

## Contribution of the Slovak Republic – UNCAC implementation developments

The Slovak Republic highly appreciates the activities of the UN and the whole evaluation process according to the UNCAC. The Slovak Republic recognizes several positive aspects, especially the self-evaluation (as a possibility to identify the national shortcomings and put together different stakeholders), exchange of views with evaluation teams and better understanding of concepts and trends, and final identification of shortcomings and best practices.

The fight against corruption is an integral part of national policy reinforcing the rule of law.

### Chapter III: Criminalization and Law Enforcement

#### *Development regarding the criminal law framework*

The criminal law legislative framework is consistently reinforced. The same applies to law enforcement efforts – last years, despite the persistence of several systemic problems, significant improvements in the detection and prosecution of high level corruption cases can be noted.

#### **Criminal Code**

An amendment of **Section 336**, which entered into force on 1 January 2021, brought several positive changes in relation to indirect corruption. It is clear from the amended Section 336 of the Criminal Code that the new regulation already covers cases where an individual offers or gives a bribe to another person who did not have an influence on what the bribe was given for. This means that the bribed person does not have to exercise his or her own influence directly on the decision-maker, but can also influence the decision-maker through another intermediary.

At the same time a new **Section 326a - Crime of abuse of law** (bending the law) has been introduced. It addresses situations where the judge or arbiter rules clearly against the law. However, the Judicial Council can stop the prosecution of a judge for this criminal offense (to safeguard the independence of the judiciary).

**The definition of public official** in Section 128 was amended according with the recommendation by the Act 312/2020 Coll.

#### */Recodification process/*

In December 2021, the Ministry of Justice of the Slovak Republic submitted a major draft amendment of the Criminal Code to the public consultation procedure. However, despite broad expert and political support for the final proposal, due to the early parliamentary election in September 2023, the legislative process was interrupted during the second reading in the Parliament.

The amendment to the Criminal Code contained several fundamental changes, including changes related to corruption offences.

The principle of legality of criminal prosecution is applicable in the Slovak Republic. Therefore, the question concerning the reduction of threshold amount applicable to prosecutions for the embezzlement of public funds is, at the same time, the conceptual question for Criminal Code that is mainly based on the damage caused. The actual threshold for criminal offence is 266 euros, the embezzlement including. There is no appetite to change this concept.

The draft amendment also introduces **new criminal offenses, including § 340a - "breach of a whistleblower protection "**.

### **Criminal liability of legal persons**

The list of offences in Act 91/2016 Coll. on criminal liability of legal persons is progressively growing. Actually there is 110 criminal offences for what legal person could be held criminally liable.

### *Money laundering*

The substantive reform of dispositions concerning money laundering was adopted by the Act 312/2020 Coll. following the evaluation of MoneyVal (Council of Europe), including the definition of criminal offence in Criminal Code and complementary institutes in Code of Criminal Proceedings and establishment of the Office for the management of seized property.

However, no substantive progress was achieved in regard the Act No.101/2010 Coll. on proving the origin of property. Bearing in mind the fact that the scope of problems remains the same, expert discussions on the preparation of a new law are ongoing. At the same time, the expert discussions at EU level are ongoing. Domestic works will be finalised only after the adoption of EU legislation with the objective to ensure its proper transposition into the national legal order.

### *Building institutions*

#### **Whistleblower Protection Office**

The Slovak Republic wishes to report that the Whistleblower Protection Office has been established by the Act No. 54/2019 Coll. The amendment (Act No. 189/2023 Coll.), transposing the EU directive, was adopted in May 2023. The Whistleblower Protection Office is an independent state institution with a nationwide presence based in Bratislava. Their mission is to protect whistleblowers who report unfair practices they have encountered in the course of their work. The office closely cooperates with public administration bodies, employers and non-governmental organizations with the aim of improving the environment for whistleblowers.

The Whistleblower Protection Office started officially working and receiving substantiated notifications from citizens about illegal activities threatening the public interest on 1 September 2021. The Whistleblower Protection Office oversees compliance with the Whistleblower Protection Act, provides expert opinions and advises on the application of this law, drafts the annual reports for the National Council of Slovakia and also has the competence to draw attention to the deficiencies in addressing the suspicions that have been reported. This independent office with a seat in Bratislava is headed by the President, Ms. Zuzana Dluhošová.

