspension from the practice under Sec. 8 above shall be registered by the Bar in the roll of lawyers. If the reasons for temporary suspension laid down in Sec. 8 cease to exist, the practice shall be restored by the Bar without any delay and information about his temporary suspension from the practice shall be erased from the roll of lawyers.

## **Section 11**

Any dismissal of the application for the individual's admission to the Bar, any decision about temporary suspension from the practice and about the lawyer's disbarment, except for disbarment under Sec. 7(1), item e), must be justified any may be subject to the judicial review.

## **Section 12**

### **Practice Structures**

- (1) Every lawyer may practise law:
  - a) as a sole practitioner,
  - b) in a partnership of lawyers jointly with other lawyers,
  - c) as a partner in a general non-commercial partnership,
  - d) as a general partner in a limited liability partnership, or
  - e) as a company executive in a limited liability company.
- (2) The Bar shall maintain a list of all partnerships of lawyers under Sec. 13, a list of all general non-commercial partnerships and limited liability partnerships under Sec. 14, and a list of all limited liability companies under Sec. 15; however, provisions of a separate legal rule<sup>10)</sup> shall not be affected or prejudiced thereby.
- (3) The lawyer is obliged to inform the Bar of any change of his seat in writing without any delay. The seat must be in the Slovak Republic.
- (4) The lawyer is obliged to provide legal services under the professional title "lawyer" ("advokát") or its due equivalent for female lawyers ("advokátka"). If the lawyer practises jointly with other lawyers and provides his legal services through a partnership of lawyers, general non-commercial partnership, limited liability partnership or a limited liability company, in addition to his professional title he shall also use the business name of such partnership of lawyers, corporate partnership or company.
- (5) Any legal entity other than a general non-commercial partnership, limited liability partnership or a limited liability company established under this Act is not authorised to provide legal services or practise law.

## **Section 13**

### **Partnership of Lawyers**

- (1) Lawyers may pursue their professional activities jointly in a partnership of lawyers. Members in such a partnership may only be lawyers admitted to the Bar; members' rights and obligations shall be defined in a written partnership agreement.<sup>11)</sup>
- (2) Lawyers practising jointly as members in a partnership of lawyers shall have a common seat. Any correspondence and notices to be served on members associated in a

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<sup>10)</sup> Sec. 27 of the Commercial Code.

<sup>11)</sup> Sec. 829 through 841 of the Civil Code.

partnership of lawyers shall be delivered to the seat of the partnership. The seat must be in the Slovak Republic.

- (3) A lawyer practising jointly in a partnership of lawyers shall not concurrently practise as a sole practitioner, in any other partnership of lawyers, as a partner in a general non-commercial partnership, as a general partner in a limited liability partnership or as a company executive in a limited liability company. However, lawyers may agree upon temporary provision of legal services individually by a particular member in one or several previously agreed matters, unless otherwise stipulated in the partnership agreement.

## **Section 14**

### **General Non-Commercial Partnership and Limited Liability Partnership**

- (1) For the purposes of providing legal services to the public, lawyers may set up a general non-commercial partnership (hereinafter referred to as the "general non-commercial partnership") or a limited liability partnership (hereinafter referred to as the "limited liability partnership"). A general non-commercial partnership or a limited liability partnership set up with a view to providing legal services must not carry on any activities other than the provision of legal services and its partners may only be lawyers admitted to the Bar. A general non-commercial partnership and a limited liability partnership shall be subject to the provisions of a separate legal rule,<sup>12)</sup> unless otherwise provided by this Act.
- (2) Lawyers, who are partners in a general non-commercial partnership, practise and provide legal services on behalf and on the account of the general non-commercial partnership. Lawyers, who are partners in a limited liability partnership, practise and provide legal services on behalf and on the account of the limited liability partnership. If the practice of law on behalf of a general non-commercial partnership or a limited liability partnership is not in individual cases permitted under separate legal rules,<sup>13)</sup> lawyers may practise on their own behalf and on the account of the general non-commercial partnership or limited liability partnership.
- (3) Each partner, who is authorised to act on behalf of a general non-commercial partnership solely, independently and without any limitations, shall be the statutory body of the general non-commercial partnership. Each general partner, who is authorised to act on behalf of a limited liability partnership solely, independently and without any limitations, shall be the statutory body of the limited liability partnership.
- (4) A heir may claim his membership in a general non-commercial partnership under the terms and conditions laid down in a separate legal rule<sup>12)</sup> only if that heir is a lawyer admitted to the Bar. If the heir is not a lawyer admitted to the Bar, he shall be entitled to the payment of the compensation share under a separate legal rule<sup>12)</sup>.
- (5) Subs. 4 above shall apply mutatis mutandis to the heir of the intestate, who was a general partner in a limited liability partnership. Sec. 15(5) shall apply mutatis mutandis to the heir of the intestate, who was a limited partner in a limited liability partnership.

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<sup>12)</sup> Commercial Code.

<sup>13)</sup> Eg. Sec. 30 and 31 of the Civil Procedure Code, Sec. 38 through 40a of the Criminal Procedure Code.

- (6) Should the lawyer be disbarred, he shall cease to be a partner in a general non-commercial partnership or limited liability partnership. However, he shall be entitled to the payment of the compensation share by the partnership under a separate legal rule.<sup>12)</sup>
- (7) The lawyer practising law in a general non-commercial partnership or in a limited liability partnership shall not concurrently practise as a sole practitioner, in any other partnership of lawyers with other lawyers, as a company executive in a limited liability company, or as a partner in any other general non-commercial partnership or limited liability partnership. However, lawyers may agree upon temporary provision of legal services individually by a particular partner in one or several previously agreed matters, unless otherwise stipulated in the partnership agreement.
- (8) Sec. 18 through 29 shall apply mutatis mutandis to a general non-commercial partnership and a limited liability partnership.

## **Section 15**

### **Limited Liability Company**

- (1) For the purposes of providing legal services to the public, lawyers may set up a limited liability company, that may in furtherance of its business provide legal services (hereinafter referred to as the "limited liability company"). Such a limited liability company must not carry on any activities other than the provision of legal services, and its shareowners and company executives may only be lawyers admitted to the Bar. The limited liability company must effect and maintain a professional indemnity policy covering any loss or damage arising out of the provision of legal services; the minimum indemnity limit agreed in such policy shall be 1 500 000 EUR per each shareowner. A limited liability company shall be subject to the provisions of a separate legal rule<sup>12)</sup>, unless otherwise provided by this Act.
- (2) Lawyers as the company executives in a limited liability company practise law on behalf and on the account of the limited liability company. If the practice of law on behalf of a limited liability company is not in individual cases permitted under separate legal rules<sup>13)</sup>, lawyers shall practise on their own behalf and on the account of the limited liability company.
- (3) Each shareowner in a limited liability company shall be the company executive. Company executives may act on behalf of a limited liability company solely, independently and without any restrictions.
- (4) Should the lawyer be disbarred, he shall cease to be a shareowner in a limited liability company. However, he shall be entitled to the payment of the compensation share by the limited liability company under a separate legal rule.<sup>12)</sup>
- (5) A heir of the equity share in a limited liability company may only be a lawyer admitted to the Bar. If the heir is not a lawyer admitted to the Bar, he shall be entitled to the payment of the compensation share by the limited liability company under a separate legal rule.<sup>12)</sup>
- (6) The lawyer practising law as a company executive in a limited liability company shall not concurrently practise as a sole practitioner, in any partnership of lawyers, as a partner in a general non-commercial partnership or limited liability partnership, or as a company

executive in any other limited liability company. However, lawyers may agree upon temporary provision of legal services individually by a particular shareowner in one or several previously agreed matters, unless otherwise stipulated in the memorandum of association.

- (7) Lawyers are obliged to inform the Bar in writing without any delay about the registered office of the limited liability company established hereunder. Any correspondence and notices to be served on lawyers shall be delivered to the address of such registered office.
- (8) Sec. 18 through 29 shall apply mutatis mutandis to a limited liability company.

### **Delegation of Powers and Substitution**

#### **Section 16**

- (1) Each practising lawyer, who provides legal services under a power of attorney, may within the scope of his powers granted thereunder be substituted for by any other practising lawyer admitted to the Bar.
- (2) When performing individual legal acts, a practising lawyer may be substituted for by his trainee lawyer or by his employee.
- (3) No substitution in accordance with Subs. (1) and (2) is permissible against the client's will.

