

THE WHISTLEBLOWER PROTECTION OFFICE 2021 ACTIVITY REPORT

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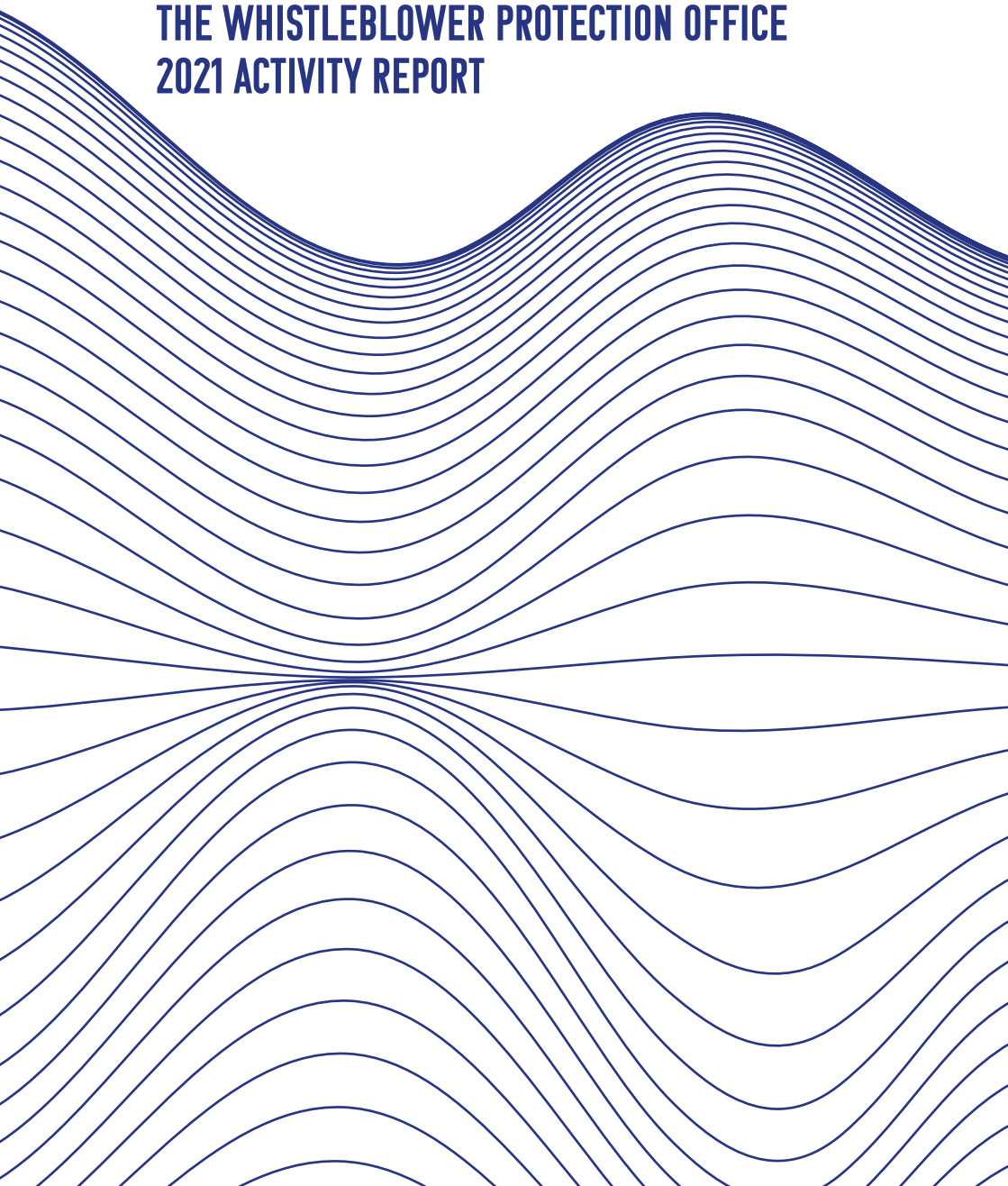


WHISTLEBLOWER
PROTECTION OFFICE



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ZUZANA DLUGOŠOVÁ
President



FOREWORD BY PRESIDENT OF THE OFFICE

The idea of protecting whistleblowers is based on ethics and justice. If someone finds the courage to point out evil, they should not be subjected to retaliation – revenge. On the contrary, society should protect them and appreciate their action.

Whistleblowers are usually not heroes or heroines, who would master investigative techniques, and have a photographic memory or a wry sense of humour. They are people like you, like us, like me. They have their families, and their jobs. They are faced with many decisions every day, which they make to the best of their knowledge and belief.

Being a whistleblower can be really challenging. By choosing not to remain silent, you can lose your job, your colleagues, and friends, and find yourself on the fringes of society. And all because you have chosen to tell the truth and draw attention to what is robbing us all of our confidence in a fair society and a just state.

It is extremely important that people who choose not to remain silent and report instances of misconduct, are not left to do so alone. I am proud to be able to work with my colleagues as President of the Whistleblower Protection Office to ensure that courageous people who are not indifferent to the public interest have someone to turn to and can find a strong and reliable partner in a state institution. Because that is the kind of partner for whistleblowers we want to become at our Office.

I trust that the findings from the work of the Office will become a mirror for all of us and especially for those who were given a mandate in the elections to fight corruption and improve life in Slovakia.

The development of the Whistleblower Protection Office was literally a „greenfield“ venture. It is a unique institution not only in Slovakia but also in the international context.

It cannot go unmentioned, that the preparation of the Office took place at the height of the novel coronavirus pandemic, which not only complicated meetings and processes, but most of all posed a threat to health and lives. The Whistleblower Protection Office did not come into being under ideal conditions and circumstances. Nevertheless, ideals certainly are its fundamental pillars.

We opened our gates in September 2021 and this is our first Annual Report. It should rather be called a 'Quarterly' Report, as it actually covers the Office's activities in the first four months of its operation.

We rate them as a promising start to an important story. A story about real people - whistleblowers, addressing how best to assist and protect them. And not only that. We want to ensure that public institutions

and companies also create an environment facilitating fraud detection and protecting whistleblowers from being bullied. We will all benefit.

The Office's first four months are proof that whistleblower protection certainly makes sense. The cases in which we are involved speak for themselves. We have been operating for a short time, but we have already been able to help dozens of people. Some have become protected whistleblowers, others have received legal support or advice from us. But they all have something in common: they are not indifferent.

I am convinced that people's active attitude marks the beginning of any change. And I am sure that there are many more people who are not indifferent to the public interest. We will do everything we can to help them when they need us.



ABOUT THE WHISTLEBLOWER PROTECTION OFFICE

The Whistleblower Protection Office officially started operating and offering its services on 2 September 2021. In the introduction to the Annual Report on the activities of the Whistleblower Protection Office, we will try to summarise the process that led to its establishment and to put the activities of the newly established Office in a European context.

Fighting corruption but also prejudice

The modern history of whistleblowing, i.e. the reporting of misconduct harmful for the society, is linked to the 19th and 20th centuries. The English term whistleblowing was coined mainly so that authors of expert publications could avoid labels with emotionally negative connotations.

Like the term, the act of whistleblowing itself had to earn its place in history. Whistleblowing fought prejudice because, in addition to good intentions and the fight against corruption, it often turned other values on their head; for example, false loyalty or uncritical respect for authority.

The history of modern whistleblowing in Slovakia is very short and its struggle for acceptance is even more difficult than in Western Europe. Although democratic Slovakia has existed for more than three decades, the perception of whistleblowers still has a partly negative connotation.

Today, therefore, in Slovakia we face an even more difficult task than anti-corruption campaigners from countries that do not have a communist history; in addition to protecting whistleblowers, we must also work on changing society's attitude towards whistleblowing itself.

Another major challenge is to build trust in public institutions, especially the Police, prosecutors and courts, so that even those who are not prejudiced are willing to report and can expect an independent and professional investigation of suspicions of unfair practices that will result in a conclusive decision.

ESTABLISHMENT OF THE OFFICE IN THE SLOVAK CONTEXT

Act No. 54/2019 Coll. on Whistleblower Protection, which speaks about the establishment of the Whistleblower Protection Office in its § 13, is not the first law to regulate the protection of whistleblowers. It was preceded by Act No. 307/2014 Coll., which laid the foundations for the current legislation.

The emergence of the law in 2014 followed the civic demand, which was represented in Slovakia by non-governmental organisations at that time. They have been instrumental in turning the politically declared fight against corruption into reality, including through whistleblower protection.

Act No. 307/2014 Coll. has been repealed by a new law, which copies its predecessor in many respects. The definition of the whistleblower or the conditions for granting protection are very similar in both texts. The establishment of the Whistleblower Protection Office is one of the most important changes brought about by the new law.

The 2014 law vested the protection of whistleblowers and the supervision over compliance with the law in Labour Inspectorates. There was a rationale for this move, but in the long run it has become apparent that the addition of this role to the existing responsibilities of the Inspectorates has not brought the desired effect.

The new law has therefore created the basis for the establishment of a new office dedicated to whistleblower protection and the related agenda. The Office's dedicated capacities allow it to focus more intensively and independently on whistleblower protection.

ESTABLISHMENT OF THE OFFICE IN THE INTERNATIONAL CONTEXT

Slovakia has not been and is not alone in rethinking the whistleblowing issue. Our domestic efforts to streamline whistleblower protection have taken place against a backdrop of international events that have influenced, among other things, the attitudes of the European Union.

To name but a few, the 2014 Luxleaks affair (former employees of the auditing firm PWC disclosed details of secret tax deals between PWC clients and the Luxembourg government to journalists), or Swissleaks, which followed in 2015 (an HSBC computer analyst disclosed account data indicating a tax evasion scheme with the bank's knowledge and support). In 2016, the Panama Papers case swept the world, in which tax evasion and corruption were pointed out by an anonymous whistleblower.

In February 2017, the EU responded with a resolution (1) on the role of whistleblowers in the protection of the EU's financial interests. A public consultation by the European Commission followed, and the European Commission presented a draft directive on the protection of whistleblowers in April 2018, and on 23 October 2019, the European Parliament and the Council adopted Directive 2019/1937 on the protection of persons who report breaches of Union law.

Let us recall that we already had a whistleblower protection law in force at the time when the EU directive was being drafted. However, our efforts got aligned with Europe at that time and an amendment was tabled in 2018. However, the plans eventually changed and instead of an amendment, the legislators came up with the new Act No. 54/2019 Coll., which became effective in March 2019.

We were supposed to meet the EU again for the transposition of the EU directive, which was to take place by 17 December 2021. This process has been delayed in Slovakia. The Whistleblower Protection Office was also actively involved in the consultation procedure on the draft amendment. The legislative process is expected to be completed by late summer 2022.

However, thanks to the adoption of the whistleblower protection law as early as in 2015 and then in 2019, Slovakia is one of the few countries that had the basic legislative rules for whistleblower protection in place before the adoption of the Directive. The law as it stands today still requires a few adjustments to be fully in line with the Directive.

The creation of whistleblower protection legislation and establishment of a competent authority was not a simple process. It took a long time. There were several moments when it was unclear whether it would ever come into being and, if so, what credibility it would have.

