Annex I

Slovakia

Improving financial security in the context of the Environmental Liability Directive
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1. **INTRODUCTION**

Financial security for the prevention and remediation of environmental damage under the ELD in the form of stand-alone environmental insurance policies for businesses with sites and/or operations only in Slovakia is available.

Financial security for the remediation of off-site pollution from an operator’s activities at its own site in the form of an extension to a general liability policy is widely available.

Environmental extensions to property policies are not available.

The Slovakian Government transposed the ELD by Act 359/2007 Coll. on the prevention and remediation of environmental damage (Zákon z 21. júna 2007 o prevencii a náprave environmentálnych škôd a o zmene a doplnení niektorých zákonov; Act 359/2007).\(^1\) Act 359/2007, which amends various other legislation as well as establishing the ELD regime, came into force on 1 September 2007.

Mandatory financial security for ELD liabilities has been introduced in Slovakia. Section 13 of Act 359/2007, which requires operators subject to article 1(2) of the Act (which equates to annex III of the ELD) to have financial security for ELD liabilities, came into force on 1 July 2012 to allow time for the introduction of the mandatory financial security system.

Slovakia also has mandatory financial security for damage from major industrial accidents caused by Seveso III facilities that pose a high risk of environmental damage. The financial security appears to be for civil liabilities and the prevention and remediation of environmental damage but this is not clear. The financial security is in the form of insurance policies for civil liabilities and bank guarantees.

2. **ENVIRONMENTAL INSURANCE MARKET**

The European Commission’s Environmental Implementation Report for Slovakia for 2019 stated that Slovakia should improve financial security for liabilities under the ELD as a priority action.\(^2\)

When this report was published, stand-alone insurance policies that provide cover for ELD and other environmental liabilities to businesses with sites and/or operations only in Slovakia were available from seven insurer members of the Slovak Insurance Association (Slovenská asociácia poisťovní; SLASPO). The policies provide cover for all liabilities under the ELD. The insurers tend to contact reinsurers only if an individual insured requests a policy that exceeds the insurer’s capacity or if the insured requires particularly extensive coverage. Demand is moderate but growing slowly.

Environmental extensions to general liability policies were widely available when this report was published. Some extensions provide cover only for remediating off-site pollution from a sudden and accidental incident on an insured’s site; other extensions also provide cover for gradual pollution. The extensions are limited to pollution; they do not provide cover for liabilities under the ELD. They tend to have low sub-limits of liability. Demand is moderate.

In addition, stand-alone environmental insurance policies from multinational insurers for large businesses with sites and/or operations in Slovakia and other Member States are widely

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available through passporting. Cover is generally not limited to pollution but includes other types of environmental damage under the ELD.

2.1. Commercial insurers

2.1.1. Number of insurers

Two publications of SLASPO, dated 2013 and 2014, listed four insurers based in, or with branches in, Slovakia that provided insurance for ELD liabilities. Slovakia’s 2013 report to the European Commission under then article 18(2) of the ELD meanwhile stated that approximately eight insurers had created products to insure against liability for environmental damage.

When this report was published, seven insurers provided stand-alone environmental insurance policies. The difference in numbers may be explained by multinational insurers providing environmental insurance in Slovakia to businesses that have sites and/or operations in other States as well as Slovakia as well as some of the products being environmental extensions to general liability policies.

When this report was published, 15 insurers were members of SLASPO.

2.1.2. New insurers entering the market since 2009

No information was available on the number of new insurers that had entered the environmental insurance market since 2009.

2.1.3. Existing insurers that introduced environmental insurance policies since 2009

No information was available on the number of insurers that conducted insurance business in Slovakia and that began offering stand-alone environmental insurance policies after 2009.

2.2. Re/insurance pools

There are no re/insurance pools that provide policies for ELD or other environmental liabilities in Slovakia.

2.2.1. Date of establishment

Not applicable

2.2.2. Descriptions of policies issued

Not applicable

2.3. Mutuals

No mutual in Slovakia offers environmental insurance policies.

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2.3.1. **Date of establishment**
Not applicable

2.3.2. **Descriptions of policies issued**
Not applicable

2.4. **Other**
There are no captives, underwriting agencies, or other types of providers of environmental insurance policies in Slovakia.

3. **Voluntary insurance policies for ELD and other environmental liabilities**

3.1. **Environmental insurance policies**
Stand-alone environmental insurance policies are available for businesses with sites and/or operations only in Slovakia for ELD and other environmental liabilities. Stand-alone environmental insurance policies are available to businesses with sites and/or operations in other States as well as Slovakia. The scope of cover depends on the insurer underwriting the policies (see section 3.6.3 below).

3.2. **Cover for ELD preventive costs**
Stand-alone environmental insurance policies generally provide cover for preventive costs under the ELD. The scope of cover depends on the insurer(s) underwriting the policies. Some policies provide cover for a broad scope of preventive and emergency costs; other policies provide more restrictive cover for such costs.

3.3. **Cover for ELD primary, complementary and compensatory costs**
Stand-alone environmental insurance policies offered for risks in Slovakia, as well as risks in other States as well as Slovakia, provide cover for primary, complementary and compensatory costs under the ELD.

3.4. **Cover for non-ELD liabilities**
Stand-alone environmental insurance policies offered for risks in Slovakia provide cover for costs arising from environmental damage under other environmental legislation as well as the ELD. They also generally provide cover for third-party claims for bodily injury and property damage.

3.5. **Nature of policies (liability only or liability and on-site remediation)**
Stand-alone environmental insurance policies offered for risks in Slovakia provide cover for the costs of remediating environmental damage, including soil and water pollution, caused by an insured to third-party sites as well as the costs of remediating such damage on an insured’s own site.

