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Detailed survey of the current legislative regulation in the Slovak Republic, related to an option of co-operation between non-governmental organisations and State and self-administration

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I. INTRODUCTION

The Constitution of the Slovak Republic (passed on 1 September 1992 and published in the Collection of Laws under No. 460/1992), the fundamental Act of the State, does not contain any provisions directly related to non-governmental organisations and to conditions for providing grants to non-governmental organisations or to concluding agreements with non-governmental organisations. However, it lays down the basic legal provisions which indirectly regulate the existence and activities of non-governmental organisations on the territory of the Slovak Republic.

II. NON-GOVERNMENTAL ORGANISATIONS

In relation to non-governmental organisations, it is necessary to mention the article 29 of the Constitution of the Slovak Republic, which guarantees the right to associate freely. Everybody has the right, together with others, to get associated in communities, societies or other associations. Citizens have the right to establish political parties and political movements and to be associated in them. The execution of these rights can be restricted only in cases stated by law, if such restrictions are inevitably necessary for the safety of the State, for the protection of public order, for the prevention of crimes or for the protection of the rights and freedoms of others in a democratic society. Political parties and political movements as well as communities, societies or other associations are separate from the State.

Article 37 of the Constitution of the Slovak Republic establishes the right of every citizen to get freely associated with others in order to protect his/her economic and social interests.

Neither the Constitution of the Slovak Republic, nor other generally binding legal regulations defines the notion of a non-governmental organisation. The law does not state which legal forms permitted by the legal rules of the Slovak Republic are available to non-governmental organisations. Currently, there are several legal forms

that can be specifically ranked as possible forms for non-governmental organisations to be created and to function.

A. Civic associations,

trade unions and organisations of employers pursuant to Act No. 83/1990 Coll. on Association of Citizens, as amended (hereinafter referred to as the “Citizens Association Act”).

The Citizens Association Act explicitly stipulates as civic associations the communities, societies, unions, movements, clubs and other civic associations. The following associations are not permitted:

1. organisations having as their purpose to deny or to restrict personal, political or other rights of citizens on the ground of their ethnicity, gender, race, origin, political or other way of thinking, religion and social position; to exacerbate hatred and intolerance on these grounds; to support violence or otherwise to breach the Constitution and laws otherwise;
 2. organisations pursuing to achieve their goals using methods and forms contrary to the Constitution and the laws;
 3. military organisations or organisations having armed components; organisations the members of which hold or use fire guns for sporting or hunting purposes, are not considered military or armed.

A civic association is established by registration at the Ministry of Interior of the Slovak Republic. Trade unions and organisations of employers acquire legal personality on the day following the delivery of the proposal for registration to the Ministry of Interior of the Slovak Republic.

B. Foundations

pursuant to the Act of the National Council of the Slovak Republic No. 207/1996 Coll. on Foundations, as amended (hereinafter referred to as the “Foundation Act”).

A foundation is a specific association of things, finances, securities and other values appreciable by money, which the establisher designed to meet a generally beneficial purpose. A foundation is a legal entity, and the state authorities can interfere with its position and activities only within limits of law.

A foundation is considered established on the day it is entered into the register of foundations kept by the Ministry of the Interior of the Slovak Republic.

B. Non-profit organisations providing generally beneficial services

pursuant to Act No. 213/1997 Coll. on Non-Profit Organisations Providing Generally Beneficial Services (hereinafter referred to as the “Non-Profit Organisations Act”).

A non-profit organisation is a legal entity whose subject of activities is to provide generally beneficial services. A non-profit organisation can independently, on its own behalf and responsibility, perform also other activities to make profit, if this would ensure a more efficient use of its property, and the profit from these activities is entirely used to provide generally beneficial services.

Generally beneficial services are those provided on terms and conditions determined in advance and being accessible for all users to the same extent in the same area. As generally beneficial services are considered only:

1. health care;
2. humanitarian care;
3. development and protection of spiritual and cultural values;
4. additional education of children and youth, including organised physical training and sports for children and youth;
5. creation and protection of environment;
6. provision of social services.

Non-profit organisation can provide services, only when they meet the conditions to provide them, as established by special regulations.

Non-profit organisation can perform economic activity, if they would bring to a more efficient use of its property, and the quality, scope and accessibility of services for which it was established are not threatened. Non-profit organisation may not take part in business of other persons and conclude contract on sleeping partnership.

Non-profit organisations providing generally beneficial services are considered created on the day when the decision for registration, taken by the Regional Office of local competence, comes into effect. The register for non-profit organisations is kept at the Regional Office with local competence depending on the location of the registered office of the organisation. The Central Register for non-profit organisations providing generally beneficial services is kept at the Ministry of the Interior of the Slovak Republic.

C. Non-investment funds

pursuant to Act No. 147/1997 Coll. on Non-Investment Funds and on Amendment and Supplement of the Act of the National Council of the Slovak Republic No. 207/1996 Coll. (hereinafter referred to as the “Non-Investment Funds Act”).

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A non-investment fund is a non-profit legal entity associating financial means designed to reach a generally beneficial purpose or individually designated humanitarian aid for an individual or a group of persons whose life is in danger or who need urgent assistance against elemental disaster.

A non-investment fund is considered established on the day when it is entered in the register kept by the Regional Office of local competence depending on the location of the registered office of the fund. The Central Register for non-investment funds is kept at the Ministry of the Interior of the Slovak Republic.