#### **Section 17**

- (1) If a lawyer practising law as a sole practitioner is for any reason prevented from the practice of law and if he fails to take other actions to protect his client's rights or legitimate interests, he is immediately, but in any case not later than within one month of the accrual of the cause of action, obliged to appoint a practising lawyer to carry on his practice as his substitute. Any such substitution shall be subject to the substitute's prior consent; the lawyer is obliged to inform his client thereabout without any delay. Should the lawyer fail to appoint another practising lawyer to carry on his business, the substitute shall be appointed by the Bar. The Bar – having regard to the circumstances of each particular case – shall also determine the fee which the lawyer is obliged to pay to his substitute. While the obstacle to practising on the part of the lawyer still exists, his substitute shall on his behalf exercise his rights and fulfil his duties and obligations arising under employment contracts directly related to the practice of law.
- (2) If the substitute appointed by the Bar under Subs. 1 above failed to agree with the client on the terms and conditions of providing legal services within one month of the day, when the client had learnt about the appointment of the substitute, or if within the above-mentioned time limit the client failed to take any other actions, any rights and obligations of the appointing lawyer in relation to the client, which arise under the agreement on the provision of legal services, shall pass to the substitute, including the rights and obligations arising in connection with the client's representation before courts of law or other authorities, and the defence lawyer's rights and obligations in the criminal proceeding. The same shall apply to the substitute appointed by the Bar under Sec. 20(3), or if the substitute was appointed under separate legal rules. At the substitute's request the Bar shall confirm such transfer of rights and obligations.

- (3) The transfer of rights and obligations under Subs. 2 above shall not include the transfer of the substitute's liability to indemnify loss or damage under Sec. 26(1), or the obligation to return any property (including monies) provided to the appointing lawyer by his client, if the appointing lawyer failed to render such property to the substitute. Moreover, other rights and obligations, which arise from the contractual relation existing between the appointing lawyer and the client, shall not pass to the substitute, if their transfer would give unreasonable advantages or disadvantages to the substitute in comparison with the appointing lawyer, or if the substitute cannot be reasonably and fairly expected to fulfil such duties and obligations.
- (4) If the lawyer, who practised his profession as a sole practitioner, was disbarred, or if he was temporarily suspended from the practice and should it be necessary with regard to the circumstances of each particular case, the Bar shall without any delay take necessary actions to protect the clients' rights and legitimate interests. The Bar may mainly appoint any other practising lawyer admitted to the Bar to act as the substitute of the disbarred lawyer. The Bar shall immediately inform clients about the measures taken. Subs. 2 and 3 above shall apply mutatis mutandis to the transfer of rights from the lawyer, who was disbarred, to his substitute.

### **Lawyer's Rights and Obligations**

#### **Section 18**

- (1) While practising law, each lawyer is obliged to protect his client's rights, promote his client's justified and legitimate interests, and act on his client's instructions. Should his client's instructions contravene generally binding legal rules, the lawyer shall not be bound by the same. The lawyer shall inform the client thereabout accordingly.
- (2) When practising law, the lawyer is obliged to act fairly and honestly, with a due professional care; he shall consistently use all available legal means and do anything which is to the best of the lawyer's knowledge in his client's interest. The lawyer shall ensure that his legal services serve their intended purpose and are rendered for reasonable fees.
- (3) While practising law, the lawyer shall always ensure dignity of the legal profession and shall not bring the legal profession into disrepute. The lawyer is thus obliged to abide by the code of conduct and by the Bar's internal rules and regulations.

#### **Section 19**

- (1) The lawyer may provide legal services in the entire Slovak Republic.
- (2) The lawyer may practise law also outside of the Slovak Republic within the limits laid down in international treaties, which were ratified and announced in the manner prescribed by law, and under the terms and conditions laid down in this Act.
- 3) If it has come to the Bar's notice, that the lawyer provides legal services abroad on the basis of registration with the competent authority [Sec. 30, item f)], the Bar shall inform the competent foreign bar about:
  - a) commencement of the disciplinary proceeding against such lawyer and about the reasons for the same,

- b) temporary suspension from the practice, or about the termination of such lawyer's authorisation to provide legal services in the Slovak Republic, as well as about the reasons for such suspension or termination,
- c) any other relevant facts, which may affect provision of legal services by the lawyer.

### **Section 20**

- (1) Everyone shall have access to legal services and may request any lawyer to provide the same.
- (2) The lawyer may refuse to provide legal services, except for any case of having been appointed by the court under separate legal rules<sup>13)</sup>, or if he was not appointed under Subs. 3 below; however, Sec. 21 shall not be affected or prejudiced hereby.
- (3) Anyone whose request for legal services under this Act has been rejected may ask the Bar to appoint a suitable lawyer. If not prevented by reasons laid down in Sec. 21, the lawyer appointed by the Bar is obliged to provide legal services to such client under the terms and conditions determined by the Bar.

### **Section 21**

- (1) The lawyer is obliged to refuse provision of his legal services, if:
  - a) he has already provided legal services in the same matter or in any matter thereto related to any other person whose interests are opposed to those of the entity seeking legal services,
  - b) the lawyer's interests or interests of his immediate family members are contrary to the interests of the entity to which legal services should be provided,
  - c) the opposing party is represented by a lawyer, with whom he practises law jointly as a partner,
  - d) any information he has about any other client or former client of his might give an unreasonable advantage to the entity seeking legal services,
  - e) because of his workload or long-term absence he cannot duly and properly protect and promote the client's rights and interests.

### **Section 22**

- (1) The lawyer may withdraw from representation under the agreement for legal services for serious reasons only, particularly if the lawyer and his client lack the necessary confidence in each other, or if the client's instructions contravenes the Bar's internal rules. The lawyer shall proceed as described above in all cases where any of the reasons contemplated in Sec. 21 have been discovered.
- (2) The lawyer may withdraw from representation under the agreement for legal services if the client despite the lawyer's prior advice insists that the lawyer should act under the client's instructions.
- (3) The lawyer may withdraw from representation under the agreement for legal services if the client failed to pay an appropriate advance, an appropriate extra advance or a fee despite having been asked to do so in writing; however, this shall not apply to legal aid.

- (4) In consequence of withdrawal from representation under the agreement for legal services under Subs. 1 through 3 above the agreement shall become void forthwith upon receipt of the notice of withdrawal by the client.
- (5) The lawyer is within 15 days from receipt of the client's notice of termination of the agreement for legal services obliged to perform all necessary legal acts in the matter at issue, unless the client takes any other measures. However, the above shall not apply if the client informed the lawyer that he no longer insists on fulfilment of the said obligation.

### **Section 23**

- (1) The lawyer is obliged not to reveal any information learnt in connection with the practice of law and shall treat such information as strictly confidential.
- (2) The lawyer may be released from the duty of confidentiality by the client, and after his client's death or dissolution only by the client's legal successor. If the client has several legal successors, release from the duty of confidentiality shall take effect subject to the prior written consent of all legal successors.
- (3) The lawyer shall not disclose confidential information despite his having been released from this duty by the client or all his legal successors, if the lawyer comes to a conclusion that any such release and disclosure would be detrimental to the client and might cause harm to the client.
- (4) The lawyer may reveal information to a person, to whom he wishes to issue a derivative power of attorney in respect of individual legal acts, provided that such a person himself is bound by confidentiality under separate legal rules.
- (5) The lawyer may disclose any confidential information to the court of law or any other authority, if the matter handled by such authorities concerns a dispute between the lawyer and his client, or the client's legal successor.
- (6) The lawyer may not claim confidentiality in a disciplinary proceeding under this Act. Details shall be laid down in the Bar's Disciplinary Rules.
- (7) The duty of confidentiality shall be observed during temporary suspension from the practice and shall even survive the lawyer's disbarment.
- (8) The duty of confidentiality shall apply mutatis mutandis to:
  - a) employees of the lawyer, of the general non-commercial partnership, of the limited liability partnership, or of a limited liability company,
  - b) other persons, who are in connection therewith engaged in the provision of legal services,
  - c) members of the Bar's governing bodies and its employees [Sec. 66(4)] .
- (9) The duty of confidentiality shall not apply to any cases of lawful disclosure that would prevent a crime.

- (10) The duty of confidentiality under a separate legal rule<sup>14)</sup> shall not be affected or prejudiced hereby.

### **Lawyer's Fees**

#### **Section 24**

- (1) The lawyer provides legal services in return for a fee and may request a reasonable advance payment for the same.
- (2) Apart from the fee, the lawyer shall also be entitled to receive compensation and reimbursement of any out-of-pocket expenses and compensation for loss of time. The out-of-pocket expenses shall mean disbursements purposefully and reasonably incurred in connection with the provision of legal services, especially court fees and any other fees, including but not limited to travel expenses, phone bills and costs of legal experts' opinions, translations and copies or extracts from any public registers.
- (3) The lawyer may provide legal services for a reduced fee or free of charge, if an individual seeking legal advice has any personal reasons to claim the same, or if there are any reasons based on the client's property or insufficient means, or if there is any other special reason for the same.
- (4) The lawyer shall not request or receive any fee from the client for those legal services, which has already been paid by the State under Sec. 25 below.

#### **Section 25**

If the lawyer was appointed by the court, the lawyer's fee for legal services shall be paid by the State.