The policies do not provide cover for damage to on-site property in the form of buildings, other structures and equipment unless, under some policies, the damage results from carrying out remediation measures themselves.
3.6. **Description of policies**

3.6.1. **Format**

Stand-alone environmental insurance policies generally have a menu format so that an insured may select the insuring agreement(s) it requires.

3.6.2. **Claims made or occurrence based**

Stand-alone environmental insurance policies are underwritten on a claims made basis rather than an occurrence basis. That is, a claim must be made during the policy period or an extended reporting period, with the environmental damage from which the claim arose having to occur during the policy period.

Environmental extensions to general liability policies are occurrence based, that is, the risks that are covered by the policy must occur during the policy period; claims may be brought after the policy period.

3.6.3. **Policies for operators**

Insurers that offer stand-alone environmental insurance policies to businesses with sites and/or operations only in Slovakia, as well as in Slovakia and other States, may include insuring agreements for the following, depending on the insurer:

- the remediation of on-site and off-site environmental damage under the ELD caused by operations, including transportation, carried out by the insured operator;
- the remediation of pollution under other environmental legislation caused by operations, including transportation, carried out by the insured operator;
- emergency costs and costs of preventive measures under the ELD;
- emergency costs under other environmental legislation;
- third-party claims for bodily injury and property damage;
- third-party business interruption;
- the insured’s business interruption costs and extra expense caused by environmental damage including pollution; and
- related legal costs.

Only the first and third items are liabilities under the ELD. The policies are thus designed to include, not only protection under the ELD but also protection under other public law as well as civil law and non-liability requirements.

In addition to specimen wordings for each type of policy, multinational insurers have libraries of standard endorsements for each type. They also draft manuscript endorsements to supplement the endorsements in their libraries to meet the needs of individual insureds, as necessary.

3.6.4. **Policies for contractors and others**

Stand-alone environmental insurance policies that provide cover for ELD and other environmental liabilities are also available for contractors. The policies tend to provide similar types of cover as the policies for operators, as described in section 3.6.3 above, including liability for remediating environmental damage including pollution at sites at which the contractor is carrying out operations in addition to the insured contractor’s own site.
3.7. **Model terms and conditions**

There are no model terms and conditions for environmental insurance policies, endorsements to other policies, or any other financial security instruments for ELD or other environmental liabilities in Slovakia.

3.7.1. **Organisation issuing model terms and conditions**

Not applicable

3.7.2. **Description of model terms and conditions**

Not applicable

3.7.3. **Relationship between policies with model terms and conditions and environmental insurance policies**

Not applicable

3.8. **Date of general availability of environmental insurance policies**

Stand-alone environmental insurance policies and environmental extensions to general liability policies have been generally available since the ELD was transposed into Slovakian law in 2007. Their availability increased with the introduction of mandatory financial security in 2012.

3.9. **Environmental assessments and audits**

Stand-alone environmental insurance policies offered to businesses with sites and/or operations only in Slovakia may be subject to extensive underwriting and risk management.

Insurers that offer policies to industrial and commercial operators for their insurance programmes for sites in and outside Slovakia tend not to require prospective insureds to carry out environmental assessments and audits for their operations. If the operators have already carried out such assessments and audits, they provide them to insurers as part of the underwriting due diligence process.

3.10. **Average premium**

No information was provided on the average premium for a stand-alone environmental insurance policy. The premium obviously depends on the cover provided by the policy and its limits.

3.11. **Average policy limit**

Slovakia’s 2013 report to the European Commission under then article 18(2) of the ELD stated that the maximum limit of financial security in a policy that includes cover for ELD liabilities was EUR 25,000,000, with the limits of some policies ranging from EUR 1,000,000 and EUR 5,000,000. The report further stated that the average policy limit was between EUR 50,000 and EUR 100,000, with a minimum of EUR 5,000 to EUR 10,000.\(^5\) The report further stated that the limit of some stand-alone environmental insurance policies was EUR 5,000,000.\(^6\) The

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\(^6\) See ibid
maximum limit could be raised above an insurer’s capacity subject to agreement with its reinsurer.

It is not clear whether these limits are for stand-alone environmental insurance policies for businesses with sites and/or operations only in Slovakia, or whether they are for stand-alone environmental insurance policies for businesses with sites and/or operations in Slovakia and other States.

3.12. Average deductible or self-insured retention
No information was provided on the average deductible (excess) or self-insured retention for a stand-alone environmental insurance policy. The deductible or self-insured retention obviously depends on factors such as the limit of the policy, agreement by insurers, etc.

3.13. Average policy period
The average policy period for a stand-alone environmental insurance policy is one to three years depending on the insurer.

3.14. Sizes of typical insured businesses
There is no typical size of a business that purchases a stand-alone environmental insurance policy. It ranges from small and medium sized businesses to large businesses with the proviso that cover tends to be limited especially for small businesses.

3.15. Industrial and commercial sectors that typically purchase policies
No information was provided on industrial and commercial sectors that typically purchase stand-alone environmental insurance policies. The sectors depend to a substantial extent to operators subject to mandatory financial security requirements.

3.16. Industrial and commercial sectors with limited or no accessibility to policies
No information was provided on any industrial or commercial sectors that had limited or no accessibility to stand-alone environmental insurance policies with the caveat that financial security is limited.

3.17. Number and amount of claims
No information was provided on any claims against stand-alone environmental insurance policies or environmental extensions to general liability policies.

