

**Electoral System Change in Europe since 1945: Slovakia**

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With thanks to:

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# Section 1: Overview of Slovakian Electoral System Changes since 1990

The following outlines changes to electoral law in Slovakia since 1990: the year when free and competitive elections took place for the first time since the era of Socialist Czechoslovakia but prior to the dissolution of Czechoslovakia in 1993. In June 1990 there were elections to the joint Czechoslovak Parliament, the Federal Assembly, and the lower houses of the two republican parliaments, the Czech and the Slovak National Councils. The Slovak variant was almost identical to the semi-open list PR system, with large district magnitudes and party thresholds adopted by the Federal and Czech parliaments. There have been several amendments to this system – most notably the introduction of a single nationwide constituency replacing four regional districts in 1998. The level of party and coalition thresholds have also been subject to amendment, most controversially in 1998, when a heightened thresholds (especially for coalitions) was introduced shortly before the election – these thresholds were subsequently found to be unconstitutional by the Slovakian Constitutional Court and were consequently struck down in 1999. In 2004 the threshold of personal votes required for a candidate to be prioritised in terms of seat allocation was substantially reduced.

**Section 2: Relevant Electoral System changes in Slovakia since 1990**

**Table 1. Summary of [Country] Electoral Laws and Amendments since 1945**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Law** | **Amendment** | **Date of enactment** | **Location** | **Relevant to the research** |
| **79/1990**  Constitutional Law of the Slovak National Council No. 79/1990 on the Number of Slovak National Council Deputies; on the Text of the Oath of Slovak National Council Deputies, Members of the Slovak Republic Government, and National Committee Deputies; and on the Slovak National Council Electoral Period. |  | 16.3.1990 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=10331&FileName=90-z079&Rocnik=1990> | **Yes** |
| **80/1990**  Law of the Slovak National Council on elections to the Slovak National Council, 16 March 1990 |  | 16.3.1990 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=10332&FileName=90-z080&Rocnik=1990&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=120&Flags=160&IndexFile=zz90&Text=voľby> | **Yes** |
|  | **104/1992**  Law of the Slovak National Council, 26 February 1992, amending and supplementing the law of the Slovak National Council 80/1990 on elections to the Slovak National Council. | 26.2.1992 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=11689&FileName=92-z104&Rocnik=1992&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=186&Flags=160&IndexFile=zz92&Text=voľby> | **Yes** |
|  | **518/1992**  Law of the National Council of the Slovak Republic, 5 November 1992, amending and supplementing the law of the Slovak National Council 80/1990 on elections to the Slovak National Council, as amended by subsequent regulations. | 5.11.1992 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=12103&FileName=92-z518&Rocnik=1992&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=600&Flags=160&IndexFile=zz92&Text=voľby> |  |
|  | **157/1994**  Law of the National Council of the Slovak Republic, 7 June 1994, amending and supplementing the law of the Slovak National Council 80/1990 on elections to the Slovak National Council, as amended by subsequent regulations. | 7.6.1994 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=12917&FileName=94-z157&Rocnik=1994&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=174&Flags=160&IndexFile=zz94&Text=voľby> | **Yes** |
|  | **81/1995**  Law of the National Council of the Slovak Republic, 7 April 1995, amending and supplementing the law of the Slovak National Council 80/1990 on elections to the Slovak National Council, as amended in the law of the Slovak National Council 8/1992, the law of the Slovak National Council 104/1992, the law of the Slovak National Council 518/1992 and the law of the Slovak National Council 157/1994. | 7. 4. 1995 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=13228&FileName=95-z081&Rocnik=1995&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=89&Flags=160&IndexFile=zz95&Text=voľby> | **Yes** |
|  | **187/1998**  Law of 20 May 1998, amending and supplementing the law of the Slovak National Council 80/1990 on elections to the Slovak National Council as amended by subsequent regulations and concerning amendments and supplements to other laws. | 20.5.1998 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=14447&FileName=98-z187&Rocnik=1998&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=198&Flags=160&IndexFile=zz98&Text=voľby> | **Yes** |
| **PL. ÚS 15/98 č. 1/99** [Decision of the Constitutional Court] On the Constitutionality of the law on elections to the National Council of the Slovak Republic |  | 11.3.1999 | <http://www.concourt.sk/Zbierka/1999/1_99s.pdf> | **Yes** |
| **66/1999**  Decision of the Constitutional Court of the Slovak Republic |  | 18.3.1999 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=14742&FileName=99-z066&Rocnik=1999> | **Yes** |