#### **Section 26**

### **Lawyer's Liability for Loss or Damage**

- (1) The lawyer shall be liable to his client for any loss or damage caused in connection with the practice of law. The lawyer's liability shall also apply to any loss or damage caused by his trainee or employee; if the lawyer practises law as a shareowner in any law corporation under this Act, his liability for loss or damage hereunder shall only apply to such law corporation.
- (2) The lawyer's trainee or any other employee shall not be held liable for any loss or damage caused to the client in the course of providing legal services. Their liability to the lawyer in terms of the labour law shall not be affected or prejudiced thereby.
- (3) Each lawyer shall be individually liable to the client for loss or damage caused to him in the course of providing legal services, except for the case of one client being represented jointly by several lawyers at the same time. Lawyers - partners - shall be held liable to their employees and any other persons jointly and severally.

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<sup>14)</sup> E.g. Act No. 241/2001 Coll. on the Protection of Privileged Information and on amending other laws, as amended.

- (4) The lawyer shall be released from his liability under Subs. (1) above if he proves that the loss or damage was beyond his control despite his best reasonable efforts.

### **Lawyer's Duties and Obligations Towards the Bar**

#### **Section 27**

- (1) Upon his admission to the Bar and at anytime at the Bar's prior written request, the lawyer shall within 30 days submit to the Bar a professional indemnity policy covering any loss or damage arising out of the provision of legal services. The insurance policy shall be valid and effective throughout the entire term of his practice. If the lawyer practises law as a shareowner in any law corporation under this Act, the duty herein laid down shall apply to such a law corporation only.
- (2) The Bar on behalf of lawyers admitted to the Bar may effect and maintain a Collective Professional Indemnity Policy that covers any loss or damage arising out of the provision of legal services. If the lawyer agrees with such Collective Insurance Policy, his duty to submit a separate professional indemnity policy under Subs. 1 shall cease. The lawyer may withdraw from the Collective Professional Indemnity Policy only provided that he at the same time fulfils the obligation laid down in Subs. 1 above.
- (3) If the lawyer wishes to be insured under the Collective Professional Indemnity Policy effected and maintained by the Bar, he is obliged to pay to the Bar the premium as agreed in the Collective Professional Indemnity Policy, or as determined by an order of the Bar Council (Sec. 70).

#### **Section 28**

- (1) Upon his admission to the Bar the lawyer is obliged to inform the Bar about the form of his practice, as well as about other relevant facts necessary for maintaining the roll of lawyers prescribed by the Bar.
- (2) The lawyer is obliged to immediately inform the Bar in writing about the seat of his office and any change thereof, change in his practice structure and in other relevant facts prescribed by the Bar's internal rule.
- (3) The lawyer is obliged to immediately inform the Bar about any and all facts, which might result in his temporary suspension from the practice or disbarment.
- (4) At the Bar's request, the lawyer is obliged to answer allegations contained in a complaint about his actions or in any other similar petition within the proceeding conducted against him by the Bar in accordance with this Act and in accordance with the Bar's internal rules upon application filed by a third party, give necessary explanations and submit all relevant documentation.

#### **Section 29**

- (1) The lawyer is obliged to pay the annual membership fee duly and on time and make any other payments fixed in the Bar's internal rule, by a resolution of the General Assembly

(Sec. 68), or by a resolution passed by the Bar Council (Sec. 70) within their scope of powers.

- (2) Duties and obligations laid down in Subs. 1 above arisen during the lawyer's practice of law shall survive his disbarment. However, this shall not apply in the case of removal of the lawyer's name from the roll under Sec. 7(1), items a) or b).
- (3) Before any lawyer brings an action against his fellow lawyer, or before a lawyer instigates any other proceedings in the matter related to the practice of law; with a view to ensuring the integrity and honour of the legal profession the lawyer is first obliged to try to settle the matter out of court; the matter shall be first handled by the Bar's governing bodies. However, this shall not apply if at least one of the parties is a third party who is not a lawyer admitted to the Bar. Details of any such out-of-court settlement shall be determined in the Bar's internal rule.
- (4) The lawyer is obliged to keep due records of legal services he provides. Details shall be determined in the Bar's internal rule.

### **PART THREE**

## **EUROPEAN LAWYER, FOREIGN REGISTERED LAWYER AND INTERNATIONAL LEGAL PRACTITIONER**

### **Section 30**

#### **General Provisions**

For the purposes of this Act:

- a) European lawyer is a national of any EU Member State or a national of any other signatory of the EEA Treaty, who is authorised to pursue his professional activities and provide legal services as a sole practitioner under the professional title specified in Annex 1 hereto,
- b) cross-border (visiting) European lawyer is a European lawyer, who pursues professional activities and provides legal services in the Slovak Republic temporarily or occasionally,
- c) registered European lawyer is a European lawyer who on a permanent basis pursues his professional activities and provides legal services in the Slovak Republic, and whose name is entered on the roll of European lawyers maintained by the Bar,
- d) foreign registered lawyer is a national of any OECD Member State who is in his home Member State authorised to pursue his professional activities and provide legal services as a sole practitioner and without any limitations, and whose name is entered on the roll of foreign registered lawyers maintained by the Bar,
- e) international legal practitioner is a national of any WTO Member State, who is in his home Member State authorised to pursue his professional activities and provide legal services as a sole practitioner and without any limitations, and whose name is entered on the roll of international legal practitioners maintained by the Bar,
- f) competent authority shall be an independent professional organisation or any other public authority which may authorise the lawyer to use a particular professional title, and which authorised the European lawyer, foreign registered lawyer or international legal practitioner to use the professional title,
- g) home Member State is an EU Member State or any other signatory of the EEA Treaty, OECD Member State and WTO Member State, in which the competent authority is seated,

- h) professional title is a professional title specified in Annex 1 hereto; in the case of a foreign registered lawyer and an international legal practitioner a professional title is a professional title authorising a foreign registered lawyer and an international legal practitioner to provide legal services in his home Member State as a sole practitioner and without any limitations,
- i) international partnership of lawyers is a foreign legal entity,<sup>8)</sup>
  - 1. in which members are only lawyers, European lawyers,
  - 2. which is authorised to provide legal services without any limitation in its home Member State, and which must not carry on any activities other than the provision of legal services,
  - 3. in which one member or several members of which are personally liable for the partnership's debts jointly and severally, or which has effected and maintains a Professional Indemnity Policy covering any possible loss or damage arising out of the provision of legal services in the Slovak Republic, with a minimum indemnity limit EUR 1 500 000 per each member.

## **Cross-Border European Lawyer**

### **Section 31**

- (1) A cross-border European lawyer may pursue his professional activities and provide legal services in the Slovak Republic under the terms and conditions herein laid down. For the purposes of this Act, for the purposes of separate legal rules<sup>15)</sup> and under the terms and conditions herein set forth, a cross-border European lawyer shall be regarded as a lawyer under this Act.
- (2) A cross-border European lawyer may not draft any deeds or instruments in respect of conveyancing.
- (3) When providing legal services in the Slovak Republic, a cross-border European lawyer is obliged to fulfil all duties and obligations imposed on the practising lawyers admitted to the Bar in the course of providing legal services under this Act, separate legal rules and the Bar's internal rules; the cross-border European lawyer's duty to comply with all laws and legal rules applicable in his home Member State shall not be affected or prejudiced hereby.
- (4) Provisions of this Act, of separate legal rules as well as of the Bar's internal rules and regulations shall not apply to the provision of legal services by a cross-border European lawyer if it cannot be reasonably expected because the lawyer provides his legal services only temporarily and occasionally.

### **Section 32**

For the pursuit of activities relating to representation or defence of clients in lawsuits or before any other public authorities, the cross-border European lawyer is obliged to act in conjunction with the lawyer admitted to the Bar (hereinafter referred to as the "local lawyer"); otherwise he shall not represent the client or the accused in a capacity of a lawyer. The terms and conditions of their mutual co-operation shall be laid down in a written agreement.

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<sup>15)</sup> E.g. Sec. 25 of the Civil Procedure Code; Sec. 35 of the Criminal Procedure Code.

### **Section 33**

Documents to be served on the cross-border European lawyer shall be delivered to the local lawyer in his respective seat.

### **Section 34**

A cross-border European lawyer shall have neither the right to vote at the General Assembly, nor to stand for office in the Bar's governing bodies [Sec. 66(4)] .

### **Section 35**

- (1) At the Bar's request, or at request of a court of law or any other public authority a cross-border European lawyer is obliged to furnish evidence of his professional competence in his home Member State as a sole practitioner under any of professional titles specified in Annex 1 hereto, as well as evidence of his compulsory professional indemnity insurance covering loss or damage, which might arise in connection with his practice of law and provision of legal services in the Slovak Republic; otherwise he shall not have the right to provide legal services in the Slovak Republic.
- (2) Upon their submission, all documents submitted as evidence in support of facts laid down in Subs. 1 above shall not be more than three months old and must be presented with their certified translation to the official language.<sup>9)</sup>

### **Section 36**

A cross-border European lawyer is obliged to practise under his home professional title, expressed in the official language of his home Member State.