3.18. Coverage litigation
There was no reported litigation on whether a stand-alone environmental insurance policy provides cover for ELD liabilities when this report was published.

3.19. Cover for ELD liabilities in general liability policies
Environmental extensions to general liability policies that provide cover for remediating offsite pollution from an incident on an insured’s site (including gradual as well as sudden and accidental pollution in some extensions) are available. They do not provide cover for liabilities under the ELD (see section 2 above).

3.20. Cover for ELD liabilities in property policies
Environmental extensions to property policies are not available.
4. **OTHER VOLUNTARY FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS**

4.1. **Type(s)**

The mandatory financial security system for ELD liabilities specifically provides for bank guarantees as well as insurance policies. In addition, some operators have set up escrow accounts for ELD liabilities (see section 6.2 below).

As a general rule, however, operators do not tend to take out bank guarantees or establish escrow accounts for the costs of remediating environmental damage that may – or may not – occur. Such financial security instruments are geared towards mandatory financial security requirements for known responsibilities such as closure and post-closure of a landfill, not voluntary financial security for accidental ELD incidents.

Further, as a general rule, bank guarantees are issued for only a limited amount of time which would not satisfy the requirement for financial security during the entirety of an operator’s activities.\(^7\)

4.2. **Availability**

Bank guarantees (see section 4.1) are available as well as environmental insurance and the establishment of escrow accounts.

5. **MANDATORY FINANCIAL SECURITY FOR ELD LIABILITIES (ARTICLE 14(1))**

5.1. **Competent authority(ies)**

The central authority for implementing Act 359/2007 is the Ministry of Environment (Ministerstvo životného prostredia).

The competent authorities for implementing the requirements for mandatory financial security under Act 359/2007 are the Regional Environmental Authority, District Office and Slovak Environmental Inspectorate.

5.2. **Legislative provisions**

5.2.1. **Name(s) of legislation**

Section 13 of Act 359/2007 sets out the provisions for mandatory financial security for ELD liabilities.

5.2.2. **Stand-alone requirement or hybrid**

Mandatory financial security for ELD liabilities is a stand-alone requirement. It is not combined with financial security for environmental responsibilities such as the closure of a landfill or extractive waste facility.

5.2.3. **Consideration of mandatory financial security legislation (if not enacted)**

Not applicable

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5.2.4. Reasons for decision not to enact mandatory financial security legislation

Not applicable

5.2.5. Revisions to legislation

Sections 13(1) and 13(4) of Act 359/2007 were revised by 39/2013 Coll.⁸ on 31 January 2013 to extend the requirement for mandatory financial security to activities authorised by the competent authority before that date, and to specify acceptable financial security instruments.

5.2.6. ELD liabilities covered by mandatory financial security

The mandatory financial security system for ELD liabilities covers all such liabilities, that is, costs of preventive measures and primary, complementary and compensatory remediation for land/soil, water and damage to protected species and natural habitats.

5.2.7. Description of mandatory financial security provisions

Section 13(1) of Act 359/2007 provides that an operator under section 1(2) of the Act (which equates with annex III of the ELD) must obtain financial security to cover its liabilities under the ELD for damage to land/soil, water and protected species and natural habitats. The amount of financial security must be sufficient to cover the estimated foreseeable costs of remedial measures and remedying environmental damage that could be caused by its activity.

Section 13(1) further provides that an operator must submit evidence of financial security to the competent authority no later than 100 days after authorisation of the activity to which the financial security applies. The financial security must be in place throughout the duration of the activity. If there is a change in the activity covered by financial security, the operator must notify the competent authority in writing without delay.

Section 13(2) provides that the amount of financial security must correspond to the estimated costs of remedial measures plus costs of preparing a risk analysis, that is, an analysis of the risks and costs of remedying environmental damage that could be caused by the operator’s activity.

Section 13(3) provides that the operator must demonstrate to the competent authority no later than 100 days from authorisation of the activity to which the financial security applies the means by which the operator will provide financial security for environmental damage including the estimated costs of remedial measures and remedying environmental damage. The operator must notify the competent authority in writing of any changes.

Section 13(4), which was added to Act 359/2007 in 2013 (see section 5.2.5 above), provides that the requirement for mandatory financial security applies to activities authorised by a competent authority before that date.

If an operator is subject to the integrated permit procedure, section 19(b) of Act 359/2007 provides that the Slovak Environmental Inspectorate receives and registers a copy of the contract(s) that provides financial security for ELD liabilities. If an operator is not subject to the integrated permit procedure, section 18(1)(b) of Act 359/2007 provides that the district environmental authority receives and registers a copy of the contract(s) that provides financial security for ELD liabilities.

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security for ELD liabilities.⁹ (See section 6.2 below for types of acceptable financial security instruments.)

In October 2014, the Ministry of Environment published a methodological manual for operators and state administrations (Metodická príručka určená pre prevádzkovateľov a štátnu správu) on a risk assessment system for assessing environmental damage (Systém hodnotenia rizík pre posúdenie environmentálnej škody podľa zákona NR SR č. 359/2007 Z. z.).¹⁰ The manual sets out the methodology for carrying out a risk assessment to determine the amount of financial security as well as criteria for financial security instruments.

The manual is designed for small and medium sized businesses, large businesses, and competent authorities, in particular operators that carry out activities subject to section 1(2) of Act 359/2007. A methodological tool, which can be used online as well as offline, is available to calculate the risk by a series of tables.¹¹ Three annexes to the manual set out examples of an initial environmental risk assessment, selected parts of a detailed environmental risk assessment, and calculations to indicate whether a detailed environmental risk assessment needs to be carried out.