|  | **223/1999**  Law of 24 August 1999, amending and supplementing the law of the Slovak National Council, 80/1990 on elections to the Slovak National Council as amended by subsequent regulations and on the amendment and supplement to other laws. | 24.8.1999 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=14900&FileName=99-z223&Rocnik=1999&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=228&Flags=160&IndexFile=zz99&Text=voľby> | **Yes** |
| **333/2004**  Law on elections to the National Council of the Slovak Republic, 13 May 2004. |  | 13.5.2004 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=17973&FileName=04-z333&Rocnik=2004&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=355&Flags=160&IndexFile=zz04&Text=voľby>  In English:  <http://www.legislationline.org/documents/action/popup/id/4419> | **Yes** |
|  | **464/2005**  Law of 22 September 2005 amending and supplementing the law 333/2004 on elections to the National Council of the Slovak Republic and the law 331/2003 on elections to the European Parliament as amended by subsequent regulations. | 22.9.2005 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=18915&FileName=05-z464&Rocnik=2005&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=487&Flags=160&IndexFile=zz05&Text=voľby> | **Yes** |
|  | **192/2007**  Law of 23 March 2007 amending and supplementing the law of the National Council of the Slovak Republic 564/1992 on the procedure for conducting referendums as amended by subsequent regulations and the law 333/2004 on elections to the National Council of the Slovak Republic as amended by the law 464/2005. | 23.3.2007 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=20035&FileName=07-z192&Rocnik=2007&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=194&Flags=160&IndexFile=zz07&Text=voľby> | **Perhaps** |
|  | **445/2008**  Law of 24 October 2008 amending and supplementing certain laws within the domain of the Ministry of the Interior of the Slovak Republic with respect to the introduction of the EURO into the Slovak Republic. | 24.10.2008 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=208480&FileName=zz2008-00445-0208480&Rocnik=2008&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=465&Flags=160&IndexFile=zz2008&Text=voľby> | **Yes** |
| **PL. ÚS 6/2008**  [Constitutional Court decision on] Free competition of political forces and restrictions on passive voting rights; On the election deposit and the feasibility of securing mandates;  On the amount of the election deposit; Imprisonment as a constitutionally acceptable barrier to passive voting rights; Imprisonment as a barrier to active voting rights. |  | 1.2009 | <http://www.concourt.sk/Zbierka/2009/09_1s.pdf> | **Yes** |
| **126/2009**  Decision of the Constitutional Court of the Slovak Republic 11 February 2009 on behalf of the Slovak Republic |  | 11.2.2009 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=208913&FileName=zz2009-00126-0208913&Rocnik=2009&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=131&Flags=160&IndexFile=zz2009&Text=voľby> | **Yes** |
| **58/2010**  Law of 9 February 2010 amending and supplementing the law 333/2004 on elections to the National Council of the Slovak Republic, as subsequently amended and on the amendments and supplements to the law 331/2003 on elections to the European Parliament as subsequently amended. |  | 9.02.2010 | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=209509&FileName=zz2010-00058-0209509&Rocnik=2010&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=59&Flags=160&IndexFile=zz2010&Text=333/2004> | **No** |
| **266/2010**  Law of 10 June 2010 amending and supplementing the law 333/2004 on elections to the National Council of the Slovak Republic as subsequently amended and the law 85/2005 on political parties and political movements as subsequently amended |  |  | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=209742&FileName=zz2010-00266-0209742&Rocnik=2010&#xml=http://www.zbierka.sk/zz/predpisy/default.aspx?HitFile=True&FileID=271&Flags=160&IndexFile=zz2010&Text=333/2004> | **Perhaps** |
| 204/2011  Law of 28 June 2011, which amends and supplements the law 184/1999 on the use of minority languages |  |  | <http://www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=210277&FileName=zz2011-00204-0210277&Rocnik=2011> |  |

**Section 3: Details of previous electoral systems and electoral system changes.**

***3.1 The 1990 Electoral System***

Representatives to the Slovak National Council were first elected in June 1990 using an electoral system that was essentially the same as that adopted for the federal parliamentary elections in 1990: a party-list system of proportional representation. This system had been in operation between the two world wars, and from 1946 to 1948.

There were some slight differences between the Slovak variant of this electoral system and that adopted by the Czech and federal parliaments. Firstly, in the Slovak case, the threshold according to which parties were allocated seats was set at 3 per cent[[1]](#footnote-1) rather than 5 per cent (Birch *et al.* 2002: 201, n16; Kopecký 2001: 57, 59). Secondly, the Hare quota was used for allocation of seats at the first tier, while the Hagenbach Bischoff method was used for second-tier allocation. (Birch *et al.* 2002: 71; Kopecký 2001: 56, 58).