### **Section 37**

A cross-border European lawyer may not be a member in any partnership of lawyers under Sec. 13 above, partner in any general non-commercial partnership or limited liability partnership under Sec. 14 above, or a shareowner and company executive in a limited liability company under Sec. 15.

## **Registered European Lawyer**

### **Section 38**

- (1) A registered European lawyer may provide legal services in the Slovak Republic under the terms and conditions laid down in this Act. For the purposes of this Act and for the purposes of separate legal rules<sup>15)</sup> and in accordance with the terms and conditions herein laid down, a registered European lawyer shall be deemed to be a practising lawyer hereunder.
- (2) A registered European lawyer is obliged to fulfil the duties and obligations arising for lawyers under this Act, under separate legal rules and the Bar's internal rules; his duty to comply with the laws and legal rules applicable in his home Member State shall not be affected or prejudiced hereby.

### **Section 39**

- (1) The Bar shall enrol any person as a registered European lawyer within two months from receiving his written application, provided that he:
  - a) is a national of the EU Member State or any other signatory of the EEA Treaty,
  - b) is authorised to pursue his professional activities and provide legal services as a sole practitioner in his home Member State under one of professional titles specified in Annex 1 hereto,
  - c) has taken out compulsory professional indemnity insurance in respect of loss or damage, which might arise in connection with his practice of law in the Slovak Republic.
- (2) Upon their submission, all documents submitted as evidence in support of facts laid down in Subs. 1 above shall not be more than three months old and must be presented with their certified translation to the official language.<sup>9)</sup>
- (3) In his application for registration in the roll of registered European lawyers the applicant shall specify • his home Member State, • whether in his home Member State he practises law as a sole practitioner or jointly with other lawyers, • form of such joint practice, • names of partners in any such legal entity, • whether his partners may practise law, • seat and form of practice in the Slovak Republic.
- (4) The Bar shall issue a special practising certificate to each registered European lawyer admitted to the Bar. Such a certificate shall certify that the person named therein is entitled to practise as a lawyer before any court of law or other authorities in the Slovak Republic. Any refusal of the lawyer's application for registration by the Bar shall be in writing and shall state the reasons for refusal. An appeal (if any) against the Bar's order shall lie to the appropriate court of law.
- (5) The Bar shall not admit and enrol a person as a registered European lawyer, if the applicant practises law through a legal entity, in which also individuals or legal entities, who are not authorised to practise law, are partners or shareowners.
- (6) Sec. 7 and 8 shall apply mutatis mutandis to the registered European lawyer's disbarment and his temporary suspension from the practice.

### **Section 40**

- (1) The Bar shall immediately inform the competent authority, to which the registered European lawyer is admitted, about:
  - a) his enrolment and admission to the list of registered European lawyers in the Slovak Republic,
  - b) his temporary suspension from the practice or ban on practice in the Slovak Republic, as well as about the reasons for the same,
  - c) other facts which might affect the provision of legal services by the European lawyer.
- (2) Before initiating the disciplinary proceeding against the European lawyer the Bar shall inform the competent authority in his home Member State about any such commencement of the disciplinary proceeding, and shall furnish it with all relevant details. The competent authority in his home Member State may file motions and make recommendations to the Bar Council as the appellate body.

### **Section 41**

If the registered European lawyer is temporarily suspended from the practice or disbarred in his home Member State, he shall be automatically suspended from the practice or disbarred under this Act as at the date of such suspension or disbarment in his home Member State. The Bar shall put into effect all necessary changes in the list of registered European lawyers, as soon as it learnt about the above-mentioned circumstances.

### **Section 42**

A registered European lawyer shall practise under his home-country professional title expressed in the official language of his Member State. If he is a member in any foreign legal entity or Slovak legal entity<sup>8)</sup> authorised to provide legal services, in addition to his professional title he may also use the corporate name and corporate form of the said legal entity.

### **Section 43**

A registered European lawyer shall not have the right to stand for office in the Bar's governing bodies [Sec. 66(4)]; however, his right to attend the General Assembly and vote on all principal matters shall not be affected or prejudiced thereby.

### **Section 44**

A registered European lawyer may be a member in the partnership under Sec. 13, partner in a limited liability partnership or general non-commercial partnership under Sec. 14, or shareowner and company executive in a limited liability company under Sec. 15 above.

### **Section 45**

- (1) A branch of a foreign law corporation, in which a lawyer or a registered European lawyer is a statutory body, may provide legal services on behalf of the foreign law corporation in accordance with this Act under the same terms and conditions and to the same extent as the Slovak legal entity<sup>8)</sup> authorised to provide legal services hereunder.
- (2) A foreign law corporation, in which partners are not personally liable for the debts of the firm jointly and severally, must have effected and maintain compulsory professional indemnity insurance covering any loss or damage that might arise out of its practice of law in the Slovak Republic, the minimum indemnity limit agreed in such policy being EUR 1 500 000 per each partner; otherwise a foreign law corporation may not provide legal services under this Act.
- (3) If the member (partner) or statutory body of a foreign law corporation is temporarily suspended from the practice under Sec. 46(3) below, the powers of the branch of the foreign law corporation to provide legal services under this Act shall also be temporarily suspended.
- (4) The Bar shall maintain a list of branches of foreign law corporations. However, provisions of a separate legal rule<sup>10)</sup> shall not be affected thereby.

### **Foreign Registered Lawyer**

## **Section 46**

- (1) Prior to the first registration of a foreign registered lawyer in the list of foreign registered lawyers, the Ministry of Justice of the Slovak Republic (hereinafter referred to as the "Ministry") shall at the Bar's request or at request of the applicant himself find out, whether all obstacles existing in his home Member State, which might prevent any Slovak lawyer from practising in the home Member State of the foreign registered lawyer, have been eliminated.
- (2) Should the Ministry find out that obstacles, which prevent a Slovak lawyer from practising in the host Member State, still exist in that particular Member State, the Bar shall refuse to enrol the foreign registered lawyer in the list of foreign registered lawyers maintained by the Bar while such obstacles are in place.
- (3) Should the Ministry find out that obstacles, which prevent a Slovak lawyer from practising in the host Member State, still exist in that particular Member State, the Ministry shall inform the Bar thereabout and the Bar shall temporarily suspend the foreign registered lawyer from the practice in the Slovak Republic, while such obstacles are in place.

## **Section 47**

- (1) A foreign registered lawyer may provide legal services in the Slovak Republic under the terms and conditions and in the manner laid down in this Act. For the purposes of this Act and of separate legal rules<sup>15)</sup>, and in accordance with the terms and conditions herein laid down a foreign registered lawyer shall have the status of a lawyer under this Act. However, a foreign registered lawyer shall not have the right of audience before a court of law or any other public authority, may not defend the client in the criminal proceedings and administer the clients' estates.
- (2) A foreign registered lawyer is obliged to fulfil the lawyer's duties and obligations arising under this Act, under separate legal rules as well as under the Bar's internal rules; however, his duty to comply with the laws and legal rules in his home Member State shall not be affected hereby.

## **Section 48**

- (1) The Bar shall enrol any person as a foreign registered lawyer within two months from receipt of his written application, if he proves that he:
  - a) is a national of the OECD Member State,
  - b) is authorised to pursue his professional activities and provide legal services in his home Member State as a sole practitioner and without any limitations,
  - c) has taken out compulsory professional indemnity insurance covering loss or damage, which might arise in connection with his practice of law in the Slovak Republic,
  - d) meets all the requirements laid down in Sec. 3(1), items a), e) through h).
- (2) Upon their submission all documents submitted as evidence in support of facts laid down in Subs. 1 above shall not be more than three months old and must be presented with their certified translation to the official language.<sup>9)</sup>

- (3) In his application for registration in the list of foreign registered lawyers the applicant shall specify, whether in his home Member State he practises law as a sole practitioner or jointly with other lawyers, and shall specify • form of such joint practice (if any), • names of partners (members) in any such legal entity, • whether his partners are authorised to practise law, • seat and form of practice in the Slovak Republic.
- (4) The Bar shall issue a special practising certificate to each foreign registered lawyer admitted to the Bar. Such a certificate shall certify and confirm that the person named therein may practise as a lawyer before any court of law or other authorities in the Slovak Republic. Any refusal of the lawyer's application for registration by the Bar shall be in writing and shall state the reasons for refusal. An appeal (if any) against the Bar's order shall lie to the appropriate court of law.
- (5) The Bar shall not admit and enrol a person as a foreign registered lawyer, if the applicant practises law through a legal entity, in which individuals or legal entities that are not authorised to practise law are members or shareowners.
- (6) Sec. 7 and 8 shall apply mutatis mutandis to the foreign registered lawyer's disbarment and his temporary suspension from the practice.

