

**Act**  
**No. 452**  
**of 24 November 2021**  
**on electronic communications**

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

Part One  
**GENERAL PROVISIONS**

**Article 1**  
**Subject Matter**

(1) This Act governs

- a) the regulation of the electronic communications sector,
- b) the terms and conditions for the provision of electronic communications networks (hereinafter referred to as “network”) and electronic communications services (hereinafter referred to as “service”) and associated facilities and associated services,
- c) the protection of competition in the electronic communications sector and the protection of users’ rights and their further development,
- d) the definition of rights and obligations relating to the building of networks and access to passive infrastructure,
- e) determining the conditions of use of terminal equipment,
- f) the roles and responsibilities of public authorities in the electronic communications sector.

(2) This Act shall not apply to the content of services provided over networks,<sup>2)</sup> unless otherwise provided for in this Act.

(3) The aim of this Act is to ensure the development of the electronic communications sector and thus the efficient provision of and access by persons to quality, affordable and secure services and networks, the efficient use of radio spectrum and numbers, and the protection of end-users in the electronic communications sector.

(4) The aim of this Act is to promote sustainable and effective competition, the building and use of very high capacity networks, investment and innovation in the electronic communications sector and market development in the electronic communications sector.

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<sup>2)</sup> E.g., Act No. 308/2000 Coll. on broadcasting and retransmission and amending Act No. 195/2000 Coll. on telecommunications, as amended, Act No. 22/2004 Coll. on electronic commerce and amending and supplementing Act No. 128/2002 Coll. on state control of the internal market in matters of consumer protection and on the amendment to certain acts, as amended by Act No. 284/2002 Coll. as amended.

## **Definition of Terms**

### **Article 2**

(1) Network means a network consisting of transmission systems, whether or not based on a permanent infrastructure or centralised capacity administration, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio waves,<sup>3)</sup> optical or other electromagnetic means, including satellite networks, fixed networks (circuit-switched and packet-switched, including internet), mobile networks, power lines intended for the transmission and distribution of electricity to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

(2) Very high capacity network means a network which consists wholly of optical elements installed at least up to the distribution point at the serving location, or a network which fulfils, under usual peak-time conditions, similar characteristics in terms of available downlink and uplink bandwidth, resilience, error-related parameters, latency and its deviations; network characteristics can be considered similar regardless of whether the end-user experiences changes of parameters due to the characteristics of the transmission medium by which the network connects with the network termination point.

(3) Public network means a network used wholly or mainly for the provision of publicly available electronic communications services which support the transfer of information between network termination points.

(4) Provision of a network means the establishment, operation, control or making available of such a network.

(5) Interface means

- a) a network termination point,
- b) a radio interface specifying the radio path between radio equipment,
- c) a point of interconnection of networks or
- d) an application programming interface.

(6) Network termination point means the physical point at which a subscriber is provided with access to a public network, and which, in the case of networks involving switching or routing, is identified by means of a specific network address, which may be linked to a subscriber's number or name.

(7) Application programming interface means the software interface between applications, made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.

(8) Access means the making available of facilities or services to another undertaking, under defined conditions, either on an exclusive or a non-exclusive basis, for the purpose of providing

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<sup>3)</sup> Article 2 (d) of Government Order of the Slovak Republic No. 193/2016 Coll. on making radio equipment available on the market.

electronic communications services, including when they are used for the delivery of information society services<sup>4)</sup> or broadcasting of programme services, in particular access to

- a) network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means, in particular this includes access to the local loop and to associated facilities and services necessary to provide services over the local loop,
- b) passive infrastructure,
- c) relevant software systems including operational support systems,
- d) information systems or databases designed and used for pre-ordering, activating a customer or a specified service, ordering, maintaining and repair requests, and billing,
- e) number translation or systems offering equivalent functionality,
- f) fixed and mobile networks, in particular for roaming,
- g) conditional access systems for digital television services,
- h) virtual network services.

(9) Access point is a physical point inside or outside a building that can be accessed by undertakings and through which undertakings can access the high-speed physical infrastructure in the building.

(10) Conditional access system means a technical measure, authentication system or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or another form of prior individual authorisation.

(11) Interconnection means a specific type of access implemented between public network providers by means of the physical and logical linking of public networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking where such services are provided by the parties involved or other parties who have access to the network.

(12) Passive infrastructure is physical infrastructure and inactive network elements that can become active network elements under certain circumstances, in particular dark optical fibres, metallic twisted pairs and coaxial cables.

(13) Physical infrastructure is any element of a network or element of a network intended for the provision of other services (Article 25 (1)(a)) in or on which a line or telecommunications equipment can be placed without itself becoming an active element of the network. Physical infrastructure includes, in particular, shields, microtubes, conduits, multi-conduits, masts, ducts, control chambers, manholes, cabinets, buildings or entries to buildings, carriers, installations of antennas and antenna systems, towers and poles. Physical infrastructure also includes conduits, masts, ducts, control chambers, manholes, cabinets, buildings or entries to buildings, carriers, installations of antennas and antenna systems, towers and poles that are not part of a network or a network intended for the provision of other services. Cables, dark optical

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<sup>4)</sup> Article 2 (a) of Act No. 22/2004 Coll.

fibres, as well as public water supply systems and their parts<sup>5)</sup>) are not physical infrastructure according to this Act.

(14) Local loop means the physical transmission path transmitting electronic communications signals and connecting the network termination point to a distribution frame or equivalent facility in the fixed public network.

(15) Line means a network line, which includes line and engineering network constructions, in particular overhead and underground lines comprising cables and cable assemblies and radio routes, including associated physical infrastructure and demarcation points; a line is part of the network.

(16) A telecommunication connection means a line that serves to physically connect a construction to the network. A telecommunication connection consists of a section of the line from the point of branching from the network to

- a) the access point,
- b) one or more network termination points located in the construction to be connected; or
- c) the point at which the line forming the telecommunications connection interconnects with the lines inside the building or with the physical infrastructure within the building.

(17) The demarcation point of an underground line means a table, bollard or pole indicating the location of cable sets, the intersection of cables with roads, railways or watercourses and the positional change of the route of cables in villages or in open terrain.

(18) Radio communications service means a service that consists of the transmission, sending or reception of signals by means of radio waves.

(19) Service means a service normally provided for remuneration via networks, which encompasses internet access service,<sup>6)</sup> interpersonal communications service or services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine (M2M) services and for radio and television broadcasting. Services do not include providing, or exercising editorial control over, content transmitted using networks and services.

(20) Interpersonal communications service means a service normally provided for remuneration that enables direct interpersonal and interactive exchange of information via networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient; this service does not include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

(21) Number-based interpersonal communications service means an interpersonal communications service which uses a number or numbers in national or international

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<sup>5)</sup> Act No. 442/2002 Coll. on public water supply systems and public sewerage systems and on the amendment to Act No. 276/2001 Coll. on regulation in network industries as amended.

<sup>6)</sup> Article 2 (2) of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and retail charges for regulated intra-EU communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012 (OJ EU L 310, 26.11.2015) as amended.

numbering plans, or which enables communication with a number or numbers in national or international numbering plans.

(22) Number-independent interpersonal communications service means an interpersonal communications service which does not use a number or numbers in national or international numbering plans, or which does not enable communication with a number or numbers in national or international numbering plans.

(23) Publicly available service means a service that anyone can apply to use.

(24) Voice communications service means a publicly available service for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international numbering plan.

(25) Call means a connection established by means of a publicly available interpersonal communications service allowing two-way voice communication.

(26) Total conversation service means a multimedia real time conversation service that provides bidirectional symmetric real time transfer of motion video, real time text and voice between users in two or more locations.

(27) Pre-paid service means a service provided on the basis of a pre-paid financial amount from which a fee is deducted from time to time for the volume of service actually consumed or for the information society services provided.

(28) Associated facilities means associated services, physical infrastructures and other facilities or elements associated with a network or service which enable or support the provision of services via that network or service, or have the potential to do so, and include real estate or entries to real estate including access roads, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, power distribution cabinets, power electrical equipment, electrical connections, and cabinets.

(29) Associated service means a service associated with a network or a service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides (EPGs), as well as other services such as identity, location and presence service.

(30) Geographic number means a number from the national numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.

(31) Non-geographic number means a number from the national numbering plan that is not a geographic number, such as mobile, freephone and premium-rate numbers.

(32) Emergency communication means communication by means of interpersonal communications services between an end-user and the public safety answering point with the goal to request and receive emergency relief from emergency services.

(33) Caller location information means, in a public mobile network, the data processed, derived from network infrastructure or from terminal equipment, indicating the geographic position of an end-user's mobile terminal equipment, and, in a public fixed network, the data about the physical address of the network termination point.

(34) Telecommunications equipment means technical equipment for the broadcasting, transmission, routing, reception, interconnection or processing of signals propagated by lines, radio, optical or other electromagnetic means. Telecommunications equipment includes radio equipment.<sup>7)</sup>

(35) Terminal equipment means

- a) equipment directly or indirectly connected to the interface of a public network to send, process or receive information; in either case, the connection may be made by metallic line or optical line, or through radio waves; a connection is indirect if equipment is placed between the terminal equipment and the network termination point,
- b) satellite earth station equipment means equipment which is used for the transmission, reception or for the transmission and reception of radio waves by means of satellites or other space-based systems.

(36) Enhanced digital television equipment means set-top boxes intended for connection to television sets or integrated digital television sets, able to receive digital interactive television services.

(37) Radio spectrum allocation means the designation of a specific radio spectrum band for use by one or more types of radio communications services, where appropriate, in accordance with the conditions specified for its use.

(38) Harmonised radio spectrum means radio spectrum for which harmonised conditions relating to its availability and efficient use have been established by way of technical implementing measures in accordance with a special regulation<sup>8)</sup>.

(39) Shared use of radio spectrum means the making available of the same part of a frequency band to two or more entities entitled to use frequencies under a general authorisation for the use of radio spectrum or under an individual authorisation for the use of radio spectrum in accordance with the conditions set out for shared use under a general authorisation for the use of radio spectrum, an individual authorisation for the use of radio spectrum or a combination thereof, including regulatory instruments such as common access under an individual authorisation for the use of radio spectrum, in order to facilitate the shared use of spectrum.

(40) Interference is the effect of unwanted energy due to a single emission or a combination of multiple emissions, radiations or inductions on reception in a radio communications system, manifested by degradation of parameters, misinterpretation or loss of information that could have been preserved in the absence of such unwanted energy.

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<sup>7)</sup> Article 2 (a) of Government Order of the Slovak Republic No. 193/2016 Coll.

<sup>8)</sup> Article 4 of Decision No. 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ EC L 108, 24.04.2002; Special edition OJ EU, Chap. 13/Volume 29).

(41) Harmful interference means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with this Act, special regulations, international treaties and other international documents binding on the Slovak Republic.

(42) Small-area wireless access point means equipment, whose properties are specified by a special regulation<sup>9)</sup> and which allows wireless access by users to electronic communications networks regardless of the underlying network topology, be it mobile or fixed. Such equipment uses frequencies under an individual authorisation for the use of radio spectrum or under a general authorisation for the use of radio spectrum pursuant to this act or a combination thereof, may be part of public network, and is equipped with or more mini antennae.

(43) Radio local area network (RLAN) means low-power wireless access system, operating within a small range, with a low risk of interference with other such systems deployed in close proximity by other users, using, on a non-exclusive basis, harmonised radio spectrum.

(44) Interoperability means the setting of network or service transmission parameters, associated facilities and interfaces in such a way as to allow communication between end-users, or between an end-user and an undertaking providing a service, over technologically different networks.

### **Article 3**

For the purposes of this Act:

- a) undertaking means a person which provides networks or services on the basis of a general authorisation for the provision of networks or services pursuant to Article 8 (hereinafter referred to as “general authorisation”), a general authorisation for the use of radio spectrum pursuant to Article 34, an individual authorisation for the use of radio spectrum pursuant to Article 35 or an individual authorisation for the use of numbers pursuant to Article 55, with the exception of the entities referred to in Article 55(3).
- b) undertaking with significant market power means an undertaking, which, either individually or jointly with others, enjoys an economic position on the relevant market affording it the power to behave to an appreciable extent independently of competitors, end-users and consumers,<sup>10)</sup>
- c) micro undertaking means an entrepreneur,<sup>11)</sup> which employs fewer than 10 persons in an employment or similar relationship<sup>12)</sup> and whose annual turnover or annual balance sheet total does not exceed EUR 1 million; the number of employees, annual turnover and annual balance sheet total is determined pursuant to a special regulation,<sup>13)</sup>

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<sup>9)</sup> Commission Implementing Regulation (EU) 2020/1070 of 20 July 2020 on specifying the characteristics of small-area wireless access points pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972 of the European Parliament and the Council establishing the European Electronic Communications Code (OJ EU L 234, 21.7.2020).

<sup>10)</sup> Article 52 (4) of the Civil Code.

<sup>11)</sup> Article 2 (2) of the Commercial Code.

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

<sup>13)</sup> Article 2 (1) of Annex I to Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ EU L 187, 26.6.2014) as amended.

- d) small undertaking means an entrepreneur,<sup>10)</sup> which employs fewer than 20 persons in an employment or similar relationship<sup>11)</sup> and whose annual turnover or annual balance sheet total does not exceed EUR 2 million; the number of employees, annual turnover and annual balance sheet total is determined pursuant to a special regulation,<sup>12)</sup>
- e) security of networks and services means the ability of networks and services to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of those networks and services, of stored, transmitted or processed data, or of the related services offered by, or accessible via, those networks or services; network integrity means the functionality, operability of interconnected electronic communications networks and the protection of these networks from interference or operating load,
- f) security incident means an event having an actual adverse effect on the security of networks or services,
- g) network provider means an undertaking providing or entitled to provide a network or associated facilities,
- h) user means a person using or requesting a publicly available service,
- i) end-user means a user not providing public networks or publicly available services; in the case of radio and television programme services, the end-user includes the listener and the viewer,
- j) subscriber means an end-user who has entered into a contract for the provision of a publicly available service with an undertaking providing a publicly available service (hereinafter referred to as a “service contract”).

## **Part Two**

### **Regulation of electronic communications**

#### **Chapter One**

#### **Responsibilities of public authorities in the electronic communications sector**

#### **Article 4**

- (1) Public authorities in the electronic communications sector include
  - a) Ministry of Transport and Construction of the Slovak Republic (hereinafter referred to as the “Ministry of Transport”),
  - b) Regulatory Authority for Electronic Communications and Postal Services<sup>14)</sup> (hereinafter referred to as the “Authority”).
- (2) The Ministry of Transport
  - a) develops a draft national policy for electronic communications and other strategic materials in the electronic communications sector and submits them to the Government of the Slovak Republic (hereinafter referred to as the “Government”) for approval,

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<sup>14)</sup> Act No. 402/2013 Coll. on the Regulatory Authority for Electronic Communications and Postal Services and on the Transport Authority and on the amendment to certain acts as amended.



- b) develops a draft National Frequency Allocation Plan,
- c) cooperates with the European Commission, the Member States of the European Union and the States that are Contracting Parties to the Agreement on the European Economic Area (hereinafter referred to as “Member State”) in the strategic planning, coordination and harmonisation of the use of radio spectrum; to that end, it shall take into consideration, inter alia, the economic, safety, health, public interest, freedom of expression, cultural, scientific, social and technical aspects of Union policies, as well as the various interests of radio spectrum user communities, with the aim of optimising the use of radio spectrum and avoiding harmful interference,
- d) in cooperation with the European Commission and Member States, it promotes the coordination of radio spectrum policy approaches in the Union and, where appropriate, harmonised conditions with regard to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market in electronic communications,
- e) in cooperation with the National Security Authority<sup>15)</sup> and the Authority it fulfils, as an authority for a public regulated service, the function of the competent authority for the public regulated service,<sup>16)</sup> which is provided by the global satellite navigation system established within the Galileo programme,<sup>17)</sup> within the framework of which
1. it is the point of contact for reporting possible harmful interference affecting a public regulated service,
  2. on the basis of an application, it decides on granting, changing or withdrawing the access rights of users of a public regulated service with the registered office in the territory of the Slovak Republic or established in the territory of the Slovak Republic (hereinafter referred to as the “user of a public regulated service”) to the public regulated service; the proceedings for changing or withdrawing the rights may also be initiated by the authority for a public regulated service on its own initiative,
  3. on the basis of an application, it decides on granting, changing or withdrawing the access rights to a public regulated service to entities with the registered office in the territory of the Slovak Republic or established in the territory of the Slovak Republic, which are engaged in research, development, production of equipment and software for the public regulated service or export of such equipment and software outside the territory of the European Union (hereinafter referred to as the “entity with the right of access to a public regulated service”); the proceedings for changing or withdrawing the rights may also be initiated by the authority for a public regulated service on its own initiative,
  4. it associates users of a public regulated service and entities with the right of access to a public regulated service in user groups or user communities and approves their points of contact,
  5. it makes relevant documentation available to users of a public regulated service and entities with the right of access to a public regulated service, handles classified

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<sup>15)</sup> Article 70 (1) (f) of Act No. 215/2004 Coll. on the protection of classified information and on the amendment to certain acts as amended.

<sup>16)</sup> Article 45 (1) (d) of Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No. 912/2010, (EU) No. 1285/2013 and (EU) No. 377/2014 and Decision No. 541/2014/EU (OJ EU L 170, 12.5.2021).

<sup>17)</sup> Article 45 of Regulation (EU) No. 2021/696.

information<sup>18)</sup> related to the operation and use of the public regulated service and ensures their distribution to users of a public regulated service and entities with the right of access to a public regulated service, in accordance with a special regulation,<sup>19)</sup>

6. it controls compliance with the obligations, restrictions and conditions determined by this Act, generally binding legal regulations issued pursuant to this Act, a special regulation or an international treaty binding on the Slovak Republic,
7. it submits a report on compliance with the common minimum standards<sup>20)</sup> every three years to the European Commission and the European Global Navigation Satellite Systems Agency,
- f) it operates the Authority's technical infrastructure for the public regulated service,
- g) it ensures international relations in the electronic communications sector at the level of the European Union and international organisations,
- h) it provides funds for the payment of reasonable compensation of costs pursuant to Article 45(10),
- i) it gives approval for the operation of base stations of the public network and approves their operating rules in accordance with a special regulation.<sup>21)</sup>

(3) The Ministry of Transport shall lay down by a generally binding legal regulation the particulars of the application pursuant to paragraph 2(e), second and third subparagraphs, details of the conditions relating to access to and use of the public regulated service, the development and production of equipment for the operation and use of the public regulated service and the export of equipment and software for the public regulated service outside the territory of the European Union, in accordance with a special regulation.<sup>18)</sup>

(4) Information relating to the public regulated service shall not be made available pursuant to a special regulation<sup>22)</sup>.

(5) The Authority as the national regulator for the electronic communications sector

a) carries out

1. ex ante regulation of the electronic communications market to the extent necessary to ensure effective and sustainable competition in the interests of end-users and the development of the sector,
2. radio spectrum management to the extent pursuant to this Act,
3. geographical survey of network coverage of the territory,

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<sup>18)</sup> Act No. 215/2004 Coll. as amended.

<sup>19)</sup> Article 8 of Decision No 1104/2011/EU of the European Parliament and of the Council of 25 October 2011 on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme (OJ EU L 287, 4. 11. 2011).

<sup>20)</sup> E.g., Article 8 of Decision No 1104/2011/EU, Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU) (OJ EU L 274, 15. 10. 2013) as amended, Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ EU L 72, 17. 3. 2015).

<sup>21)</sup> Article 13 (4) (a) and (b) of Act No. 355/2007 Coll. on public health protection, support, and development and on the amendment to certain acts as amended.

<sup>22)</sup> Article 8 of Act No. 211/2000 Coll. on free access to information and on the amendment to certain acts (Act on Information Freedom) as amended.

4. management of numbers, drawing up and issuing a numbering plan and issuing and withdrawing individual authorisations for the use of numbers,
  5. activities and issues decisions in matters of open access to the internet and roaming on mobile networks in accordance with special regulations,<sup>23)</sup>
  6. activities in the field of radio spectrum for broadcasting and retransmission and digital broadcasting in the scope pursuant to a special regulation,<sup>24)</sup>
  7. state supervision over the fulfilment of the obligations laid down by this Act and special regulations<sup>21)</sup> (hereinafter referred to as “supervision”),
- b) imposes access and interconnection obligations under this Act,
- c) adjudicates disputes
1. between undertakings or persons benefiting from access or interconnection,
  2. between undertakings, between undertakings and network operators or owners of physical infrastructure pursuant to Article 30, relating to
    - 2a. access to the existing physical infrastructure,
    - 2b. providing information on the availability of physical infrastructure,
    - 2c. coordination of construction,
    - 2d. providing information on planned constructions,
    - 2e. access to physical infrastructure in buildings,
    - 2f. the preparation of the construction of networks and the construction of networks,
- d) ensures the peer review process according to Article 37,
- e) cooperates with the Ministry of Transport in
1. developing a draft National Frequency Allocation Plan,
  2. exercising the function of the competent authority for the public regulated service under paragraph 2(e)(6) where harmful interference is involved,
- f) issues
1. general authorisations,
  2. radio interface specifications<sup>25)</sup> pursuant to Article 2(5)(b) and publishes them on its website,
  3. decisions in matters of open access to the internet and roaming on mobile networks in accordance with special regulations,<sup>22)</sup>
- g) determines administrative charges (Article 13),
- h) fulfils tasks

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<sup>23)</sup> Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (recast) (OJ EU L 172, 30.6.2012) as amended. Regulation (EU) No. 2015/2120 as amended

<sup>24)</sup> E.g., Article 68 of Act No. 308/2000 Coll. as amended.

<sup>25)</sup> Government Order of the Slovak Republic No. 193/2016 Coll. as amended by Government Order of the Slovak Republic No. 332/2019 Coll.

1. related to the provision of universal service (Article 96), including the determination of the scope of universal service,
  2. of a single information point (Article 25 (3)),
  3. related to a reasonable compensation of costs pursuant to Article 45,
  4. related to the restriction of property right to real estate to the use of real estate for the purpose of providing services, as well as tasks related to the restriction of ownership of movable property by restricting or prohibiting the use of broadcast telecommunications equipment and circuits at the time of war and state of war,<sup>26)</sup>
  5. in the field of security and integrity of networks and services within the scope of this Act,
  6. in the field of protection of privacy in electronic communications within the scope of this Act,
  7. in the resolution of cross-border disputes between undertakings under this Act and undertakings from other Member States,
- i) protects interests
1. end-users pursuant to this Act,
  2. end-users as regards the quality and price of the service according to special regulations,<sup>22)</sup>
- j) conducts alternative dispute resolution and out-of-court dispute resolution,
- k) monitors and assesses the state and development of the market and competition in the electronic communications sector,<sup>27)</sup>
- l) carries out the certification of the monitoring mechanism according to a special regulation,<sup>28)</sup>
- m) imposes sanctions pursuant to this Act,
- n) ensures international relations in the electronic communications sector at the level of national regulatory authorities, actively participates in the activities of the Body of European Regulators for Electronic Communications,<sup>29)</sup> (hereinafter referred to as the “Body of European Regulators”) and supports its objectives of promoting greater coordination and consistency in regulation,
- o) recognises the professional qualification for the operation of selected radio equipment,
- p) issue a certificate or opinion for the purposes of proceedings under a special regulation,<sup>30)</sup>
- q) issues the Journal of the Regulatory Authority for Electronic Communications and Postal Services (hereinafter referred to as the “Journal”).

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<sup>26)</sup> Article 2 (3) and Article 3 (3) of Constitutional Act No. 227/2002 Coll. on state security at the time of war, state of war, state of emergency and state of crisis as amended by Constitutional Act No. 181/2006 Coll.

<sup>27)</sup> Regulation (EU) No. 2015/2120 as amended.

<sup>28)</sup> Article 4 (4) of Regulation (EU) No. 2015/2120 as amended.

<sup>29)</sup> Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ EU L321, 17.12.2018).

<sup>30)</sup> Act No. 201/2022 Coll. as amended by Act No. 205/2023 Coll.

## **Article 5**

### **Cooperation of the Authority with other authorities, bodies and operators**

- (1) The Authority cooperates in particular with
- a) the Ministry of Transport,
  - b) the Council for Broadcasting and Retransmission in the field of broadcasting and retransmission,
  - c) the Antimonopoly Office of the Slovak Republic on the identification of relevant markets in the electronic communications sector (hereinafter referred to as the “relevant market”), the analysis of relevant markets and the identification of an undertaking with significant market power on the relevant market,
  - d) the Ministry of Investments, Regional Development and Informatization of the Slovak Republic,
  - e) the Office for Personal Data Protection of the Slovak Republic,
  - f) operators of special networks in the coordination and management of spectrum use,
  - g) the Slovak Trade Inspection if the Authority finds that the equipment does not meet the technical requirements under special regulations pursuant to Article 122(7),
  - h) the Regulatory Office for Network Industries,<sup>31)</sup> the Transport Authority,<sup>32)</sup> the Authority for Spatial Planning and Construction of the Slovak Republic, building authorities, special building authorities<sup>33)</sup> and district offices in the seat of the region (hereinafter referred to as “the authority concerned”) in resolving disputes related to access to existing physical infrastructure, the provision of information on the availability of physical infrastructure, the coordination of construction, the provision of information on planned constructions and access to physical infrastructure in buildings,
  - i) the competent authorities designated by the Member States of the European Union as responsible for the enforcement of legislation for the protection of consumer rights, with the Ministry of Economy of the Slovak Republic as the Single Liaison Office and with the European Commission, if this cooperation concerns unsolicited communication pursuant to Article 116, in accordance with a special regulation,<sup>34)</sup>
  - j) the European Commission, the Body of European Regulators and the national regulatory authorities of other Member States in ensuring the uniform application of the legally binding acts of the European Union listed in Annex 1,
  - k) the Ministry of Interior of the Slovak Republic (hereinafter referred to as “the Ministry of the Interior”) in the field of emergency communication and eCall,
  - l) the European Parliament and the Council, upon request, to promote strategic planning and coordination of approaches to radio spectrum policy,
  - m) other national regulatory authorities of the Member States in order to coordinate the use of harmonised radio spectrum,

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<sup>31)</sup> Act No. 250/2012 on regulation in network industries as amended.

<sup>32)</sup> Articles 8 to 11 of Act No. 402/2013 Coll. as amended.

<sup>33)</sup> Article 6 of Act No. 201/2022 Coll. on construction as amended by Act No. 205/2023 Coll.

<sup>34)</sup> Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004 (OJ EU L 345, 27.12.2017) as amended.

n) other Member States and the European Commission in coordinating approaches and proposals for harmonised conditions for the availability and efficient use of spectrum where they have an impact on the establishment and functioning of the electronic communications market.

(2) In exercising the competence of the Authority defined by this Act and the competence of the Antimonopoly Office of the Slovak Republic established by a special regulation,<sup>35)</sup> the authorities exchange information and documents necessary for their activities, unless this is excluded by the nature of the matter or by a special regulation.<sup>36)</sup> In the case of an exchange of information marked as confidential or as the subject of business secret,<sup>37)</sup> the receiving authority shall ensure the same level of confidentiality as the authority supplying the information.

(3) In exercising the competence of the Authority defined by this Act, the competence of the National Security Authority established by a special regulation<sup>38)</sup> and the competence of Military Intelligence,<sup>39)</sup> these authorities exchange information and documents relevant to ensuring cybersecurity to the extent and in the manner established on the basis of concluded cooperation agreements. The cooperation agreement concluded between the Authority and the National Security Authority shall also regulate the details of the Authority's access to the unified cybersecurity information system.<sup>40)</sup>

(4) In exercising the competence of the Authority defined by this Act and the competence of the Office for Personal Data Protection of the Slovak Republic established by a special regulation,<sup>41)</sup> these authorities exchange all information and documents necessary for the exercise of their activities and powers pursuant to special regulations.

(5) The Authority, within the scope of its competence under this Act, may cooperate with other public authorities, undertakings, consumer associations and end-users in order to create a tool to improve the quality of the services provided.

(6) The Authority, within the scope of its competence under this Act, may cooperate with other public authorities and undertakings, as well as other persons, in order to bring the content disseminated through the network or service into compliance with generally binding legal regulations.

(7) Where within the mutual cooperation, information is exchanged between the Authority and other public authorities, undertakings, consumer associations, end-users and others, the

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<sup>35)</sup> Act No. 187/2021 Coll. on protection of competition and on the amendment to certain acts.

<sup>36)</sup> E.g., Act No. 187/2021 Coll., Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ EC L 1, 4.1.2003, Special edition OJ EC, Chap. 8/Volume 2) as amended.

<sup>37)</sup> Articles 17 to 20 of the Commercial Code.

<sup>38)</sup> Act No. 69/2018 Coll. on cybersecurity and on the amendment to certain acts as amended.

<sup>39)</sup> Act of the National Council of the Slovak Republic No. 198/1994 Coll. on Military Intelligence as amended.

<sup>40)</sup> Article 8 of Act No. 69/2018 Coll. as amended by Act No. 287/2021 Coll.

<sup>41)</sup> Act No. 18/2018 Coll. on personal data protection and on the amendment to certain acts as amended by Act No. 221/2019 Coll.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 4. 5. 2016).

receiving entity shall ensure the same level of confidentiality as the entity providing the information.

## **Article 6**

(1) Employees of the Authority are obliged to observe secrecy with regard to the facts constituting the subject-matter of business secret with which they have become acquainted in the course of or in connection with the performance of their activities. Employees of the Authority may be exempted from the obligation of secrecy by the person in whose interests they have the obligation.

(2) Where an undertaking or a natural person or a legal person who perform obligations under this Act has provided the Authority with information designated as business secret, they shall, upon request, provide the Authority with a written justification for the designation of the information as business secret and shall provide a version of the information that does not contain any business secret. Information which is the subject of business secret must be protected by the Authority by technical means, depending on the form in which the information is disclosed or made available to the Authority.

(3) The Authority shall provide the European Commission and the Body of European Regulators, upon reasoned request, with the information required by the European Commission or the Body of European Regulators for the performance of their tasks. Where the Authority provides the European Commission with information previously provided to it by an undertaking at its request, the Authority shall notify the undertaking of that fact. The information collected by the Authority shall be publicly available, except for information which is the subject of business secret or classified information.

(4) If the Authority provides the European Commission with information which the undertaking has identified as being the subject of business secret, it shall request the European Commission to ensure confidentiality.

(5) Where information is requested pursuant to a special regulation,<sup>42)</sup> which is subject to an obligation of secrecy, the obliged person<sup>43)</sup> shall not disclose it with reference to the provision of paragraph 1.

## **Article 7** **Regulation principles**

In pursuit of the objectives of this Act, the Authority shall

a) promote regulatory predictability by ensuring a consistent regulatory approach to regulated entities pursuant to this Act and through cooperation with the Body of European Regulators, the Radio Spectrum Policy Group,<sup>44)</sup> ENISA<sup>45)</sup> and with the European Commission,

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<sup>42)</sup> Act No. 211/2000 Coll. as amended.

<sup>43)</sup> Article 2 of Act No. 211/2000 Coll. as amended.

<sup>44)</sup> Commission Decision of 11 June 2019 setting up the Radio Spectrum Policy Group and repealing Decision 2002/622/EC (OJ EU C196, 12.6.2019).

<sup>45)</sup> Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act) (OJ EU L 151, 7.6.2019).

- b) ensure that there is no discrimination in the treatment of providers of networks and services,
- c) apply the principle of technological neutrality, unless this Act or a special regulation<sup>26)</sup> provides otherwise,
- d) in any access obligation, take appropriate account of the risk incurred by the investing undertakings and permit various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, while ensuring that competition on the market and the principle of non-discrimination are preserved,
- e) take due account of the variety of conditions relating to infrastructure, competition, the circumstances of end-users and, in particular, consumers in the various geographic areas, including the infrastructure managed by natural persons on a not-for-profit basis,
- f) publish all its decisions, general binding legal regulations and information that will contribute to an open and functionally competitive market in a comprehensible, easily accessible form on its website and, where provided for in this Act, in the Journal, and keep this information up to date.

## **Chapter Two**

### **Authorisation for the provision of networks or services**

#### **Article 8**

#### **General authorisation**

- (1) General authorisation specifies conditions related to the provision of networks or services, other than number-independent interpersonal communications services.
- (2) The provision of networks or services may be subject only to a general authorisation; the duties imposed pursuant to Article 34, Article 35, Article 55, Articles 58 to 60, Articles 66 and 81 shall not be affected. Where the provision of a network or service requires the grant of an individual right to use frequencies or an individual right to use numbers, the undertaking shall apply for the grant of those rights pursuant to Article 35 or pursuant to Article 55.
- (3) The general authorisation may contain only
  - a) general conditions concerning
    - 1. administrative charges,
    - 2. personal data and privacy protection specific to the electronic communications sector,
    - 3. notification requirement pursuant to Article 10 and obligation to provide information pursuant to Articles 15 and 16,
    - 4. enabling of network traffic interception and recording,
    - 5. provision of communication from public authorities to the general public for warning the public of imminent threats and for mitigating the consequences of emergency events,
    - 6. the preparation of networks and services for the period of a crisis situation to ensure communication between crisis management authorities and rescue components of the integrated rescue system,
    - 7. access obligations other than those provided for in Articles 56 to 60,



8. ensuring compliance with technical standards and technical specifications for networks and services,
  9. the disclosure of information by providers of networks providing publicly available services to ensure end-to-end connectivity, in accordance with the objectives and principles set out in Articles 1 and 7, and, where necessary and proportionate, access by competent authorities to such information needed to verify the accuracy of such disclosure,
- b) conditions associated with the provision of networks concerning
1. interconnection of networks,
  2. measures for the protection of public health against electromagnetic fields caused by the provision of networks and operation of their equipment which is a source of electromagnetic radiation,
  3. maintenance of the integrity of public networks in accordance with conditions to prevent electromagnetic interference between networks or services pursuant to special regulations,<sup>46)</sup>
  4. security of public networks against unauthorised access,
  5. efficient use of radio spectrum and the avoidance of harmful interference associated with the use of frequencies, where such use is not made subject to the granting of individual rights of use,
- c) conditions which may be attached to the provision of services, except number-independent interpersonal communications services concerning
1. interoperability of services,
  2. accessibility by end-users of numbers from the national numbering plan, numbers from the Universal International Freephone Numbers and, where technically and economically feasible, from numbering plans of other Member States, and conditions of their use,
  3. rules of consumer protection in the electronic communications sector within the scope of this Act.

## **Article 9**

(1) The draft general authorisation shall be published by the Authority at least 60 days before the date on which it is expected to be promulgated, together with an invitation to submit comments and information on the place, manner and time limit for submitting comments; this time limit shall not be less than 30 days from the date of publication of the draft. The Authority will evaluate and publish the comments submitted.

(2) The Authority shall issue the general authorisation and publish it in the Journal. The general authorisation shall come into effect on the date of promulgation unless it contains a later date of coming into effect. In establishing the effect of a general authorisation, the Authority shall take into account that there is a reasonable period of time between the promulgation of the

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<sup>46)</sup> Government Order of the Slovak Republic No. 127/2016 Coll. on electromagnetic compatibility as amended by Government Order of the Slovak Republic No. 331/2019 Coll.  
Government Order of the Slovak Republic No. 193/2016 Coll. as amended by Government Order of the Slovak Republic No. 332/2019 Coll.

general authorisation and its entry into effect, so that its contents may be brought to the attention of all those to whom it is addressed and appropriate measures, if required, may be taken.

(3) Paragraphs 1 and 2 shall also be applied accordingly to a change of cancellation of the general authorisation. When modifying a general authorisation, the Authority shall justify the proposed changes.

(4) A correction to the text of a general authorisation which has been published in the Journal shall be made by notification of the correction of the error. The error correction notification shall be identified by a serial number which shall be consecutive to the serial number of the general authorisation.

## **Article 10**

### **Notification requirement**

(1) A person wishing to provide public networks or services covered by a general authorisation shall notify the Authority of that intention in writing at least 15 days before the commencement of the provision of the networks or services. The date of commencement of the provision of the network or service shall be deemed to be the date specified in the notification referred to in paragraph 2 or any amendment thereto as the expected date of commencement of the provision of the network or service, unless a different date of commencement of the provision of the network or service can be demonstrated.

(2) The notification referred to in paragraph 1 shall include

a) identification data within the following scope

1. name and surname, identification number or tax identification number, if assigned, if a natural person is concerned,
2. business name, company identification number or equivalent registration number assigned in another Member State and the legal form if a legal person is concerned,
3. business name, company identification number, if assigned, or equivalent registration number assigned in another Member State if a natural person - entrepreneur is concerned,

b) the postal address of the registered office of the network or service provider in the European Union, and the address of its organisational unit in the Slovak Republic, if it has such an organisational unit,

c) the person or persons authorised to act on behalf of the natural or legal person in relation to the notification requirement and the contact details of that person or persons,

d) a brief description of the networks and services it wants to provide,

e) a website, if established and if related to the provision of networks or services,

f) the expected date of commencement of the provision of the network or service.

(3) On receipt of a complete notification, the Authority shall register the notifier; if the notification is incomplete, the Authority shall invite the notifier to complete or correct the notification and shall set a reasonable time limit for completion or correction. The Authority shall process and keep a record of information from complete notifications, which it shall publish on its website within seven days of receipt, completion or correction of the notification. The information published by the Authority pursuant to the preceding sentence shall include

the date notified to the Authority as the date of commencement of the provision of the network or service, as well as any change thereto. If the notifier so requests, the Authority shall, within seven days from the date of receipt of the request, confirm to the notifier that the notification requirement has been complied with. The Authority shall include in the confirmation of compliance with the notification requirement information relating to the rights under Article 8 (2), Articles 21 and 57.

(4) The Authority shall, without undue delay, send any complete, supplemented, corrected or updated notification by electronic means to the Body of European Regulators.

(5) The person who submitted the notification in accordance with paragraph 1 shall notify the Authority in writing of any change to the data referred to in paragraph 2 and the date of termination of the provision of networks or services within seven days of the date of the change to the data or the termination of the provision of networks or services.

(6) The Authority shall delete the undertaking from the record referred to in paragraph 3 on the date

- a) of the entry into force of a decision of the Authority prohibiting an undertaking from providing networks or services,
- b) of the dissolution of a company in the event of the death of a natural person or the dissolution of a legal person,
- c) specified in the notice of termination of all networks or services, but not earlier than the date of receipt of the notice of termination of all networks or services.

(7) Where a person who has been prohibited by the Authority wishes to resume the provision of networks or services after the expiry of the period specified in the prohibition decision, they shall again comply with the notification requirement under paragraphs 1 and 2.

## **Article 11**

(1) An undertaking subject to a general authorisation shall have the right to

- a) provide networks or services,
- b) use radio spectrum under an individual authorisation for the use of radio spectrum or under a general authorisation for the use of radio spectrum,
- c) use numbers under an individual authorisation for the use of numbers.

(2) Undertakings providing networks or publicly available services shall have the right to

- a) negotiate access and interconnection with other undertakings, or gain access or interconnection,
- b) apply for providing an universal service.

## **Article 12**

### **Establishment and operation of special networks**

(1) A special network is established and operated for military purposes only for a designated circle of persons; a special network is not a public network. A special network operating on frequencies which are defined in the National Frequency Allocation Plan for radio

communications services for military purposes shall not be subject to regulation or supervision by the Authority under this Act; this shall not apply where interference under Article 108 is involved.

(2) The right to establish and operate special networks is vested in the Ministry of Defence of the Slovak Republic (hereinafter referred to as the “Ministry of Defence”), the Ministry of Interior, the National Security Authority and the Slovak Information Service.

(3) The use of the frequency spectrum defined in the National Frequency Allocation Plan for military purposes shall be planned by the Ministry of Defence; the military purpose under this Act is to ensure the defence of the State, the security of the State, the protection of public order, life, public health and property.

(4) Operators of special networks shall not provide publicly available services or allow the provision of such services over special networks to third parties. This provision shall not apply to the Ministry of Interior, which, for the purposes of national security, may provide publicly available services free of charge or enable the provision of such services through special networks to third parties.

(5) The connection of a special network to a public network shall be carried out, if it is in the essential interest of the State, at the request of the operator of the special network. The operator of the public network is obliged to comply with a request containing the legal provision on the basis of which the connection is requested, if technically feasible.

(6) Special networks and their telecommunications equipment shall be accordingly subject to the regulation for networks and telecommunications equipment of the undertaking referred to in Articles 21 to 23.

### **Article 13**

#### **Administrative charges**

(1) For the purposes of this Act, administrative charges mean the charges specified by the Authority

- a) based on a general authorisation and a general authorisation for the use of radio spectrum pursuant to Article 34,
- b) for the right to use numbers under an individual authorisation for the use of numbers pursuant to Article 55,
- c) for the right to use frequencies under an individual authorisation for the use of radio spectrum pursuant to Article 35,
- d) through a generally binding legal regulation pursuant to Article 47 (3) and Article 55 (15).

(2) In determining the amount of administrative charges for the right to use numbers or for the right to use radio spectrum, the Authority shall take into account the need to guarantee the optimal use of these resources.

(3) In determining the amount of administrative charges for the right to use radio spectrum, the Authority shall also take into account the amount of costs resulting from the rights and obligations specified in the individual authorisation for the use of radio spectrum pursuant to Article 47(4).

(4) The Authority shall publish its budget no later than 60 days after the entry into effect of the State Budget Act for the relevant financial year. The Authority shall publish the manner and method of determining administrative charges, an annual overview of its expenditure, the total amount of administrative charges collected, the amounts collected from individual types of administrative charges, as well as a report on the state of the electronic communications market, on decisions issued by the Authority, on the number and composition of the Authority's staff, and on the planned activities of the Authority in the following financial year. The revenue of the Authority from administrative charges is revenue of the State budget.

(5) The obligation to pay administrative charges pursuant to paragraph 1 shall not apply to public authorities.

## **Article 14**

(1) An undertaking providing a public network or a publicly available service which has special or exclusive rights to provide services in other sectors in the Slovak Republic or in another Member State shall

- a) keep separate accounts for network or service provision activities to the extent that would be required if those activities were carried out by legally independent entities and identify all items of costs, revenues and fixed assets that relate to the provision of networks or services, including how they are calculated, the methods of allocating them and a detailed breakdown of fixed assets and costs; or
- b) structurally separate the provision of public networks or publicly available services from other activities.

(2) The obligations under paragraph 1 shall not apply to an undertaking whose annual turnover from the provision of networks and services within the European Union is less than EUR 50 million. The turnover under the preceding sentence does not include the turnover of the undertaking from the provision of services and networks in other sectors in the Slovak Republic or in another Member State.

(3) Where an undertaking providing public networks or publicly available services is not a business company<sup>47)</sup> and does not meet the criteria of the definition of a small or medium-sized enterprise, it shall prepare financial reports, submit them to an independent financial audit<sup>48)</sup> and publish them in the registry of financial statements,<sup>49)</sup> and the Authority shall be entitled to examine the accounting documents and to make the result of the examination publicly available. The undertaking referred to in the first sentence shall be subject to the obligation under paragraph 1(a).

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<sup>47)</sup> Articles 56 to 260 of the Commercial Code.

<sup>48)</sup> Article 19 of Act No. 431/2002 Coll. on accounting as amended.

Act No. 423/2015 Coll. on statutory audit and on the amendment to Act No. 431/2002 Coll. on accounting as amended.

<sup>49)</sup> Article 23 of Act No. 431/2002 Coll. as amended.

## **Obligation to provide information**

### **Article 15**

(1) An undertaking shall, upon request by the Authority or the Body of European Regulators, provide, free of charge and electronically, all information and documents relating to rights and obligations arising from this Act, a special regulation<sup>28)</sup> or from decisions issued pursuant to this Act or a special regulation, including financial information, to the extent requested, in an accessible electronic format and within a reasonable period of time determined by the Authority. The request for information must be in writing and justified by the need to perform tasks under this Act and special regulations. The information referred to in the first sentence shall also include information on the future development of networks or services which could have an impact on the wholesale services provided, as well as information on electronic communications networks and associated facilities in sufficient detail to enable a geographical survey to be carried out pursuant to Article 31 and geographical areas to be identified pursuant to Article 31(5), and also information requested by the Authority or another public authority where necessary for the performance of its tasks.

(2) Undertakings designated as having significant market power on wholesale markets are also required to provide information on retail markets that are related to those wholesale markets upon a reasoned request to the Authority.

(3) Where the information obtained pursuant to paragraph 1 is not sufficient to fulfil the purpose for which it was requested, the Authority or the Body of European Regulators may also request it, in accordance with the procedure referred to in paragraph 1, from other natural and legal persons active in the electronic communications sector or in other areas closely related to the electronic communications sector.

(4) The Authority is obliged to provide the information provided on request to the competent authority in another Member State or to a Body of European Regulators. The request for information shall be in writing, proportionate to the performance of the task in question and justified by the need to carry out the tasks of that authority.

(5) The Authority is obliged to provide, on the basis of a written request from the European Commission, information which the European Commission needs for the performance of its tasks under an international treaty binding on the Slovak Republic.<sup>50)</sup> Where the Authority has disclosed information pursuant to the first sentence to the European Commission, it shall request the European Commission to maintain the confidentiality of the information provided and not to disclose it further.

(6) The Authority and other competent authorities shall ensure the confidentiality of the subject-matter of business secrets; the procedure under paragraphs 4 and 5 shall be without prejudice thereto.

(7) The Authority may publish on its website information obtained pursuant to paragraphs (1) to (3) if it contributes to an open and competitive market, except for information that is the

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<sup>50)</sup> Treaty on the Functioning of the European Union (OJ EC C 202, 7.6.2016).

subject of business secret, personal data,<sup>40)</sup> classified information, sensitive information<sup>51)</sup> or sensitive critical infrastructure information.<sup>52)</sup>

(8) A natural person or a legal person that performs obligations under this Act and is not an undertaking shall be obliged to provide, free of charge, upon the request of the Authority, all information and documents relating to the performance of its obligations under this Act, a special regulation<sup>53)</sup> or decisions issued pursuant to this Act or a special regulation, including financial information, to the extent requested, in the form and within the time limit specified by the Authority. The Authority may also request information and documents pursuant to the preceding sentence in connection with the receipt of a complaint concerning the fulfilment of the obligations and conditions which it supervises pursuant to Article 122(4). The Authority's request for information must be in writing and justified by the need to perform tasks under this Act and special regulations.

## Article 16

(1) An undertaking, a holder of an individual authorisation for the use of radio spectrum, a holder of an individual authorisation for the use of numbers, an applicant for an individual authorisation for the use of radio spectrum and an applicant for an individual authorisation for the use of numbers, shall be obliged, on the basis of a reasoned request of the Authority, which shall include information on the purpose for which the requested information is to be used, to submit information to the extent specified in the request, in an electronically accessible format and within a reasonable period of time specified by the Authority, which is reasonable and objectively necessary for

- a) verifying compliance with the conditions pursuant to Article 13, Article 34, Article 35, Article 47, Article 55, Article 88, Article 101 to Article 103 and compliance with the obligations imposed pursuant to Article 66(1),
- b) verifying compliance with the conditions of the general authorisation on receipt of a suggestion or complaint, a proposal for dispute resolution, or on the Authority's own initiative in the course of a fact-finding exercise,
- c) assessing an application for an authorisation for the use of numbers or application for an authorisation for the use of radio spectrum,
- d) publishing reports on service quality and prices for the benefit of end-users,
- e) the collection of statistical data or for the production of reports or studies,
- f) conducting price regulation and market analysis, including data on downstream markets or retail markets related to the markets that are the subject of the market analysis,
- g) ensuring efficient use and management of spectrum and numbering resources,
- h) evaluating future network or service developments that could have an impact on wholesale services made available to other undertakings, on territorial coverage, on connectivity offered to end-users or on the designation of geographic areas pursuant to Article 31,

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<sup>51)</sup> Article 3 (16) and (17) of Act No. 541/2004 Coll. on peaceful use of nuclear energy (Atomic Act) and on the amendment to certain acts as amended.

<sup>52)</sup> Article 2 (k) of Act No. 45/2011 Coll. on critical infrastructure.

<sup>53)</sup> E.g., Act No. 220/2007 Coll. on digital broadcasting of programme services and provision of other content services through digital transmission and on the amendment to certain acts (Act on Digital Broadcasting) as amended.

- i) conducting geographical surveys pursuant to Article 31,
- j) monitoring the electronic communications market,
- k) responding to reasoned requests for information from the Body of European Regulators,
- l) the calculation of turnover pursuant to Article 124(6).

(2) Where the information and the information requested pursuant to paragraph 1 is personal data, the obliged entity pursuant to paragraph 1 shall only provide the data in an anonymised form.

(3) The information referred to in subparagraphs (a), (b) and (d) to (k) of paragraph 1 may be requested only from an entity which is an undertaking.

(4) In the case of rights to use radio spectrum, the information referred to in paragraph 1 shall relate in particular to the efficient and effective use of the spectrum as well as compliance with the coverage and quality of service requirements associated with the rights to use radio spectrum.

(5) The Authority may not re-request information from the entities referred to in paragraph 1 which has previously been requested by the Body of European Regulators if the Body of European Regulators has provided the information obtained to the Authority.

## **Article 17**

### **Public consultations**

(1) Before adopting a measure which will have a significant effect on a relevant market or a restriction pursuant to Article 32(2) and (3) which will have a significant effect on a relevant market, or where this Act so provides, except for measures adopted pursuant to Articles 128 and 129, the Authority shall give the persons concerned an opportunity to comment on the proposal for that measure or restriction. The period for comments shall be 30 days from the date of publication of the draft measure or restriction; in complex cases, the period may be extended to a maximum of 60 days. The Authority shall publish the draft measure or restriction in a form or manner that enables end-users with disabilities to comment on the draft measure or restriction.

(2) Where a draft measure is consulted on pursuant to paragraph 1 in the context of a selection procedure for the assignment of radio spectrum (hereinafter referred to as the “selection procedure”), the Authority shall inform the Radio Spectrum Policy Group of that draft measure at the same time as it is published on the consultation site referred to in paragraph 4.