At the outset of the Office's creation, there was a societal demand from NGOs, but there were also concerns that the then government might have been using their voice to improve its reputation, as it was facing strong media and public pressure precisely because of allegations of corruption.

Doubts were also raised by the long hesitation of the next government, whose position on the creation of the Office remained unclear for a long time. The change of governments and the initial lukewarm approach to the new Office meant that it took almost two years for the members of the National Council (i.e. Parliament) of the Slovak Republic to elect its current President, Zuzana Dluhošová, who had half a year to build a "greenfield" state institution.

This has been achieved and the Whistleblower Protection Office kicked off its operation on 2 September 2021 as an independent state institution whose main task is to protect whistleblowers pointing to misconduct harmful for the society.

ESTABLISHMENT OF THE OFFICE IN PRACTICE

The establishment of the new Whistleblower Protection Office has been ongoing since March 2021.

Over the following months, it was necessary to:

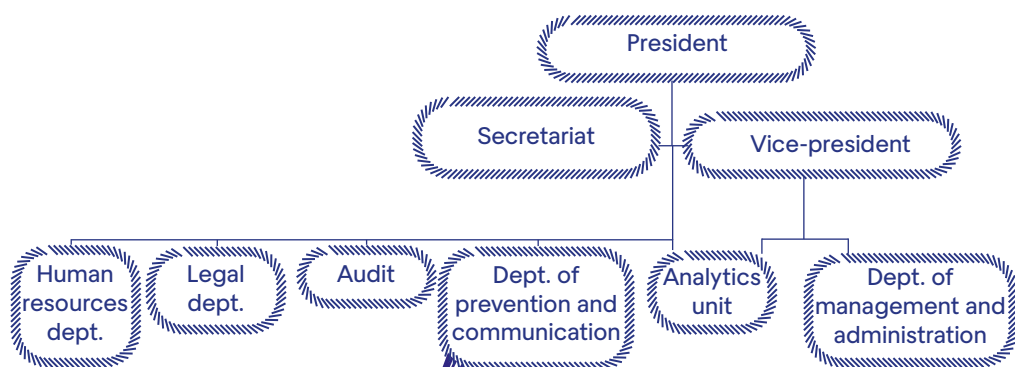
- Create an organizational structure and start building a team
- Find a location for the Office and equip it with basic infrastructure (basic repairs to a building in a poor state of repair)
- Procure basic furnishing and equipment (from furniture to devices and connection to IT systems)
- Establish a temporary website and communication channels for whistleblowers

A particular challenge at this stage has been the lack of support in standardised and predictable procedures in the process of preparations of the new Office, which are not clearly set out.

However, despite the teething problems, the newly formed team worked very hard in the first few months to make the Office a modern, transparent and accessible place that provides a 100% service to the public from the first day it opens. The process has been successful, and the Office has become operational on time.

The Whistleblower Protection Office is a small office with a relatively simple organisational structure, limited to 21 staff, including the Office's management team - consisting of the President and the Vice-President.

ORGANISATIONAL STRUCTURE



The organisational structure as it stands is effective in the first quarter of 2022. The Management and Administration Department has three staff members to provide for the basic operational and economic tasks of the Office.

The Office's agenda is divided into two departments - the Legal Department, in which the basic whistleblower service is provided by five lawyers, and the Prevention and Communication Department, with five staff members, covering the Office's educational activities, the drafting of manuals, communication with the media and the public, and the development of partnerships.

The Office's organisational structure includes the Analytical Unit, which is key to mapping the environment, public opinion polls, data collection and analysis.

The physical seat of the Office is at Námestie slobody 29 in Bratislava. This is a building that the Office took over from the Office of the Government of the Slovak Republic, but which was in a poor state of repair at the time when the first employees of the Whistleblower Protection Office moved in. In the first months, the building had to be restored into working order through partial renovation works.

The building will undergo extensive renovation in the coming period (2022 - 2023). During the first four months of its operation, the Office has also been working on preparations for the call for tenders for an architectural tender to ensure the complete renovation of the building so that it would meet the standards for contemporary and energy-efficient buildings in the future.

In addition to the partial and planned comprehensive renovation, the Office initially needed to be equipped - from furniture to technological devices to the telephone line. Given that the Office was being created during an ongoing pandemic period, the management decided to invest from the start in solutions that would enable seamless working from home.

Before the actual opening of the Office to the public, it was necessary to launch a temporary website as one of the main communication tools for the public.

As with the physical seat, we have also been preparing public tender documents for the procurement of a permanent website, which will be combined with the public procurement of an anonymous and secure reporting form that will allow whistleblowers who are concerned about disclosing their identity to contact the Office and communicate with it on an ongoing basis.

ACTIVITIES OF THE OFFICE

The Whistleblower Protection Office is an independent state authority with nationwide competence. It is a budgetary organisation and is accountable to the National Council of the Slovak Republic.

The idea behind the creation of the Office is that whistleblowers need protection by the state and that this will also remove some of the main barriers that have hitherto prevented potential whistleblowers from reporting corruption or misconduct.

This barrier was the fear of losing their jobs, or fear of other retaliatory measures that whistleblowers might face in the workplace - ranging from cutting their financial or non-financial benefits, bonuses, pay cuts, to overt or covert bullying at work by their employer or co-workers.

Another barrier is the lack of information or professional support in a situation where whistleblowers may face pressure, false accusations and bullying.

These are barriers and undesirable consequences that whistleblowers have often faced in the past and which, in addition to the impact on their victims, have also discouraged other potential whistleblowers from reporting corruption or misconduct.

The Office was set up so that whistleblowers have a partner from the very first moment to whom they can turn for advice, help, assistance in filing a complaint and, of course, a request for protection.

The purpose of the Office is therefore, in addition to the protection itself, to encourage individuals not to remain indifferent and to report corruption or other misconduct if they become reliably aware of them in the course of their work.

At the same time, it will be the role of the Office to share lessons learned from its work and to identify systemic weaknesses that enable crime to be committed or that prevent effective remediation where failure has already occurred.

CITIZEN SERVICE

The fundamental task of the Office is to protect the rights and legitimate interests of whistleblowers in and after whistleblowing to alert to misconduct that is harmful for the society.

Its very existence is intended to ensure that a whistleblower does not suffer harm for choosing to speak up and is not punished for their courage, protecting public funds or exposing fraud.

WHAT IS THE PURPOSE OF THE WHISTLEBLOWER PROTECTION OFFICE?

1. To protect whistleblowers

If the whistleblower complaint is qualified, we will provide the whistleblower with protection from retaliation by the employer. If the whistleblower is already facing termination of employment or any other action, the Office may suspend its legal effect.

2. To provide advice and support

We will advise whistleblowers on how to file a complaint, how to phrase it, the formalities, who to contact and how to proceed. We may get involved in litigation on the whistleblower's side. If necessary, we will file a criminal complaint without revealing the whistleblower's identity.

3. To receive whistleblower complaints

Whistleblowers can safely report corruption or misconduct directly to our Office via the form on the Office's website, by post or in person.

Whistleblower protection in the first quarter

In the first quarter of the year, the Office's lawyers considered 72 cases, 32 of which fell within the Office's competence under Act No. 54/2019 Coll.

As many as 63 percent of these 32 cases were whistleblowers who faced some form of retaliation by their employers. In 22 per cent of cases, it was a dismissal or removal from a position, and in 31 per cent, whistleblowers reported coercion, intimidation or harassment. Nine per cent were faced with their employer wanting to change their place of work or reduce their pay. The data shows that these whistleblowers needed protection.

Whistleblower protection

In practice, there are two main tools that the competent authorities and the Office use to protect whistleblowers:

1. Protected whistleblower status (§ 3 – § 8)

A whistleblower obtains protected whistleblower status if, in the course of their employment, the whistleblower, acting in good faith, files a qualifying complaint of a suspected crime/ administrative offense, which is recognized as such by the prosecutor/administrative authority.

The whistleblower then obtains a certificate thereof from the prosecutor/administrative authority, informs the employer and becomes a protected whistleblower. This means that the employer cannot execute any act under labour law against the whistleblower that the whistleblower does not agree to without the consent of the Whistleblower Protection Office.

2. Suspension of legal effect of an act under labour law (§ 12)

If the whistleblower believes that, in connection with the complaint, the employer has directed an act under labour law (for example, dismissal) against them that the whistleblower does not agree with, he or she may, within 15 days, request that the legal effect of such act be suspended.

If the whistleblower does so within the set time limit, and unless the employer proves that the act does not have a cause-and-effect link to the whistleblower complaint, the Office will decide to suspend the legal effects of the disputed act. Such suspension shall be valid for 30 days, within which the whistleblower may apply to the court to rule on their case. If the dismissal is suspended and the court upholds the suspension, the whistleblower's employment shall remain in effect until a final decision on the invalidity of the dismissal is made.

At the same time, the Office also oversees whistleblower protection in the following ways:

- By inspecting compliance with the provisions governing the review of whistleblower complaints, the granting of protection and the exercise of protection
- By inspecting whether the employer retaliates against or intimidates the whistleblower after the complaint has been filed
- By reporting the suspected retaliation against an employee to the competent authorities if the whistleblower is subject to retaliation in connection with their complaint
- By drawing attention of the heads of public authorities to the insufficient or incorrect handling of the whistleblower complaint and by requesting remedies

Protected whistleblower status

Of the 32 cases under the competence of the Office, 9 whistleblowers were granted protected whistleblower status, in three cases with the assistance of another institution.

In **6 cases we assisted in applying for this status**. In 2 cases, the whistleblowers obtained it with the assistance of the Whistleblower Protection Office, and one case was still pending at the time of drafting the Annual Report. In 3 cases, the whistleblowers did not obtain protected whistleblower status.

In relation to the agenda of granting consent with an act under labour law against a protected whistleblower, the Office dealt **with one employer's request for consent with an act under labour law (a reprimand)** in the first quarter of the year.

We see this as a good signal that indicates that if an employee is granted protection, employers refrain from any retaliation. However, in this case, the Office agreed to the proposed act, as the employer had sufficiently proven that the act in question was not retaliatory and was merely a consequence of the employee's own breach of discipline.

Suspension of legal effect of an act under labour law

We assisted in 5 cases of suspending the legal effect of an act under labour law for 30 days. The Office decided on suspension in 3 cases.

The suspension gives the whistleblower 30 days to apply to the court for an urgent injunction. In the meantime, the existing status is „frozen“. In drafting the court action and the subsequent employment dispute, the whistleblower can apply for free legal assistance through the Legal Aid Centre.

Selected anonymised cases dealt with by the Office during the first quarter of its operation:

Case

A whistleblower who filed a criminal complaint in 2019 regarding procurement machinations and was dismissed from her employment in November 2021 approached the Office for assistance. We requested the employer's position on the dismissal, however, the employer failed to sufficiently prove that there was no cause-and-effect link between the criminal complaint filed and the dismissal.

The organisational change, which made the whistleblower redundant, appeared to be deliberate and at the same time, the employer fulfilled its obligation to offer a new job position only formally. For this reason, we have suspended the legal effect of this dismissal and the whistleblower has applied to the court. Until the court decides, the employer is still obliged to pay her wages and the whistleblower will not find herself in material need.

