

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION  
OF THE DIRECTIVE :**

**ASSISTANCE FOR TRANSIT OF 25 NOVEMBER 2003**

**IN: SLOVAK REPUBLIC**

By

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<b>FIRST PART</b>
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**1. NORMS OF TRANSPOSITION AND JURISPRUDENCE**

**Q.1.A.** Identify the **MAIN** (because of its content) norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: legislative refers to a norm adopted in principle by the Parliament; regulation refers to a norm complementing the law and adopted in principle by the executive power; circular or instructions refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

*Please **duplicate** the table below if there is more than one **MAIN** norm of transposition*

<b>This table is about:</b> <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b> The Act on Residence of Foreigners and on Amendments of Some Acts, as amended (Foreigners Act)
<b>DATE:</b> 13 December 2001
<b>NUMBER:</b> 48/2002
<b>DATE OF ENTRY INTO FORCE:</b> 1 April 2002
<b>PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive):</b> § 1 (1) i), § 2 i); § 75a (1), (2); § 75b (1), (2), (3), (4), (5), (6), (7); § 75c (1), (2), (3), (4); § 75 d (1), (2); § 76 (1) d)

<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b> 23/2002, p. 518
<b>LEGAL NATURE</b> (indicate a cross in the correct box):
<input checked="" type="checkbox"/> <b>LEGISLATIVE:</b>
<input type="checkbox"/> <b>REGULATION:</b>
<input type="checkbox"/> <b>CIRCULAR or INSTRUCTIONS:</b>

<b>This table is about:</b> <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b> The Act Amending the Act on Residence of Foreigners and on Amendments of Some Acts, as amended (2005 Amendment of Foreigners Act)
<b>DATE:</b> 8 November 2005
<b>NUMBER:</b> 558/2005
<b>DATE OF ENTRY INTO FORCE:</b> 15 December 2005
<b>PROVISIONS CONCERNED</b> (for example if the norm is not devoted only to the transposition of the concerned directive: Article I. 3.; 110.
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b> 226/2005, p. 5243
<b>LEGAL NATURE</b> (indicate a cross in the correct box):
<input checked="" type="checkbox"/> <b>LEGISLATIVE:</b>
<input type="checkbox"/> <b>REGULATION:</b>
<input type="checkbox"/> <b>CIRCULAR or INSTRUCTIONS:</b>

**Q.1.B.**

**List the others norms of transposition by order of importance of their legal nature (first laws, secondly regulations; thirdly circulars or instructions):**

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

*Please use one table per norm and **duplicate** as much as necessary*

• <b>TITLE:</b> The Act No. 171/1993 Coll. regarding the Police Force, as amended (Act on Police Force)
<b>DATE:</b> 6 July 1993
<b>NUMBER:</b> 171/1993
<b>DATE OF ENTRY INTO FORCE:</b> 1 September 1993
<b>PROVISIONS CONCERNED :</b> (for example if the norm is not devoted only to the transposition of the concerned directive) Article 8/1,3
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b> 46/1993
<b>LEGAL NATURE</b> (indicate a cross in the right box):
<input checked="" type="checkbox"/> <b>LEGISLATIVE</b>
<input type="checkbox"/> <b>REGULATION</b>
<input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

<b>TITLE:</b>
<b>DATE:</b>
<b>NUMBER:</b>
<b>DATE OF ENTRY INTO FORCE:</b>
<b>PROVISIONS CONCERNED :</b> (for example if the norm is not devoted only to the transposition of the concerned directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b>
<b>LEGAL NATURE</b> (indicate a cross in the right box):
<input type="checkbox"/> <b>LEGISLATIVE</b>
<input type="checkbox"/> <b>REGULATION</b>
<input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

<b>TITLE:</b>
<b>DATE:</b>
<b>NUMBER:</b>
<b>DATE OF ENTRY INTO FORCE:</b>
<b>PROVISIONS CONCERNED:</b> (for example if the norm is not devoted only to the transposition of the concerned directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b>
<b>LEGAL NATURE</b> (indicate a cross in the right box):
<input type="checkbox"/> <b>LEGISLATIVE</b>
<input type="checkbox"/> <b>REGULATION</b>
<input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