(3) The Authority shall take due account of the opinions of end-users, in particular consumers and end-users with disabilities, producers and undertakings, exercised in relation to the rights of end-users and consumers, including the right to equal treatment and choice for end-users with disabilities in the provision of publicly available services, in particular where they have a significant market power.

(4) The Authority shall establish and maintain a consultation site on its website for the purpose of consultation. At the same time, the Authority shall publish on its website the rules governing the consultation procedure between the Authority and the persons concerned. The Authority shall take due account of and evaluate all opinions expressed in the consultation. Proposals for



measures and restrictions pursuant to paragraph 1, the comments submitted, except for information marked as being the subject matter of business secret, and the results of the consultation, including an evaluation of the comments, shall be published by the Authority on the consultation site.

(5) The Authority shall publish the results of the consultation, including an evaluation of the comments, on the consultation site within three months of the expiry of the period for comments referred to in paragraph 1.

## **Article 18**

### **Transnational consultations**

(1) Where a draft measure issued by the Authority will affect trade between Member States, the Authority shall, after publication of the results of the public consultation, make the draft measure, with the reasons therefore, available to the European Commission, the Body of European Regulators and the national regulatory authorities of the Member States in accordance with Article 6, where the measure relates to

- a) the imposition of network interconnection and access obligations pursuant to Articles 58 and 59,
- b) the three criteria test under Article 62,
- c) an analysis of the relevant market, including the definition of the relevant market in substantive and geographic terms and the proposed obligations if the Authority concludes that an undertaking with significant market power is active on the market,
- d) price regulation pursuant to Articles 73 and 81.

(2) The national regulatory authorities of the Member States, the Body of European Regulators and the European Commission may submit comments on the draft measure referred to in paragraph 1 to the Authority within one month of the date on which the draft measure is made available to the European Commission, the Body of European Regulators and the national regulatory authorities of the Member States.

(3) If the European Commission issues a decision that the Authority may adopt the proposed measure, the Authority shall issue a final measure, taking into account the comments submitted pursuant to paragraph 2.

(4) The Authority shall not, for a period of two months following the date of receipt of a statement from the European Commission expressing the view that the adoption of the proposed measure would create a barrier to the internal market or expressing serious reservations as to its compatibility with European Union law, in particular the objectives referred to in Article 1, adopt a measure proposed pursuant to paragraph 1 which relates to

- a) the three criteria test or
- b) the definition of the market in the analysis, the assessment of the state of competition, the conclusions of the analysis or the identification of the undertaking with significant market power.

(5) If the European Commission issues a decision within two months requiring the Authority to withdraw a draft measure pursuant to paragraph 4, the Authority shall amend or withdraw the draft measure within six months of receipt of the European Commission's decision. The

Authority shall carry out a public consultation and a transnational consultation on the amended draft measure.

(6) If the European Commission expresses the opinion that the adoption of a draft measure concerning the imposition, modification or abolition of network interconnection and access obligations pursuant to Articles 58 and 59 or of obligations proposed for an undertaking with significant market power would constitute a barrier to the internal market, or expresses serious reservations as to its compatibility with European Union law, the Authority may not adopt the proposed measure for the next three months from the date of receipt of the European Commission's statement pursuant to this paragraph.

(7) During the three-month period referred to in paragraph 6, the Authority shall cooperate with the European Commission and the Body of European Regulators on the draft measure, taking into account the views of market players.

(8) Before the expiry of the three-month period referred to in paragraph 6, the Authority may  
a) withdraw or amend its draft measure, taking into account the observations of the European Commission pursuant to paragraph 6 and the opinion of the Body of European Regulators; or  
b) leave the draft measure unchanged.

(9) If, within one month of the expiry of the three-month period referred to in paragraph 6, the European Commission issues a recommendation requesting the Authority to amend or withdraw the draft measure, the Authority shall, within one month of the European Commission's recommendation, notify the European Commission and the Body of European Regulators of the final text of the measure taken. If there is a need for public consultation and transnational consultation, this period may be extended. If, despite the recommendation issued by the European Commission, the Authority maintains the proposed measure unchanged, it shall notify the European Commission of the final text of the measure pursuant to paragraph 8, together with the reasons for its decision.

(10) If the European Commission adopts a decision to withdraw its reservations, the Authority shall notify the European Commission and the Body of European Regulators of the final text of the measure taken within one month of the European Commission's decision.

(11) Where, within one month of the expiry of the three-month period referred to in paragraph 6, the European Commission adopts a decision requiring the Authority to withdraw a draft measure relating to Article 59 or Article 78(5) and the Body of European Regulators agrees with the reservations of the European Commission, the Authority shall take into account the reasoning of the decision of the European Commission. The Authority shall carry out a public consultation and a transnational consultation on the amended draft measure.

(12) The Authority may withdraw a draft measure according to paragraph 1 at any time.

(13) The Authority shall notify the European Commission and the Body of European Regulators of any final measures taken pursuant to paragraph 1.

(14) Where, in exceptional cases, it is necessary to act in order to protect competition and the interests of users, the Authority shall issue an appropriate interim measure without delay and the procedure in paragraphs 1, 4 and 6 shall not apply. The Authority shall immediately notify the provisional measure, together with the reasons for it, to the European Commission, the Body

of European Regulators and the national regulatory authorities of the Member States. Paragraphs 1, 4 and 6 shall apply to a decision of the Authority converting an interim measure into a decision on the merits or extending its effectiveness.

## **Article 19**

### **Harmonisation procedures**

(1) The Authority shall take the utmost account of recommendations adopted by the European Commission, which the European Commission shall issue and make public if it finds that regulatory measures implemented by the Authority or a competent authority under this Act are likely to create barriers to the internal market.

(2) If the Authority does not take into account the recommendation of the European Commission pursuant to paragraph 1, it shall inform the European Commission thereof, together with a statement of its reasons.

## **Article 20**

### **Standardisation**

(1) In regulating electronic communications, the Authority shall take into account technical standards and technical specifications for networks and services, the list of which is published in the Official Journal of the European Union, where necessary to ensure interoperability of services, connectivity between network termination points, the connection of equipment for interception and recording of network traffic pursuant to Article 117(15)(b), to facilitate provider switching and portability of numbers and identifiers, and to improve the freedom of choice for end-users.

(2) Where technical standards and technical specifications are not published in the Official Journal of the European Union in the list of non-binding technical standards and technical specifications, the technical standards or technical specifications adopted by the European standardisation organisations shall be used.

(3) In the absence of technical standards and technical specifications pursuant to paragraph 2, international standards or recommendations adopted by the International Telecommunication Union, the European Conference of Postal and Telecommunications Administrations, the International Organisation for Standardisation, the International Electrotechnical Commission or the Internet Engineering Task Force shall be used.

(4) The undertaking shall publish on its website the technical specifications of the offered interfaces of the public networks to which the terminal equipment connects, no later than 15 days before the interfaces are put into operation.

## **Chapter Three**

### **Establishment of networks**

#### **Article 21**

#### **Rights to someone else's real estate**

(1) To the extent necessary, and if it is in the public interest, an undertaking may establish and operate public networks and construct and place their lines or other parts thereof, as well as associated facilities, on or in someone else's real estate or crossing someone else's real estate through them. The owner of such real estate shall be entitled to reasonable compensation for the restriction on the customary use of the real estate pursuant to the first sentence. If the owner and the undertaking do not agree on the extent of the restriction of the use of the real estate and the activity can only be carried out on the basis of a decision on the building permit according to a verified construction design pursuant to a special regulation,<sup>29)</sup> the fulfilment of the conditions for the exercise of the right pursuant to the first sentence shall be assessed at the request of the undertaking by the building authority in the verification of the construction project and, if the decision on the building permit is also the verification of the construction design, in the proceedings on the construction plan.

(2) The following specific rights shall be attached to the rights referred to in paragraph 1

- a) enter in connection with the establishment, operation, repair and maintenance of lines on someone else's real estate or into someone else's real estate,
- b) to carry out the necessary modifications of the land and its vegetation, in particular to remove and trim trees and other vegetation threatening the safety and reliability of the line, if this has not been done by the owner or user of the land after a previous call.

(3) Entitlements under paragraph 1 may be exercised by an undertaking in relation to the territory of a military district,<sup>54)</sup> the territory serving to ensure the tasks of national defence, which is administered by the Ministry of Defence or a legal person in its founding or establishing competence, and real estate, which is classified as a construction of defence infrastructure in the category of constructions of special importance or in the category of other important constructions for the defence of the state pursuant to a special regulation<sup>55)</sup> on the basis of a decision of the government and is owned by the state, only on the basis of the written consent of the Ministry of Defence or of the other administrator of the real estate.

(4) The obligations corresponding to the entitlements under paragraph 1 are easements<sup>56)</sup> binding on the real estate concerned. The proposal for making a record in the Real Estate Cadastre<sup>57)</sup> shall be submitted by an undertaking within 90 days from the establishment of the public network, construction or placement of its line or its other part on or in someone else's real estate according to paragraph 1; however, if the line or other part of the network on someone else's real estate is established, constructed or placed within the construction of a line

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<sup>54)</sup> Article 5 of Act No. 281/1997 Coll. on military districts and the act amending Act of the National Council of the Slovak Republic No. 222/1996 Coll. on the organisation of local government and on the amendment to certain acts as amended, as amended.

<sup>55)</sup> Article 6 (f) and Article 27 (1) and (2) of Act No. 319/2002 Coll. on the defence of the Slovak Republic as amended.

<sup>56)</sup> Articles 151n to 151p of the Civil Code.

<sup>57)</sup> Article 35 of Act of the National Council of the Slovak Republic No. 162/1995 Coll. on real estate cadastre and the entries of ownership and other rights to real estate (Cadastral Act) as amended.

construction, the proposal for making a record in the Real Estate Cadastre shall be submitted by the undertaking within 90 days from the completion of the construction of the line construction. Where there is a transfer or passage of ownership of a network or part of a network in relation to which rights under paragraph 1 have arisen, the rights under paragraph 1 shall pass to the new owner if it is an undertaking.

(5) Unless the undertaking and the owner of the real estate agree otherwise, the undertaking shall pay the owner of the real estate, within the time limit within which they are obliged to submit a proposal for making an entry in the Real Estate Cadastre pursuant to paragraph 4, reasonable compensation for the restriction on the customary use of the real estate caused by the exercise of the rights referred to in paragraphs 1 and 2, in the amount agreed with the owner. If the owner of the real estate and the undertaking do not agree on the amount of compensation, the amount of compensation shall be decided on the proposal of the owner of the property or the undertaking by the building authority competent pursuant to paragraph 1, and if there is no such authority, by the competent regional office of the Authority for Spatial Planning and Construction of the Slovak Republic in whose district the real estate concerned is located (hereinafter referred to as the “authority acting on the compensation”). The authority acting on the compensation, when deciding on the amount of compensation, may consolidate the proceedings relating to a single line construction into a common proceeding and, where necessary to preserve the principle of economy, may exclude the part of the proceedings relating to one or more owners for separate proceedings. The undertaking shall, at the request of the authority acting on the compensation, provide, at its own expense, an expert’s opinion for the purpose of determining the amount of appropriate compensation for the restriction on the customary use of the real estate. If the owner of the property objects to the facts contained in the expert’s opinion, the authority acting on the compensation shall arrange for an expert’s statement or explanation for the purpose of assessing the facts relevant to the decision on the amount of compensation for the restriction on the customary use of the real estate. The costs of the expert’s statement or explanation shall be proceedings expenses borne by the undertaking.

(6) In exercising the rights referred to in paragraphs 1 and 2, the undertaking providing the public network shall act in such a way as not to cause damage to immovable property or vegetation and, if such damage is unavoidable, to limit it to the least possible extent. It is obliged to notify the owner and user of the real estate concerned, if known, at least 15 days in advance of the commencement of the exercise of the right. Because of an accident, the exercise of rights under a service contract, or a fault in a line, the undertaking may enter someone else’s real estate without prior notification; in such case, it shall notify the owner and the user, if known from a publicly accessible register, without delay. If the owner or user of the real estate concerned is not known to the undertaking, or if the exercise of the rights concerns a large number of owners or users of the real estate, the undertaking may also give notification of the commencement of the exercise of the right referred to in paragraph 1 by means of a public decree by posting the announcement on the official notice board of the municipality whose cadastral territory will be directly affected by the activity for a period of not less than 30 days. The last day of this period shall be deemed to be the date of notification. In addition to the municipality’s official notice board, the notification shall also be published on the municipality’s website, if the municipality has one, or in another manner customary in the locality, in particular in the local press or local radio, and shall be published on the undertaking’s website, if the undertaking has one. The municipality shall, without undue delay, provide the undertaking with the cooperation necessary to enable the undertaking to carry out the notification in accordance with the provisions of this paragraph. The municipality is obliged to issue a confirmation of the notification to the undertaking at its request. In the capital of the

Slovak Republic, Bratislava, and in the city of Košice, the obligations of the municipality under this paragraph shall be fulfilled by the municipal districts.

(7) After the completion of the necessary works, the undertaking is obliged to restore the real estate to its previous state and, if this is not possible due to the nature of the work carried out, to a state corresponding to the previous purpose or use of the real estate. If this is not possible, or if the resulting condition of the real estate is worse than its original condition, or if damage has occurred, it is obliged to pay the real estate owner a lump-sum compensation corresponding to the extent of the damage incurred. The claim for single compensation must be lodged by the real estate owner with the relevant undertaking within two years of the date on which they became aware of the fact that the damage had occurred, but at the latest within three years of the date on which the damage occurred. If the undertaking and the real estate owner do not agree on the amount of the lump-sum compensation, either of them may apply to the court for a ruling.

(8) In assessing the public interest, account shall be taken in particular of whether:

- a) the network serves, or is intended to serve to provide services using frequencies allocated by individual authorisation,
- b) the network is provided or is to be provided throughout the territory of the Slovak Republic,
- c) an interpersonal communications service is or is to be provided over the network, including compliance with the obligations under Articles 93 and 94,
- d) the universal service is or is to be provided over the network,
- e) the network is or is to be interconnected pursuant to Article 57, or
- f) the network is or is intended to be part of a high-speed network.

(9) The Authority shall, at the request of the undertaking, confirm the existence of the facts referred to in paragraph 9.

(10) The undertaking concerned shall be the legal person concerned<sup>58)</sup> in the proceedings on the construction plan and shall issue a binding statement on the existence of routes of underground lines or overhead lines, radio routes at the construction site and on the possibility of interference with radio transmission.

(11) The route of all known lines at the construction site shall be plotted in the construction design. The designer is responsible for meeting this obligation.

(12) The undertaking is obliged to keep records of the lines and to provide a statement and other necessary data for the purposes of the proceedings on the construction plan and the proceedings on land modifications within 15 days of the payment of the fee according to the price list of the undertaking, while the undertaking is obliged to respect the general principles of crossing and concurrence of underground utility lines in its statements. If a special regulation so provides,<sup>59)</sup> the statement and other necessary data pursuant to the preceding sentence shall be provided by the undertaking free of charge. The provisions of the first and second sentences are without

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<sup>58)</sup> Article 31 (8) of Act No. 201/2022 Coll.

<sup>59)</sup> Article 25 (7) of Act No. 330/1991 Coll. on land consolidation, arrangement of land ownership, land authorities, land fund and land communities as amended by Act No. 115/2014 Coll.

prejudice to the obligation to provide data to the information system for spatial planning and construction pursuant to a special regulation.<sup>58a)</sup>

(13) The issuing of building permits for lines by public authorities shall not constitute a conflict of interest where those authorities also carry out activities related to the ownership or operation of public networks or publicly available services or are the owner of the real estate concerned. If there is a risk of such a conflict of interest, the provisions of a special regulation<sup>58b)</sup> shall apply mutatis mutandis to the determination of the competent building authority.

(14) If an undertaking places its network on or in a someone else's real estate on the basis of the consent of the owner or user of the real estate, or on the basis of a contract with the owner or user of the real estate, such consent or the terms thereof shall also bind the legal successors of the undertaking and the owner or user of the real estate. The undertaking's right resulting from the consent or contract under the preceding sentence shall be deemed to be another right to the land or building under a special regulation.<sup>58c)</sup>

## **Article 22**

### **Co-location and sharing of network elements and associated facilities**

(1) If an undertaking has established networks or associated facilities in the public interest pursuant to Article 21 with a restriction on the ownership of land or buildings, or if land, buildings and rights thereto have been expropriated, the Authority may, on a proposal or on its own initiative, in order to protect the environment, public health, state security or to meet the objectives of land-use planning, impose by decision an obligation to co-locate and share the network and associated facilities.

(2) In a decision pursuant to paragraph 1, the Authority may decide on the sharing of property, in particular land, buildings, building entrances, building wiring, masts, antennas, towers and other supporting equipment, ducts, pipes, manholes, junction boxes, and on the obligation to facilitate the coordination of construction work.

(3) Before issuing a decision pursuant to paragraph 1, the Authority shall ensure that all parties concerned have the opportunity to comment on the draft decision in a consultation. The period for making a comment shall not be less than 30 days. For the duration of the consultation, the Authority shall suspend the proceedings. The Authority is obliged to take the results of the consultation into account in the decision, in which it shall also lay down the rules for determining the price and the allocation of costs. The Authority shall be the authority concerned in the proceedings on the construction plan where the sharing of equipment is invoked in the course of those proceedings.

(4) A party concerned as referred to in paragraph 3 means one whose rights, legally protected interests or obligations are to be adjudicated upon or whose rights, legally protected interests or obligations may be directly affected by the decision.

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<sup>58a)</sup> Article 36(2) of Act No. 200/2022 Coll. on spatial planning.

<sup>58b)</sup> Article 5(1)(g) of Act No. 201/2022 Coll.

<sup>58c)</sup> Article 19(1)(b) point 3 of Act No. 201/2022 Coll.

## Article 23

(1) Everyone is obliged to act in such a way that their activities do not damage lines or telecommunications equipment and do not interfere with the operation of networks or services and do not unlawfully interfere with the network and the provision of services, otherwise they shall be liable for the damage they have caused to the undertaking.

(2) The owner and user of the real estate is obliged to take care not to damage networks and equipment and not to interfere with the operation of networks and their lines, in particular overhead and underground cable lines, when using the real estate. The property owner is entitled to reasonable compensation for the restriction in the normal use of the real estate due to the protection zone. If the owner of the real estate and the undertaking do not agree on the amount of reasonable compensation, it shall be determined by the building authority; the provision of Article 21(5) shall be applied in the same way.

(3) The real estate owner is obliged to maintain the vegetation on the land in the protection zone in such a way that it does not endanger the safety and reliability of the networks and their lines. If the owner or user of the real estate fails to do so after a prior request by the undertaking in accordance with Article 21(6), the undertaking shall have the right to remove the vegetation.

(4) A protection zone shall be established to protect the networks. The protection zone shall be established on the date of entry into force of the decision on the building permit, or on the date of delivery of the notification of the building authority on the announcement of a small building.<sup>60)</sup> In other cases, it comes into existence on the date of construction of the line.

(5) The protection zone ceases to exist

a) by removing the line permanently,

b) by putting the line out of operation permanently, or

c) due to the termination of the authorisation to build the line according to a special regulation, if the undertaking does not build the line within a specified period of time.

(6) The undertaking is obliged to file a petition for the deletion of the easement from the Real Estate Cadastre within thirty days from the termination of the protection zone.

(7) The protection zone of the line is 0.5 m wide from the axis of its route on both sides and runs along the entire length of its route. The protection zone of the lines entering the electronic communications node, in the length of the lines 15 m from the node, is 10 m from the axis of the lines, where an electronic communications node means a physical point of interconnection of networks in which lines between at least two providers of national networks and at least two providers of transnational networks are interconnected. The depth and height of the protection zone of the line, as well as the protection zone of the lines entering the electronic communications node, is 2 m from the ground level if it is an underground line and within a radius of 2 m if it is an overhead line.

(8) In the protection zone it is forbidden without the consent of the undertaking concerned or an enforceable decision of the building authority

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<sup>60)</sup> Article 47 of Act No. 201/2022 Coll.



- a) to place constructions, equipment and vegetation, to carry out earthworks that could endanger the lines or the safe operation of the network,
- b) to carry out operational activities associated with the use of machinery and equipment that interfere with the operation of networks, associated facilities and services.

(9) Restrictions in the protection zone do not apply to the activities of the owner or operator of the physical infrastructure on the elements of which the network or telecommunications equipment is located and which the owner or operator of the physical infrastructure carries out in ensuring the operation and maintenance of the physical infrastructure, including construction modifications of the physical infrastructure.

(10) If the owner or user of a line, telecommunications equipment or other thing fails to do so after a prior call from the undertaking or network operator, the undertaking or network operator shall be entitled to remove lines, telecommunications equipment or other things that have been, without the consent of the undertaking, network operator or other legal title,

- a) placed on or in the physical infrastructure of the undertaking or network operator,
- b) placed on or in an associated facility,
- c) otherwise attached to the line or telecommunications equipment or any other thing.

(11) Prior call of the undertaking or network operator pursuant to paragraph 10 shall not be necessary if the owner of the line, telecommunications equipment or other thing is unknown, if they cannot be reached at their residence or headquarters or if the matter cannot be delayed, in particular if the life or health of persons or the property is in imminent danger or the proper operation of the line or telecommunications equipment is endangered.

(12) The network operator shall not be responsible for the damage caused to the undertaking by exercising the right according to paragraphs 10 and 11.

(13) The undertaking shall be responsible for the damage caused to the network operator by the unauthorised use of the network operator's physical infrastructure, including costs incurred by the network operator in connection with the exercise of the right according to paragraphs 10 and 11. Making the physical infrastructure available according to the provisions of Article 26 or Article 29 does not affect the right of the network operator for compensation for damage caused by the previous unauthorised use of the physical infrastructure, as well as the right to issue unjust enrichment for the previous unauthorised use of the physical infrastructure.

## **Article 24**

### **Relocation of lines and telecommunications equipment**

(1) Relocation of a line means the relocation of some of its elements or a change in its route. The construction of a new line that functionally replaces the original line is also considered to be a line relocation. Relocation of telecommunications equipment means the relocation of the telecommunications equipment to another location, including the relocation of the related physical infrastructure or associated facilities. The construction or installation of new telecommunications equipment that functionally replaces the original equipment is also considered to be a relocation of telecommunications equipment.

(2) Unless the relocation is a relocation carried out by the undertaking on its own initiative, the relocation may be carried out only in agreement with the undertaking and under conditions

agreed with the undertaking. If the relocation of telecommunications equipment pursuant to paragraph 1 includes the relocation of related physical infrastructure that does not belong to the undertaking, the relocation of that related physical infrastructure may be carried out only in agreement with its owner.

(3) The relocation may be carried out by the undertaking in particular at the request of the owner or user of the real estate on or in which the line or equipment is located, or of another entity in whose interest the relocation is to be carried out (hereinafter referred to as the “applicant for relocation”).

(4) Unless otherwise agreed in writing between the undertaking and the applicant for relocation, the costs associated with the relocation shall be borne by the applicant for relocation. If the relocation also upgrades the line or telecommunications equipment, the cost of the upgrade shall be borne by the undertaking, unless the undertaking and the applicant for relocation agree otherwise in writing.

(5) The relocation shall be carried out and arranged by the undertaking, unless otherwise agreed in writing with the applicant for relocation, if it is not a relocation pursuant to paragraph 6.

(6) If the relocation has been triggered by the construction activity of the applicant for relocation and the relocation has been authorised by the decision on the building permit<sup>61)</sup> issued in favour of the applicant for relocation, the relocation shall be carried out by the applicant for relocation only in agreement with and under the supervision of the undertaking or the network operator. This shall not affect the provision of paragraph 3.

(7) The relocation, including the related physical infrastructure or associated facilities, does not change the ownership of the line or telecommunications equipment, regardless of who provided the relocation or at whose expense the relocation was performed.

## **Access to infrastructure**

### **Article 25**

#### **Access to information for the purposes of construction of high-speed networks**

(1) For the purposes of this Act

- a) network operator means a network provider or a person who operates or provides a network intended for the provision of other services; a network intended for the provision of other services means a network intended for the services of production, transport or distribution of gas, production, transmission or distribution of electricity, the provision of public lighting, the production, distribution or supply of heat, the operation of public sewerage and the operation of railway and road infrastructure, ports and aeronautical infrastructure,
- b) high-speed network means a network capable of providing connectivity to all users using services provided over that network at a speed of at least 30 Mbit/s in one direction,
- c) construction means a building or engineering construction<sup>62)</sup> containing one or more parts of physical infrastructure

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<sup>61)</sup> Article 38 of Act No. 201/2022 Coll.

<sup>62)</sup> Article 2 (6) and (9) of Act No. 201/2022 Coll.

- d) physical infrastructure inside a building means the physical infrastructure located on the premises of the end-user, including common building facilities, which is usable for the establishment of access networks capable of providing connectivity to the service and connecting the access point to the network termination point,
- e) high-speed physical infrastructure inside a building means physical infrastructure inside a building designed to accommodate high-speed network lines or telecommunications equipment or to enable the establishment of a high-speed network in a building.

(2) An undertaking shall have the right to obtain information on the availability of physical infrastructure and dark optical fibres offered or planned to be offered by the network operator for making available to undertakings and on planned constructions and construction work in progress<sup>63)</sup> through a single information point.

(3) The single information point shall collect, process, store and make available free of charge to undertakings by electronic means, on request, information

- a) on the availability of physical infrastructure and dark optical fibres offered or planned to be offered by the network operator for making available to undertakings to the following extent
  - 1. the geometric and positional identification of the physical infrastructure and dark optical fibres offered or planned to be offered by the network operator for making available to undertakings; the graphical part shall be provided in vector form in the coordinate system of the Unified Trigonometric Cadastral Network,
  - 2. type and current use of physical infrastructure and dark optical fibres offered or planned to be offered by the network operator for making available to undertakings,
  - 3. contact data of the network operator,
- b) on planned constructions and construction work in progress to the following extent
  - 1. location and type of the planned construction or construction work in progress,
  - 2. parts of physical infrastructure and dark optical fibres offered or planned to be offered by the network operator for making available to undertakings which represent the subject or part of the construction,
  - 3. estimated duration of construction work,
  - 4. contact data of the network operator.

(4) Information pursuant to paragraph 3 (b)

- a) for constructions for which the decision on the building permit is required, relates to the constructions
  - 1. with the decision on the building permit issued,
  - 2. for which proceedings for the issue of the decision on the building permit are pending,
  - 3. for which the network operator expects to submit an application for the decision on the building permit within the next six months,
- b) for constructions for which a notification to a building authority is required, relates to the constructions

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<sup>63)</sup> Article 10 of Act No. 201/2022 Coll.

1. to which the network operator has received written notice from the building authority that it has no objection to the implementation of the construction,
2. the implementation of which has been notified in writing by the network operator to the building authority, but no written notice has yet been received from the building authority that it has no objections to the implementation of the construction,
3. for which the network operator expects to submit a notification to the building authority within the next six months.

(5) Public authorities shall be obliged to provide the single information point with the information referred to in paragraph 3(a) if they have such information at their disposal for the performance of their tasks and if they have such information in electronic form. Network operators shall be obliged to provide the single information point with the information referred to in paragraph 3 (a) and (b) if they hold that information in electronic form. The public authority and the network operator shall provide any update of the information received and any new information to the single information point without delay, but at the latest within two months from the date of its receipt; this period may be extended by up to one month at the request of the public authority or the network operator if this is necessary to guarantee the reliability of the information provided. A request for an extension of the period shall be submitted by the public authority or the network operator to the single information point at the latest two weeks before the expiry of the period. The accuracy and completeness of the information shall be the responsibility of the public authority or network operator that provided it to the single information point. The obligation to provide information to the single information point pursuant to paragraph 2 shall not apply where it is necessary to ensure safety and public health, to ensure the integrity and security of a network or a network intended for the provision of other services, in particular elements of critical infrastructure,<sup>64)</sup> the protection of classified information, sensitive information on critical infrastructure and sensitive information.

(6) The single information point shall publish on its website the relevant information on the conditions relating to the issuance of the decision on the building permit, notification to the building authority and any other conditions necessary for the location of lines or telecommunications equipment of high-speed networks.

(7) The single information point must comply with the requirements relating to information technologies of general government according to a special regulation.<sup>65)</sup> Details of the scope, structure, form and manner of providing the information referred to in paragraph 2 to the single information point shall be laid down in a generally binding legal regulation to be issued by the Authority.

(8) The Authority provides data according to paragraph 3 to the information system for spatial planning and construction, including personal data without the consent of the persons concerned, in the scope, structure, form and quality necessary for the purposes according to special regulations.<sup>662a</sup>

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<sup>64)</sup> Act No. 45/2011 Coll. as amended.

<sup>65)</sup> Act No. 95/2019 Coll. on information technologies in general government and on the amendment to certain acts as amended.

<sup>62a</sup> Act No. 200/2022 Coll. on spatial planning as amended.  
Act No. 201/2022 Coll. as amended by Act No. 205/2023 Coll.

## **Article 26**

### **Access to the existing physical infrastructure**

(1) The network operator shall comply with an undertaking's written request for access to its physical infrastructure on reasonable, non-discriminatory and transparent terms and conditions, including price, for the purpose of locating lines or telecommunications equipment of the high-speed network, unless otherwise provided for in paragraph 3. The request under the first sentence shall include, except where the undertaking has obtained the information through a single information point, a request for information on the availability of physical infrastructure, a request for an on-site survey of specific parts of the available physical infrastructure, if such a survey is requested by the undertaking, and a specification of the lines or telecommunications equipment of the high-speed network in respect of which access is requested, together with an indication of the anticipated time-frame of the project and an identification of the geographic area in which the undertaking proposes to locate the equipment.

(2) The network operator shall, no later than two months from the date of receipt of a request for access under paragraph 1, provide the undertaking with information on the availability of the physical infrastructure at least to the extent that such information is provided to the single information point and allow the undertaking to survey specific parts of the available physical infrastructure on site within one month from the date of receipt of the request for an on-site survey. The network operator shall not be obliged to comply with a request for information on the availability of physical infrastructure if it has provided that information to the single information point, in which case the network operator shall allow the undertaking to survey specific parts of the available physical infrastructure on site within one month of the date on which the undertaking has notified the network operator in writing that it has obtained that information through the single information point. If the grounds for refusal of access pursuant to paragraph 3 are not met, the network operator shall be obliged to conclude with the undertaking requesting access a contract for access to the physical infrastructure within two months from the date of receipt of the request for access. At any time prior to the conclusion of a contract for access to the physical infrastructure, the undertaking shall be entitled to withdraw the request for access to physical infrastructure. The costs incurred by the network operator in providing information on the availability of the physical infrastructure, facilitating on-site survey of specific parts of the available physical infrastructure and dealing with a request for access to the physical infrastructure shall be borne by the undertaking requesting access.

(3) The network operator shall refuse a request for access under paragraph 1 only if

- a) they demonstrably lack available physical infrastructure suitable for the location of high-speed network lines or telecommunications equipment,
- b) access cannot demonstrably be provided due to
  - 1. the technical unsuitability of the physical infrastructure for the location of the lines or telecommunications equipment of the high-speed network indicated by the undertaking in its request for access pursuant to paragraph 1,
  - 2. insufficient space for the location of the lines or telecommunications equipment of the high-speed network indicated by the undertaking in its request for access pursuant to paragraph 1,
  - 3. ensuring state security and public health,

4. ensuring the integrity and security of the network or a network intended for the provision of other services, in particular critical infrastructure elements, the protection of classified information, sensitive critical infrastructure information and sensitive information,
  5. the risk of harmful interference with planned electronic communications services by the provision of other services over the same physical infrastructure,
- c) before accepting a request for access pursuant to paragraph 1, the network operator has published the conditions for granting access to the physical infrastructure, including the conditions for the availability of the physical infrastructure, together with the conditions for on-site survey of specific parts of the available physical infrastructure and the pricing conditions, ensuring at least the same range of rights as those enjoyed by the undertaking pursuant to paragraph 1, in particular in the form of a reference offer.
- (4) The network operator shall notify the undertaking of the refusal of access to the physical infrastructure no later than two months from the date of receipt of a complete request for access to the physical infrastructure.
- (5) Before placing lines or telecommunications equipment of the high-speed network on the physical infrastructure, the undertaking shall be obliged to conclude a contract with the network operator on access to the physical infrastructure.
- (6) The provisions of paragraphs 1 to 5 shall be without prejudice to the property right of the owner of the physical infrastructure and shall be without prejudice to the property right of the owner of the immovable property.

## **Article 27**

### **Coordination of construction work**

(1) In order to negotiate the coordination of construction works, the network operator is obliged to provide the undertaking with information on planned constructions and construction work in progress. In a written request for information on planned constructions and construction work in progress, the undertaking shall indicate the affected area in which it plans to deploy the high-speed network elements. The network operator shall, no later than two weeks from the date of receipt of the request, provide the undertaking with information on planned constructions and construction work in progress at least to the extent that such information is provided to the single information point. The network operator shall not be obliged to comply with a request to provide information on planned constructions and construction work in progress if it has provided this information to the single information point, published it in electronic form prior to the delivery of the request, or if it is necessary to ensure state security and public health, to ensure the integrity and security of the network or a network intended for the provision of other services, in particular elements of critical infrastructure, the protection of classified information, sensitive information on critical infrastructure and sensitive information. The costs incurred by the network operator in providing information on planned constructions and construction work in progress shall be borne by the undertaking requesting the information.

(2) In the case of constructions wholly or partly financed by public funds,<sup>65)</sup> the network operator shall comply on reasonable, non-discriminatory and transparent terms with all written requests from an undertaking for the coordination of construction works to deploy lines or

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<sup>65)</sup> Article 2 (a) of Act No. 523/2004 Coll. on budgetary rules of general government and on the amendment to certain acts.

telecommunications equipment of the high-speed network, unless otherwise provided for in paragraph 3. The request for coordination shall be accompanied by a specification of the lines or telecommunications equipment of the high-speed network for which coordination of construction work is requested, together with an indication of the anticipated time-frame of the project. If the grounds for refusal of coordination of construction work pursuant to paragraph 3 are not met, the network operator shall be obliged to conclude a contract for coordination of construction work with the undertaking requesting coordination within one month from the date of receipt of the request for coordination. At any time prior to the conclusion of a contract for access to the physical infrastructure, the undertaking shall be entitled to withdraw the request for coordination of construction work. The costs incurred by the network operator in dealing with a request for coordination of construction work shall be borne by the undertaking requesting the coordination.

(3) The network operator may refuse a request for coordination under paragraph 2 only if

- a) the coordination of construction work associated with the implementation of the construction in order to deploy the lines or telecommunications equipment of the high-speed network gives rise to additional costs, including costs resulting from the failure to meet the deadlines for the completion of the construction,
- b) the coordination of construction work associated with the implementation of the construction in order to deploy the lines or telecommunications equipment of the high-speed network hinders the exercise of the network operator's control over the coordination of the construction,
- c) the undertaking submits a written request for the coordination of construction work associated with the execution of the construction in order to deploy the lines or telecommunications equipment of the high-speed network less than one month before the expected date of submission of the application for the decision on the building permit or notification to the building authority in order to execute the construction or its modification,
- d) they must carry out the construction without delay in order to ensure compliance with the obligations arising from special regulations.

## **Article 28**

### **Infrastructure inside buildings**

(1) Every newly constructed building and building that undergoes internal wiring modifications, for which the decision on the building permit is required, shall be equipped with high-speed physical infrastructure in the building and an access point. The provision of high-speed infrastructure in the building and the access point shall be considered as a general requirement for construction according to a special regulation.<sup>67)</sup>

(2) The obligation under paragraph 1 shall not apply to

- a) buildings and monuments protected for their architectural or historic value or as part of a characteristic setting,
- b) churches and other buildings used as places of worship or for religious events,
- c) buildings which are temporary constructions with an intended period of use of less than two years,

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<sup>67)</sup> Article 9 of Act No. 201/2022 Coll.

- d) constructions for the defence of the state and constructions for the security of the state, industrial buildings, buildings of nuclear facilities and buildings related to the nuclear facility located in the area bounded by the boundaries of the nuclear facility, workshops and non-residential agricultural buildings,
- e) buildings intended for use for less than four months of the year or for limited use during the year,
- f) single-family houses,
- g) facilities of social and legal protection of children and social guardianship.<sup>69)</sup>

## **Article 29**

### **Access to physical infrastructure in buildings**

(1) The network operator operating the access point or the owner of the access point shall be obliged to comply on reasonable, non-discriminatory and transparent terms and conditions, including price and costs, with all written requests for the establishment of a network up to the access point at the expense of the undertaking. The request for the establishment of a network up to the access point shall include a specification of the lines or telecommunications equipment of the high-speed network to be established, together with an indication of the anticipated time-frame of the project.

(2) If the construction of a parallel physical infrastructure to the existing physical infrastructure in the building is not technically feasible or economically efficient, cannot be carried out without restricting the use of someone else's real estate, or has not been approved in writing by the owner or manager of the building within 30 days of the date of the written request of the undertaking for approval to construct the physical infrastructure in the building, the network operator operating the physical infrastructure in the building or the owner of the physical infrastructure in the building shall comply with all written requests for access to the physical infrastructure in the building on reasonable, non-discriminatory and transparent terms and conditions, including price and cost, for the purpose of locating the lines or telecommunications equipment of the high-speed network. The request for access shall be accompanied by a specification of the lines or telecommunications equipment of the high-speed network for which access is requested, together with an indication of the anticipated time-frame of the project.

(3) The establishment of a network up to the access point referred to in paragraph 1 and access to the physical infrastructure in the building referred to in paragraph 2 may be refused only on the grounds of technical impracticability. If the network operator who operates the access point or physical infrastructure in the building, or the owner of the access point or physical infrastructure in the building, does not comply with the request of the undertaking according to paragraphs 1 and 2 within two months from the date of delivery of the written request to the undertaking, any of the parties shall be entitled to submit to the Authority a proposal for resolution of the dispute according to Article 30.

(4) If the building is not equipped with physical infrastructure inside the building, if the use of the existing physical infrastructure inside the building for the high-speed network is not technically feasible, or if the Authority has determined in a dispute pursuant to Article 30 that the use of the existing physical infrastructure on the premises is not technically feasible, the

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<sup>69)</sup> Article 4 (5) of Act No. 305/2005 Coll. on social and legal protection of children and social guardianship and on the amendment to certain acts.



owner of the building shall allow the undertaking to terminate its high-speed network on the subscriber's premises if the subscriber agrees to do so. The undertaking is obliged to act in such a way as not to cause damage and not to restrict the owner or user of the real estate.

(5) The provisions of paragraphs 1 to 4 shall be without prejudice to the property right of the owner of the access point or physical infrastructure in the building, the right of the operator of the access point or physical infrastructure in the building or the property right of the owner of the real estate.

### **Article 30**

(1) If a dispute arises in relation to rights and obligations relating to access to information on existing physical infrastructure, information on planned constructions and construction work in progress, access to physical infrastructure, coordination of construction work, establishment of the network up to the access point, access to physical infrastructure inside a building and termination of the high-speed network on the subscriber's premises pursuant to Article 29(4), either party shall be entitled to submit a proposal to the Authority to resolve the dispute. In addition to the requirements under the Administrative Procedure Code, the proposal for dispute settlement shall contain supporting documents demonstrating the existence of a dispute between the parties.

(2) The Authority shall decide the dispute no later than within two months, and in the case of a dispute relating to access to existing physical infrastructure within four months, from the date of receipt of the proposal referred to in paragraph 1. If necessary for the decision, the Authority shall request binding opinions of the authorities concerned, in which case it shall suspend the proceedings until the date of receipt of the binding opinions. The authority concerned shall provide the Authority with its binding opinion no later than one month from the date of receipt of the Authority's written request for a binding opinion containing the documents and information necessary for the issuance of the binding opinion. The authorities concerned shall be obliged to cooperate with the Authority for this purpose. In making its decision, the Authority shall take into account the need to create and ensure conditions of effective competition for the benefit of users, deciding on the obligation to provide information and determining the conditions for access to the physical infrastructure, coordination of construction work, establishment of the network up to the access point or access to the physical infrastructure inside the building, respecting the binding opinion of the authorities concerned. In justified cases, in particular where it is necessary to request binding opinions from the authorities concerned, the Authority may extend the time limit for issuing a decision by a maximum of two months. In cases justified by exceptional circumstances, especially if it is necessary to request binding opinions of the authorities concerned, the Authority may extend the time limit for issuing a decision appropriately. The Authority shall inform both parties to the dispute of the extension of the time limit.

(3) The Authority shall discontinue the proceedings if the proceedings do not concern obligations arising from this Act, from a decision, from a generally binding legal regulation issued by the Authority or from an international treaty by which the Slovak Republic is bound.

(4) An undertaking shall be obliged to maintain confidentiality of information which is the subject of business secret and other information of a confidential nature to which it has gained access in connection with the exercise of its powers under Articles 26 and 27; this shall not

apply to the provision of information to the Authority for the purposes of dispute resolution pursuant to paragraph 1.

(5) The Ministry of Transport shall notify the European Commission of the name and registered office of the body designated for dispute resolution pursuant to paragraph 1, as well as of any change in the notified details, before such change enters into force.

### **Article 31**

#### **Geographical survey of network coverage of the territory**

(1) By 21 December 2023 at the latest and at least every three years thereafter, the Authority shall carry out a geographical survey of the coverage of the territory of the Slovak Republic by networks capable of delivering broadband (hereinafter referred to as “broadband networks”). The geographical survey contains information on the extent of coverage of the entire territory of the Slovak Republic by existing broadband networks. The geographical survey covers both fixed and mobile networks. The geographical survey shall be carried out on the basis of information which shall be reasonably detailed at local level and which shall contain sufficient information on the quality of the service. By the end of March each year, the undertaking is required to provide the Authority with information on broadband coverage as at 31 December of the previous year.

(2) The Authority shall be entitled to determine that the geographical survey pursuant to paragraph 1 shall also include a forecast of the deployment of broadband networks throughout the territory of the Slovak Republic. If the forecast is part of the geographical survey, the Authority shall determine the period covered by the forecast.

(3) For the purposes of conducting a geographical survey, a broadband network is defined as a network that allows data download speeds of at least 2 Mbit/s.

(4) Details concerning the scope, structure, form and manner of providing the information referred to in paragraphs 1 and 2 shall be laid down in a generally binding legal regulation to be issued by the Authority.

(5) The aggregated results of the geographical survey shall be published by the Authority on its website. The Authority may, on the basis of the results of a geographical survey, designate areas with clear territorial boundaries in which a very high capacity network is not present and is not foreseen to be deployed, significantly upgraded or expanded during the designated forecast period to allow data download speeds of at least 100 Mbit/s.

(6) Within the area defined pursuant to paragraph 5, the Authority may call upon undertakings and public authorities to express their intention to deploy very high capacity networks over the duration of the relevant forecast period. If pursuant to this call, an undertaking or public authority gives notice of its intention to do so, the Authority may require other undertakings and public authorities to give notice of any intention to deploy very high capacity networks or to significantly upgrade or extend their network to allow data download speeds of at least 100 Mbit/s in the area. The Authority shall specify the information to be included in the submission of the intentions in order to ensure a similar level of detail to that taken into account in the preparation of any forecast under paragraph 2. The Authority shall also inform any undertaking or public authority that has expressed an interest whether, based on the results of the

geographical survey, the defined area is or is likely to be covered by a next-generation access network that allows data download speeds of less than 100 Mbit/s.

(7) The Authority shall take into account the guidelines adopted by the Body of European Regulators on geographical surveys when carrying out a geographical survey.

(8) The results of the geographical survey referred to in paragraph 1 shall be used for the purposes of

a) the performance of the tasks of the Authority under this Act in

1. determining the coverage obligations associated with rights of use for radio spectrum,
2. verifying the availability of services covered by universal service obligations,

b) the performance of the tasks of another public authority in

1. designing national broadband plans,
2. allocating public funds for the deployment of electronic communications networks,

c) informing end-users about the availability of services in each area,

d) informing the European Commission and the Body of European Regulators if they so request.

## **Chapter Four**

### **Management of frequencies and numbers**

#### **Management of radio spectrum**

#### **Article 32**

(1) The Authority shall carry out spectrum management taking into account international treaties and other international instruments binding on the Slovak Republic.<sup>67)</sup> Spectrum management is the activity of the Authority pursuant to Articles 33 to 51. In managing the spectrum, the Authority shall act in accordance with the principles of efficiency, objectivity, transparency, non-discrimination, proportionality and reasonableness.

(2) All types of technologies used to provide networks or services may be used in the radio spectrum bands designated for radio communications services in the National Frequency Allocation Plan. The Authority may restrict the use of certain types of radio networks or wireless access technology where this is proportionate, non-discriminatory and necessary for reasons of avoiding harmful interference, protecting public health from the effects of electromagnetic radiation, the need to ensure technical quality of service, ensuring the sharing of radio spectrum to the greatest extent possible, guaranteeing the efficient use of the radio spectrum or ensuring the fulfilment of an objective of general interest pursuant to paragraph 4.

(3) All types of services may be provided in the radio spectrum bands designated for radio communications services in the National Frequency Allocation Plan, in accordance with European Union law. The Authority may restrict the scope of services provided in the relevant

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<sup>67)</sup> E.g., International Telecommunication Convention, Montreux 1965 (Decree of the Ministry of Foreign Affairs No. 190/1968 Coll.).

radio spectrum band in the radio spectrum use plan if such restriction is non-discriminatory, proportionate and results from a special regulation.<sup>68)</sup>

(4) The Authority may designate a service to be provided in a particular radio spectrum band designated for radio communications services only in order to ensure the fulfilment of an objective of general interest which is, in particular, the protection of life, the promotion of social, regional or territorial cohesion, the prevention of inefficient use of frequencies or the promotion of cultural and linguistic diversity, pluralism of the media and the provision of radio and television broadcasting services.

(5) The Authority may prohibit the provision of a service in a particular radio spectrum band in the radio spectrum use plan where this is necessary for the provision of emergency communication services or for the fulfilment of other general interest objectives pursuant to paragraph 4.

(6) The Authority shall review the necessity of the restrictions referred to in paragraphs 2 and 3 at least every three years and shall publish the results of the review. Based on the results of the review, the Authority shall maintain or modify the restrictions.

(7) In its activities under paragraph 1, the Authority shall promote the harmonisation of the use of spectrum for the provision of networks and services in the territory of the European Union and ensure its efficient and effective use, taking care to achieve benefits for end-users through the promotion of competition, economies of scale, interoperability of networks and services. In pursuing these objectives, the Authority shall take into account, inter alia,

- a) achieving electromagnetic signal coverage of the territory and population of the Slovak Republic, as well as coverage of important transport corridors within the Slovak Republic, including the trans-European transport network, with high quality and fast broadband wireless networks,
- b) supporting the development of new wireless communications technologies and applications,
- c) ensuring predictability and consistency in the issuing, modification, renewal and revocation of authorisations for the use of radio spectrum to encourage long-term investment,
- d) ensuring protection against harmful interference and taking appropriate preventive and corrective measures,
- e) promoting shared use of radio spectrum,
- f) the most appropriate way of authorising radio spectrum use,
- g) the application of transparent rules for the issuance, modification, renewal and revocation of authorisations for the use of radio spectrum, as well as rules on the transfer of rights resulting from the allocation of frequencies,
- h) predictability and uniformity across the European Union in the granting of authorisations for the use of radio spectrum, taking into account the protection of public health.

(8) If there is no demand for the use of frequencies from the harmonised radio spectrum on the whole or part of the territory of the Slovak Republic in accordance with a technical

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<sup>68)</sup> Radio Regulations.

implementing measure issued pursuant to a special regulation,<sup>7)</sup> the Authority may decide on its alternative use, provided that

- a) the lack of demand was identified following a public consultation, which included an assessment of projected demand trends,
- b) the alternative use of radio spectrum does not restrict or jeopardise the use of the frequencies in question in other Member States,
- c) the Authority takes into account the long-term availability or use of such frequencies in the European Union and the economies of scale arising from the use of harmonised radio spectrum in the European Union.

(9) The Authority shall review at least every two years whether the reasons referred to in paragraph 8 continue to apply. The duration of the reasons referred to in paragraph 8 shall also be examined without delay by the Authority on the basis of a reasoned request by the applicant for the use of frequencies from the harmonised radio spectrum in accordance with a technical implementing measure issued pursuant to a special regulation.<sup>7)</sup>

(10) The Authority shall inform the European Commission and the regulatory authorities of all Member States of the decision pursuant to paragraph 8, the reasons for that decision and the outcome of the review pursuant to paragraph 9.

### **Article 33**

(1) The use of frequencies and radio spectrum bands for all radio communications services and their harmonisation, in particular with the Radio Regulations of the International Telecommunication Union adopted at the sessions of the World Radiocommunication Conference, as well as with the decisions and recommendations of the European Union, which provide for the harmonisation of the radio spectrum and the technical conditions for its use, shall be ensured by an inter-ministerial commission. The statute and rules of procedure of the interministerial commission shall be approved by the Ministry of Transport. The members of the inter-ministerial commission are representatives of the Ministry of Transport, the Ministry of Defence, the Ministry of Interior, the Slovak Information Service and the Authority.

(2) The inter-ministerial commission is involved in the preparation of the draft National Frequency Allocation Plan, which includes in particular the radio spectrum bands defined for individual radio communications services for civil and military purposes. The National Frequency Allocation Plan shall be established by the Government by its order and published by the Ministry of Transport on its website.

(3) On the basis of the National Frequency Allocation Plan, the Authority issues a radio spectrum use plan taking into account the need for European harmonisation, the degree of technical development of radio equipment and the provision of services in a particular radio spectrum band, the achievement of benefits for end-users and the safeguarding of state defence and security. The radio spectrum use plan shall be laid down in a generally binding legal regulation issued by the Authority.

(4) In developing a radio spectrum use plan, the Authority shall take into account the specific characteristics of the radio spectrum band, the need to avoid harmful interference, the conditions for shared use of radio spectrum, the need to ensure technical quality of service, and the need to ensure efficient use of radio spectrum. The radio spectrum use plan shall also include

information on which radio spectrum bands the rights resulting from the allocation of frequencies may be transferred or leased. The Authority publishes the radio spectrum use plan on its website.