D. The professional associations

have as their objective to ensure the proper performance of certain professions. Such associations are, for example, the Slovak Advocacy Chamber pursuant to Act No. 132/1990 Coll. on Advocacy; the Chamber of Commercial Lawyers of the Slovak Republic pursuant to Act No. 129/1991 Coll. on Commercial Lawyers, as amended; the Notary Chamber of the Slovak Republic pursuant to Act No. 323/1992 Coll. on Notaries and Notary Activities, as amended; the Slovak Chamber of Psychologists pursuant to Act No. 199/1994 Coll. on Psychological Activities and on Slovak Chamber of Psychologists; the Slovak Chamber of Executors pursuant to Act No. 233/1995 Coll. on Judicial Executors and Execution Activities (Execution Rules) and on Amendment and Supplement of Other Acts, as amended; the Slovak Chamber of Tax Advisors pursuant to Act 78/1992 Coll. on Tax Advisors and on Slovak Chamber of Tax Advisors, as amended; the Slovak Chamber of Auditors pursuant to Act No. 73/1992 Coll. on Auditors and on Slovak Chamber of Auditors, as amended; the Chamber of Veterinary Doctors of the Slovak Republic pursuant to Act No. 337/1998 Coll. on Veterinary Care and on Amendment and Supplement of some other Acts; the Slovak Trade Chamber pursuant to Act No. 126/1998 Coll. on Slovak Trade Chamber and on Amendment and Supplement of Some Acts.

III. INCOME OF NON-GOVERNMENTAL ORGANISATIONS

A. Foundations

In accordance with Section 30 (1) of the Foundation Act, the income of foundations can come from:

1. yields from property of the foundation which are particularly as follows pursuant to Section 29 of the Foundation Act:
 - a) incomes from rental of the foundation's property;
 - b) interests from monetary deposits in banks;
 - c) yields from securities.
2. gifts and contributions from legal entities or natural persons;
If a legal entity or natural person makes a gift or a contribution to a foundation and designates it for a particular purpose, the foundation is not allowed to use it for another purpose, except upon a written approval given in advance by the legal entity or natural person – donor;
3. yields from public collections;
4. yields from lotteries and other similar games;
5. heritage;
6. yields from organising cultural, educational, social or sporting events.

Under Section 30 (2) of the Foundation Act, foundations cannot cover expenditures for their administration from incomes originating from:

1. subsidies from the state budget;
2. subsidies from the municipal budget;
3. subsidies from a state fund.

B. Non-profit organisations providing generally beneficial services

Under Section 29 (2) of the Non-Profit Organisation Act, the property of a non-profit organisation providing public beneficial services consists of:

1. contributions of founders;
2. incomes from own activities;
3. incomes from economic activities after taxation;
4. loans, credits and interests;
5. gifts from natural persons or legal entities.

If a natural person or legal entity makes to the non-profit organisation a gift or a contribution and designates it for a particular purpose, the non-profit organisation is not allowed to use it for another purpose, except upon a written approval given in advance by the legal entity or natural person - donor.

Non-profit organisations may not make the giving of gifts by natural persons or legal entities a condition for the delivery of their generally beneficial services.

Pursuant to Section 29 (3) of the Non-Profit Organisation Act, non-profit organisations can also receive:

1. subsidies from the State budget;
2. subsidies from the budget of the State Fund;
3. subsidies from the municipal budget.

Non-profit organisation can receive subsidies from the State budget and from budgets of State funds for the same services only from one spot, as a rule from that one which is related to the prevailing activity of the non-profit organisation. Expenditures (costs) for administration of non-profit organisation cannot be covered from subsidies of State budget, the budget of the State fund and the municipal budget. The financial means of non-profit organisation may not be used for financing of activities of political parties or political movements.

C. *Non-investment funds*

As provided by Section 19 (1) of the Non-Investment Funds Act, the property of a non-investment fund consists of contributions by the founders and other financial means, including:

1. monetary gifts and contributions from natural persons or legal entities;
If a natural person or legal entity makes a gift or a contribution to a non-investment fund and designates it for a particular purpose, the non-investment fund is not allowed to use it for another purpose, except upon a previous written approval by the legal entity or natural person – donor;
2. incomes from public collections;
3. heritage in monetary form or income from sale of heritage obtained in another form;
4. incomes from lotteries and other similar games;
5. incomes from organising cultural, educational, social or sporting events;
6. incomes from sale of own literature supporting the purpose of the fund;
7. interest from monetary deposits in banks;
8. incomes from state debentures;
9. incomes from liquidation remainder of another fund.

The property of a non-investment fund may also include moveables and real estate necessary to perform its administration.

Pursuant to Section 19 (3) of the Non-Investment Fund Act, incomes of non-investment fund can also be:

1. subsidies from the State budget;
2. subsidies from the budget of a State Fund;
3. subsidies from the municipal budget.

However, pursuant to Section 19 (4) of the Non-Investment Fund Act, subsidies from the State budget can be provided to non-investment fund for the same purpose only from a single spot, as a rule from that one related to prevailing activities of the non-investment fund. Expenditures for the fund's administration may not be covered from subsidies of the State budget.

Finances of non-investment fund may not be used for economic activities. Finances of non-investment fund may not be used to fund activities of political parties or political movements.

D. Professional associations and professional chambers

Individual professions' associations and professional chambers established by respective acts have their incomes stipulated by the Act for their establishment. The income of professional associations may in particular (depending on separate chambers) originate from:

1. incomes from members' enrolment fees;
2. membership fees;
3. subsidies;
4. gifts;
5. yields of own economic activities;
6. incomes from monetary penalties;
7. other incomes in accordance with generally binding legal regulations.

In the next sub-chapter, we will focus specifically on gifts and contributions from natural persons and legal entities, on heritage, and in the next chapter - particularly on subsidies from the State budget, the budget of a State fund and from the municipal budget.