#### **Section 49**

Sections 40 through 44 shall apply mutatis mutandis to a foreign registered lawyer.

#### **International Legal Practitioner**

#### **Section 50**

- (1) Prior to the first registration of an international legal practitioner in the list of international legal practitioners, the Ministry shall at the Bar's request or at request of the applicant himself find out whether all obstacles existing in his home Member State, which might prevent any Slovak lawyer from practising in his home Member State, have been eliminated.
- (2) Should the Ministry find out that obstacles which prevent a Slovak lawyer from practising in the host Member State still exist in that particular Member State, the Bar shall refuse to enrol the applicant in the list of international legal practitioners maintained by the Bar while such obstacles are in place.
- (3) Should the Ministry find out that obstacles, which prevent a Slovak lawyer from practising in the host Member State, exist in that particular Member State, the Ministry shall inform the Bar thereabout and the Bar shall temporarily suspend the international legal practitioner from the practice in the Slovak Republic while such obstacles are in place.

#### **Section 51**

- (1) An international legal practitioner may give advice on the law of his home Member State and on international law under the terms and conditions laid down in this Act.

- (2) For the purposes of this Act and of separate legal rules and in accordance with the terms and conditions herein laid down an international legal practitioner shall have the status of a lawyer under this Act.
- (3) An international legal practitioner is obliged to fulfil the duties and obligations arising under this Act, under separate legal rules and the Bar's internal rules; however, his duty to comply with the laws and legal rules in his home Member State shall not be affected hereby.

### **Section 52**

An international legal practitioner does not have the right of audience before any court of law or any other public authority; he shall not represent or defend any client in a lawsuit, and he shall not administer estates of his clients.

### **Section 53**

- (1) The Bar shall enrol any person as an international legal practitioner within two months from receipt of his written application upon his satisfying the terms and conditions under Subs. 2 below, and after taking the oath to the President of the Bar.
- (2) Any applicant for being enrolled in the list of international legal practitioners must meet requirements laid down in Sec. 3(1), items a), e) through h) and must prove that he:
  - a) is authorised to pursue his professional activities and provide legal services as a sole practitioner without any limitations, and that he practised law in his home Member State for at least three years,
  - b) is a person of integrity in his home Member State and is not prohibited from practising law for disciplinary reasons under a final order imposing any disciplinary action by the competent authority, which was made in his home Member State,
  - c) has taken out compulsory professional indemnity insurance covering loss or damage with the insurer seated in the Slovak Republic.
- (3) Insurance under Subs. 2, item c) above must be effected and maintained throughout the entire period of practice. The Bar may request that the international legal practitioner submit a professional indemnity insurance policy and a document proving the payment of the premium for loss or damage caused while practising law. If the international legal practitioner within 14 days after the Bar's request fails to submit relevant documents, the Bar will remove his name from the list of international legal practitioners.
- (4) In his application for registration in the list of international legal practitioners the applicant shall specify whether in his home Member State he practises law as a sole practitioner or jointly with other lawyers and shall specify the form of such joint practice (if any), • names of partners (members) in any such legal entity, • whether his partners are authorised to practise law, • seat and form of practice in the Slovak Republic.
- (5) Upon their submission, all documents submitted as evidence in support of facts laid down in Subs. 2 above shall not be more than three months old and must be presented with their certified translation to the official language.<sup>9)</sup>

- (6) The Bar shall not admit and enrol a person as an international legal practitioner, if the applicant practises law through a legal entity, in which individuals or legal entities, that are not authorised to practise law, are members or shareowners.
- (7) The Bar shall issue a special practising certificate to each international legal practitioner admitted to the Bar. Any refusal of the lawyer's application for registration by the Bar shall be in writing and shall state the reasons for refusal. An appeal (if any) against the Bar's order shall lie to the appropriate court of law.
- (8) Sec. 7 and 8 shall apply mutatis mutandis to the international legal practitioner's disbarment and his temporary suspension from the practice.

#### **Section 54**

Sections 40 through 44 shall apply mutatis mutandis to an international legal practitioner.

#### **Section 55**

An international legal practitioner may not employ any trainee lawyers.

### **PART FOUR DISCIPLINARY ACTION AND DISCIPLINARY PROCEEDINGS**

#### **Section 56**

##### **Professional Misconduct and Disciplinary Actions**

- (1) Professional misconduct of a lawyer, European lawyer, foreign registered lawyer and international legal practitioner or a trainee lawyer shall mean a violation of his duty or obligation arising hereunder or under the Bar's internal rule.
- (2) The disciplinary panel may make an order providing for one of the following disciplinary actions:
  - a) written reprimand,
  - b) public reprimand,
  - c) a fine, the amount thereof not exceeding 100 times the minimum statutory wage fixed under a separate legal rule,<sup>16)</sup>
  - d) temporary suspension from the practice from 6 months up to 3 years,
  - e) striking the name of the lawyer, trainee lawyer, European lawyer, foreign registered lawyer or international legal practitioner off the roll.
- (3) When imposing a disciplinary action, a disciplinary panel shall take account especially of the scope and nature of professional misconduct, the lawyer's manner of acting, consequences and the extent of fault.
- (4) The fine levied under Subs. 2, item c) above shall be paid to the Bar.

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<sup>16)</sup> Parliamentary Act No. 90/1996 Coll. on the Minimum Statutory Wage as amended.

- (5) The disciplinary panel may allow the application to be withdrawn without any order being made, if it deems the hearing in respect of the lawyer's professional misconduct to be sufficient because of the less serious nature of the misconduct in question, his manner of acting or the extent of fault.

## **Disciplinary Proceedings**

### **Section 57**

- (1) The disciplinary proceeding shall be conducted by a three-member disciplinary panel appointed by the Chairman of the Disciplinary Committee (Sec. 74) from among its members.
- (2) The practice and procedures to be followed by the Bar's governing bodies before commencement of the disciplinary proceeding and the practice and procedures to be followed by the Disciplinary Committee shall be determined in detail in the Bar's Disciplinary Rules, which shall at the same time deal with the details of the disciplinary proceeding and the possibilities of reversing a disciplinary panel's final order by the Council (Sec. 70), if it was made by the disciplinary panel contrary to law or contrary to the Bar's internal rules.
- (3) A lawyer, trainee lawyer, European lawyer, foreign registered lawyer and international legal practitioner shall be charged with a professional misconduct as soon as an application is made to commence the disciplinary proceeding against him.
- (4) A lawyer charged with a professional misconduct (hereinafter referred to as the "respondent") shall bear the costs incurred by him as a party to the disciplinary proceeding. The Bar shall in advance pay the costs incurred by the disciplinary panel, including the costs of presenting the evidence.
- (5) If the disciplinary panel rules that the respondent was found guilty of having committed the professional misconduct, he shall be obliged to pay the costs of procedure in one instalment. The amount of costs ordered to be paid by the lawyer shall amount to the minimum statutory monthly wage fixed under a separate legal rule.<sup>16)</sup>
- (6) An order of a public reprimand shall be enforced by the chairman of the respective disciplinary panel by publishing a statement of the judgement in the periodical issued by the Bar, or in any other appropriate manner.
- (7) If this Act or the Bar's internal rules do not directly govern and regulate some practices and procedures in the disciplinary proceeding or the status, rights and obligations of the parties to the disciplinary proceeding, provisions of a separate legal rule shall apply *mutatis mutandis*.<sup>17)</sup>

### **Section 58**

- (1) The disciplinary proceeding shall commence upon application submitted by the Chairman of the Supervision Committee (Sec. 73) or by the Minister of Justice of the Slovak Republic (hereinafter referred to as the "petitioner").

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<sup>17)</sup> Criminal Procedure Code.

- (2) The application for commencement of the disciplinary proceeding may be submitted within six months from the date when the petitioner learned about the professional misconduct, however, not later than within two years from the accrual of the cause of action.
- (3) The respondent shall have the right to a fair trial and may comment on all facts and matters he has been charged with; he may also put forward any evidence. The respondent may authorise any other lawyer to act as his attorney-in-fact, except for a lawyer who has been charged with a professional misconduct in the same matter.
- (4) Liability for a professional misconduct shall be considered in accordance with the generally binding legal rules and the Bar's internal rules applicable at the time of the accrual of the cause of action (i.e. when the professional misconduct was committed); generally binding legal rules and the Bar's internal rules as amended shall only apply if that is to the respondent's advantage.
- (5) A disciplinary action to be imposed on the respondent may only be imposed by virtue of law applicable at the time when the order is being made in respect of such disciplinary action.
- (6) An order made by the disciplinary panel about the respondent's professional misconduct shall give reasons for its determination about the professional misconduct; it shall also include the statement of such determination and advice of remedies. The statement of the determination, whereby the respondent was found guilty of the professional misconduct, shall also include the award of costs for the proceeding whereas the total costs in one instalment shall be paid to the Bar within 15 days from the date the order made by the panel becomes final. The order shall be handed down in printed form and shall be delivered into the hands of the respondent and the petitioner (proof of service required).