(5) Frequencies that are reserved in the National Frequency Allocation Plan for civil radio communication services may only be used on the basis of a general authorisation for the use of radio spectrum or on the basis of an individual authorisation for the use of radio spectrum or a combination thereof. The method of authorisation shall be determined by the Authority in the radio spectrum use plan.

(6) Where frequencies are identified in the National Frequency Allocation Plan for shared priority use for civil and military purposes or secondary use for military purposes, the Authority shall, on the basis of an application by the operator of a special network, decide whether it agrees to use the frequencies for the purpose specified in the application and determine the conditions for their use, including technical parameters, and the application may be refused only if

- a) the allocation of frequencies is not permitted by an international treaty or by the membership of the Slovak Republic in an international organisation,
- b) the allocation of frequencies is not permitted by a radio spectrum use plan,
- c) the requested frequency is not available,
- d) frequency allocation could cause harmful interference to services in neighbouring radio spectrum bands,
- e) the Authority plans to allocate the requested frequencies for civilian use.

(7) A remonstrance against the decision by which the Authority consents to the use of frequencies and determines the conditions for their use pursuant to paragraph 6 shall have no suspensive effect.

(8) Where the use of frequencies is for one-off purposes, the provision of Article 36(5) shall be applied accordingly to the issuance of a decision pursuant to paragraph 6.

(9) Paragraphs 5 to 8 shall not apply in the case of the use of frequencies which are designated in the National Frequency Allocation Plan exclusively for priority military use.

(10) The Authority shall determine in the radio spectrum use plan that frequencies may be used on the basis of a general authorisation for the use of radio spectrum, unless it is necessary to determine the use of frequencies on the basis of an individual authorisation for the use of radio spectrum in order to make the most efficient use of the radio spectrum in relation to the demand for that spectrum, taking into account

- a) specific radio spectrum band characteristics,
- b) the need to avoid harmful interference,
- c) conditions for shared use of radio spectrum, in particular with regard to efficient spectrum use, competition and innovation,
- d) the need to ensure the technical quality of the service,
- e) the need to make the most efficient use of radio spectrum,

f) the pursuit of other objectives of general interest as defined under Article 32(4).

(11) The Authority shall allow shared use of radio spectrum on the basis of a general authorisation for the use of radio spectrum or on the basis of an individual authorisation for the use of radio spectrum, or on the basis of a combination thereof. In the general authorisation for the use of radio spectrum or in the individual authorisation for the use of radio spectrum, the Authority shall lay down transparent conditions for the shared use of radio spectrum which will contribute to the efficient use of spectrum, the development of competition and innovation. The conditions set for shared use shall be binding on all entities concerned and shall be consistent with the rules on shared use of radio spectrum set out in the individual authorisation for the use of radio spectrum in order to ensure predictable and reliable conditions for the shared use of radio spectrum for all users, without prejudice to the application of competition rules.

### **Article 34** **General authorisation for the use of radio spectrum**

(1) General authorisation for the use of radio spectrum specifies the conditions under which the radio spectrum may be used and for which no individual authorisation for the use of radio spectrum is required. General authorisation for the use of radio spectrum may contain only

- a) the purpose of use of radio spectrum,
- b) the type of service or a specific type of technology,
- c) conditions for efficient use of radio spectrum,
- d) technical and operational conditions necessary to avoid harmful interference and to ensure the protection of public health from the effects of electromagnetic radiation in accordance with the special regulation,<sup>69)</sup>
- e) frequencies that can be used,
- f) obligations relating to the shared use of radio spectrum or the provision of access to frequencies to other interested parties in specified geographic areas or throughout the territory of the Slovak Republic,
- g) obligations and conditions arising from international treaties and other international documents binding on the Slovak Republic,
- h) the type of radio equipment and antennas, technical specification, type of transmission or other parameters,
- i) the obligation to provide information on the actual number and location of radio equipment,
- j) the obligation to register and its requirements,
- k) conditions for sharing and construction spectrum-related infrastructure.

(2) The general authorisation for the use of radio spectrum shall be issued, amended and revoked by the Authority in accordance with the procedure laid down in Article 9.

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<sup>69)</sup> Act No. 355/2007 Coll. as amended.

Decree of the Ministry of Health of the Slovak Republic No. 534/2007 Coll. on details of requirements for sources of electromagnetic radiation and limits of exposure of the population to electromagnetic radiation in the environment.

## **Article 35**

### **Individual authorisation for the use of radio spectrum**

(1) The Authority issues individual authorisations for the use of radio spectrum in accordance with the National Frequency Allocation Plan according to the radio spectrum use plan. Individual authorisation for the use of radio spectrum is a decision by the Authority to allocate frequencies or to determine the conditions under which frequencies may be used.

(2) Individual authorisation for the use of radio spectrum pursuant to paragraph 1 may contain only

- a) the identification data of the holder of the individual authorisation for the use of radio spectrum and, in the case of a lease of rights resulting from the assignment of frequencies, the identification data of the lessee,
- b) obligation to provide a service or to use a type of technology including coverage and quality of service requirements,
- c) conditions for efficient use of radio spectrum,
- d) technical and operational conditions necessary for the avoidance of harmful interference and for the protection of public health against electromagnetic fields,
- e) allocated frequencies,
- f) assigned identifiers,
- g) the period of validity of the individual authorisation for the use of radio spectrum,
- h) the conditions for the transfer or lease of rights arising from the allocation of frequencies,
- i) operator class for amateur stations,
- j) the amount of the payment for the right to use frequencies and identifiers and the method of payment,
- k) commitments entered into by an applicant for an individual authorisation for the use of radio spectrum, an applicant for the renewal of rights or an applicant for the extension of an individual authorisation for the use of radio spectrum prior to its issue or during the selection procedure,
- l) obligations relating to the common or shared use of radio spectrum or the provision of access to frequencies to other interested parties in specified geographic areas or throughout the territory of the Slovak Republic,
- m) obligations arising from international treaties and other international documents binding on the Slovak Republic,
- n) the number and type of radio equipment and antennas, their location, technical specification and type of transmission, if applicable,
- o) the definition of the territory in which the frequencies may be used, if this is necessary for the type of radio communications service,
- p) duties specific to experimental or alternative use of frequencies,
- q) the obligation to provide information on the actual number and location of radio equipment within a time limit specified by the Authority, if necessary for the purpose of checking compliance with the conditions and obligations referred to in subparagraphs (c) and (k),



- r) the purpose of use of allocated frequencies,
- s) the conditions governing the conclusion of roaming contracts,
- t) conditions for sharing and construction spectrum-related infrastructure,
- u) other conditions identified in the context of coordinated spectrum allocation,
- v) exclusion of the possibility of extending or renewing the validity of an individual authorisation for the use of radio spectrum,
- x) conditions and requirements for the implementation of the re-arrangement of existing frequency allocations or radio spectrum blocks for holders of individual frequency authorisations for the use of radio spectrum in order to achieve coherent radio spectrum bands allowing efficient use of radio spectrum,
- y) the criteria for assessing compliance with the conditions identified under subparagraphs (b) to (d), (k) to (m), (o), (p), (s) to (u) and (x).

(3) An individual authorisation for the use of radio spectrum for analogue terrestrial radio broadcasting shall be issued by the Authority if the applicant for an individual authorisation for the use of radio spectrum holds a licence for analogue terrestrial radio broadcasting or has concluded a contract for the transmission of radio broadcasting with the holder of such a licence.

(4) The conditions set out in an individual authorisation for the use of radio spectrum shall not prevent the shared use of radio spectrum, provided that the shared use of radio spectrum does not result in a restriction of competition.

(5) The holder of an individual authorisation for the use of radio spectrum may be

- a) a natural person who has attained the age of 18 years and has full legal capacity and, in the case of an individual authorisation for the use of radio spectrum for the operation of an amateur station, a natural person who has attained the age of 14 years,
- b) a natural person – entrepreneur,
- c) a legal person.

(6) An application for an individual authorisation for the use of radio spectrum shall include

- a) the data referred to in Article 10(2)(a) and (b), and, in the case of a natural person who does not have an identification number or a tax identification number, the date of his or her birth,
- b) the number, type and location of radio equipment as well as transmitting and receiving antennas, if necessary,
- c) the frequency or radio spectrum band requested and the delimitation of the area envisaged, if necessary,
- d) the purpose and method of use of the radio equipment, including its technical data and data on the transmitting and receiving antennas, together with radiation diagrams, unless they are already laid down in a binding international treaty by which the Slovak Republic is bound,
- e) the contact data of the person authorised to act on behalf of the applicant and the contact data of the person responsible for the operation of the radio equipment in the scope of name, surname, telephone contact and e-mail address, as well as the certificate of his/her special professional competence, if this Act provides for it,

- f) the expected date of commissioning of the radio equipment and commencement of the service, if necessary,
- g) a certified copy of the broadcaster's analogue broadcasting licence granted under a special regulation,<sup>70)</sup> if it is an individual authorisation for the use of radio spectrum for analogue terrestrial radio broadcasting,
- h) the period for which the applicant applies for the allocation of frequencies, unless specified by the Authority,
- i) the required identifiers, if necessary for the type of service,
- j) other data if they are necessary for the performance of tasks under international treaties to which the Slovak Republic is bound or which result from the membership of the Slovak Republic in international organisations.

(7) The Authority may require the submission of documents and information necessary to prove the facts stated in the application pursuant to paragraph 6.

### **Article 36**

#### **Procedure of issuance of the individual authorisation for the use of radio spectrum**

(1) The Authority shall issue an individual authorisation for the use of radio spectrum no later than six weeks from the date of receipt of a complete application for an individual authorisation for the use of radio spectrum or an application for a modification or extension of an individual authorisation for the use of radio spectrum, if the frequencies concerned are frequencies available under the radio spectrum use plan. The time limit under the first sentence may be reasonably extended if international coordination is necessary for the issuance of an individual authorisation for the use of radio spectrum, or if the extension of the time limit is justified on the basis of an international treaty relating to radio spectrum or orbital positions to which the Slovak Republic is bound. If there are more than one applicant for the allocation of the same frequencies, the Authority shall process the applications in the order in which they are received by the Authority.

(2) In the case of frequencies allocated on the basis of a selection procedure, the Authority may extend the time limit for issuing an individual authorisation for the use of radio spectrum to a maximum of eight months if this is necessary to ensure fair, reasonable, open and transparent procedures for all applicants.

(3) The time limits referred to in paragraphs 1 and 2 shall apply without prejudice to international treaties and other international instruments to which the Slovak Republic is bound and which relate to the use of radio spectrum or orbital positions.

(4) The Authority may issue an individual authorisation for the use of radio spectrum for radio or television terrestrial broadcasting without complying with the principles referred to in paragraph 2 where this is necessary to achieve an objective of general interest pursuant to Article 32(4).

(5) The Authority may issue a temporary individual authorisation for the use of radio spectrum for one-off purposes which cannot be foreseen, for a change of technology or for experimental use of radio spectrum, provided that the required frequencies are available and no harmful

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<sup>70)</sup> Article 49 (4) of Act No. 308/2000 Coll. as amended.

interference will occur. An application for a temporary individual authorisation for the use of radio spectrum must be received by the Authority at least three working days before the requested date of commencement of use of the radio spectrum. An entity to which the Authority has assigned a frequency for experimental use may not use that frequency to provide a service for economic gain, except for pilot projects for the deployment of new technologies. The period of validity of a temporary individual authorisation for the use of radio spectrum shall not exceed six months, and the Authority may extend the validity of a temporary individual authorisation for the use of radio spectrum repeatedly on the basis of a reasoned application by the person to whom the temporary individual authorisation for the use of radio spectrum has been granted. The Authority may repeatedly extend the validity of a temporary individual authorisation for the use of radio spectrum for a period not exceeding the period for which it was first granted. If the Authority grants an application for a temporary individual authorisation for the use of radio spectrum, such individual authorisation shall be enforceable from the date of delivery, and any remonstrance against the Authority's decision shall not have suspensive effect.

(6) The details of the individual authorisation for the use of radio spectrum which allocates frequencies for the provision of terrestrial multiplexes and the granting thereof shall be governed by a special regulation.<sup>71)</sup>

(7) The Authority shall not issue an individual authorisation for the use of radio spectrum if

- a) it is not permitted by an international treaty or by the membership of the Slovak Republic in an international organisation,
- b) it is specified by a special regulation,<sup>72)</sup>
- c) the allocation of the frequency would be inconsistent with the National Frequency Allocation Plan or radio spectrum use plan,
- d) the requested frequency is not available on the requested allocation date,
- e) using the frequency could cause harmful interference,
- f) the individual authorisation for the use of radio spectrum has been applied for by a person whose individual authorisation for the use of radio spectrum has been revoked by the Authority in the last three years prior to the application or whose frequency allocation has been withdrawn pursuant to Article 44(9)(a) to (d),
- g) this is contrary to the efficient use of the spectrum,
- h) this is in conflict with competition or
- i) the applicant for an individual authorisation for the use of radio spectrum has, in the two months preceding the submission of the application, renounced the allocation of the same frequencies applied for in the same territorial scope.

(8) The Authority will publish the final individual authorisations for the use of radio spectrum on its website.

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<sup>71)</sup> Articles 18 to 23 of Act No. 220/2007 Coll. as amended by Act No. 394/2020 Coll.

<sup>72)</sup> Article 20 of Act No. 220/2007 Coll.

### **Article 37**

#### **Peer review process**

(1) Where the Authority intends to conduct a selection procedure for the allocation of frequencies harmonised pursuant to a special regulation<sup>7)</sup> for wireless broadband networks and services, it shall inform the Radio Spectrum Policy Group in accordance with Article 17(2) of the draft terms and conditions of the selection procedure, indicating whether it will request the Radio Spectrum Policy Group to convene a meeting of the Peer Review Forum to consider the proposal (hereinafter referred to as the “Forum”) and when the meeting of the Forum is to take place in accordance with the procedure under a special regulation.<sup>43)</sup>

(2) If the Radio Spectrum Policy Group convenes a meeting of the Forum, the Authority shall, during the meeting of the Forum, justify how the draft terms and conditions of the selection procedure

- a) promote the development of the internal market, the cross-border provision of services, competition and how they will contribute to achieving the greatest possible benefits for consumers and to achieving the objectives set out in this Act and in the relevant decisions of the European Commission,
- b) ensure effective and efficient use of radio spectrum,
- c) ensure stable and predictable investment conditions for existing and future holders of individual authorisations for the use of radio spectrum to build networks for the provision of services.

(3) The Authority may request the Radio Spectrum Policy Group to

- a) reconvene the Forum on the draft terms and conditions of the selection procedure already discussed and submitted by the Authority before the selection procedure is announced,
- b) prepare a report of a meeting of the Forum convened at the request of the Authority on how the draft measure will achieve the objectives referred to in paragraph 2; or
- c) give an opinion on the draft terms and conditions of the selection procedure.

(4) The Authority shall take into account the views and recommendations of the Forum referred to in paragraph 3(b) and (c) and shall take them into account as far as possible when modifying the draft terms and conditions of the selection procedure.

### **Article 38**

#### **Joint procedures for the selection procedure and issuance of individual authorisations for the use of radio spectrum**

(1) The Authority may, in cooperation with other Member States and the Radio Spectrum Policy Group, determine joint procedures for the issuance of individual authorisations for the use of radio spectrum, on the basis of written expressions of interest from market players, and, where appropriate, the Authority may conduct a joint selection procedure with other Member States.

(2) In determining joint procedures, the Authority shall take into account that

- a) the procedure for issuing individual authorisations for the use of radio spectrum pursuant to Article 36 shall be in accordance with a jointly agreed procedure,

- b) joint conditions and procedures for the selection procedure and for the issuance of individual authorisations for the use of radio spectrum, if necessary, are to be defined,
- c) joint or comparable conditions resulting from the allocation of individual rights for the use of radio spectrum are to be determined, in particular those which allow similar blocks of spectrum to be allocated to market players,
- d) other Member States may accede to the joint procedures at any time up to the completion of the joint process of issuance of individual authorisations for the use of radio spectrum.

(3) If the Authority does not apply the joint procedures for the selection procedure or issuance of individual authorisations for the use of radio spectrum, it shall inform market players who have expressed an interest in applying the joint procedures in writing of the reasons why the joint procedures will not be applied.

### **Article 39**

#### **Coordinated spectrum allocation**

(1) Where conditions and procedures for access to the use of spectrum have been determined at the level of the European Union and a coordinated allocation of spectrum to an undertaking selected in accordance with an international treaty to which the Slovak Republic is bound or in accordance with rules determined at the level of the European Union has been agreed, the Authority shall issue an individual authorisation for the use of the radio spectrum on the basis of an application by such undertaking in accordance with such conditions and procedures for access.

(2) If the conditions attached to the right to use the spectrum provided for in this Act are fulfilled, the Authority shall not impose any additional conditions in the individual authorisation for the use of radio spectrum which would restrict, modify or delay the coordinated spectrum allocation.

### **Article 40**

#### **Limiting the number of rights of use to be granted for radio spectrum**

(1) Where the Authority decides that the use of radio spectrum cannot be authorised by a general authorisation for the use of radio spectrum and is considering limiting the number of rights to be granted for the use of the spectrum on the grounds that the demand for a radio spectrum band exceeds its supply, it shall duly justify the proposal for limiting the number of rights. In deciding whether to restrict the number of rights, the Authority shall have regard to the need to maximise the benefits to end-users and to promote competition and shall have regard to the objectives, principles and principles set out in Articles 1 and 7. The Authority shall consult on a proposal to limit the number of rights of use to be granted for radio spectrum in accordance with Article 17.

(2) The Authority may limit the number of rights of use to be granted for radio spectrum in the radio spectrum use plan.

(3) The Authority shall review every three years, or at the request of the undertakings concerned, the limitation of the number of rights of use to be granted for radio spectrum included in the radio spectrum use plan. If the Authority finds that the reasons which led to the limitation of the number of rights have ceased to exist, it shall abolish those limitations in the

radio spectrum use plan; this shall be without prejudice to the validity of the individual authorisations for the use of radio spectrum concerned by the reassessment referred to in the first sentence which have already been issued.

#### **Article 41** **Selection procedure**

(1) If the Authority limits the number of rights of use to be granted for radio spectrum in the radio spectrum use plan, it shall launch a selection procedure for the allocation of frequencies. The selection procedure shall be carried out by electronic auction (hereinafter referred to as the “auction”) or without an auction.

(2) The conditions of the selection procedure shall be determined by the Authority in accordance with the principle of objectivity and transparency and the principles referred to in Article 7 and in accordance with the objectives referred to in Article 1, with the aim of promoting the development of competition, as well as with the aim of

- a) promoting coverage,
- b) ensuring the required quality of service,
- c) promoting efficient use of radio spectrum, including by taking into account the conditions attached to the rights of use of radio spectrum and the level of administrative charges,
- d) promoting innovation and business development.

(3) In determining the terms and conditions of the selection procedure, the Authority shall justify the objectives pursued by the selection procedure and shall take into account the conditions and requirements referred to in Article 5(1)(l) to (n) and Article 32.

(4) The Authority will carry out a public consultation prior to the announcement of the competition, which will include the proposed terms and conditions of the selection procedure. Before publishing the invitation to submit tenders to the selection procedure, it shall publish on its website a justification of the form of selection procedure it has decided to use in the selection procedure in question. The Authority shall also publish the results of the assessment of the competitive, technical and economic situation on the market, the conditions attached to the rights of use for radio spectrum and consider the possibility of using the procedure under Article 37 if the conditions for doing so are fulfilled.

(5) The Authority shall initiate the selection procedure by publishing a call for tenders stating

- a) the form of selection procedure,
- b) the objectives of the selection procedure together with their justification,
- c) frequencies, radio spectrum blocks or radio spectrum band subject to the selection procedure,
- d) the purpose of use, conditions and principles for the optimal use of radio spectrum,
- e) evaluation criteria; if an auction is held, the only evaluation criterion shall be the amount of the one-off payment for the allocation of frequencies,
- f) the deadline by which the tender must be submitted,
- g) requirements for the content of the documents submitted to the selection procedure in order to ensure the comparability of tenders,

- h) the amount of the one-off payment for the allocation of frequencies as the expected lowest tender in the case of a selection procedure without an auction or as the lowest submission in the case of a selection procedure with an auction; this submission shall be deemed to be a tender,
- i) the amount and conditions for the deposition of a cash security or the issue of a bank guarantee, if required,
- j) other documents for the selection procedure, if necessary,
- k) the auction rules containing the rules of the auction, if an auction is held,
- l) the general criteria under Article 42(4) for extending the duration of rights of use for radio spectrum,
- m) the expected timetable for the selection procedure.

(6) In the invitation, the Authority may request information from the selection procedure participant to demonstrate its ability to meet the conditions and obligations associated with participation in the selection procedure pursuant to paragraph 5.

(7) A tender submitted in the selection procedure shall be deemed to be an application for an individual authorisation for the use of radio spectrum. The Authority shall suspend the proceedings on the application for an individual authorisation for the use of radio spectrum until the end of the selection procedure.

(8) The Authority shall publish the invitation to submit tenders in the Journal, on the front page of its website and shall publish a notice of the publication of the invitation to tender in one national daily periodical newspaper in the Slovak Republic. The Authority shall cancel the selection procedure if no tender has been submitted within the time limit for the submission of tenders specified in the invitation to tender. The Authority shall be entitled to cancel or temporarily suspend the selection procedure if the circumstances in which the selection procedure was launched have substantially changed. The Authority shall immediately notify all tenderers of the cancellation or suspension of the selection procedure, stating the reason for the cancellation or suspension. If the Authority does so, it shall without undue delay return the security deposit to the selection procedure participants. If the selection procedure has only been temporarily suspended, the selection procedure shall be resumed once the security has been deposited again.

(9) The Authority shall set up a selection committee of at least five members to evaluate the tenders submitted. The members of the selection committee shall be appointed by the Chairman of the Authority; only a person possessing integrity and professional competence may be a member of the selection committee. For the purposes of this Act, a person possessing integrity shall not mean a person who was lawfully sentenced for a premeditated criminal offence. Integrity shall be proved by an extract from the Criminal Record; this shall not apply to a civil servant. To prove integrity, the natural person shall provide data necessary to request an extract from the Criminal Record.<sup>73)</sup> The Authority shall send the data pursuant to the fifth sentence without undue delay in electronic form via electronic communication to the General Prosecutor's Office of the Slovak Republic for the issuance of an extract from the Criminal Record. A professionally competent person is considered to be a person who has a second-degree university degree in law, economics or engineering with a specialisation in electronic

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<sup>73)</sup> Article 10 of Act No. 330/2007 Coll. on the Criminal Record and on the amendment to certain acts as amended.

communications and at least five years of experience in the field. A member of the selection committee must not be a person

- a) who has an employment or similar employment relationship with a selection procedure participant or its representative,
- b) who is a partner, statutory body or member of a statutory body or a supervisory or controlling body of one of the selection procedure participants or its representative,
- c) who is a person close to<sup>74)</sup> a partner, statutory body or member of a statutory body, member of a supervisory or controlling body or manager of one of the selection procedure participants or its representative,
- d) who, having regard to his or her relationship to the case, to one of the participants in the selection procedure or to its representative, may be regarded as having doubts as to his or her impartiality.

(10) The person to be appointed as a member of the selection committee shall provide the Chairman of the Authority with a written affidavit stating that he or she fulfils the conditions laid down in paragraph 9. If, after the commencement of the selection procedure, a member of the selection committee no longer fulfils the conditions laid down in paragraph 9, he or she shall immediately inform the Chairman of the Authority thereof and shall not participate in the activities of the selection committee until he or she is removed from office. The Chairman of the Authority shall appoint as a member of the selection committee another person who fulfils the conditions laid down in paragraph 9 and shall provide a written affidavit to that effect.

(11) In order to avoid frustrating the purpose of the selection procedure, the Authority shall not provide information on the conduct of the selection procedure or on the tenders submitted from the time of the invitation to tender issued pursuant to paragraph 5 until its conclusion.

(12) The selection committee shall exclude a tenderer from the selection procedure if its tender does not comply with the requirements set out in the invitation to tender or if, in the last three years, the Authority has revoked an individual authorisation for the use of radio spectrum or withdrawn an allocated frequency pursuant to Article 44(9)(a) to (d).

(13) A tenderer who has not been excluded from the selection procedure by the selection committee pursuant to paragraph 12 shall be a participant in the selection procedure.

(14) A tender submitted after the deadline shall not be taken into account by the Authority and shall be returned unopened to the tenderer. The tender cannot be amended or changed after the deadline. An increase in the amount of the one-off payment offered by a selection procedure participant where the selection procedure is a selection procedure with an auction shall not be deemed to be an amendment to the tender.

(15) If a selection procedure with an auction is carried out, the Authority shall invite the selection procedure participants to participate in the auction. The Authority shall exclude a selection procedure participant from the auction if their conduct violates the auction rules pursuant to paragraph 5(k).

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<sup>74)</sup> Article 116 of the Civil Code.



(16) If the selection procedure is carried out without an auction, the selection committee shall evaluate the tenders according to the criteria set out in the invitation to tender and shall determine the ranking of the selection procedure participants and draw up a report on this.

(17) The selection procedure without an auction shall be concluded by determining the order of the selection procedure participants in accordance with paragraph 16. The selection procedure with an auction is completed by determining the successful selection procedure participants in the auction. When allocating frequencies, the Authority is bound by the order determined by the selection committee or the result of the auction. Unsuccessful selection procedure participants shall be deemed to be the selection procedure participants who are ranked in places where frequencies will not be allocated. The proceedings concerning the application of unsuccessful selection procedure participants and excluded selection procedure participants shall be terminated by the Authority, stating the reasons. The report on the course and result of the selection procedure is the basis for the continuation of the proceedings for the allocation of frequencies to the successful selection procedure participant.

(18) The Authority shall issue a decision on the allocation of frequencies to the successful selection procedure participant no later than six weeks after the end of the selection procedure. This decision does not entitle the successful participant to use the frequencies. Before starting to use the allocated frequencies, the successful selection procedure participant is obliged to request the Authority to issue a decision on the determination of the conditions under which the frequencies may be used.

(19) If the successful participant in the selection procedure without an auction withdraws its application before the decision on frequency allocation is issued, or waives the allocation of frequencies, or the Authority cancels the decision on frequency allocation because the one-off payment for frequency allocation has not been paid by the due date, the Authority shall initiate the proceedings for frequency allocation with the next selection procedure participant according to the order determined by the selection committee. The successful selection procedure participant assumes the obligations set out in the tender.

(20) The cash security deposited by the selection procedure participant shall be credited to the successful selection procedure participant up to the amount of the one-off payment for the allocated frequencies. The unsuccessful selection procedure participant's cash security shall be returned to them without undue delay after the termination of the proceedings on their application. The cash security deposited by the selection procedure participant shall be forfeited to the State if the selection procedure participant's conduct has frustrated the purpose or conduct of the auction; performance under a bank guarantee must also be conditional in the same way.

(21) The Authority may entrust a third party with the technical support of the auction.

(22) The provisions on the selection procedure shall not apply to the allocation of frequencies for analogue terrestrial radio broadcasting.

## **Article 42**

### **Period of validity of the individual authorisation for the use of radio spectrum**

(1) In determining the period of validity of the individual authorisation for the use of radio spectrum, the Authority shall take into account the need to

a) ensure competition,

- b) make the most efficient use of radio spectrum,
- c) support investment and innovation,
- d) allow a reasonable period for the amortisation of investments,
- e) meet the objectives of the selection procedure.

(2) The Authority may determine the period of validity of the individual authorisation for the use of radio spectrum in such a way as to ensure the simultaneous expiry of individual authorisations for the use of radio spectrum issued for one or more radio spectrum bands.

(3) Where the Authority allocates rights of use for radio spectrum, for which harmonised conditions of use have been determined in accordance with a special regulation<sup>7)</sup> on the basis of an individual authorisation for the use of radio spectrum, it shall ensure regulatory predictability for future holders of an individual authorisation for the use of radio spectrum for at least 20 years. In that case, the Authority shall allocate those rights for at least 15 years, renewable for at least five years.

(4) Where the Authority allocates rights of use for radio spectrum pursuant to paragraph 3 with the possibility of extending the period of validity of the individual authorisation for the use of radio spectrum, it shall determine the general criteria on the basis of which the Authority shall decide, in accordance with paragraph 1, on the extension of the period of validity of the individual authorisation for the use of radio spectrum. These criteria relate to the need to achieve the objectives referred to in Article 32(7)(a) and (b) or to meet objectives of general interest in relation to ensuring the protection of life, public policy, security and defence of the State. The Authority shall publish the general criteria referred to in the first sentence on its website, giving the persons concerned the opportunity to comment on those criteria within a period of at least three months, after which it shall evaluate those comments.

(5) No later than two years before the expiry of the period of validity of the individual authorisation for the use of radio spectrum, the Authority shall provisionally assess the fulfilment of the criteria referred to in paragraph 4, in particular with regard to the objective referred to in point Article 32(7) (c).

(6) The Authority shall not extend the period of validity of the individual authorisation for the use of radio spectrum if it finds that the criteria for extending the period of validity of individual authorisations for the use of radio spectrum pursuant to paragraph 4 have not been met or if the holder of the individual authorisation for the use of radio spectrum does not agree to the extension.

(7) The Authority shall, on the basis of the findings under paragraphs 5 and 6, notify the holder of the individual authorisation for the use of radio spectrum whether it will extend the period of validity of the individual authorisation for the use of radio spectrum.

(8) Where justified, the Authority shall not apply paragraphs 3 to 7 for the allocation of frequencies

- a) in limited geographical areas, where access to high-speed networks is severely deficient or absent and this is necessary to ensure achievement of the objectives of Article 32(7),
- b) for specific short-term projects,
- c) for experimental use of radio spectrum,

- d) for alternative use of radio spectrum pursuant to Article 32 (8), or
- e) for uses of radio spectrum which, in accordance with Article 32(2) and (3), can coexist with wireless broadband services.

(9) In the case of an individual authorisation for the use of radio spectrum for analogue terrestrial radio broadcasting issued on the basis of an analogue terrestrial radio broadcasting licence, the individual authorisation for the use of radio spectrum may be issued for the period specified in the application for the individual authorisation for the use of radio spectrum, but not for more than the period for which the analogue terrestrial radio broadcasting licence was granted.

(10) In the case of frequencies allocated by an individual authorisation for the use of radio spectrum for which harmonised conditions of use have not been determined in accordance with a special regulation,<sup>75)</sup> the Authority may extend the individual authorisation for the use of radio spectrum on the basis of an application by the holder of the individual authorisation for the use of radio spectrum. An applicant may apply for an extension of the period of validity of an individual authorisation for the use of radio spectrum no earlier than six months before the expiry of the period of validity of the individual authorisation for the use of radio spectrum and no later than six weeks before the expiry of the period of validity of the individual authorisation.

(11) The Authority shall not extend the period of validity of the individual authorisation for the use of radio spectrum pursuant to paragraph 10 if there are reasons pursuant to Article 36(7).

(12) Individual authorisation for the use of radio spectrum expires

- a) on the date of expiry of the period of validity for which it was issued,
- b) upon the death or termination of the holder of the individual authorisation for the use of radio spectrum; this shall not apply if the holder has a legal successor,
- c) on the date specified in the notice of waiver of the individual authorisation for the use of radio spectrum delivered to the Authority, but not earlier than on the date of delivery of the notice,
- d) on the date of termination of the provision of networks or services notified pursuant to Article 10(5),
- e) on the date of entry into force of a decision under a special regulation,<sup>75)</sup>
- f) on the date of entry into force of the decision on the deletion of a vessel from the Maritime Register of the Slovak Republic or the Register of Vessels, if it is an individual authorisation for the use of radio spectrum for a ship's station, or the decision on the deletion of an aircraft from the Register of Aircraft of the Slovak Republic, if it is an individual authorisation for the use of radio spectrum for an aircraft's station,<sup>76)</sup>
- g) on the date specified in the analogue terrestrial radio broadcasting licence holder's notice of termination of the radio broadcasting transmission contract with the holder of the individual authorisation for the use of radio spectrum delivered to the Authority, but not earlier than on the date of delivery of the notice.

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<sup>75)</sup> Articles 54 and 63 of Act No. 308/2000 Coll. as amended.

<sup>76)</sup> Article 26 (5) of Act No. 143/1998 Coll. on civil aviation (Aviation Act) and on the amendment to certain acts as amended.

Article 24 of Act No. 338/2000 Coll. on inland navigation and on the amendment to certain acts as amended.

Articles 17 and 52 of Act No. 435/2000 Coll. on sea navigation as amended.

**Article 43**  
**Amendment of the individual authorisation for the use of radio spectrum**

(1) The Authority shall decide on the amendment of the individual authorisation for the use of radio spectrum in an appropriate manner and to the extent necessary if

- a) this is required by an international treaty or the Slovak Republic's membership of an international organisation and compliance with these obligations cannot be ensured in any other way,
- b) there has been a material change in the facts on the basis of which the individual authorisation for the use of radio spectrum was granted,
- c) it is the amendment of individual authorisations for the use of radio spectrum relating to the realignment of frequencies within the relevant radio spectrum band pursuant to Article 35(2)(x), including in the case of a procedure pursuant to paragraph 4; or
- d) at the reasoned request of the holder of an individual authorisation for the use of radio spectrum.

(2) In amending an individual authorisation pursuant to paragraph 1, the Authority shall take into account the specific requirements and conditions relating to the transfer of rights of use for radio spectrum.

(3) The Authority shall draw up an intention to amend an individual authorisation for the use of radio spectrum before making an amendment to an individual authorisation for the use of radio spectrum where the amendment is pursuant to paragraph 1(a), (b) or (c). In the case of an amendment of the individual authorisation for the use of radio spectrum pursuant to paragraph 1(d), the intention to amend shall be drawn up by the holder of the individual authorisation for the use of radio spectrum if the Authority requests the intention to amend the authorisation for the use of radio spectrum.

(4) In the case of an amendment of the individual authorisation for the use of radio spectrum pursuant to paragraph 1(c), an application for an amendment of the individual authorisation for the use of radio spectrum, together with a proposal of the intention to amend the authorisation for the use of radio spectrum, may also be submitted to the Authority by an undertaking holding an individual authorisation for the use of radio spectrum in the radio spectrum band in which the new frequency arrangement is to take place. The intention to amend pursuant to the first sentence shall contain all the elements referred to in paragraph 5 to the extent appropriate to the amendment of the individual authorisation for the use of radio spectrum.

(5) The intention to amend individual authorisations for the use of radio spectrum shall include a justification of the fulfilment of the conditions for the amendment of the individual authorisation pursuant to paragraph 1, a description of the current state of the allocation of the part of the spectrum concerned, a justification of the shortcomings of the current state, a proposal for the future state of the allocation of the spectrum, as well as a justification of the benefits of the proposed future state. The intention to amend individual authorisations for the use of radio spectrum must also include a list of undertakings whose rights are to be affected by the amendment of the individual authorisations and an assessment of the proportionality of the proposed amendment, in particular in relation to the protection of acquired rights. The intention to amend individual authorisations for the use of radio spectrum must be in compliance with the radio spectrum use plan.

(6) The Authority shall initiate proceedings for the amendment of an individual authorisation pursuant to paragraph 1(a) to (c) on its own initiative.

(7) In the case of an amendment of an individual authorisation for the use of radio spectrum, the Authority shall carry out a public consultation. In the case of exceptional circumstances which jeopardise the objectives and principles referred to in Articles 1 and 7, the time-limit under Article 17(1) for the receipt of comments may be shortened accordingly. The obligation to carry out a public consultation shall not apply to

- a) amendments of an individual authorisation for the use of radio spectrum which do not materially alter its content and which have been requested or agreed by the holder of the individual authorisation,
- b) an amendment of an individual authorisation for the use of radio spectrum concerning the calculation of the amount of administrative charges in accordance with the scale of charges for the right of use for radio spectrum or identifier,
- c) an amendment of an individual authorisation for the use of radio spectrum which is made in connection with the issuance or amendment of a radio spectrum use plan.

(8) Where the draft intention to amend individual authorisations for the use of radio spectrum submitted by an undertaking pursuant to paragraph 4 does not contain the prescribed particulars pursuant to paragraph 5, the Authority shall call upon the undertaking to complete it within a reasonable period, not less than ten working days, specified by the Authority. If the undertaking does not complete the intention to amend the individual authorisations for the use of radio spectrum at the call of the Authority and the Authority does not have the information to complete the intention to amend the individual authorisations pursuant to paragraph 5, it shall not carry out the consultation.

(9) The Authority shall not carry out a public consultation either if the intention to amend the individual authorisations pursuant to paragraph 4 does not justify the amendment of the individual authorisation for the use of radio spectrum. The Authority shall notify the undertaking which submitted the intention to it that it will not carry out the public consultation, together with its reasons. If the draft intention to amend individual authorisations submitted by an undertaking pursuant to paragraph 4 contains all the prescribed particulars, the Authority shall carry out the consultation.

(10) The Authority shall initiate proceedings for the amendment of an individual authorisation for the use of radio spectrum pursuant to this paragraph if it has been proved in the public consultation pursuant to paragraph 7 that the grounds referred to in paragraph 1 are fulfilled, otherwise it shall not initiate the proceedings.

(11) The costs incurred in connection with the amendment of an individual authorisation for the use of radio spectrum pursuant to this paragraph shall be borne in full by the holder of the individual authorisation for the use of radio spectrum, unless it is a decision to amend an individual authorisation pursuant to paragraph 1(a).

**Article 44**  
**Withdrawal and restriction of rights of use for radio spectrum**

(1) The Authority may restrict or withdraw rights of use for radio spectrum which have been granted under an individual authorisation for the use of radio spectrum before the expiry of the period of validity for which they have been granted, only if necessary

a) for the efficient and effective use of radio spectrum; or  
b) for the implementation of technical implementing measures adopted in accordance with a special regulation.<sup>7)</sup>

(2) Before initiating proceedings on its own initiative to restrict or withdraw rights of use for radio spectrum on the grounds referred to in paragraph 1, the Authority shall draw up an intention to restrict or withdraw rights, which shall include, in particular

a) justification for restricting or withdrawing rights of use for radio spectrum,  
b) fulfilment of the condition referred to in paragraph 1,  
c) a description of the current status of the affected part of the radio spectrum band,  
d) a list of the entities concerned,  
e) expected date of restricting or withdrawing rights of use for radio spectrum.

(3) The conditions and procedures set out in the intention referred to in paragraph 2 shall comply with the principles of proportionality and non-discrimination.

(4) The Authority shall submit the intention referred to in paragraph 2 to the holder of the individual authorisation for the use of radio spectrum for comments within a period of not less than ten working days. If the holder of the individual authorisation agrees with the intention, they shall notify the Authority in writing within the time limit referred to in the first sentence.

(5) Where a restriction or withdrawal of rights is to be made without the consent of the holder of an individual authorisation for the use of radio spectrum pursuant to paragraph 4, the Authority shall carry out a public consultation.

(6) If, following the evaluation of the public consultation, it is established that there are grounds for restricting or withdrawing rights pursuant to paragraph 1, the Authority shall initiate proceedings to restrict or withdraw the rights of use for radio spectrum.

(7) An undertaking may apply in writing to the Authority for appropriate compensation pursuant to Article 45 for costs incurred in restricting or withdrawing rights of use for radio spectrum pursuant to paragraph 1(b).

(8) Restrictions adopted pursuant to Article 32(2) and (3) shall not be grounds for a decision to withdraw rights of use for radio spectrum.

(9) The Authority shall revoke an individual authorisation for the use of radio spectrum or withdraw an assigned frequency if

a) the holder of an individual authorisation for the use of radio spectrum has not started to use the assigned frequency for the authorised purpose within six months of the date of the final decision on its assignment, unless the Authority has specified a longer period in the individual authorisation, or has used it for a purpose other than that for which it was assigned;

this shall not apply in the case of individual authorisations for the use of radio spectrum for the operation of an amateur station,

- b) the holder of an individual authorisation for the use of radio spectrum has not used the assigned frequency for the authorised purpose or within the specified territorial range for more than three months, and the Authority proves this state by performing repeated supervision with a time interval of at least 15 days between each repeated supervision, with the time interval between the first performed supervision and the last repeated supervision must be at least three months; this does not apply during the first six months from the date of validity of the individual authorisation or frequency assignment, or during the period specified in the individual authorisation, if the Authority has specified a longer period for starting the use of the frequency, or in the case of an individual authorisation for the use of radio spectrum for the operation of an amateur station,
- c) the holder of an individual authorisation for the use of radio spectrum is in breach of the obligations laid down by this Act, the general authorisation for the provision of networks or services or specified in the individual authorisation, even though they have been warned in advance of the possibility of cancellation of the individual authorisation and has failed to remedy the situation within the time limit set by the Authority,
- d) the holder of an individual authorisation for the use of radio spectrum has failed to pay the recurring payment for frequencies pursuant to Article 47 within three months of the due date or has failed to pay the one-off payment pursuant to Article 47 by the due date; this does not apply if the party to the proceedings pays the owed amount additionally, but no later than within 15 days from the date of initiation of the proceedings pursuant to this letter,
- e) on the basis of a review of the decision on alternative use of radio spectrum pursuant to Article 32(9), finds that the reasons for alternative use of radio spectrum do not persist,
- f) if it is specified by a special regulation.<sup>77)</sup>

## **Article 45**

### **Appropriate compensation of costs caused by the amendment of the individual authorisation for the use of radio spectrum, restriction or withdrawal of rights of use for radio spectrum**

(1) An undertaking may apply in writing for appropriate compensation of the costs caused by the amendment of an individual authorisation for the use of radio spectrum if the Authority has decided to amend the individual authorisation pursuant to Article 43(1)(a), to restrict or withdraw the right before the proper expiry of the period for which it was issued on its own initiative and the amendment was necessary to comply with the obligations of the Slovak Republic arising from the membership of the Slovak Republic in the European Union<sup>78)</sup> or in international organisations (hereinafter referred to as the “exceptional amendment of the individual authorisation for the use of radio spectrum”). Reimbursement of net direct costs shall be deemed to be appropriate compensation; where appropriate compensation is subject to a notification obligation under a special regulation,<sup>79)</sup> reimbursement of net direct costs shall be deemed to be appropriate compensation only if the European Commission decides that the appropriate compensation is compatible with the internal market<sup>80)</sup> to the extent provided for

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<sup>77)</sup> E.g. Article 54 (6) of Act No. 220/2007 Coll.

<sup>78)</sup> E.g., Decision (EU) 2017/899 of the European Parliament and of the Council of 17 May 2017 on the use of the 470-790 MHz frequency band in the Union (OJ EU L 138, 25. 5. 2017).

<sup>79)</sup> Article 108 (3) of the Treaty on the Functioning of the European Union.

<sup>80)</sup> Article 107 (3) and Article 108 (3) of the Treaty on the Functioning of the European Union.

in the decision of the European Commission. The net direct costs shall be the reasonable, economical, efficient and necessary expenditure incurred by the undertaking as a result of the exceptional amendment of the individual authorisation for the use of radio spectrum, restriction or withdrawal of rights to the extent referred to in paragraphs 4 and 5 (hereinafter referred to as “net direct costs”), where the net direct costs have been incurred and demonstrably spent by the undertaking up to the date on which the amendment, restriction or withdrawal of rights is to take place pursuant to the decision by which the Authority amends the individual authorisation for the use of radio spectrum.

(2) The Authority shall decide on the application for appropriate compensation of costs. An undertaking may apply to the Authority for appropriate compensation of costs within six months of the end of the accounting period<sup>81)</sup> of the undertaking in which the net direct costs were incurred, otherwise its right to compensation shall expire. The application for appropriate compensation shall be submitted by the undertaking in aggregate in respect of all the net direct costs which, pursuant to paragraph 1, it seeks to be reimbursed for the accounting period in question.

(3) The written application for appropriate compensation of costs must include

- a) identification data of the undertaking and bank account details,
- b) the total amount of net direct costs that the undertaking seeks to recover,
- c) a detailed breakdown of the net direct costs in the structure referred to in paragraph 4, each item being shown separately,
- d) a detailed justification of the expediency, economy, efficiency and necessity of their spending by the undertaking,
- e) the date on which those costs were incurred,
- f) other documents and information necessary to verify and check the breakdown and reasonableness of the net direct costs, including accounting documents and relevant technical documentation.

(4) The net direct costs incurred for the implementation of technical solutions triggered by an exceptional amendment of the individual authorisation for the use of radio spectrum, restriction or withdrawal of rights are only the costs of

- a) the procurement or technical modification of equipment,
- b) dismantling and decommissioning of equipment,
- c) the installation and commissioning of equipment to replace decommissioned equipment,
- d) a related information campaign for end-users,
- e) repayment of credits, loans, other financial instruments and interest on credits and loans or other financial instruments granted to the enterprise at arm's length.

(5) Net direct costs shall not be

- a) value added tax paid, if this tax is deductible according to a special regulation,<sup>82)</sup>
- b) the cost of acquiring, depreciating and operating the means of transport,

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<sup>81)</sup> Article 3 of Act No. 431/2002 Coll. as amended.

<sup>82)</sup> Act No. 222/2004 Coll. on value added tax as amended.



- c) current operating costs,
- d) other costs not referred to in paragraph 4.

(6) On the basis of an application for appropriate compensation of costs, the Authority shall assess whether the costs constitute net direct costs under paragraph 1. In assessing an application for appropriate compensation of costs, the Authority may itself, or through a professionally competent and independent person authorised by it, verify and inspect the accounting documents, books and records of the undertaking, technical documents and other documents necessary for the assessment of the undertaking's application for appropriate compensation of costs, and the undertaking shall be obliged to allow the Authority, or a professionally competent and independent person authorised by it, to inspect them, to take extracts and copies and to provide a copy of them on request.

(7) On the basis of an assessment of the application for appropriate compensation of costs and on the basis of a decision of the European Commission pursuant to paragraph 8, if the appropriate compensation is subject to a notification obligation pursuant to a special regulation,<sup>82)</sup> the Authority shall, by decision, confirm the amount of the net direct costs which the undertaking requests to be reimbursed or shall grant the application for appropriate compensation of costs only in part, otherwise it shall reject the application for appropriate compensation of costs. The Authority shall decide on an application for appropriate compensation of costs within six months of the lodging of a complete application; where, owing to the nature of the case, it is not possible to reach a decision within that period, it may be extended accordingly by the authority competent to decide on the remonstrance. Where proceedings are pending pursuant to paragraph 8, the Authority shall suspend the proceedings on the application for appropriate compensation of costs until a decision is made by the European Commission on the compatibility of the appropriate compensation of costs with the internal market.

(8) If the appropriate compensation of costs is subject to a notification obligation pursuant to a special regulation,<sup>82)</sup> the Authority shall ensure that the European Commission assesses its compatibility with the internal market.

(9) Where the European Commission decides that appropriate compensation of costs is compatible with the internal market, the Authority shall issue a decision pursuant to paragraph 7. Where the European Commission decides that appropriate compensation of costs is not compatible with the internal market, the Authority shall reject the application pursuant to paragraph 7. Where the European Commission decides that appropriate compensation of costs is only partially compatible with the internal market, the Authority shall issue a decision pursuant to paragraph 7 granting the application for appropriate compensation of costs only partially within the limits of the European Commission's decision.

(10) On the basis of a final decision of the Authority on appropriate compensation of costs, the Ministry of Transport shall provide funds to a separate account of the Authority for the payment of appropriate compensation of costs to the undertaking in an amount to be determined by the Authority. The Authority shall transfer the funds provided to the undertaking's bank account without undue delay.

(11) The party to the proceedings for an application for appropriate compensation of costs shall be the undertaking which has applied for such compensation.

## **Article 46**

### **Transfer or lease of rights of use for radio spectrum and shared use of radio spectrum**

- (1) The Authority shall indicate in the individual authorisation for the use of radio spectrum whether the rights resulting from the assignment of frequencies may be transferred or leased and the conditions for the transfer or lease of the rights in accordance with this Act and the radio spectrum use plan.
- (2) Where, pursuant to an individual authorisation for the use of radio spectrum, the rights arising from the assignment of frequencies pursuant to paragraph 1 are transferable, the holder of the individual authorisation for the use of radio spectrum may file a proposal for the change of the holder of the individual authorisation in respect of all or part of the rights relating to the assignment of frequencies. The proposal shall be accompanied by all the documents and information necessary to assess whether the transfer of rights is not precluded by the grounds referred to in paragraph 12. The Authority shall publish the full proposal on its website within five working days of receipt of the proposal.
- (3) If the contract for the transfer of rights is terminated before the decision on the change of the holder of the individual authorisation for the use of radio spectrum is issued, the undertaking shall immediately notify the Authority of that fact. The Authority shall discontinue the proceedings upon notification pursuant to the first sentence or if it otherwise becomes aware of the termination of the contract.
- (4) The Authority shall decide on the change of the holder of the individual authorisation for the use of radio spectrum, unless this is prevented by a reason pursuant to paragraph 12. The conditions and obligations set out in the individual authorisation for the use of radio spectrum shall remain valid. Upon the entry into force of the decision pursuant to the first sentence, the rights resulting from the assignment of frequencies shall be transferred. The Authority shall publish its decision within seven working days of its entry into force.
- (5) If the transfer of rights is not possible for the reason referred to in paragraph 12, the Authority shall reject the application for a change of the holder of the individual authorisation for the use of radio spectrum and shall discontinue the proceedings.
- (6) The holder of an individual authorisation for the use of radio spectrum shall notify the Authority in writing of the intention to carry out the lease of rights resulting from the assignment of frequencies or the intention to carry out shared use of radio spectrum within a single network no later than five weeks before it is carried out, and of the carrying out of the lease of rights or the carrying out of the shared use of radio spectrum within ten working days of the date of entry into force of the contract under which the lease of rights or the shared use of radio spectrum has been carried out.
- (7) The notification referred to in paragraph 6 shall include the data of the holder of the individual authorisation for the use of radio spectrum and of the person to whom the rights resulting from the assignment of frequencies are to be leased or to whom they have been leased, or the person with whom the use of the radio spectrum is to be or will be shared to the extent referred to in Article 10 (2) (a) to (c), the designation of the individual authorisation to which the lease or shared use of radio spectrum relates, the designation of the frequencies which are the subject of the lease or shared use of radio spectrum, the definition of the lessee's

responsibility for the fulfilment of the obligations arising from the individual authorisation, and the date on which the contract enters into force.