E. Gifts and Heritage

The provision of **gifts** by natural persons or legal entities is indirectly restricted as to the amounts of such gifts, by the Act No. 286/1992 Coll. on Income Taxes, as amended (hereinafter referred to as “Income Tax Act”) which limits the amount deductible from the tax base.

The Income Tax Act in its Section 15 (8) and Section 20 (4) provides that the value of gifts made to municipalities and to legal entities with registered offices on the territory of the Slovak Republic, with the purpose to fund science and training, culture, education system, fire protection, support to youth, protection and security of population, protection of animals, social, medical, ecological, humanitarian, charity, religious purposes for churches acknowledged by the State and religious societies, physical training and sports, can be deducted from the tax base of the donor, if the aggregate value of the gifts in the tax period is at least:

1. For natural persons, 2 % of the tax base or 1,000 SKK, however, and the maximum aggregate amount deductible is 10 % of the tax base;
2. For legal entities, 2,000 SKK, and the maximum aggregate amount deductible is 2 % of the tax base (gifts can be of monetary as well as non-monetary value, including provision of services).

The right to **heritage** is also guaranteed. Article 20 of the Constitution of the Slovak Republic establishes the right of property. Property right has the same legal content and enjoys the same protection for all persons. Two facts are of legal relevance in relation to heritage:

1. A natural person can establish a foundation by a testament in accordance with the provisions of Section 20b and Section 477 (2) of the Civil Code - Act No. 40/1964 Coll., as amended (hereinafter referred to as the “Civil Code”), and the testament should contain articles of the foundation.
2. A natural person can entail heritage by a testament (Section 477 of the Civil Code) also to a legal entity (i.e. including non-governmental organisations) on conditions stated by law. One of the conditions is that such a legal entity has to exist legally at the time of demise of the testator. It means in practice that non-governmental organisation, depending on its legal form, must meet conditions stated by the Act for its establishing.

Although we do not frequently encounter in practice such method of establishing of foundation or entailing the heritage to non-governmental organisations based on a

testament, it is important to note that the law of the Slovak Republic provides for such options.

IV. SUBSIDIES

A. Subsidies from the State Budget

In addition to gifts and contributions from natural persons and legal entities, the income of non-governmental organisations can also come from subsidies from the State budget and budgets of state funds. The provision of subsidies is subject to the relevant legal regulations that establish the budgetary rules and the state budget for the particular budgetary year.

Under Article 58 of the Constitution of the Slovak Republic, the financial management of the Slovak Republic is regulated by the State budget Law. The sources of income for the State budget, the rules of budgetary management, the relationship between the State budget and the budgets of territorial units are also determined by law. State special-purpose funds linked to the State budget of the Slovak Republic are established by law.

Budgetary rules are regulated by Act No. 330/1996 Coll. on Budgetary Rules, as amended (hereinafter referred to as “Budgetary Rules Act”). The State Budget Law regulates:

1. incomes and expenditures of the State budget, broken down by budgetary chapters;
2. budgetary relationships with legal entities and natural persons;
3. the minimum amount of budgetary surplus of the State budget or the maximum amount of budgetary deficit of the State budget;
4. budgetary reserves and special-purpose financial means of the State budget.

Section 6 (2) of the Budgetary Rules Act provides that out of the State budget, within the scope stated by the State Budget Act for the appropriate budgetary year, the following subsidies can be provided through financial relations (transfers):

1. contributions to natural persons and legal entities pursuant to special regulations and subsidies to legal entities and natural persons;
2. repayable financial aids. Repayable financial aids can be provided specifically pursuant to the State Budget Act for the relevant budgetary year, in particular for funding of:

- a) materialised state guarantees for bank credits to entrepreneurs;
- b) needs pursuant to special acts;
- c) projects approved by the Government.

The above funding out of the State budget can be provided pursuant to the State Budget Act for the relevant budgetary year, to particular projects or to circles of needs determined in advance. Budgetary financial means of the State budget can be only used by the end of the budgetary year, particularly within the scope and purposes stated by the State Budget Act for the relevant calendar year. At the same time, all the conditions for their provision, stated by the Ministry of Finance of the Slovak Republic or by the administrator of the budgetary chapter or determined in the contract on providing budgetary financial means, should be fulfilled.

It is essential to note that legal entities and natural persons who have received funding from the State budget pursuant to Section 6 (2) of the Budgetary Rules Act, except municipalities with a certain population stated by the State Budget Act for the relevant budgetary year which receive subsidies to perform self-government functions, are obliged to maintain these finances on a separate bank account. Yields from these financial means are considered income of the State budget.

The use of contributions and subsidies received from the State budget is subject to statutory yearly settlement with the State budget. The method of settlement is determined by the Ministry of Finance of the Slovak Republic. Cash payments from financial means of the State budget are in principle not performed.

Under the provisions of Section 10 (2) of the Budgetary Rules Act, legal entities and natural persons who have received financial support from the State budget are responsible for managing those funds and to use them only within the budgetary limits of expenditures opened at the National Bank.

Pursuant to Section 16 (1) letter c) of the Budgetary Rules Act, the central authorities act as administrators of the budgetary chapter in their capacity, based on an agreement with the Ministry of Finance of the Slovak Republic. The central authority (Ministry, Office) determines the conditions for the provision of subsidies to other entities. It also opens budgetary limits of subsidies and repayable financial aids for other entities.

Pursuant to Section 16 (3) of the Budgetary Rules Act, a central state administration authority of the Slovak Republic can, provided that budgetary funding is available for that in accordance with the State Budget Act for the relevant budgetary year or from gifts or based on a contract on association:

1. found or establish a legal entity other than a budgetary organisation or a contributory organisation;
2. contribute funds from the budget to the property of another legal entity.