**Q.2.** THIS QUESTION IS IN PRINCIPLE ONLY FOR FEDERAL OR ASSIMILATED MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN

**Q.2.A.** Explain which level of government is competent to adopt the norms of transposition.

*Please include your answer in the tables below*

<b>LEGISLATIVE RULES</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

<b>REGULATIONS</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

<b>CIRCULAR OR INSTRUCTIONS</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

**Q.2.B.** In case, explain if the federal structure and the distribution of competences between the different levels pose any problem or difficulty regarding the transposition and/or the implementation of the directive.

**Q.3.** Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

*Please use one table per competence concerned and duplicate it if necessary*

<b>COMPETENCE CONCERNED:</b>	Processing requests for assistance of the SR
<b>CENTRAL MINISTRY OF:</b>	Ministry of Interior of the Slovak Republic
<b>DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:</b>	Bureau of Border and Aliens Police
<b>OTHER LEVEL OF ADMINISTRATION:</b>	
<b>IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)</b>	The Ministry of Interior of the Slovak Republic shall receive the written applications of other States for execution of an air transit and decide on them. Within the Ministry of Interior of the Slovak Republic tasks are secured by Bureau of Border and Aliens Police.

<b>COMPETENCE CONCERNED:</b>	Requesting assistance from other member States
<b>CENTRAL MINISTRY OF:</b>	Ministry of Interior of the Slovak Republic
<b>DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:</b>	Bureau of Border and Aliens Police
<b>OTHER LEVEL OF ADMINISTRATION:</b>	
<b>IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)</b>	The Ministry of Interior shall submit written applications with other States of an air transit. Within the Ministry of Interior of the Slovak Republic tasks are secured by Bureau of Border and Aliens Police.

<b>COMPETENCE CONCERNED:</b>	Providing assistance measures
<b>CENTRAL MINISTRY OF:</b>	Ministry of Interior of the Slovak Republic
<b>DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:</b>	
<b>OTHER LEVEL OF ADMINISTRATION:</b>	International Airport M.R. Štefánika Bratislava, Airport Košice, Airport Poprad
<b>IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)</b>	The Ministry of Interior of the Slovak Republic shall receive the written applications of other States for execution of an air transit and decide on them. The Ministry determined as contact places of transit airports following airports: International Airport M.R. Štefánika Bratislava, Airport Košice and Airport Poprad

**Q.4. A.** Has the main regulation foreseen explicitly by the main norm of transposition already been adopted or not:

YES

NO

**Q.4.B.** If the main norm(s) of transposition foresees the adoption of one or several regulations, indicate if they have all been adopted:

YES

NO

If NO, please indicate the missing text(s) in the table below

*Please use one line per missing text and duplicate it if necessary*

<b>MISSING TEXTS</b>
<i>INDICATE HERE THE MISSING TEXTS</i>

Add if necessary some explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

## SECOND PART

### 2. PREPARATION OF REMOVALS VIA ANOTHER MEMBER STATE

**Q.5. Conditions (“reasonable practical circumstances”, cf. Art. 3(2)) under which a Member State considers to request transit by air via another Member State**

**Q.5.A. Have the conditions under which your Member State may request transit by air via another Member State been laid down in law/administrative regulations?**

**Yes (please specify)**

§ 75a (1) b - The Ministry of Interior shall file written applications with other States of the European Economic Area for execution of an air transit, provided that it is not possible to use a direct flight from the territory of the Slovak Republic to a determined country or provided that it cannot execute such flight for serious reasons.