It has the power to suspend for 30 days the employer's dismissal (demotions, disciplinary measures, etc.) if the employer fails to prove that there was no causal link between the measure and the report. The reporting person can subsequently initiate court proceedings to challenge the measure and request a preliminary injunction. If the court grants the preliminary measure, the measure remains suspended, and the reporting person maintains the job pending the outcome of the legal dispute including the right to remuneration. Furthermore, the prosecution service may grant a protected whistleblower status to a person who has made a qualified report about serious criminal activity. The same can be granted by an administrative body if a person reports a serious administrative offense. In such cases, an employer is not allowed to dismiss the reporting person or to apply any work-related

measure on the reporting person without prior approval of the WPO. WPO often acts as an intermediary between the prosecution service and the whistleblower before granting protection.

WPO can impose a financial penalty on individuals or employers who adopt retaliatory measures or prevent a reporting person from submitting a report. Furthermore, WPO may notify statutory representatives of public administration bodies about insufficient handling of a report and request to remedy the situation. It may also notify employers about the unlawfulness of their intended actions. WPO functions as an external whistleblowing channel for all types of whistleblowing reports but is not entitled to investigate wrongdoings addressed by notifications from citizens about illegal activities threatening public interest (forwards notifications to competent authorities or navigates the reporting person on how to do so). WPO can submit a criminal report on behalf of the reporting person to preserve the anonymity of the reporting person. It can also investigate all allegations of retaliation.

**WPO's 6-week public awareness campaign** started in **September 2022**. The main objective is to raise awareness of the existence and mission of the WPO as well as to motivate the public to speak up should they witness corruption, fraud, or other activities against public interest. The campaign will include main media outlets such as TV, radio, social media, and billboards. Target groups are employees in the state and public sector and economically active individuals. Among other planned supporting activities are **public discussions with experts, concerts, and a podcast series with real whistleblower stories**. In the meantime, WPO regularly promotes the whistleblower protection agenda via **social media, TV, radio and print media interviews, and public discussions for public sector and private business**

WPO also provides **advice to private and public organizations** on how to solve concrete problems and issues **official instructions** to questions related to applications of legislative rules

### Asset Management Office (AMO)

Following the adoption of the new **Act on the Execution of Orders on Seizure of Property and on Management of Seized Property in October 2020**, a new **Office for the Management of Seized Property** was established by 1 August 2021 under the competence of the Ministry of Justice.

**The Office for the Management of Seized Property** is a state administration body for the administration of seized property with a nationwide competence. The purpose of the management of the seized property is to prevent the unreasonable devaluation of the seized property and to ensure that the value of the seized property will increase expectedly.

The Office manages seized property based on **seizure decisions issued**:

1. in criminal proceedings, including the enforcement of decisions on the seizure of property in the framework of international judicial cooperation in criminal matters,
2. in tax administration,
3. when proving the origin of property,
4. in the implementation of international sanctions.

From the beginning of the activities of the Office, the majority of property under its management was seized in criminal proceedings.

**The Office takes over seized property from the competent authorities** (usually the prosecutor's offices and courts). In the context of the management of seized property, the Office cooperates also with other entities such as the Police Force of the Slovak Republic, the Financial Administration, the Administration of State Material Reserves of the Slovak Republic, external service suppliers, property evaluation experts, and other entities.

Among the **main competences of the Office** are the management of seized real estate and seized movable property, timely exercise a claim to damage compensation or a claim to surrender unjust enrichment, continuously monitor whether debtors meet their liabilities to the seized property in a timely and proper manner; invoke the invalidity of a legal act performed by the person concerned in violation of the decision to seize property; secure and protect the movable property from damage, destruction, loss, theft, misuse or other impairment, take the necessary actions to preserve the value of the secured movable property; lease the seized property meant for lease and deposit the funds obtained from such lease with the Office; perform in court proceedings, administrative proceedings or other proceedings all acts that are otherwise authorized to be performed by its owner or a person authorized to dispose of the property; keep records of the seized property until the end of the administration of the seized property; inspect the accounting records, contracts and other documents relating to the seized property and enter the places designated for business.