Act No. 375/1997 Coll. on State Budget for 1998, as amended by the Act No. 376/1998 Coll. (hereinafter referred to as “1998 State Budget Act”) in its Annex No. 6 Reserves of the State Budget and Special-Purpose Financial Means of Budgetary Chapter determines the following as special-purpose funds within the budgetary chapters of the various central authorities:

1. The Ministry of Education of the Slovak Republic can provide:
 - a) funding to civic associations and physical training organisations for the performance of tasks in the area of physical training and sports amounting to 60,000,000 SKK;
 - b) for state care of the young people (activities of youth organisations and programmes to support and to protect youth) – funding amounting to 50,300,000 SKK;
 - c) funding to ensure the implementation of programmes of European Communities in the area of youth education (Sokrates, Leonardo and Youth for Europe III) amounting to 68,500,000 SKK.
2. The Ministry of Labour, Social Affairs and Family of the Slovak Republic:
 - a) current transfers to civic associations amounting to 49,800,000 SKK.
3. The Ministry of Culture of the Slovak Republic:
 - a) transfers to interest associations amounting to 17,000,000 SKK;
 - b) transfers to civic associations amounting to 3,000,000 SKK;
 - c) transfers for supporting the culture of minorities, of which for activities of civic associations – funding amounting to 12,000,000 SKK.
4. The Ministry of Foreign Affairs of the Slovak Republic:
 - a) transfers to ensure the implementation of UNESCO international programmes amounting to 1,500,000 SKK.
5. The Office for Development Strategy of the Society, Science and Technology of the Slovak Republic:

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- a) transfers to fund projects promoting regional development and activities of regional development agencies. As the State Budget Act for 1999 has not been passed in the time limits determined by the Budgetary Rules Act, currently the financial management of the Slovak Republic is administrated by a budgetary provisional arrangement.

In accordance with Section 7 of the Budgetary Rules Act, if the State Budget Act for the following budgetary year fails to be passed by the National Council of the Slovak Republic by 31 December of the current year, the budgetary management in the period from 1 January of the budgetary year until the State Budget Act comes into force is administered by a budgetary provisional arrangement pursuant to the draft State budget submitted by the Government to the National Council of the Slovak Republic.

If the above mentioned procedure cannot be applied, the State Budget Act for the previous budgetary year applies to the budgetary management; it also regulates the relationship between the state and other entities. Expenditures of the State budget in each calendar month during the budgetary provisional arrangement cannot exceed (with exceptions provided for in Section 7 (3) of the Budgetary Rules Act) one-twelfth of the total expenditures of the State budget approved by the State Budget Act for the previous budgetary year. The Minister of Finance of the Slovak Republic shall, on the grounds of a Government resolution, determine binding indicators, assignments and expenditure limits of the State budget.

Pursuant to Section 55 of the Budgetary Rules Act, the 1998 State Budget Act applies to the budgetary provisional arrangement in 1999, except for the provisions of Sections 2, 11, 13, Section 15 (4) and (5) and Section 16.

B. Subsidies from Budgets of State funds

A State fund is a legal entity established by a law passed by the National Council of the Slovak Republic to fund specially stipulated assignments. The provisions of the Budgetary Rules Act apply to management of all financial means of a State fund. The above-mentioned rules for subsidies from the State budget apply also to the provision of subsidies from budgets of State funds.

There is no legal claim available for the provision of state funding. Except for the Anti-Drug Fund, the appropriate Minister decides on use of the subsidies from the fund (depending on the particular State fund). The Board of the Fund is an advisory body of the Minister. General regulations on administration proceeding do not apply to this decision-making.

Financial means from the State funds can be used only for the purpose they were designed for. The applicant is obliged to return unspent financial means.

Examples of State funds include:

1. State Fund of Culture Pro Slovakia established by Act No. 95/1991 Coll. on State Fund on Culture Pro Slovakia, as amended (hereinafter referred to as the „State Culture Fund Pro Slovakia Act“).

Pursuant to Section 4 (2) of the State Culture Fund Pro Slovakia Act, financial means of the Fund Pro Slovakia, according to the approved budget and available finances, are used for:

- a) renewal and social use of monuments of culture, historical book stocks, archives and other values of culture, above all those of nation-wide and regional significance;
- b) support to selected projects of construction of material and technological basis (new premises and especially demanding projects of upgrading);
- c) support to artistic virtues of society-wide cultural significance created, disseminated and saved by professional institutions, associations and individuals;
- d) support to local cultural and enlightenment activities through municipal budgets or their out-of-budgetary cultural funds;
- e) support to selected programmes for dissemination of culture abroad and of foreign culture into the Slovak Republic;
- f) payment of expenditures connected with procuring securities of other issuers and with operation of lotteries;
- g) provision of credits and repayable financial aids to legal entities and natural persons to support culture activities;
- h) provision of guarantees for credits to legal entities and natural persons in support of their economic activities, particularly in the area of culture and arts dissemination;
- i) instalments of bank credits;
- j) other purposes in accordance with the mission of the Fund Pro Slovakia.

Financial means of the Fund Pro Slovakia provided pursuant to provisions of letters a) to e) are in the form of a special-purpose subsidy which is settled with the budget of the Fund Pro Slovakia annually. Both a legal entity or a natural person can apply for a subsidy from the Fund Pro Slovakia.

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2. Anti-Drug Fund established by Act No. 381/1996 Coll. on the Anti-Drug Fund.