### **Section 59**

- (1) Any order of the disciplinary panel imposing a disciplinary action, being either a written reprimand, public reprimand or a fine, may be appealed by the respondent or by the petitioner within 15 days from receipt thereof. The appeal shall lie with the Disciplinary Committee, whereas the appeal shall stay the execution of the order.
- (2) The petitioner may within the time limit laid down in Subs. 1 above appeal against the order of the disciplinary panel, under which the respondent was acquitted of all disciplinary charges, or under which the disciplinary proceeding was discontinued. He shall have the same right even if the disciplinary panel ruled that the respondent was found guilty of a professional misconduct, however, no disciplinary action was imposed on him.
- (3) The appeal shall be decided by the Bar Association Council, that will either uphold, change or overrule the appealed order. If the appealed order is overruled by the Council the matter shall be returned to the disciplinary panel for a new proceeding. The disciplinary panel shall be bound by the Council's legal opinion.
- (4) An appeal against the final order on the respondent's professional misconduct may lie to a court of law under a separate legal rule.

- (5) An adverse order, under which a disciplinary action of disbarment was imposed on a lawyer, trainee lawyer, European lawyer, foreign registered lawyer or international legal practitioner, or under which he was temporarily suspended from the practice [Sec. 56(2), items d) and e)] may be reviewed by the Supreme Court of the Slovak Republic under a separate legal rule.<sup>18)</sup> The appeal may only be brought by the respondent, to whom the adverse order applies.

### **Section 60**

At the respondent's request, the disciplinary panel shall expunge the disciplinary action provided that he acted irreproachably and has not committed any new professional misconduct

- a) after the lapse of one year in the case of a disciplinary action imposed under Sec. 56(2), items a) and b),
- b) after the lapse of three years in the case of a disciplinary action imposed under Sec. 56(2), items c) and d),
- c) after the lapse of three years from the day following the lapse of the period of time for which the trainee lawyer's name was struck off the roll of trainee lawyers in the case of a disciplinary action imposed on him,
- d) after the lapse of five years from the day following the lapse of the period of time for which the respondent's name was struck off the roll of lawyers, European lawyers, foreign registered lawyers or international legal practitioners in the case of a disciplinary action imposed under Sec. 56(2), item e).

## **PART FIVE TRAINEE LAWYERS, PROFESSIONAL STAFF AND OTHER EMPLOYEES OF THE LAWYER**

### **T r a i n e e L a w y e r s**

#### **Section 61**

A trainee lawyer is a person registered with the Bar and listed in a special Roll of Trainee Lawyers maintained by the Bar.

#### **Section 62**

- (1) The Bar shall admit a trainee lawyer upon the application submitted by a lawyer, limited liability partnership, general non-commercial partnership or a limited liability company within 15 days, provided that the trainee lawyer:
- a) has full capacity to perform legal acts and is under no guardianship,
  - b) has a Master's degree in law of any law school in the Slovak Republic,<sup>4)</sup> or holds a recognised university diploma, whereby the Master's degree was awarded to him by a law school in a foreign country other than the Slovak Republic,
  - c) is a person of integrity,
  - d) is in the employment of the lawyer, limited liability partnership, general non-commercial partnership or a limited liability company, whereas he shall not concurrently be in any other employment or in any other similar salaried capacity with any other employer, except for pedagogic, publication, literary, research or art

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<sup>18)</sup> Sec. 244 through 250k of the Civil Procedure Code.

activities, the extent of which cannot impair his practice as a trainee lawyer. The trainee lawyer shall not carry out any activities which are incompatible with the nature and ethical principles of the profession of a trainee lawyer.

- (2) The Bar shall not register the trainee lawyer in the roll of trainee lawyers before the date of commencement of his employment with the lawyer, limited liability partnership, general non-commercial partnership or a limited liability company under Subs. 1, item d) above.

### **Section 63**

- (1) Should the employment of a trainee lawyer under an employment contract with a lawyer, limited liability partnership, general non-commercial partnership or a limited liability company under Sec. 62(1), item d) be terminated, the Bar shall remove his name from the roll of trainee lawyers as at the date of termination of his employment.
- (2) Sec. 7, 8, 10 and 28 shall apply to a trainee lawyer mutatis mutandis.

### **Section 64**

- (1) The trainee lawyer's employment shall be governed by the applicable labour law regulations.
- (2) The trainee lawyer shall practise under the supervision of the lawyer, partner in a general non-commercial partnership, general partner in a limited liability partnership, or a company executive in a limited liability company. The purpose of his apprenticeship is to acquire knowledge and experience necessary for the practice of law. During this apprenticeship the lawyer may authorise the trainee lawyer to perform individual legal acts which the trainee lawyer performs individually.
- (3) During his apprenticeship, the trainee lawyer is obliged to act in accordance with this Act, the Bar's internal rules and under the supervising lawyer's instructions.
- (4) The lawyer, limited liability partnership, general non-commercial partnership or a limited liability company may be given a subsidy for the trainee lawyer's apprenticeship by the Bar.
- (5) A lawyer, limited liability partnership, general non-commercial partnership or a limited liability company that employs the trainee lawyer is obliged to create such working conditions, in which the trainee lawyer will be able to prepare duly for the practice of law. They shall especially enable the trainee lawyer to attend training courses organised by the Bar, prepare duly for the Bar examination, and take the Bar examination.

### **Section 65**

#### **Professional Staff and Other Lawyer's Employees**

- (1) The lawyer may employ professionals or any other employees. Their employment shall be governed under the applicable labour law regulations.
- (2) The lawyer may authorise his professional staff and other employees to perform legal acts individually.

## **PART SIX**

### **ORGANISATION OF LAWYERS**

#### **Bar Association and Its Bodies**

##### **Section 66**

- (1) The Slovak Bar Association is hereby established.
- (2) The Bar is an independent professional organisation associating all the practising lawyers admitted to the Bar.
- (3) The Bar is a legal entity with its registered seat at Bratislava.
- (4) The governing bodies of the Bar are as follows:
  - a) General Assembly,
  - b) Bar Association Council consisting of 9 members and 3 substitutes,
  - c) Supervision Committee consisting of 9 members and 3 substitutes,
  - d) Disciplinary Committee consisting of 31 members and 10 substitutes.
- (5) The Bar shall issue its internal rules in accordance with this Act.
- (6) The Bar may also establish advisory bodies. Details of their establishment and operation shall be determined in the Bar's internal rules.
- (7) Membership in individual Bar's governing bodies shall be mutually incompatible.

##### **Section 67**

- (1) The General Assembly is the supreme body of the Bar. Any other Bar Association's governing bodies are elected by the General Assembly.
- (2) The Bar's governing bodies are elected for a period of three years.
- (3) Positions in the Bar Association's governing bodies are honorary. However, lawyers sitting thereon shall be reimbursed for the loss of time and out-of-pocket expenses incurred in connection with discharging their functions.

#### **General Assembly**

##### **Section 68**

- (1) The General Assembly shall be convened by the Bar Association Council at least once in three years. At a written request of one third of lawyers or of the Supervision Committee, the Bar Association Council is obliged to convene the General Assembly within two months from receiving such a request.
- (2) The lawyer may authorise any other lawyer in writing to act as his proxy at the General Assembly. The grantor's signature must be notarised pursuant to separate legal rules. The

lawyer who granted a form of proxy shall be deemed to be present at the General Assembly.

- (3) The General Assembly shall have a quorum if at least one third of lawyers is present. Any resolution shall be valid if voted for by a simple majority of the lawyers present.
- (4) If the General Assembly does not have the prescribed quorum under Subs. (3) above, the session shall be postponed for one hour. After one hour any resolution shall be valid if voted for by a simple majority of the lawyers present.

### **Section 69**

- (1) The General Assembly shall decide about any essential matters related to the legal profession, particularly about:
  - a) electing and recalling members of the Council and members of any other Bar Association's governing bodies,
  - b) approving the Bar's internal rules and regulations, being mainly the Rules of Professional Conduct, Organisational Rules, Rules of Procedure, Election By-Laws and Disciplinary Rules,
  - c) quashing or changing any decision made by the Bar Association Council,
  - d) approving the annual membership fee,
  - e) establishing the Social Fund or any other funds and approving the rules of creating the same as well as the principles of using the same,
  - f) approving the amount of the compensation for the loss of the time while sitting on the Bar Association's governing bodies.
- (2) The General Assembly shall also decide about other matters prescribed by the Bar's internal rules and may reserve the right to decide about other matters of its choice.