**No**

**Q.5.B. If no specific rules were adopted, what are the criteria for an ad-hoc determination under Art. 3(2)?**

**Q.6. Refusal of transit** (*see Art. 3(3) which provides a catalogue of refusal grounds. This catalogue is to be considered as exhaustive, i.e. the provision is mandatory as Member States are not entitled to refuse transit for other reasons than the ones mentioned in Art. 3 (3). The obligations of the Geneva Convention remain as a matter of course untouched and may create additional reasons for refusal, see Art. 8 of the Directive*)

**Have refusal reasons as described in Art. 3(3) been**

**Q.6.A. transposed in national law? If so, please specify details.**

**Yes**

§ 75b (4) The Ministry of Interior may dismiss a written application for an air transit when

- a) the applicant State can execute a direct flight to the determined country, except for the justified cases,
- b) the alien was accused under a Criminal Procedural Code or he/she is searched-for due to avoiding execution of a punishment imposed by a final decision,
- c) it is not possible to execute an air transit through other States or it is not possible to secure the alien’s reception by the determined country,

- d) the alien's transportation requires changing of a public airport,
- e) provision of the requested assistance is not possible at the respective time for justified reasons, or
- f) the alien could endanger the public policy, security of the State, public health or international relations.

**No**

**Q.6.B. transposed in administrative rules? If so, please specify details.**

**Yes**

**No**

**Q.6.C. No explicit transposition; according to what criteria apply authorities refusal reasons in practice?**

**Q.6.D. Does the note of refusal or revocation include reasons?**

*(see Art. 3 (6))*

**Yes**

§ 75b (6) The Ministry of Interior shall immediately notify the requesting State of its decision

- a) on cancellation of the air transit and the reason for its cancellation,
- b) on denial of the air transit under § 75b (4) (see above), on the reason for its denial and in the case of a denial under § 75b (4) Subparagraph e) (provision of the requested assistance is not possible at the respective time for justified reasons) also on the time of the next possible air transit.

**No**

**Q.7. Have procedures or rules been established to comply with**

**Q.7.A. the information obligation by the requested Member State under Art. 3(4) (this is a mandatory provision)?**

**Yes**

§ 75b (6) The Ministry of Interior shall immediately notify the requesting State of its decision

- b) on denial of the air transit under § 75b (4), on the reason for its denial and in the case of a denial under § 75b (4) Subparagraph e) also on the time of the next possible air transit.

**No**

**Q.7.B. the obligation to inform the requesting Member State of a refusal or revocation of a transit by air authorization under Art. 3(6) (this is a mandatory provision)?**

**Yes**

§ 75b (6) The Ministry of Interior shall immediately notify the requesting State of its decision

- a) on cancellation of the air transit and the reason for its cancellation,
- b) on denial of the air transit under § 75b (4) (see above), on the reason for its denial and in the case of a denial under § 75b (4) Subparagraph e) (provision of the requested assistance is not possible at the respective time for justified reasons) also on the time of the next possible air transit.

**No**

**Q.8. Request procedures for escorted or unescorted assistance measures (Art. 4)**

**Have legislative or administrative measures been taken or are such measures in place to ensure**

**Q.8.A. the compliance of the obligation to observe the time limits provided for under Art. 4(1) (this is a mandatory provision) and (2) (this is a to a large extent a mandatory provision)?**

**Yes**

§ 75a (2) The requesting State of the European Economic Area (hereinafter "the requesting State") shall deliver a written application for an air transit at the latest two days before the air transit; this time limit can be waived in particularly urgent and justified cases.

§ 75b (1) The Ministry of Interior shall decide on an application for an air transit within two days from its receipt and it shall immediately notify the requesting State; in justified cases the time limit for a decision may be prolonged by a maximum of 48 hours.

§ 75b (2) If the Ministry of Interior does not notify of its decision in a time limit under § 75b (1), the requesting State may commence execution of an air transit; it shall notify the Ministry of Interior of commencement of the air transit's execution.

**No**

**Q.8.B. the compliance with the obligation to submit information under Art. 4(3) (this is a mandatory provision) and (4) (this is a to a large extent a mandatory provision)?**

**Yes**



**No**

§ 75a (2) The applicant State of the European Economic Area (hereinafter "the applicant State") shall deliver a written application for an air transit at the latest two days before the air transit; this time limit can be waived in particularly urgent and justified cases. **A sample application for execution of an air transit is included in the Annex no. 1.**

**Q.8.C. the compliance with the obligation to appoint a central authority (Art. 4(5) subpara. 1) and appointment of contact points (Art. 4(5) subpara. 2)?**

**Yes**

§ 75a (1) The Ministry of Interior

- a) shall receive written applications of other States of the European Economic Area for execution of an air transit (hereinafter "the application for air transit") and decide on them,
- f) shall determine contact places of transit airports.