Within its activities, the Office ensures the management of various types of seized property, most often **real estate**, and **movable items**. The seized real estate property includes **apartments, family houses, non-residential premises and land**. Among movable items are mainly **cars**. The Office also has under its management **property rights** in the form of seized business shares in companies and **financial assets** in the form of securities and money in accounts in banking institutions. Through its activities, the Office helps to ensure that criminal instruments (e.g. a car driven by a person under the influence of alcohol) and proceeds of crime (e.g. cars and real estate acquired from drug sales) are taken away from those who profit from the crime, and thus lose resources to finance further crime.

### Supreme Administrative Court

The Supreme Administrative Court of the Slovak Republic is the supreme judicial body in matters of administrative justice, which ensures the unity and legality of decision-making. **It was established with effect from 1 January 2021 by the Constitutional Act no. 422/2020 Coll. amending the Constitution of the Slovak Republic, with the beginning of its activities on 1 August 2021.** This court has an equal status with the Supreme Court in the hierarchy of general courts, with the Supreme Administrative Court being the highest court in the area of administrative justice and the Supreme Court being the highest court in the area of civil, commercial and criminal matters.

The Supreme Administrative Court of the Slovak Republic is headed by a President, who is represented by a Vice-President, both appointed and removed by the President of the Slovak Republic on the proposal of the Judicial Council of the Slovak Republic. The seat of the Supreme Administrative Court of the Slovak Republic is in Bratislava.

In addition to reviewing the decisions of administrative courts, the Supreme Administrative Court ("SAC") has also the competence to decide on the **disciplinary liability of judges, prosecutors, notaries, and bailiffs.**

The new Act on the **Disciplinary Code** of the Supreme Administrative Court of the Slovak Republic, which stipulates details of the procedure of disciplinary proceedings, is effective from 1 December 2021. Its aims to unify the disciplinary rules for the above-mentioned legal professions and to make disciplinary proceedings more efficient.

In accordance with the Disciplinary Code Act of the SAC, there are currently 3 first instance disciplinary senates and 2 appeal disciplinary senates established at the SAC. All judges of the SAC are entitled to be included in the decision-making in disciplinary proceedings, except for the President, Vice-President, and two members of the Judicial Council of the SR, because these persons cannot be a member of the disciplinary senates by law. The judges of the SAC thus decide on the disciplinary agenda and the agenda of the administrative judiciary at the same time.

In addition to the three judges of the SAC, the disciplinary senates also consist of two judges sitting as laying judges. Laying judges are determined randomly for each case individually. If there is a disciplinary proceeding against a judge, laying judges are selected from a database selected by the members of the Judicial Council of the Slovak Republic. If there is a disciplinary proceeding against a prosecutor, laying judges are selected from the database of prosecutors selected by the Council of Prosecutors of the Slovak Republic. In the case of bailiffs and notaries, laying judges are selected from the databases of their professional chambers.

Moreover, the SAR fulfils an irreplaceable function in a democratic society by guaranteeing the legal conduct of elections. As part of the fulfilment of this task, it decides in proceedings on the registration of candidate lists for elections to the National Council of the Slovak Republic, for elections to the European Parliament, and elections for the president of the Slovak Republic, in matters of constitutionality and legality of elections to local self-government bodies, or lawsuits for the dissolution of political parties and movements.

#### Chapter IV: International cooperation

The Ministry of Justice prepared the new Code on judicial cooperation in criminal affairs. There are reflected new trends and problems from practice. The proposal for new legislation should be presented for public legislative consultation in the autumn this year.

Act No. 650/2005 Coll. on the execution of orders freezing property or evidence in the European Union is also reflected in this project but in a limited way (in regard the Denmark and Iceland). This is because the old EU legislation was replaced by the new EU legislation (EU Regulation 2018/1805), which established a more comprehensive and flexible legal framework.

In general, digitalisation is an important part of the modernisation of the judicial system in Slovakia. Modern IT systems are progressively developed both between Slovak national institutions and our EU partners. We strongly believe that the availability of statistics will be a natural consequence and benefit of the use of new technologies. Some progress is noted already now by the case management systems available for judiciary and prosecution. The challenge is the interoperability of systems.

The majority of MLA and extradition cases are intra-EU cases. In those cases, the judicial cooperation is based exclusively on EU instruments. For non-EU countries, we consider both the UNCAC and UNTOC as the most important multilateral legal basis for judicial cooperation in criminal matters.