The first stage is preparation of an initial risk assessment. The procedures for this phase include inputting information specified in the methodological tool and assessing the risks posed by them. For each scenario that is assessed, the operator must make a determination whether the ‘EAI index’ for it is greater than 100. If a scenario has an EIA index that exceeds 100, the operator must carry out a detailed risk assessment. If a scenario has an EIA index that is less than or equal to 100, the operator does not need to carry out a detailed risk assessment. That is, numeric values from a set scale are calculated to reflect the various risks. The final ‘score’ for the site reflects whether the operator must carry out a detailed risk assessment.

If an operator must prepare a detailed environmental risk assessment, it must instruct appropriate experts to carry it out. A detailed risk assessment includes the following among other things:

- a description of the area surrounding the activities carried out by the operator to analyse, among other things, the potential for secondary effects of pollution;
- an overview and description of the main activities carried out by the operator and their environmental effects;
- selected scenarios of potential environmental damage from the activities;
- dangerous substances stored at and near the facility;
- description of the drainage system and outlets and its potential closure;
- location of hospitals, schools and other structures near the activities;
- consideration of the effects of environmental damage on protected species and natural habitats; and
- emergency measures.

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¹¹ Informačný systém prevencie a nápravy environmentálnych škôd; http://enviskody.enviroportal.sk/Riziko.aspx (in Slovak)
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If a facility is subject to the Seveso III Directive, information from the emergency plan may be used as part of the risk assessment under Act 359/2007.

The detailed risk assessment must also include draft precautionary measures in case of an incident that causes environmental damage. Further, it must include interim corrective measures with the purpose of creating appropriate measures to identify the risks, determine their degree and acceptability, and to estimate the degree of probable environmental damage.

After the detailed risk assessment has been prepared, the above factors are used to determine the level of risk and to quantify it.

The next stage is determination of short and long-term consequences of the risk including the severity of damage to land/soil, water and Natura 2000 sites, quantification of such damage, causal links between an operator’s activity and environmental damage, assessment of the damage, and temporary and permanent losses of natural resources.

Information considered in this phase includes determinations of the monetary value of natural resources specified in the ELD (that is, land/soil, water and protected species and natural habitats). An environmental baseline for the facility is also prepared together with calculation of the initial and temporary loss of a natural resource, plus the costs of remedial measures and remedying environmental damage that could be caused by the operator’s activities (from the initial risk assessment). If a facility has an established environmental management system or ISO 14001, these should be used to provide information required in this phase. The manual includes detailed formulas to calculate the above.

The final stage is determination of the amount and method of financial security. The amount of financial security must include costs of the following:

- immediate management of environmental damage from an incident;
- monitoring costs;
- expert opinions;
- a risk analysis on the effects of environmental damage;
- development of a programme to restore environmental damage;
- post-remediation monitoring;
- any court costs; and
- other related costs.

In all cases, the operator must identify the worst case scenario for environmental damage from an incident. The manual notes that an operator can reduce the potential risk by, for example, installing an early warning system.

Section 22(1)(d) of Act 359/2007 specifies a fine of up to EUR 6,638.78 for failure by an operator that has arranged for financial security but has not provided evidence of it to the competent authority within 100 days following authorisation of an activity.

Section 22(2) specifies a fine of up to EUR 33,193.91 for failure by an operator to comply with any requirements of the Act including demonstrating the method of financial security to the competent authority including foreseeable costs for remedial measures and remedying environmental damage that could be caused by its activity, and notifying the competent authority of any changes pursuant to sections 13(3) or 13(4).

5.2.8. Exception for low risk sites

There is no exception to mandatory financial security for low risk sites.
5.2.9. **Exception for ISO 14001 certification or EMAS registration**

There is no exception to mandatory financial security for International Organisation for Standardisation (ISO) 14001 (UNE-EN ISO 14001:1996) certification or EU Eco-Management and Audit Scheme (EMAS) registration. The methodological manual, however, refers to ISO 14001 and environmental management systems as preventive measures to reduce the risk of environmental damage.

5.2.10. **Other exceptions**

There are no exceptions to the mandatory financial security system.

5.3. **Environmental licence conditions**

As indicated in section 5.2, mandatory financial security for ELD liabilities in Slovakia is established by legislation and not by conditions in environmental licences.

5.3.1. **Stand-alone requirement or hybrid**

Not applicable

5.3.2. **Revisions to licensing requirements**

Not applicable

5.3.3. **ELD liabilities covered by mandatory financial security**

Not applicable

5.3.4. **Description of mandatory financial security conditions**

Not applicable

5.4. **Date of introduction**

Act 359/2007, which contains mandatory financial security provisions in section 13, came into force on 1 September 2007.

5.5. **Effective date**

Section 13 of Act 359/2007 entered into force on 1 July 2012 in order to provide operators subject to it with sufficient time to comply with it.

5.6. **Key reasons for introduction**

The key reasons for the introduction of financial security for ELD liabilities were political. They included a decision not to create a fund for such liabilities.

5.7. **Withdrawal of mandatory financial security**

Not applicable

5.8. **Guidance**

Slovakia has published the following guidance documents related to mandatory financial security for ELD liabilities.
In 2007, Slovakia published a methodology to determine the potential risk of the severity of environmental damage (Diferenciácia územia SR podľa potenciálneho rizika závažnosti environmentálnej škody).\textsuperscript{12}

In October 2014, the Slovak Environment Agency (Slovenská agentúra životného prostredia) published a methodological manual for operators and state administrations (see section 5.2.7 above).