Pursuant to Section 7 of the Act on Anti-Drug Fund, financial means from the Fund can be used to finance:

- a) prophylactics, treatment and resocialisation programmes or activities aimed at fighting the drugs;
- b) projects in the area of collection and evaluation of information aimed at fighting the drugs;
- c) training of educational workers and natural persons providing anti-drug prophylactics in social, medial and cultural/enlightenment areas;
- d) prophylactics, treatment and resocialisation activities by non-governmental entities aimed at fighting the drugs;
- e) publishing activities aimed at fighting the drugs;
- f) scientific and research projects in the area of drug usage prophylactics;
- g) international programmes aimed at prophylactics to prevent and fight drug addiction;
- h) selected investment projects and purchase of medical technology, purchase of other material and technological equipment necessary for prophylactics, treatment and resocialisation of drug addicts;
- i) administration of the Fund.

The Board of the Fund decides on providing finances of the Fund. General regulations of administration proceeding do not apply to this decision making. Financial means of the Fund can be provided only to a domestic legal entity or natural person, based on a written application. The applicant has to conclude a contract with the Anti-Drug Fund and to agree with the Fund on the conditions for providing financial means from the Fund, as well as on the sanctions for breach of these conditions.

Applicants who have received financial means from the Fund are obliged to submit to the Fund written report on the way in which the means have been used. In cases of unlawful use or retaining of the means received from the Fund, the user is obliged to return to the Fund the unlawfully used or retained funds and to pay contractually agreed penalties.

3. State Fund of Health established by Act No. 193/1992 Coll. on the State Fund of Health, as amended (hereinafter referred to as the “State Health Fund Act”).

Pursuant to Section 4 (1) of the State Health Fund Act, the financial means of the Fund can be used for:

- a) contributions to selected health programmes and preferable development of the selected sectors of health care and prophylactics;
- b) contributions to fund construction of selected investment projects and purchase of medical technology;
- c) contributions for activities related to the protection and development of natural treatment sources and sources of natural mineral water;
- d) contributions to promote selected issues of health protection and medical care;
- e) payment of unsecured needs of establishments of the health sector.

The user who has unlawfully used or retained financial means of the Fund in contradiction to the stipulated conditions is obliged to return them in the same amount and, at the same time, to pay a penalty according to the Budgetary Rules Act.

4. State Fund of Physical Culture established by Act No. 264/1993 Coll. on the State Fund of Physical Culture.

Pursuant to Section 6 of the Act on State Fund of Physical Culture, financial means of the Fund shall be used for:

- a) support to selected projects of material and technological basis, sporting and physical training premises and facilities;
- b) construction, maintenance, renewal, upgrading and reconstruction of sporting and physical training premises and facilities;
- c) support to gifted young people in the area of physical culture;
- d) support to sports representation teams of the Slovak Republic in all categories and age groups;
- e) support to the Olympic movement;
- f) support to fight doping;
- g) support to the development of top sports in the Slovak Republic;
- h) support to the programme Sport for Everybody;
- i) support to associations dealing with physical culture, sporting and tourist activities;
- j) support to physical training activities of handicapped citizens;

- k) support to amateur physical training at schools of all kinds and degrees;
- l) support to scientific and research activities in the area of physical culture and sports medicine;
- m) support to international co-operation and international programmes in the area of physical culture;
- n) support to training facilities in the area of physical culture;
- o) support to publishing on sports, physical training and tourist issues;
- p) payment of fees for membership in international sports and physical culture organisations;
- r) support to significant sports, physical culture, tourist and fitness/recreational events;
- s) other payments in line with the mission of the Fund.

Financial means of the Fund can be provided only to a domestic legal entity or natural person. The Fund shall conclude a written agreement with the applicant on the conditions for providing financial means of the Fund.

If the finances from the Fund are used in contradiction to the determined or agreed conditions, the user is obliged to return them to the Fund and to pay a penalty pursuant to the Budgetary Rules Act.

State authorities, municipalities, other legal entities and natural persons who were provided financial means by the Fund, are obliged to report on the scope and method of using financial means from the Fund.

Details on providing financial means from the State Fund of Physical Culture and on particulars of the application are regulated by the Decree of the Ministry of Education of the Slovak Republic No. 287/1996 Coll. on Conditions of Provision of Financial Means from the State Fund of Physical Culture.

5. State Fund of Environment established by Act No. 69/1998 Coll. on the State Fund of Environment.

Financial means of the Fund are broken down into two groups: unrepayable funding (hereinafter referred to as “unrepayable funding group”) and in the group of financial means of the Fund intended for repayable funding (hereinafter referred to as “repayable funding group”).

Pursuant to Section 4 of the Act on State Fund of Environment, the financial means of the Fund in both groups can be used for:

- a) support to projects aimed to achieve goals of State environmental policy on nation-wide, regional or local levels;
- b) procurement of zoning and planning documentation and other environmental documentation;
- c) support of survey, research and development aimed at improving of conditions of environment including conditions of implementation of the results of the survey;
- d) environmental education, training and promotion;
- e) prevention of occurrence and spreading an accident threatening or impairing environment and removal of its consequences;
- f) environmental monitoring, informatics and documentaristics;
- g) payment of expenditures related to administration of the Fund and with activities of the Board of the Fund which cannot exceed 5 % of Fund's resources;
- h) instalments of credits and loans granted to the Fund by banks and other entities;
- i) support of research and implementation of projects to save rare and endangered species of animals including scare and threatened species of game;
- j) planting and maintaining greenery in municipalities;
- k) payment for detriments caused by restrictions on the current management of land;
- l) taking care of especially protected parts of nature and landscape;
- m) recovery of damaged forests.

Financial means from the Fund of the unrepayable funding group can be provided as:

- a) subsidies and grants;
- b) direct expenditures for purchase of lands where especially protected parts of nature and landscape are located.

Financial means of the Fund of the repayable funding group can be also provided as loans and credits.

