

## **Extract from the Constitution of the Slovak Republic (Provisions concerning the National Bank of Slovakia)**

The wording of Article 56 of the Constitution of the Slovak Republic No. 460/1992 Coll., as amended by the Constitutional Act No. 90/2001 Coll., effective from 1 July 2001:

### **Article 56**

- (1) The National Bank of Slovakia is the independent central bank of the Slovak Republic. As part of its scope of authority, the National Bank of Slovakia may issue generally binding legislation, where empowered to do so by law.
- (2) The supreme governing body of the National Bank of Slovakia shall be the Bank Board of the National Bank of Slovakia.
- (3) The details as per sections 1 and 2 shall be stipulated by law.

### Justification concerning Article 56 of the Constitution of the SR

The original wording of Article 56 of the Constitution of the Slovak Republic in force until 30 June 2001 gave an inadequate account of the role of the National Bank of Slovakia, since it only provided for the establishment of a bank of issue, which is only one of the central bank's functions.

The amended wording of Article 56 of the Constitution of the Slovak Republic, which came into effect on 1 July 2001, underlines the central bank's independence. As part of its scope of authority, the central bank is allowed to issue generally binding legislation, where empowered to do so by law. In accordance with previously valid legislation, the Bank Board of the National Bank of Slovakia was directly incorporated in the Constitution of the Slovak Republic as the supreme governing body of the National Bank of Slovakia. As a whole, these are all provisions that, in terms of importance, rank as constitutional statutory provisions.

The amended wording of Article 56 of the Constitution of the Slovak Republic takes into account the requirements of the European Union with regard to the position of central banks, which follow from the basic documents of the European Union, namely from the Treaty establishing the European Community signed in Rome on 25 March 1957, and revised by the Treaty on European Union signed in Maastricht on 7 February 1992, and the Treaty of Amsterdam signed on 2 October 1997 (hereinafter the "EC Treaty"), including the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed thereto. At the same time, this wording respects the Europe Agreement establishing an association between the European Union (originally the European Community) and its Member States, on the one part, and the Slovak Republic, on the other part (Announcement No. 158/1997 Coll.).

Under Articles 69 and 70 of the Europe Association Agreement, the law of the Slovak Republic, including the banking law (relating to both central and commercial banking), must be approximated to the law of the European Union, and should not depart from it. At the same time, from Articles 105 and 108 of the EC Treaty and Articles 2 and 7 of the Protocol on the

Statute of the European System of Central Banks and of the European Central Bank, it follows that the European Central Bank, in its capacity as an independent institution, is required to maintain price stability and perform the scope of authority and activities in the interest of maintaining such stability. Under Article 108 of the EC Treaty and Article 7 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, neither a national central bank, nor any members of its decision making bodies are allowed, when exercising their authorities, in performing the tasks and activities of the national central bank, to seek or take instructions from the national government, or any other authorities. In Articles 109 and 110 of the EC Treaty and Articles 14 and 34 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank it is concurrently stipulated that the European Central Bank, in its capacity as a central bank, has the right, as part of its scope of authority, to directly issue generally binding legislation (regulations), whereas the legal position of national central banks is to be compatible with the legal position of the European Central Bank. This means that the National Bank of Slovakia, as an independent institution, is required to maintain price stability and exercise its scope of authority and activities in the interest of maintaining such stability. To this end, the National Bank of Slovakia as a central bank has to have the right to issue generally binding legislation as part of its scope of authority, where empowered to do so by law. The said right of the National Bank of Slovakia as a central bank, may only be enacted through the Constitution of the Slovak Republic. The proposed provision also respects Articles 107(2) and 109 of the EC Treaty and Articles 9(9.1) and 14 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, according to which national central banks shall have legal personality.

Besides that only the establishment of the bank of issue was stipulated in the original wording of Article 56, and issue is, de facto, only one of the main functions of the central bank.

The amended provision of Article 56(2) stipulates, in line with the originally existing legal status, that the Bank Board of the National Bank of Slovakia is the supreme governing body of the National Bank of Slovakia.

Furthermore, the amended provision of Article 56(3) stipulates that the details concerning the National Bank of Slovakia will be provided for by law, in particular the details relating to the position, scope of authority and activities of the National Bank of Slovakia in its capacity as an independent central bank, and also the details of the position, appointment, removal, rights, duties and restrictions of members of the Bank Board of the National Bank of Slovakia.