(8) The notification referred to in paragraph 6 shall be accompanied by the lease agreement on the basis of which the lease of the rights or the shared use of radio spectrum took place and other documents and information necessary to assess whether the lease of the rights or the shared use of radio spectrum is not precluded by the grounds referred to in paragraph 12. Annexes are not published by the Authority.

(9) The Authority shall publish the information on the intention as well as the information on the lease or shared use of radio spectrum on its website within five working days from the receipt of the notification. The Authority shall, within four weeks from the date of receipt of the notification of the intention to lease rights, notify the undertaking which sent the notification whether there are grounds pursuant to paragraph 12 and whether the lease of rights or the shared use of radio spectrum can be carried out.

(10) If the lease of rights can be carried out and it is necessary to define the responsibility for compliance with the conditions of the individual authorisation for the use of radio spectrum, the Authority shall, upon receipt of the notification of the execution of the lease of rights, amend the individual authorisation by adding the person of the lessee, specifying the scope of the rights and obligations associated with the lease, defining the scope of the responsibility for compliance with the conditions of the individual authorisation for the use of radio spectrum, as specified in the notification, and specifying the date of the entry into force of the lease agreement. If the lease of rights is not possible for the grounds referred to in paragraph 12, the Authority shall not initiate the proceedings for the amendment of the individual authorisation for the use of radio spectrum.

(11) The holder of the individual authorisation for the use of radio spectrum shall notify the Authority in writing of the termination of the lease of the rights resulting from the assignment of frequencies or the termination of the shared use of radio spectrum no later than ten days after its termination. The notification referred to in the first sentence shall include the data of the holder of the individual authorisation and of the person to whom the rights resulting from the assignment of frequencies have been leased or with whom the shared use of radio spectrum is being terminated, to the extent referred to in Article 10(2) (a) to (c), the designation of the individual authorisations for the use of radio spectrum concerned, the designation of the frequencies which were the subject of the lease or the shared use. On the basis of a notification pursuant to the first sentence, the Authority shall amend the individual authorisation for the use of radio spectrum by removing the changes made on the basis of the notification of the execution of the lease of rights pursuant to paragraph 6. The Authority shall publish this notification on its website within five working days of receipt of the notification.

(12) The transfer, lease of rights and shared use of radio spectrum cannot take place if

- a) frequencies allocated for analogue terrestrial radio broadcasting are concerned,
- b) harmonised frequencies are concerned and their transfer or lease is not consistent with their harmonisation,
- c) the shared use of radio spectrum, transfer or lease would result in a restriction of competition,
- d) the person to whom the rights are to be transferred or to whom they are to be leased has, within the last three years prior to the intended transfer or lease, had the individual

authorisation for the use of radio spectrum held by them revoked or the frequency allocated to them withdrawn by the Authority pursuant to Article 44 (9),

- e) frequencies that have been allocated free of charge are concerned, or
- f) there is a demonstrable risk that the person to whom the rights are to be transferred is unable to comply with the conditions and obligations set out in the individual authorisation for the use of radio spectrum.

(13) The procedure under Article 43 shall not apply to the amendment of the individual authorisation for the use of radio spectrum pursuant to this paragraph. The Authority may launch a public consultation on whether the grounds under paragraph 12(c) are met.

#### **Article 47**

##### **Charges for the right of use for radio spectrum or identifiers**

(1) The Authority shall determine the charge for the right of use for radio spectrum or identifier and the charge for the assignment of a frequency objectively and adequately in relation to their use.

(2) The Authority shall determine the following types of charges

- a) a one-off charge for the assignment of a frequency based on the outcome of a selection procedure,
- b) a one-off charge for the renewal or extension of rights to use the radio spectrum which was assigned based on the results of the tender procedure,
- c) a one-off charge for the right of use for radio spectrum or identifier,
- d) recurring charges for the right of use for radio spectrum or identifier.

(3) The Authority shall determine the charge for the right of use for radio spectrum or identifier under paragraph 2(c) and (d) in accordance with the scale of charges. The scale of charges for the right of use for radio spectrum or identifier shall be laid down in a generally binding legal regulation to be issued by the Authority.

(4) In determining the charge for the right of use for radio spectrum in order to ensure the efficient use of the radio spectrum and the allocation of frequencies, the Authority shall in particular

- a) take into account the value of frequencies in their possible alternative use,
- b) take into account the specified period of validity of the individual authorisations for the use of radio spectrum and the possibility of extending the period of validity of individual authorisations,
- c) take into account the costs associated with the conditions and obligations set out in the individual authorisation for the use of radio spectrum or general authorisation for the use of radio spectrum,
- d) prescribe the charges referred to in paragraph 2(c) and (d), taking into account the actual availability of the frequencies allocated.

(5) The obligation to pay charges pursuant to paragraphs 1 to 3 shall not apply to the use of radio spectrum by operators of special networks.

## **Article 48**

### **Renewal of rights of use for harmonised radio spectrum**

(1) On the basis of an application by the holder of an individual authorisation for the use of radio spectrum or on its own initiative, the Authority shall decide on the renewal of individual rights of use for harmonised radio spectrum pursuant to a special regulation<sup>7)</sup> before the expiry of the period of validity of such an individual authorisation. The Authority shall take a decision on the application of the holder of an individual authorisation for the use of radio spectrum not earlier than five years before the expiry of the validity period of those rights. In determining the period within which the Authority shall decide on the renewal of such rights, the Authority shall take into account the need to fulfil legitimate expectations and the predictability of the investment of the holder of such rights.

(2) An application by the holder of an individual authorisation for the use of radio spectrum pursuant to paragraph 1 shall include

- a) data of the holder of the individual authorisation to the extent pursuant to Article 10 (2) (a) and (b),
- b) the Authority's decision on frequency allocation,
- c) demonstration of compliance with the conditions referred to in paragraph 3,
- d) a draft modification of the rights and obligations associated with the individual authorisation for the use of radio spectrum concerned,
- e) a proposal and justification for the amount of the one-off charge for the the renewal of rights referred to in paragraph 1,
- f) a proposal and justification for the amount of the charge pursuant to Article 47.

(3) In making a decision pursuant to paragraph 1, the Authority shall take into account in particular

- a) the objectives and principles under Article 1, Article 32 (1) and (7),
- b) the objectives and strategies of the European Union and the Slovak Republic in the field of electronic communications,
- c) rights and obligations under implementing measures pursuant to a special regulation,<sup>7)</sup>
- d) compliance with the conditions imposed by the individual authorisations for the use of radio spectrum concerned,
- e) the need to promote or prevent restrictions on competition in accordance with Article 49,
- f) the efficiency of the use of the radio spectrum band concerned, taking into account technological and market developments,
- g) the need to avoid serious disruption to the services provided.

(4) Before deciding on the renewal of rights under paragraph 1, the Authority shall conduct a public consultation on the draft decision on the renewal of rights, stating in the draft decision all the reasons for which it proposes to renew those rights. The Authority shall decide, on the basis of the consultation, whether or not to renew the rights referred to in paragraph 1.

(5) In deciding on the renewal of individual rights that have been allocated on the basis of a selection procedure, the Authority shall take into account

- a) demand from undertakings which do not hold rights of use for the radio spectrum band concerned,
- b) the comments and suggestions it receives in the course of the public consultation referred to in paragraph 4.

(6) In the decision referred to in paragraph 1, the Authority shall determine

- a) the amount of the one-off charge referred to in Article 47(2)(a), (b) or (c),
- b) the amount of the recurring charge pursuant to Article 47(2)(d) and
- c) the scope of the rights and obligations associated with the individual authorisation for the use of radio spectrum, applying the provision of Article 35(2) accordingly.

(7) The Authority may exclude the possibility of renewal of rights under paragraph 1 in the radio spectrum use plan. If the Authority excludes the possibility of renewal of rights under paragraph 1 in the radio spectrum use plan, it shall state the reasons why those rights cannot be renewed.

(8) The Authority may decide to renew individual rights for a shorter period than the original period of validity of the individual authorisation for the use of radio spectrum if the renewal of individual rights for the same period would be contrary to the stated purpose of the use of the allocated frequencies.

## **Article 49**

### **Measures to protect competition**

(1) In issuing individual authorisations for the use of radio spectrum, amending them, including pursuant to Article 46, renewing or extending the period of validity of individual authorisations for the purpose of promoting effective competition and protecting against restrictions of competition, the Authority may take appropriate measures, in particular

- a) limit the maximum range of frequencies allocated to a single undertaking,
- b) where justified, determine the obligation to provide wholesale access, national or regional roaming in certain radio spectrum bands with similar characteristics,
- c) reserve, where justified by a specific national market situation, a certain part of radio spectrum or a group of radio spectrum bands for allocation to an undertaking entering the market,
- d) refuse an application for an individual authorisation for the use of radio spectrum or refuse an application to change the purpose of the use of frequencies in certain radio spectrum bands in order to prevent a restriction of competition resulting from the allocation, transfer or accumulation of radio spectrum,
- e) determine the conditions applicable to the granting of new rights of use for radio spectrum or the authorisation of new uses of radio spectrum in order to prevent a restriction of competition resulting from the allocation, transfer or accumulation of radio spectrum,

f) not allow or restrict the transfer of rights resulting from frequency assignments which are not subject to merger control under European Union or national rules and which could result in a significant restriction of competition,

g) amend the valid individual authorisations for the use of radio spectrum where this is necessary to remedy ex post a distortion of competition by any transfer or accumulation of rights of use for radio spectrum.

(2) The Authority shall take the measures pursuant to paragraph 1 based on an objective and forward-looking assessment of maintaining or achieving effective competition, and of the likely effects of such measures on existing and future market players.

(3) The Authority shall issue decisions on the basis of the state of competition on the market in the light of developments, an assessment of whether the measures referred to in paragraph 1 are necessary to achieve or maintain effective competition, and the impact of those measures on existing and future investments by market players, in particular in the construction of networks, taking into account the market situation and available market information. In doing so, the Authority shall take into account the elements of a market analysis pursuant to Article 65(2).

(4) The Authority shall take the measures referred to in paragraph 1 in accordance with the procedures laid down in Articles 43, 44 and 46. The Authority shall conduct a public consultation on the proposed measures under paragraph 1.

## **Article 50**

### **Making harmonised radio spectrum available**

(1) In the case of radio spectrum harmonised for wireless broadband networks and services in accordance with technical implementing regulations issued in accordance with a special regulation<sup>7)</sup> the Authority shall allow those frequencies to be used as soon as possible, but at the latest within 30 months from the date of entry into force of the relevant implementing regulation of the European Commission. Where the Authority has authorised alternative use of radio spectrum pursuant to Article 32(8), the Authority shall allow those frequencies to be used as soon as possible after the end of the alternative use of radio spectrum.

(2) Where, for the purpose referred to in paragraph 1, it is necessary to release frequencies which are designated in the National Frequency Allocation Plan for radio communications services for military purposes, the operators of special networks shall be entitled to an appropriate frequency compensation for the released frequencies, usable by the special networks.

(3) The Authority may extend the period referred to in paragraph 1

a) on the basis of a justified restriction on the use of radio spectrum to ensure the fulfilment of the general interest objective of the protection of life or the promotion of cultural and linguistic diversity, pluralism of the media through the provision of radio and television broadcasting services,

b) in the event of unresolved cross-border coordination with third countries which may result in harmful interference, where the Authority has requested the European Union to provide support in resolving this issue,

c) to ensure state defence and security,

- d) due to Force Majeure,
- e) in the event of unresolved cross-border coordination with another Member State which may result in harmful interference, where the Authority has exhausted all available options to resolve it; or
- f) where it is necessary to provide for a change in the radio spectrum used by existing holders of individual authorisations for the use of radio spectrum.

(4) The Authority shall review the extension of the period referred to in paragraph 1 for the reasons referred to in paragraph 3(a) to (d) every two years. The period referred to in paragraph 1 may be extended by the Authority for a maximum of 30 months for the reasons referred to in paragraph 3(e) and (f).

(5) Where the Authority extends the period referred to in paragraph 3, it shall immediately inform the Member States concerned and the European Commission, stating the relevant reason pursuant to paragraph 3.

## **Article 51**

### **Access to radio local area networks**

(1) The Authority shall allow the provision of access through radio local area networks to a public network in a general authorisation, as well as the use of the harmonised radio spectrum for that provision, subject only to applicable general authorisation conditions relating to radio spectrum use.

(2) The provision of access to the radio local area network is subject to

- a) notification duty pursuant to Article 10,
- b) obligations relating to the protection of end-users under this Act,
- c) the obligation to interconnect networks.

(3) The provision of network access via a radio local area network under this paragraph shall be subject to the provisions of a special regulation.<sup>83)</sup> Paragraph 2 shall not apply where the provision of a radio local area network

- a) is not part of an economic activity,
- b) is ancillary to an economic activity which is not dependent on the conveyance of signals on the radio local area network, or
- c) is a publicly available service which is not dependent on the conveyance of signals on the radio local area network.

(4) Undertakings may provide public access to their networks via a radio local area network located in the premises or constructions of end-users where the provision of such access is in accordance with the terms of a general authorisation for the provision of networks or services and where the end-user in whose premises or construction the radio local area network is located has given its consent to the provision of public access.

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<sup>83)</sup> Article 6 (1) of Act No. 22/2004 Coll.



(5) An undertaking shall not, in accordance with a special regulation,<sup>26)</sup> unilaterally restrict or prevent end-users from

- a) accessing radio local area networks of their choice operated by third parties,
- b) allowing other end-users to access the radio local area network operated by a third party, including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.

(6) End-users may allow other end-users to access the radio local area network including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.

(7) Public access to the radio local area network may not be unreasonably restricted if it is provided

- a) by public sector bodies or in public spaces close to buildings occupied by such public sector bodies, when that provision is ancillary to the public services provided in those buildings,
- b) by initiatives of non-governmental organisations or public sector bodies to aggregate and make accessible the radio local area networks of end-users, including the radio local area networks provided in accordance with point (a).

## **Article 52**

### **Special professional competence**

(1) Selected radio equipment may only be operated by a natural person with special professional competence to operate it. Special professional competence is the sum of theoretical knowledge and practical experience and knowledge of generally binding legal regulations related to the operation of selected radio equipment. Without special professional competence, a natural person may operate such equipment during training and instruction only under the supervision of a person who has special professional competence. Special professional competence shall be demonstrated by a certificate of special professional competence. The operation of selected radio equipment may also be carried out by a person who holds a valid certificate of professional competence for the operation of selected radio equipment issued in a Member State of the European Union. If a person does not have a valid certificate or the certificate has not been issued in a Member State of the European Union, the Authority shall verify the special professional competence on the basis of an application from that person pursuant to paragraph 2.

(2) Special professional competence shall be verified by the Authority by examination and the issuance of a certificate of special professional competence in documentary form. The members of the Board of Examiners shall be appointed and dismissed by the Chairman of the Authority.

(3) The application for a certificate of special professional competence shall include

- a) name, surname, date of birth and degree of the applicant,
- b) address of permanent residence of the applicant,
- c) the type of certificate of special professional competence required,
- d) the level of education attained by the applicant; and

e) other annexes to the application in accordance with the generally binding legal regulation referred to in paragraph 7.

(4) Only a person who has attained the age of 15 years and, in the case of an amateur station operator, only a person who has attained the age of 14 years may apply for a certificate of special professional competence pursuant to paragraph 3 and may take the professional competence examination.

(5) The obligation under paragraph 1 shall not apply to the operation of selected radio equipment used by the components of the Ministry of Defence, the Ministry of Interior and the Slovak Information Service for the purposes of ensuring the defence of the State and the security of the State, the protection of public policy, life, health and property.

(6) Selected radio equipment means

- a) a radio station operating in the short-wave bands reserved for telegraph and telephone operation,
- b) aircraft station,
- c) aircraft ground station,
- d) aeronautical station,
- e) aeronautical ground station,
- f) boat station,
- g) boat ground station,
- h) coastal station,
- i) amateur station.

(7) Details of selected radio equipment, of the establishment of the Board of Examiners, of the annexes to the application referred to in paragraph 3, of the content, scope and conduct of the examination and of the certificates of special professional competence shall be laid down in a generally binding legal regulation to be issued by the Authority.

(8) A natural person who will operate selected radio equipment on ships compulsorily equipped with Global Maritime Distress and Safety System (GMDSS) equipment is required to undergo practical training at a training centre recognised by an international maritime organisation before taking the examination. A natural person who will operate selected radio equipment equipped with GMDSS equipment on ships which are not compulsorily equipped with such equipment is required to undergo practical training at a training centre recognised by the Authority before taking the examination. Details of the procedure and method for the recognition of a training centre under the second sentence and the requirements to be met by the training centre shall be laid down in a generally binding legal regulation to be issued by the Authority.

(9) The technical and operating conditions of an amateur station shall be laid down in a generally binding legal regulation to be issued by the Authority.

(10) The applicant for an individual authorisation for the use of radio spectrum for an amateur station shall hold a certificate of special professional competence as an amateur station operator.

(11) If the certificate is lost, stolen, defaced or the data in the certificate of special professional competence are altered, the Authority shall issue a new certificate based on an application by the holder of the certificate without verification of special professional competence by examination. Paragraphs 3 and 7 shall apply accordingly to the application for the issuance and to the issuance of a new certificate of special professional competence. A natural person who applies for a new certificate of special professional competence due to a change of data shall be obliged to submit a document confirming the new data. The issuance of a new certificate of special professional competence shall render the original certificate of special professional competence null and void.

### **Article 53**

#### **Construction and operation of small-area wireless access points**

(1) Unless it is contrary to the interests of state defence, state security and the protection of public policy, life, public health and property, public authorities are, for the purpose of constructing small-area wireless access points, obliged to comply with all written requests from an undertaking for access to any physical infrastructure, including street furniture, such as light poles, street signs, traffic lights, billboards, public transport stops, which they own or operate (directly or through a controlled person<sup>84</sup>) and which is technically suitable to host small-area wireless access points or which is necessary to connect such access points to a backbone network, on reasonable, non-discriminatory and transparent terms and conditions, including price. Provisions relating to access to physical infrastructure pursuant to Articles 25 to 30 shall apply accordingly to the granting and refusal of access.

(2) Public authorities shall publish the conditions of access referred to in paragraph 1 through a single information point.

(3) Details concerning the extent of infrastructure suitable for the location of small-area wireless access points, the technical and commercial conditions for access, and the manner in which the conditions for access to the single information point are to be provided, shall be laid down in a generally binding regulation to be issued by the Authority.

### **Management of numbers and numbering plan**

#### **Article 54**

(1) The Authority

- a) manages all the numbers from the national numbering plan,
- b) compiles, issues and manages the national numbering plan,
- c) issues individual authorisations for the use of numbers,
- d) makes numbers available to the extent necessary to ensure the provision of publicly available services.

(2) The Authority shall act objectively, transparently and in a non-discriminatory manner when managing numbers.

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<sup>84</sup>) Article 66a of the Commercial Code.

(3) Numbers are call numbers, number blocks and addresses of public networks and services, excluding internet addresses.

(4) The Authority shall lay down in the national numbering plan the rules for the compilation and use of numbers, the rules for the creation of addresses and names, with the exception of internet addresses, and the general conditions for their allocation, ensuring equal treatment of all providers of publicly available services and all entities pursuant to Article 55(3). In its processing, the Authority respects the international treaties and obligations of the Slovak Republic arising from its membership in international organisations and also takes into account the development of new services and the provision of a sufficient number of numbers.

(5) The Authority shall reserve the number 116000 in the national numbering plan for the purpose of reporting cases of missing children.

(6) An undertaking which has been allocated a 116000 number by the Authority at its request shall ensure that

- a) end-user calls to this number are not charged,
- b) the services provided through that number are accessible to end-users with disabilities in accordance with the relevant technical standards, even if such user is travelling outside the territory of the Member State in which he/she resides,
- c) entities providing services through that number put in place the financial, organisational and human resources necessary to ensure the continued provision of that service, and inform end-users of the existence and purpose of that service, or of other services they provide through the 116 numbering range.

(7) The undertaking and the entity referred to in Article 55(3) shall be obliged to provide, upon request of the Authority, the information necessary for the compilation and application of the national numbering plan.

(8) The undertaking and the entity referred to in Article 55(3) which have been granted an individual authorisation for the use of numbers pursuant to Article 55 shall not discriminate in the use of those numbers against other undertakings providing services in the provision of access to those services.

(9) The Authority shall make available a range or ranges of non-geographic numbers for the purpose of providing other than interpersonal communications services, including specific services provided by entities pursuant to Article 55(3), throughout the territory of the European Union.

(10) The Authority shall provide information concerning numbers which may be used outside the territory of the Slovak Republic to the Body of European Regulators which maintains the database of numbers which may be used outside the Member State which administers those numbers, in order to control compliance with the conditions imposed in the individual authorisation for the use of those numbers. The Authority shall provide the information referred to in the first sentence within the time limit, scope and in the form specified by the Body of European Regulators.

(11) Where the Authority, by agreement with the national regulatory authority of another Member State or another authority of another Member State responsible for number

management, determines specific conditions for the use of a number-based service in contiguous geographical areas which are on the territory of different Member States, or decides on the common use of a numbering plan for some or all categories of numbers, it shall ensure that the end-users affected are adequately informed.

(12) The service provider shall ensure that end-users, in particular end-users of machine-to-machine (M2M) communication services, are able to change network or service provider, in particular machine-to-machine (M2M) communication services, by assigning a number to the terminal equipment used for the provision of the machine-to-machine (M2M) communication service, remotely and without the need for physical intervention in that equipment, where technically feasible.

(13) In managing numbers, the Authority shall act to support the harmonisation of specific numbers or numbering ranges within the European Union in order to ensure the functioning of the internal market and the development of pan-European services, in accordance with the implementing regulations of the European Commission.

(14) The national numbering plan shall be laid down in a generally binding legal regulation issued by the Authority. The national numbering plan and changes thereto shall be published by the Authority on its website.

## **Article 55**

### **Individual authorisation for the use of numbers**

(1) Numbers can be used only under an individual authorisation for the use of numbers. Individual authorisation for the use of numbers means the decision of the Authority on the assignment of numbers provided in the national numbering plan.

(2) The Authority shall allocate numbers from the national numbering plan for a purpose consistent with the purpose set out in the national numbering plan at the request of an undertaking providing a public network or a publicly available service, a person wishing to provide a public network or publicly available services and has requested allocation of numbers no earlier than one month before the expected start date of the provision of networks or services specified in the application, or an entity referred to in paragraph 3, or at the request of a person requesting the allocation of a harmonised European number of social significance for the purpose of providing harmonised services of social significance, within three weeks of receipt of a complete request pursuant to paragraph 4, and in the absence of reasons pursuant to paragraph 7.

(3) The Authority may also grant individual authorisation for the use of numbers for the provision of specific services to entities which are not undertakings, provided that such entities demonstrate, in accordance with the guidance of the Body of European Regulators on common criteria for assessing the ability to manage numbering resources and the risk of exhaustion of numbering resources, the ability to manage and ensure the use of numbers in accordance with the conditions set out in this paragraph, and provided that there are sufficient numbers to meet current and foreseeable future demand for numbers. If, in accordance with the guidance under the preceding sentence, the Authority demonstrates an imminent risk of a shortage of numbers, it shall cease to issue individual authorisations for the use of numbers to entities which are not undertakings. The specific services referred to in the first sentence are services which are not a

service under this Act and for the provision of which non-geographic numbers are used, with the exception of numbers operated on a mobile network.

(4) The application for the allocation of numbers shall include

- a) data of the applicant to the extent pursuant to Article 10 (2) (a) and (b),
- b) details of the requested numbers,
- c) the purpose of use of the numbers,
- d) time of use of the numbers,
- e) an annex, which shall be evidence of compliance with the conditions for the assignment of a harmonised European number of social significance according to a special regulation,<sup>85)</sup> if such a number is requested.

(5) The Authority may require the submission of documents and information necessary to prove the facts stated in the application pursuant to paragraph 4.

(6) Individual authorisation for the use of numbers may contain only

- a) identification data of the holder of the individual authorisation for the use of numbers,
- b) the numbers allocated and the designation of the service for which the numbers are to be used, including the requirements associated with the provision of that service and the obligations associated with the use of the numbers allocated in the provision of that service,
- c) pricing principles and maximum prices for services provided through specific numbers or number ranges, where necessary to protect consumers,
- d) principles of efficient use of numbers,
- e) number portability requirements,
- f) the obligation to provide end-user data for the purposes of providing a directory enquiry service,
- g) the maximum period of time for which numbers shall be allocated, the variation of which shall be subject to changes in the national numbering plan; in determining the period of time, the Authority shall take into account the service with which the use of the number is associated and the period of time necessary to ensure a return on the investment associated with the provision of the service and the use of the number,
- h) the terms and conditions of the transfer of the right to use numbers initiated by the holder of the individual authorisation for the use of numbers, including the requirements under which the terms and conditions set out in the individual authorisation for the use of numbers shall be binding on all entities to which the right is transferred,
- i) the recurring charge for assigned numbers and the method of payment,
- j) obligations under international agreements on the use of numbers,
- k) obligations to ensure compliance with the consumer protection and number usage rules applicable in the Member State in which the numbers are used in the case of numbers allocated on the basis of an individual authorisation for the use of numbers which may be used outside the territory of the Slovak Republic,

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<sup>85)</sup> E.g., Articles 77 to 86 of Act No. 305/2005 Coll. as amended.

l) the obligation to submit an annual report on the use of numbers to the Authority by the deadline specified in the individual authorisation for the use of numbers.

(7) The Authority shall not assign numbers if

a) this requires compliance with an obligation of the Slovak Republic arising from an international treaty or from membership of an international organisation,

b) the assignment of numbers is not allowed by the national numbering plan,

c) the requested numbers are not available,

d) the applicant for the assignment of a harmonised European number of social significance does not meet the conditions for the assignment of numbers according to a special regulation,<sup>88)</sup> or

e) it has revoked the applicant's individual authorisation for the use of numbers within the last three years or has decided to withdraw the number allocated to the applicant on the grounds referred to in paragraph 13(a)(1) to (3),

f) it is not in the interest of efficient use of numbers.

(8) The Authority shall suspend the procedure for the issuance of an individual authorisation for the use of numbers if, prior to the receipt of an application pursuant to paragraph 4, proceedings for the revocation of an individual authorisation for the use of numbers or for the withdrawal of an assigned number have been initiated in respect of the same entity.

(9) The Authority shall discontinue the proceedings for the issuance of an individual authorisation for the use of numbers if the applicant for an individual authorisation for the use of numbers submits documents and information necessary to prove the facts set out in the application pursuant to paragraph 4 which contradict the contents of the application or show grounds for not assigning the number, or if they fail to submit such documents and information.

(10) The Authority shall decide on the change of the number assigned or on the change of the conditions of its use before the expiry of the period for which the number was assigned

a) if it is necessary to observe an obligation of the Slovak Republic arising from an international treaty or from membership of an international organisation,

b) if it is necessary from the point of view of state defence, state security and the protection of public policy,

c) if it is necessary to preserve the security of the public operation of the network for technical or operational reasons,

d) where there has been a change in the facts on the basis of which the Authority decided to assign the number, or

e) at the reasoned request of the holder of an individual authorisation for the use of numbers, provided that the conditions for the assignment of the number are met.

(11) In the proceedings referred to in paragraph 10, the Authority shall notify the holder of the individual authorisation for the use of numbers in writing of the intended change and the reasons for it; the holder of the individual authorisation for the use of numbers may, within four weeks from the date of receipt of this notification, express its opinion on the intended change, which the Authority shall evaluate in the proceedings.

(12) The holder of the individual authorisation for the use of numbers shall be obliged to implement the Authority's decision on the change the assignment of numbers pursuant to paragraph 10 within the time limit specified by the Authority and at its own expense.

(13) The Authority shall revoke an individual authorisation for the use of numbers or decide on the withdrawal of an assigned number if

a) the holder of the individual authorisation for the use of numbers

1. fails to comply with the obligations laid down in this Act or in the individual authorisation for the use of the number, including changes thereto, although they have been warned in writing of the possibility of withdrawal of the number in the record of the result of the inspection pursuant to Article 122(11)(i) and have not remedied the deficiencies within a reasonable period of time specified by the Authority; this shall not apply to the recurring charge for the allocated numbers,
2. has not used the number for at least six months since the number was allocated, or has stopped using the allocated number for at least three months,
3. has failed to make a recurring payment for the numbers allocated within three months of the due date,
4. no longer meets the conditions for the use of the assigned harmonised European number of social significance according to a special regulation,<sup>88)</sup>
5. does not use or does not demonstrate an intention to use the number in accordance with its intended use according to the national numbering plan, or

b) it is necessary from the point of view of state defence, state security or the protection of public policy.

(14) Individual authorisation for the use of numbers expires on the date of

- a) expiry of the period for which the number was assigned,
- b) delivery of the notification by the holder of the individual authorisation for the use of numbers of the return of the numbers to the Authority,
- c) delivery of notification from the undertaking of termination of the provision of the network or service to the Authority, or on the date of deletion of the undertaking from the register,
- d) entry into legal force of the decision to withdraw the number,
- e) end of existence of the holder of the individual authorisation for the use of numbers; this shall not apply if the holder has a legal successor, or
- f) entry into legal force of the decision to prohibit the provision of networks or services.

(15) The holder of an individual authorisation for the use of numbers shall be obliged to pay a recurring charge for each number allocated in accordance with the scale of charges. The amount of the recurring charge shall be determined in accordance with the objectives and principles set out in Articles 1 and 7. (14) The scale of charges for the numbers allocated shall be laid down in a generally binding legal regulation to be issued by the Authority.

(16) The Authority shall indicate in the individual authorisation for the use of numbers whether the rights resulting from the assignment of numbers may be transferred and the conditions for the transfer of the right of use for numbers in accordance with this Act.



(17) Where the rights arising from the assignment of numbers pursuant to paragraph 1 are transferable, the holder of the individual authorisation for the use of numbers may file a proposal for the change of the holder of the individual authorisation in respect of all or part of the rights relating to the assignment of numbers. The proposal shall be accompanied by all the documents and information necessary to assess whether the transfer of rights can be carried out pursuant to paragraph 21. The Authority shall publish the full proposal pursuant to the first sentence on its website within five working days of the date of receipt of the proposal.

(18) If the contract for the transfer of rights is terminated before the decision on the change of the holder of the individual authorisation for the use of numbers is issued, the undertaking shall immediately notify the Authority of that fact. The Authority shall discontinue the proceedings upon notification pursuant to the first sentence or if it otherwise becomes aware of the termination of the contract.

(19) The Authority shall decide on the change of the holder of the individual authorisation for the use of numbers, unless this is prevented by a reason pursuant to paragraph 21. The conditions and obligations set out in the individual authorisation for the use of numbers shall remain valid. Upon the entry into force of the decision pursuant to the first sentence, the rights resulting from the assignment of numbers shall be transferred. The Authority shall publish its decision within seven working days of its entry into force.

(20) If the transfer of rights is not possible pursuant to paragraph 21, the Authority shall reject the application for a change of the holder of the individual authorisation for the use of numbers and shall discontinue the proceedings.

(21) The transfer of rights is not possible if

- a) it results from an international treaty by which the Slovak Republic is bound or from membership of an international organisation,
- b) in the last three years, the Authority has revoked the applicant's individual authorisation to use the number or has decided to withdraw the number allocated to the applicant,
- c) the applicant for the transfer of a harmonised European number of social significance does not meet the conditions for the assignment of the number according to a special regulation,<sup>88)</sup>
- d) there is a risk that the person to whom the rights are to be transferred is unable to comply with the conditions and obligations set out in the individual authorisation for the use of numbers, or
- e) the transfer would restrict competition.

## **Chapter Five**

### **Interconnection of networks and access**

#### **Article 56**

(1) Access or interconnection may be requested by an undertaking, a natural or legal person intending to provide networks or services, or a natural or legal person providing networks or services in a Member State other than the Slovak Republic. A network or service provider in another Member State requesting interconnection or access need not comply with the

obligations specified in the general authorisation if it does not provide services or operate a network in the Slovak Republic.

(2) The Authority shall, by decision, withdraw an obligation on an undertaking to offer different terms and conditions to different undertakings in the provision of interconnection or access for similar services or measures which are not related to the actual provision of interconnection or access services, if any, or shall not impose such an obligation or measure. This shall not apply where the Authority has imposed or imposes such an obligation in a general authorisation, a general authorisation for the use of radio spectrum, an individual authorisation for the use of radio spectrum or an individual authorisation for the use of numbers.

### **Article 57**

(1) An undertaking providing a public network shall have the right and, at the request of an applicant pursuant to Article 56(1), the obligation to negotiate the terms and conditions for the interconnection of networks for the purposes of providing publicly available services in order to ensure their provision and interoperability. Where practicable, the undertaking shall be obliged by contract to interconnect its network with the network of the requesting public network provider. The interconnection contract must be in writing. The essential element of an interconnection or access contract is the price.

(2) The undertaking providing the public network shall be obliged to allow interconnection

- a) under the technical requirements resulting from technical standards and technical specifications according to Article 20 ensuring interoperability of services,
- b) within a reasonable time and under reasonable contractual terms and conditions, where the interconnection shall not be conditional on payment for those parts of the public network or equipment which are not strictly necessary for the interconnection,
- c) at locations other than the usual points of interconnection, where the public network provider requesting the interconnection so requests and pays the necessary costs of such interconnection and it is technically feasible to do so.

(3) Interconnection may be provided by an undertaking or a third party that has access to the public network. Interconnection of public networks shall be available at the usual points of interconnection and at a quality that is no worse than that of the operation of a public network for the undertaking's own use or the provision of a public network and service to an undertaking in a position of a controlled person or an undertaking in which it has the right of co-determination. The undertaking shall be responsible for the interoperability of services on the side of the public network operated by it up to the point of interconnection.

(4) An undertaking shall be obliged to submit in writing to the Authority the contract on the interconnection of networks at the national point of interconnection concluded for the purpose of the interconnection of number-based interpersonal communications services, as well as all alterations of and amendments thereto, within 45 days from the date of conclusion of the contract or its amendment; the undertaking shall be obliged to submit the basic technical and economic conditions for the interconnection to the Authority electronically within the same time limit. The Authority shall publish on its website the basic technical and economic terms and conditions of the interconnection and shall make the contract available to anyone who so requests, except for those parts of the contract which are marked as the subject of business secret. The price for the interconnection is not the subject of business secret.

(5) Information obtained for the purpose of interconnecting public networks may be used by undertakings only for the purpose for which it was provided and may not be disclosed to third parties, including internal organisational units of the undertaking, for whom such information could confer a competitive advantage. This provision shall not apply to information pursuant to Article 15 and to publicly available information.

(6) If undertakings or persons that may apply for interconnection pursuant to Article 56(1) do not conclude a written interconnection contract within two months of the date on which negotiations on the draft contract commence, any of the parties shall be entitled to submit a proposal to the Authority for the resolution of an interconnection dispute pursuant to Article 128. An undertaking's or person's proposal under the first sentence for the resolution of a dispute shall include a draft contract specifying the disputed parts thereof. The date of commencement of negotiations on a draft contract shall be the date on which the undertaking has demonstrably delivered a written draft contract to the other undertaking.

## **Article 58**

(1) Notwithstanding the obligations imposed by the Authority on an undertaking with significant market power, the Authority shall be entitled to impose, where justified and to the extent necessary

- a) on undertakings subject to a general authorisation which control access to end-users an obligation to interconnect networks in order to ensure connectivity between termination points,
- b) on undertakings subject to a general authorisation which control access to end-users an obligation to ensure the interoperability of services,
- c) an obligation on providers of a number-independent communications service that achieve a significant level of coverage and use by end-users, to ensure the interoperability of their services to the extent necessary to ensure connection between end-users including a reasonable obligation to disclose and enable the use, modification and redistribution of relevant information by authorities and other undertakings, or an obligation to use and implement relevant international technical standards or technical specifications pursuant to Article 20,
- d) an obligation on undertakings to ensure that end-users have access to the application programming interface and the electronic programme guide to the extent necessary to ensure that end-users have access to digital radio and television broadcasting services and related complementary services on fair, reasonable and non-discriminatory terms and conditions.

(2) In imposing access obligations under paragraph 1, the Authority shall be required to create conditions in relation to interconnection, access and interoperability of services which are in the interests of meeting the objectives under Article 1, efficiency, sustainable competition, the deployment of very high capacity networks, promoting efficient investment and innovation, and give the maximum benefit to end-users.

(3) The Authority shall provide guidance in relation to interconnection or access to small and medium-sized enterprises or an undertaking providing a network with a limited geographical reach and shall publish and update on its website the procedures relating to obtaining access or interconnection.

## Article 59

(1) Notwithstanding the obligations imposed pursuant to Article 58, the Authority may, upon reasoned request by an undertaking, impose an obligation on another undertaking to provide access to wiring inside buildings as well as to associated facilities inside buildings or to the first concentration point or distribution point located outside the building as defined by the Authority in accordance with the guidance of the Body of European Regulators. Where the parallel construction of network elements would be economically inefficient or technically impracticable, the Authority shall be entitled to impose an access obligation pursuant to the preceding sentence on the undertaking or on the owner of the network elements who is not an undertaking. In the decision imposing an obligation to provide access, the Authority shall specify the conditions relating to the provision of access to those network elements, associated facilities and associated services, the conditions of transparency, non-discrimination and cost sharing, taking into account the level of risk and the residual value of the total capital employed. The undertaking's request pursuant to the first sentence shall include, in particular, the identification of the applicant, the identification of the undertaking or the owner of the network elements on which the obligation is to be imposed, the justification for the request, in particular the facts justifying the procedure pursuant to this paragraph.

(2) Where, after taking into account the obligations imposed on the undertaking with significant market power on the basis of an analysis of the relevant market, the Authority finds that the obligations imposed pursuant to paragraph 1 would not ensure the removal of significant and long-standing economic or technical barriers to the parallel deployment of network elements which significantly restrict the impact of competition on end-users, it may impose an obligation on the undertaking or the owner of network elements who is not an undertaking to provide, on fair and reasonable terms, access to an Authority-defined network point located beyond the first concentration point or distribution point from which it is possible to connect such a number of end-users as is economically efficient for the person seeking such access, where technically feasible to do so. The Authority shall take the utmost account of the guidance of the Body of European Regulators when determining the network point beyond the first concentration point or distribution point. Where technically or economically justified, the Authority may impose an obligation to provide active or virtual access.

(3) The Authority shall not impose obligations under paragraph 2 on an undertaking if

- a) the undertaking which would be subject to the obligations imposed is an undertaking operating exclusively on the wholesale market within the meaning of Article 79(1) and provides, on fair, non-discriminatory and reasonable terms and conditions, any undertaking with feasible access to a very high capacity network for the purpose of providing services to end-users; this shall not apply in the case of undertakings providing networks the construction of which is financed by public funds,
- b) the imposition of obligations would jeopardise the economic or financial viability of building a new network, in particular for networks of local importance.

(4) In relation to the provision of local services that depend on the use of radio spectrum, the Authority shall impose obligations on an undertaking relating to the sharing of access to passive infrastructure, or an obligation to enter into a contract for the provision of national roaming where there is no offer of another comparable and feasible means of providing access to end-users that is provided on fair and reasonable terms and conditions. The Authority shall be entitled to impose an obligation under the preceding sentence only if the condition for its

fulfilment has been specified in the individual authorisation for the use of radio spectrum in the locality to which the imposition of the obligation relates or has been specified in the radio spectrum use plan and there are insurmountable economic or technical obstacles to the deployment of passive infrastructure and the construction of networks necessary for the provision of services dependent on the use of radio spectrum, with the result that the availability of the networks or services to the end-users is insufficient or cannot be ensured at all. Where the Authority finds that the imposition of an obligation to access or share passive infrastructure is not sufficient to address the market problems referred to in the preceding sentence, it shall impose an obligation on the undertaking to provide access to active infrastructure.

(5) In imposing obligations under paragraph 4, the Authority shall take into account

- a) the need to ensure the availability of services throughout the European Union, including the availability of services along major transport routes and in specific geographical areas, and the possibility of significantly increasing the choice and quality of services for end-users,
- b) the need to make the most efficient use of radio spectrum,
- c) the technical feasibility of sharing passive infrastructure or active infrastructure and the associated conditions,
- d) the state of competition based on infrastructure and services,
- e) technological innovations,
- f) the need to support the access provider's intention to build infrastructure.

(6) In resolving a dispute between undertakings pursuant to Article 128, the Authority shall be entitled to impose an obligation on the undertaking using the access pursuant to paragraph 4 to allow the shared use of the allocated frequencies with the undertaking on which the Authority has imposed an obligation pursuant to paragraph 4 at the given location.

(7) The Authority shall impose obligations pursuant to Article 58 and paragraphs 1 to 6 in accordance with the principles of objectivity, transparency, proportionality and non-discrimination on the proposal of an authorised person or on its own initiative, where justified by the fulfilment of the objectives and principles referred to in Articles 1 and 7, taking into account the results of public consultations and transnational consultations when imposing obligations. The Authority shall, within five years of the decision to impose obligations pursuant to Article 58 and paragraphs 1 to 6, assess their justification and decide whether to revoke or amend them, and the Authority shall communicate the outcome of its assessment to the European Commission and the Body of European Regulators in accordance with the provision on transnational consultation.

## **Article 60**

### **Conditional access system**

(1) An undertaking providing services on conditional access systems for digital television and digital radio, irrespective of the means of transmission, shall

- a) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers or listeners authorised by means of decoders administered by the undertaking providing conditional access,
- b) keep separate financial accounts regarding their activity as conditional access providers.

(2) If, on the basis of an analysis of the relevant market, the Authority finds that there is no undertaking with significant market power on the relevant market related to conditional access and an undertaking with significant market power has been designated on that relevant market, it shall, after public consultation and transnational consultation, issue a decision annulling the decision designating an undertaking with significant market power and imposing obligations.

(3) The analysis referred to in paragraph 2 shall include an assessment of whether the abolition of the obligations

a) will not adversely affect the access of end-users to radio and television broadcasting, television programmes and services designated pursuant to a special regulation,<sup>86)</sup>

b) will not adversely affect the conditions for the emergence and maintenance of effective competition on the market for retail digital television and radio broadcasting services and on the market for conditional access systems and other related facilities.

(4) The Authority shall impose an obligation on the undertaking in the decision withdrawing obligations pursuant to paragraph 2 to notify other undertakings affected by the decision withdrawing conditional access obligations, in particular in the case of existence of contracts concluded on the basis of obligations imposed on an undertaking with significant market power. In the decision, the Authority is entitled to specify a time period within which the undertaking is obliged to inform the undertakings concerned of the termination of conditional access provision, if it decides to do so on the basis of the Authority's decision on withdrawing the obligations.

(5) The Authority is entitled to impose obligations on undertakings providing conditional access services in relation to the presentational aspects of electronic programme guides and and similar listing and navigation facilities.

## **Chapter Six** **Regulation of competition**

### **Article 61** **Undertaking with significant market power**

(1) On the basis of an analysis of the relevant market, the Authority shall determine whether an undertaking with significant market power exists on the relevant market. If there is an undertaking with significant market power on the relevant market, the Authority will issue a decision to that effect.

(2) An undertaking with significant market power on a particular relevant market may also be designated by the Authority as having significant market power on a closely related market if the links between the two markets are such as to allow the transfer of power from one market to the other, thereby strengthening the undertaking's market power. The Authority may impose obligations pursuant to Articles 67 to 69 or Article 73 on an undertaking with significant market power pursuant to the first sentence on a closely related market.

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<sup>86)</sup> Act No. 308/2000 Coll. as amended.

## **Article 62**

### **Identification and definition of relevant markets**

(1) The Authority shall issue a list of relevant markets on the basis of the European Commission's recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation (hereinafter referred to as the "recommendation on relevant markets"). The Authority publishes the list of relevant markets in the Journal.

(2) The Authority may also include in the list of relevant markets a market that is not included in the recommendation on relevant markets if that market meets the test of the three criteria set out in paragraph 3. The three criteria test is subject to a process of public consultation and transnational consultation.

(3) The three criteria test is a way of determining whether ex ante regulation is justified on a market. The three-criteria test is met if the following three criteria are cumulatively met

- a) the existence of significant and persistent structural, legal or regulatory barriers to market entry,
- b) the structure of the market is such that the market does not tend towards effective competition in the foreseeable future in the case of infrastructure-based competition and other competition that creates barriers to entry,
- c) the application of competition law alone is not sufficient to adequately address the identified market failures.

(4) The three-criteria test under paragraph 3 shall be deemed to be met on the relevant markets referred to in the recommendation on relevant markets or on markets designated by the European Commission as transnational markets, unless the Authority finds in its analysis that one or more of those criteria are not met in specific national circumstances.

(5) The Authority shall define the relevant market in substantive and geographic terms, taking into account specific national conditions and the state of infrastructure-based competition.

(6) In defining the relevant market pursuant to paragraph 5, the Authority may also use the results of a geographical survey pursuant to Article 31.

## **Article 63**

### **Transnational market**

(1) The Authority, in cooperation with at least one national regulatory authority of another Member State, may submit a reasoned request to the Body of European Regulators for an analysis of a potential transnational market for the purpose of its possible designation; a transnational market is a market designated by a decision of the European Commission which covers the territory of the European Union or a substantial part thereof and is located in the Slovak Republic and in at least one other Member State. The reasoned request shall be accompanied by the evidence which led to the submission of the request. If the European Commission identifies a transnational market, the Authority will include it in the list of relevant markets.

(2) Where the European Commission has identified a transnational market, the Authority, in cooperation with the national regulatory authority of the other Member State concerned, shall prepare a joint analysis of the transnational market pursuant to Article 65, in which they shall, by mutual agreement, propose to impose, maintain, amend or withdraw the obligations pursuant to Article 66, and shall jointly notify the European Commission of the measures proposed in relation to the market analysis and other regulatory obligation in accordance with the procedure laid down in Article 18.

(3) In analysing the relevant market, the Authority may cooperate with one or more national regulatory authorities of other Member States also in the case of a non-transnational market identified by the European Commission pursuant to paragraph 2, if the competitive conditions on the relevant market in question, which is defined geographically as the territory of the Slovak Republic or a part thereof and the territory of another Member State or Member States or parts thereof, are sufficiently homogeneous.

#### **Article 64** **Analysis of transnational end-user demand**

(1) The Authority, in cooperation with one or more national regulatory authorities of other Member States, may submit a reasoned request to the Body of European Regulators for an analysis of transnational end-user demand for products and services provided in the European Union on one or more of the relevant markets identified in the recommendation on relevant markets (hereinafter referred to as “transnational demand analysis”). The reasoned request shall be accompanied by evidence demonstrating the demand-side problems that led to the submission of the request.

(2) A reasoned request pursuant to paragraph 1 may also be submitted to the Body of European Regulators by an undertaking or other person concerned.

(3) The transnational demand analysis carried out by the Body of European Regulators shall be without prejudice to the determination of transnational markets pursuant to Article 63 or the determination of relevant markets in terms of substance and geography pursuant to Article 62.

(4) If the Body of European Regulators concludes in its transnational demand analysis that transnational end-user demand exists, is significant and is not adequately met by commercial or regulated supply, it shall, after consultation with stakeholders and in close cooperation with the European Commission, issue guidelines on a consistent approach by national regulatory authorities to meet the identified transnational demand, which the Authority shall take into account in its regulatory action.

#### **Article 65** **Relevant market analysis**

(1) The objective of relevant market analysis is to determine whether there is effective competition on the relevant market. Effective competition is defined as a situation in which no undertaking operating on the relevant relevant market has significant market power.

(2) In the relevant market analysis, the Authority shall assess the future development of the relevant market in the absence of regulation, taking into account



- a) developments affecting the state of competition on the relevant market, including trends in relation to commercial agreements,
- b) any substantial barriers to competition at the wholesale and retail level, regardless of whether those barriers originate in networks, services or services that are not electronic communications services under this Act or in applications that are comparable from the end-user's point of view, regardless of whether they are part of the relevant market under consideration,
- c) other forms of regulation or measures imposed and affecting the relevant market or related retail market or markets during the period, including obligations imposed under Article 22, Articles 57 to 59,
- d) obligations imposed on an undertaking with significant market power on another relevant market.

(3) The relevant market analysis shall include the definition of the relevant market pursuant to Article 62, an assessment of the state of competition on the relevant market and, if the Authority determines on the basis of the relevant market analysis that an undertaking with significant market power operates on the relevant market, the proposed obligations pursuant to Article 66.

(4) The Authority shall submit the relevant market analysis for transnational consultation no later than

- a) within five years from the date of entry into force of the Authority's previous decision to designate an undertaking as an undertaking with significant market power and to impose obligations pursuant to Article 66; this period may exceptionally be extended by a maximum of one year if the Authority submits a reasoned proposal for an extension to the European Commission no later than four months before the expiry of the five-year period and the European Commission does not object to such a proposal within one month of its submission,
- b) within three years of the adoption by the European Commission of the updated recommended list of relevant markets, if it concerns a relevant market which was not the subject of a relevant market analysis prior to the adoption of the updated list of relevant markets.

(5) If the Authority considers that it will not be able to submit the relevant market analysis for transnational consultation within the time limit referred to in paragraph 4, it shall request the cooperation of the Body of European Regulators in completing the relevant market analysis and in proposing the imposition, amendment or withdrawal of obligations under Article 66. The Authority shall, within six months of the expiry of the period referred to in paragraph 4, submit a relevant market analysis for transnational consultation.

## **Article 66**

### **Imposition, amendment or withdrawal of obligations**

(1) If the Authority designates an undertaking with significant market power by a decision pursuant to Article 61, it shall at the same time impose or amend obligations on that undertaking pursuant to Articles 67 to 73 and Articles 75 to 81.