The Ministry of Interior of the SR is a central authority responsible for receiving written applications of other States for execution of an air transit.

The Ministry of Interior of the SR determined as contact points of transit airports following airports: International Airport M.R. Štefánika, Airport Bratislava, Airport Košice and Airport Poprad

**No**

**Q.8.D. if any of the previous questions has been answered with *No*, please specify how the observance of procedural or organizational requirements may otherwise be ensured**

**No transposition considered necessary; authorities will rely upon the Directive**

**No information available**

**Q.9. Bilateral or multilateral agreements to facilitate transit operations** (*see Art. 4(2) subpara. 3 and 4. These are optional provisions*)

**Q.9.A. Has your Member State concluded any bilateral or multilateral agreements or arrangements under Art. 4(2) subpara. 3?**

**Yes**

**No**

**Q.9.B. If yes, please specify with which Member States such agreements or arrangements exist and provide further details, using the table below.**

*Please use one table per agreement and duplicate it if necessary*

<b>TITLE:</b>
<b>DATE OF CONCLUSION:</b>
<b>DATE OF ENTRY INTO FORCE:</b>
<b>PROVISIONS CONCERNED</b> (if agreement or arrangement not devoted only to the procedures of transit assistance requests):
<b>REFERENCES OF PUBLICATION</b> <b>IN THE OFFICIAL JOURNAL:</b>
<b>DATE OF NOTIFICATION TO THE COMMISSION</b> (Art. 4 para. 2 subpara. 4):

### **3. FAILURE OF THE TRANSIT OPERATION**

**Q.10. Readmission obligations** (*see Art. 6, which is a mandatory provision*)

**Have legislative or administrative measures been taken to ensure compliance with**

**Q.10.A. the obligation of the requesting Member State to ensure that third country nationals are readmitted under the conditions of Art. 6**

**Yes**

§ 75a (1) c The Ministry of Interior shall immediately accept a returned alien, provided that

1. a permit for an air transit was denied or revoked,
2. in the course of an air transit, the alien left the transit area of a public airport without permission, or
3. it is not possible to execute an air transit for other reasons,

**No**

**Q.10.B. the obligation of the requested Member State to assist with the readmission of the third country national under Art. 6(2)**

**Yes**

§ 75c (3) A police department shall also cooperate in the course of an alien's return under Section 75b (7).

§ 75a (1) d The Ministry of Interior shall cover the costs of the provided meals and urgent health care provided to the alien under § 75a (1) c by another State of the European Economic Area, provided that these costs are actual and expressible in numbers, and it shall cover the costs incurred by his/her return,

No

#### **4. ESCORTING PERSONNEL**

**Q.11. Escorting personnel – rules of the requesting Member State** (*see Art. 7, which is a mandatory provision*)

**When escorting personnel is sent by your Member State in a transit operation, have legislative and/or administrative measures (*specify*) been taken to ensure that...**

**Q.11.A. their powers are limited to self-defence and that the escorts under the conditions of Art. 7(1) may only take reasonable and proportionate action?**

Yes

Article 8/1 of the Act No. 171/1993 coll. Regarding the Police Force In the course of his operational duties a police officer of the Police Force (to be referred to as „police officer“) is obliged to respect the honour, esteem and dignity of another person, as well as his own, and not to allow unfounded detriment or possible violations of this person’s rights or freedoms in connection with his activity in excess of ones necessary to achieve the aim pursued by his operational activity. In the course of his operational duties a police officer is obliged to respect ethical code of the policeman issued by the Minister. Article 8/3 Operational duty pursuant to Subsection (1) herein means the activity of the police officer related to the performance of duties set by the present Act or other general binding legal regulations.