Case

The whistleblower (an employee of a state-owned enterprise) filed a criminal complaint concerning several cases of illegal public procurement. Subsequently, his employer notified him of the termination of his temporary assignment as acting head of the department, which he had been in charge of for a long time, and also reduced his already proposed bonus.

We helped the whistleblower obtain protection through the Prosecutor's Office, stayed the legal effect of the revocation of the temporary assignment as acting head, since the employer had not credibly defended this action taken, and obtained legal representation from the Legal Aid Centre. The matter is currently before the court and the Office has got involved in the proceedings through its statement on the matter. Thanks to our protection, the whistleblower still works in his existing position.

Case

The whistleblower, as an employee of a ministry, reported suspicious public tenders to his superiors, which led to criminal prosecution. As he became concerned about his job position, he approached the Office to help him obtain protection.

He wanted to remain anonymous in the first phase, so the Office arranged for him to obtain a certificate via the Prosecutor's Office that he had filed a qualifying complaint. This certificate strengthens the whistleblower's position in the event of any negative action by the employer. However, unlike protected whistleblower status, it has no future effects and is not preventive.

Subsequently, the whistleblower decided to disclose his identity, applied for protected whistleblower status through the Prosecutor's Office, which the Office assisted him in obtaining. The employer has been informed of the status and must first seek approval from the Whistleblower Protection Office if it wishes to take any action against the whistleblower.

Advice and support

Whistleblowing is a complex issue, which is often not easy to navigate. That's why we have set up a free hotline (0800 221 213) from the very first moment of the Office's operation, which is available from all over the country every Tuesday, Wednesday and Thursday between 9.00 a.m. and 12.00 a.m..

The hotline is not primarily intended to receive whistleblower complaints; there is an online form on the Office's website for that purpose. The primary purpose of the hotline is to provide advice on whistleblowing. Calls are recorded and archived.

In the period from the launch of the Office (02 September) to the end of the calendar year 2021, we recorded 68 phone calls, an average of 17 per month.

The most frequent topics within our competences were for example:

- Insufficient verification of whistleblower complaints within the companies' internal whistleblowing system
- Absence of an internal whistleblowing system or application problems related to its implementation
- Complaints about the inaction of the chief auditors / inspectors as responsible persons within the meaning of Act No. 54/2019 Coll.
- Advice on whistleblower protection pursuant to § 7 and § 12 of Act No. 54/2019 Coll.
- Legal advice on legislation (what is the status of the amendment to the Act, interpretation of the Act)
- Specific questions on the process of verifying complaints (conflict of interest of the person in charge, anonymous complaints, etc.)

In the first period of the Office's operation, the intensity curve of interest in advice reflected the visibility of the Office in the media. We have always noticed an increased interest in the issue of whistleblowing after a major national media appearance.

The hotline is also often used by people to consult on topics that are not within the competence of the Office. The most frequent topics include dissatisfaction with neighbour disputes, problems with the mayor, zoning, and the like. In such cases, after responsible consideration of the case, we try to direct the caller to an institution or body that might be able to help.

Receiving whistleblower complaints

In addition to protecting whistleblowers, they can also approach the Office directly with their complaints of serious suspected violations of the law that compromise the public interest. To do so, they can use the form on our website, send the complaint by post or personally visit us to file the whistleblower complaint directly with us.

Whistleblowers can also contact the Police and Prosecutor's Office directly if they wish to report a criminal offence, and the administrative authorities if they suspect an administrative offence.

When reporting misconduct directly to the Whistleblower Protection Office, whistleblowers benefit from consultation and legal advice from the first contact, assistance in filing the complaint, and ensuring that the whistleblower is protected from potential retaliation by the employer.

If the whistleblower is concerned about the disclosure of their identity, the Office will preserve their anonymity to protect them from possible reprisals. An anonymous submission may also be made to the Office, however, the whistleblower should be prepared to communicate with the Office on an ongoing basis.

Case

The whistleblower stated that the director in her organization had a secondary job teaching at a college in another city. At the same time, he recorded this teaching time as time worked in his primary job and even recorded the transfers as business trips. The Office forwarded this information, without disclosing the whistleblower's identity, to the relevant Ministry to inspect the organisation and thus verify the complaint.

IDENTIFICATION OF SYSTEMIC WEAKNESSES

During the first quarter of the Office's operation, the number of cases dealt with by the Office was too small to show trends. However, in addition to assisting individual whistleblowers and engaging in anti-corruption activities, the role of the Office is also to identify trends or, in other words, weaknesses within the system.

The most significant systemic weakness we have encountered so far has been the insufficient **addressing of conflicts of interest**.

Many organisations either do not understand this issue or ignore it, which has an extremely negative impact on the conduct of fair competition and allows room for corruption or misconduct.

Case

The project assessor stated that he had no conflict of interest, and at the same time he lived in the same household as the grant applicant. However, they are not married. Although the Fund, which was in charge of allocating these grants, became aware of this fact, it responded that it was not competent to investigate family relationships and whether such a relationship constituted a conflict of interest.

This case clearly shows that the conflict of interest in the organisation in question was not at all perceived as a barrier to further proceedings, even though the impartiality and credibility of the whole decision-making process may have been compromised.

Case

An inspector, in the position of the person in charge, was to assess a complaint against a colleague with whom he allegedly had a close relationship (they were on holiday together). The inspector did not feel biased and the statutory body left it to the inspector to decide on the matter at his discretion.

In this case, the inability or unwillingness of the institution in question to address the conflict of interest effectively again comes to the fore. Another challenging point is the rejection of conflicts of interest that are not officially confirmed (e.g. a marriage, or photo documentation from which a close relationship can be proven).

The organisations or institutions concerned often fail to take into account possible or perceived conflicts of interest, i.e. situations where an official's personal interests or relationships may unduly influence the proper performance of his or her duties. Moreover, in most cases, there is no effective procedural sanction for decision-making in a conflict of interest or sanction for the person who made the decision in a conflict of interest. This compromises both the objectivity and impartiality of decision-making and also trust in public institutions.

Formality of the procedure of inspection and review bodies

In many cases, we encountered a very formalistic and often only “desk-and-document-based” approach to the investigation of whistleblower complaints by the competent authorities.

Case

One Labour Inspectorate based its investigation of suspected „black labour“ on records of hours supplied by the employer. It disputed the hours records obtained from the whistleblowing employee. It stated that the dispute if any could only be decided by a court.

However, it is usually also possible to check internally whether the records are correct (e.g. by performance of tasks, attendance at meetings, explanations from staff, etc.). This type of shifting of responsibility is indicative of a formalism that undermines public trust and discourages individuals from speaking up when fraud and misconduct at work are involved.

Long waiting times for expert evidence

The monitoring of cases initiated by whistleblowers as well as interviews with Police and Prosecution Service officials suggest disproportionately long waiting periods for sworn expert reports in criminal proceedings, which are seen as problematic.

Investigators who use both the Criminalistics and Expertise Institute

of the Police Corps and independent experts to obtain expert reports have a minimum time limit of 6 months, and it is common for these time limits to be extended even further.

Such extensive time limits undoubtedly have a negative impact not only on the whistleblower, who is in a precarious situation for a long time, but also on the very prospects for a successful and swift investigation of suspected serious crimes.

Delays in employment disputes

Another common phenomenon is the excessive time taken by the courts to decide on employment disputes over the invalidity of dismissal. A long wait for a court decision can have very negative consequences for the whistleblower.

Periods of uncertainty in the employee-employer relationship increase psychological uncertainty in the position of the „fired“ whistleblower in the workplace. Moreover, delays in the proceedings also expose the employer itself to uncertainty, as it has to preserve the employee's job and remuneration for the duration of the dispute.

MAPPING INTERNAL WHISTLEBLOWING SYSTEMS AND WHISTLEBLOWER PROTECTION AWARENESS

Whistleblowing is not a homogeneous process. Each whistleblower complaint case is different, it takes place in different circumstances and its actors experience different dilemmas and different life situations.

That is why anti-corruption legislation is constantly evolving and looking for new ways to remove all potential obstacles from the whistleblowers' path and to motivate them to report misconduct they have encountered in their work, as they are often the only ones able to detect and document such conduct. One such route is precisely to ensure that internal whistleblowing systems are functional and effective.

Internal whistleblowing systems are, according to several studies and polls, an effective tool to fight corruption in both the private and public spheres (2). They contribute to prevention, efficient addressing of corruption or misconduct cases, saving time and eliminating financial losses (3).

Where internal whistleblowing systems are well designed, whistleblowers are often more willing to report suspicions of corruption and other misconduct. However, if they do not trust the internal whistleblowing system or it is not designed well, external whistleblowing channels are still available to them. These include, for example, the Police, the Prosecutor's Office, the Whistleblower Protection Office (4).

One of the most frequent observations from practice is that a reliable, well designed internal system is provided by an institution or a company that is genuinely interested in combating misconduct and fraud and has it coded in its DNA through its entire philosophy, ethical standards or corporate culture.

If ethical and practical principles are followed, the internal whistleblowing system becomes an extremely important anti-corruption tool. That is why the review of internal whistleblowing verification systems is one of the key pillars of Act No. 54/2019 Coll. on Whistleblower Protection.

Public and private sphere

The Act sets out in its § 10 and § 11 that a private employer with 50 or more employees and a public employer with more than five employees must provide a functional internal whistleblowing system for its employees.

In practice, this is a series of measures that are essentially the same for both the public and private sectors. They both have the same whistleblowing obligation (with regard to the number of employees) and their employees have the same whistleblower protection rights.

Nevertheless, there are a number of important differences between them, for which we have chosen to approach both groups with their specificities in mind.

The Whistleblower Protection Office has a statutory duty to review, among other things, compliance with the provisions governing the internal whistleblowing verification system. Given the large number of entities that fall under this review in both sectors, we decided to map both environments as a first step.

State and public administration

For public institutions, the obligation to have an internal whistleblowing verification system in place applies to those with more than 5 employees. In this case, the law was formulated to cover all public institutions, including state-owned enterprises or enterprises established by a municipality or a self-governing region.

Well-designed internal whistleblowing systems, among other things, can help:

- Identify risk areas and processes in organisations
- Save public resources
- Positively influence the practice of subordinate institutions and virtually the whole sector for which the Ministry is responsible
- Protect institutions from reputational damage

More internal complaints mean fewer external ones, and thus the opportunity to resolve incipient problems within the institution without media coverage and reputational risk.

Public administration is quite extensive in its structure, and in the area of state administration alone, we are talking about offices, authorities, Prosecutor's Offices and other specific institutions with a national scope, employing tens of thousands of people. Another specific group is local governments and other directly or indirectly controlled institutions.

As a starting point for the mapping of whistleblowing systems, we decided to examine the situation in central government. We were not only concerned with a formalistic review; on the contrary, we also focused on the use of the rules in practice.

As part of the mapping exercise, we did the following in the period from September to December 2021:

- We prepared and conducted a questionnaire poll to find out how central government bodies, organisations under their jurisdiction or public administration bodies with a Slovakia-wide remit have designed and set up internal whistleblowing systems and whistleblower protection
- We reviewed the internal policies not only of the Ministries but also of selected subordinate organisations
- We had personal meetings with anti-corruption coordinators or persons responsible for receiving and verifying whistleblower complaints in individual institutions
- We analysed the collected data

Selected findings from the public sector questionnaire poll

Despite the fact that the questionnaire was only evaluated in 2022, we decided to include partial results in the first Annual Report, which largely confirmed our assumptions.