(2) The imposition or amendment of obligations on an undertaking with significant market power pursuant to paragraph 1 shall be without prejudice to

- a) the obligations laid down in Article 14, Article 22, Articles 58 to 60 and Article 82, Article 88 and 89,
- b) commitments entered into by an applicant for an individual authorisation for the use of radio spectrum or an applicant for the extension of an individual authorisation for the use of radio spectrum prior to its issue or during the selection procedure,
- c) the obligations of undertakings under Articles 109 to 117 that are not designated as undertakings with significant market power,
- d) international obligations to which the Slovak Republic is bound.

(3) The Authority may in exceptional cases, subject to the prior consent of the European Commission, impose on an undertaking with significant market power on the relevant relevant market additional obligations relating to access or interconnection, other than those under Articles 67 to 73 and Articles 75 to 79.

(4) Obligations imposed on an undertaking with significant market power shall be based on the observed state of the relevant market, taking into account, where appropriate, the transnational demand identified pursuant to Article 64, and shall be justified and proportionate to the objectives and principles of regulation pursuant to Articles 1 and 7.

(5) If, on the basis of a relevant market analysis, the Authority finds that there is no undertaking with significant market power on the relevant market or if, on the basis of the three-criteria test under Article 62(3), it finds that the market does not satisfy that test, it shall not impose an obligation under paragraphs 1 and 3. Where an undertaking has already been designated as having significant market power on that relevant market, the Authority shall issue a decision revoking the designation of the undertaking as having significant market power on the relevant market and withdrawing the obligations imposed. In this decision, the Authority shall impose an obligation on the undertaking with significant market power to notify undertakings affected by the decision withdrawing obligations, in particular in the case of existence of contracts concluded on the basis of obligations imposed on an undertaking with significant market power. In the decision, the Authority is entitled to specify a time period within which the undertaking is obliged to inform the undertakings concerned of the termination of access provision, if it decides to terminate access provision on the basis of the Authority's decision on withdrawing the obligations pursuant to the second sentence.

(6) The authority shall consider the impact of new market developments, such as in relation to commercial agreements, including co-investment agreements, influencing competitive dynamics. If the developments according to the first sentence are not sufficiently important to require a new relevant market analysis to be prepared by the Authority, the Authority shall assess without delay whether it is necessary to review the obligations imposed on the undertaking with significant market power on the relevant market and amend any previous decision on designating an undertaking with significant market power and imposing obligations pursuant to paragraph 1, including by withdrawing obligations or imposing new obligations, in order to ensure that such obligations continue to meet the conditions set out in paragraph 4. The Authority shall carry out a public consultation and a transnational consultation on the draft decision.

(7) The undertaking proposed in the relevant market analysis as having significant market power shall be a party to the proceedings for the designation of an undertaking with significant market power and the imposition of obligations pursuant to paragraph 1. The undertaking in

respect of which the Authority proposes to amend a decision pursuant to paragraph 6 shall be a party to the proceedings concerning the amendment of the decision. For the purposes of these proceedings, the rights of a party under the Administrative Procedure Code shall apply during the public consultation. The basis for the decision is a draft measure following a public consultation and a statement by the European Commission in the context of a transnational consultation. The Authority shall publish the decision to designate an undertaking as an undertaking with significant market power and to impose obligations in the Journal.

(8) If an undertaking with significant market power is designated on the relevant market, the Authority shall issue a new decision on the designation of the undertaking with significant market power, re-imposing or amending the existing obligations on that undertaking.

## **Article 67**

### **Obligation of transparency**

(1) In order to ensure transparency in relation to access or interconnection, the Authority may, in a decision pursuant to Article 66, impose an obligation on an undertaking with significant market power to disclose specific information in accordance with the protection of business secrets, in particular accounting information, prices, technical specifications, characteristics of networks, their expected development and planned changes, conditions for their provision and use, including conditions for changes in access to services and applications or conditions for the use of services and applications, in particular with regard to migration from legacy infrastructure.

(2) The Authority may, in a decision pursuant to Article 66, impose an obligation on an undertaking with significant market power to publish a reference offer for access and interconnection, in particular where that undertaking has an obligation of non-discrimination imposed on it. The reference offer shall be sufficiently unbundled to ensure that undertakings requesting the access or interconnection are not required to pay for network elements and facilities which are not necessary for the service requested. The reference offer shall include a description of the individual items, interconnection or access points, quality, associated time limits and contractual terms and conditions, including prices. The Authority may, in the decision pursuant to the first sentence, specify the elements of the reference offer, taking into account the guidelines of the Body of European Regulators on the minimum criteria for a reference offer.

(3) In the decision pursuant to Article 66, the Authority shall determine the scope of the information which the undertaking with significant market power is required to submit to the Authority and which the undertaking with significant market power is required to disclose, including the time limit for the submission or disclosure of the information and the manner of its submission or disclosure.

(4) Where there is already a designated undertaking with significant market power on the relevant market which has a reference offer published pursuant to a previous decision to designate an undertaking with significant market power on the relevant market, the Authority shall impose an obligation on that undertaking to keep that reference offer published until the new reference offer is in force.

(5) Where an undertaking with significant market power has obligations concerning wholesale access to infrastructure imposed pursuant to Articles 70 and 71, the Authority may impose an

obligation to disclose in the reference offer key performance indicators, corresponding service levels accompanied by service level guarantees and a compensation mechanism. In the event of non-compliance with the parameters published pursuant to the preceding sentence, the undertaking with significant market power shall be obliged to compensate the undertaking to which it grants access according to the compensation mechanism set out in the reference offer or in the Authority's decision.

(6) The Authority may, by decision, impose an obligation on an undertaking with significant market power to amend a reference offer if the reference offer is inconsistent with the objectives and principles referred to in Article 1 and Article 7. The Authority shall carry out a public consultation and a transnational consultation on the draft decision concerning the amendment of the reference offer.

## **Article 68**

### **Obligations of non-discrimination**

(1) In the decision pursuant to Article 66, the Authority may impose obligations of non-discrimination in relation to interconnection or access on an undertaking with significant market power. As part of the non-discrimination obligations, the Authority may impose obligations to ensure equivalence of access, technical repeatability and economic repeatability of tenders.

(2) By virtue of the obligations imposed pursuant to paragraph 1, an undertaking with significant market power shall be obliged to apply comparable conditions to other undertakings in comparable circumstances, to provide services and information to other undertakings on the same terms and conditions and of the same quality as if it were used for its own account or provided to an undertaking in a position of a controlled person or an undertaking in which it has the right of co-determination. In order to ensure equivalence of access, the Authority may impose an obligation on an undertaking with significant market power to provide access and interconnection services to all undertakings, including itself, within the same time limit, on the same contractual terms and conditions, including those relating to pricing, corresponding levels of service, and using the same systems and the same procedures.

## **Article 69**

### **Obligation of accounting separation**

(1) In the decision pursuant to Article 66, the Authority may impose obligations for accounting separation in relation to specified activities related to interconnection or access on an undertaking with significant market power. The Authority may, in accordance with the obligation of non-discrimination, require a vertically integrated undertaking to submit to the Authority in a transparent manner the structure of its wholesale prices as well as its internal transfer prices in order to verify and ensure the obligation under Article 68. Where the Authority imposes a non-discrimination obligation on an undertaking with significant market power pursuant to Article 68 or in order to avoid favouring or disadvantaging certain services by reallocating costs and revenues from other services or between services, it may specify in the decision pursuant to Article 66 the structure and methodology for the keeping of separate accounting records, which obligation may also apply to markets in which the undertaking has not been designated as an undertaking with significant market power.

(2) The undertaking with significant market power shall be obliged to submit the separate accounting records referred to in paragraph 1, certified by an independent financial auditor<sup>47)</sup>

within the time limit specified in the decision pursuant to Article 66. The Authority will disclose this information if it contributes to an open and competitive market and if the information is not protected as a business secret.

## **Article 70**

### **Access to passive infrastructure**

(1) Where the Authority finds, on the basis of a relevant market analysis, that a refusal of access, or an offer of access on terms and conditions which have an effect similar to a refusal of access, would be an obstacle to the creation and maintenance of conditions of effective competition for the benefit of end-users, it shall, in the decision, impose an obligation on the undertaking with significant market power pursuant to Article 66 to comply with a request for access to and use of passive infrastructure, including lines inside buildings, where technically feasible.

(2) The Authority may impose an obligation under paragraph 1 irrespective of whether the components of the passive infrastructure to which the access obligation under paragraph 1 relates are included in the definition of the relevant market which has been the subject of the relevant market analysis, provided that the obligation is necessary and proportionate to meet the objectives of Article 1.

## **Article 71**

### **Obligations of access to, and use of, specific network elements and associated facilities**

(1) Where the Authority finds, on the basis of a relevant market analysis, that a refusal of access or an offer of access is characterised by conditions which have an effect similar to a refusal of access and would be an obstacle to the creation of sustainable conditions of effective competition for the benefit of end-users or would not be in the interests of end-users, it shall, by a decision pursuant to Article 66, impose on an undertaking with significant market power in relation to access or interconnection an obligation to comply with a request for access, for the use of certain elements of the network, for the use of associated facilities and for the interconnection of networks, where technically feasible to do so. In order to ensure access or interconnection of an undertaking with significant market power, the Authority may impose an obligation

- a) to give access to specific network elements and associated facilities including unbundled access to the local loop and sub-loop,
- b) to give access to specific active or virtual network elements and services,
- c) to negotiate in good faith with undertakings requesting access,
- d) not to withdraw access already granted,
- e) to provide specific services on a wholesale basis for resale,
- f) to grant open access to interfaces, protocols or key technologies that are indispensable for the interoperability of services or virtual network services,
- g) to provide co-location or other forms of associated facilities sharing,
- h) to provide specific services needed to ensure interoperability of end-to-end services to users, or roaming on mobile networks,
- i) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services,

- j) to interconnect networks or network facilities,
- k) to provide access to associated services such as identity, location and presence service.

(2) If the Authority determines obligations under paragraph 1, it may impose on the undertaking that those conditions are met in a fair, reasonable and timely manner.

(3) The Authority shall, in accordance with the principle of proportionality, take into account in particular the following when imposing obligations under paragraphs 1 and 2

- a) other forms of access on the same or related wholesale relevant market and their ability to contribute to the resolution of the identified competition problem in the interests of end-users, in particular commercially provided wholesale access, wholesale access pursuant to Articles 58 and 59, or other existing or planned access pursuant to paragraph 1,
- b) the technical and economic feasibility of the use or installation of facilities by other undertakings, taking into account the speed of market development, the method and type of interconnection or access, including the possibility of using other forms of access at the upstream level of the distribution chain,
- c) the expected technological evolution affecting network design and management,
- d) the need to ensure technology neutrality enabling the undertakings to design and manage their own networks,
- e) the feasibility of requested access or interconnection in relation to the network capacity available,
- f) the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment, with particular regard to investments in, and risk levels associated with, very high capacity networks,
- g) the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure-based competition and innovative business models that support sustainable competition, such as those based on co-investment in networks,
- h) where appropriate, the protection of intellectual property rights,
- i) the provision of pan-European services.

(4) When imposing obligations pursuant to paragraph 1 or pursuant to Article 70, the Authority shall consider whether it is not sufficient to impose only an obligation pursuant to Article 70 in order to create and ensure conditions for effective competition and for the benefit of end-users.

(5) In order to ensure the normal operation of the network, the Authority may specify technical or operational conditions for access or interconnection which the undertaking providing the access or interconnection, as well as the person using the access or interconnection, shall be obliged to comply with. Where the Authority imposes an obligation to comply with specific technical standards or specifications, they shall be in accordance with Article 20.

## **Article 72**

### **Price control**

(1) Price control is the determination or direction of prices in a manner specified in a price control decision. The Authority shall publish the price control decision in the Journal.

(2) The Authority may control prices

- a) of access and interconnection,
- b) of retail services,
- c) of universal service,
- d) at number portability.

(3) Price control methods include

- a) determination of maximum or minimum prices,
- b) guiding the development of prices by setting conditions, which are
  - 1. the maximum range of possible price increases within a defined period,
  - 2. the maximum proportion in which price increases in the prices of specified inputs over a specified period can be reflected in the price,
- 3. a time-limited ban on price increases on the relevant market for a maximum period of 12 months,
- c) determination of the method of calculating prices, including the cost orientation obligation, determination of efficiently and effectively incurred costs and reasonable profit.

(4) The Authority shall ensure that the method of price control under paragraph 3 promotes the construction of new or upgraded networks, effective and sustainable competition and maximises the benefits to end-users. The Authority may usefully combine the methods of price control when determining the obligation to control prices. When controlling prices pursuant to paragraph 3, the Authority may also determine the price on the basis of prices on comparable markets.

(5) For the purposes of price control proceedings under paragraphs 1 to 3, the rights of a party to the proceedings under the Administrative Procedure Code shall apply during the public consultation process.

(6) Where an undertaking is subject to a cost orientation obligation, it must demonstrate to the Authority that prices are calculated on the basis of related and actually incurred costs and include a reasonable rate of return on capital employed. For the purpose of calculating prices in a cost-effective manner, the Authority may specify a method for calculating prices, which shall include the types of costs as well as the rules for their allocation. The cost accounting method determined by the Authority may be independent of the cost calculation method used by the undertaking. The undertaking shall be obliged to calculate and submit prices for approval in accordance with the price calculation method determined by the Authority and to provide the Authority with a justification thereof within a time limit determined by the Authority.

(7) The Authority or a professionally competent and independent person authorised by it shall verify the price calculation submitted by the undertaking. The Authority may require the undertaking to re-justify the calculated prices and, if necessary, require them to be adjusted on the basis of the Authority's price adjustment decision, on the draft of which the Authority shall carry out a public consultation and a transnational consultation. The undertaking shall be obliged to apply the prices only after their calculation has been approved or adjusted by the Authority on the basis of a decision pursuant to the preceding sentence.

### **Article 73**

#### **Access or interconnection price control**

(1) If the Authority finds, on the basis of a market analysis for access or interconnection, that there is no effective competition on that market, it may, by a decision pursuant to Article 66, impose a price control obligation on the undertaking with significant market power. If the Authority imposes a price control obligation under the first sentence, it shall issue a decision pursuant to Article 72(1) in order to ensure that the undertaking with significant market power does not charge unreasonably high prices or apply unauthorised a price squeeze on the market to the detriment of end-users. In determining the obligation to control prices, the Authority shall take into account the need to promote competition and the long-term interest for the benefit of end-users associated with the development and use of next-generation networks and, in particular, the deployment of very high capacity networks. In order to encourage investment, including in next-generation and very high capacity networks, the Authority shall take into account the level of investment made by undertakings with significant market power. If the Authority imposes a price control obligation, it shall allow the undertaking to include a reasonable rate of return on capital employed in the calculation of the resulting price, taking into account the specific risks of a particular new network investment project.

(2) The Authority shall not impose an obligation to control access and interconnection prices or, where such an obligation has been imposed, shall decide on its withdrawal, if, as part of the market analysis, it finds that the retail prices of the services of other undertakings constitute a demonstrable competitive constraint on the prices of the undertaking with significant market power on the related retail market and that the obligations imposed pursuant to Articles 67 to 71, in particular the obligation of economic repeatability of tenders imposed pursuant to Article 68, create the conditions for the efficient and non-discriminatory provision of access or interconnection.

(3) The Authority shall impose price control obligations for access to existing network elements in order to promote efficient market entry and sufficient incentives for all undertakings to deploy new or upgraded networks.

### **Article 74**

#### **Voice termination rates**

(1) An undertaking providing a wholesale voice termination service on a network at a fixed location or a wholesale voice termination service on an individual mobile network shall be obliged to adjust the rates of termination services on a particular network so that the price it charges does not exceed the maximum fixed voice termination rate or mobile voice termination rate laid down by a specific regulation.<sup>87)</sup>

(2) The Authority shall monitor whether undertakings do not exceed the maximum fixed voice termination rate and maximum mobile voice termination rate established pursuant to paragraph 1.

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<sup>87)</sup> Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate (OJ EU L 137, 22.4.2021).



(3) If the European Commission does not impose a maximum mobile voice termination rate or maximum fixed voice termination rate, the Authority may carry out a relevant market analysis, assessing whether the imposition of a price control obligation is necessary. The Authority shall carry out a public consultation and a transnational consultation on the draft measure.

(4) If, on the basis of an analysis pursuant to paragraph 3, the Authority imposes a price control obligation in a decision pursuant to Article 66 for fixed voice termination services or mobile termination services, the price control obligation in a decision pursuant to Article 72(3)(a) shall comply with the following conditions

- a) both fixed voice termination rates and mobile voice termination rates are set to cover the costs incurred by the efficient provider, with the value of the efficient cost based on current costs; the efficient cost of the service is determined by a bottom-up approach using the long-run incremental costs incurred in the provision of the wholesale voice termination service on the network of the undertaking with significant market power,
- b) the relevant incremental costs of the wholesale voice termination service on a relevant market shall be determined by the difference between the total long-run costs of all services provided by the undertaking with significant market power and the total long-run costs of that undertaking not providing a wholesale voice termination service,
- c) only those traffic-related costs incurred by the undertaking with significant market power which would be avoided in the absence of a wholesale voice termination service being provided shall be part of the costs of wholesale voice termination service on the relevant market,
- d) costs related to additional network capacity shall be included in the costs of wholesale voice termination service on the relevant market only to the extent that they are driven by the need to increase network capacity for the purpose of carrying additional wholesale voice termination traffic as a consequence of provision of the wholesale voice termination service,
- e) charges for the right of use for radio spectrum on the basis of an individual authorisation for the use of radio spectrum shall not be included in the cost of providing a wholesale voice termination service on a mobile network,
- f) only the wholesale costs directly related to the provision of the wholesale voice termination service shall be included in the cost of the wholesale voice termination service on the relevant market in question,
- g) the average costs associated with the provision of a wholesale fixed voice termination service shall be the same for all fixed network providers, irrespective of the size of their market share, and shall be reflected as the same unit costs incurred by an efficient provider,
- h) in the case of network providers of wholesale mobile voice termination services on individual mobile networks, only the costs of an efficient provider with a market share of not less than 20 % shall be taken into account in the calculation,
- i) the amount of depreciation shall be determined using the economic depreciation method,
- j) the calculation of efficiently incurred costs shall take into account the forward-looking technological development of networks, with a basic assumption of Internet Protocol (IP)-based backbone network operation, and shall take into account the multiple technologies in use at the time of the maximum mobile voice termination rate defined by the Authority on an individual mobile network; in the case of fixed networks, calls shall be considered to be exclusively packet switched.

## **Article 75**

### **Regulatory treatment of new very high capacity network elements**

- (1) An undertaking with significant market power may, in accordance with the procedure under Article 78, offer commitments to allow interested parties to participate in the investment in the network when deploying a very high capacity network consisting of optical fibre elements leading up to the premises of the end-user or to the base station of the mobile network.
- (2) In assessing the parameters of a very high capacity network, the Authority shall take into account the guidance of the Body of European Regulators on the criteria that must be met for a network to be considered a very high capacity network. Networks consisting of optical elements leading to the immediate vicinity of the end-user's premises from the outside shall also be considered to be very high capacity networks if the introduction of optical elements up to the end-user's premises is not technically feasible.
- (3) If the network meets the characteristics of a very high capacity network pursuant to paragraph 2, the Authority shall assess the commitments pursuant to paragraph 1, evaluating whether the offer of commitments allows interested parties to participate in the investment in the very high capacity network and meets the minimum criteria set out in Annex 2.
- (4) If the Authority, after taking into account the results of the market test carried out pursuant to Article 78(3) through consultation, concludes that the offer by the undertaking with significant market power to allow other undertakings to participate in the network investment complies with all the criteria set out in Annex 2, it shall by decision make the commitment in question compulsory pursuant to Article 78(5).
- (5) Where an undertaking with significant market power has been subject to an obligation to comply with the commitments pursuant to Article 78(5), the Authority shall not impose obligations pursuant to Article 66 in respect of the elements of the new very high capacity network to which the obligation pursuant to paragraph 1 relates if at least one undertaking has entered into a co-investment agreement with the undertaking with significant market power.
- (6) Where obligations pursuant to Article 66 have been imposed on an undertaking with significant market power in relation to elements of a new very high capacity network to which an obligation under paragraph 1 relates, the Authority shall withdraw those obligations. The Authority's decision shall also include an obligation for the undertaking to submit to the Authority an annual report on the fulfilment of the obligations under Article 78(5) within a specified period of time.
- (7) The Authority shall retain the obligations imposed on the undertaking under Article 66 until a co-investment agreement has been concluded in accordance with the mandatory commitments under Article 78(5). In justified cases, the Authority may impose, maintain or amend obligations concerning new very high capacity networks pursuant to Articles 67 to 73 on an undertaking with significant market power where competition problems cannot be addressed otherwise and the imposition of such obligations is in the interest of addressing significant competition problems on particular relevant markets due to their specific characteristics.
- (8) If the Authority, after taking into account the results of the market test carried out pursuant to Article 78(3) based on consultation with the persons concerned, concludes that the offer by the undertaking with significant market power to allow other undertakings to participate in the

network investment does not comply with the conditions or criteria pursuant to Article 78 (2) and Annex 2, it shall by decision impose obligations pursuant to Articles 67 to 73 on the undertaking with significant market power. The Authority shall carry out a public consultation and a transnational consultation on this draft decision.

## **Article 76**

### **Functional separation of a business company**

(1) If, on the basis of the obligations imposed pursuant to Articles 67 to 73, effective competition has not been achieved and there are serious and persistent competition problems or the relevant markets are failing in relation to the wholesale provision of certain access products, the Authority may, exceptionally, impose an obligation on a vertically integrated undertaking to transfer the activities related to the wholesale provision of relevant access products to a separate business company.

(2) The separate business company is required to provide access products and services to all undertakings on the same terms and conditions, including price and quality of service, within the same time limit, and through the same systems and processes.

(3) Before imposing an obligation under paragraph 1, the Authority shall submit to the European Commission

- a) the evidence justifying the intention to impose this obligation,
- b) a reasoned assessment concluding that there is no or little prospect of effective and sustainable infrastructure-based competition within a reasonable time-frame,
- c) an analysis of the expected impact on the Authority, on the separate business company, in particular on the workforce of the separate business company, and on the electronic communications sector as a whole, and on incentives to invest therein, in particular with regard to the need to ensure social and territorial cohesion, and on other stakeholders including, in particular, the expected impact on competition and any potential resulting effects on end-users,
- d) an analysis of the reasons justifying that this obligation would be the most efficient means to enforce remedies aimed at addressing the competition problems or the markets failures identified.

(4) The Authority may impose the obligation under paragraph 1 only with the prior consent of the European Commission. Thereafter, the Authority shall conduct a coordinated analysis of all relevant markets related to the access network and proceed in accordance with Article 66.

(5) The Authority's draft decision referred to in paragraph 1 shall include

- a) the nature and level of separation, specifying in particular the legal status of the separate business company,
- b) an identification of the assets of the separate business company, and the products or services to be supplied by that company,
- c) the date on which the company is to carry out the separation of the business company,
- d) the governance arrangements to ensure the independence of the staff employed by the separate business company, and the corresponding incentive structure,

- e) rules for ensuring transparency of operational procedures, in particular towards other stakeholders,
- f) rules and a monitoring programme to ensure compliance, including the publication of an annual report.

(6) The Authority may impose any of the obligations under Articles 67 to 73 on an undertaking on which an obligation has been imposed pursuant to paragraph 1, on any relevant market on which it has been designated as an undertaking with significant market power on the basis of a relevant market analysis, or any other obligation with the prior consent of the European Commission pursuant to Article 66(3).

## **Article 77**

### **Voluntary separation by a vertically integrated undertaking**

(1) Where an undertaking with significant market power plans to transfer the business assets constituting its access network, or a substantial part thereof, to a separate business company in which it does not have an ownership interest, or to establish a separate business company to provide equivalent access products to undertakings providing services on the retail market and to its own retail divisions, it shall inform the Authority at least three months before the planned transfer of the business assets takes place. The undertaking shall inform the Authority of any changes to its plan pursuant to the first sentence, as well as of the final outcome of the process of transfer of business assets.

(2) The undertaking with significant market power may, in the case of voluntary separation pursuant to paragraph 1, offer commitments pursuant to Article 78(1)(c), both during and after voluntary separation, concerning the conditions for the provision of access to the network in order to ensure non-discriminatory and efficient access for third parties. The commitments of the undertaking with significant market power shall include information on the timing of the transfer of the business assets and the duration of the commitment, where the duration of the commitment exceeds the maximum time limit set for the submission of the relevant market analysis for transnational consultation pursuant to Article 65(4).

(3) The Authority shall assess the impact of voluntary separation pursuant to paragraph 1 on any obligations imposed on the undertaking with significant market power, taking into account the commitments offered pursuant to paragraph 2. To this end, the Authority shall carry out an analysis of all relevant markets related to the access network, subject to a process of public consultation and transnational consultation.

(4) Without prejudice to Article 79, the Authority may impose obligations pursuant to Articles 67 to 73 on a separate business company pursuant to paragraph 1, on any relevant market on which that company has been designated as an undertaking with significant market power on the basis of a relevant market analysis, or any other obligation with the prior consent of the European Commission in accordance with Article 66(3), if the commitments offered pursuant to paragraph 2 are not sufficient to fulfil the objectives and principles referred to in Articles 1 and 7. The Authority may determine in the decision imposing obligations that the commitments offered pursuant to paragraph 2, or parts thereof, shall be compulsory. The time period determined by the Authority during which the undertaking with significant market power is obliged to comply with these commitments may exceed the maximum period specified for the submission of the relevant market analysis for consultation pursuant to Article 65(4), which may be the whole of the offer period to which the undertaking with significant market power

has committed itself pursuant to paragraph 2. Before the expiry of the specified period of time, the Authority shall be entitled to extend that period.

## **Article 78**

### **Commitments procedure**

(1) Undertaking with significant market power may offer to the Authority commitments regarding conditions for access to network or co-investment applicable to their networks in relation, inter alia, to

- a) cooperative arrangements relevant to the decision-making by the Authority on imposing appropriate and proportionate obligations pursuant to Article 66,
- b) co-investment in very high capacity networks pursuant to Article 75,
- c) effective and non-discriminatory access by third parties, both during an implementation period of voluntary separation by a vertically integrated undertaking pursuant to Article 77 and after the proposed form of separation is implemented.

(2) The offer for commitments submitted by the undertaking with significant market power shall be sufficiently detailed including as to the timing and scope of the commitments, to allow the Authority to undertake its assessment pursuant to paragraph 3. Such commitments may extend beyond the periods for carrying out repeated relevant market analysis pursuant to Article 65 (4).

(3) In order to assess any commitments offered pursuant to paragraph 1, the Authority shall, except where such commitments clearly do not fulfil one or more relevant conditions or criteria pursuant to paragraph 2, Article 75, Article 77 and Annex No.2, perform a market test, in particular on the offered terms of commitments, by conducting a consultation.

(4) For the purpose of carrying out the market test referred to in paragraph 3, the Authority shall publish on the consultation site referred to in Article 17(4) the offer of commitments submitted to it by the undertaking with significant market power referred to in paragraph 1. The Authority shall publish on the consultation site the rules governing the procedure to be followed by the Authority and the persons concerned in the consultation referred to in the first sentence. In the public consultation, the persons concerned may express their views on whether the commitments offered by the undertaking with significant market power comply with the conditions or criteria set out in paragraph 2, Article 66, Article 75 or Article 77 and Annex 2, and may propose changes to those commitments. The period for comments shall be 30 days from the date of publication of the offer of commitments pursuant to the first sentence; in complex cases, the period may be extended to a maximum of 60 days. The Authority shall consider all views expressed during the consultation and shall notify the undertaking with significant market power of its opinion indicating whether the commitments offered are consistent with the objectives, criteria and procedures set out in this provision and Article 66, Article 75 or Article 77, and the conditions under which it determines the commitments offered to be compulsory. The undertaking with significant market power may modify the original commitments under paragraph 1 in order to take account of the Authority's opinion under the preceding sentence and to ensure that the commitments comply with the criteria set out in this provision and in Article 66, Article 75 or Article 77.

(5) If the Authority concludes that the offer of commitments by the undertaking with significant market power is consistent with the objectives, criteria and procedures set out in this provision

and in Article 66, Article 75 and Article 77, it shall make the commitments in question compulsory by decision. The Authority may designate some or all or part of the commitments as compulsory for a specific period, which may be the whole of the offer period to which the undertaking with significant market power has committed itself and, in the case of co-investment commitments under Article 75(1), a period of at least seven years. Before the expiry of the specified period of time, the Authority shall be entitled to extend that period.

(6) In determining the commitments offered by the undertaking with significant market power to be compulsory, the Authority shall take into account in particular

- a) evidence regarding the fair and reasonable character of the commitments offered,
- b) the openness of the commitments to all undertakings operating on the market,
- c) the timely availability of access under fair, reasonable and non-discriminatory conditions, including to very high capacity networks, before the launch of related retail services,
- d) the overall adequacy of the commitments offered to enable sustainable competition on downstream markets and to facilitate cooperative deployment and take-up of very high capacity networks in the interest of end-users.

(7) The relevant market analysis procedure and the imposition of obligations under Article 66 are not affected by this provision. Where the Authority makes commitments binding pursuant to paragraph 5, it shall assess under Article 66 the consequences of that decision for market development and the appropriateness of any obligation that it has imposed or would, absent those commitments, have considered imposing. The Authority shall, when submitting a relevant market analysis which includes proposed obligations under Article 66, also submit for transnational consultation a decision on the obligations under paragraph 5.

(8) The Authority shall monitor the commitments it has determined to be compulsory pursuant to paragraph 5.

## **Article 79**

### **Wholesale-only undertakings**

(1) If the Authority designates an undertaking which is absent from any retail markets as having significant market power in one or several wholesale markets, it shall consider whether that undertaking has the following characteristics:

- a) all companies in a position of a controlled person and business units within the undertaking with significant market power, all undertakings which are in a position of a controlled person vis-à-vis an owner or shareholder of the undertaking with significant market power and undertakings which are in a position of a controlling person vis-à-vis the undertaking with significant market power,<sup>87)</sup> provide or intend to provide only services on the wholesale relevant markets and do not provide any electronic communications services to end-users in any Member State,
- b) the undertaking with significant market power is not obliged, by virtue of an exclusive contract or other similar contract, to cooperate with another undertaking or undertakings providing services on one of the retail markets downstream of the wholesale market on which the undertaking has significant market power.

(2) Where the Authority concludes that the conditions pursuant to paragraph 1 are met, it may impose on the undertaking with significant market power only the obligations pursuant to

Articles 68 and 71 and, where justified on the basis of a relevant market analysis, after taking into account the likely behaviour of the undertaking with significant market power, the obligation pursuant to Article 73.

(3) An undertaking with significant market power on which the Authority has imposed obligations pursuant to paragraph 2 shall inform the Authority without delay of any change in the circumstances referred to in paragraph 1.

(4) Where, on the basis of a relevant market analysis, the Authority finds that the conditions under paragraph 1 are no longer fulfilled, it shall reconsider the obligations imposed on the undertaking with significant market power pursuant to paragraph 2 and, if justified on the basis of the relevant market analysis, shall impose obligations pursuant to Articles 67 to 73.

(5) Where, on the basis of the relevant market analysis, the Authority finds that the contractual terms and conditions offered in relation to wholesale access are, or are likely to be, a barrier to competition to the detriment of end-users, it shall reconsider the obligations imposed on the undertaking with significant market power pursuant to paragraph 2 and, if justified on the basis of the relevant market analysis, shall impose obligations on that undertaking pursuant to Article 67, Article 69, Article 70 or Article 73, or shall amend the obligations imposed pursuant to paragraph 2.

## **Article 80**

### **Migration from legacy infrastructure**

(1) The Authority shall be entitled by a decision pursuant to Article 66 to impose on an undertaking with significant market power the obligation to notify the Authority, within a specified period, in a specified manner and under specified conditions, of the intention to discontinue the provision of parts of the network which are subject to the obligations pursuant to Article 66, as well as of the plan for the migration from legacy infrastructure to a new infrastructure and of the planned replacement of a part of the network by the new infrastructure. The notification by the undertaking with significant market power pursuant to the first sentence shall include a transparent timetable, the technical characteristics and specification of the new infrastructure and the conditions for the migration, including a reasonable period of time to ensure a seamless migration from the legacy infrastructure to the new infrastructure and the offer of wholesale services replacing the legacy wholesale services, which ensure that undertakings have access to the new infrastructure of at least the same quality as access to the legacy infrastructure, with a view to safeguard competition and the benefit of end-users.

(2) Where parts of the network which the undertaking with significant market power plans to discontinue providing or which it plans to replace with new infrastructure are subject to obligations under Article 66, the Authority may, after public consultation and transnational consultation, by decision withdraw those obligations if the undertaking with significant market power

a) has established the appropriate conditions for migration from the legacy infrastructure, including the making available of wholesale services replacing the original wholesale services, which ensure that undertakings have access to the new infrastructure at least to the same quality as access to the legacy infrastructure, and which allow undertakings using those wholesale services to provide services to the same end-users,

b) has complied with the conditions for discontinuing providing or replacing part of the network by new infrastructure which it has notified to the Authority pursuant to paragraph 1.

(3) The procedure of the undertaking with significant market power under paragraphs 1 and 2 shall be without prejudice to the obligations imposed on the undertaking with significant market power in relation to the provision of services through the new infrastructure.

## **Article 81**

### **Regulatory control of retail market services**

(1) Without prejudice to the provisions of Articles 98 and 100, where the Authority finds, on the basis of an analysis of a retail relevant market, that there is no effective competition thereon and that the obligations imposed pursuant to Articles 67 to 73 on the related wholesale markets are not sufficient to meet the objectives and principles under Articles 1 and 7, it shall designate an undertaking with significant market power on that retail relevant market and, if reasonable and justified in relation to the objectives and principles under Articles 1 and 7, impose at least one of the following obligations on that undertaking:

- a) a ban on charging unreasonably high prices,
- b) a ban on hampering market entry,
- c) a ban on restricting competition by fixing prices to the detriment of other undertakings,
- d) a ban on favouring a particular group of end-users,
- e) prohibition of unjustified bundling of services.

(2) Where the Authority imposes obligations on an undertaking with significant market power under paragraph 1(a) or (c), the Authority shall determine the method of calculation and costing for the purposes of calculating the maximum retail service price. The compliance of the prices charged by the undertaking with significant market power with the obligation imposed by the Authority shall be verified by the Authority and the result of the verification shall be published annually. The Authority may decide to adjust prices in justified cases.

(3) The Authority may require the undertaking to justify the calculated prices and, if necessary, require them to be adjusted on the basis of the Authority's price adjustment decision, on the draft of which the Authority shall carry out a public consultation and a transnational consultation. The undertaking shall be obliged to apply the prices only after their calculation has been approved or adjusted by the Authority on the basis of a decision pursuant to the preceding sentence.

## **Part Three**

### **Provision of services**

## **Chapter One**

### **Rights and obligations in providing services**

## **Article 82**

(1) An undertaking providing a publicly available interpersonal communications service shall ensure, where technically and economically feasible, except where the called party has



restricted callers from specific geographic areas for commercial reasons, that end-users have access to

- a) services using non-geographic numbers within the European Union and are able to use these services,
- b) all numbers in Member States' national telephone numbering plans and international freephone numbers, irrespective of the technology and equipment used by the undertaking.

(2) An undertaking shall not apply different requirements to end-users or impose different conditions on end-users regarding access to or use of networks or services on the basis of the nationality, place of residence or place of establishment of end-users.

(3) An undertaking may apply different requirements or conditions under paragraph 2 where such different treatment is justified on objective grounds. Different requirements, including their justification, shall be provided by the undertaking to the Authority upon its request.

(4) An undertaking providing a publicly available service shall ensure that end-users with disabilities are able to access services equivalent to those used by the majority of end-users, including information provided in contracts pursuant to Article 84.

(5) Details of the requirements to be met by an undertaking in order to ensure equivalent access for end-users with disabilities to the services referred to in paragraph 4 and the possibility of using a choice of undertakings and services which are accessible to the majority of end-users shall be laid down in a generally binding legal regulation to be issued by the Authority.

(6) When providing publicly available services pursuant to paragraph 1, the undertaking shall proceed in accordance with Article 20.

(7) An interested party shall have the right to conclude a contract for the provision of services with one or more undertakings providing connection to the public network or publicly available services, unless there are grounds for refusal pursuant to Article 86(1)(c).

(8) All contractual terms and conditions adopted in connection with the use of services or applications by end-users must be adopted in accordance with this Act and international treaties to which the Slovak Republic is bound.

### **Article 83**

#### **Transparency and publication of information for users**

(1) An undertaking providing internet access services or publicly available interpersonal communications services which makes access to those services subject to contractual conditions shall be obliged to publish and keep up to date

- a) data of the undertaking to the extent pursuant to Article 10 (2) (a) and (b) and contact details of the undertaking,
- b) information on services, in particular
  - 1. scope of the services offered and the main characteristics of each service provided, including any minimum levels of quality of service where offered and any restrictions imposed by the undertaking on the use of terminal equipment,

2. standard prices with information on the services provided and all price items, including information on communication volumes, in particular data usage limits, the number of minutes of voice communication service or the number of SMS or MMS messages in specific price plans and the applicable prices for additional communication units, numbers or services subject to special pricing conditions, all types of user charges, access charges and service charges, including details of standard discounts applied, special and targeted pricing offers, end-user charges or costs related to terminal equipment,
  3. after-sales, maintenance and customer assistance services offered and their contact details,
  4. standard contract conditions, including service contract duration, charges due on early termination of the contract, rights related to the termination of bundled offers or of elements thereof, and procedures and direct charges related to the portability of numbers and other identifiers, if relevant,
  5. if the undertaking is a provider of number-based interpersonal communications services, information on access to emergency services and caller location, or any limitation on the latter; if the undertaking is a provider of number-independent interpersonal communications services, information on the degree to which access to emergency services may be supported or not,
  6. details of products and services, including any functions, practices, policies and procedures and alterations in the operation of the service, specifically designed for end-users with disabilities, in accordance with a special regulation harmonising accessibility requirements for products and services,
- c) dispute resolution mechanisms, including those developed by the undertaking.

(2) The undertaking shall publish the information referred to in paragraph 1 in a transparent, easily accessible and machine-readable form and in an accessible format for all end-users, including end-users with disabilities. The undertaking is obliged to make the information available in an appropriate form on its business premises. If the undertaking has a website, it shall also publish the information referred to in the first sentence on its website, which shall be accessible via a direct link from the front page of the website.

(3) Before disclosing information in accordance with paragraphs 1 and 2, the undertaking shall be obliged to provide the information to the Authority upon written request. The obligation to disclose information under paragraph 1 shall not affect obligations to disclose information under other provisions of this Act.

(4) The Authority shall provide free of charge access to at least one comparison tool, or link on its website to a free comparison tool that meets the requirements of paragraph 5, by means of which end-users can compare and evaluate different internet access services and publicly available number-based interpersonal communications services and, in the case of publicly available number-independent interpersonal communication services that are provided for a fee, in terms of

- a) prices and fees for services provided against recurring or consumption-based direct monetary payments,
- b) the quality of service performance pursuant to Article 85, where minimum quality of service is offered or the undertaking is required to publish such information.<sup>26)</sup>

(5) The comparison tool referred to in paragraph 4 shall:

- a) be operationally independent from the undertakings providing such services, thereby ensuring that those undertakings are given equal treatment in search results,
- b) clearly disclose the owners and operators of the comparison tool,
- c) set out clear and objective criteria on which the comparison is to be based,
- d) use plain and unambiguous language,
- e) provide accurate and up-to-date information according to the last valid offer and state the time of the last update,
- f) be open to any undertaking providing internet access services or publicly available interpersonal communications services making available the relevant information, and include a broad range of offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results,
- g) provide an effective procedure to report incorrect information,
- h) include the possibility to compare prices, fees and quality of service performance between offers available to consumers and between those offers and the standard offers publicly available to other end-users.

(6) The Authority shall, at the request of the operator of a comparison tool that meets the requirements referred to in paragraph 5, declare such comparison tool to comply with the statutory requirements.

(7) Third parties shall have a right to use, free of charge and in open data formats, the information published by undertakings providing internet access services or publicly available interpersonal communications services, for the purposes of making available the comparison tools.

(8) An undertaking providing internet access services or publicly available number-based interpersonal communications services shall, upon written reasoned request from the Ministry of Interior, provide information in the public interest, free of charge, to its existing or new end-users by means normally used by the undertaking in communicating with the end-user. The information referred to in the first sentence relates to

- a) the most frequent use of internet access services and publicly available number-based interpersonal communications services for illegal activity or for the dissemination of harmful content, in particular where the activity is related to the violation of respect for the rights and freedoms of others, including the violation of data protection, copyright and related rights, and the legal consequences of such conduct,,
- b) the means of protection against risks in terms of personal security, privacy and the protection of personal data when using internet access services and publicly available number-based interpersonal communication services.

(9) An undertaking providing mobile number-based interpersonal communications services shall be obliged, upon written reasoned request of the Ministry of Interior, to provide information without delay in the event of a public warning in the event of a threat to life, health or property to end-users free of charge in the territory concerned.

(10) Where an undertaking provides the information referred to in paragraphs 8 and 9 in the form of an SMS service, it shall provide that information for a fee set by a generally binding legal regulation to be issued by the Authority. The payment pursuant to the preceding sentence shall include the price per SMS message sent, which shall be determined for the user of the interpersonal communications service on the basis of the specification of the Ministry of Interior, and the reimbursement of the costs associated with the immediate sending of the information referred to in paragraph 9. The information referred to in the first sentence shall be provided by the Ministry of Interior to the undertaking in a standardised format. If the Ministry of Interior requests the provision of information pursuant to paragraphs 8 and 9 on the basis of a request from another governmental authority, the cost of the SMS sent shall be borne by the requesting governmental authority.

### **Article 83a**

#### **Accessibility requirements for services for persons with disabilities**

(1) The provider of a publicly available service shall be obliged to provide the service in accordance with the accessibility requirements for services for persons with disabilities laid down in a generally binding legal regulation issued by the Authority pursuant to Article 82(5).

(2) For the purposes of complying with the obligation under paragraph 1, the provider of a publicly available service shall

- a) ensure that the services offered and provided by it comply with the accessibility requirements referred to in paragraph 1 throughout the period of their provision, including where those accessibility requirements, harmonised standards<sup>90a</sup> or technical specifications<sup>90b</sup> by reference to which a service is declared to meet the accessibility requirements change, or the characteristics of the service provided changes,
- b) provide information on the conformity of the service with the accessibility requirements in written and oral form, including in a manner that is accessible to persons with disabilities, throughout the offer and provision of the service,
- c) maintain the information referred to in point b) throughout the provision of the service,
- d) inform the Authority without delay that the service no longer meets the accessibility requirements,
- e) further to a reasoned request of the Authority, provide the Authority with all information and documents necessary to demonstrate the conformity of the service with the accessibility requirements in the national language.

(3) Accessibility requirements under paragraph 1, or parts thereof, shall be deemed to be met if the service is provided in accordance with the harmonised standards<sup>90a</sup> or parts thereof which govern accessibility requirements and which have been published in the Official Journal of the European Union.

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<sup>90a</sup>) Article 2(1)(c) of Regulation (EU) No. 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No. 1673/2006/EC of the European Parliament and of the Council (OJ EU L 316, 14.11.2012) as amended.

<sup>90b</sup>) Article 2(4) of Regulation (EU) No. 1025/2012 as amended.

(4) Accessibility requirements under paragraph 1, or parts thereof, shall be deemed to be met if the service is provided in accordance with the technical specifications<sup>90b)</sup> or parts thereof which govern accessibility requirements.

(5) Compliance with the obligations under paragraphs 1 and 2 shall not apply to the extent that it constitutes

- a) a significant change in a service that results in the alteration of its basic nature, and
- b) the imposition of a disproportionate burden on the provider of the publicly available service according to the criteria of disproportionate burden assessment laid down by a generally binding legal regulation to be issued by the Authority pursuant to Article 82(5).

(6) In the case of a provider of a publicly available service which uses public funds or private funds which are not its own resources and which are provided for the purpose of improving the accessibility of services for persons with disabilities, the provision of paragraph 5(b) shall not apply to it.

(7) The provider of a publicly available service shall be obliged to carry out an analysis of the fulfilment of the conditions referred to in paragraph 5, including the extent to which they have been fulfilled, which, together with the related documentation, shall be retained by the provider for five years from the last provision of the service. The documents referred to in the first sentence shall be made available by the provider of the publicly available service to the Authority on request within a specified time limit.

(8) The analysis referred to in paragraph 7 shall be carried out by the provider of the publicly available service once every five years, or if there is a change of the service or if the Authority so requests.

(9) The obligations set out in this paragraph shall not apply to a provider of a publicly available service that is a micro-enterprise, nor to the provision of machine-to-machine (M2M) communications services.

## **Article 84**

### **Service contract**

(1) A service contract, including an internet access service, commits an undertaking to establish a connection to a public network or to provide a service.

(2) The undertaking may issue general terms and conditions and a price list, which shall form part of the service contract. The undertaking shall provide the consumer, micro, small undertaking or not-for-profit organisation with the content of the concluded service contract free of charge on a durable medium;<sup>88)</sup> this shall not apply to pre-paid services and the provision of services through public access points. If the service contract is in writing,<sup>89)</sup> it may also be amended in a form other than in writing if the parties so agree; this does not apply to the obligations of the subscriber, which, according to the Civil Code, may only be agreed in writing.

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<sup>88)</sup> Article 2(7) of Act No. 102/2014 Coll. on consumer protection in the sale of goods or provision of services under a distance contract or a contract concluded outside the seller's premises and on the amendment to certain acts.

<sup>89)</sup> Article 40 (4) of the Civil Code.

(3) An undertaking providing publicly available services, other than machine-to-machine (M2M) communications services, shall provide the consumer, before being bound by a service contract or any related offer, with the following information, in so far as it relates to the services provided

a) information required pursuant to a special regulation,<sup>90)</sup>

b) information pursuant to Annex No. 3.

(4) An undertaking providing publicly available services other than machine-to-machine (M2M) communications services shall also be obliged to provide the information referred to in paragraph 3 to an interested party which is a micro, small undertaking or not-for-profit organisation before being bound by a service contract or any related offer, unless such an interested party expressly agrees not to be provided with the information referred to in paragraph 3, or any part thereof.

(5) The provision of information pursuant to paragraph 3 shall be without prejudice to the undertaking's obligation under a special provision.<sup>91)</sup>

(6) The information referred to in paragraph 3 shall be clear and comprehensible and provided on a durable medium. Where it is not feasible to provide the information on a durable medium, the undertaking shall make the information available in an easily accessible and downloadable electronic document. When providing the information referred to in the preceding sentence, the undertaking shall also be obliged to expressly notify the consumer and the person interested in entering into the contract pursuant to paragraph 4, unless the person interested in entering into the contract pursuant to paragraph 4 has expressly waived this right before being bound by the service contract or any related offer, of the availability of the document in electronic form, which may be downloaded, and the importance of it being obtained and retained by the consumer or person interested in entering into the contract pursuant to paragraph 4 for the purposes of documentation, future reference to the document in question and its unaltered reproduction.

(7) The undertaking shall provide the information referred to in paragraph 3 in a format accessible to end-users with disabilities at the request of the consumer or end-user referred to in paragraph 4.

(8) An undertaking providing publicly available services other than machine-to-machine (M2M) communications services shall provide consumers, free of charge, with a summary of the service contract to the extent and in the manner provided for in a special regulation.<sup>92)</sup> An undertaking providing public services other than machine-to-machine (M2M) communications services shall also be obliged to provide, free of charge, a summary of the service contract referred to in the preceding sentence to an interested party referred to in paragraph 4, unless the interested party expressly agrees not to be provided with a summary of the service contract.

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<sup>90)</sup> E.g., Article 10a of Act No. 250/2007 Coll. on consumer protection and on the amendment to Act of the Slovak National Council No. 372/1990 Coll. on offences as amended, as amended, Article 3 (1) of Act No. 102/2014 Coll. as amended.

<sup>91)</sup> Article 4 (1) of Regulation (EU) 2015/2120 as amended.

<sup>92)</sup> Commission Implementing Regulation (EU) 2019/2243 of 17 December 2019 establishing a template for the contract summary to be used by providers of publicly available electronic communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council (OJ EU L 336, 30.12.2019).

(9) An undertaking providing publicly available services other than machine-to-machine (M2M) communications services shall provide consumers or interested parties referred to in paragraph 4 with a summary of the contract referred to in paragraph 8 before the conclusion of the service contract, including where the service contract is concluded at a distance pursuant to a special regulation.<sup>93)</sup> Where, for reasons of technical impossibility, it is not possible to provide a summary of the service contract before its conclusion, the undertaking shall provide it to the consumer or interested party referred to in paragraph 4 immediately after its conclusion, and the service contract shall not be valid until the date on which the consumer or interested party referred to in paragraph 4 demonstrably confirms to the undertaking, after receipt of the summary of the contract, their agreement to the conclusion of the contract.

(10) Details of the requirements concerning the content, form and manner of publication and monitoring of information pursuant to a special regulation<sup>94)</sup> shall be laid down in a generally binding legal regulation to be issued by the Authority.

(11) The information referred to in paragraphs 3 and 8 shall become an integral part of the service contract between an undertaking and a consumer, micro-undertaking, small undertaking or not-for-profit organisation, including the general terms and conditions and the price list, once the service contract has been concluded. The contractual terms and conditions may not be changed unilaterally by the undertaking, unless otherwise provided for in this Act.

(12) Where an internet access service or a publicly available interpersonal communications service is charged to the consumer by time or by volume used, the undertaking providing such a service shall offer the subscriber who is a consumer a means of monitoring and controlling the use of any service so provided. This means includes access to timely consumption rate information for each such service that is part of the tariff plan. In particular, the undertaking shall be obliged to warn the subscriber who is a consumer before the consumption limits, if established pursuant to paragraph 13, have been reached, before they have been exhausted, and of the complete exhaustion of those consumption limits. The undertaking shall also provide information pursuant to this paragraph to subscribers who are micro, small undertakings and not-for-profit organisations, unless such subscriber expressly agrees not to be provided with all or part of the information.