### **Bar Association Council** **Section 70**

The Bar Association Council shall manage the Bar Association's affairs between General Assemblies.

### **Section 71**

- (1) The Bar Association Council shall decide about:
  - a) appointing a lawyer's substitute pursuant to Sec. 17(1),
  - b) appointing a lawyer pursuant to Sec. 20(3),
  - c) appeal pursuant to Sec. 59(3),
  - d) any other issues within the meaning of this Act, unless they fall within the scope of powers of any other Bar Association's governing bodies.
- (2) The Bar Association Council shall further:
  - a) convene the General Assembly,
  - b) maintain the roll of lawyers, European lawyers, foreign registered lawyers and international legal practitioners, list of partnerships of lawyers, limited liability partnerships, general non-commercial partnerships, limited liability companies, list of international law corporations and trainee lawyers, make all entries and changes therein, inform the competent authorities in home Member States about registration

- of registered European lawyers, foreign registered lawyers or international legal practitioners, or about its refusal to register them in the appropriate list, as well as about other changes of their status in the Slovak Republic,
- c) handle and manage the Bar Association's Social Fund,
  - d) approve the Bar Examination Rules for the Bar examinations and for the aptitude tests, and appoint members of the Examining Committee from among the lawyers or judges, prosecutors and any other experts in the field of law,
  - e) administer the Bar Association's assets,
  - f) represent, protect, promote and enforce the lawyers' interests in all the fields of their activity,
  - g) regularly inform lawyers about the Bar Association's activities. For this purpose, it will arrange for any study, publication, documentary and information activities,
  - h) cooperate with the competent bodies in individual home Member States when discharging the duties herein laid down,
  - i) perform any other activities according to this Act unless they fall within the scope of powers of any other Bar Association's governing bodies,
  - j) issue the Bar's Official Journal.
- (3) The President and Vice-presidents of the Council are elected and recalled by the Bar Association Council from among its members. The President shall represent the Bar Association in relation to third persons and act on its behalf in all the matters. He shall also make any urgent decisions between the meetings of the Bar Association Council and manage the Bar's staff. The President is obliged to inform the Council at any next meeting about the decisions made and measures taken between the Council's meetings. The Council may change any decision made or any measure taken by the President. Vice-presidents shall substitute for the President within the scope of powers laid down in the Bar's internal rule.
- (4) The Council shall usually meet once a month. Meetings of the Council shall be convened by the Bar Association President.

## **Section 72**

### **The Bar's Headquarters**

Any and all tasks related to organisational, technical and administrative operation of the Bar shall be performed by the Bar's Headquarters.

## **Section 73**

### **Supervision Committee**

- (1) The Supervision Committee shall:
- a) supervise the enforcement of resolutions passed by the General Assembly and activities of the Bar Association Council. For this purpose, it shall have access to all the Bar Association's documents and records,
  - b) supervise a due practice and pursuit of the legal profession,
  - c) elect the Chairman from among its members, who shall manage the Supervision Committee's affairs.

- (2) Should the Supervision Committee have any doubts about compliance of the resolution or any other measure passed or taken by the Council with the generally binding legal rule, Bar's internal rule or resolution adopted by the General Assembly, it may propose that the Council change or quash the same.

#### **Section 74**

##### **Disciplinary Committee**

- (1) The Disciplinary Committee shall
- a) decide about the cases of professional misconduct committed by lawyers, European lawyers, trainee lawyers, foreign registered lawyers and international legal practitioners, whereas its orders shall be made by disciplinary panels,
  - b) elect its Chairman, who shall manage its affairs, from among its members.
- (2) The Disciplinary Committee Chairman shall appoint the chairmen and members of disciplinary panels from among the Disciplinary Committee members.

#### **Section 75**

- (1) The Bar's internal rules, resolutions passed by the General Assembly and resolutions passed by the Council shall be binding upon lawyers, trainee lawyers, European lawyers, foreign registered lawyers and international legal practitioners.
- (2) Details of the Bar Association's organisation and activities, of organisation and activities of its governing bodies and of the Bar's Headquarters shall be laid down in the Organisational Rules and Rules of Procedure. Details of the elections shall be laid down in the Election By-Laws.
- (3) Any actions taken under this Act shall not be subject to the provisions of a separate legal rule, unless otherwise stipulated herein.

### **PART SEVEN Transitional and Final Provisions**

#### **Section 76**

- (1) The Bar established under this Act shall be a legal successor to the Slovak Bar Association and the Chamber of Commercial Lawyers of the Slovak Republic, existing under the laws which were in force so far.
- (2) The property previously owned by the Slovak Bar Association<sup>21)</sup> and the property previously owned by the Chamber of Commercial Lawyers of the Slovak Republic<sup>22)</sup> existing under the laws, which were in force so far, shall as at 1 January 2004 pass to the Bar established hereunder.
- (3) The rights and obligations of the existing Slovak Bar Association<sup>21)</sup> and of the Chamber of Commercial Lawyers of the Slovak Republic<sup>22)</sup>, including any rights and obligations arising from the labour relations, shall as at 1 January 2004 pass to the Bar established hereunder.

#### **Section 77**

- (1) A lawyer registered in the roll of lawyers under the legal rules which were in force so far and a commercial lawyer registered in the roll of commercial lawyers under the existing legal rules shall be a lawyer under this Act. All such lawyers shall be automatically admitted to the Bar without any prior application. Their authority and powers to provide legal services and practise law shall not be affected or prejudiced by this Act as from the moment of their registration in the roll of lawyers. Their practice of law to date shall for the purposes of separate legal rules be regarded as the practice of law under this Act.
- (2) A trainee lawyer registered in the roll of trainee lawyers maintained under the legal rules which were in force so far and a trainee of a commercial lawyer registered in the roll of trainees maintained under the legal rules which were in force so far shall be regarded as trainee lawyers under this Act. They shall be registered in the roll of trainee lawyers automatically without any prior application.
- (3) The Bar examination passed in accordance with the legal rules which were in force so far and the examination of a commercial lawyer passed in accordance with the legal rules which were in force so far shall be regarded as the Bar examination under this Act.
- (4) A trainee lawyer's apprenticeship performed in accordance with the legal rules which were in force so far and the apprenticeship pursued by a trainee of a commercial lawyer in accordance with the legal rules which were in force so far shall be regarded as the apprenticeship of a trainee lawyer under this Act.
- (5) A lawyer who was as a commercial lawyer registered in the roll of lawyers under Subs. 1 above is not obliged to defend clients in criminal proceedings any earlier than three years after the effective date of this Act.

#### **Section 78**

- (1) The Bar examination passed until 31 December 1992 under Act No. 128/1990 Coll. on Advocacy adopted by Czech Parliament shall be regarded as the Bar examination under this Act.
- (2) University degree under Sec. 3(1), item b) and Sec. 62, item b) shall also be the university Master's degree awarded by a law school in the Czech and Slovak Federal Republic.

#### **Section 79**

- (1) A professional misconduct committed by the lawyer under the legal rules which were in force so far and any instance of professional misconduct committed by a commercial lawyer under the legal rules which were in force so far shall be regarded as a professional misconduct under this Act.
- (2) A disciplinary action imposed on a lawyer under the legal rules which were in force so far and a disciplinary action imposed on a commercial lawyer under the legal rules which were in force so far shall be regarded as a disciplinary action under this Act.
- (3) If a lawyer performed an action which might be viewed as a professional misconduct under the legal rules which were in force so far, the Chairman of the Supervision Committee or the Minister of Justice (hereinafter referred to as the "Minister") (acting in their capacity of

a petitioner) may submit an application for commencement of the disciplinary proceeding under this Act to the appropriate Bar's governing body within the time limit which applied to commencement of the disciplinary proceeding under the legal rule which was in force so far.

- (4) Disciplinary proceeding commenced under the legal rules which were in force so far shall be completed in accordance with the legal rules hitherto in force; the powers of the disciplinary body granted under the legal rules which were in force so far shall be exercised by the appropriate Bar's governing body.

### **Section 80**

The right to claim judicial protection exercised by a person who was not under the legal rules, which were in force so far, registered in the roll of lawyers or commercial lawyers, whose name was under the legal rules that were in force so far stricken off such rolls, or who was under the legal rules which were in force so far suspended from the practice, shall not be affected and prejudiced hereby.

### **Section 81**

Time limits that started to run under the legal rules which were in force so far shall be counted into the time limits laid down in Sec. 3, Sec. 6(3) and Sec. 7(1), item f).