The aim of the poll, which we launched in December 2021, was to map how Act No. 54/2019 Coll. on Whistleblower Protection in Public Administration was implemented in practice. We approached a total of 321 organisations for the poll. 254 organisations (79 per cent) responded to the questionnaire.

These were Ministries and their subordinate organisations, other central government bodies (such as the Statistical Office of the Slovak Republic, the Antimonopoly Office of the Slovak Republic, the Nuclear Regulatory Authority of the Slovak Republic, the Public Procurement Office, etc.), public administration bodies with jurisdiction over the entire territory of the Slovak Republic (such as the Health Care Supervision Authority, the Personal Data Protection Office,

the Public Utility Regulatory Authority, the Slovak Meteorological Institute, etc.) and other public authorities (such as the Slovak National Centre for Human Rights, the Fund for the Promotion of Education, the Slovak Land Fund, etc.) (5).

The poll did not include bodies established by the Constitution (the National Council of the Slovak Republic, the President, the National Bank of Slovakia, the National Audit Office, the Public Defender of Rights, the Judicial Council of the Slovak Republic) and public institutions and institutions such as the Social Insurance Agency, Radio and Television of Slovakia, Matica slovenská (national cultural institution), the Nation's Memory Institute, the Audiovisual Fund, the Press Agency of the Slovak Republic, scientific and educational institutions, as well as local state administration and self-government.

Formalism

The poll found that awareness of the law and the obligations it imposes is not poor in the public administration.

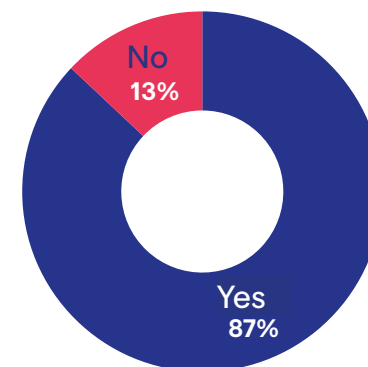
As many as 87 per cent of the institutions that submitted their responses by the required deadline have, according to their statements, set up an internal whistleblowing system.

However, this is a declaration that does not necessarily reflect reality. Respondents were also asked to send us their internal whistleblowing policies after completing the questionnaire.

Many have sent us, for example, their anti-corruption agenda instead, or didn't send anything. The question, therefore, arises whether all the institutions that have declared a firm yes actually have an operational internal whistleblowing system.

Only 33 organisations reported that they did not have internal whistleblowing mechanisms in place, of which only 3 organisations had a staff of less than 5.

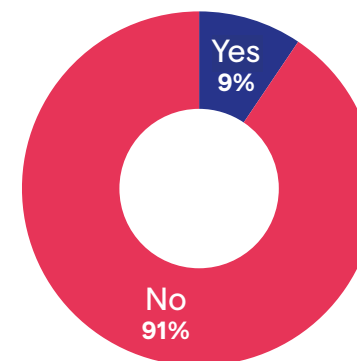
Do central government bodies have internal whistleblowing mechanisms in place?



Source: WPO poll. 254 organisations responded to the questionnaire

The data collected shows that this obligation is only formally fulfilled, and the rules are not actually put into practice. This is documented by the second finding, illustrated by the following chart:

How many organisations have already recorded a whistleblower complaint over the period of 3 years?



Source: WPO poll. 254 organisations responded to the questionnaire

Although 87 per cent of the institutions that responded to our questionnaire have an internal whistleblowing system in place, up to 91 per cent of them have not recorded any whistleblower complaints in the last three years. This means that fewer than one in ten central government bodies received any whistleblower complaint between 2019 and December 2021. Only 5-6 per cent of organisations record a whistleblower complaint annually, a proportion that has not grown significantly over the years, and according to a January 2022 Focus (polling agency) poll, employees mainly prefer internal whistleblowing systems when reporting illegal activities. Specifically, 45.3 per cent of respondents would use them, while the willingness to do so was significantly lower for the Police or the Prosecutor's Office (34.2 per cent and 20.9 per cent, respectively). The relatively small proportion of whistleblowing organisations may therefore indicate to us that most internal systems are a mere formality. Formality in this case means that the system is designed according to the law, but in reality, the institutions do little or nothing to make the system work in practice.

In addition to the alarmingly low actual number of whistleblower complaints, other facts that emerged from the poll also bear witness to formalism:

- Passive information about who is the person responsible (just putting it on the intranet/website)
- The role of the person responsible rests on the shoulders of only one employee
- The person responsible has not received any whistleblowing training in 3 years
- Less than half of the organisations reported what protection options were available to whistleblowers

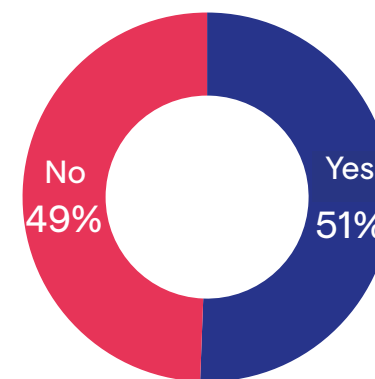
- It is not clearly stated that whistleblower complaints can also be made anonymously
- Absence of feedback on the credibility of the system

Lack of whistleblower protection awareness

Of the 254 organisations, 221 were also required to send/upload their internal policy to us, but only 169 bodies did so. We excluded 4 organisations whose documents did not contain any section describing internal whistleblowing mechanisms.

The poll found that about half of the organisations lacked information on whistleblower protection options and information that there was a Whistleblower Protection Office. As a matter of fact, such information could be of great help to potential whistleblowers, as fear of the consequences of raising a whistleblower complaint is a common reason why an individual may prefer not to come forward.

About half of the organisations lacked information on whistleblower protection options



Source: WPO poll. We obtained this information directly from the 166 internal policies received.

In addition to this, the internal policies lacked the following information:

- Direct information on the anonymous complaint option
- Direct definition of the separation of whistleblower complaint records and the access of only the person responsible
- Detailed definition of the responsibilities of the person responsible
- Obligation to inform employees of the existence of an internal whistleblowing system and the internal policy

Challenging moments beyond data collection

In addition to the questionnaire itself, we conducted several face-to-face, telephone and online meetings, which gave us the opportunity to get to know the environment of the state administration from the whistleblowing perspective to some extent. Based on these meetings, we present observations that could help to improve and streamline this area and, finally, good practice examples.

Inadequate staffing

The formalism of the internal whistleblowing systems also stems from the inadequate staffing of this agenda. Although there are positions of person responsible or anti-corruption coordinator in place at the ministries, this is a responsibility added to the employee's regular agenda.

We have observed that as a result, due to objective reasons, these responsibilities have a lower priority with the staff than other agenda of theirs.

Private sector common practice abroad shows that companies achieve the best results when this issue is handled by a specifically dedicated employee with a clear mandate. However, the current general government trends are more towards reducing staff numbers. We, therefore, appeal for at least streamlining the designed systems, defining the roles and rights of the person responsible and better staff awareness about the issue.

Corruption risk management and verification of whistleblower complaints are interrelated and cannot be seen as separate topics. In reality, however, these agendas are separated in some ministries, and the responsible persons and anti-corruption coordinators do not communicate or exchange information. Whereas such cooperation could help both the management of corruption risks and the verification of whistleblower complaints.

This is confirmed by data, too. Whistleblower complaints were recorded in those institutions where they have a dedicated team assigned to this agenda or where the anti-corruption coordinator also participates in the verification of whistleblower complaints.

Low importance of the agenda

As the internal whistleblowing agenda is not prioritised in the general government, staff in some ministries are not sufficiently briefed about this issue.

The obligation to brief employees about internal policies is often "handled" by the employer by formally signing a document or sending an e-mail informing about the policies on the intranet.

Good private sector practice suggests that even the best designed ethical and anti-corruption measures do not work without an in-depth understanding of the importance of the topic and regular training. Both of these factors are currently absent in public administration.

There is also little transparency of information on the number of whistleblower complaints or corruption risks. Yet data and knowledge of the environment are essential for the state to know whether and where to direct energy to address the issue.

As in many other areas, Slovakia has so far lacked central-level data on whether individual institutions used their internal whistleblowing systems and how many and what kind of whistleblower complaints they registered. It was not until the Whistleblower Protection Office began to collect them.

The same applies to corruption risk management. Under the government resolution, ministries are obliged to manage corruption risks through anti-corruption programmes and a catalogue of corruption risks to be updated annually. However, it is not uncommon for large sections of the anti-corruption programmes to be copied and pasted, not specific enough and, similar to the catalogues of corruption risks, not updated and published.

There is no comprehensive corruption risk management at the state level; although ministries regularly fill in corruption risk questionnaires and the data is collected by the Government Office of the Slovak Republic, the results were not available at the time of drafting this Report.

Good practice examples

At the same time, during our field survey we also came across examples of good practice in some ministries that we would like to point out as an inspiration.

In one of the ministries, for example, the anti-corruption coordinator analyses, upon receipt of a whistleblower complaint, whether it relates to misconduct harmful to the society, whether it was submitted by an employee, whether a criminal complaint has already been filed in the matter, etc. The analysis is submitted to the Head of the Inspection Division, who is the person responsible under the Act. The latter will decide whether to pursue the case further and, if so, they will set up a two-member committee and, if they find that there may be a criminal offence, they will refer the matter to the relevant authorities.

Another ministry has a three-member committee, consisting of the Director of the Civil Service Office, a staff member from the Minister's Office and the Head of Internal Audit, to investigate the whistleblower complaints; all three have access to the complaints and jointly decide on the course of action and on how to address the case.

A good practice example of working with subordinate organisations is the working group with the anti-corruption coordinators of subordinate organisations, where they jointly address the regular updating of anti-corruption programmes, conflict of interest policies, acceptance of gifts, etc. This is a good basis for the persons responsible for receiving whistleblower complaints to join in and exchange experiences in investigating the complaints.

Design manual for an effective internal whistleblowing system

Alongside the start-up of the Office and mapping of the environment, we have also been working on the drafting of manuals that will help public sector organisations and institutions to design their whistleblowing systems as effectively as possible.

We have compiled the public sector manual on the basis of the law and good practice of functional systems operating both at home and abroad. It answers basic questions and provides practical guidance on how to implement the system in institutions that are legally required to have it in place:

- Why an internal whistleblowing verification system is important
- How to design an internal system for filing and verifying whistleblower complaints
- Staffing and technical arrangements
- Whistleblowing channels
- Verification of complaints
- Designing measures and monitoring their implementation
- Prevention saves money
- Staff and person responsible training
- Internal policies
- A practice-inspired case
- Statutory obligations

The manual for public authorities was published during the first quarter of 2022.

The Office is also ready to respond to requests for consultation on designing or streamlining internal whistleblowing systems or staff training systems to translate the form into meaningful content that is not a burden but rather an asset.

Private sector

According to the law, those firms or companies that have more than 50 employees, i.e. medium-sized and large enterprises, must have an internal whistleblowing verification system in place. Of course, a whistleblowing system can also be useful for smaller companies.