(13) The details of the consumption limits referred to in paragraph 12 shall be laid down in a generally binding legal regulation to be issued by the Authority.

(14) The provisions of paragraphs 3 to 5, 8 and 9 shall not apply to a service contract the subject matter of which is the provision of a publicly available content transmission service<sup>94)</sup> concluded between an undertaking and a subscriber which is a content service provider.

## **Article 85**

(1) An undertaking providing internet access services or publicly available interpersonal communications services shall, in accordance with the generally binding legal regulation pursuant to paragraph 5, disclose to end-users up-to-date information on

a) quality of service indicators, to the extent that it has control over individual elements of the network, either directly or through a service level agreement,

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<sup>93)</sup> Article 2 (1) of Act No. 102/2014 Coll.

<sup>94)</sup> Article 4 of Act No. 220/2007 Coll. as amended.

b) measures taken to ensure equal access to services for end-users with disabilities.

(2) The obligation of an undertaking providing internet access services or publicly available interpersonal communications services under paragraph 1 shall be without prejudice to the obligation to publish up-to-date information, including information on speed specifications, pursuant to a special regulation.<sup>95)</sup>

(3) An undertaking providing publicly available interpersonal communications services shall also be obliged to publish on its website up-to-date information for consumers if the quality of the services it provides depends on external factors outside the undertaking's control, affecting in particular signal transmission or network connectivity.

(4) Before disclosing information in accordance with paragraphs 1 and 3, the undertaking shall be obliged to provide the information to the Authority upon request.

(5) The Authority shall issue a generally binding legal regulation laying down the details of

a) quality of service indicators and information requirements for internet access service speeds published pursuant to a special regulation<sup>26)</sup> and the manner and form of publication of this information,

b) the specification of service quality indicators and the method of measuring published data,

c) the measures taken to ensure equal access for end-users with disabilities,

d) the external factors on which the quality of service referred to in paragraph 3 depends.

## **Article 86**

### **Rights and obligations of undertakings and users**

(1) The undertaking has the right to

a) a charge for a publicly available service,

b) compensation for damage caused to the public network and to public telecommunications equipment,

c) refuse to conclude a contract for the provision of publicly available services if

1. the provision of the publicly available service at the required location or to the required extent is technically impracticable except for the provision of universal service pursuant to Article 96(2)(a) or would only be possible at a disproportionately high cost,

2. the party interested in it does not give a guarantee that it will observe the contract because it is a debtor of the undertaking or of another undertaking, or one of those undertakings has previously withdrawn from or terminated a contract with it or is on a list of debtors under a special regulation,<sup>96)</sup>

3. the interested party does not agree to the terms of the service contract,

d) temporarily interrupt or restrict the provision of a publicly available service due to

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<sup>95)</sup> Article 4 (1) (d) of Regulation (EU) 2015/2120 as amended.

<sup>96)</sup> E.g., Article 171 of Act No. 461/2003 Coll. on social insurance as amended, Article 25a of Act No. 580/2004 Coll. on health insurance and on the amendment to Act No. 95/2002 Coll. on insurance industry and on the amendment to certain acts (as amended by Act No. 718/2004 Coll.) as amended, Article 52 of Act No. 563/2009 Coll. on tax administration (the "Tax Code") and on the amendment to certain acts as amended.



1. its misuse, until such time as the misuse is eliminated or technical measures are taken to prevent its misuse, 2. failure to pay the amount due for the publicly available service within the period specified in the service contract until the amount is paid or the contract for the provision of the publicly available service is terminated; the provision of the publicly available service may be temporarily discontinued only after due notice has been given and a reasonable period of time for payment has elapsed, or
  3. a material breach by the subscriber of other terms and conditions of the contract; the provision of the publicly available service may be temporarily discontinued only after due notice has been given,
- e) when obtaining, verifying and updating data for the purposes pursuant to Article 110(2), require the subscriber or their authorised representative to prove their identity by presenting an identity card or other identity document;<sup>97)</sup> when concluding a contract for the provision of publicly available services for the purpose of verifying the data provided by the end-user pursuant to paragraph 2(b), to obtain, even without the consent of the data subjects, from the identity card or other identity document presented the data pursuant to Article 110(2)(a) and the date of issue and expiry of the identity card or other identity document, the record of the restriction or deprivation of legal capacity, the name, surname, date of birth and permanent address of the guardian and, in the case of a legal person, the name, registered office and identification number of the organisation, by copying, scanning, reading by electronic means, including from an electronic chip, or otherwise recording on a storage medium, to the extent that the data required for the purposes of Article 110(2) are contained in the identity card or other identity document.
- f) require a party interested in entering into the contract or a subscriber applying for the granting of the rights provided for by this Act for micro undertakings, small undertakings and not-for-profit organisations to submit an affidavit of fulfilment of the conditions for the granting of the status of micro undertaking, small undertaking or not-for-profit organisation and, in the event of reasonable doubt on the part of the undertaking as to the veracity of such a declaration, to submit documents proving its veracity.

(2) The undertaking is obliged to

- a) enter into a contract for the provision of a publicly available service with any person interested in the provision of a publicly available service, unless there are grounds for refusal under paragraph 1(c),
- b) at the conclusion of a contract for the provision of publicly available services, obtain the data of the subscriber, including the subscriber using the undertaking's pre-paid services, and keep records of such data to the extent referred to in Article 110(2)(a),
- c) provide its end-users with access to a directory enquiry service.

(3) The subscriber of a publicly available number-based interpersonal communications service has the right to

- a) register in the public telephone directory pursuant to Article 113 and to make their data available to providers of information services on telephone numbers or telephone directories,
- b) access to a directory enquiry service,

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<sup>97)</sup> E.g., Article 2 of Act No. 395/2019 Coll. on identity cards and on the amendment to certain acts.

- c) make free calls to emergency numbers, including the single European emergency number “112”,
- d) send an SMS free of charge to the single European emergency number “112”; this does not apply to foreign subscribers using services on the undertaking’s mobile telephone network,
- e) in the case of a subscriber with disabilities, to have equivalent access to emergency services via emergency communications as other end-users.

(4) The subscriber is obliged to

- a) use the publicly available service in accordance with this Act and the service contract,
- b) pay for the publicly available service provided in accordance with the service contract and, where the nature of the service so permits, only on the basis of a submitted invoice,
- c) use only telecommunications equipment meeting the requirements of special regulations,<sup>45)</sup>
- d) in the case of a request for the granting of rights for micro undertakings, small undertakings or not-for-profit organisations, provide the undertaking with an affidavit of compliance with the conditions for the granting of the status of micro undertaking, small undertaking or not-for-profit organisation, at the time of conclusion of the contract or throughout the duration of the contract, and provide the documents requested by the undertaking in accordance with paragraph 1 (f); this shall also apply to a party interested in entering into the contract.

(5) If, despite a written call from the undertaking, the subscriber is continuously in default for more than 90 days in the fulfilment of its monetary obligation towards the undertaking, the undertaking may assign its monetary claim corresponding to that monetary obligation by written contract to another person without the subscriber’s consent. This right may not be exercised by the undertaking if, prior to the assignment of the claim, the subscriber has paid the overdue monetary obligation in full, including interests and charges, to the undertaking. When assigning a claim, the undertaking is also obliged to hand over to the assignee the documentation on the liability relationship on the basis of which the assigned claim came into existence.

(6) For the purposes of paragraph 1(e), where proof of identity is provided using an official authenticator,<sup>98)</sup> the undertaking may, through an interface pursuant to Article 110(5) linked to the register of identity cards<sup>99)</sup> and the register of natural persons,<sup>100)</sup> proceed in the same way as for identification and authentication pursuant to a special regulation,<sup>101)</sup> including the demonstration of authority to act for or on behalf of another person. For the purpose of the first sentence, the administrators of the parts of the authentication module pursuant to a special regulation<sup>102)</sup> shall provide the undertaking designated for the provision of universal service pursuant to Article 110(5) with the necessary cooperation to ensure identification and authentication using an official authenticator.

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<sup>98)</sup> Article 21 (1) (a) of Act No. 305/2013 Coll. on the electronic form of governance conducted by public authorities and on the amendment to certain acts (Act on e-Government) as amended.

<sup>99)</sup> Article 16 of Act No. 395/2019 Coll.

<sup>100)</sup> Article 23a and 23b of Act No. 253/1998 Coll. on reporting the residence of citizens of the Slovak Republic and the population register of the Slovak Republic, as amended.

<sup>101)</sup> Article 19 of Act No. 305/2013 Coll. as amended.

<sup>102)</sup> Article 10 (5) of Act No. 305/2013 Coll. as amended.

## **Article 87**

### **Service contract duration and termination**

(1) Where a consumer undertakes to use an undertaking's publicly available service for a minimum period of time (hereinafter referred to as the "commitment period"), the commitment period may not exceed 24 months when the service contract is first concluded. This provision shall also apply to a micro undertaking, small undertaking or a not-for-profit organisation, unless they have expressly waived the application of this provision.

(2) Paragraph 1 shall not apply to

- a) contracts for the provision of number-independent interpersonal communications services or for transmission services used for the provision of machine-to-machine (M2M) communications services,
- b) the duration of a contract, the subject-matter of which is exclusively the establishment of a physical connection, in which the consumer, micro undertaking, small undertaking or not-for-profit organisation has undertaken to pay the price for the establishment of the physical connection in instalments; the subject of this contract may not be terminal equipment, in particular a telephone, router or modem.

(3) An undertaking must not bind an end-user's refusal of an offer to use the undertaking's other services to a written form.<sup>92)</sup>

(4) The subscriber has the right to terminate a service contract concluded for an indefinite period of time at any time for any reason or for no reason at all.

(5) An undertaking may withdraw from a contract for the provision of publicly available services if the subscriber

- a) repeatedly interferes unlawfully with public network equipment or allows such interference to a third party, even negligently,
- b) has not paid the price for the service provided even 45 days after the due date,
- c) connects to the public network equipment which does not meet the requirements under special regulations,<sup>45)</sup> or uses such equipment contrary to the approved conditions and does not disconnect the equipment even at the request of the undertaking,
- d) repeatedly uses a publicly available service in a way that makes it impossible for the undertaking to control its use,
- e) repeatedly violates the terms of the service contract or materially violates the terms of the service contract, where a material violation of the terms of the service contract is a misuse of the service consisting in allowing the use of the service contrary to its intended use or overriding or attempting to override the means used to control the acceptance of the service by authorised entities.

(6) The notice period is the same for both parties.

(7) Where a service contract which has been concluded for a fixed term may be automatically renewed, the subscriber shall have the right to terminate the service contract at any time after such renewal without penalty and without incurring any additional costs other than service charges. The maximum notice period is one month.

(8) Before automatically extending the duration of the contract pursuant to paragraph 7, the undertaking shall inform the subscriber of the date of expiry of the period for which the contract was concluded and of the manner in which the contract may be terminated. The information referred to in the first sentence shall be delivered by the undertaking to the subscriber at the latest six weeks before the date of expiry of the period for which the contract was concluded, on a durable medium. Along with information referred to in the first and second sentences, the undertaking shall also provide the subscriber with information on the most advantageous tariffs for the services provided by the undertaking. The undertaking shall subsequently provide the subscriber with the information referred to in the preceding sentence at least once a year.

(9) The subscriber shall have the right, in the event of a change in the service contract by the undertaking, to withdraw from the service contract within one month of the date of notification of the change in the service contract to the subscriber, without penalty and without incurring any additional costs; this shall not apply in the case of changes to the service contract which

- a) are for the sole benefit of the subscriber,
- b) are purely administrative in nature,
- c) do not adversely affect the subscriber; or
- d) result from a special regulation.<sup>103)</sup>

(10) The undertaking shall notify the subscriber of any change to the terms and conditions of the contract on a durable medium, in a clear and comprehensible manner, and at the same time inform the subscriber of the right of withdrawal from the contract pursuant to paragraph 9. In the case of a change giving the subscriber the right to withdraw from the service contract, the undertaking shall give at least one month's notice of the change. The obligation under this provision shall also be fulfilled by the notification of a change by SMS message together with information on the possibility of withdrawing from the service contract and with information on where the end-user can find detailed information relating to the notified change, where justified.

(11) The subscriber shall have the right to a pro rata refund of the price for the period of non-provision of the service caused by the undertaking; this right must be exercised with the undertaking concerned no later than three months after the resumption of the service. At the same time, the subscriber has the right to withdraw from the service contract without penalty and without incurring any additional costs if the undertaking does not provide the service according to the service contract or does not provide it in the stipulated quality, even after a repeated acknowledged complaint, within one month from the date of receipt of the notification on the acknowledgement of the subscriber's repeated complaint, if the breach of the undertaking's obligations still persists.

(12) The subscriber has the right to free of charge elimination of service failures not caused by the subscriber.

(13) The subscriber shall have the right to withdraw from the service contract without penalty and without incurring any additional costs if the undertaking fails to notify the subscriber of the outcome of the investigation of the complaint or repeated complaint pursuant to Article 91; the

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<sup>103)</sup> E.g., the Civil Code.

subscriber shall have the right to withdraw from the service contract within one month from the date of expiry of the period for notification of the outcome of the complaint pursuant to Article 91.

(14) If the subscriber has the right to withdraw from the service contract before the end of the period for which the contract was concluded, the undertaking shall only be entitled to claim compensation from the subscriber for the terminal equipment provided on preferential terms, on the basis of the service contract and any other related contract concluded together with the service contract (hereinafter referred to as the “dependent contract”), if the subscriber chooses to retain the terminal equipment in question. Any compensation under the preceding sentence shall not exceed the pro rata portion of the value of such equipment agreed upon at the time the dependent contract was entered into or the remaining portion of the charge for the service provided under the service contract that should have been paid by the subscriber by the expiration of the term for which the contract was entered into or the term of the commitment period, whichever is less. The undertaking shall, no later than on payment of the compensation for the equipment under this provision, cancel, free of charge, any condition relating to the use of the terminal equipment on the networks of other undertakings.

(15) The provisions of paragraphs 9, 10 and 14 shall, where they apply to service contracts under which machine-to-machine (M2M) communications services are provided exclusively, apply only to a subscriber who is a consumer, a micro undertaking, small undertaking or not-for-profit organisation.

(16) The provisions of paragraphs 1, 7 and 8 shall not apply to the provision of number-independent interpersonal communications services and to transmission services used for the provision of machine-to-machine (M2M) communications services.

(17) The provisions of paragraphs 9 to 11 shall not apply to the provision of number-independent interpersonal communications services; paragraph 11 shall also not apply to the provision of internet access services.

## **Article 88**

### **Number portability**

(1) An undertaking shall ensure that its subscribers with numbers from the national numbering plan can retain their telephone numbers, upon request, independently of the undertaking providing the service in the case of

- a) geographic numbers within a geographic numbering area defined by the Authority at the subscriber's specific point of connection; and
- b) non-geographic numbers, at any location.

(2) Paragraph 1 shall not apply to number portability between fixed and mobile public networks.

(3) For the purposes of this Article, the transferring undertaking shall be the undertaking whose subscriber, through the receiving undertaking, has requested the porting of the number.

(4) For the purposes of this paragraph, the receiving undertaking shall be the undertaking with which the end-user has entered into a number porting contract.

(5) The transferring undertaking shall ensure that a subscriber who has terminated a service contract with it may port the number used under that contract to another undertaking for a period of at least one month from the date of termination of the contract, unless the subscriber demonstrably waives that right or unless the subscriber has agreed in writing with the transferring undertaking to a period of more than one month.

(6) The transferring undertaking and the receiving undertaking shall be obliged to charge each other fees for the provision of number portability in such a way that these fees are cost-oriented. The fees referred to in the first sentence may be determined by the Authority pursuant to Article 72. For the purpose of ensuring this obligation, the Authority may, after public consultation, issue a decision to control the prices of such fees pursuant to Article 72. The decision pursuant to the preceding sentence shall be binding on all transferring undertakings and receiving undertakings. The effective date of the decision shall be determined by the Authority in the decision.

(7) Neither the receiving undertaking nor the transferring undertaking shall require any direct payment from the end-user in connection with the porting of the number.

(8) A number can only be ported on the basis of a number porting contract concluded between the end-user and the receiving undertaking.

(9) The transferring undertaking shall port and the receiving undertaking shall activate the number to the subscriber who has entered into a number porting contract with the receiving undertaking no later than one working day after the date agreed with the subscriber in the number porting contract. A subscriber who has concluded a number porting contract with the receiving undertaking may withdraw from the number porting contract; the withdrawal from the contract may be made no later than two working days before the agreed porting date. In the event of unsuccessful activation of the number by the receiving undertaking, the receiving undertaking shall port the ported number back to the transferring undertaking and the transferring undertaking shall reactivate the number to the end-user, providing the end-user with the original services under the same conditions until the time of successful activation of the number by the receiving undertaking, except for the unavailability of the service during the number re-porting process. The unavailability of the service provided to the subscriber during the process of porting of numbers shall not exceed one working day.

(10) The receiving undertaking shall notify the transferring undertaking and the subscriber in a pre-agreed manner that the ported number will be returned to the transferring undertaking due to the failure to activate the ported number and shall inform the subscriber of the next course of action.

(11) The service contract between the transferring undertaking and the subscriber shall terminate automatically on the expiry of the day on which the receiving undertaking activates services on the ported number, of which the receiving undertaking shall immediately inform the transferring undertaking.

(12) Undertakings operating access networks or facilities used by the transferring undertaking or the receiving undertaking shall ensure that the unavailability of the service does not delay the porting of the number.

(13) Undertakings are obliged to ensure that the subscriber's number is not ported to another undertaking against the subscriber's will.

(14) An undertaking which, during the number porting process, has caused a number to be activated late or to be ported to another undertaking against the subscriber's will, or an undertaking which abuses the number porting process and fails to comply with the terms and conditions agreed in the number porting contract, shall be obliged to compensate the subscriber; the right to damage compensation shall not be affected by this.

(15) The number porting process is managed by the receiving undertaking.

(16) The transferring undertaking shall refund on request to the consumer using prepaid services the remaining credit; credit for the purposes of this Act means a prepaid sum of money from which the charge for the volume of the service actually consumed is deducted from time to time. Credit refunds may only be subject to a fee if specified in the contract with the consumer. Any such fee shall be reasonable and equal to the actual costs incurred by the transferring undertaking in refunding the credit.

(17) A generally binding legal regulation to be issued by the Authority shall set the details concerning

- a) number portability,
- b) the number porting contract,
- c) the administrative procedure of number porting,
- d) the information that the undertaking must provide to the end-user,
- e) requirements for number porting and number porting execution in a manner allowing remote access, unless otherwise requested by the end-user and where technically feasible,
- f) information provided pursuant to paragraph 10,
- g) compensation pursuant to paragraph 14.

## **Article 89**

### **Switching the undertaking providing the internet access service**

(1) For the purposes of this Article, the transferring undertaking shall be the undertaking which the subscriber, through the receiving undertaking, has requested to switch the undertaking providing internet access service.

(2) For the purposes of this Article, the receiving undertaking shall be the undertaking with which the end-user has entered into a contract of switching the undertaking providing the internet access service.

(3) In the event of switching the undertaking providing the internet access service to another undertaking, both the transferring undertaking and the receiving undertaking shall cooperate and provide the subscriber of the transferring undertaking, who has entered with the receiving undertaking into a contract of switching the undertaking providing the internet access service, with adequate information before and during the switching so as not to interrupt the provision of the internet access service, where technically feasible.

(4) Loss of service during the undertaking switching process shall not exceed one working day.

(5) The receiving undertaking shall ensure the provision of the internet access service to the subscriber, who has entered with it into a contract of switching the undertaking providing the internet access service, as soon as reasonably practicable as of the date specified in the contract of switching the undertaking providing the internet access service. The transferring undertaking shall provide the internet access service to the subscriber on the same terms and conditions on which it provided the internet access service to the subscriber under the contract in force on the date on which the contract of switching the undertaking providing the internet access service is concluded with the receiving undertaking until the day after the day on which the internet access service begins to be provided to the subscriber by the receiving undertaking.

(6) The obligations of undertakings and the rights of end-users and the conditions under Article 88(6), (7), (11) and (13) to (15) shall apply accordingly to the process of switching the undertaking providing the internet access service.

(7) Operators whose access networks or facilities are used by the transferring or receiving undertaking shall ensure that there is no unavailability of service that would delay the process of changing the undertaking providing the internet access service.

(8) A generally binding legal regulation to be issued by the Authority shall set the details concerning

a) switching the undertaking providing the internet access services,

b) requirements for the procedure to be followed by operators whose access networks or facilities are used by the transferring or receiving undertaking when switching the undertaking providing the internet access service, in particular for the purpose of preventing unavailability of service that would delay the process of switching the undertaking providing the internet access service,

c) the contract of switching the undertaking providing the internet access service,

d) the administrative procedure in switching the undertaking providing the internet access service,

e) compensation for delayed switching of the undertaking providing the internet access service or switching made against the will of the subscriber, abuse of the switching process and non-compliance with the conditions related to the switching of the undertaking providing the internet access service. .

## **Article 90**

### **Bundled offers**

(1) If a bundle of services or a bundle of services and terminal equipment (hereinafter referred to as the “bundle”) offered to a consumer comprises at least an internet access service or a publicly available number-based interpersonal communications service or both, and is provided by the same undertaking under a single service contract or under a closely related or connected contract, the nature of which at the time of their conclusion shows that those contracts are interdependent, the provisions of Article 83(1) to (3), Article 84(8), Article 87, with the exception of paragraph 5, and Article 89 shall apply to all elements of the bundle, including those to which those provisions do not otherwise apply.



(2) Where the consumer has a right to terminate any element of the bundle as referred to in paragraph 1 before the end of the agreed contract term because of a lack of conformity with the contract or a failure to supply the service or goods, the consumer has the right to terminate the contract with respect to all elements of the bundle.

(3) The agreed contract duration or commitment period may not be extended by an undertaking providing internet access services or publicly available number-based interpersonal communication services by concluding a contract or an amendment to a contract for the provision of any additional service or terminal equipment from the same undertaking, unless the consumer expressly agrees to this.

(4) Paragraphs 1 and 2 shall also apply to a micro undertaking, small undertaking or a not-for-profit organisation, unless they have expressly waived their right under paragraph 1 or paragraph 2.

## **Article 91 Complaint**

(1) The undertaking is obliged to have a Complaints Procedure, which shall in particular regulate

- a) details of the subscriber's right to complain,
- b) how to make a complaint and how to deal with it,
- c) the time limit for filing a complaint and the time limit for its settlement,
- d) the manner of exercising a subscriber's right under Article 87(11).

(2) The undertaking shall publish information on the terms and conditions and how to make a complaint pursuant to paragraph 1, including details of where a complaint can be made.

(3) The right of complaint may not be limited in the Complaints Procedure if it has been exercised within the time limit specified in the Complaints Procedure; this time limit may not be less than 30 days from the date of receipt of the invoice, the correctness of which is the subject of the complaint, or from the discovery of a discrepancy in the price of the prepaid service or of a defect in the service provided.

(4) The company is obliged to notify the subscriber on a durable medium of the result of the investigation of their complaint within a time limit not exceeding 30 days from the receipt of the complaint, otherwise the complaint shall be deemed to have been accepted. In complex cases, the undertaking may extend this time limit, up to a maximum of 30 days; the undertaking must inform the subscriber of the extension on a durable medium before the expiry of the original 30-day time limit, stating the reasons for it. The time limit shall be complied with if the undertaking sends its notification to the subscriber at the latest on the last day of the time limit. If the subscriber chooses the method by which the undertaking is to inform them of the manner in which the complaint is to be settled, the undertaking shall notify them of complaint settlement in that manner; the same shall apply to the notification of the extension of the time limit for the investigation of the complaint. The notification of the complaint investigation result shall include at least the date of the complaint, complaint number, the manner in which the complaint was settled and the name of the undertaking.

(5) A complaint regarding the examination of an invoice shall not have a suspensive effect on the payment of the amount for services rendered. If the amount exceeds three times the average monthly usage of the service over the preceding six months, the undertaking shall allow the subscriber to defer payment of the part of the amount exceeding the amount for the average monthly usage of the service over the preceding six months, at the latest until the end of the investigation of the telecommunications equipment, or allow the subscriber to pay the part of the amount exceeding three times the average monthly usage of the service in at least three monthly instalments. If the use of the service is less than six months but more than one month, the average use of the service shall be calculated over the whole period of use of the service.

(6) If, on the basis of a complaint, a defect is found in the telecommunications equipment which may have been to the detriment of the subscriber, but neither the extent of the publicly available service provided nor the price for its provision can be demonstrably ascertained, the subscriber shall pay the price corresponding to the price for the average monthly extent of the use of the publicly available service for the preceding six months. If the use of the publicly available service is less than six months but more than one month, the average use of the publicly available service shall be calculated over the whole period of use of the service.

## **Article 92**

(1) An undertaking providing an internet access service or publicly available number-based interpersonal communications services shall make available

- a) the basic level of itemised bills in electronic form; the basic level of itemised bills shall be sent free of charge to the contact address designated by the subscriber for the sending of electronic mail or by any other electronic means that permits its receipt, whereby the subscriber concerned may also choose to receive it in paper form, which shall be sent free of charge to the postal contact address specified by the subscriber in the service contract,
- b) at a subscriber's request, selective barring for outgoing calls or premium SMS or MMS, or, where technically feasible, other kinds of similar applications, free of charge,
- c) during the period specified for payment under the second subparagraph of Article 86(1)(d), limited provision of the service for the duration of the period specified for payment so that the subscriber can make use of incoming calls and calls to freephone numbers in the case of number-based interpersonal services and a minimum level of internet access service in the case of internet access service,
- d) tariff advice,
- e) other facility for cost control than pursuant to subparagraph (a), in particular free-of-charge alerts to consumers in the case of abnormal or excessive consumption patterns,
- f) facility to deactivate third party billing for a service or goods through an invoice for the undertaking's services,
- g) calling-line identification prior to the call being established, if technically feasible,
- h) at the request of the subscriber to whom it provides, at the same time as the internet access service, an electronic mail address on a domain using the business name or trademark of the undertaking providing the internet access service, in the event of termination of the contract for the provision of an internet access service by the subscriber, forwarding electronic mail delivered to that electronic mail address to the new electronic mail address designated by the subscriber at the time of termination of the contract for the provision of an internet access service during a transitional period of six months following the termination of the contract

for the provision of an internet access service, or access to electronic mail delivered to that electronic mail address during that transitional period, if technically feasible.

(2) Where the Authority so determines in the general authorisation pursuant to Article 8(3)(c)(3), an undertaking providing an internet access service or publicly available number-based interpersonal communications services shall make available the possibility to subscribe for access to the network or service and to pay connection charges in stages.

### **Article 93**

#### **Obligations of undertakings**

(1) The undertaking shall, during a crisis or emergency situation,<sup>104)</sup> ensure the operation and provision of a public network, a public service or a public network and a public service, if technically feasible in accordance with a special regulation.<sup>105)</sup>

(2) An undertaking providing a publicly available number-based interpersonal communications service through which end-users can make calls to numbers in the national numbering plan or the international numbering plan shall be obliged to provide end-users with free access to emergency services through emergency communications by using the single European emergency number “112” and other national emergency numbers.

(3) The undertaking referred to in paragraph 2 shall ensure that end-users with disabilities have equivalent access to emergency services through emergency communications as other end-users.

(4) The undertaking referred to in paragraph 2 shall provide end-users of the single European emergency number “112” with a free eCall.<sup>106)</sup>

(5) The undertaking referred to in paragraph 2 shall make caller location information available to the public safety answering point without delay and free of charge after the emergency communication is set up in compliance with Article 111.

(6) The undertaking referred to in paragraph 2 shall inform the public about the existence and conditions of use of emergency communications, emergency numbers, including the single European emergency number “112”, as well as the forms of its accessibility, including through information specifically addressed to persons travelling between Member States and to end-users with disabilities. The undertaking shall publish the information referred to in the preceding sentence in a transparent manner, in particular on its website, in a comprehensible, easily accessible, machine-readable form and, for end-users with disabilities, in an accessible format that accommodates different types of disabilities.

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<sup>104)</sup> Article 3 (1) of Act of the National Council of the Slovak Republic No. 42/1994 Coll. on civil protection of the population as amended.

<sup>105)</sup> Constitutional Act No. 227/2002 Coll. as amended.

<sup>106)</sup> Article 3 (2) of Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC (OJ EU L 123, 19. 5. 2015) as amended.

## Article 94

(1) The undertaking providing the voice communications service shall be obliged to provide, to the extent necessary, a priority connection for the crisis management authorities<sup>107)</sup> and for other subscribers included in the priority connection system. For the purposes of this Act, priority connection means priority use of public services to deal with an emergency<sup>108)</sup> or crisis situation.<sup>108)</sup> Details of priority connection shall be established by a generally binding legal regulation to be issued by the Ministry of Interior.

(2) During a security situation, the undertaking shall ensure the preparation of networks and services for the period of crisis and emergency to ensure communications between crisis management authorities.<sup>110)</sup>

(3) An undertaking providing public networks or publicly available services shall, at the written request of a law enforcement authority and at the expense of the law enforcement authority, in order to prevent fraud or abuse, block access to numbers or services provided through certain numbers and withhold payments for interconnection or other services. The request shall specify the period for which such blocking is to last. The company is not liable for any damage caused by the execution of this request.

(4) The undertaking shall be obliged to prevent access to the website, the address of which is specified in the court order pursuant to a special regulation,<sup>109)</sup> immediately after delivery of the court order pursuant to a special regulation.<sup>112)</sup> The undertaking shall not be liable for any damage caused by preventing access pursuant to the first sentence. The undertaking shall be obliged to provide access to the website, the address of which is specified in the decision on the revocation of the court order pursuant to a special regulation,<sup>112)</sup> without delay after the delivery of that decision. State supervision over compliance with the obligations under the first and third sentences shall be carried out and the penalty for their violation shall be imposed by the Gambling Regulatory Authority pursuant to a special regulation.<sup>112)</sup>

(5) An undertaking providing public networks or publicly available services shall be obliged to block access to a number on a premium rate service using a call to which a prohibited offer is made over the network and telecommunications equipment, or to a prohibited offer made over the network and telecommunications equipment using short text messages sent to a number on a premium rate special numbering service, immediately upon receipt of a court order pursuant to a special regulation.<sup>112)</sup> The undertaking shall not be liable for any damage caused by blocking access pursuant to the first sentence. The undertaking shall be obliged to terminate the blocking of access to the numbers pursuant to the first sentence specified in the decision on the revocation of the court order pursuant to a special regulation,<sup>112)</sup> without delay after the delivery of that decision. State supervision over compliance with the obligations under the first and third sentences shall be carried out and the penalty for their violation shall be imposed by the Gambling Regulatory Authority pursuant to a special regulation.<sup>112)</sup>

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<sup>107)</sup> Article 3 of Act No. 387/2002 Coll. on state management in crisis situations out of the time of war and state of war as amended.

<sup>108)</sup> Article 3 (2) of Act of the National Council of the Slovak Republic No. 42/1994 Coll. as amended

<sup>109)</sup> Act No. 30/2019 Coll. on gambling games and on the amendment to certain acts as amended.

## **Article 95**

### **Operation of terminal equipment**

(1) The undertaking shall submit to the Authority for publication the technical specifications of the offered interfaces of the public networks pursuant to Article 2 (5) (a) to which the terminal equipment connects, no later than 15 days before the interfaces are put into operation. The Authority shall publish the technical specifications of these interfaces on its website and communicate them to the European Commission.

(2) Details of the interoperability of car radio receivers and terminal equipment intended for the reception of digital television signals shall be laid down by the Government's Order.

## **Chapter Two**

### **Universal service**

## **Article 96**

(1) Universal service is a minimum set of services that are available in a specified quality throughout the territory of the Slovak Republic to all consumers regardless of their geographical location and at an affordable price, which is a price that takes into account the level of consumer prices and incomes of the population.

(2) The subject of universal service is

- a) the provision of a connection to the public network at a fixed location; this connection must allow the use of a voice communications service and an adequate broadband internet access service, and at the consumer's request the connection may be provided only for the use of a voice communications service,
- b) the provision of a voice communications service and an adequate broadband internet access service through a connection under subparagraph (a),
- c) the creation of conditions for consumers with disabilities which ensure that those consumers have the same accessibility to the services referred to in subparagraphs (a) and (b) as other consumers; in particular, the creation of conditions under the part of the sentence before the semicolon means ensuring the availability of appropriate terminal equipment, special equipment and special services to ensure equivalent accessibility, including, where appropriate, total conversation services or text relay services at an affordable price.

(3) An adequate broadband internet access service as referred to in paragraph 2(b) shall be provided at a minimum data transmission speed in both directions, as referred to in paragraph 4, which enables the consumer to use at least the following services:

- a) electronic mail,
- b) search engines enabling search and finding of all type of information,
- c) basic training and education online tools,
- d) online newspapers or news,
- e) buying or ordering goods or services online,
- f) job searching and job searching tools,

- g) professional networking,
- h) internet banking,
- i) eGovernment service use,
- j) social media and instant messaging,
- k) calls and video calls (standard quality).

(4) The Authority shall lay down, by means of a generally binding legal regulation, the minimum data transmission speeds in both directions to be provided by undertakings providing an adequate broadband internet access service pursuant to paragraph 3. In setting the minimum data transmission speed, the Authority shall take into account the minimum bandwidth used by the majority of consumers in the territory of the Slovak Republic and the report of the Body of European Regulators on best practices of Member States published for the purpose of defining an adequate broadband internet access service. The minimum transmission speed shall be reviewed by the Authority on the basis of an updated report by the Body of European Regulators on Member States' best practices, published for the purpose of supporting the definition of an adequate broadband internet access service.

### **Article 97**

#### **Provision of affordable universal service**

(1) The Authority shall monitor the development and level of prices of services falling within the scope of universal service obligations pursuant to Article 96(2) and (3), in particular with regard to the development of consumer prices and the development of the level of the average wage in the national economy.

(2) If the Authority finds that the prices of the services referred to in Article 96(2) constitute a barrier to the use of those services by a low-income consumer<sup>113)</sup> or a consumer with special social needs,<sup>110)</sup> it shall, on the basis of the outcome of public consultation pursuant to Article 17(1), issue a decision fixing the maximum price of those services for low-income consumers and consumers with special social needs in such a way that the maximum price differs from the prices provided under normal commercial terms and conditions (hereinafter referred to as the "special price"). The decision shall be reasoned and shall be published in the Journal. A low-income consumer for the purposes of universal service under this Act means a consumer who is a member of a household receiving assistance in material need under a special regulation.<sup>113)</sup>

(3) An undertaking providing services pursuant to Article 96(2) which is obliged by a decision of the Authority to charge consumers special prices (hereinafter referred to as the "undertaking charging special prices") shall be obliged to provide those services and to charge special prices only to a person who proves that he or she is a low-income consumer or a consumer with special social needs, at prices which comply with the decision of the Authority pursuant to paragraph (2).

(4) An undertaking charging special prices is obliged to conclude a contract for the provision of services with a low-income consumer or a consumer with special social needs at the latter's request. A low-income consumer or a consumer with special social needs who has concluded a

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<sup>110)</sup> E.g., Article 2 (3) of Act No. 447/2008 Coll. on cash allowances to compensate for severe disabilities and on the amendment to certain acts.

<sup>113)</sup> Act No. 417/2013 Coll. on material need assistance and on the amendment to certain acts as amended.

contract for the provision of services with an undertaking charging special prices shall be obliged to inform that undertaking of all facts which have an impact on the conditions for charging and providing special prices.

(5) An undertaking which is obliged to conclude a contract for the provision of services with a low-income consumer or a consumer with special needs pursuant to paragraph 4 shall have the right to provide services to low-income consumers or consumers with special needs in the form of a prepayment for the use of those services.

(6) An undertaking which is required to enter into a contract for the provision of services with a low-income consumer or a consumer with special social needs pursuant to paragraph 4 shall ensure that the national numbering plan number associated with the provision of the service is available to the low-income consumer or consumer with special social needs throughout the duration of the contract.

(7) The undertaking charging special prices shall be obliged

- a) to inform the Authority of the conditions for the provision of services with the obligation to provide special prices at least 30 days before the commencement of their provision and, in the event of a change in the conditions for the provision of special prices, at least 15 days before the change takes place,
- b) to ensure that the conditions referred to in subparagraph (a) are publicly available,
- c) to apply the conditions referred to in subparagraph (a) in accordance with the principle of non-discrimination and transparency.

(8) The provisions of Article 98 shall accordingly apply to the determination of the undertaking to which the Authority will impose the obligation to charge special prices. When designating an undertaking, the Authority shall proceed in such a way as to minimise the adverse effect on competition.

(9) In the decision by which the Authority imposes an obligation to charge special prices, the Authority shall specify the details of compliance with the obligation and the time limit for compliance.

## **Article 98**

### **Availability of universal service**

(1) Universal service provider means an undertaking on which the Authority has by decision under this Article imposed an obligation to provide universal service pursuant to Article 96(2) or an undertaking charging special prices.

(2) If the Authority, on the basis of a geographical survey of the coverage of the territory by networks capable of providing the services which are the subject of universal service pursuant to Article 96(2) or on the basis of other evidence, finds that it is not possible to provide those services on normal commercial terms, it shall designate by decision, after the conclusion of the public consultation, one or more universal service providers and impose on them obligations to provide the services pursuant to Article 96(2) in such a way that all reasonable requirements of end-users for access to those services throughout the territory of the Slovak Republic are met, and may designate different undertakings or a group of undertakings to provide only some of the universal service obligations or to cover different parts of the territory of the Slovak

Republic. The Authority shall act in such a way as to minimise the negative impact on competition and respect the principles of objectivity, transparency, non-discrimination and proportionality.

(3) In the decision pursuant to paragraph 2, the Authority may also impose an obligation to provide services additional to those provided pursuant to Article 96(2).

(4) If the Authority, on the basis of a geographical survey of the coverage of the territory by networks capable of providing the services which are the subject of universal service pursuant to Article 96(2), or on the basis of other evidence, finds that those services or services comparable to those services are generally available, it shall not designate an undertaking for the provision of universal service.

(5) In imposing a service obligation under Article 96(2)(c), the Authority shall consider the general need and special requirements for the provision of services to consumers with disabilities. In particular, the Authority may impose an obligation to lease or sell, if requested by a consumer with disabilities, one specially equipped telecommunications terminal equipment appropriate to the consumer's disability at the price of a standard telecommunications terminal equipment.

(6) Before designating an undertaking pursuant to paragraph 2, the Authority shall, following a public consultation, publish a notice calling upon undertakings to indicate, within a period to be determined by the Authority, whether they are interested in being designated as a universal service provider. The Authority may not exclude any undertaking in advance. The details of the statement, the conditions for the designation of the universal service provider and the conditions for the provision of universal service, including quality, shall be specified by the Authority in the call. The method for calculating the net cost of universal service pursuant to Article 100(2) is also part of the call.

(7) Where, following a call pursuant to paragraph 6, one or more undertakings express an interest in being designated as universal service provider, the Authority shall initiate proceedings for the designation of universal service provider with each of those undertakings. In making its decision, the Authority shall take into account, in particular, the financial, technical and professional qualifications of the undertaking, the ability of the undertaking to provide universal service in a cost-effective manner and under the conditions set out in the call pursuant to paragraph 6, while acting in accordance with the principles of objectivity, transparency, non-discrimination and proportionality so as to minimise the negative impact on competition. If the Authority finds that none of the undertakings which have expressed an interest in being designated as universal service provider is capable of providing universal service under the conditions specified in the call pursuant to paragraph 6, it shall discontinue the proceedings.

(8) If, following a call pursuant to paragraph 6, no undertaking expresses an interest in the provision of universal service, or if the Authority has discontinued the proceedings for the designation of the universal service provider pursuant to paragraph 7, the Authority shall issue a decision designating one or more undertakings as universal service provider, designating the one or more undertakings which most closely meet the conditions set out in the call pursuant to paragraph 6. In particular, the Authority shall take into account the financial, technical and professional qualifications of the undertaking and the ability of the undertaking to provide the universal service in a cost-effective manner.



(9) In the decision on the designation of the universal service provider, the Authority shall specify the details concerning the fulfilment of individual obligations and the time limit for their fulfilment.

(10) The Authority shall periodically review every three years whether the grounds on the basis of which it did not designate or designated a universal service provider and imposed obligations to provide services pursuant to Article 96(2) or Article 97(3) persist.

(11) If the Authority finds that the services which are the subject of universal service obligations under Article 96(2), or services which are equivalent to those services, are generally available, it shall revoke the decision by which it designated the universal service provider and imposed obligations to provide services under Article 96(2) or Article 97(3). The Authority shall carry out a public consultation on the draft decision.

(12) If the Authority finds that the circumstances on the basis of which it determined the universal service provider and imposed an obligation to provide the service pursuant to Article 96(2) or Article 97(3) have changed, it shall withdraw or amend the obligation by decision. The Authority shall carry out a public consultation on the draft decision to withdraw or amend the obligation to provide a service pursuant to Article 96(2) or Article 97(3). If the Authority finds grounds for a change of the universal service provider, it shall revoke the decision designating the universal service provider and imposing an obligation to provide the service pursuant to Article 96(2) or Article 97(3) and shall proceed in accordance with paragraphs 2, 5 to 9.

(13) Where a universal service provider on which the Authority has imposed service obligations pursuant to Article 96(2) or Article 97(3) intends to sell or otherwise transfer ownership of the access network or a substantial part thereof provided by it to a legal person in relation to which it is not in the position of a parent entity,<sup>111)</sup> it shall inform the Authority of that intention four months before the expected date of that transaction, so that the Authority can assess the effect of the intended transaction on the fulfilment of the service obligations pursuant to Article 96(2) and Article 97(3). The Authority may impose, amend or withdraw the obligations imposed on the undertaking it has designated as the universal service provider.

(14) The Authority notifies the European Commission of

- a) the undertaking designated by the Authority as the universal service provider and changes thereto,
- b) the universal service obligations imposed on the undertaking designated by the Authority as universal service provider and any changes to those obligations without delay.

## **Article 99**

### **Control of expenditure**

(1) In providing facilities and services additional to those referred to in Article 96 (2), the undertaking providing services pursuant to Article 96 (2) and the universal service provider shall not charge for facilities or services which are not required by the end-user or which are not necessary for the provision of the requested service.

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<sup>111)</sup> Article 22 (3) of Act No. 431/2002 Coll. as amended.

(2) An undertaking providing services under Article 98 is obliged to provide low-income consumers or consumers with special social needs

- a) free of charge, with the basic level of itemised bills in electronic form sent to the contact address designated by the subscriber for sending electronic mail or other electronic means for controlling expenditure on the use of internet access services or voice communications services, in order to enable adequate control of consumption and expenditure and thus control of the total amount of payments charged for the services used, whereby the subscriber concerned may also opt for a paper form, which shall be sent free of charge to the postal contact address specified by the subscriber in the service contract; the Authority shall determine the basic level of itemised bills in the decision pursuant to Article 98(8) or in the general authorisation, provided that
  - 1. the information in the itemised bills must include the identification of the provider and the time of provision of the premium-rate service, unless the low-income consumer or consumer with special social needs has demonstrably requested that such information not be included in the itemised bills,
  - 2. the itemised bills do not contain information on free outgoing calls,
  - 3. an undertaking charging special prices pursuant to Article 97 shall be obliged to provide a higher level of itemised bills free of charge to a specified extent at the request of a low-income consumer or consumer with special social needs; this shall be without prejudice to the obligation under subparagraph (a) of the part of the sentence before the semicolon,
  - 4. an undertaking providing special prices for a voice communications service pursuant to Article 96(2) shall be obliged to provide a caller identification or caller display avoidance service free of charge, unless otherwise specified by the Authority in the decision pursuant to Article 98(8) or in the general authorisation,
- b) free of charge, with barring for specified types of outgoing calls, premium rate SMS or MMS services or, where technically feasible, other types of similar applications, following a request to an undertaking by a low-income consumer or consumer with special social needs, including the means by which such consumers are able to bar, free of charge, certain types of outgoing calls, premium rate SMS or MMS services or other types of similar applications of a certain type or defined types of numbers, following a request made to the provider of the voice communications service,
- c) with the possibility of using a public network connection service and of using a voice communications service and an internet access service in the form of a pre-paid service,
- d) with the possibility of dividing the one-off payment for setting up the service into instalments,
- e) with information on proportionate and non-discriminatory measures in the event of non-payment of bills to ensure that prior demonstrable notice to the low-income consumer or consumer with special social needs may be followed by interruption or termination of the service; these measures shall not apply to cases of fraud, repeated late payment or non-payment, and the undertaking charging the special prices shall ensure that the consumer concerned is able to enjoy a minimum level of access to the emergency call service and internet access services until the service has been fully terminated,
- f) with a facility, free of charge, through which the undertaking providing special prices provides, on request, information to low-income consumers and consumers with special social needs about existing alternatives enabling them to use services at lower prices,

g) with other ways of controlling the cost of the voice communications service or internet access service, including free notification in the event of abnormal or excessive consumption patterns,

h) free of charge, with the facility for end-users to deactivate the ability for third party service providers to use the bill of a provider of an internet access service or a provider of a publicly available interpersonal communications service to charge for their products or services.

(3) Unless the Authority determines otherwise in the decision pursuant to Article 98(8) or in the general authorisation, an undertaking charging special prices shall be entitled to provide, for a fee, a higher level of itemised bills at the request of a low-income consumer or consumer with special social needs; this shall be without prejudice to the obligation under paragraph 2(a), first subparagraph.

(4) The Authority may cancel the obligation imposed pursuant to paragraph 2 in part or all of the territory of the Slovak Republic or shall not impose such an obligation if the individual instruments referred to in paragraph 2 are provided by undertakings to the same extent even without the imposition of such obligations.

### **Article 100**

#### **Cost of universal service obligations**

(1) Where, in connection with the fulfilment of the obligations imposed to provide services pursuant to Article 96(2), Article 97(3) or Article 98(2), the universal service provider incurs net costs pursuant to paragraph 2 which constitute a disproportionate financial burden for the universal service provider, the universal service provider shall have the right to be reimbursed for the identified net costs of universal service.

(2) The net cost of universal service is all costs related to the provision of universal service. The net cost of universal service shall be calculated as the difference between the net cost of the universal service provider and the net cost that the same universal service provider would not have incurred if it had not provided universal service. The method for calculating the net cost of universal service shall be determined by the Authority following a public consultation. The method for calculating the net cost of universal service shall be justified, shall be published in the Journal and shall form part of the decision pursuant to Article 98(2).

(3) An application for reimbursement of the net cost of universal service containing the calculation and quantification of the net cost of universal service in accordance with the method of calculation of net cost of universal service pursuant to paragraph 2, which has been verified by a professionally competent and independent person, as well as the supporting documents for the calculation of net cost of universal service, may be submitted by the universal service provider to the Authority within two years of the expiry of the financial year in which the cost was incurred, otherwise the right to reimbursement of the net cost of universal service shall cease to exist.

### **Article 101**

(1) If, on the basis of verification of net cost on the basis of the method which was part of the call for designation of the universal service provider pursuant to Article 98(6), the Authority finds that the provision of universal service imposes a disproportionate financial burden on the universal service provider, it shall decide on the amount of reimbursement of net cost.

(2) On the basis of the submitted application, the Authority shall assess whether the universal service provider fulfils the universal service obligations in a cost-effective manner and shall verify the calculation of the net cost of universal service, taking into account the market advantage gained by the universal service provider by providing the universal service or by providing services pursuant to Article 97(2) to low-income consumers or consumers with special social needs at prices different from those provided under normal commercial conditions, and shall assess whether the provision of universal service constitutes a disproportionate financial burden for the undertaking. The basis for the calculation of net cost may be verified and checked by the Authority itself or by a professionally competent and independent person authorised by it, and for that purpose the books and records of the universal service provider may be inspected. The Authority shall publish the results of verification of the documents, the amount of the calculated net cost and the method of its calculation on its website. A situation where the net cost of universal service is such that the universal service provider cannot reasonably be expected to bear them, having regard to the economic situation of the universal service provider, shall be regarded as a disproportionate financial burden.

(3) On the basis of verification and assessment of the facts referred to in paragraphs 1 and 2, the Authority shall by decision confirm the amount of net cost set out in the universal service provider's application or grant the application for reimbursement of net cost only in part, otherwise it shall reject the application for reimbursement of net cost by decision.

(4) Only an undertaking designated to provide universal service which has filed an application pursuant to paragraph 2 shall be a party to proceedings for the reimbursement of net cost of universal service or the provision of services pursuant to Article 97(2) to low-income consumers or consumers with special social needs at prices which differ from those provided under normal commercial terms and conditions.

## **Article 102**

### **Financing of universal service obligations**

(1) If the Authority decides on the amount of net cost reimbursement pursuant to Article 101(3), the Authority shall establish and administer a special universal service account (hereinafter referred to as the "special account") for the reimbursement of the net cost calculated by the Authority, to which an undertaking providing public voice service and internet access service is obliged to contribute, if the volume of its revenues, if it is an undertaking using double-entry bookkeeping, or the volume of receipts, if it is an undertaking using single-entry bookkeeping, from the provision of public voice service and internet access service in the relevant financial year in the territory of the Slovak Republic is equal to or greater than EUR 1 000 000.

(2) The undertaking required to contribute to the reimbursement of the net cost calculated by the Authority and the amount of contribution to the special account shall be determined by the Authority for each undertaking separately by decision. The amount of a particular undertaking's contribution to the special account shall be determined by the share of the annual revenues or receipts from the provision of public voice service and internet access service in the territory of the Slovak Republic of a particular undertaking in the total revenues and receipts from the provision of public voice service and internet access services of all undertakings that meet the obligation to contribute to the special account pursuant to paragraph 1 in the relevant calendar year.