No

**Q.11.B. the escorts comply with the legislation of the requested Member State?**

Yes

No

**Q.11.C. that escorts wear civilian clothes and do not carry weapons (see Art. 7(2))?**

Yes

No

**Q.11.D. that they carry means of appropriate identification and the authorization for the transit operation under Art. 7(2)?**

Yes

No

**Q.12. Escorting personnel – rules of the requested Member State**

**Escorting personnel is sent by another Member State in a transit operation: does the legislation in your Member State as a requested Member State ensure that**

**Q.12.A. powers and duties of the escorts are determined according to Art. 7(1)?**

Yes

No

§ 75d (1) If an alien's air transit be executed with a company, the company shall be obliged **to observe legal regulations of the Slovak Republic** and prove, upon request, his/her identity, a permit for an air transit or a notification.

Article 8/1 of the Act No. 171/1993 coll. Regarding the Police Force In the course of his operational duties a police officer of the Police Force (to be referred to as „police officer“) is obliged to respect the honour, esteem and dignity of another person, as well as his own, and not to allow unfounded detriment or possible violations of this person's rights or freedoms in connection with his activity in excess of ones necessary to achieve the aim pursued by his operational activity. In the course of his operational duties a police officer is obliged to respect ethical code of the policeman issued by the Minister. Article 8/3 Operational duty pursuant to Subsection (1) herein means the activity of the police officer related to the performance of duties set by the present Act or other general binding legal regulations.

**Q.12.B. if no, are general rules or principles applicable to powers of escorts of the requesting Member State under Art. 7(1)?**

Yes

No

## **5. REIMBURSEMENT**

**Q.13. Financial compensation under Art. 5 (6) (This provision is mandatory for the requesting Member State)**

**Q.13.A. Have rules been adopted or administrative arrangements been concluded with regard to financial compensation?**

Yes

No

**Q.13.B. If yes, please specify.**

§ 75c

(2) The Ministry of Interior shall request the requesting State for covering the costs of the provided meals and urgent health care, provided that these costs are actual and expressible in numbers.

(4) The Ministry of Interior shall notify the requesting State of serious circumstances which occurred in the course of an air transit and of the costs incurred by provision of assistance.

**Q.13.C. Is reimbursement rather seen as an option or as the general rule?**

It is seen as the general rule.

## **6. STATISTICAL INFORMATION**

**Q.14. Statistical information on the practical application of the Directive**

**Q.14.A. Did your Member State ask another Member State to assist in cases of transit since the directive has been adopted?**

Yes

No

**Q.14.B. If yes, how often did this happen (if numbers available)?**

In the year 2007: Italy – 1 positive,  
Czech Republic – 8 positive,  
France – 1 negative

**Q14.C. Did your Member State assist in cases of transit since the directive has been adopted?**

Yes

No

**Q.14.D.** If yes, how often did this happen (if numbers available)?

**THIRD PART**

**5. IMPACT OF THE DIRECTIVE ON NATIONAL LAW**

**Q.15.A.**      **Mention if there is a general tendency to just copy the provisions of the directive into national legislation without redrafting or adapting them to national circumstances.**

Yes

No

**Q.15.B.**      **If yes, please indicate if this general tendency may or not create problems (for example difficulties of implementation, risk that a provision remains unapplied).**

Yes

No

**Q.15.C.**      **If yes, give some examples:**

**Q.15.D.**      **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

**Q.16.**      **Quote *interesting* decisions of jurisprudence related to the directive, its **transposition or implementation** (so this question concerns in principle decisions later than the directive, but previous ones might be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.**

*Please use one box per decision and duplicate it if necessary*

<b>DECISION OF SUPREME COURTS</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>
<b>DECISION OF APPEAL COURTS</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>
<b>DECISION(S) IN FIRST RESORT</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>

**ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:**

**Q.17.** Specify if there are or not problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.

There are no problems with the translation of the directive

There are some problems with the translation of (*indicate the number of the articles concerned*) of the directive.

Explain the difficulties that this could create:

**6. ANY OTHER INTERESTING ELEMENT**

**Q.18.** Following your personal point of view, mention from the point of view of the concerned Member States any interesting or innovative practice in your Member State

*Please use one table per practice and duplicate it if necessary*

OBJECT OF THE PRACTICE	EXPLANATIONS

**Q.19.** Please add here any other interesting element in your Member State which you did not had the occasion to mention in your previous answers