*Assembly size*. The number of representatives to the National Council was fixed at 150[[2]](#footnote-2) and has remained in force since then, as enshrined in the Constitution.[[3]](#footnote-3) This marked a significant increase in assembly size by comparison with Slovak representation in the Czechoslovak lower parliamentary chamber, the Federal Assembly, where only 49 seats in 1990 and 51 seats in 1992 were occupied by representatives from Slovakia (Kopecký 2001: 56).

*Districts and district magnitude*. Article 9 of the 1990 electoral law specifies four electoral districts, based on geographical regions. As in the case of the Czech Republic system, the number of seats apportioned to each district was not fixed in advance, but rather determined by the number of valid votes cast in each district using the Hare quota and largest remainders; therefore voter turnout in each district determined how many seats were allocated in each.

*Nature of votes that can be cast*. Voters are given separate ballot papers for each party’s list of candidates. They are allowed to circle up to four candidates on one ballot, which simply expresses their preference for those candidates marked, without ranking them. They then place the one ballot in an envelope to cast their vote, and the remaining unused ballots of other party lists are discarded separately.[[4]](#footnote-4)

*Party threshold*. The threshold according to which parties were allocated seats was set at 3 per cent.[[5]](#footnote-5)

*Allocation of seats to parties at the lower tier*. The number of seats apportioned to each party in the four electoral districts was to be calculated using the Hare method, in accordance with the formula: the sum total of valid votes cast in the entire republic divided by the total number of representatives (150). The resultant quotient, rounded to the nearest whole number, ‘the electoral seats number,’ was then used as the quota to allocate seats for each electoral district. That is, the sum total of valid votes cast in each of the four electoral districts, respectively, was then divided by this ‘electoral seats number’ quotient. In the event that seats remained unallocated, seats were to be allocated to those districts with the highest remainder of votes, or if remainders were equal this decision would be made by drawing lots.[[6]](#footnote-6)

*Allocation of seats to parties at the upper tier*. In the event that some seats remained unallocated by this method, there was provision in the law for a second stage of allocation, using the Hagenbach-Bischoff method, whereby the total remainder of un-attributed votes was then divided by the remaining number of unallocated seats + 1. Those parties with a remaining share of the vote exceeding this quotient were allocated seats accordingly. In the event that seats remained unallocated, or a party had insufficient candidates to fill the number of seats it had been allocated, then seats were to be allocated to candidates from other parties in order of the highest remainder. In the event that remainders happened to be equal, then the seat in question would be allocated to the party, which received the highest total vote across Slovakia. Should the total vote for both parties happen to be equal then the matter would be decided by drawing lots. In the second tier of the election, the system adopted was ‘closed-list’, whereby candidates selected at this stage were those (unelected candidates) proposed by the respective parties in order of preference, the only proviso being that they had appeared as candidates on the original ballot.[[7]](#footnote-7)

In the 1994 election, eight of the 150 seats were allocated at this national level.[[8]](#footnote-8)

*Allocation of seats to candidates*. The list-system adopted was semi-open, whereby each party ranks candidates on the ballot paper, suggesting its own preference as to which candidates should be elected, but voters were allowed to influence that choice by marking up to four candidates within that list. Within each district, according to the 1990 law, each party could list a maximum of 40 candidates.[[9]](#footnote-9) A threshold of the extent of voters’ influence over candidate selection within this list system was fixed, however. For candidate preferences to be taken into account required that at least 10% of all voters in the district had exercised their right to preferential voting. Then, only those candidates that received a majority (more than 50 per cent) of all these preference votes, from among all votes cast for that party, would be given preference over the party’s ranking of candidates, and be allocated a seat.[[10]](#footnote-10)

Table 2: Allocation of seats at district level in 1994

|  |
| --- |
| **Electoral district** |
| 1994 |
| Bratislava | 12 |
| Western Slovakia | 50 |
| Central Slovakia | 47 |
| Eastern Slovakia | 41 |

***3.2 The 1992 Electoral Reform***

*Party threshold*. The threshold for parties was raised from 3 to 5 per cent of total votes cast. This threshold was raised to 7 per cent for coalitions of two or three parties and 10 per cent for coalitions of four or more parties.[[11]](#footnote-11) In the event that no party or coalition met this threshold, then the relevant thresholds would be reduced by one per cent for each, respectively.[[12]](#footnote-12) This amendment clearly favoured larger parties, and excluded those smaller parties and coalitions that failed to garner this percentage, reducing the number of parties represented in parliament, both extremist and small liberal parties (Birch *et al.* 2002: 201n16)