(3) If the special account is established, the undertaking shall, upon request, notify the Authority annually of the amount of its revenues, if it is an undertaking using double-entry bookkeeping, or of receipts, if it is an undertaking using single-entry bookkeeping, from the provision of public voice service and internet access service achieved in the territory of the Slovak Republic in the relevant calendar year for each of these services separately, including for the preceding calendar years as specified by the Authority. For this purpose, the Authority may itself or through a professionally competent and independent person authorised by it inspect the books and accounts of the undertaking and, if the undertaking fails to notify the Authority of the amount of its revenues or receipts, the Authority shall determine the amount of the revenues or receipts of such undertaking by estimation.

(4) An undertaking obliged to contribute to the net cost calculated by the Authority shall be obliged to pay the amount of the reimbursement calculated by the Authority into a special account within three months of the date on which the decision becomes final.

(5) The Authority shall publish an annual report on the management of the special account, which shall include the amount of the net cost calculated by the Authority, the market benefits obtained by the designated undertaking through the provision of universal service obligations, including their financial valuation, and the reimbursements made by each undertaking, together with the manner in which they have been calculated.

(6) Details of the reimbursement of net costs, the procedure for assessing disproportionate burden and the establishment and management of a special account shall be laid down in a generally binding legal regulation to be issued by the Authority.

## **Part Four**

### **Security and integrity of public networks and services**

#### **Article 103**

##### **Measures to manage the risks posed to the security of networks and services**

(1) The undertaking shall maintain a level of security and integrity of networks and services that ensures continuity of service provision. For that purpose, the undertaking shall take appropriate and proportionate technical, organisational and personnel measures to manage the risks posed to the security of networks and services, which, having regard to the state of the art, shall ensure a level of security appropriate to the risk presented.

(2) An undertaking, which is the operator of a basic service,<sup>112)</sup> shall adopt and implement technical and organisational measures pursuant to this Act and security measures pursuant to a special regulation.<sup>113)</sup> If the technical and organisational measures pursuant to this Act are also security measures pursuant to a special regulation,<sup>117)</sup> the undertaking shall implement the security measures pursuant to the special regulation.<sup>117)</sup>

(3) Appropriate technical and organisational measures shall cover in particular the requirements concerning

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<sup>112)</sup> Article 3 (1) of Act No. 69/2018 Coll. as amended by Act No. 287/2021 Coll.

<sup>113)</sup> Article 20 of Act No. 69/2018 Coll. as amended by Act No. 287/2021 Coll.

- a) security of networks and facilities as regards
  - 1. physical and environmental security,
  - 2. security of energy supplies, back-up power supply and spare components,
  - 3. access control to networks and integrity of networks,
- b) handling of security incidents as regards
  - 1. handling procedures and security incident detection capability,
  - 2. security incident reporting and communication,
- c) business continuity management as regards
  - 1. service continuity strategy and contingency plans,
  - 2. disaster recovery capabilities,
- d) monitoring, security auditing and testing as regards
  - 1. monitoring and logging policies,
  - 2. exercise contingency plans, network and information system testing,
  - 3. assessing the security of the network or service and monitoring compliance with the requirements, as well as their compliance with generally binding legal regulations and international treaties to which the Slovak Republic is bound,
  - 4. procedures leading to the prevention of a security incident in the event of its detection or threat,
- e) other requirements including encryption.

(4) An undertaking shall provide the Authority, upon its reasoned request, with the information necessary to assess the security of its services and networks, including its security policies.

#### **Article 104**

##### **Security incident reporting**

(1) An undertaking providing public networks or publicly available services shall immediately inform the Authority of security incidents that have a significant impact on the operation of networks or the provision of services. The company reports security incidents that have a significant impact on the operation of networks or the provision of services<sup>117a</sup> through the unified cybersecurity information system. An undertaking, which is also the operator of a basic service<sup>37)</sup> shall fulfil its obligation under the first sentence by reporting a security incident pursuant to a special regulation.<sup>37)</sup>

(2) In assessing the significance of the impact of a security incident on the operation of networks and the associated provision of the undertaking's services, the following data shall be taken into account in particular, where available:

- a) the number of users affected by the security incident,
- b) the duration of the security incident,

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<sup>117a)</sup> Decree of the National Security Authority No. 165/2018 Coll., which determines the identification criteria for individual categories of serious cybersecurity incidents and the details of reporting cybersecurity incidents.

- c) the geographical spread of the area affected by the security incident,
- d) the extent to which the security incident has affected the operation of networks or the provision of services,
- e) the extent to which the security incident affected economic and societal activities.

(3) In order to fulfil its obligations under paragraph 1, the undertaking shall

- a) register with the the unified cybersecurity information system and report security incidents,
- b) designate a contact person for communication related to security incident reporting,
- c) provide the necessary cooperation to the Authority.

(4) Where the disclosure of information about a security incident is in the public interest, the Authority shall be entitled to disclose that information or request the undertaking to disclose it. Upon receipt of the request from the Authority, the undertaking is obliged to disclose information about the security incident without delay. The costs of disclosing information at the request of the Authority shall be borne by the undertaking.

(5) An undertaking shall inform its users who may be affected by a security incident of the protective measures and remedies that may be taken by the affected users if there is a specific serious threat of a security incident occurring on public networks or publicly available services. If justified, the undertaking shall also be obliged to inform its users of the actual threat of a security incident as referred to in the first sentence.

(6) The Authority is obliged to

- a) inform the national regulatory authorities of other Member States and ENISA of a significant security incident, where justified by the scale or severity of the security breach or loss of integrity,
- b) submit once a year to the European Commission and ENISA a summary report on notifications received of security breaches or loss of integrity.

## **Article 105**

### **Binding instruction**

For the purposes of ensuring the security and integrity of networks pursuant to Articles 103 and 104, the Authority is authorised to issue a binding instruction necessary to remedy a security incident or to prevent a security incident from occurring if a serious threat has been identified, and to set a time limit for compliance with the instruction if the measures taken by the undertaking pursuant to Article 104 are not sufficient to avert the threat or remedy the security incident. Before issuing a binding instruction, the Authority shall communicate with the undertaking concerned through the contact person referred to in Article 104(3)(b). The binding instruction under the first sentence shall be justified by the Authority and shall be proportionate to the purpose pursued and technically feasible. An undertaking shall not be liable for damage caused by the restriction of the continuity of the provision of networks and services by the performance of obligations in the manner referred to in the first sentence.

## **Article 106**

### **Security audit**

The undertaking shall be obliged to undergo a security audit carried out by the Authority or by a professionally competent and independent person on the instructions of the Authority; the results of the audit shall be provided by the undertaking to the Authority without delay after completion of the audit. The costs of the security audit shall be borne by the undertaking. An audit carried out pursuant to a special regulation<sup>114)</sup> shall be a security audit under this Act.

## **Article 107**

(1) The Authority shall issue a generally binding legal regulation laying down details concerning appropriate technical and organisational measures pursuant to Article 103(3), the criteria for assessing a security incident pursuant to Article 104(2), security incident reporting and the disclosure of information on security incidents pursuant to Article 104 and the performance of a security audit pursuant to Article 106.

(2) The provisions of Articles 103 to 106 shall also apply accordingly to a provider of a publicly available service which is not an undertaking.

## **Article 108**

### **Protection against interference**

(1) Networks and equipment shall be established and operated in such a way as to avoid harmful interference.

(2) Only electrical or electronic equipment may be operated which does not exceed a level of interference arising from its operation above which other equipment cannot operate in accordance with its intended use and which is designed to have adequate inherent immunity against electromagnetic interference to enable it to operate in accordance with its intended use.

(3) If harmful interference or interference preventing the operation of the equipment in accordance with its intended use occurs, the undertaking or user of the equipment causing the interference shall immediately take effective measures or cease operation of the equipment. If this is not possible, or if it is more economical or expedient to take protective measures on the interfered with equipment, they shall be taken by the undertaking or user of the equipment causing the interference. The cost of removing the interference shall be borne by the undertaking or user whose equipment is causing the interference.

(4) The impossibility of operation caused by electromagnetic shielding or reflections of electromagnetic waves from constructions constructed after the network or equipment has been put into operation shall also be considered to be interference.

(5) Harmful interference shall not mean the use of a technical means which may be used by an authorised organ of the State<sup>115)</sup> for the time and to the extent strictly necessary to protect

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<sup>114)</sup> Article 29 of Act No. 69/2018 Coll. as amended by Act No. 287/2021 Coll.

<sup>115)</sup> Act of the National Council of the Slovak Republic No. 46/1993 Coll. on the Slovak Information Service as amended.

Act of the National Council of the Slovak Republic No. 171/1993 Coll. on the Police Force as amended.

Act of the National Council of the Slovak Republic No. 198/1994 Coll. as amended



persons whose life or health is in imminent danger, to protect the constitutional order, to preserve the security of the State, to ensure the defence of the State, to secure protected objects and protected premises, in which classified information is discussed, against eavesdropping, to ensure the protection of protected persons, to prevent the propagation of radio waves, or to carry out military training; however, their use shall not compromise the function of the radio navigation service or other emergency services.

## **Part Five**

### **PRIVACY AND PERSONAL DATA PROTECTION**

#### **Article 109**

(1) Communication means any information exchanged or conveyed between a finite number of parties by means of a publicly available service. This does not include any information conveyed as part of radio or television broadcasting over a network except to the extent that the information can be related to the identifiable user receiving the information.

(2) Traffic data means any data related to the user and particular conveyance of a information on a network and coming into existence during the conveyance which is processed for the purpose of the conveyance of a communication on a network or for the billing thereof.

(3) Location data means any data processed in a network or through a service, indicating the geographic position of the terminal equipment of a user of a publicly available service. An undertaking may process location data other than traffic data relating to a subscriber or user of a public network or a publicly available service only if it is anonymised or if the subscriber or user of a public network or a publicly available service consents to it to the extent and for the duration necessary for the provision of a value added service or if provided for by this Act. The undertaking shall inform the subscriber or user, before obtaining their consent, of the type of location data other than traffic data that will be processed, the purpose and timing of the processing and whether the data will be provided to a third party for the purposes of providing a value added service. A subscriber or user may withdraw their consent to the processing of such location data at any time.

(4) Value added service means any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the transmission of a communication or the billing thereof.

(5) An undertaking providing a publicly available network or service or a provider of a publicly available service shall be obliged to ensure technically and organisationally the confidentiality of communications and associated traffic data transmitted over its public network and publicly available services. In particular, the recording, interception, storage of communications or other types of interception or monitoring of communications and related data by persons other than users or without the consent of the users concerned shall be prohibited, unless otherwise provided for in this Act or in special regulations.<sup>116)</sup> This shall not prevent the technical storage

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Act No. 321/2002 Coll. on the Armed Forces of the Slovak Republic as amended.

Act No. 215/2004 Coll. as amended.

<sup>116)</sup> E.g., Code of Criminal Procedure, Act No. 166/2003 Coll. on privacy protection against unauthorised use of information technology and on the amendment to certain acts (Act on Protection against Interception) as amended.

of data necessary for the transmission of messages, without prejudice to the principle of confidentiality.

(6) The undertaking shall not be liable for the protection of conveyed communications where there is a possibility of direct interception or unprotected acquisition at the place of transmission or reception.

(7) The prohibition referred to in the second sentence of paragraph 5 shall not apply to the temporary recording and storage of communications, as well as related traffic data, where this is necessary for the provision of a value added service subscribed to by the subscriber or user, to prove a request for the establishment, modification or cancellation of a service, or to prove the existence or validity of any other legal act performed by the subscriber, user or undertaking.

(8) Anyone who stores or gains access to information stored in the user's terminal equipment is only entitled to do so if the user concerned has given demonstrable consent. The obligation to obtain consent does not apply to law enforcement and other State authority. This shall not prevent any technical storage or access for the sole purpose of carrying out or facilitating the transmission of a communication over a network, or as strictly necessary in order to provide an information society service explicitly requested by the user.

(9) For the purposes of this Act, other State authority shall be an armed security force, an armed corps and a State authority which, to the extent provided for by special regulations<sup>117)</sup> performs tasks in the field of protection of the constitutional order, defence of the State, internal order, security of the State and administration of taxes. For the duration of an emergency situation or state of emergency, other State authority for the purposes of this Act is also the Public Health Authority of the Slovak Republic,<sup>118)</sup> which may process and store the data obtained from the undertaking pursuant to this Act for the purposes of fulfilling its tasks for the necessary period of time, but no longer than until the end of the emergency situation or state of emergency. For the purpose of performing tasks in the field of protection of the constitutional order, defence of the State, internal order, security of the State and administration of taxes, other State authority may process and store data of subscribers obtained from the undertaking pursuant to this Act.

(10) The Corps of Prison and Court Guard shall be entitled to obtain from the undertaking the data of the subscribers to the extent referred to in Article 110(2), such extent being necessary for the purposes of exercising its competence and the performance of its tasks pursuant to special regulations;<sup>119)</sup> that authority shall be entitled to use and store the data thus obtained only to the extent and for the period necessary in relation to the purpose for which the data has been requested.

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<sup>117)</sup> Act of the National Council of the Slovak Republic No. 46/1993 Coll. as amended.

Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended

Act of the National Council of the Slovak Republic No. 198/1994 Coll. as amended

Act No. 563/2009 Coll. on tax administration (the "Tax Code") and on the amendment to certain acts as amended.

Act No. 35/2019 Coll. on financial administration and on the amendment to certain acts as amended.

<sup>118)</sup> Act No. 355/2007 Coll. as amended.

<sup>119)</sup> E.g., Act No. 4/2001 Coll. on the Corps of Prison and Court Guard as amended, Act No. 475/2005 Coll. on the execution of a custodial sentence and on the amendment to certain acts as amended, Act No. 221/2006 Coll. on detention as amended, Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004 (OJ EU L 345, 27.12.2017) as amended.

(11) Undertakings providing networks or publicly available services are entitled to

- a) maintain a register of subscribers who fail to fulfil their obligations under contractual relations between the undertaking and the subscriber in a proper and timely manner and of persons who are found by the undertaking to have stolen or damaged telecommunications equipment or to have misused telecommunications equipment or services, for the purpose of assessment pursuant to Article 86(1)(c) and Article 87(5), except as otherwise provided for in this Act,
- b) provide, even without the consent of the subscriber, information from the register referred to in subparagraph (a) to the extent necessary pursuant to Article 110(2) to other undertakings providing public networks or publicly available services.

### **Article 110** **Personal data protection**

(1) Personal data protection applies to subscribers and users who are natural persons. The rights and obligations of the provider of a publicly available service relating to the protection of personal data, which are not regulated in this Act, shall be governed by a special regulation.<sup>40)</sup>

(2) An undertaking providing publicly available services shall, for the purposes of service contract conclusion, performance, amendment, termination or porting of a number, billing, receipt and recording of payments, receivables and assignment of receivables, and the preparation of a subscriber list, obtain and process subscribers' data, which shall be the telephone number, the amount of unpaid obligations and

- a) name, surname, degree, address of permanent residence, birth number, number of ID card or other identity document of the natural person, nationality,
- b) business name, place of business and organisation identification number of the natural person - entrepreneur,
- c) the business name, registered office and organisation identification number of the legal person,
- d) email address, if the person has one.

(3) An undertaking providing publicly available services shall be obliged to proceed in the event of a breach of personal data protection in accordance with a special regulation.<sup>120)</sup>

(4) For the purposes of ascertaining, verifying and checking the identity the subscriber or their authorised representative and for the purposes referred to in paragraph 2, as well as for the purpose of updating the data, the provisions of a special regulation shall be used accordingly.<sup>121)</sup> For these purposes, the undertaking is entitled to obtain and process biometric data of the subscriber or of a person authorised to act on behalf of the subscriber, within the scope of the biometric characteristics of voice, face and signature.

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<sup>120)</sup> Commission Regulation (EU) No 611/2013 of 24 June 2013 on the measures applicable to the notification of personal data breaches under Directive 2002/58/EC of the European Parliament and of the Council on privacy and electronic communications (OJ EU L 173, 26.6.2013).

<sup>121)</sup> Article 7 and 8 of Act No. 297/2008 Coll. on protection against money laundering and terrorism financing and on the amendment to certain acts as amended.

(5) The undertaking designated for the provision of universal service shall operate an application interface for the purposes of retrieving data from the register of natural persons and data stored in the register of identity cards and shall make it available to the undertaking for the purposes of exercising the powers under Article 86(6) and under paragraph 4. The details of the technical conditions of access to the interface referred to in the first sentence shall be regulated by the undertaking designated for the provision of universal service and the undertaking by mutual agreement under non-discriminatory conditions.

(6) Details of the method of provision and the technical conditions for the provision of data from the register of natural persons and from the register of identity cards shall be regulated by mutual agreement between the Ministry of Interior and the undertaking designated to provide universal service. The undertaking designated to provide universal service shall be obliged to record for at least five years who, when and for what purpose obtained data from the register of natural persons and from the register of identity cards.

### **Article 111**

(1) Traffic data relating to subscribers and users shall not be retained and shall be immediately destroyed or anonymised by the undertaking after the end of the transmission of the communication, except as provided for in this Act. The retention of data pursuant to Article 112(2) shall not be affected thereby.

(2) Where necessary for the billing of subscriber services and network interconnection payments, the undertaking shall retain traffic data until the expiry of the period during which the invoice may be legally challenged or payment may be claimed. The undertaking is obliged to provide traffic data in the event of a dispute between undertakings, or between an undertaking and a subscriber, to the Authority or a court. In the event of the initiation of a complaint, alternative dispute resolution pursuant to Article 126, out-of-court dispute resolution pursuant to Article 127 or legal proceedings, in particular network interconnection or billing disputes, the undertaking must retain traffic data until the expiry of the period within which all legal remedies may be exercised and until their termination. The scope of the stored traffic data must be limited to what is necessary.

(3) The company is also entitled to process traffic data and location data to the extent necessary without the user's consent for the purposes of

- a) the operation of a network, service or network and service,
- b) billing, invoicing and proof of entitlement to payment for the service provided when recovering debts,
- c) handling user enquiries, complaints and claims,
- d) prevention and detection of security incidents and offences,
- e) the provision of cooperation to the authorised state authorities pursuant to Article 117.

(4) The provider of a publicly available service may process the subscriber's or user's traffic data for the purposes of marketing the services or for the purposes of providing value added services only with the subscriber's prior consent and only to the extent and for the duration necessary for the marketing of the services and for the provision of value added services. Before obtaining the consent of the subscriber or user, the undertaking shall inform the subscriber or user of the type of traffic data, and of the purpose and time of traffic data processing. The

subscriber or user may at any time withdraw their consent given for the processing of traffic data for marketing purposes or for the provision of value added services.

(5) Where a subscriber or user has consented to the processing of location data other than traffic data for the provision of a value added service, the undertaking shall allow the subscriber or user to temporarily refuse the processing of such location data in a simple manner and free of charge each time the subscriber or user connects to the network or each time a communication is transmitted.

(6) The processing of location data pursuant to Article 109(3) and pursuant to paragraph 5 shall be limited to persons acting on behalf of the undertaking providing public networks or publicly available services or of a third party providing a value added service and shall be limited to the necessary purposes of providing the value added service.

(7) In emergency communication using the single European emergency number “112” and emergency numbers designated by the national numbering plan, the undertaking may obtain and process, and is obliged to provide free of charge to the coordination centre of the integrated rescue system or the public safety answering point, the identification of the caller or the sender of the SMS, their location data and data indicating the geographical location of their terminal equipment obtained through the functionality of the terminal equipment, if available to the undertaking, even if the caller or SMS sender uses a service to prevent the presentation of the caller’s or SMS sender’s identification or has not consented to the processing of the location data; where the user concerned is the Slovak Information Service, the undertaking shall immediately inform the Slovak Information Service of the provision of such data. The coordination centre of the integrated rescue system and the public safety answering point shall be liable for the damage caused by the misuse of the provided information on personal data and location data from the moment when the requested data was provided to it.

(8) The undertaking shall be obliged to provide caller identification for emergency communications using the single European emergency number “112” and emergency numbers designated by the national numbering plan, and to provide sender identification for SMS received on the single European emergency number “112”

a) by displaying the phone number,

b) by displaying the name, surname and permanent address or business name and registered office or place of business of the subscriber.

(9) In the case of a call from a mobile telephone network where the caller’s number is not available, the undertaking shall provide a display of the International Mobile Equipment Identity (IMEI); IMEI is the unique identification of the mobile equipment used as a technical control measure to identify the goods.

(10) Details on the provision of caller identification and on the provision of location data pursuant to paragraph 7 shall be laid down in a generally binding legal regulation to be issued by the Ministry of Interior in agreement with the Ministry of Transport.

(11) For the purposes of providing information to subscribers in the public interest on the basis of Article 83(9), the undertaking may, after taking appropriate technical and organisational measures to protect privacy and personal data to the extent necessary and for the time necessary, process the location data of subscribers without the consent of the subscriber concerned.

## **Article 112**

(1) For the purposes of data retention under this Act,

- a) user ID shall mean a unique identifier, login or another unique sign allocated to a subscriber when entering into a service contract or to a user when registering for internet access services or internet communications services,
- b) cell ID shall mean the identity of the radio mobile network cell from which a call using a mobile terminal equipment originated or in which it terminated,
- c) telephone service shall mean calls (including voice, voicemail and conference and data calls), supplementary services (including call forwarding and call transfer), and messaging and multi-media services (including short message services, enhanced media services and multi-media services),
- d) unsuccessful call attempt shall mean a telephone call that has been successfully connected with the called terminal equipment but not answered by the called user or their terminal equipment or there has been a network management intervention.

(2) For the purpose of providing data pursuant to Article 117(6), the undertaking shall be obliged to retain traffic data, location data and data of communicating parties subject to the consent of the court or additional consent of the court pursuant to Article 117 (7) and (8) or an order of the court pursuant to the Code of Criminal Procedure.

(3) The data referred to in paragraph 2 shall be retained by the undertaking to the extent set out in Annex 4 where it is generated or processed in the course of the provision of a service or network. The undertaking shall retain the data referred to in paragraph 2 relating to unsuccessful call attempts, if generated or processed by the undertaking, and shall store it in the case of telephone data or record it in the case of internet data. Data relating to unconnected calls shall not be retained.

(4) When retaining data pursuant to paragraph 3, the undertaking shall ensure that

- a) the retained data is of the same quality and subject to the same security and protection as the data processed or retained by the undertaking in the provision of networks or services,
- b) the data is subject to appropriate technical and organisational measures to protect the data against accidental or unlawful destruction, accidental loss or alteration, or unauthorised or unlawful storage, processing, access or disclosure,
- c) the data is subject to appropriate technical and organisational measures to ensure that it can be accessed only by authorised persons acting under the authority or power of attorney of the undertaking and to law enforcement, judicial or other authorities of the State and their authorised or otherwise authorised officers or employees,
- d) the data, except that that has been provided and preserved, shall be destroyed at the end of the period of retention.

## **Article 113** **Telephone directory**

(1) An undertaking which allocates telephone numbers to subscribers shall inform its subscribers free of charge

a) on the purpose of the telephone directory, which is to retrieve subscribers' contact details on the basis of their first name, surname or name, or other minimum identifying information, before their personal data is included in a telephone directory provided directly to the public in electronic or printed form or through a directory enquiry service,

b) about other uses of personal data based on search functions in electronic versions of the telephone directory.

(2) A subscriber who is a natural person has the right to determine whether their personal data will be included in the telephone directory and, if so, which personal data will be included if it is relevant for the purpose of the telephone directory. The relevant data of a natural person for the purposes of the telephone directory includes the telephone number, first name, surname and permanent address. The non-inclusion of a subscriber's personal data in the telephone directory, its verification, correction or deletion is free of charge.

(3) An undertaking shall not disclose a subscriber's personal data in its telephone directory unless the subscriber has consented thereto and shall not disclose it to other undertakings or other persons issuing telephone directories or providing directory enquiry services.

(4) An undertaking which allocates telephone numbers to subscribers shall, at the request of other undertakings or other persons issuing public telephone directories or providing public directory enquiry services, provide them with relevant data on its subscribers in an agreed form on terms which are fair, objective, cost-oriented and non-discriminatory. Relevant data on subscribers includes the telephone number, first name, surname and permanent residence address of a natural person, or the business name, registered office of a legal person, or the business name and place of business of a natural person - entrepreneur. If there is no agreement between the undertakings concerned on the provision of the relevant data within six weeks of receipt of a request from one of them, the Authority shall decide on the subject-matter of the dispute at the request of either of the parties.

## **Article 114**

### **Presentation and restriction of identification**

(1) Where the undertaking offers the service of

a) presentation of calling-line identification, the calling user shall be offered the possibility via a simple means, free of charge, to eliminate the presentation of the calling-line identification, individually for individual calls or by one-time setting for all calls,

b) presentation of calling-line identification, the called user shall be offered the possibility via a simple means, free of charge, to eliminate the presentation of the calling-line identification of incoming calls, in justified cases, in particular workplaces dealing with personal crisis situations or helplines,

c) presentation of calling-line identification, the called user shall be offered the possibility, via a simple means, to reject those incoming calls for which the caller has used the service of restriction of calling-line identification,

d) presentation of called-line identification, the called user shall be offered the possibility via a simple means, free of charge, to eliminate the presentation of their identification to the caller.

(2) Paragraph 1(a) shall also apply to calls from Member States to third countries; paragraph 1(b) to (d) shall also apply to incoming calls from third countries.

(3) An undertaking providing a public network or a publicly available service may temporarily withdraw the restriction of caller presentation

- a) if technically feasible, upon application of a subscriber requesting the tracing of malicious or threatening calls; in this case, the undertaking shall store and make available to the subscriber concerned, for a fee, the caller's identification,
- b) in the case of emergency calls to the coordination centre of the integrated rescue system or to or the public safety answering point, for the processing of location data pursuant to Article 109(3) and Article 111(7) in order to respond to such calls, in the temporary prohibition or absence of consent of the subscriber or user concerned.

### **Article 115** **Automatic call forwarding**

In the case of call forwarding services, the undertaking shall ensure that any subscriber has the possibility to cancel the automatic call forwarding initiated by a third party to their terminal equipment in a simple manner and free of charge.

### **Article 116** **Unsolicited communications**

(1) Electronic mail means any text, voice, sound or image message sent over a public network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.

(2) For the purposes of this Act, direct marketing means any form of presentation of goods or services in written or oral form, sent or presented through a publicly available service directly to one or more subscribers or users.

(3) For the purpose of direct marketing, the use of automated calling and communication systems without human intervention, telefax, electronic mail, short message service and MMS service towards a subscriber or user is only permitted with the subscriber's or user's prior demonstrable consent obtained before contacting the subscriber or user.

(4) The use of automated calling and communication systems without human intervention, telefax, electronic mail, short message service and MMS service for the purpose of obtaining prior consent is prohibited.

(5) For the purposes of this Act, consent complying with the requirements of a special regulation<sup>122)</sup> shall be deemed to be demonstrable consent for the purposes of paragraph 3; the person to whom such consent has been given shall keep the durable medium on which the demonstrable consent of the subscriber or user is recorded for at least four years after the withdrawal of consent by the subscriber or user pursuant to paragraph 6. When obtaining the consent of the subscriber or user, the person carrying out the direct marketing shall indicate how the consent can be easily withdrawn.

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<sup>122)</sup> Article 4 (11) of Regulation (EU) No. 2016/679.



(6) A subscriber or user may withdraw prior consent or object to a call for the purpose of direct marketing or to obtain consent at any time . The person against whom such consent has been withdrawn or to whom a call has been objected shall be obliged to provide the subscriber or user with demonstrable confirmation of the withdrawal of such consent or the receipt of the objection to the call no later than within 30 days from the date of the withdrawal of the consent or of the receipt of the objection to the call and to keep the confirmation of the withdrawal of consent or the receipt of the objection to the call on a durable medium for a period of not less than four years after the withdrawal of consent or the objection to the call.

(7) The Authority shall establish and maintain on its website a list of telephone numbers provided by subscribers or users for the purpose of expressing disagreement with a call for direct marketing purposes and for verifying the inclusion of a telephone number or group of telephone numbers by the person carrying out the direct marketing in a list of telephone numbers (hereinafter referred to as the “list”). The Authority shall verify in the list all telephone numbers or groups of telephone numbers provided to it by the the person carrying out the direct marketing.

(8) For the purposes of direct marketing, any call is prohibited if the subscriber or user has listed the telephone number or if the subscriber or user has objected to such calls to the person for whose benefit the direct marketing is being carried out. This shall not apply if the subscriber or user has withdrawn the objection to a call for direct marketing purposes to the person for whose benefit the direct marketing is being carried out or has given consent at a time after the last update of the listing of the telephone number; the provisions of paragraphs 3 to 6 shall apply to the granting of consent. The effects of the listing of a telephone number shall always take effect on the first or the sixteenth calendar day of the month, whichever is closest to the day following the day on which the subscriber or user listed their telephone number.

(9) The subscriber or user has the right to include a telephone number in the list or to update the listing of a telephone number at any time, free of charge. Updating the listing of a telephone number has the same effect as listing the telephone number for the first time.

(10) The person carrying out direct marketing shall verify the listing of a telephone number or group of telephone numbers on the Authority’s website; the person carrying out direct marketing shall pay a charge to be determined by the Authority for the verification of the telephone number in the list.

(11) The Authority shall issue a generally binding legal regulation laying down the details of

- a) the operational and technical parameters of the list,
- b) the extent of information contained in the list,
- c) the manner in which the list data shall be provided to the persons referred to in paragraph 10, including the parameters of the application interface of the list enabling automated bulk verification of a group of numbers,
- d) notification of a phone number in the list,
- e) the method of updating the date on which the telephone number is listed in accordance with paragraph 9,
- f) the amount, method of calculation and terms of payment of the charge referred to in paragraph 10,

g) other facts necessary to ensure the functionality of the list.

(12) A person carrying out direct marketing by means of calls, automated dialling and communication systems without human intervention, telefax, short message services or MMS services, or a person who obtains prior consent to make calls for the purpose of direct marketing, shall be obliged to use for the purpose of direct marketing only the numbers identified by a national destination code for that purpose in the numbering plan. The obligation under the preceding sentence shall not apply to calls for direct marketing purposes where they are made to the published contact details of a subscriber or user who is a natural person - entrepreneur or a legal person.

(13) Where a telephone number is used for direct marketing purposes in conflict with the purpose defined in the individual authorisation for the use of numbers, the holder of the individual authorisation who has provided the number to another person who carries out direct marketing from it shall not be liable for breach of this obligation if they have demonstrably informed the other person that the number may not be used for direct marketing purposes.

(14) The provisions of paragraphs 8 and 12 shall not apply to the direct marketing of a person's own similar goods and services where the person has obtained the subscriber's or user's contact details in connection with the sale of similar goods or services or with whom they have a contractual relationship or for the purpose of direct marketing to a subscriber or user who has demonstrably requested such communication in advance. The subscriber or user must be given the opportunity to easily and free of charge at any time to refuse such use of contact data at the time of collection and whenever contacted for the purpose of direct marketing, unless they have previously refused such use.

(15) The prior consent of the recipient of electronic mail, SMS service or MMS service pursuant to paragraph 3 shall not be required where the direct marketing is of a person's own similar goods and services, and where their contact details for the delivery of electronic mail, SMS service or MMS service have been obtained by the same person in connection with the sale of goods or services in accordance with this Act or a special regulation,<sup>123)</sup> or where the direct marketing is addressed to the published contact details of a subscriber or user who is a natural person - entrepreneur or a legal person. The recipient of electronic mail must be given the opportunity to easily and free of charge at any time to refuse such use of contact data at the time of collection and with every message delivered, unless they have previously refused such use. The sending of electronic mail from which the identity and address of the sender is not known, to which the recipient may send a request to stop receiving such messages, and the solicitation of visits to a website in violation of a specific regulation,<sup>124)</sup> is prohibited.

## **Article 117**

### **Telecommunications secrecy**

(1) The subjects of telecommunications secrecy include

- a) the content of transmitted communications,
- b) data of the communicating party, which are the telephone number, business name and registered office of a legal person, or business name and place of business of a natural person - entrepreneur, or personal data of a natural person, which are the name, surname, degree

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<sup>123)</sup> E.g., Articles 52 to 54a of the Civil Code.

<sup>124)</sup> Article 4 (6) of Act No. 22/2004 Coll. as amended by Act No. 160/2005 Coll.

and address of permanent residence if they are combined with the data pursuant to subparagraphs a), c) or d); the subject of telecommunications secrecy is not the data that is published in the telephone directory,

c) traffic data,

d) location data.

(2) Telecommunications secrecy shall be maintained by anyone who comes into contact with its subject matter in the provision of networks and services, in the use of services, accidentally or otherwise.

(3) The Authority, the subscriber and the user to whom the telecommunications secrecy relates, their authorised representatives or successors in title shall have the right to disclosure of the telecommunications secrecy, except as otherwise provided hereafter.

(4) An undertaking providing publicly available services may, for the purpose of providing cooperation to other public authorities pursuant to Article 109(9), obtain and process subscribers' data to the extent specified in Article 110(2).

(5) An undertaking providing public networks or publicly available services shall enable to another public authority pursuant to Article 109(9) with the exception of the Public Health Authority of the Slovak Republic, upon written request, remote, direct and uninterrupted access to the data of subscribers of its network or service within the scope of the data pursuant to paragraph 4, other data assigned for subscriber identification and the assigned user ID and static Internet Protocol (IP) address; it shall be obliged to provide such data, together with the data on the base stations of the public telephone network and the database of International Mobile Subscriber Identities (IMSI), upon request, electronically in encrypted form. The cost of providing remote access up to the interface of the undertaking shall be borne by the public authority to which such access has been granted.

(6) An undertaking providing publicly available services shall be obliged to provide to law enforcement authorities for the purposes of criminal proceedings and to another public authority pursuant to Article 109(9) for the purposes of carrying out its tasks to the extent provided for in special regulations<sup>125)</sup> all data available to the undertaking which are subject to telecommunications secrecy pursuant to paragraph (1)(b) to (d); in the case of data necessary for the purposes of criminal proceedings and the search for a wanted or missing person and stolen motor vehicles, the procedure shall be followed in accordance with the provisions of the special regulations.<sup>126)</sup> The undertaking is obliged to provide this data in a comprehensible manner in paper form or in electronic form in encrypted form. The cost of the tangible media necessary for the provision of data shall be borne by the public authority to which such data has been provided.

(7) The data referred to in paragraph 6 shall only be provided to another public authority pursuant to Article 109(9) on the basis of a request by the latter delivered to the undertaking in

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<sup>125)</sup> E.g., Article 2 of Act of the National Council of the Slovak Republic No. 46/1993 Coll. as amended, Article 76a (3) of Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended, Article 2 of Act of the National Council of the Slovak Republic No. 198/1994 Coll. as amended, Article 29 (3) of Act No. 35/2019 Coll.

<sup>126)</sup> Article 116 of the Code of Criminal Procedure.

Article 76 (4) and (5) of Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended.

writing or, by agreed means, electronically in encrypted form, which has been executed on the basis of the written consent of a legal judge (hereinafter referred to as the “court approval”). A request from another public authority pursuant to Article 109(9) and the input data contained therein shall be provided to the undertaking in a form that enables the undertaking to process the request automatically. The court approval may be granted only if the purpose pursued cannot be achieved in any other way or would otherwise be substantially impeded.

(8) If the matter is related to the defence of the State and the security of the State or to offences defined by a special regulation,<sup>127)</sup> which cannot be delayed and the court approval pursuant to paragraph 7 cannot be obtained in advance, the data referred to in paragraph 6 shall be provided on the basis of a request by another public authority pursuant to Article 109(9) delivered to the undertaking in writing or in an agreed manner in an encrypted form, without the court approval. The other public authority pursuant to Article 109(9) shall notify the legal judge of receipt of the request of the undertaking under the preceding sentence within 1 hour of receipt of the request and shall promptly submit to the legal judge a request for additional written approval (hereinafter referred to as “additional court approval”). If the legal judge does not grant the additional court approval within 24 hours of receipt of the undertaking’s request, the information so obtained shall not be used further and shall be destroyed forthwith, and the other public authority referred to in Article 109(9) which destroyed it shall forthwith inform the legal judge in writing of that fact.

(9) The request for court approval or additional court approval shall include

- a) the name of the other public authority that is requesting the court approval or additional court approval,
- b) the data concerning the person to whom the request for court approval or additional court approval relates, if such data is known,
- c) details of the manner, extent and timing of the provision of the data referred to in paragraph 6,
- d) a justification of the purpose of data disclosure pursuant to paragraph 6,
- e) information on previous ineffective or substantially impeded detection and documentation of the activity for which the request is submitted.

(10) If the request for court approval or additional court approval does not contain the elements referred to in paragraph 9, the court shall not decide on it and shall return the request to the other public authority.

(11) The court approval or additional court approval shall include the reasons, manner, scope and time limit for the disclosure of the data referred to in paragraph 6; the time limit may be extended by the court based on a new request but not for more than six months in each case. The request pursuant to the preceding sentence shall contain the details referred to in paragraph 9. There is no right of appeal against a decision on court approval or additional court approval.

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<sup>127)</sup> Article 76a) (3) of Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended by Act No. 397/2015 Coll.  
Article 116 (1) of the Code of Criminal Procedure.

(12) The determination of the court's jurisdiction to rule on the court approval shall be governed by the provisions on the court's jurisdiction to use information and technical means.<sup>128)</sup>

(13) If the provision of data pursuant to paragraph 6 has not established facts relevant for the purposes of performance of tasks of the other public authority, the other public authority which has obtained the data shall be obliged to destroy the data without delay; a written record shall be made of the destruction of the data.

(14) The National Council of the Slovak Republic shall control the status of data acquisition pursuant to paragraph 6 by another State authority; the provisions on control of the use of information and technical means pursuant to a special regulation shall apply accordingly to the control.<sup>129)</sup>

(15) Undertakings providing networks or publicly available services are further obliged

- a) to operate public networks or provide publicly available services with technology, including its individual parts and software, that enables the connection and operation of equipment for interception and recording of traffic on the State-owned network and on-line access pursuant to paragraphs 5 and 6,
- b) at the request of another public authority pursuant to Article 109(9) to allow the connection of equipment for interception and recording of network traffic according to the technical specification of the equipment to be connected; the costs of procuring the equipment for interception and recording of network traffic, including its software, and of providing service support for that equipment shall be borne by the public authority that requested the connection of the equipment for interception and recording of network traffic, and the costs of hardware and software or technology of the undertaking enabling the connection and operation of the equipment for interception and recording of network traffic on the part of the undertaking shall be borne by the undertaking, while the cost of modifying its part of the technology enabling the connection and operation of the equipment for interception and recording of network traffic due to modifications made by the other party in order to restore or ensure its functionality shall be borne separately by each party,
- c) to cooperate with the Police Force and law enforcement authority in detecting malicious calls and scaremongering,
- d) on the basis of a reasoned call, within a specified period of time, to restrict the operation of a public network or the provision of a publicly available service for the necessary time and to the necessary extent, if it is necessary for the protection of the constitutional order or internal order or for the security of the State or the defence of the State and there is an imminent threat of harm to life and health; the call shall be issued by the Minister of Interior of the Slovak Republic and, in his absence, by the Minister of Defence of the Slovak Republic; the public authority at whose request the operation of the network was restricted shall be held liable for the damages caused by restricting the operation of the network,
- e) on the basis of a written request, in justified cases related to the fulfilment of the tasks of the security of the State and the defence of the State, to provide to another public authority pursuant to Article 109(9) the service of presentation of the caller's identification, even if the caller has prevented the presentation of their identification; the public authority shall be

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<sup>128)</sup> Article 4a of Act No. 166/2003 Coll. as amended.

<sup>129)</sup> Article 9 of Act No. 166/2003 Coll. as amended.

liable for the damage caused by the misuse of the personal data information provided, from the moment when the requested data were provided to it,

- f) to provide further assistance to the court, law enforcement authority and other public authority pursuant to Article 109(9) necessary for the performance of their tasks and the exercise of their powers under this Act and special regulations,
- g) to tolerate, to the extent necessary and for the time strictly necessary, if this is necessary for the performance of tasks pursuant to special regulations,<sup>130)</sup> the prevention of communication of end-user or the prevention of its continuation or, at the request of another public authority, to prevent such communication if such communication poses a direct threat to the security of the Slovak Republic; the undertaking shall not be liable for damages caused by the application of this provision,
- h) to ensure that the interface enabling the connection of the equipment for interception and recording of network traffic is located in the territory of the Slovak Republic,
- i) when providing roaming services in the territory of the Slovak Republic, to provide data without encryption for the purposes of interception and recording of network traffic.

(16) An undertaking providing public networks or publicly available services which uses coding, compression, encryption or any other method of concealing the transmission of signals shall, at its own expense, be obliged to disclose in a comprehensible manner the information obtained in the course of interception and recording of traffic on the networks to any other public authority or law enforcement authority. On the basis of a proposal by the National Security Authority, Slovak Information Service, Military Intelligence Service or Police Force, the Authority shall issue a list of devices using coding, compression, encryption or similar devices that are prohibited from being connected to the network.

(17) Employees of an undertaking shall be obliged to maintain confidentiality with regard to the provision of information and data or other cooperation pursuant to this Act; the obligation of confidentiality shall not apply to the reporting of crime or other antisocial activity or to testimony in criminal proceedings or in court proceedings. This confidentiality may be waived only by the public authority to which the information and data or other assistance has been provided. This shall not affect the provisions of a special regulation.<sup>17)</sup>

(18) An undertaking shall adopt internal procedures for responding to requests for access to users' personal data. The undertaking shall, on request, provide the Authority with information on these procedures, the number of requests received, the legal justifications invoked in the requests and the undertaking's replies; this shall not apply where the undertaking's compliance with its statutory obligations is concerned.

(19) The data subject to telecommunications secrecy pursuant to paragraph 1(b) to (d) may be made available to the National Security Authority in the interest of State security for the purpose of dealing with a cybersecurity incident, for the purpose of collection, processing and storage to the extent necessary for the identification of a cybersecurity incident and for the provision of cybersecurity pursuant to a special regulation.<sup>37)</sup> The National Council of the Slovak Republic shall control the manner in which the National Security Authority handles data pursuant to the

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<sup>130)</sup> E.g., Act of the National Council of the Slovak Republic No. 46/1993 Coll. as amended, Act of the National Council of the Slovak Republic No. 198/1994 Coll. as amended.

first sentence pursuant to a special regulation<sup>131)</sup> and the National Security Authority shall submit a report on the state of cybersecurity in the Slovak Republic to the Special Control Committee of the National Council of the Slovak Republic to control the activities of the National Security Authority no later than by 31 January of each year.

(20) Data subject to telecommunications secrecy pursuant to paragraph 1 (b) to (d) may be made available to Military Intelligence in the interest of State defence for the purpose of dealing with a level three (III) cybersecurity incident or cyber terrorism,<sup>36)</sup> for the purpose of collection, processing and storage to the extent necessary for the identification of a level three (III) cybersecurity incident or cyber terrorism and for the provision of cyber defence pursuant to a special regulation.<sup>132)</sup> The National Council of the Slovak Republic shall control the manner of handling of data by Military Intelligence pursuant to the first sentence pursuant to a special regulation<sup>135)</sup> and Military Intelligence shall annually submit to the Security Council of the Slovak Republic by 31 January at the latest information on the achievement of the statutory purpose of the handling of data by Military Intelligence pursuant to the first sentence. The costs associated with the provision of data under the first sentence shall be borne by Military Intelligence.

(21) For the duration of an emergency situation or state of emergency declared in connection with a pandemic of dangerous infectious human disease, the undertaking shall provide, upon written request to the Public Health Authority of the Slovak Republic, , within 24 hours data related to subscriber to whom an information has been sent pursuant to Article 83(9), specifically the phone number, for the purpose of protecting persons from imminent danger of infectious disease propagation or for the purpose of taking measures in the event of a threat to life and health during an emergency situation or state of emergency. If the time limit referred to in the preceding sentence expires on a Saturday or a public holiday, the undertaking shall provide the data on the very next working day. For the purposes of providing the data referred to in the first sentence, the undertaking may, after taking appropriate technical and organisational measures to protect privacy and personal data to the extent of what is necessary and for the necessary time , but for no longer than the duration of an emergency situation or state of emergency referred to in the first sentence, process traffic data, even without the consent of the subscriber concerned, if it is not possible to obtain consent or it can thwart the purpose of providing the data referred to in the first sentence; immediately after the purpose for processing the data expires, the undertaking shall in writing inform the subscriber about the erasure of the data and about the type of data it has processed.

(22) The Public Health Authority of the Slovak Republic, after taking appropriate technical and organisational measures<sup>136a)</sup> to protect privacy and personal data, may collect, process and store the data processed under the preceding paragraph for the necessary time, but for no longer than 60 days from the date of their provision by the undertaking; after the expiry of this period, the Public Health Authority of the Slovak Republic shall immediately erase the data. The Public Health Authority of the Slovak Republic shall immediately inform the subscriber about the erasure of the data in writing or electronically and while specifying the type of data it has processed about him. The Public Health Authority of the Slovak Republic is authorised to

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<sup>131)</sup> Article 60 of Act of the National Council of the Slovak Republic No. 350/1996 Coll. on the standing order of the National Council of the Slovak Republic as amended by Act No. 215/2004 Coll.

<sup>132)</sup> Article 4a) of Act of the National Council of the Slovak Republic No. 198/1994 Coll. as amended by Act No. 69/2018 Coll.

<sup>136a)</sup> Act No. 95/2019 Coll. on information technologies in public administration and on amendment to other acts as amended.

obtain the data only for the purpose of preventing the spread of dangerous infectious human disease, in particular to check compliance with the compulsory isolation or quarantine of the person, if it was imposed, or for the purpose of epidemiological surveillance of contacts of persons coming from countries at risk. The Public Health Authority of the Slovak Republic shall submit to the Constitutional Law Committee of the National Council of the Slovak Republic by 31 March of the following calendar year at the latest report on the lawfulness of data processing pursuant to this paragraph; the authority of the Office for Personal Data Protection of the Slovak Republic shall not be affected thereby.

## **Part Six**

### **PROVISION OF SUBSIDIES IN THE ELECTRONIC COMMUNICATIONS SECTOR**

#### **Article 118**

(1) The Ministry of Transport may, on the basis of a written application from a natural person - entrepreneur or a legal person, provide a subsidy for the purpose of supporting research and development in the electronic communications sector, provided that this does not affect the rules for the provision of State aid pursuant to a special regulation.<sup>133)</sup>

(2) A subsidy under paragraph 1 may also be provided for the co-financing of projects carried out within the framework of international agreements on scientific and technical cooperation and projects within the framework of international programmes and initiatives in the field of research and development in electronic communications, including the costs of their preparation.

#### **Article 119**

(1) A subsidy for the purposes pursuant to Article 118 (1) may be provided to

- a) a natural person - entrepreneur with a place of business in the territory of the Slovak Republic,
- b) a legal person entitled to conduct business in the territory of the Slovak Republic,
- c) an interest association of legal persons,
- d) a foundation,
- e) a civil association,
- f) a not-for-profit organisation providing services of general economic interest,
- g) a university,
- h) a public research institution.<sup>134)</sup>

(2) A subsidy may be granted to an applicant under paragraph 1 on the basis of a written application, a sample of which is provided in Annex No. 5, if

- a) the project submitted meets the conditions set out in the call for projects,

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<sup>133)</sup> Article 107 to 109 of the Treaty on the Functioning of the European Union.

<sup>134)</sup> Act No. 243/2017 Coll. on public research institution and on the amendment to certain acts.



b) the applicant has an account with a bank, a branch of a foreign bank or the State Treasury;  
and

c) the applicant has met conditions pursuant to a special regulation.<sup>135)</sup>

(3) The application shall be accompanied by

a) a project proposal structured according to the model set out in Annex No. 6,

b) a draft project budget,

c) a proof of the applicant's account with a bank, a branch of a foreign bank or the State Treasury,

d) documents pursuant to a special regulation.<sup>136)</sup>

(4) Applications for subsidies shall be submitted by applicants under paragraph 1 to the Ministry of Transport within one month of the publication of the call for projects. The Ministry of Transport publishes the call on its website. The call shall include in particular

a) the basic objective and the criteria against which applications will be evaluated and their weighting,

b) the electronic application form,

c) the amount of resources available for the call,

d) the composition of the committee,

e) a draft subsidy contract.

## **Article 120**

(1) The subsidy may be granted up to 100 % of the economically eligible costs of the project pursuant to Article 118(1) except in the cases referred to in Article 118(2).

(2) A subsidy may not be granted for

a) reimbursement of liabilities from previous years,

b) repayment of credits, loans and interest on loans received,

c) refunding expenditure paid in previous years.

(3) Subsidy applications shall be evaluated by a committee of at least three members established by the Ministry of Transport. The committee shall evaluate the subsidy applications within one month of the expiry of the deadline under Article 119(4).

(4) There is no legal entitlement to a subsidy under Article 118.

## **Article 121**

(1) The Ministry of Transport shall conclude a subsidy contract with the beneficiary of the subsidy.

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<sup>135)</sup> Article 8a (4) of Act No. 523/2004 Coll. as amended.

<sup>136)</sup> Article 8a (5) of Act No. 523/2004 Coll. as amended.

(2) The subsidy contract shall contain

- a) data on the parties in the scope of name or business name, registered office or place of business, in the case of legal persons, statutory body, organisation identification number, tax identification number,
- b) the name of the bank, branch of a foreign bank or the State Treasury and the account number of the beneficiary of the subsidy,
- c) the purpose, type, amount and period of use of the subsidy,
- d) the conditions for the use of the subsidy,
- e) the manner and time of performance of the obligations of the parties,
- f) the regulation of the rights to the result of the project,
- g) the regulation of relations to property rights over movable property and immovable property acquired from the subsidy,
- h) the way of using the results of the project,
- i) penalties for breaches of contractual conditions,
- j) the date and method of accounting for the subsidy,
- k) the deadline for the return of unused funds and the account number to which the unused funds are to be returned,
- l) deadlines for ongoing checks on the use of the subsidy,
- m) the name and surname of the professional guarantor of the project.

(3) On its website, the Ministry of Transport shall publish

- a) all approved subsidy applications, together with the amounts of the subsidies requested and granted, including the date of approval, the amount and purpose of the subsidy and the identification of the final beneficiary of the subsidy, within 30 days of the approval of the application,
- b) all disapproved applications, including the date and reason for disapproval, within 30 days of the disapproval of the application,
- c) the evaluation of the results of subsidies already granted, if available to the Ministry of Transport.