The funding for both groups both groups shall be provided in accordance with priorities and goals of the State environmental policy approved by the Government of the Slovak Republic.

The Fund shall conclude a written agreement with the applicant on the provision of finances from the Fund. If the applicant uses the funding in contradiction with the determined or agreed conditions, it/he/she is obliged to return them to the Fund and to pay a penalty pursuant to the Budgetary Rules Act.

Details on providing financial means from the State Fund of Environment and on particulars of the application are established by the Decree of the Slovak Committee for Environment No. 176/1992 Coll. on Conditions of Provision of Financial Means from the State Fund of Environment, as amended.

6. State Fund of Forest Improvement of the Slovak Republic established by Act No. 131/1991 Coll. on the State Fund of Forest Improvement of the Slovak Republic.

Details on providing financial means from the State Fund of Forest Improvement of the Slovak Republic and on particulars of the application are regulated by the Decree of the Ministry of Forest and Water Management of the Slovak Republic No. 57/1992 Coll. on Conditions for Provision of Financial Means from the State Fund of Forest Improvement of the Slovak Republic, as amended.

7. State Water-Management Fund of the Slovak Republic established by Act No. 318/1991 Coll. on State Water-Management Fund of the Slovak Republic, as amended.

8. State Supportive Fund of Agriculture and Food Industry created by Act No. 40/1994 Coll. on State Supportive Fund of Agriculture and Food Industry, as amended.

9. State Fund of Protection and Improvement of Agricultural Lands established by Act No. 307/1992 Coll. on the Protection of Agricultural Lands.

A more detailed regime is established by the Regulation of the Government of the Slovak Republic No. 76/1993 Coll. on the conditions and methods of providing financial means from the State Fund of Protection and Improvement of Agricultural Lands.

10. State Fund of Market Regulation of the Slovak Republic in Agriculture established by Act 270/1991 Coll. on the State Fund of Market Regulation of the Slovak Republic in Agriculture, as amended.

11. State Fund of Disposal of Nuclear Power Plants and Handling with Used Nuclear Fuel and Radioactive Waste created by Act No. 254/1994 Coll. on the State Fund of Disposal of Nuclear Power Plants and Handling with Used Nuclear Fuel and Radioactive Waste.

Particulars for the Fund are regulated by the Decree of the Ministry of Economy of the Slovak Republic No. 14/1995 Coll. on Particulars of Creation, Provision and Using of Financial Means of the State Fund of Disposal of Nuclear Power Plants and Handling with Used Nuclear Fuel and Radioactive Waste.

12. State Fund of Road Management established by Act No. 153/1993 Coll. on State Fund of Road Management, as amended.
13. State Fund of Housing Development established by Act No. 124/1996 Coll. on State Fund of Housing Development, as amended.

C. Subsidies from Municipal Budgets

A municipality is defined in Article 64 (2) of the Constitution of the Slovak Republic as an independent territorial and administration unit of the Slovak Republic associating persons having a permanent domicile on its territory. The municipality is a legal entity managing its own property and its financial means on the conditions stated by law (Article 65 (1) of the Constitution of the Slovak Republic).

Pursuant to Section 25 of the Budgetary Rules Act, the financial management of municipalities is governed by an approved budget and by a plan of creating and using out-of-budgetary resources. The municipalities' budgets express the economic independence the municipalities are given. The budgets indicate the incomes and expenditures in which financial relations with legal entities and natural persons acting on the administrated territory, citizens living on this territory, and relationship with the State Budget. For the municipality the legal effect concerning these relationship is based on:

1. generally binding legal regulations;
2. generally binding ordinance of the municipality; or
3. concluded contractual relationships.

Pursuant to Section 9 (2) of Act No. 369/1990 Coll. on Municipal Establishment, as amended (hereinafter referred to as the “Municipal Establishment Act”), the budget of municipality contains incomes and expenditures related to activities of self-government, financial relationships to the funds of social consumption, to business entities in the municipality and to the State budget of the Slovak Republic.

In accordance with Section 27 (2) of the Budgetary Rules Act, subsidies and repayable financial aids can be provided from the municipal budget to:

1. legal entities; and
2. natural persons - entrepreneurs, with registered office or permanent domicile on the administrated territory, particularly for specific projects or for circles of needs determined in advance on the conditions provided by the generally binding regulation of the municipality. The municipalities of the city parts of Bratislava and Košice can provide subsidies on the entire territory of the city. Finances provided from the municipal budget are subject to yearly settlement with the budget of the municipality.

The conditions for providing subsidies and repayable financial aids from the municipal budget are, in accordance with the Budgetary Rules Act, stated by a generally binding regulation of the municipality. These conditions can differ depending on the particular town or municipality from which the subsidy is applied for.

V. FORMS OF COOPERATION BETWEEN NON-GOVERNMENTAL ORGANISATIONS AND STATE AND LOCAL PUBLIC ADMINISTRATION

The legal possibility for co-operation between associations of citizens and municipalities is generally provided for by Section 4 (4) of the Municipality Establishment Act. Under its provisions, municipalities can co-operate with political parties and political movement exercising activities on the territory of the municipality, as well as with interest associations of citizens of that municipality. However, this co-operation has not been specified in more details.

A. Administration of the State Property

Certain forms of co-operation between non-governmental organisations and State authorities or legal entities linked to the State budget and self-government, including the possibility of contracting, are available in connection with administration of the State property.

Pursuant to Section 29 (1) of the Non-Governmental Organisations Act, the non-governmental organisation performs its activities and manages its incomes, own property, property acquired by its activities, and it can use a property of the State or municipal property in accordance with special regulations.