In addition, the Slovak Environment Agency has published a user manual to assess environmental damage to protected species and natural habitats.\textsuperscript{13}

5.9. **Operators subject to mandatory financial security**

All operators that carry out activities under legislation listed in section 1(2) of Act 359/2007 (equivalent to annex III of the ELD) are subject to the mandatory financial security system for liabilities under the ELD.\textsuperscript{14}

Slovakia’s 2013 report to the European Commission under then article 18(2) of the ELD stated that approximately 3,500 to 4,000 operators were subject to mandatory financial security for ELD liabilities, and that approximately 66% of them had financial security at that time. The report further stated that there were problems with small and medium sized enterprises, particularly very small entities, complying with mandatory financial security requirements. This was because they did not have sufficient financial resources to instruct external consultants to carry out an environmental audit, risk assessment or cost estimate. The report stated that it was expected that the amount for financial security provided by these operators would ‘probably be insufficient’, a factor that affected ‘the average amount of financial security in Slovakia’.\textsuperscript{15}

5.10. **Amounts and limits of mandatory financial security**

Financial security instruments including environmental insurance tend not to provide sufficient cover for preventing and remediating environmental damage under the ELD, especially for small operators.

5.11. **Growth of mandatory financial security**

Not applicable. Mandatory financial security for operators under article 1(2) of Act 359/2007 has not been increased.


\textsuperscript{15} See ibid
6. **REGULATORY OVERSIGHT OF FINANCIAL SECURITY INSTRUMENTS AND MECHANISMS**

6.1. **Review of financial security instruments or mechanisms**

An operator subject to the mandatory financial security requirements must demonstrate to the competent authority no later than 100 days from authorisation of the activity to which the financial security applies the means by which it will provide financial security for environmental damage including the estimated costs of remedial measures and remedying environmental damage. The operator must notify the competent authority in writing of any changes. Failure to provide evidence of financial security to the competent authority is subject to a fine, with the amount depending on whether the operator has obtained financial security (see section 5.2.7 above).

6.2. **Financial security instruments and mechanisms accepted**

Section 13(4) of Act 359/2007, which amended the Act in 2013, specifies the following financial security instruments for liabilities under the ELD:

- insurance policy (*poistení zodpovednosti za environmentálnu škodu*); or
- appropriate contractual arrangements such as a bank guarantee or a dedicated account (*zmluvného zabezpečenia vyhovujúceho spôsobu finančného krytia tejto zodpovednosti napríklad zárukou banky alebo účelovo viazaným účtom*).

The 2013 report submitted by Slovakia to the European Commission pursuant to (the now superseded) article 18(1) of the ELD identifies the following financial security instruments for ELD liabilities submitted to a district environmental authority pursuant to section 18(1)(b) of Act 359/2007 (that is, for liability from operators not subject to the integrated permit procedure): ‘insurance contract, bank guarantee, proof of the opening of an account and the amount linked exclusively to remedial measures pursuant to [Act 359/2007]’.

The 2013 report identifies the following financial security instruments for ELD liabilities submitted to the Slovak Environmental Directorate by operators subject to the integrated permit procedure: ‘insurance contract against liability for environmental damage, bank guarantee, proof of the opening of an account earmarked for remedial measures pursuant to this Act, or a combination thereof’.

An operator may submit a single insurance policy for liabilities under the ELD and responsibilities under other environmental legislation. The methodological manual states that the interest rate payable by an operator on a bank guarantee (identified as a special type of loan) can range from 4 to 15% depending on the credit worthiness of the operator.

The 2013 report further stated that operators that had 10 or more facilities used insurance to satisfy mandatory financial security requirements, followed by escrow accounts and then bank

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guarantees. The prevalence of the use of insurance had not changed when this report was
published.

6.2.1. Templates
There are no templates for financial security instruments.

6.2.2. Requirements for environmental insurance policies
There are no specific requirements for the contents of environmental insurance policies.

6.2.3. Form of mandatory environmental insurance policy
There are no specific requirements for the format of an environmental insurance policy that
satisfies mandatory financial security requirements.

6.3. Financial security instruments and mechanisms not acceptable
There is no list of financial security instruments or mechanisms that are not acceptable. The
types of financial security instruments that are acceptable are, however, quite limited (see
section 6.2 above).

6.4. Time of review
An operator must provide evidence of financial security to the competent authority at least
100 days before it may carry out activities subject to ELD liabilities.

6.5. Regulatory costs of review
The competent authority does not charge an operator for reviewing evidence of financial
security for ELD liabilities.

6.6. Requirements for operator to review
An operator must review its financial security if there are changes in its activities.

7. ENFORCEMENT OF FINANCIAL SECURITY REQUIREMENTS

No reports of any proceedings against operators for failing to have mandatory financial
security or for failing to notify the competent authority of its existence were provided.

8. EX POST ENVIRONMENTAL DAMAGE MANDATORY FINANCIAL SECURITY (ARTICLE 8(2))

There are no requirements for ex post financial security for ELD liabilities in Slovakia.

8.1. Date legislation or policy for mandatory financial security introduced
Not applicable

8.2. Effective date for ex post mandatory financial security
Not applicable

Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and
remedying of environmental damage; Slovak Republic’ (April 2013), s 3.2;
8.3. **Financial security instruments and mechanisms accepted**
Not applicable

8.4. **Financial security instruments and mechanisms not acceptable**
Not applicable

9. **PROVIDERS OF MANDATORY FINANCIAL SECURITY INSTRUMENTS**

9.1. **Insurers**
All insurance policies underwritten for ELD risks in Slovakia include provisions that satisfy the mandatory financial security requirements for ELD liabilities. The policies also provide cover for compensatory and complementary remediation under the ELD as well as environmental liabilities under legislation other than the ELD.