## **Part Seven Supervision**

### **Article 122**

(1) The Authority shall carry out supervision through its authorised staff on its own initiative or at the initiative of a third party. If the person who initiated the inspection so requests, the Authority shall acknowledge receipt of the suggestion within seven days from the date of receipt of the request. In carrying out supervision, the Authority shall act in accordance with the principles of efficiency, objectivity, transparency, non-discrimination, proportionality and reasonableness..

(2) The Authority may invite employees of other public authorities, legal persons or natural persons (hereinafter referred to as “invited persons”) to carry out supervision with their consent, if this is justified by the specific nature of the supervision to be carried out. The participation of invited persons in supervision shall be regarded as another act of general interest for which they shall be remunerated at the rate of their average earnings and demonstrably incurred costs. The costs demonstrably incurred by the invited person in connection with the exercise of supervision shall be reimbursed by the Authority. Invited persons shall have the same rights and obligations as authorised employees of the Authority pursuant to paragraph 11, except the power to verify the identity of controlled persons and persons obliged to provide cooperation to the Authority pursuant to paragraph 8, their employees or persons acting on behalf of those persons, and to process the personal data of those persons; the Authority may provide for a narrower scope of rights and obligations in the authorisation of an invited person to carry out supervision. The person invited may not be the undertaking, an employee of the undertaking or a person who, having regard to their relationship to the supervision being carried out or their relationship to the controlled person, is likely to be biased. The invited person shall have the right to carry out supervision on the basis of an authorisation issued by the Authority and shall not disclose to third parties information which has come to their knowledge in the course of, or in connection with, the exercise of supervision.

(3) The authorisation of the invited person shall include in particular

- a) identification data of the invited person in the scope of name, surname and academic degree, if the invited person has obtained it,
- b) the definition of the supervisory activities to which the invited person’s authorisation applies,
- c) the scope of the rights and obligations of the invited person in the exercise of supervision,
- d) the date of issue of the invited person’s authorisation.

(4) The Authority shall exercise supervision

- a) by checking the fulfilment of the obligations, except for the obligations referred to in Article 94(4) and (5), and the conditions specified by this Act, general authorisations, decisions of the Authority, generally binding legal regulations issued pursuant to this Act, and by checking compliance with the obligations, restrictions and conditions in the electronic communications sector pursuant to special regulations<sup>22)</sup> or an international treaty by which the Slovak Republic is bound,
- b) by detecting and monitoring the source of interference to networks, services and equipment,
- c) by monitoring the use of radio spectrum in meeting the objectives under this Act.

(5) The Authority shall carry out the supervision referred to in paragraph 4 in particular by

- a) physical inspection,
- b) administrative control,
- c) verifying compliance with the conditions for the use of radio spectrum, of which the Authority shall draw up a written record,
- d) verifying the assertions of the controlled person or the person referred to in paragraph 8 and of their employees or persons acting on their behalf, as well as the facts resulting from the documents, data, written and oral statements submitted by the controlled person; the Authority shall draw up a written record of the verification carried out.

(6) An administrative control as referred to in paragraph 5(b) is a control which may be initiated and terminated solely on the basis of data and documents available to the Authority from its official activities.

(7) If the Authority, when supervising compliance with the obligations under Article 108, finds that the equipment does not comply with the technical requirements under special regulations,<sup>137)</sup> it shall notify the authority supervising the making available of the equipment on the market.<sup>138)</sup>

(8) The controlled person may be an undertaking or other person which is required to comply with the obligations or conditions referred to in paragraph 4(a).

(9) Natural persons, legal persons and public authorities, other than the controlled person and its employees, are obliged to provide the Authority with the necessary cooperation.

(10) In exercising supervision, the Authority shall be entitled to

- a) impose binding measure to remedy the deficiencies identified,
- b) decide on the imposition of a protective measure pursuant to Article 123,
- c) request necessary information and documents from the persons controlled and the persons referred to in paragraph 8,
- d) make visual, audio and visual-audio recordings to document any deficiencies found.

(11) The staff of the Authority who are authorised to carry out supervision shall, when carrying out supervision,

- a) be authorised to enter lands and premises where equipment subject to supervision is, or is believed to be, located and to carry out supervision pursuant to paragraphs 4 and 5,
- b) be authorised to verify the identity of controlled persons and persons obliged to provide cooperation to the Authority pursuant to paragraph 8, their employees or persons acting on behalf of such persons, and to process the personal data of those persons to the extent necessary for the purposes of performance of their duties pursuant to this Act and special regulations; the protection of personal data shall be governed by the general regulation on the protection of personal data,<sup>40)</sup>
- c) be authorised to require from the persons referred to in point (b) the necessary documents, data and written or oral explanations,
- d) be authorised, in justified cases, to temporarily remove equipment for the time strictly necessary to carry out testing or inspection, and shall issue a written confirmation thereof to the controlled person or to the person obliged to provide cooperation pursuant to paragraph 9,
- e) be authorised to inspect the content of transmitted communications pursuant to paragraph 18,

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<sup>137)</sup> E.g., Act No. 56/2018 Coll. on conformity assessment of a product, making a designated product available on the market and on the amendment to certain acts, Government Order of the Slovak Republic No. 127/2016 Coll. as amended by Government Order of the Slovak Republic No. 331/2019 Coll., Government Order of the Slovak Republic No. 193/2016 Coll. as amended by Government Order of the Slovak Republic No. 332/2019 Coll.

<sup>138)</sup> Act No. 56/2018 Coll.

- f) be authorised to make visual, audio and visual-audio recordings to document any deficiencies found,
- g) be obliged to present in personal contact with the controlled person or the person obliged to provide the Authority with cooperation pursuant to paragraph 9, their employees or persons acting on behalf of those persons, a service card or an authorisation of the invited person entitling them to carry out supervision,
- h) immediately draw up a written record of the result of control at the time of the administrative control or physical control,
- i) be obliged to notify the controlled person in writing of the detected deficiencies in the report on the result of control,
- j) be obliged to notify the controlled person of the result of control in the form of a record,
- k) be obliged to maintain confidentiality vis-à-vis third parties about the facts of which they have become aware during and in connection with the performance of supervision; this shall not apply if the Authority provides information on suggestion handling to the person who has lodged the suggestion for the performance of control after the end of supervision performance.

(12) The obligation of confidentiality under this Article shall survive the termination of the service or similar relationship; in the case of an invited person, the obligation of confidentiality shall survive the performance of an act in the public interest.

(13) The disclosure of information subject to the obligation of confidentiality shall not be considered a breach of confidentiality under this Article if information is disclosed to

- a) a court,
- b) a law enforcement authority for the purposes of criminal proceedings,
- c) the Criminal Police Service of the Police Force and the Financial Police Service of the Police Force for the purpose of performing the tasks laid down by a special regulation,<sup>142a</sup>
- d) a public prosecutor's office for the purpose of performing its tasks pursuant to a special regulation,<sup>142b</sup>
- e) a competition authority pursuant to an international treaty by which the Slovak Republic is bound, a special regulation,<sup>139</sup>) or on the basis of the consent of the person who provided the information or to whom the information relates,
- f) the Body of European Regulators in the performance of the Authority's duties pursuant to a special regulation.<sup>28)</sup>

(14) The confidentiality obligation may be waived for the employees of the Authority or the invited person by a person who is directly superior to the employees authorised to exercise supervision or by the person who issued the authorisation of the invited person.

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<sup>142a)</sup> Act of the National Council of the Slovak Republic No. 171/1993 Coll. as amended.

<sup>142b)</sup> Act No. 153/2001 Coll. on public prosecutor's office as amended.

<sup>139)</sup> E.g., Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ EC L 1, 4.1.2003; Special edition OJ EU, Chap. 8/Volume 2)) as amended and Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ EU L 24, 29.01.2004; Special edition OJ EU, Chap. 8/Volume 3).

(15) The Administrative Procedure Code shall apply to the service of documents under this Article.

(16) The controlled persons shall be

- a) obliged, during the exercise of supervision, to enable the employees of the Authority who are authorised to carry out supervision, or persons invited to do so, to exercise their powers under paragraph 11 (a) to (d) and (f),
- b) obliged to provide the Authority's employees authorised to carry out supervision or invited persons with all requested information and documents during the exercise of supervision; the obligation to provide the Authority with all requested information and documents when carrying out a control shall not be subject to Articles 18 and 19,
- c) entitled to comment on the deficiencies identified in the report on the result of control within the time limit set by the Authority,
- d) obliged, within the time limit specified by the Authority in the order to remedy the deficiencies pursuant to paragraph 19(d), to remedy the deficiencies identified and notify the Authority in writing of their remedy.

(17) Natural persons, legal persons and public authorities, other than the controlled person and its employees, shall have the obligations referred to in paragraph 16(a) and (b) when supervision is carried out by employees of the Authority who are authorised to carry out supervision.

(18) If strictly necessary for the identification of persons using radio spectrum and for the control of compliance with the conditions of the individual authorisation for the use of radio spectrum, the Authority may, when verifying compliance with the conditions for the efficient use of the radio spectrum by the technical means of the Authority, familiarise itself with the content of the transmitted communications. Employees of the Authority who are authorised to carry out supervision in this way, or persons invited to do so, shall not disclose the content of transmitted communications to persons other than the communicating parties between whom the communication is transmitted or their authorised representatives, nor shall they allow other persons to obtain information about the content of the communication being transmitted. The Authority may save the content of the communications only for the time strictly necessary for the completion of the supervision and the imposition of the sanction pursuant to Article 124. After that time has expired, the Authority shall destroy the record.

(19) The Authority shall, through its staff authorised to carry out supervision,

- a) set a reasonable time limit for the controlled person to comment on the results of the control in the record of the result of the control if a deficiency has been found,
- b) examine the validity of the objections in the statement of the controlled person to the supervisory procedure and to the deficiencies identified in the record of the result of the control, if they have been submitted within the time limit referred to in subparagraph (a),
- c) notify the controlled person in writing of the result of the examination of the controlled person's objections pursuant to subparagraph (b), together with the reasons; the reasoned objections shall be taken into account in an addendum to the record of the result of the control,
- d) order the rectification of the identified deficiencies within a reasonable period of time to be determined by it, if rectification is possible; this shall not apply to deficiencies pursuant to Article 44(9) and Article 55(13).

(20) The Authority may impose a disciplinary fine of up to EUR 2,000 on persons who obstruct the exercise of supervision by failing to fulfil the obligations referred to in paragraph 16, including repeatedly.

(21) The exercise of supervision under this paragraph shall not be subject to a special regulation.<sup>143a</sup>

(22) The Authority shall, in connection with the performance of tasks pursuant to a special regulation,<sup>26)</sup> determine the conditions for the certification of a monitoring mechanism for the assessment of any significant, continuous or regularly recurring discrepancies between the actual performance of the internet access service, in terms of speed or other quality of service parameters, and the performance claimed by the provider of the internet access service. The Authority shall carry out a public consultation on the conditions referred to in the first sentence.

(23) In determining the conditions for the certification of a monitoring mechanism pursuant to paragraph 21, the Authority shall take into account that the monitoring mechanism must be appropriate to the state of the art and support frequently used internet access technologies.

(24) If the monitoring mechanism meets the conditions set by the Authority, the Authority shall issue a certificate to that effect, which it shall publish in the Journal.

(25) The results of measurements made by means of a certified monitoring mechanism may be submitted as evidence by the end-user with whom the undertaking has concluded a contract for the provision of services in a complaint procedure pursuant to Article 91, in an alternative dispute resolution pursuant to Article 126 or in an out-of-court dispute resolution pursuant to Article 127. The Authority shall take into account the results of the measurement carried out through the monitoring mechanism in the exercise of supervision.

### **Article 123**

#### **Decision on a protective measure**

(1) Where the Authority finds in the course of its supervision that the continued provision of a service or bundle of services would result in a significant restriction of competition, it may immediately issue a decision on a protective measure to the undertaking to cease or suspend the provision of that service or bundle of services until the undertaking has complied with the access obligations imposed on it as a result of the analysis of the relevant market, but for no longer than the period referred to in paragraph 5.

(2) If the Authority, in the course of its supervision, finds that the activities of an undertaking or a person having rights or obligations under this Act constitute an imminent and serious threat to public policy, public security, public health, or may result in serious economic or operational problems for other undertakings, users of networks or services, or users of the radio spectrum, it may immediately issue a decision on a protective measure to an undertaking or a person having rights or obligations under this Act, leading to the rectification of the situation.

(3) An undertaking or a person having rights or obligations under this Act may, within three working days of receipt of the decision on the protective measure, lodge written objections to

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<sup>143a)</sup> Act of the National Council of the Slovak Republic No. 10/1996 Coll. on control in state administration as amended.

the decision on the protective measure pursuant to paragraphs 1 or 2 and propose a remedy. Objections pursuant to the preceding sentence shall not have suspensive effect. The Chairman of the Authority shall decide on the objections within 15 days of their receipt. If the Chairman of the Authority finds the objections or the proposed remedy to be sufficient, they shall annul or modify the decision on the protective measure, otherwise they shall reject the objections and the proposed remedy and confirm the decision on the protective measure.

(4) Decision on a protective measure is an interim measure taken by the Authority in the exercise of supervision which is needed to the extent necessary to ensure the purpose of the supervision. The issuance of a decision on a protective measure shall not be considered as the termination of the exercise of supervision. The obligations imposed in the decision on a protective measure pursuant to this Article shall be based on the facts established in the course of supervision, shall be justified and proportionate to the interest they seek to protect.

(5) The period of validity of the decision on a protective measure may not exceed three months and may be extended by the Authority for a maximum of three additional months. No objection shall be admissible against a decision to extend the period of validity of a decision on a protective measure pursuant to the first sentence.

## **Part Eight SANCTIONS**

### **Article 124**

(1) The Authority shall impose on a legal person or natural person-entrepreneur who has breached or failed to comply with any of the obligations under Article 14 (1), Article 46 (12), Article 53 (1), Article 54 (6), Article 57 (1) and (2), Article 60 (1), Article 69 (2), Article 74 (1), Article 76 (2), Article 81 (3), Article 93 (1) to (6), Article 94 (1), Article 95 (1), Article 97 (4), (6) and (7), Article 103 (1) and (4), Article 104 (1), (3) to (5), Article 109 (3) and (5), Article 111 (1), (4), (5) and (7) to (9), Article 112 (4), Article 117 (2), (5), (6), (15) and (17) or who has breached or failed to comply with any of the obligations imposed by the Authority's decision under Article 18 (14), Article 30 (2), Article 35 (2), Article 55 (6) and (12), Article 58 (1), Article 59 (1), (2) and (4), Article 66, Article 72, Article 75 (4), (6) to (8), Article 78 (5), Article 79 (3), Article 88 (6), Article 97 (3), Article 98, Article 105, Article 123 (1) and (2), Article 128, Article 129, a fine from EUR 200 up to 10 % of the turnover pursuant to paragraph 6 for the previous accounting period.

(2) The Authority shall impose a fine from EUR 200 to 10 % of the turnover referred to in paragraph 6 for the previous accounting period on a legal person or natural person-entrepreneur who provides networks or services in spite of a prohibition issued pursuant to paragraph 13 or who has breached or failed to comply with any of the conditions of a general authorisation or any of the conditions of a general authorisation for the use of radio spectrum issued pursuant to Article 34.

(3) The Authority shall impose on a legal person or natural person-entrepreneur who has breached or failed to comply with any of the obligations pursuant to a special regulation<sup>22</sup>) or pursuant to Article 6 (2), Article 10 (1), (5) and (7), Article 12 (4) and (5), Article 14 (3), Article 15 (1) to (3) and (8), Article 16 (1), Article 20 (4), Article 21 (4) of the second sentence and (6) of the second sentence and third sentence, Article 25 (5), Article 26 (1), (2) and (4), Article 27



(1) and (2), Article 29 (1), (2) and (4), Article 31 (1), Article 33 (5), Article 46 (6) and (11), Article 51 (5) and (7), Article 52 (1), Article 53 (2), Article 54 (7), (8) and (12), Article 55 (1), Article 57 (4) and (5), Article 60 (4) and (5), Article 77 (1), Article 82 (1), (2) and (4), Article 83 (1) to (3), (8) and (9), Article 84 (3), (4), (6) to (9) and (12), Article 85 (1), (3) and (4), Article 86 (2), Article 87 (1), (3), (8), (10) and (14) last sentence, Article 88 (1), (5), (7), (9), (10), (12) to (13) and (16), Article 89 (3), (5) and (7), Article 91 (1) to (5), Article 92, Article 94 (2), Article 98 (13), Article 99 (1) and (2), Article 102 (3) and (4), Article 106, Article 108 (3), Article 109 (8), Article 112 (2), Article 113 (1), (3) and (4), Article 114 (1), Article 115, Article 116 (3) to (6), (8), (12), (14) and (15), Article 117 (18), a fine from EUR 200 up to 5 % of the turnover pursuant to paragraph 6 for the previous accounting period.

(4) Whoever is not an entrepreneur and violates or fails to comply with any of the obligations under paragraphs 1 to 3 commits an offence; for this offence the Authority shall impose a fine of between EUR 200 and EUR 20,000.

(5) If a legal person, natural person - entrepreneur for the previous accounting period had no turnover or its turnover cannot be calculated even on the basis of the information submitted to the Authority pursuant to Article 16 (1)(l), the Authority shall impose a fine pursuant to paragraphs 1 to 3 up to a maximum of EUR 300,000.

(6) For the purposes of this Act, the turnover referred to in paragraphs 1 to 3 and 5 shall mean the sum of all sales, income or receipts from the sale of goods or services, excluding indirect taxes, to which shall be added financial assistance granted to a legal person or a natural person - entrepreneur. The turnover of a legal person or a natural person - entrepreneur expressed in foreign currency shall be converted into euros, using the average of the reference exchange rates determined and announced by the European Central Bank or the National Bank of Slovakia,<sup>140)</sup> which are valid for the relevant accounting period.

(7) The previous accounting period for the purposes of this Act shall be the accounting period for which the last regular financial statements were drawn up.

(8) For the purposes of this Act, financial assistance granted to a legal person or a natural person - entrepreneur is any monetary assistance provided from public sources relating to an activity carried out by a legal person or a natural person - entrepreneur, which is reflected in the price of its goods or services.

(9) If the holder of an individual authorisation for the use of numbers or an individual authorisation for the use of radio spectrum has failed to pay a one-off payment or a recurring payment, the Authority shall proceed pursuant to the third subparagraph of Article 55 (13) (a) or pursuant to Article 44 (9) (d) and shall not impose a fine.

(10) If the person on whom a sanction may be imposed pursuant to this Act is an operator of a basic service pursuant to a special regulation<sup>141)</sup> and their conduct fulfils the elements of an

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<sup>140)</sup> Article 28 (2) of Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia as amended by Act No. 659/2007 Coll.

Article 219 (1) to (3) of the Treaty on the Functioning of the European Union as amended.

Article 12 Paragraph 12.1 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union (OJ EU C 326, 26. 10. 2012).

<sup>141)</sup> Article 17 of Act No. 69/2018 Coll. as amended by Act No. 287/2021 Coll.

administrative offence pursuant to this Act and the elements of an administrative offence pursuant to a special regulation,<sup>37)</sup> the Authority shall not be competent to act and decide on the administrative offence pursuant to this Act in relation to that action. If the Authority discovers facts indicating that an act under the first sentence has been committed, it shall immediately notify the National Security Authority thereof.

(11) When imposing a fine, the Authority shall take into account in particular the gravity, manner, duration and consequences of the infringement. When imposing a fine, the Authority shall also take into account the undertaking's action to remedy or eliminate any consequences of the breach of the obligation, including the reduction or elimination of consequences of the damage caused.

(12) The fine may be imposed within two years from the date of discovery of the infringement, but not later than four years from the date of the infringement; the date of discovery of the infringement shall be deemed to be the date of notification of the deficiencies found. The fines represent the income of the State budget.

(13) Where there is a serious or repeated breach of the obligations or conditions specified in this Act, general authorisation, general authorisation for the use of radio spectrum, decision of the Authority or a generally binding legal regulation issued pursuant to this Act, and where the deficiency has not been remedied despite the imposition of a fine pursuant to paragraphs 1 to 3 or the imposition of a measure pursuant to Article 123, the Authority may prohibit the undertaking from providing networks or services for a period of up to 24 months, depending on the gravity and duration of such breach.

## **Part Nine**

### **Common, Transitional and Final Provisions**

#### **Article 125**

#### **Proceedings**

- (1) The Administrative Procedure Code shall not apply to
- a) the issuing of interim measures (Article 18(14)),
  - b) the determination of the price calculation method (Article 72(6)),
  - c) the issuing of a general authorisation (Articles 9 and 34(2)),
  - d) the issuing of a list of relevant markets and transnational markets and to the analysis of relevant markets (Article 62(1) and (2), Articles 63 and 65),
  - e) the three-criteria test (Article 62(3)),
  - f) the selection procedure for the allocation of frequencies (Article 41),
  - g) the issuing of certificates of special professional competence (Article 52),
  - h) the exercise of supervision (Article 122), except for Article 122(15) and (20),
  - i) the issuing of protective measures (Article 123),
  - j) price control for number portability (Article 88(6)),
  - k) alternative dispute resolution (Article 126),

1) out-of-court dispute resolution (Article 127).

(2) A remonstrance may be lodged against a decision of the Authority issued in an administrative procedure. A remonstrance against a decision of the Authority pursuant to Article 36(5), Articles 67 to 81 shall not have suspensive effect. The decision on the remonstrance shall be made by the Chairman of the Authority on the basis of a proposal from a special committee set up by them.

(3) In proceedings concerning an administrative action brought against a decision of the Authority pursuant to Article 43(1)(a) or (b), where the Authority has decided on an extraordinary modification of an individual authorisation for the use of radio spectrum, the provisions of Articles 185 to 189 of the Code on Judicial Proceedings in Administrative Cases shall not apply. A cassation complaint lodged against a decision of a court on the merits rendered in proceedings on an administrative action against a decision of the Authority pursuant to Article 43(1)(a) or (b), where the Authority has decided on an extraordinary modification of an individual authorisation for the use of radio spectrum, shall have suspensive effect; the provisions of Article 446(1), Article 447(1) and Article 482 of the Code on Judicial Proceedings in Administrative Cases shall not apply.

### **Article 126**

#### **Alternative dispute resolution**

The Authority is an alternative dispute resolution authority pursuant to a special regulation;<sup>142)</sup> alternative dispute resolution by the Authority is governed by a special regulation,<sup>147)</sup> unless otherwise provided by this Act.

### **Article 127**

#### **Out-of-court dispute resolution**

(1) The Authority shall resolve disputes other than disputes pursuant to Article 126 arising in the field governed by this Act, if a subscriber who is not a consumer disagrees with the outcome of a complaint or with the manner in which it was handled, on the basis of a proposal for out-of-court dispute resolution (hereinafter referred to as “the proposal”) filed by the subscriber with the undertaking providing the networks or services.

(2) The proposal shall contain

- a) name, surname and address for delivery or also e-mail address and telephone contact if the subscriber is a natural person,
- b) business name, legal form, registered office, organisation identification number and telephone contact if the participant is a legal person,
- c) the name and registered office of the undertaking against which the proposal is directed,
- d) the subject-matter of the dispute,
- e) the reasons for disagreeing with the results of the complaint or the manner in which it was handled,
- f) proposed dispute resolution.

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<sup>142)</sup> Act No. 391/2015 Coll. on alternative consumer dispute resolution and on the amendment to certain acts as amended.

(3) The proposal shall be accompanied by documents relating to the subject-matter of the dispute which prove the facts stated in the proposal.

(4) If the proposal does not contain the particulars referred to in paragraph 2 or is not accompanied by the documents referred to in paragraph 3, the Authority shall immediately inform the subscriber of the deficiencies in the proposal and call upon the subscriber to remedy them within a time limit which shall not be less than 15 days; at the same time, it shall instruct the subscriber of the consequences of failing to remedy the deficiencies in the proposal. If the subscriber fails to remedy the deficiencies in the proposal within the time limit referred to in the preceding sentence, the Authority shall not initiate an out-of-court dispute resolution.

(5) The proposal shall be submitted by the subscriber without delay, and no later than 45 days from the date of

a) delivery of the result of the complaint to the user or

b) expiry of the time limit for the settlement of the complaint pursuant to Article 91(3).

(6) The subscriber and the undertaking may propose evidence and supplementary evidence and submit documents necessary for the substantive assessment of the dispute. The Authority shall deal with the dispute referred to it impartially with a view to its settlement. The time limit for completing out-of-court dispute resolution is 60 days from the filing of a complete proposal, or 90 days in complex cases from the filing of a complete proposal.

(7) The successful resolution of a dispute results in a written agreement between the subscriber and the undertaking, which is binding on both parties to the dispute. The conclusion of an agreement pursuant to the first sentence shall be notified by the subscriber and the undertaking to the Authority within five days of its conclusion. If the parties to the dispute fail to conclude an agreement within the time limit referred to in paragraph 6, the Authority shall notify them of the expiry of the time limit for the out-of-court dispute resolution. This concludes the out-of-court dispute resolution. The ability of the parties to go to court in the same case is not affected.

## **Article 128**

### **Dispute resolution between undertakings, persons who may request access or interconnection and providers of associated facilities**

(1) The Authority shall resolve disputes between undertakings, between undertakings and persons who may apply for access or interconnection under Article 56(1), or between undertakings and providers of associated facilities, on the proposal of any party to a dispute arising in connection with the obligations of those entities under this Act. The parties to the dispute are obliged to cooperate with the Authority in resolving the dispute. The Authority shall resolve the dispute no later than four months from the submission of the proposal; if, owing to the nature of the case or exceptional circumstances, it is not possible to reach a decision even within that period, the Chairman of the Authority may extend it accordingly.

(2) If the proposal is not filed by a person entitled pursuant to paragraph 1 or the dispute does not arise in connection with the performance of the rights and obligations of undertakings or providers of associated facilities provided for in this Act or is not related to the rights and obligations of access and interconnection, or if it concerns disputes in which a court or other

administrative authority has jurisdiction under this Act, the Authority shall discontinue the proceedings.

(3) The Authority may refuse to resolve a dispute if there is a quicker and more efficient mechanism for resolving the dispute, including mediation.<sup>143</sup>) The Authority shall immediately inform the parties to the dispute thereof. If the dispute has not been resolved in accordance with the first sentence within four months of the submission of the proposal to the other dispute resolution authority or if no court proceedings have been initiated in the matter, the Authority shall decide on the dispute not later than four months after the receipt of the proposal of any party to the dispute.

(4) The final dispute resolution decision shall be consistent with the objectives of this Act as set out in Article 1 and shall be published by the Authority on its website in such a way as to ensure the protection of business secret.

### **Article 129**

#### **Resolution of cross-border disputes**

(1) If a dispute arises in relation to the rights and obligations of undertakings under this Act between an undertaking and a network or service provider which provides networks or services in a Member State other than the Slovak Republic, either party to the dispute may apply to the Authority for the dispute to be resolved. This shall not apply in the case of disputes relating to radio spectrum coordination pursuant to Article 5(1)(l) to (n).

(2) Where a dispute under paragraph 1 affects trade between Member States, the Authority shall notify the Body of European Regulators of the initiation of the resolution of the dispute.

(3) Where the Authority has notified the Body of European Regulators of the initiation of dispute resolution pursuant to paragraph 2, it shall not adjudicate on the matter pending the opinion of the Body of European Regulators; this shall be without prejudice to the right of the Authority to issue an interim measure pursuant to the Administrative Procedure Code where this is necessary, in particular, in the interests of consumer protection or the protection of competition. Upon receipt of the opinion of the Body of European Regulators, the Authority shall take the proposed measures into account as far as possible in the dispute resolution decision. The Authority shall impose obligations on the undertaking in the dispute resolution decision no later than within one month after receipt of the opinion of the Body of European Regulators.

(4) If the dispute does not affect trade between Member States, the Authority shall resolve the dispute within four months of the submission of the proposal at the latest. If, owing to the nature of the case or exceptional circumstances, it is not possible to reach a decision within that period, the Chairman of the Authority may extend it accordingly.

(5) The Authority shall discontinue the proceedings if the dispute did not arise in connection with the performance of rights and obligations under this Act, if the proposal for the resolution of the dispute has not been submitted by an authorised person, if it concerns rights and obligations which the court or another administrative authority is authorised to decide on under this Act, or if it is recommended by the Body of European Regulators.

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<sup>143</sup>) Act No. 420/2004 Coll. on mediation and on the amendment to certain acts as amended.

### **Article 130**

#### **Common provision**

Where this Act provides for the use of a procedure according to a technical standard or a technical specification adopted by a recognised standardisation body, it shall also be possible to follow their equivalent, provided that such procedure achieves the same result and complies with the provisions of this Act. In case of doubt as to the appropriateness of the use of an equivalent standard or specification under the first sentence, the opinion of the Authority on the possibility of their use shall be decisive.

### **Article 131**

#### **Transitional provisions**

(1) Proceedings commenced and not finally concluded before the effective date of this Act shall be completed in accordance with the provisions in effect before the effective date of this Act; the provision of Article 125(3) shall also apply to proceedings commenced before the effective date of this Act.

(2) The provisions on appropriate compensation of costs under Article 45 shall also apply where the net direct costs are incurred and have been incurred by the enterprise within the accounting period of the enterprise in which the enterprise's right to appropriate compensation of costs under Article 45 arose.

(3) The rights of the successful participant in the selection procedure on the basis of which the Authority allocated the radio spectrum which were the subject of the Authority's decision on the extraordinary amendment of the individual authorisation for the use of radio spectrum shall be preserved even in the event of a subsequent revocation of the Authority's decision on the extraordinary amendment of the individual authorisation for the use of radio spectrum.

(4) The Authority shall bring into conformity with this Act the valid general authorisation and the general authorisation for the use of radio spectrum issued under the previous regulations no later than 12 months after the effective date of this Act.

(5) Protection zones established before the effective date of this Act shall be deemed to be protection zones under this Act, with the exception of protection zones established or declared by a special decision. The rights and obligations attaching to existing lines shall be governed by this Act. The provisions on reasonable compensation under Article 23 shall apply to protection zones established after the effective date of this Act.

(6) Entitlements to someone else's real estate, as well as restrictions on their use, which arose prior to the effective date of this Act, shall remain unaffected. For the purposes of calculating the time-limits for claiming the appropriate one-off compensation which began to run under the previous rules, the previous rules shall apply.

(7) Network operators who, as at the effective date of this Act, hold information pursuant to Article 25(3)(a) shall be obliged to provide it to the single information point without delay and at the latest within one year from the effective date of this Act.

(8) Undertakings providing services pursuant to Article 97(2) to low-income consumers or consumers with special social needs at prices which differ from those provided under normal

commercial conditions shall be obliged to inform the Authority of the conditions for the provision of such services within 30 days of the effective date of this Act.

(9) A universal service provider that has been designated to provide universal service prior to the effective date of this Act shall be deemed to be a universal service provider under this Act. The Authority shall designate by decision one or more universal service providers pursuant to Articles 97 and 98 no later than 12 months after the effective date of this Act.

(10) The provision on itemised bills in electronic form under Article 92(1)(a) shall not apply to contractual relationships entered into before the effective date of this Act, unless there is an agreement between the undertaking and the subscriber to change the form of delivery from paper to electronic form.

(11) The consent of a subscriber or user to make calls, to use automated calling and communication systems without human intervention, electronic mail, telefax or short message services for the purpose of direct marketing, which was granted before the effective date of this Act, shall remain valid until it is revoked or the telephone number is included in the list pursuant to Article 116(7).

(12) Until the implementing legal regulations issued pursuant to this Act enter into effect, the following regulations shall remain in force and effect, but no longer than six months after the effective date of this Act:

- a) Measure of the Telecommunications Office of the Slovak Republic of 30 November 2011, No. O-22/2011 on the details of number portability,
- b) Measure of the Telecommunications Office of the Slovak Republic of 6 December 2011 No. O-24/2011 laying down a scale of charges for allocated numbers,
- c) Measure of the Telecommunications Office of the Slovak Republic of 8 December 2011, No. O-26/2011 on the numbering plan,
- d) Measure of the Telecommunications Office of the Slovak Republic of 14 December 2011 No. O-27/2011 on the content, scope and conduct of the examination and on certificates of special professional competence,
- e) Measure of the Telecommunications Office of the Slovak Republic of 9 February 2012, No. O-28/2012 on the reimbursement of net cost, on the procedure for assessing disproportionate burden and on the establishment and management of a special universal service account,
- f) Measure of the Telecommunications Office of the Slovak Republic of 7 March 2012 No. O-29/2012 laying down a scale of charges for the right of use for radio spectrum or identifier,
- g) Measure of the Telecommunications Office of the Slovak Republic of 18 May 2012, No. O-30/2012, laying down details on maintaining the security and integrity of public electronic communications networks or public electronic communications services,
- h) Decree of the Ministry of Interior of the Slovak Republic No. 91/2013 Coll., which establishes details on the provision of caller identification and on the provision of location data,
- i) Measure of the Regulatory Authority for Electronic Communications and Postal Services of 31 January 2017 No. 1/2017 supplementing Measure of the Telecommunications Office of the Slovak Republic of 7 March 2012 No. O-29/2012 laying down a scale of charges for the right of use for radio spectrum or identifier,

- j) Measure of the Regulatory Authority for Electronic Communications and Postal Services of 17 July 2018 No. O-1/2018 laying down details on the manner and form of providing information to the single information point and making it available to undertakings through the single information point.

#### **Article 131a**

##### **Transitional provisions to amendments effective from 1 September 2023**

(1) Until 31 March 2024, the building authority shall assess the fulfilment of the conditions for the exercise of the right pursuant to Article 21(1), first sentence, at the request of the undertaking pursuant to Article 21(1) as effective from 1 September 2023, in the spatial procedure for the location of construction.

(2) From 1 April 2024, the building authority shall assess the fulfilment of the conditions for the exercise of the right pursuant to Article 21(1), first sentence, at the request of the undertaking pursuant to Article 21(1) as effective from 1 September 2023, in the spatial procedure for the location of construction in relation to a construction which is to be completed pursuant to the regulations on spatial planning and building code effective until 31 March 2024.

(3) The procedure for the fulfilment of the conditions pursuant to Article 21(1) as effective until 31 August 2023 and the procedure for reasonable compensation pursuant to Article 21(8) as effective until 31 August 2023 shall be completed in accordance with the existing regulations.

#### **Article 131b**

##### **Transitional provision to amendments effective from 1 September 2023**

Dispute resolution proceedings in relation to the provision of access under Article 57 between undertakings, persons who may request access or interconnection and providers of associated facilities commenced before 1 September 2023 shall be discontinued on 1 September 2023.

#### **Article 132**

##### **Transposition Provision**

This Act transposes the legally binding acts of the European Union specified in Annex No. 1.

#### **Final Provisions**

#### **Article 133**

##### **Repealing Provision**

The following shall be repealed:

Act No. 351/2011 Coll. on electronic communications as amended by Act No. 547/2011 Coll., Act No. 241/2012 Coll., Act No. 352/2013 Coll., Act No. 402/2013 Coll., Ruling of the Constitutional Court of the Slovak Republic No. 139/2015 Coll., Act No. 247/2015 Coll., Act No. 269/2015 Coll., Act No. 391/2015 Coll., Act No. 397/2015 Coll., Act No. 444/2015 Coll., Act No. 125/2016 Coll., Act No. 353/2016 Coll., Act No. 386/2016 Coll., Act No. 238/2017 Coll., Act No. 243/2017 Coll., Act No. 319/2017 Coll., Act No. 56/2018 Coll., Act No. 69/2018 Coll., Act No. 177/2018 Coll., Act No. 30/2019 Coll., Act No. 94/2019 Coll., Act No.



211/2019 Coll., Act No. 62/2020 Coll., Act No. 119/2020 Coll., Act No. 242/2020 Coll. a Act No. 287/2021 Coll.

**Article 134**  
**Effect**

This Act shall come into effect on 1 February 2022 except for Article 84 (12), Articles 88, 89 and Article 116 (12), which shall come into effect on 1 August 2022, and Article 116 (7) to (10), which shall come into effect on 1 November 2022.

President of the Slovak Republic

Speaker of the National Council of the Slovak Republic

Prime Minister of the Slovak Republic

**LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION**

1. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ EC L 201, 31.7.2002; Special edition OJ EU, Chap. 13/Volume 29) as amended by Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 (OJ EU L 105, 13.4.2006) and Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ EU L 337, 18.12.2009).
2. Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9. 10. 2002), as amended by Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 (OJ L 149, 11. 6. 2005) and Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 (OJ L 337, 23. 12. 2015).
3. Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ EU L 155, 23.5.2014).
4. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (recast) (OJ EU L 321, 17.12.2018).
5. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019).

### **Minimum criteria for assessing co-investment offers**

For the purposes of evaluating offers to co-invest in very high capacity networks pursuant to Article 75(1), the Authority shall assess, as a minimum, whether the offer

- a) is open at any moment during the lifetime of the network to any undertaking,
- b) would allow co-investors to compete effectively and sustainably in the long term, at least for five years, in downstream markets with an undertaking with significant market power, on terms which include
  - 1. fair, reasonable and non-discriminatory terms allowing access to the full capacity of the network to the extent that it is subject to co-investment,
  - 2. flexibility in terms of the value and timing of the participation of each co-investor,
  - 3. the possibility to increase such participation pursuant to subparagraph 2 in the future,
  - 4. reciprocal rights awarded by the co-investors after the deployment of the co-invested very high capacity network,
- c) is made public in a timely manner and, if the undertaking with significant market power does not have the characteristics listed in Article 79(1), at least six months before the start of the deployment of the new very high capacity network; the Authority may, in justified cases, also accept a reasonable and justified extension of this period,
- d) allows access seekers not participating in the co-investment to benefit from the outset from the same quality, speed, access conditions and end-user reach as were available before the deployment of the new very high capacity network; the undertaking with significant market power shall submit to the Authority for approval a mechanism of adaptation confirmed by the Authority in light of developments on the related retail markets, if such mechanism
  - 1. maintains the incentives to participate in the co-investment,
  - 2. ensures that access seekers have access to the very high capacity elements of the network at a time, and on the basis of transparent and non-discriminatory terms, which reflect appropriately the degrees of risk incurred by the respective co-investors at different stages of the deployment of the very high capacity network and take into account the competitive situation in retail markets,
- e) meets the following criteria:
  - 1. the co-investment offer shall be open to any undertaking over the lifetime of the network on a non-discriminatory basis. The undertaking designated as having significant market power may include in the offer reasonable conditions regarding the financial capacity, so that potential co-investors need to demonstrate their ability to deliver phased payments on the basis of which the deployment is planned, as well as the acceptance of a strategic plan on the basis of which medium-term deployment plans are prepared.
  - 2. the co-investment offer shall be transparent, i.e. the offer shall be available and easily identified on the website of the undertaking designated as having significant market power, full detailed terms shall be made available without undue delay to any potential bidder that has expressed an interest, including the legal form of the co-investment agreement and, when relevant, the heads of term of the governance rules of the co-investment vehicle, and the process, like the road map for the establishment and development of the co-investment project shall be set in advance, shall be clearly

explained in writing to any potential co-investor, and all significant milestones shall be clearly communicated to all undertakings without any discrimination.

3. the co-investment offer shall include terms to potential co-investors which favour sustainable competition in the long term, in particular:
  - 3a. all undertakings shall be offered fair, reasonable and non-discriminatory terms and conditions for participation in the co-investment agreement relative to the time they join, including in terms of financial consideration required for the acquisition of specific rights, in terms of the protection awarded to the co-investors by those rights both during the network building phase and during the network exploitation phase, for example by granting inderfeisable rights of use for the expected lifetime of the co-invested network and in terms of the conditions for joining and potentially terminating the co-investment agreement; in order to observe the non-discriminatory terms all variations of the terms offered shall be justified on the basis of the same objective, transparent, non-discriminatory and predictable criteria such as the number of end-user lines committed for,
  - 3b. the offer shall allow flexibility in terms of the value and timing of the commitment provided by each co-investor, for example by means of an agreed and potentially increasing percentage of the total end-user lines in a given geographic area, to which undertakings have the possibility to commit gradually and which is set at a unit level enabling smaller undertakings with limited resources to enter the co-investment at a reasonably minimum scale and to gradually increase their participation while ensuring adequate levels of initial commitment. The determination of the financial consideration to be provided by each undertaking needs to reflect the fact that early investors accept greater risks and engage capital sooner,
  - 3c. in order to reduce the risk of lower interest in investing in the initial phases of network deployment, the offer must take into account the decreasing riskiness of the investment over time,
  - 3d. the co-investment offer shall allow the assignment of acquired rights by co-investors to other co-investors, or to third parties willing to enter into the co-investment agreement subject to the transferee undertaking being obliged to fulfil all original obligations of the transferor under the co-investment agreement,
  - 3e. co-investors shall grant each other reciprocal rights on fair and reasonable terms and conditions to access the co-invested network for the purposes of providing services downstream, including retail services, in accordance with transparent conditions which are to be made transparent in the co-investment offer and subsequent agreement, in particular where co-investors are individually and separately responsible for the deployment of specific parts of the network. If a co-investment management and administration scheme is created, it shall provide access to the network to all co-investors, whether directly or indirectly, on an equivalence of inputs basis and in accordance with fair and reasonable terms and conditions that reflect the different levels of risk accepted by the individual co-investors,
  - 3f. the co-investment offer shall ensure a sustainable investment likely to meet future needs of the deployment of very high capacity networks

### **Information obligations**

A. An undertaking providing publicly available services other than machine-to-machine communication services (M2M) shall provide, in compliance with Article 84 (3):

- a) information on a minimum level of quality of provided service in compliance with Article 85; if the undertaking does not offer a minimum level of quality of provided service, information that no minimum level of quality of provided service is applied,
- b) as part of the information on price, information on prices for activating the services or on any recurring or consumption-related charges if the undertaking applies such prices or charges,
- c) as part of the information on the duration of the contract and the conditions for renewal and termination of the contract, also including information on possible service contract termination fees, to the extent that such conditions apply
  - 1. any minimum use or duration required to benefit from promotional terms,
  - 2. any charges related to switching including the porting of number and information on compensation and refund arrangements for delay or abuse of switching, as well as information about the respective procedures,
  - 3. information on the right of consumers using pre-paid services to a refund, upon request, of any remaining credit in the event of switching, as set out in Article 88 (17), if the consumer requests so,
  - 4. information on any fees due on early termination of the service contract, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment.
- d) any compensation and refund arrangements, including, where applicable, explicit reference to rights of consumers and the possibilities of exercising them, which apply if contracted levels of quality of service are not met or if the undertaking responds inadequately to a security incident, threat or vulnerability,
- e) information on the type of action that might be taken by the undertaking in reaction to security incidents or threats or vulnerabilities.

B. An undertaking providing publicly available internet access services and publicly available interpersonal communications services, in addition to information in Part A, shall provide in compliance with Article 84 (3):

- a) as part of the main characteristics of each service provided, information on a minimum level of quality of provided service in compliance with Article 85, in particular information on
  - 1. latency, jitter, and packet loss, for internet access services,
  - 2. the time for the initial connection, failure probability, call signalling delays in accordance with Article 85, for publicly available interpersonal communications services, where the undertaking exerts control over at least some elements of the network or has a service level agreement to that effect with undertakings providing access to the network,

- b) as part of the main characteristics of each service provided, any conditions, including fees, imposed by the undertaking on the use of terminal equipment supplied; this is without prejudice to the right of end-users to use terminal equipment of their choice in accordance with a special regulation,<sup>144)</sup>
  - c) as part of the information on price, the respective prices for activating the service and for any recurring or consumption-related charges
    - 1. details of specific tariff plan or plans under the service contract and, for each such tariff plan the types of services offered, including the volumes of communications included per billing period, and the price for additional communication units,
    - 2. information on the possibility for consumers to defer any unused volume from the preceding billing period to the following billing period, where this option is included in the service contract, in the case of a tariff plan or plans,
    - 3. information on facilities to safeguard bill transparency and monitor the level of consumption,
    - 4. tariff information regarding any numbers or services subject to particular pricing conditions; with respect to individual categories of services, the Authority may require in addition such information to be provided immediately prior to connecting the call,
    - 5. information on the price of the individual elements of the bundle of services pursuant to Article 90, for which individual services or terminal equipment representing elements of the bundle of services are marketed separately,
    - 6. details and conditions, including fees, of any after-sales service, maintenance, and customer assistance,
    - 7. the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained,
  - d) information on the duration of the service contract if provisions on the bundle of services apply to it pursuant to Article 90, and the conditions for renewal, extension and termination of the contract, including information on the conditions of termination of only some element of such contract,
  - e) information on what personal data of the end-user shall be provided to the undertaking before the performance of the service or collected in the context of the provision of the service,
  - f) details on products and services designed for end-users with disabilities and how updates on this information can be obtained,
  - g) information on the means of initiating procedures for the resolution of disputes pursuant to Article 126 and cross-border disputes in accordance with a special regulation.<sup>144)</sup>
- C. An undertaking providing publicly available number-based interpersonal communications services shall also provide, in addition to information pursuant to Parts A and B, the following information in compliance with Article 84 (3) on

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<sup>144)</sup> Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR) (OJ EU L 165, 18.6.2013).

- a) any impediments to access to emergency services or caller location information due to technical impracticability, where the service allows end-users to make calls to a number in the national or international numbering plan,
- b) the end-user's right to decide whether to include their personal data in the telephone directory and the type of such data in accordance with Article 113.

### **Scope of retained data**

**A. Data necessary to trace and identify the source of a communication:**

1. concerning fixed network telephony and mobile telephony:
  - a) the calling telephone number,
  - b) the name, surname and permanent address or business name and registered office or place of business of the subscriber or registered user.
2. concerning internet access and internet e-mail:
  - a) the user ID allocated to any communication entering the public network,
  - b) the name, surname and permanent address or business name and registered office or place of business of the subscriber or registered user and the Internet Protocol (IP) address allocated to them at the time of the communication.

**B. Data necessary to identify the destination of a communication:**

1. concerning fixed network telephony and mobile telephony:
  - a) the number(s) dialled (the number(s) called), and, in cases involving supplementary services such as call forwarding or call transfer, the number or numbers to which the call is routed,
  - b) the name, surname and permanent address or business name and registered office or place of business of the subscriber or registered user.
2. concerning internet e-mail:
  - a) the user ID,
  - b) the name, surname and permanent address or business name and registered office or place of business of the subscriber or registered user being the intended recipient of the communication.

**C. Data necessary to identify the date, time and duration of a communication:**

1. concerning fixed network telephony and mobile telephony, the date and time of the start and end of the communication,
2. concerning internet access and internet e-mail:
  - a) the date and time of the log-in and log-off of the internet access service, based on a certain time zone, together with the IP address, whether dynamic or static, allocated by the internet access service provider to a communication, and the user ID of the subscriber or registered user,
  - b) the date and time of the log-in and log-off of the internet e-mail service, based on a certain time zone.

**D. Data necessary to identify the type of communication:**

1. concerning fixed network telephony and mobile telephony: the telephone service used,
2. concerning internet e-mail: the internet service used.



E. Data necessary to identify users' end equipment or what purports to be their equipment:

1. concerning fixed network telephony: the calling and called numbers,
2. concerning mobile telephony:
  - a) the calling and called numbers,
  - b) the IMSI of the calling party,
  - c) the IMEI of the calling party,
  - d) the IMSI of the called party,
  - e) the IMEI of the called party,
  - f) for 5G networks, the SUPI of the calling party.

F. Data necessary to identify the location of mobile end equipment:

1. the location label (Cell ID) at the start of the communication,
2. data identifying the geographic location of cells by reference to their location labels (Cell ID) during the period for which communications data are retained.

SAMPLE  
APPLICATION FOR A SUBSIDY FOR PROJECT SUPPORT

Date of delivery of the application:

(place for the official record)

I-----I

I Name of the project I

I-----I-----I

I Applicant (name and surname or name) I I

I-----I-----I

I Address of permanent residence or registered office I I

I of the applicant (street, number, postal code, municipality) I  
I

I-----I-----I

I Legal form of the applicant I I

I-----I-----I

I Comp. ID No. I I

I (legal persons, natural persons - I I

I entrepreneurs) I I

I-----I-----I

I Registration number I I

I-----I-----I

I Statutory representative of the applicant I I  
 I (name and surname, position) I I  
 I-----I-----I

I Contact person I I  
 I (telephone number, fax number, electronic mail address) I  
 I  
 I-----I-----I

I Bank I I  
 I (separate account number, bank, or State Treasury, I I  
 I code - numerical, swift) I I  
 I-----I-----I

I Total budget (in EUR) I I  
 I-----I-----I

I Co-financing (in EUR) I I  
 I-----I-----I

I Amount of the subsidy requested (in EUR) I I  
 I-----I-----I

I declare that the information provided in the application is true, accurate and complete.

In ..... on .....  
 I-----I-----I  
 I I I  
 I I I

I-----I-----I

I    Applicant's seal    I    Signature of the statutory representative of the applicant    I

I-----I-----I

# SAMPLE PROJECT DESCRIPTION

I-----I

I Name of the project: I

I-----I-----I

I Date of implementation I I

I-----I-----I

I Purpose of the project I I

I-----I-----I

I Starting points I I

I-----I-----I

I Timetable of project solution I I

I-----I-----I

I Required inputs I I

I-----I-----I

I Expected outputs I I

I (quantitative and qualitative measurement I I

I of project success) I I

I-----I-----I

I Professional guarantor of the project I I

I (name, surname, degree) I I

I-----I-----I

I Contact person I I

I (telephone number, fax number, electronic mail address) I  
I

I-----I---I-----I

I Total budget (costs) in EUR I I

I-----I-----I

I Co-financing I I

I (other resources, of which own resources) in EUR I I

I-----I-----I

I Amount of the subsidy requested in EUR I I

I-----I-----I

In ..... on .....

I-----I-----I

I I I

I I I

I-----I-----I

I Applicant's seal I Signature of the statutory representative of the applicant I

I-----I-----I