### **Section 82**

- (1) The Bar shall provide for convening the General Assembly not later than within six months from the effective date of this Act. The General Assembly shall elect new governing bodies. Should the Bar fail to do so, the General Assembly shall be convened by the Minister within two months. The existing internal rules of the Slovak Bar Association<sup>21)</sup> established under the legal rules which were in force so far shall apply to the operation of the Bar's governing bodies mutatis mutandis.
- (2) Until the election of the Bar Council within the time limit laid down in Subs. 1, the powers of the Council shall be exercised by the Council consisting of nine members and three substitutes of the Slovak Bar Association Council<sup>21)</sup> and nine members and three substitutes of the Chamber of Commercial Lawyers<sup>22)</sup> established under the hitherto existing legal rules. This Council shall elect the President and the Vice-President of the Bar from among its members. Until the new President is elected, the powers of the President of the Bar shall be exercised by the President of the Slovak Bar Association who held the office until the Effective Date of this Act.<sup>21)</sup>
- (3) Until the election of the Disciplinary Committee under Subs. 1 above its powers shall be exercised by the Disciplinary Committee consisting of 11 members and 5 substitutes of the Disciplinary Committee of the Slovak Bar Association<sup>21)</sup> and 11 members and 5 substitutes of the Disciplinary Committee of the Chamber of Commercial Lawyers<sup>22)</sup> established under the hitherto existing legal rules. This Disciplinary Committee shall elect the Chairman and Vice-Chairman from among its members. Until the new Chairman of the Disciplinary Committee is elected, his powers shall be exercised by the Chairman of the Disciplinary Committee of the Slovak Bar Association who held the office until the Effective Date of this Act.<sup>21)</sup>

- (4) Until the election of the Supervision Committee under Subs. 1 above its powers shall be exercised by the supervision committee consisting of 9 members and 3 substitutes of the Supervision Committee of the Slovak Bar Association<sup>21)</sup> and 9 members and 3 substitutes of the Supervision Committee of the Chamber of Commercial Lawyers<sup>22)</sup> established under the legal rules that were in force so far. This Supervision Committee shall elect the Chairman and Vice-Chairman from among its members. Until the new Chairman of the Supervision Committee is elected, his powers shall be exercised by the Chairman of the Supervision Committee of the Slovak Bar Association who held the office until the Effective Date of this Act.<sup>21)</sup>
- (5) Internal rules of the Slovak Bar Association<sup>21)</sup> established under the hitherto existing legal rules shall apply mutatis mutandis to the actions of the governing bodies specified in Subs. 2 through 4 above until their election by the General Assembly.

### **Section 83**

Details of the attorney's fees and the manner of their calculation, terms and conditions of providing legal services in out-of-court settlement, for a reduced fee or free of charge, terms and conditions of reimbursement of out-of-pocket expenses and the loss of time shall be governed and regulated in the Regulation issued by the Ministry of Justice.

### **Section 84**

A lawyer, trainee lawyer, commercial lawyer or a trainee of the commercial lawyer, who will be entered in the roll of lawyers or trainee lawyers, is within three months from the Effective Date of this Act obliged to submit to the Bar a criminal conviction certificate (all records search). The Bar shall within six months from such enrolment strike off the roll of lawyers and trainee lawyers anyone, who is not a person of integrity under this Act.

### **Section 85**

- (1) Prior to the first registration of an European lawyer in the list of European lawyers the Ministry shall at the Bar's request or at request of the applicant himself find out, whether all obstacles or hindrances existing in his home Member State (his country of registration), which might prevent any Slovak lawyer from practising in that particular home Member State, have been eliminated.
- (2) Should the Ministry find out, that obstacles or hindrances, which prevent a Slovak lawyer from practising in the host Member State, are in place in that particular Member State, the Bar shall refuse to enrol the registered European lawyer in the list of European lawyers.
- (3) Should the Ministry find out, that circumstances set forth in Subs. 2 above exist, the Ministry may order the Bar to suspend the registered European lawyer from the practice in the Slovak Republic.

### **Section 86**

The Bar shall maintain a list of lawyers, whom the presiding judge or a judge may appoint pro Deo under a separate legal rule. The Bar shall enter a lawyer in the said list or remove his name therefrom at the lawyer's request. The Bar shall send this list to all district courts, regional courts and the Supreme Court of the Slovak Republic on a regular basis.

## **Section 88**

The following legislation shall be repealed:

1. Parliamentary Act No. 132/1990 Coll. on Advocacy, as amended by Act No. 302/1999 Coll.,
2. Parliamentary Act No. 129/1991 Coll. on Commercial Lawyers as amended by Act No. 149/1994 Coll. and Act No. 448/2001 Coll.,
3. Regulation of the Ministry of Justice of the Slovak Republic No. 591/2002 Coll. on the Fees Charged by Commercial Lawyers.

## **CHAPTER II**

Act No. 455/191 Coll. on Business and Self-Employment Services (Business Licensing Act) as amended by Act No. 231/1992 Coll., Act No. 600/1992 Coll., Parliamentary Act No. 132/1994 Coll., Parliamentary Act No. 200/1995 Coll., Parliamentary Act No. 216/1995 Coll., Parliamentary Act No. 233/1995 Coll., Parliamentary Act No. 123/1996 Coll., Parliamentary Act No. 164/1996 Coll., Parliamentary Act No. 222/1996 Coll., Parliamentary Act No. 289/1996 Coll., Parliamentary Act No. 222/1996 Coll., Parliamentary Act No. 290/1996 Coll., Parliamentary Act No. 288/1997 Coll., Parliamentary Act No. 379/1997 Coll., Parliamentary Act No. 70/1998 Coll., Parliamentary Act No. 76/1998 Coll., Parliamentary Act No. 126/1998 Coll., Parliamentary Act No. 129/1998 Coll., Parliamentary Act No. 140/1998 Coll., Parliamentary Act No. 143/1998 Coll., Parliamentary Act No. 144/1998 Coll., Parliamentary Act No. 161/1998 Coll., Act No. 178/1998 Coll., Act No. 1798/1998 Coll., Act No. 194/1998 Coll., Act No. 263/1999 Coll., Act No. 264/1999 Coll., Act No. 119/2000 Coll., Act No. 142/2000 Coll., Act No. 236/2000 Coll., Act No. 238/2000 Coll., Act No. 268/2000 Coll., Act No. 338/2000 Coll., Act No. 223/2001 Coll., Act No. 279/2001 Coll., Act No. 488/2001 Coll., Act No. 554/2001 Coll., Act No. 261/2002 Coll., Act No. 284/2002 Coll., Act No. 506/2002 Coll., Act No. 190/2003 Coll., Act No. 219/2003 Coll. and Act No. 423/2003 Coll. shall be amended as follows:

1. The words "commercial lawyers<sup>5)</sup>" shall be deleted in Sec. 3(1), item c, point 3. A footnote to Reference 5 shall be deleted.
2. Letter zk) shall be added to Sec. 3(2), which shall read as follows: "zk) provision of legal services in consideration of a fee."
3. A new Section 80e shall be added after Section 80d and shall read as follows:

### **"Section 80e**

#### **Transitional Provision effective as from 1 January 2004**

Business licences, under which lawyers may practise law and provide legal services in consideration of a fee shall cease to exist on the Effective Date of this Act."

## **CHAPTER III**

### **Effective Date**

This Act shall enter into force on 1 January 2004, except for Chapter I, Sec. 31 through 37 and Sec. 84, which shall enter into force on the Effective Date of the Accession Treaty, under which the Slovak Republic shall become an EU Member State.

Sec. 85 set forth in Chapter I shall become void on the Effective Date of the Accession Treaty, under which the Slovak Republic shall become an EU Member State.

**Pavol Hrušovský**

**Mikuláš Dzurinda**

## Annex I

### PROFESSIONAL TITLES, UNDER WHICH LAWYERS MAY PRACTISE LAW SHALL BE AS FOLLOWS:

Belgium	Avocat/Advocaat/Rechtsanwalt
Denmark	Advokat
Germany	Rechtsanwalt
Greece	[title in the Greek language]
Spain	Abogado/Advocat/Avogado/Abokatu
France	Avocat
Ireland	Barrister/Solicitor
Italy	Avvocato
Luxembourg	Avocat
Netherlands	Advocaat
Austria	Rechtsanwalt
Portugal	Advogado
Finland	Asianajaja/Advokat
Sweden	Advokat
United Kingdom of Great Britain and Northern Ireland	Advocate/Barrister/Solicitor
Iceland	Lögmaur
Liechtenstein	Rechtsanwalt
Norway	Advokat

## **Annex 2**

### **IMPLEMENTATION OF ACQUIS COMMUNAUTAIRE**

The following Directives are hereby transposed to the Slovak national law:

1. Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services
2. Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (Official Journal, L 077, published on 14 March 1998, pages 0036 – 0043)

This Act partially transposes Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (Official Journal L 019, published on 24 January 1989, pages 0016 – 0023).

The above-mentioned Directives have been translated to the Slovak language; official translations are available in the Institute of Approximation of Laws of the Office of the Slovak Government, Námestie slobody 1/29, Bratislava.