9.2. **Banks and other financial institutions**
Slovakia allows financial security held in foreign banks to be submitted to satisfy mandatory financial security requirements for ELD liabilities.

9.3. **Sureties**
Bonds provided by sureties (or financial institutions) are not an acceptable form of financial security for ELD liabilities.

9.4. **Providers outside Member State**
Multinational insurers based in other Member States offer insurance policies to provide cover for ELD and other environmental risks in Spain through passporting.

10. **MEASURES TAKEN BY MEMBER STATE TO DEVELOP FINANCIAL SECURITY MARKETS**
Slovakia has taken many measures to develop financial security markets.

The Ministry of Environment has held many seminars and workshops on the mandatory financial security system and the risk assessment system for environmental damage for operators, environmental risk assessors, insurers, environmental consultancies, lawyers and competent authorities (including seminars specifically for operators, insurers and state administration) both prior to 2012 when the mandatory financial security provisions entered into force,\(^ {19}\) and after that date.\(^ {20}\)

Further, a working group was established to improve communication and co-operation between representatives of the Ministry of Environment (water protection, nature and landscape protection, and environmental risk assessment and management), the Slovak

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\(^{19}\) See ibid

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Environmental Inspectorate, the Slovak Environment Agency, the State Nature and Landscape Conservancy and the Slovak Insurance Association.21

The Ministry of Environment has also issued guidance on risk assessments and other information related to mandatory financial security including a calculation tool that can be used online and offline (see section 5.8 above).

The introduction of the mandatory financial security system for ELD liabilities has increased awareness of ELD liabilities especially among small and medium sized enterprises, which were previously less aware than large operators.

11. EU ENVIRONMENTAL LEGISLATION WITH MANDATORY FINANCIAL SECURITY PROVISIONS

11.1. Landfill Directive

11.1.1. Competent authority(ies)

The competent authority for the Landfill Directive (1999/31/EU), which is implemented in Slovakia by Act No 79/2015 Coll. on Waste and on amendments to certain acts as amended (Zákon č. 79/2015 Z. z. o odpadoch a o zmene a doplnení niektorých zákonov v znení neskorších predpisov; Act 79/2015),22 is the Waste Management and IPPC Department of the Ministry of Environment. Act 79/2015 had been amended 11 times when this report was published.

11.1.2. Financial security provisions

Section 24 of Act 79/2015 provides that the operator of a landfill must accumulate a dedicated financial reserve (účelovú finančnú rezervu) to cover the costs of closure, reclamation, monitoring and post closure (aftercare), as well as measures to avert an accident or reduce the consequences of an accident that may or has occurred after closure of the landfill. If an operator has more than one facility, it must create a dedicated financial reserve for each one.

Section 24 sets out the method for accumulating the financial reserve including payment of annual contributions into a dedicated financial reserve in a separate account or accounts in the State Treasury. At least five per cent of the budgeted costs of closure, reclamation, monitoring and aftercare must be deposited in the financial reserve before operations at the landfill may begin.

Funds from the financial reserve may be released only with the approval of the Ministry after receiving a binding opinion from the competent authority of the waste management administration or permitting authority.

If a landfill operator ceases to exist without a legal successor before closure, reclamation, monitoring and aftercare of the landfill have been carried out, all rights and obligations related to the permit for the landfill are transferred to the municipality in which the landfill is located, together with the dedicated financial reserve.

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If the operator of a landfill has been declared bankrupt, the operator’s petition for bankruptcy has been declined due to a lack of assets, the operator has been authorised to restructure, or the licence for the landfill has been revoked, all rights and obligations related to the licence are transferred to the municipality in which the landfill is located, together with the dedicated financial reserve. The obligations transferred to the municipality are limited to those that may be carried out with the funds in the financial reserve.

On termination of the bankruptcy proceedings or the day on which the judicial decision to complete restructuring becomes final, the rights and obligations are transferred back to the operator of the landfill including rights related to the financial reserve.

Unspent monies in the financial reserve following completion of monitoring and other measures concerning closure, aftercare and rehabilitation of the landfill may be used by the relevant municipality to improve the environment in the municipality.

Pursuant to Regulation of the Ministry of Environment of the Slovak Republic on landfilling and storage of mercury waste No 383/2018 (Vyhláška Ministerstva životného prostredia Slovenskej republiky z 10. decembra 2018 o skládkovaní odpadov a uskladnení odpadovej ortuti), operators of temporary and permanent waste storage facilities for mercury are also subject to the requirement for a dedicated financial reserve.23

The Regulation sets out the annual amount of the dedicated financial reserve applicable to landfills as well as waste storage facilities for mercury. Annex 5 of the Regulation sets out the formula to calculate the annual amount of the reserve.

11.1.3. Financial security instruments and mechanisms accepted

The only acceptable financial security instrument is a financial deposit to an account in the State Treasury.

11.1.4. Templates

There are no templates for financial security instruments but there is no need for them due to the requirement for a financial reserve (see section 11.1.3 above).

11.1.5. Financial security instruments and mechanisms not acceptable

There is no list of financial security instruments or mechanisms that are not acceptable (see section 11.1.3 above).

11.2. Extractive Waste Directive

11.2.1. Competent authority(ies)

The competent authority for the Extractive Waste Directive (2006/21/EC), which is implemented in Slovakia by Act No 514/2008 Coll. on the management of waste from the extractive industry and on amendments to certain acts (Zákon č. 514/2008 Z. z. o nakladaní s odpadom z ťažobného priemyslu a o zmene a doplnení niektorých zákonov),24 is the Directorate for Geology and Natural Resources of the Ministry of Environment.