*Allocation of seats to parties at the lower tier*. In addition, the Hare method was replaced with the Hagenbach-Bischoff quota for allocating seats also in the first tier.[[13]](#footnote-13) (Birch *et al.* 2002: 71; Kopecký 56, 58). The effect of this change in method would have been to increase the likelihood that fewer seats would be allocated in the second tier of allocation, albeit by a small number. Since second-tier candidates were proposed by each party, and at this stage parties were given the opportunity to submit the list of candidates according to their own preference (as described above) this will have increased the electorate’s influence over candidate-selection. At the same time, the threshold for preference votes to change the order of candidates on lists in the first-tier of the election was reduced, increasing somewhat the electorate’s influence over candidate selection within parties.

*Allocation of seats to candidates*. While the provision remained, that ten per cent of all voters needed to express a preference in order for that preferences to be taken into account by the Electoral Commission when allocating seats, a candidate needed support from only ten per cent, rather than a majority, of those preferential votes in order to be moved to the top of the list. (Kopecký 2001: 57).

No other change.

***3.3 The 1994 Electoral Reform.***

*Nature of votes that can be cast*. [Short description].

Though district magnitude did not itself change, the number of candidates that could be listed on a ballot by parties in the electoral districts was raised from 40 to 50.[[14]](#footnote-14)

No other change.

***3.4 The 1998 Electoral Reform***

The 1998 amendment to the 1990 law, endorsed very shortly before the elections a few months later, significantly affected the results of the September 1998 elections:

The Meciar government sought to strengthen its chances in the election by modifying the electoral law. This was made easier by the absence of a President who might have objected. A new law was passed on 20 May, very close to the deadline for tabling lists for the September elections. It was opposed by all the opposition parties. The new law altered constituency boundaries and, more importantly, significantly raised the electoral threshold for alliances of parties, hitting both the centre-right opposition grouping, the SDK and the Hungarian parties, but not the three governmental parties. (Fitzmaurice 1999: 292)

*Districts and district magnitude*. [Short description].

One of the most far-reaching changes introduced in the 1998 law was the replacement of the four districts with one countrywide constituency.[[15]](#footnote-15) Instead of selecting up to 50 candidates for each district, parties were invited to select up to the total number of contested seats in the National Council, that is 150 candidates,[[16]](#footnote-16) which would be listed on ballot papers. This has clearly made voting a more complicated procedure for the electorate. Although provisions concerning preference voting were not amended by the law, the sheer number of candidates on each ballot, together with the threshold of 10% of all preference votes as a requirement to give a candidate precedence over the those candidates listed first by the party, made it very difficult for the electorate to effect a change in the ranking of candidates. In practical terms this disempowered the electorate from influencing candidate selection:

Preference voting, though formally untouched, was neutralized by the single district, as the application of the existing formula to such a large area made it practically impossible for any but the already most prominent figures to move up the candidate list. (Birch *et al.* 2002: 76).

*Party threshold*. The threshold for coalitions was raised considerably, such that each component party of a coalition was required to secure at least 5 per cent of all votes cast. Therefore, instead of a coalition of 2 or 3 parties needing to jointly secure 7 per cent, they would need to secure at least 10-15 per cent, and whereas before, a coalition of 4 or more parties required 10 per cent of the total vote, they would require, collectively, at least 20 per cent of the vote to qualify for a seat in parliament.

The reform was clearly directed at opposition moves to cluster small parties around the Democratic Union (formed in 1994 by defectors from Mečiar’s HZDS and the Slovak National Party) and the Christian Democratic Movement and thereby minimize vote-wastage. (Birch et al. 2002: 77; see also Malová, 2001: 354-55)

*Allocation of seats to parties at the lower tier*. The second tier of allocation of seats was scrapped, and the method for allocating seats was changed from the Hare to the Hagenbach-Bischoff quota.

*Allocation of seats to parties at the upper tier*. The upper tier was abolished.

No other change.

***3.5 The 1999 constitutional court decision***

In response to the 1998 law and prior to the elections, a group of 35 members of the National Council filed a constitutional complaint (Birch et al. 2002: 77). On 11 March 1999, the Constitutional Court found many of the new provisions and amendments to the 1990 law to be unconstitutional. The Court made the ruling that the increase in threshold for coalitions to qualify for seats, as stipulated in Article 41, effectively excluded citizens and members of various parties from participating in the political process. The Court also found Article 23 (1), which restricted political campaign broadcasts to Slovak national broadcasting networks, incompatible with Article 26 of the Slovak Constitution and Article 10 of the European Convention on Human Rights, concerning the right to freedom of information and free speech. Moreover, the Court decided that Article 48(1), which specified that political parties could exclusively determine how representatives should be selected in the event of a vacant mandate, did not comply with Article 30(4) of the Slovak Constitution granting citizens the right to participate in the direct election of representatives.