Under the provisions of Section 13 (1) of Act No. 278/1993 Coll. on the Administration of State Property, as amended (hereinafter referred to as the “State Property Administration Act”), the administrator (see below) can let the state property under a leasehold contract or lend it under a contract on lending. The approval of the establisher, if the establisher determines so by an act or decision, is required for the conclusion of leasehold contract.

The administrator can conclude a contract for lending of real estate – State property, with persons/entities other than:

1. state budgetary and contributory organisations established by law or based on law or by a decision of a central authority of State administration;
2. State special-purpose funds of the Slovak Republic;
3. public institutions administrating the State property based on law;
4. other legal entities administrating State property based on law (hereinafter referred to only as “administrator”),

only for charity or similar humanitarian purposes. A lending contract for State real estate property can only be concluded with persons other than administrators of State property after the approval of the Ministry of Finance of the Slovak Republic. If so required, in all other cases the approval of the establisher will be necessary.

Neither the lessee, nor the borrower of land owned by the State, is authorised to construct a building on this land. The administrator may not allow the construction of a building on land – State property, which is a subject of a lease contract. This prohibition does not relate to constructing the buildings for the needs of diplomatic representation of foreign countries, provided that the Ministry of Foreign Affairs of the Slovak Republic confirms that reciprocity is guaranteed.

The lessee and the borrower can use the asset only within the scope stated by the contract. The lessee or the borrower can require compensation of costs related to modification of the asset only in case the administrator grants an approval of the modification, and undertakes at the same time to cover these costs.

Neither the administrator, nor the lessee or the borrower can establish a lien to the State property.

B. Administration of municipal property

In accordance with Section 6 of Act 138/1991 Coll. on Property of Municipalities, as amended (hereinafter referred to as the “Municipality Property Act”), the municipality can entrust its property to administration of organisations founded or established by it.

Pursuant to Section 9 of the Municipality Property Act, the principles of managing municipality property stated by municipal representation shall regulate particularly:

1. the rights and obligations of organisations founded or established by the municipality upon administration of municipal property;
2. the conditions for withdrawal of property from organisations founded or established by the municipality;
3. the procedure for abandonment of property for use;
4. handling with securities;
5. acts of organisations that are subject to approval by municipal authorities.

The following are always subject to approval by representatives of the municipality:

1. contracts for transfer of ownership of immovable property;
2. contracts for transfers of ownership of moveable property beyond the value determined by municipal representation;
3. handling ownership rights of determined value;
4. auction sale of assets pursuant to special regulations.

Municipalities can enter into contractual relationships with non-governmental organisations regarding the letting of municipal property for use or regarding contractual transfers of ownership of real estate or moveable municipal property on conditions stated by law.

C. Public procurement

Another form of cooperation available to those non-governmental organisations (particularly non-profit organisation providing generally beneficial services) which can make business with State authorities or legal entities connected to the State budget, the budget of a state fund or municipal budget and with self-government, is public procurement pursuant to Act No. 263/1993 Coll. on Public Procurement of

Goods, Services and Public Works, as amended (hereinafter referred to as the “Public Procurement Act”).

Public procurement is a process of acquiring of a subject of interest by manufacturing, purchasing, leasing, purchasing of a leased subject and other legal forms, whereby the subject is goods, services and public works, if they are paid fully or partially from public funds. Public funds are financial means of the procurer intended to cover goods, services and public works.

A procurer can be:

- = a legal entity, linked to the State budget of the Slovak Republic or to the budget of the municipality, or a legal entity established by it;
- = a legal entity managing the State property; this provision applies to a State-owned enterprise, if financial means from the State budget are provided to it for the subject of procurement;
- = a legal entity managing municipal property, except when it is not receiving funding from the municipal budget;
- = a legal entity or natural person who are receiving financial means from the State budget of the Slovak Republic, from a State fund or from a municipal budget, or if another form of aid from these sources is provided for the subject of procurement;
- = public organisation established by a special act.

“Goods” in this context include raw materials, products, devices, electricity and other subjects in solid, liquid or gaseous state. “Services” include the results from activities designed for production or final consumption. “Public works” are works to perform structures including their maintenance and activities associated with them, which in their very nature have the result of satisfaction of public needs, whereby they are covered fully or partially from public funds.

A tenderer is an entrepreneur who presents to the procurer a tender bid or who has been invited by the procurer to enter the process of procurement with the aim to obtain the public order.

The Public Procurement Act recognises several forms of public procurement:

1. Public Tender.

The public tender pursuant to Section 4 and subs. of the Public Procurement Act is the most widespread method of public procurement.

Public tender is always announced to an unlimited number of tenderers. Notices announcing the public tender shall be published by the procurer in:

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- a) Commercial Journal (*Obchodný vestník*) of the Slovak Republic;
- b) Commercial Journal (*Obchodný vestník*) of the Slovak Republic and in a foreign periodical press whose recommended list is published by the Ministry:
 - = for goods and services of value exceeding 130,000 ECU;
 - = for public works of construction nature of value exceeding 5,000,000 ECU;
 - = for other public works of value exceeding 400,000 ECU.

An announcement of the public tender is simultaneously notified to the regional office.

The public tender is valid, if at least three tenderers meeting the specific requirements, participate in it.

2. Closed Tender.

The closed tender as regulated by Section 17 of the Public Procurement Act, is a procurement form by which the procurer makes a selection of the tenderer, on the basis of an invitation to submit tender bids. The invitations are delivered to at least three tenderers.