24 Zákon č. 514/2008 Z. z. o nakladaní s odpadom z ťažobného priemyslu a o zmene a doplnení niektorých zákonov; https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/514/ (in Slovak)
11.2.2. Financial security provisions

The operator of an extractive waste facility must create a dedicated financial reserve before operation of the facility begins and must maintain it during its operation. The financial reserve is for closure, reclamation, monitoring and aftercare costs. If an operator has more than one facility, it must create a dedicated financial reserve for each one.

The amount of the financial reserve must be revised every five years or whenever there is a change in the amount of waste in the facility. Calculation of the amount is based on the draft closure plan approved as part of the management plan. The amount is based on the likely environmental impact of the storage facility taking into account in particular the classification of the facility, the characteristics of extractive waste and the future use of the site after its reclamation, and the assumption that reclamation measures will be carried out by independent qualified third parties.

Funds in the dedicated financial reserve are held in a special bank account of the operator so that they are available at any time.

Provisions concerning the operator’s insolvency are similar to those under Act 79/2015 (see section 11.1.2 above) except that the financial reserve is transferred to the district office of the Region in which the extractive waste facility is located.

The above mandatory financial security requirements do not apply to inert extractive waste and unpolluted soil from mining operations or extractive waste that is not in a Category A waste facility.

11.2.3. Financial security instruments and mechanisms accepted

The only acceptable financial security instrument is a financial deposit in a special bank account held by the operator.

11.2.4. Templates

There are no templates for the financial deposit.

11.2.5. Financial security instruments not acceptable

There is no list of financial security instruments or mechanisms that are not acceptable.

11.3. Carbon Capture and Storage Directive

11.3.1. Status of implementation

There are no storage facilities for carbon dioxide in Slovakia.

11.3.2. Competent authority(ies)

The competent authority for the Directive on the geological storage of carbon dioxide, which is implemented in Slovakia by Act No 258/2011 Coll. on the permanent storage of carbon dioxide in the geological environment and on amendments to certain acts (Zákon č. 258/2011 Z. z. o trvalom ukladaní oxidu uhličitého do geologického prostredia a o zmene a doplnení niektorých zákonov; Act 258/2011), is the District Mining Office (Obvodný banský úrad).

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11.3.3. Financial security provisions

Operators of storage facilities for carbon dioxide must make an annual payment towards the costs of ensuring the security of the facility and monitoring it for 30 years. Before injection of carbon dioxide may begin, the operator must create a dedicated account into which annual sums are paid. The funds are to ensure that the operator carries out its obligations under the permit for the facility including closure and post-closure obligations. The amount of financial security is determined by the District Mining Office based on the extent of the storage facility, technical conditions, the complexity of the geology, the costs of construction, operation and removal of planned facilities including injection wells, monitoring and control facilities, and related facilities and equipment. The amount must be revised as necessary.

Provisions concerning the operator’s insolvency are similar to those under Act 79/2015 (see section 11.1.2 above) except that the financial reserve is transferred to the District Mining Office in which the storage facility is located.

11.3.4. Financial security instruments and mechanisms accepted

Acceptable financial security instruments to be submitted by applicants for a permit to store carbon dioxide are documented cash deposited at a national bank or branch of a foreign bank to the account of the District Mining Office, a bank guarantee, or any other equivalent instrument.

11.3.5. Templates

There are no templates for the financial security instruments.

11.3.6. Financial security instruments and mechanisms not acceptable

There is no list of financial security instruments and mechanisms that are not acceptable.

12. EU RECOMMENDATION ON HYDRAULIC FRACTURING

12.1. Status

Slovakia has shale gas reserves but did not have any commercial production of shale gas by hydraulic fracturing (fracking) when this report was published.26

12.2. Competent authority(ies)

The competent authorities for fracking are the Ministry of Economy and the Main Mining Office.

12.3. Financial security provisions

Not applicable

12.4. Financial security instruments and mechanisms accepted

Not applicable

12.5. Templates

Not applicable

26 See ‘Furthering the Knowledge Base for Reducing the Environmental Footprint of Shale Gas Development; Slovakia’ (Frac Risk); http://www.fracrisk.eu/search/node/slovakia
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12.6. Financial security instruments and mechanisms not acceptable
Not applicable

13. EU ENVIRONMENTAL LEGISLATION WITH NO MANDATORY FINANCIAL SECURITY PROVISIONS

13.1. Industrial Emissions Directive

13.1.1. Competent authority(ies)
The competent authority for the Industrial Emissions Directive (2010/75/EU), which is implemented in Slovakia by the Act No 137/2010 Coll. on Air (Zákon č. 137/2010 Z. z. o ovzduší),\(^{27}\) is the Waste Management and IPPC Department of the Ministry of Environment.

13.1.2. Financial security provisions
Act 137/2010 does not contain any mandatory financial security provisions.

13.1.3. Financial security instruments and mechanisms accepted
Not applicable

13.1.4. Templates
Not applicable

13.1.5. Financial security instruments and mechanisms not acceptable
Not applicable

13.2. Seveso III Directive

13.2.1. Competent authority(ies)
The competent authority for the Seveso III Directive (2012/18/EU), which is implemented in Slovakia by Act No 128/2015 Coll. on prevention of major industrial accidents and on amendments to certain acts (Zákon č. 128/2015 Z. z. o prevencii závažných priemyselných havárií a o zmene a doplnení niektorých zákonov; Act 128/2015),\(^{28}\) is the Environmental Risks and Biosafety Department of the Ministry of Environment.

