

255/2006 Coll.

**ACT
of 20 April 2006,**

amending Act No 215/2004 Coll. on protection of classified materials and on amendment to certain laws

National Council of the Slovak Republic has passed the following Act:

Section I

Act No 215/2004 Coll. on protection of classified materials and on amendment to certain laws as amended by the judgment of the Constitutional Court the Slovak Republic No 638/2005 Coll. shall be amended as follows:

1. In Article 18 paragraph 3 the words “shall be decided by the Appellate Commission (Article 30 paragraph 3)” shall be replaced by the words “shall be decided by the authority competent to decide on an appeal pursuant to Article 30 paragraph 3.”.
2. In Article 19, the following sentence shall be added at the end: “Legal persons or natural persons providing information on the nominee pursuant to Article 16 paragraph 1 subparagraphs (c) to (f) must be additionally acquainted with the reason for which the nominee is being subject to security clearance.”
3. Article 30 reads as follows:

Article 30

Procedure for reviewing decisions of the Authority

- (1) A decision of the Authority pursuant to Article 26 paragraph 2, Article 29, Article 50 paragraphs 2 and 5 and Article 60 paragraph 7, with the exception of a decision of the Slovak Intelligence Service, Military Intelligence and Police Force, may be appealed by the person that has been served the decision within 15 days from the date of delivery of the decision. An appeal shall be lodged in writing, delivered to the Authority and it shall contain the facts by which the nominee justifies cancellation of the decision. A appeal shall have a suspensive effect.
- (2) The Authority may decide on an appeal alone if it allows an appeal in full. If the Authority does not take decision on an appeal alone, it shall submit it along with the opinion on the appeal lodged and other file documents related to the challenged decision to the body competent to decide on an appeal (hereinafter referred to as “Appellate Body”), namely within 30 days from the date when it was delivered an appeal.
- (3) The disputes concerning the method of completion of a security clearance between the Military Intelligence and the Authority according to Article 18 paragraph 3, and concerning an appeal according to paragraph 1 shall be decided by the Appellate Body, which is the Committee of the National Council of the Slovak Republic established by a special regulation. 13a) The procedure of the Appellate Body shall be determined by a special regulation. 13a)
- (4) A decision of the Slovak Intelligence Service, Military Intelligence and Police Force pursuant to Article 26 paragraph 2 and Article 29 can be reviewed by court. The Supreme Court of the Slovak Republic shall have jurisdiction to review such decision.”

Footnote to reference 13a) reads:

“13a) Constitutional Act No 254/2006 Coll. on the establishment and activity of the Committee of the National Council of the Slovak Republic for reviewing decisions of the National Security Authority.”

Section II

Act No 256/1998 Coll. on witness protection and on amendment to certain laws, as amended by Act No 490/2001 Coll. and Act No 457/2003 Coll., shall be amended as follows:

1. Article 1 reads as follows:

“Article 1

- (1) This Act regulates the conditions and procedure in providing protection and assistance to an endangered witness, protected witness and their next of kin, 1) whose lives and health, in connection with their testimonies or disclosure of evidence, became endangered by persons committing crimes for which, pursuant to the Criminal Code, the offender may be liable to a term of imprisonment for life, or crimes if committed by an organised group or by a terrorist group.
- (2) This Act shall apply if the security of endangered persons cannot be ensured by other means.
- (3) Protection and assistance to an endangered witness, protected witness and their next of kin shall be provided on the basis of their free will.
- (4) There is no legal entitlement to the provision of protection and assistance under this Act.

2. In Article 2 paragraph 1, the words “the most serious crimes” shall be replaced by words “crimes referred to in Article 1 paragraph 1.”

3. In Article 2 paragraph 6, the words “State authorities, municipalities” shall be replaced by words “public authorities and other”.

4. In Article 4 paragraph 2, the words “to the state secret pursuant to a special regulation 3)” shall be replaced by words “to a classified material 3)”.

The footnote to the reference 3) reads:

“3) Act No 215/2004 Coll. on protection of classified materials and on amendment to certain laws as amended.”.

5. In Article 13, after paragraph 2 a new paragraph 3 is inserted, which reads:

“(3) For the needs of court proceedings in civil cases, and also for the purpose of recognition of other entitlements arising in connection with inclusion in the Witness Protection Programme, the Unit shall be authorised to confirm that the person with changed identity is identical with the person before the change of identity, the Unit may decide on temporary or permanent return of original identity to such person.”

The existing paragraph 3 shall be designated as paragraph 4.

6. The existing text of Article 14 shall be designated as paragraph 1 and paragraph 2 shall be added, which reads:

“(2) Corps of Prison Wardens and Judiciary Guards shall, within 14 days from the receipt of a written notification from the Unit on a consenting decision of the Commission with respect to the

proposal for protection, conclude a written protective agreement relating to the service of custody or service of a term of imprisonment.”

7. In the footnote to the reference 5) the quotation “Article 91 paragraph 3, Article 101b paragraph 3 and Article 215a of the Code of Criminal Procedure as amended by Act No 256/1998 Coll. on witness protection and on amendment to certain laws.” shall be replaced by the quotation “Article 134 paragraph 3, Articles 262 and 273 of the Act No 301/2005 Coll. Code of Criminal Procedure.”.

8. In Article 21, the words “the most serious crimes” shall be replaced by words “crimes referred to in Article 1 paragraph 1.”

Section III

Act of the National Council of the Slovak Republic No 171/1993 regarding the Police Force as amended by Act of the National Council of the Slovak Republic No 251/1994 Coll., by Act of the National Council of the Slovak Republic No 233/1995 Coll., by Act of the National Council of the Slovak Republic No 315/1996 Coll., by Act No 353/1997, Act No 12/1998 Coll., Act No 73/1998 Coll., Act No 256/1998 Coll., Act No 116/2000 Coll., Act No 323/2000 Coll., Act No 367/2000 Coll., Act No 490/2001 Coll., Act No 48/2002 Coll., Act No 182/2002 Coll., Act No 422/2002 Coll., Act No 155/2003 Coll., Act No 166/2003 Coll., Act No 458/2003 Coll., Act No 537/2004 Coll., Act No 69/2005 Coll., Act No 534/2005 Coll., and Act No 558/2005 Coll., shall be amended as follows:

1. In Article 11 paragraph 1, subparagraph (d) reads:

“d) safety of designated persons, protection of designated premises or protection and assistance to an endangered witness or protected witness under a special regulation,”.

2. In Article 25, paragraph 1 reads:

“(1) In connection with safeguarding designated persons, endangered witnesses and protected witnesses, a police officer is authorised to search persons, luggage, articles, conveyances and premises situated in the area from which the safety of designated persons, endangered witnesses and protected witnesses could be endangered.”.

3. In Article 25, paragraph 3 reads:

“(3) Searches of persons, luggage, articles, conveyances and premises may not be done for the purposes other than ensuring security of designated persons, endangered witnesses and protected witnesses

Section IV

This Act shall come into effect on the day of its publication.

Ivan Gašparovič, in his own hand
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