The procurer can use a closer tender, if one of the following conditions is fulfilled:

- a) announcement of public tender is excluded due to protection of State secrecy;
- b) organising of public tender is evidently disproportionate to the expected benefits or the value of the required subject of the contract, in terms of incurring costs and time to perform it;
- c) the previous public tender failed to achieve its purpose;
- d) evidently only a restricted number of tenderers can be considered for the subject of the procurement, particularly due to the required reliability of performance or due to capability of the tenderer.

The procurer shall include tenderers in a closed tender who could not be evaluated in the previous public tender for the same subject of procurement due to the insufficient number of tenderers.

3. Negotiation Proceedings.

The proceedings pursuant to Section 18 of the Public Procurement Act are a form of procurement by which the tenderer is selected on the basis of an invitation to submit a proposal to conclude a contract. The invitation is sent to at least tenderers.

The procurer opts for form of negotiation proceeding, if:

- a) he/she is not able to determine the specification of goods, services or public works;
- b) the previous public tender or closed tender failed to achieve its purpose;
- c) procurement is of such nature that the procurer could not use the form of procurement through public tender or closed tender within the required terms. The procurer has to prove that the time distress could not have been foreseen and was not caused by himself.

Negotiations with tenderers are conducted individually and are confidential for all participants. The information related to them is recorded in the documentation on negotiation proceeding. After completing the negotiations, the procurer shall announce to the tenderers the deadline for the submission of proposals to conclude a contract and the period during which these proposals will be binding. Within the period when the proposals are binding, the procurer shall conclude the contract with the successful tenderer, simultaneously notifying other tenderers of the result.

4. The Price bid

pursuant to Section 19 of the Public Procurement Act is a form of procuring services and mass produced goods. These are goods for which no special specification is needed, they are common on the market and their expected price does not exceed the limit on the basis of which the sum of the expected prices of the subjects of procurement of the same kind is lower than 500,000 SKK for a period of one calendar year.

The Invitation to submit a price bid is valid if it is accepted by at least three tenderers. The procurer shall enter into a contract with the tenderer offering the lowest price on the conditions stated by the Public Procurement Act. The other tenderers shall be notified on their failure.

5. Direct assignment

can be applied pursuant to Section 20 of the Public Procurement Act.

Public procurement shall be conducted in the form of a direct assignment to a single tenderer, if one of the following conditions is met:

- a) the required goods, services and public works are evidently accessible only from a single source or the tenderer holds copyright, proprietary right or another exclusive right on the subject of the procurement;
- b) procurement is of such nature that the procurer could not use public tender or a closed tender within the required terms. The procurer has to

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- prove that the time distress could not have been foreseen and it was not caused by himself;
- c) the required goods, services and public works supplement a previous performance, whereby this performance does not exceed 50 % of contract price and its necessity shall arise for the procurer before the completion of the initial contract;
 - d) the subject of the procurement represents state secret;
 - e) the necessity and subject of procurement are a result of a natural disaster or another extraordinary event whose consequences need to be urgently removed and which could not have been foreseen by the procurer;
 - f) the expected price of goods, services and public works is lower than 50,000 SKK, and the tenderer, selected in the instances under letters a), b), d) and e), submits a document (business certificate) to supply the required subject of procurement.

As indicated above, a non-profit organisation providing generally beneficial services can perform economic activity, provided that a more efficient usage of its property shall be achieved by this activity, and that the quality, scope and accessibility of services for which it was established will not be put at risk. Therefore, such organisations can primarily participate in the public tender process.

D. Co-operation in the area of physical culture

The co-operation between the authorities of State and local administration and non-governmental organisations in the area of physical culture is regulated by Act No. 288/1997 Coll. on Physical Culture and on Amendment and Supplement of the Act No. 455/1991 Coll. on Trade Licensing Act, as amended (hereinafter referred to as the “Physical Culture Act”). The Physical Culture Act regulates the development of physical culture and the role of the authorities of state administration, municipalities, civic associations in the area of physical culture and other legal entities and natural persons to perform activities in this area.

A civic association in the area of physical culture is a physical-training, tourist or sporting association pursuant to a special law, which performs activities in the area of physical culture. Physical culture can be organised or unorganised, individual or group activity related to physical-training, tourist, sporting and fitness and recreational activities. Physical culture includes also the education of experts acting in the area of physical culture, science and research activities and the provision of health, material, technological and other conditions for its development.

The tasks in the area of physical culture are performed by:

1. State administration authorities;
2. the State Fund of Physical Culture;
3. municipalities;
4. civic associations in the area of physical culture;
5. other legal entities and natural persons.

According to Section 9 of the Physical Culture Act, civic association in the area of physical culture and other legal entities exercise their activities on the basis of their interests and needs and with regard to the concept of development of physical culture. Based on an agreement, they collaborate in providing some assignments in the area of physical culture carried out by central authorities of State administration pursuant to this Act.

VI. CONCLUSION

As already mentioned, the Slovak law does not provide for clear legal rules for non-governmental organisations. It is even not clear what organisations should be classified as non-governmental organisations and subsequently enjoy the special status, if created by law, for NGOs. This survey is prepared upon our understanding of the position and the tasks of non-governmental organisations within the legal framework as available under Slovak law. As a fundamental criterion for a non-governmental organisation we have chosen the link to the state budget and principally their non-profit orientation in activities.

It is more than obvious that a comprehensive and precise legislation on non-governmental organisations would be the best basis for clarifying the status of many existing organisations as to their potential identification as non-governmental organisations. On the other hand, we believe that the above survey can serve as a good basis for pushing ahead the discussion on non-governmental organisations to a stage when the frame legislation related to them could be prepared. It is our understanding that the laws in force in the Slovak Republic at the time this survey is completed, provide for various opportunities for non-governmental organisations to operate and fulfil their tasks but we are aware that in practice there may be problems with their use.

Bratislava, 22nd March 1999

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