Well-designed whistleblowing systems can help, among other things:

- Identify risk areas and processes
- Save company resources
- Positively influence the entire internal environment of the company and set it up as a transparent and anti-corruption one
- Protect the company from reputational problems

Corruption and fraud tend to be mentioned mainly in the context of public resources, but this does not mean that they do not exist in the private sector. On the contrary, auditors' reports from various polls say that private companies lose hundreds of thousands to fraud and corruption (6).

Therefore, the introduction of an internal system for verification of whistleblower complaints makes sense twice. First and foremost, for the company itself, which will thus avoid financial losses. Secondly, for the whole of society, which receives the signal that corruption or misconduct is okay in any environment.

According to the current data of the Statistical Office of the Slovak Republic, 3,642 entities belong to the group of medium-sized and large enterprises covered by the Whistleblower Protection Act. These include joint-stock companies, limited liability companies, other commercial companies, cooperatives, sole traders, other legal forms and entrepreneurs.

From the employees' perspective, these account for almost one million (941,134) employees who should be given the opportunity to report misconduct or corruption through an internal system.

Private sector mapping is complicated by the fact that there is no platform that would bring together all the stakeholders covered by the law. In the first phase, we therefore focused on mapping meetings with representatives in the area.

As part of the mapping exercise, we did the following in the period from September to December 2021:

- We prepared and held personal meetings (including a workshop) with the Slovak Compliance Circle
- We analysed and evaluated good practice examples
- We laid the foundations for the emerging Design Manual for Internal Whistleblowing Verification Systems for the Private Sector
- We analysed the options for further systematic mapping of the corporate environment in Slovakia

Conclusions from the first phase of the internal systems mapping exercise

Due to the complicated access to information from the corporate environment, in the first phase we focused on the research through companies associated by the Slovak Compliance Circle.

It is an initiative of commercial companies, which was created to raise the level of ethical behaviour on the Slovak market. It has provided the Office with useful information from practice on the perception of misconduct or corruption in the private sector.

In the first period of the Office's operation, we did not have actual data from a purely Slovak environment that would have entitled us to draw any conclusions. We have therefore worked with the assumptions that have emerged from previous polls pointing to a general low awareness of the Whistleblower Protection Act (8).

They show that few people in Slovakia are aware of the existence of the law as such, so it is unlikely that medium-sized and large enterprises will be an exception. We assume that an internal whistleblowing verification system will not be commonplace. This has been confirmed by anecdotal interviews with corporate representatives.

During our initial review, we concluded that the challenges of implementing an internal system for verifying whistleblower complaints would be somewhat identical to those in the general government sector. However, unlike in general government, motivation can be easier to work with in the private sector. While in the general government sector it is about the public interest, in business it is about the interest of the owners of the entities themselves.

Design manual for an effective internal whistleblowing system

Despite the lack of data, we perceive that the issue of awareness of the Act or the adaptation of internal systems for the verification of whistleblower complaints requires guidance from the state that is concise, clear and comprehensive for the addressees.

Therefore, based on the law and good practice, we have been preparing the basis for a manual during the first months of the Office's operation, which should help private sector entities understand what internal whistleblowing systems are for, why they are useful and how to design them in a functional and efficient way.

We will continue to work on the private sector manual in 2022 and we hope that, together with the poll, we will be able to provide a practical handle on how to grasp the law in practice.

INSPECTION OF THE APPLICATION OF THE ACT

Inspection is one of the important and responsible tasks of the Office. The Act imposes on the Office the obligation to inspect the application of Act No. 54/2019 Coll. pursuant to a special regulation (Act No. 10/1996 Coll. on Inspection in State Administration, § 8 to § 13).

The Office also has a duty to inspect compliance with the provisions on the granting and exercise of protection, the employer's conduct towards the whistleblower in the period after the complaint was filed and compliance with the provisions governing the internal system for the verification of whistleblower complaints.

The Office is entitled to draw the attention of those responsible in public institutions to the insufficient or incorrect handling of the whistleblower complaint and to request remedies or to warn the employer that the action it intends to take against the whistleblower may be contrary to the law or to recommend measures to ensure compliance with the law.

In the performance of its tasks, the Office is entitled to request the submission of the necessary documents, records and any other documents and to inspect their contents, to request explanations and to examine the manner and effectiveness of the handling of the complaint.

The Office is entitled to notify the heads of public authorities of insufficient or incorrect handling of the complaint or to request its remediation, as well as to warn the employer of the risk of violation of Act No. 54/2019 Coll., the suspicion of the whistleblower's sanction, or to recommend to the employer measures to ensure compliance with this Act.

The Office's main inspection challenge: awareness

Whistleblowing is a process in which each case is very individual. It is therefore very difficult to design process rules in a general manner, to ensure their efficiency and functionality, so that they cover all cases of whistleblowing.

In the initial period of the Office's operation, we were primarily concerned with mapping the environment. We wanted to find out what level of awareness there was of the Whistleblower Protection Act and of the Office as such. We assumed that it would not be sufficient and our assumption was confirmed.

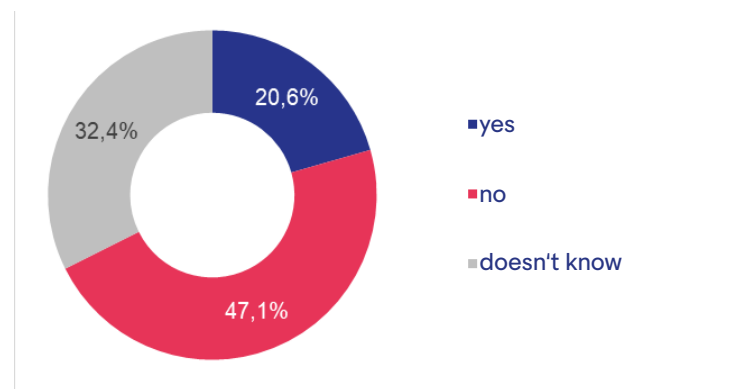
Whistleblower protection rules, which have imposed a number of obligations on public and private employers, have been in place since January 2015, when the first law (9) governing whistleblower protection came into force.

Today's law, which clarified the rules and established the independent Whistleblower Protection Office, has been in force since March 2019. Nevertheless, a Focus poll conducted in June 2020 (10) shows that 44.9 per cent of respondents think that there is no law in Slovakia that protects whistleblowers from losing their jobs. More than 18 per cent of respondents said they did not know the answer to this question.

A more recent Focus poll commissioned by the Whistleblower Protection Office in January 2022 shows that almost half (47.1 per cent) of respondents think that there is no state institution in Slovakia that protects whistleblowers. As many as 32.4 per cent of respondents could not answer this question.

It is thus clear from the above, as well as from the mapping interviews from both the public and private spheres, that awareness of the law, whistleblower protection and employers' obligations in this area is very weak in Slovakia.

Awareness of the existence of a whistleblower protection institution



Source: Focus poll for the Whistleblower Protection Office conducted with a representative sample of 1,017 respondents in January 2022. Question answered by respondents: In your opinion, is there a STATE INSTITUTION that protects whistleblowers of fraud and corruption in Slovakia?

Inspection in 2021

Given that the Office did not become operational until September 2021, our first steps in the area of inspection have been mainly focused on providing advice and guidance for the reasons set out above.

There was a particular case where we provided guidance to an employer - a multinational company, as to in which steps it had made mistakes within the internal system and investigation of a complaint, when the local employer did not inform the whistleblower about the manner of addressing his complaint, and how their internal system should be properly designed when communicating with the whistleblower.

In another case, we also chose a form of supervision and guidance, in relation to a conflict of interest of the person responsible to the complaint under review. We offered the employer options to address the conflict of interest.

REWARDING OF WHISTLEBLOWERS

The Whistleblower Protection Act No. 54/2019 Coll. gives the Whistleblower Protection Office the power to decide on whether or not to grant a reward to whistleblowers.

In the case of a qualifying complaint, the Office may grant a reward of up to 50 times the minimum wage (currently €31,150 in 2021).

In the provision of § 9 (7), however, the Act says that there is no legal entitlement to the reward. In practice, this means that even if all the requirements are met, the whistleblower is not automatically entitled to a reward and may or may not be granted one by the Office after all the criteria have been assessed.

Year 2021 in figures:

The Office received 2 requests for a reward between September and December 2021.

After a thorough examination, the Office decided to reject both requests because they did not meet the statutory conditions for their grant.

The Act determines the conditions that must be met for the reward to be granted in terms of the qualification of the complaint, defines its maximum amount, and sets out deadlines and formalities of the requests.

In § 9(5), the Act also states that in deciding on a reward request, the Office is to “take into account the degree of merit of the whistleblower in the clarification of the serious misconduct harmful to the society, the identification of its perpetrator, the loss of earnings of the whistleblower and the extent of the assets saved or recovered, if it can be quantified”.

Because the Act does not specify exactly how the Office is to take these factors into account specifically, in the early months of the Office's operation we sought to examine the issue and, based on our findings, to develop a methodology to guide our approach to whistleblower rewards.

The issue of rewards in the international context

Therefore, as a first step, we looked at how other countries in the world regulated rewards (11). We found that very few countries provided financial rewards to whistleblowers. In addition to Slovakia, the USA, Canada, South Korea, Israel, Ghana and Pakistan pay rewards.

Experts consider the reward systems in the US and South Korea to be the most comprehensive, and polls suggest that paying financial rewards in these countries actually helps to increase the number of whistleblower complaints. However, the legislation in both countries is, on the contrary, constrained in protecting whistleblowers from employer retaliation.

In the United States, for example, whistleblower rewards are mainly associated with greater law enforcement and the use of private law institutes to obtain compensation for the state as well as a reward for the whistleblower (12).

However, there are also critics of whistleblower rewards. These include, for example, the UK government, which stated in its 2014 evaluation report (13) that rewards contribute to false reporting or conflicts of interest.

Many countries argue that granting of financial rewards involves too much moral hazard on the part of whistleblowers and have therefore chosen not to apply such a system.

A common argument against granting of financial rewards is that they are inconsistent with the application of integrity systems, which are based on moral values and a society-wide approach to the protection of the public interest against corrupt behaviour, criminality and other forms of misconduct harmful to the society (14).

Decisive reward criteria

The Office's primary objective is first and foremost to protect whistleblowers who choose to report misconduct harmful to the society and thus run the risk of exposing themselves to possible negative sanctions from their employer. Thus, in this context, the reward also represents one of the ways of compensating for the risks or consequences that the whistleblower has to face in the process of reporting corruption.

We see the reward as a supportive tool to achieve a goal, not the goal itself.

Based on the interpretation of international experience, we are aware that financial rewards for whistleblowers carry risks that can have a negative impact on the whole process of fighting corruption.

In our cultural context, the automatic linking of whistleblowing to a reward may put the social perception of whistleblowing in question.

This is a very sensitive issue in which the perception of whistleblowing as an honourable act motivated by justice or fairness plays a large role. In this sense, the material undertones of motivation can compromise the perception of whistleblowing and turn the exceptionalism of 'whistleblower club membership' into an act of self-interest.

Another potential negative impact of whistleblower rewards may be the contesting of a whistleblower's testimony in a criminal trial. The reward can be used to undermine the motivation of the whistleblower and thus his or her credibility.