13.2.2. Financial security provisions
Section 4(e) of Act 128/2015 requires the operator of a class B facility under the Act to provide financial security for liabilities specified in section 18 of it.

Section 18 provides that the operator of a class B (upper tier) facility shall provide financial security for damage that may arise as a result of a major industrial accident. The financial security must be in place when a new facility begins operations or within three months of another facility becoming a class B facility. The financial security must be kept in force throughout the operations. The financial security appears to be for civil liabilities and the prevention and remediation of environmental damage but this is not clear.

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\(^{28}\) Zákon č. 128/2015 Z. z. o prevencii závažných priemyselných havárií a o zmene a doplnení niektorých zákonov; [https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/128](https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/128) (in Slovak)
The amount of financial security corresponds to expected consequences of a major industrial accident taking into account the results of the risk assessment carried out for the facility for such an accident.

Slovakia’s 2013 report to the European Commission under then article 18(1) of the ELD stated that large operators subject to the then Seveso II Directive would be insured under that Directive as well as being subject to mandatory financial security under the ELD. The report further stated that their financial security for liability for environmental damage was higher than average.29

13.2.3. Financial security instruments and mechanisms accepted

Section 18 of Act 128/2015 states that insurance policies for civil liabilities and a bank guarantee are acceptable financial security instruments.

13.2.4. Templates

There are no templates for financial security instruments under Act 128/2015.

13.2.5. Financial security instruments and mechanisms not acceptable

There is no list of financial security instruments and mechanisms that are not acceptable.

13.3. Other legislation

No legislation other than the legislation that implements the Seveso III Directive (see section 13.2 above) in Slovakia requires mandatory financial security for civil claims from environmental damage or other environmental liabilities.

14. Mandatory financial security for offshore oil and gas operations

Slovakia is landlocked.

14.1. Competent authority(ies)

Not applicable

14.2. Status of offshore oil and gas operations

Not applicable

14.3. Requirements for financial security

Not applicable

14.4. Requirement for financial security for ELD liabilities

Not applicable

15. **Failure of Financial Security**

15.1. **Inadequate level of financial security instrument or mechanism to pay claims**

There were no reported cases of incidents in which the financial security instrument or mechanism was inadequate to pay claims when this report was published.

15.2. **Insolvency of operator leading to failure of financial security instrument or mechanism**

There is one case in which an operator could not pay for measures to prevent or remediate environmental damage because it is insolvent. The prevention and remediation of environmental damage including monitoring, geological exploration and related technical measures were in progress when this report was published. The successor of the previous operator did not have financial security.

15.3. **Other**

There were no public reports of other failures of voluntary or mandatory financial security in Slovakia when this report was published.

16. **Funds**

Slovakia has not established a fund to pay the costs of preventing or remediating environmental damage if the liable operator becomes insolvent or cannot otherwise pay them.

Slovakia has an environmental fund (**environmentálnom fonde**) that was established by Act No 587/2004 Coll. on the environmental fund, as amended (Zákon č. 587/2004 Z.z. o Environmentálnom fonde a o zmene a doplnení niektorých zákonov), as supplemented by Decree of the Ministry of Environment implementing Act No 587/2004 on the environmental fund (Vyhláška Ministerstva životného prostredia Slovenskej republiky č. 157/2005 Z.z., ktorou sa vykonáva zákon č. 587/2004 Z.z. o Environmentálnom fonde a o zmene a doplnení niektorých zákonov).

The purposes of the environmental fund include enhancing energy efficiency, environmental protection, projects aimed at reducing greenhouse gas emissions, the reconstruction and modernisation of renewable energy sources, and flood control measures.

One purpose is to eliminate environmental ‘burdens’. Funding may not be granted if the person who caused an accident is known. If that person is located after the fund has paid, it must reimburse the fund.

16.1. **Name(s)**

Not applicable

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16.2. Extension of existing fund to cover remedial costs under the ELD
Not applicable

16.3. Purpose
Not applicable

16.4. Type
Not applicable

16.5. Source(s) of funding
Not applicable

16.6. Number and amount of claims
Not applicable
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Act No 79/2015 Coll. on Waste and on amendments to certain acts (Zákon č. 79/2015 Z. z. o odpadoch a o zmene a doplnení niektorých zákonov v znení neskorších predpisov); https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2015/79

Act No 258/2011 Coll. on the permanent storage of carbon dioxide in the geological environment and on amendments to certain acts (Zákon č. 258/2011 Z. z. o trvalom ukladaní oxidu uhličitého do geologického prostredia a o zmene a doplnení niektorých zákonov); https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/258

Act No 137/2010 Coll. on Air (Zákon č. 137/2010 Z. z. o ovzduší); https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2010/137/

Act No 514/2008 Coll. on the management of waste from the extractive industry and on amendments to certain acts (Zákon č. 514/2008 Z. z. o nakladaní s odpadom z tăžobného priemyslu a o zmene a doplnení niektorých zákonov); https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/514/

Act 359/2007 Coll. on the prevention and remediation of environmental damage (Zákon z 21. júna 2007 o prevencii a náprave environmentálnych škôd a o zmene a doplnení niektorých zákonov); https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/359/


Act No 587/2004 Coll. on the environmental fund (Zákon č. 587/2004 Z.z. o Environmentálnom fonde a o zmene a doplnení niektorných zákonov); https://www.zakonypreludi.sk/zz/2004-587

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Reports and other documents


Informačný systém prevencie a nápravy environmentálnych škôd; http://enviskody.enviroportal.sk/Riziko.aspx


Articles, reports and presentations

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