According to the Slovak Constitution, once the Constitutional Court has found that a law, or certain provisions within a law, does not comply with the Constitution then the law loses effect and the legislature must amend the law in accordance with the Constitutional Court’s ruling:

If the Constitutional Court holds by its decision that there is inconformity between legal regulations stated in paragraph 1, the respective regulations, their parts or some of their provisions shall lose effect. The bodies that issued these legal regulations shall be obliged to harmonize them with the Constitution.

The Constitutional Court issued a decision, a week later, which reiterated that the 1998 law lost effect from the day of publication of the decision, and that the National Council was required to make the necessary amendments to the 1998 law within six months, or the law would be struck from the state’s collection of laws and statutes.

The National Council took action within the specified timeframe and consequently drafted and endorsed a new amendment to the 1990 law in August 1999, in full accordance with the Constitutional Court’s requirements.

***3.5 The 1999 Electoral Reform***

*Allocation of seats to parties at the lower tier*. [Short description].

The new amendment reinstated the 1992 provisions for coalitions, including the right to submit joint lists of candidates, and most importantly Article 41 concerning the allocation of seats according to the thresholds of 5, 7 and 10 per cent for political parties, and coalitions of 2-3 parties, or 4 or more parties, respectively.

No other change.

***3.6 The 2004 Electoral Reform***

*Allocation of seats to candidates*.

The 2004 law reduced the threshold, according to which preference votes would prioritise a candidate, from 10 to 3 percent. This provided the electorate with a realistic chance of altering the composition of parliamentary delegations (Rýbar, 2007, 700). The 2010 election results suggest that the order in which parties list candidates continues to be the most influential factor in how seats are allocated. At the same time, the vast majority of the electorate exercised their right to express a preference, which resulted in 13/150 (9%) of candidates being moved up the list to secure a seat in parliament.

# Appendix

# References

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1. Article 41(1), 80/1990 [↑](#footnote-ref-1)
2. Article 1, 79/1990 law [↑](#footnote-ref-2)
3. Article 73 (1), **Constitution of the Slovak Republic (460/1992; last amended as 210/2006)** <http://www.slovak-republic.org/constitution/> [↑](#footnote-ref-3)
4. Article 28, 80/1990 law; this system remains in force in accordance with Article 30 of the 2004 law (333-2004) [↑](#footnote-ref-4)
5. Article 41(1), 80/1990 law [↑](#footnote-ref-5)
6. Article 40 (1-3), 80/1990 law [↑](#footnote-ref-6)
7. Article 43, 80/1990 law [↑](#footnote-ref-7)
8. We are grateful to Peter Spáč for supplying this information. [↑](#footnote-ref-8)
9. Article 17 (6), 80/1990 law [↑](#footnote-ref-9)
10. Article 42 (3) 80/1990 law [↑](#footnote-ref-10)
11. Article 41 (2), 104/1992 law [↑](#footnote-ref-11)
12. Article 41 (3), 104/1992 law [↑](#footnote-ref-12)
13. Article 42 (1), 104/1992 law [FOR INFO, AS NOT OFFICIALLY TRANSLATED ANYWHERE: 70. § 42 ods. 1 znie:„(1) Súčet platných hlasov odovzdaných vo volebnom kraji pre politické strany ktoré postúpili do prvého skrutínia, sa vydelí počtom mandátov, ktoré sa tomuto volebnému kraju pridelili (§ 40), **zväčšeným o jeden**; celé číslo, ktoré vyšlo týmto delením a zaokrúhlené na jednotky, je krajským volebným číslom.” Whereas previously in 1990 case: § 42

    **Prvé skrutínium**1) Súčet platných hlasov odovzdaných pre politické strany, ktoré postúpili do prvého skrutínia, sa vydelí počtom mandátov, ktoré boli tomuto volebnému kraju pridelené (§ 40); celé číslo, ktoré vyšlo týmto delením, je krajským volebným číslom.] [↑](#footnote-ref-13)
14. Article 17 (8) 157/1994 law [↑](#footnote-ref-14)
15. Article 9 (2) 187/1998 law [↑](#footnote-ref-15)
16. Article 17 (8) 187/1998 law [↑](#footnote-ref-16)