Our aim is to design a transparent decision-making process on rewards within the current rules, combined with an emphasis on whistleblowing for reasons of moral integrity, not personal enrichment.

Transparent awarding of rewards is conditional on clear and comprehensible definition of criteria. Legislation currently specifies the following:

1. Qualifying complaint

Only the whistleblower who has filed a qualifying complaint is entitled to a reward. This is understood by the law as a complaint that may contribute or has contributed to the clarification of serious misconduct harmful to the society or to the detection or conviction of its perpetrator. The prosecutor and the administrative authority shall decide on the qualification of the complaint in the context of the administrative offence proceedings; the Office shall have no influence on this decision.

2. Whistleblower status

Only a whistleblower who has filed a complaint of an misconduct harmful to the society in connection with the exercise of his or her employment, profession, position, or office and has done so in good faith - i.e., without ulterior motives - is entitled to a reward.

The employment context is also stressed by the European Parliament Directive on the protection of persons who report breaches of Union law (15).

3. A correctly filed formal request

The applicant must submit the request within 6 months from the date of receipt of the notice of indictment, approval of a plea bargain, approval of a settlement and discontinuance of prosecution, conditional discontinuance of prosecution, or entry into force of a final decision on the commission of an administrative offence.

Reward evaluation criteria

The concept of the Whistleblower Protection Act, as well as the explanatory memorandum to the Act in question, suggests that the reward **should not be the primary motivating factor for filing whistleblower complaints**.

The motivation should be seeking to protect the public interest, which is also taken into account in the mechanism for deciding whether to grant a reward.

The Act says that in considering reward requests and determining the reward amount, the Office must have regard to:

- The degree of the whistleblower's merit in the clarification of the serious misconduct harmful to the society and the identification of its perpetrator.

In this case, the law can be interpreted as meaning that the acceptance of a reward request or the reward amount is directly influenced by how the whistleblower directly contributed to the detection of the perpetrator of the misconduct harmful to the society (for example, by obtaining evidence) and how serious the case was from the point of view of the society as a whole.

- Lost earnings of the whistleblower

If, for a variety of reasons, the Office fails to protect the whistleblower from retaliation by the employer or colleagues, or the whistleblower decides not to stay in their job for a variety of reasons (such as bullying), the whistleblower may find himself or herself in a difficult life situation.

This criterion is particularly important from the perspective of the aforementioned compensation for the damage suffered by the whistleblower as a result of the complaint.

- Extent of assets retained or recovered

Although all whistleblower complaints are valuable in their own right, we can distinguish whistleblower complaints by how much and how directly they affect the whole of society.

A financial fraud in a private company that would harm "only" the company itself will be considered differently by the Office than a fraud that has led to, for example, groundwater and soil contamination and negatively affected a larger part of society.

Evaluation criteria beyond the law

In addition to the criteria mentioned above, which are directly addressed by the Act, we have identified other criteria to consider when rewarding whistleblowers. In this case, these are criteria that are not quantifiable, but are nevertheless extremely important.

It is also very important to note that whistleblower complaints often cannot be categorised. These are very specific cases with very specific individual stories attached to them.

We therefore stress that we consider each reward request on an individual basis and in the light of the whistleblower's particular situation. That is why we will also take these criteria into account:

→ Whistleblower sanction rate

One of the criteria for awarding rewards is whistleblower status, which implies that the whistleblower complaint may have a negative impact on the whistleblower's life. They may face pressure from their employer to leave their position, bullying from those around them, or loss of financial remuneration, for example by being demoted.

The consequences faced by a whistleblower can vary radically - while someone may end up on the brink of personal financial bankruptcy, another whistleblower may feel the consequences more mildly.

We therefore consider it extremely relevant to assess the level of sanctions and take them into account when granting or refusing a reward.

→ Whistleblower's contribution to raising awareness of whistleblowing

Data suggest that whistleblower complaints that get public attention have, among other things, a positive impact on the growth of whistleblower complaints and therefore on the fight against corruption in a given region. (16)

We have therefore included the whistleblower's influence and personal contribution to the societal debate on whistleblowing in the criteria beyond the law. This is not a condition of granting a reward, but rather a fact that may be taken into account when considering a reward.

DRAFTING OF LEGISLATION

Whistleblower protection is not new to the Slovak legal system, but it is only in the context of the new Whistleblower Protection Office and the new EU Directive that it is receiving the attention it deserves.

The law obliges the Office to "cooperate with the state authorities in the drafting of legislation and to submit suggestions to the central government authorities for legislative amendments on the basis of its own findings and knowledge".

32 amendment proposals

During the summer of 2021, an amendment to Act No. 54/2019 Coll. started to be prepared due to the transposition of Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report infringements of Union law.

Before the official start of the inter-ministerial consultation procedure, the Office communicated the improvement suggestions directly with the sponsor - the Office of the Government of the Slovak Republic, and after the procedure was launched, the Office was involved with 32 legislative proposals.

The final draft of the amendment bill was not yet known at the time of the publication of our Annual Report.

The most important amendments proposed clarify and broaden the definition of a whistleblower, prohibit sanctions in connection with the filing of a whistleblower complaint and increase the penalties for it, and expand the group of whistleblowers entitled to protection when reporting serious misconduct harmful to the society.

Some of our proposals remove challenges in the actual application of the Act that the Office has been able to identify in its short experience.

Objective: high-quality anti-corruption legislation

We see the amendment to Act No. 54/2019 Coll. as a starting point for our activities in this area. Once completed, we also plan to actively engage in amending other upcoming laws, especially those affecting areas where the Office has identified deficiencies in its work.

We will also monitor forthcoming amendments in other areas (e.g. anti-corruption, Criminal Procedure Code) to ensure that appropriate conditions are created for whistleblowing as well as effective whistleblower protection.

WHISTLEBLOWER PROTECTION AWARENESS-RAISING

Prevention of corruption is one of the core tasks of the Whistleblower Protection Office. All of the activities that we have on our agenda also have a direct or indirect impact on the prevention of corruption, if properly communicated; whether it is designing internal whistleblowing systems, whistleblowing training, or direct whistleblower protection.

The Office's communication strategy in its initial period of operation primarily met essential needs. First and foremost, it was important to inform the public about the creation of the Office, how to file a whistleblower complaint and, last but not least, to explain how the Office assists in whistleblowing and how it protects whistleblowers.

Moreover, during the first four months of operation, we have also laid the foundations for future activities in this area, whether through communication and networking with strategic partners, or by shaping the 2022 communication strategy, which will be dominated by a communication campaign funded under the Recovery Plan.

How did we communicate in 2021?

→ Visual identity

In the course of developing the Office, we launched a two-round tender for the design of the Office's visual identity. The winner was chosen by a seven-member expert jury composed of experts in the fields of graphic design, fine arts and representatives of the Office.

The successful bidder designed a logo for the Office, visuals for social media events, a website and sub-site for the Office in both desktop and mobile versions, as well as signage for the building and office supplies or promotional items.

The visualisation of the typographic abbreviation of the Slovak name of the Office - ÚOO - resembles a visual record of the word-sound. Thus, it refers to the actual act of communicating a complaint, an evidentiary audio recording, or just a visual recording of the voice. The Office's winning logo is also reminiscent of a loudspeaker and aptly communicates one of the Office's main roles: giving voice and power to whistleblowers who expose corruption or other misconduct.



→ Website

The key pillar of communication was the creation of a temporary website www.oznamovatelia.sk, which serves both to receive whistleblower complaints and to inform the general public about the activities of the Office and whistleblowing news.

We launched the temporary website before the launch of the Office itself and during the first three months, we published 10 texts dedicated to promoting the activities of the Office and informing about the latest news of the Office.

→ Social media

As a modern state institution, we consider the presentation of our activities on social networks to be an important part of our communication, and we use all relevant channels for this purpose. In the first three months of the Office's operation, we designed the visual and content communication style and gradually launched all relevant communication channels.

We launched the Office's Facebook profile first (on 30 September), added Instagram in mid-October (on 22 October) and added LinkedIn to our portfolio on 30 November.

→ Media

Cooperation with the conventional media is an obvious part of the communication mix to promote the Office and its activities to the general public. During its initial months of operation, the Office communicated all major milestones of its activities with good media coverage and its media visibility has been growing continuously.

Between September and December 2021, we captured a total of 211 media outputs in our monitoring.

In addition to the number of contributions, of course, the quality also matters. In addition to the standard reports in the print media or online articles, we also had excellent organic circulation during the period under review through radio and TV shows in which we introduced the Office, talked about its role in the fight against corruption and, last but not least, shared our achievements in the first weeks of operation (for example, through a report about a whistleblower who had obtained protection). In the first four months, viewers and listeners could hear about the Whistleblower Protection Office 9 times on Slovak radio and 8 times on television.

What we want to achieve with the Office's communication

As in the initial period, the communication of the Office in the coming year will cover, in particular, the basic objectives such as the visibility of the Office, the understanding of its role, its purpose and the importance of the fight against corruption.

In order to set communication goals, we needed to rely on up-to-date data. Therefore, with the help of our Analytics Unit, we prepared questions that were included in an omnibus survey conducted in January 2022 in cooperation with Focus agency.

We plan to conduct this poll regularly at least once a year, or after each major campaign, to evaluate the effectiveness of our awareness-raising activities.

1. **Methodology:** personal interviews (omnibus)
2. **Target group:** general population of Slovakia, representative
3. **Number of respondents:** 1,017
4. **Data collection:** 19.1. - 26.1. 2022

Our questions focused on perceptions of whistleblowing, visibility of and attitudes towards the Whistleblower Protection Office, and willingness to report corruption.

The poll results showed that awareness of whistleblowing as such was relatively low. Only 11.6 per cent of respondents said they had come across the term before, and of these, about 80 per cent then also chose the correct definition (i.e. about 10 per cent of respondents).

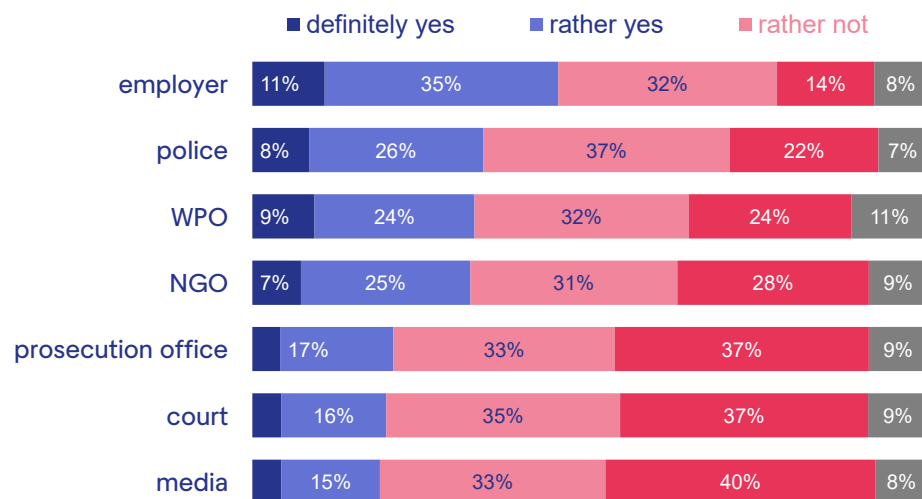
Perceptions of whistleblowing (after all respondents were offered a definition of whistleblowing) came out quite favourably, 58.1 per cent would view a hypothetical whistleblower positively.

An even larger proportion of respondents (almost 75 per cent) think that whistleblowers of corruption should be granted protection from the state, indicating a strong public demand for whistleblower protection.

Only 20 percent of respondents said that there was a state institution in Slovakia that protected whistleblowers. Of these, then, about half (about 10 percent) correctly stated that it was the Whistleblower Protection Office.

About 45 percent of respondents would be willing to report a case of misconduct to their employer. Around a third of respondents expressed a willingness to file a complaint with the Whistleblower Protection Office (which is on par with filing with the Police or an NGO). The least willingness was declared towards the Prosecutor's Office, the courts and the media (all at around 20 per cent).

Where would Slovaks potentially report corruption



Source: Focus poll for the Whistleblower Protection Office conducted with a representative sample of 1,017 respondents in January 2022

Education

The Whistleblower Protection Office has a statutory duty to "raise public and employer awareness of whistleblowing and the protection of whistleblowers".

In addition, our role is also to provide advice and consultation and to provide practical expert education and training courses for those responsible for receiving whistleblower complaints in institutions or companies.

Theory and practice

The biggest challenge at the moment is to raise public awareness of the Office's existence. We have adapted our training to this in the first 4 months of the Office's operation.

Since its inception, the Office has had the ambition to change attitudes to corruption, fraud and other misconduct across the country. We want to put corruption and misconduct outside the norm and our main goal is to change the way society views whistleblowers, in addition to protecting them.

In the last quarter of 2021, based on analyses of available data, we defined two main target groups to which we assigned training objectives:

1. Professional public

- Public and private leaders
- Persons responsible for receiving and verifying whistleblower complaints (compliance officers)

Education objectives:

- Visibility of the Office and its powers in the fight against corruption
- Understanding the importance of whistleblowing for the institution or company
- Acceptance of the adaptation of tools that enable and facilitate whistleblowing
- Understanding the importance of whistleblower protection and an active engagement in whistleblower protection

2. General public

- Civil and public servants
- Private administration staff
- The lay public
- Children and youth

Education objectives:

- Visibility of the Office and its powers in the fight against corruption
- Understanding the importance of whistleblowing for the for society as a whole and for individuals
- Changing the perception of whistleblowing as an expression of personal integrity and protection of the public interest
- Emphasis on value-based education for young people with a focus on ethics and the fight against corruption

Training courses and lectures

The training objectives set should be seen as an important component in the overall mosaic of the Office's functionality and effectiveness. If the Office is to succeed in delivering its tasks, we must be proactively involved in shaping societal attitudes.

Between September and December, the Office took advantage of 13 occasions on which its representatives spoke to a total audience of more than 500 people, presenting online or in person on the Office's functions and its role in the fight against corruption.

For the first time, the Office officially presented itself at the Anti-Corruption Academy organised by Nadácia Zastavme Korupciu (Stop Corruption Foundation) in October. The invitation was accepted by the Office President, Zuzana Dluhošová, who during her speech introduced the 24 participants to the legal minimum on reporting and documenting corruption and, in addition, presented the Office and its functions.



We also participated in the Open Government Week, which is regularly organised by the Office of the Plenipotentiary for Civil Society Development. On this occasion, we again presented our work and discussed the need to protect whistleblowers.

In cooperation with the Ministry of the Interior of the Slovak Republic, a training for the Information Offices for Victims of Crime followed, where we explained to the employees of the Offices what our Office focuses on and how we can help their clients.

The training for the Public Procurement Office was on the topic of conflicts of interest. The joint training for the Office of the Special Prosecution Service and the National Criminal Agency was also mutually useful, in which the President, in addition to introducing the Office, discussed with investigators and prosecutors the future co-operation options with investigation and prosecution authorities.

In addition to trainings and lectures for civil servants, we also attended to those who are in training for public service: in November, we held two trainings for the Secondary Vocational Schools of the Police Corps; in Pezinok and Košice. Their main topic was the reporting of corruption and the protection of whistleblowers.



We also introduced the same topic in the online training of regional crime prevention coordinators and employees of the Information Offices for Victims of Crime and in the online training of employees of the Ministry of the Interior, which was attended by employees from the Support Centre, the Office of the Secretary General of the Civil Service Office and pupils of the Secondary Vocational School of Transport in Martin.

We didn't miss the opportunity to present at the Whistleblowing 2021 online conference: Openness in the Workplace, organised by the Czech anti-corruption non-profit organisation Oživení. Zuzana Dluhošová, Office President, spoke as a member of a panel entitled The Slovak Experience.

The Office took the opportunity to present itself and hold discussions with researchers and students in an academic environment - at an international conference organised by the University of Lodz on the topic "Whistleblower Protection in the V4 countries, France and Slovakia as well as at the home Faculty of Law of the University of Trnava.

Value-based education for young people

A corruption paradigm shift cannot be achieved without a proactive approach in the education of children and young people. That is why the Office also wishes to get involved in these processes and to help influence how children and young people are educated about values today, wherever it can.

As a matter of fact, it is value-based education that is the basis for the formation of character, a value ladder and a moral compass. Of course, the moral values are extremely important not only in the fight against corruption or in whistleblowing, but also in everyday life.

In order for the Office to be able to make a responsible contribution to education, it has spent the initial period looking for answers to the questions of the overall state of value-based anti-corruption education in Slovakia, the institutions dedicated to it in Slovakia and how the Office can reasonably contribute to raising awareness in the area entrusted to it.

Summary of findings

Value-based education currently has a dedicated place in official curricula within the teaching of ethics and civics, but the topic of corruption is not explicitly included in any of the current curricula in force.

At the same time, however, a major education content reform was launched in 2021 under the baton of the State Pedagogical Institute, which should, among other things, create space not only for value-based education, but also for what is referred to as horizontal education, which should run against the background of all school subjects.

In addition to the official educational mainstream, a number of non-governmental organisations are addressing the issue of value-based education in general.

Involvement of the Office in the first quarter of its operation

On the basis of a consultation with the State Pedagogical Institute, we became a member of the Central Curriculum Committee for the reform of the content and forms of education in the field of Human and Society. In autumn, we attended the Committee meetings and closely followed developments in this area.

The Office has the ambition to be involved in the development of the plan to be created by the State Pedagogical Institute by the end of 2022 and to bring in the necessary anti-corruption inputs.

Because value-based education is not a strictly defined topic, nor is it included in the national curriculum, there is no measurement that would explicitly focus on it.

Therefore, in the initial months, we worked with the National Institute of Certified Measurements (NÚCEM) to explore the options of piloting a measurement of the state of value-based education at the primary school level. We plan to carry out this measurement in cooperation with our analytical team and NÚCEM.

Since the launch of the Office, we have tried to create a map of institutions and organisations dedicated to preventing corruption, educating for active citizenship, or established by the state for this purpose. We have already met some of them in the initial period of the Office's operation and established cooperation.

These institutions include the State Pedagogical Institute, as well as non-profit organisations such as Nadácia Zastavme korupciu (Stop Corruption Foundation), Transparency International Slovakia, the Youth Council of Slovakia, LEAF and the Institute for Active Citizenship.

In addition to the ongoing mapping of the field, planning research and reviewing methodological materials, in the initial period of the Office's operation we devoted time to actively seeking other partners for the discussion on value-based education.

In 2022, the Office plans to establish contact with other institutions and organisations, including Iuventa, the Methodological and Pedagogical Centre, the State Institute of Vocational Education, the State School Inspectorate, as well as directly with the Ministry of Education of the Slovak Republic.

The challenge going forward in this area will be to find resources and develop a plan that is feasible given the limited capacity and capabilities of the Office.

Cooperation partners

The Whistleblower Protection Office is an independent institution, but it cannot operate in isolation. That is why it is crucial for us to look for natural partners and allies on the national and international scene. Thanks to this, we will be able to increase our influence and efficiency and better achieve our goal - the protection of whistleblowers and the prevention of corruption in Slovakia.

In the first four months of the Office's operation, we have laid the foundations for very important collaborations, which we will continue to develop in the period ahead.

Police and Prosecution Service

Cooperation with the Police and the Prosecution Service is absolutely crucial for the functioning of the Office. As whistleblowers often turn to the Police or prosecutors, they are often the first contact where they can learn about their right to protection.

That is why we have established contact with both the General Prosecutor's Office of the Slovak Republic and the Office of the Special Prosecution Service and have agreed to exchange more detailed statistical data on whistleblower complaints. We also agreed on the need for consistent communication with whistleblowers, so that they receive clear and accessible information about their protection options in situations where they contact the Police and Prosecution Service directly, without being accompanied by the Whistleblower Protection Office.

Specific cooperation with the Office of the Special Prosecution Service has taken place in particular in the mediation of protected whistleblower statuses in cases where whistleblowers have approached the Office.

In October 2021, we participated in a joint training for the Office of the Special Prosecution Service and investigators and field operations officers of the National Criminal Agency, where we introduced the Office and presented possible forms of cooperation in the future. This will include, for example, expert cooperation and the mutual exchange of knowledge in the investigation of suspected crimes.

Another form of cooperation was two training sessions for the Secondary Vocational Schools of the Police Corps; in Pezinok and Košice.

Office of the Government of the Slovak Republic

The Office of the Government of the Slovak Republic should be our closest ally in preventing corruption. During the first months of the Office's operation, we therefore established cooperation with the Corruption Prevention Department of the Office of the Government of the Slovak Republic.

In the meetings we organised, we discussed the agenda of the Corruption Prevention Unit and communicated our plans to avoid duplication of activities.

Office of the Plenipotentiary for Civil Society Development

As we consider the fight against corruption to be a key issue in the governance of the state, we have been involved in the preparation of the Action Plan of the Open Government Initiative in the Slovak Republic for the years 2022-2024. In October, we also took part in the Open Government Week, an event for the professional and lay public, organised by the Office of the Plenipotentiary.

The Whistleblower Protection Office is responsible for a commitment in the forthcoming Action Plan entitled “Assisting central government authorities in streamlining internal whistleblowing systems and whistleblower protection systems”.

The commitment aims to map how the Whistleblower Protection Act No. 54/2019 Coll. is implemented in practice and at the same time contribute to better and more efficient protection of whistleblowers through the creation of a manual. The Office also plans to organise regular expert meetings of persons responsible at the level of central government authorities in order to provide an adequate platform for sharing experience and solutions to practical issues. The aim is to put the currently formally existing rules into everyday good practice.

Ministry of the Interior of the Slovak Republic

As a matter of course, we established cooperation with the Crime Prevention Department, which operates under the Ministry of the Interior of the Slovak Republic. In addition to educating the staff of the Information Offices for Crime Victims (and other Ministry staff), we also prepared an informational flyer on the powers of the Office for clients of the Centres across the country. We plan to continue our cooperation in the forthcoming period.

Slovak Compliance Circle

Legislation concerns not only the general government but also commercial companies, so naturally we were looking for partners for discussion in this sphere as well. The first of the corporate associations with which we established cooperation during the first quarter of our operation was the Slovak Compliance Circle initiative.

It is an initiative created to raise the level of ethical conduct in the Slovak market and it provided the Office with useful information

from practice regarding the perception of misconduct or corruption in the private sector.

As part of the cooperation oriented towards the exchange of experience, we held a workshop and discussion where representatives of the Slovak Compliance Circle presented their internal whistleblowing systems and good practice examples.

Civic sector in Slovakia

Over the course of four months, we also established cooperation with NGOs that are most active in the field of corruption prevention in Slovakia, namely Nadácia Zastavme korupciu (Stop Corruption Foundation) and Transparency International Slovakia (TIS).

In October, Nadácia Zastavme korupciu (Stop Corruption Foundation) trained our staff to communicate with whistleblowers in challenging situations. We have also agreed to co-organise the Pucung anti-corruption festival in Košice.

In December 2021, we organised a joint discussion with Transparency International Slovakia on the occasion of the International Anti-Corruption Day entitled “How do we protect whistleblowers in Slovakia?”. Invited guests, including the President of the Office, discussed the state of whistleblower protection in Slovakia, what factors affect anti-corruption efforts and the transposition of the EU Directive. We also work with TIS to share polling data.

International cooperation: NEIWA

In addition to important national cooperation partnerships, the Office has the ambition to join international whistleblower protection structures. That is why we approached NEIWA - Network of European Integrity and Whistleblowing Authorities.

It is a network made up of state organisations of EU Member States, which serves primarily as a platform for the exchange of knowledge and experience in the field of whistleblower protection and, more recently, as a grouping informally overseeing the process of transposition of EU Directive 2019/1937 on the protection of persons who report breaches of Union law.

Planned cooperation

In addition to the cooperation already implemented, in December we started cooperation with the Public Procurement Office, in particular in the consultation of public procurement cases.

We entered into discussions with the Antimonopoly Office of the Slovak Republic in 2021 because of the amendment of the law. In the new year, we trained its senior staff on the topic of whistleblower protection.



FINANCING OF THE OFFICE AND ITS COST REPORT

The budget of the Whistleblower Protection Office (part of the General Treasury budget chapter) was activated by a budget measure on 11 May 2021, which granted the Office a limit of EUR 599,394 for the first year of its operation, at that time without activating capital expenditure (which was only released on 19 July in the amount of EUR 93,320).

WPO budget table as of 31 December 2021

Budget classification		Approved	Adjusted	Spending	Balance
610	Payroll	0	256 021	207 507	48 514
620	Insurance premiums	0	82 590	81 886	704
630	Goods and services	0	206 839	184 790	22 046
640	Current transfers	0	5 553	4 509	1 044
700	Capital expenditures	0	13 567	7 051	6 516
Total		0	564 568	485 743	78 824

The total cost of setting up and launching of the Office amounted to EUR 485,743, with the highest expenditure on staffing the Office, which was almost fully staffed during the fourth quarter of the year thanks to an intensive candidate selection process.

The need to prepare working conditions for the future staff of the Office and in particular for the provision of services to clients and the associated costs of goods and services, which represented the second highest category of spending, in a relatively short time and in the context of the ongoing pandemic situation, emerged as a separate challenge with a number of tasks during the initial months of the operation of the Whistleblower Protection Office.

The building at Námestie slobody 29 was assigned to the Office by the Office of the Government of the Slovak Republic in early July 2021.

Thus, two months before its official launch, the Office was housed in its own building, which was in a functional but rather dilapidated state.

Preparations for the launch on 1 September 2021, in addition to recruiting staff, thus also involved launching a series of public tenders to prepare the premises - stocktaking, reorganisation of premises and furniture, retrofitting of office interiors and common areas were carried out.

Also, basic adjustments were carried out to renovate inadequate infrastructure - renovation of some inadequate sanitary facilities, minor repairs or clearing of neglected parts of the building.

It was also necessary to procure office supplies and equipment necessary for the proper operation of the Office, especially the working tools for future employees and for the opening of the Office to clients.

As the assignment of the assets did not include any hardware, this mainly meant launching a public tender for complete hardware and software provision. Tenders for the purchase of laptops and workstations, telephones and other IT equipment, as well as the tendering of the related service providers, were particularly important in this respect.

In these tenders, we have taken into account not only the desired cost-effectiveness, but also the existing pandemic situation, which has complicated the routine performance of work in recent years and forced a modification of long-established procedures.

Our intention was to minimise the impact of likely disruptions to the on-site presence of staff due to illness or quarantines and the associated risk of disruption to the service the Office provides to clients.

In the area of initial purchases of IT and telecommunications equipment, we therefore put particular emphasis on solutions enabling staff mobility and home office work. Laptops and mobile phones were procured instead of the usual hardware physically bound to the workplace.

We procured and set up a virtual work environment that allows employees to work without any restrictions and access work documents also from outside the workplace.

As the main task of the Office is to provide services to clients, in addition to equipping the environment for staff, preparations were also underway to make the channels through which whistleblowers can contact us operational.

Our goal was to create multiple channels for contact with our clients. We have therefore invested in launching a free hotline, creating a temporary website and also making minor improvements to visitor premises.

RECOVERY PLAN

Resources from the Recovery and Resilience Plan are also expected to help the Office get up and running. The Whistleblower Protection Office has already been involved in its preparation during March and April 2021 and the investments related to it are framed under Component 16 - Anti-Corruption and Anti-Money Laundering, Public Safety and Security.

This is a cumulative capital expenditure of EUR 1,705,000 and should cover capital expenditure projects implemented between 2021 and 2023 in 4 main categories:

Reconstruction of the WPO headquarters	EUR 835,000
WPO opening media campaign	EUR 595,000
WPO hardware	EUR 80,000
WPO software	EUR 195,000

The actual spending under the Recovery Plan is planned in the next period.

Reconstruction of the WPO headquarters

In preparation for the comprehensive reconstruction of the Office headquarters, we have started preparatory work before organising an architectural tender, the aim of which is to generate the maximum possible quality at a reasonable price. The result should be a contemporary and eco-efficient building owned by the state.

In preparation for the tender, but also due to the considerable wear and tear on the building, we procured the services of a full technical survey and condition assessment of the building.

We have launched the tender in December 2021 as a two-round tender, with the second round expected to be completed in April 2022.

WPO opening media campaign

Another challenge was the preparation of the public tender for the media campaign. Here, too, we launched a one-round transparent tender at the end of 2021 for proposals for the creative concept of the campaign. The winner was selected by an expert jury in February 2022 and a second public tender related to the campaign will take place in the same year for the purchase of media space.

International rankings and opinion polls show that Slovaks still do not know who to report corruption to, nor do they know about whistleblower protection options. A Focus poll showed that only 10 per cent of people in Slovakia knew what whistleblowing was and about 7 per cent of respondents knew about the existence of the Whistleblower Protection Office. An opening communication campaign to promote the Office's visibility is therefore essential.

WPO hardware

Hardware was procured primarily in 2021 and was related to the provision of a complete technical infrastructure. Procurement took place mainly in the summer of 2021 so that the Office would be operational from the first moment of its official opening.

In this area, procurement was carried out through a combination of the Electronic Contract System (ECS) and market surveys. However, as the spending of the Recovery and Resilience Plan resources was conditional on the existence and validity of a legislative framework

that had not been approved at the time of procurement, the cost of these activities was covered by the Office from its own resources allocated in the regular State budget.

WPO software

When selecting the software, we focused on functional and mobile solutions. The creation of a "greenfield" Office has brought an advantage in addition to complications; it has allowed us to choose the path of cloud-based solutions. These allow work even during emergencies. These expenses were again covered by the regular budget.

However, in addition, we have been preparing the groundwork for the procurement of a platform that will enable secure and anonymised whistleblowing.

Public procurement for the delivery of this solution, which we plan to subsequently distribute to those interested in an open-source approach, the preparation of the technical specifications of the assignment was initiated at the end of 2021, and the procurement took place in the first quarter of 2022 and we expect deployment in the 2nd - 3rd quarter of 2022.



VISIONS AND OBJECTIVES OF THE OFFICE

VISIONS AND OBJECTIVES

The purpose of the Whistleblower Protection Office is first and foremost to protect courageous people with integrity who have the public interest at heart.

However, the Office also aspires to become an actor in the fight against corruption and in the prevention of corruption more broadly.

It is important for us to have a vision that is as specific as possible about what goals we want to achieve and what tools we will use to achieve them.

We, therefore, conclude our Annual Report by offering our vision for the direction of the Office in the short term, but also in the long term.

Getting the vision and objectives of the Office right is an extremely responsible task which requires, firstly, an examination of the current situation, an analysis of the instruments and possible impacts of our activities and, last but not least, a rational and competent quantification of the target values.

PRIMARY OBJECTIVES (IN ALL TIME HORIZONS)

→ Quantification of our goals

One of the first challenges for us is the actual quantification of our objectives, which is why it ranks first and above all the other objectives and visions that we define for ourselves as the Office.

The Office has been in operation for a short time and is an exceptional institution in our geographical area. Therefore, we have no one to compare ourselves with and we cannot “copy-and-paste” the targets.

Establishing key performance indicators is one of the main tasks we need to undertake.

Tools:

Polls and analyses to help us understand the state we are in as a society, an analysis of the means at our disposal and setting of feasible goals we can actually achieve with them.

→ **Whistleblower protection**

Our primary mission is to ensure whistleblower protection. This is the Office's ultimate objective and is therefore naturally the most important for us.

However, we do not intend to quantify this goal at this time, as our main focus in the first three years of our work will be on communicating the state's assistance and support to whistleblowers and changing the societal narrative that it is better not to speak up when we witness fraud and serious violations of the law in our work. In addition, people's willingness to come forward and seek help from the Office is dependent on a number of factors, including the visible successful outcomes of investigations of serious crimes resulting in a final court decision, which take time. All the factors that come into play in an individual's decision-making will also be explored using more focused opinion polls. On the basis of the data thus obtained, the Office will quantify its objectives and set its priorities in this area as well in the future.

Tools:

In the coming period, we will therefore focus not only on data collection and understanding of the social environment, but also on the quality of legal services provided by the Office's Legal Department, including effective cooperation with the prosecution authorities in the Slovak Republic.

SHORT-TERM OBJECTIVES (2022-2023)→ **Raising awareness of the Office and the Act**

In order for the Office to perform its function effectively, we need to significantly raise awareness of the Whistleblower Protection Act, and the Office itself.

Whistleblowers will only turn to us for assistance and protection if they know that they have a right to it and that there is an office that can help them.

We, therefore, want to reach out to the people of Slovakia and convince them that we are a trustworthy and reliable institution that they can turn to without fear if necessary and that will help them in whistleblowing.

Tools:

- » Standard activities of the Prevention and Communication Department, which consist of communication through conventional media or social networks
- » A marketing campaign to be run by the Office in 2022 to reach all residents through an appropriate marketing mix
- » Trainings for the public and private sectors, in particular for persons responsible
- » Participation in cultural and social events that can help raise the profile of the Office
- » Work with young people, through which we can reach out to students on a given topic and contribute to value-based education of the young generation, which will subsequently form patterns of behaviour in professional life

→ Improving the efficiency of internal whistleblowing systems

In order to move forward with the issue of corruption in Slovakia, we need to reach a consensus on the perception of this issue at all levels. Internal whistleblowing systems, which allow employees to report corruption or misconduct within organisations are a powerful tool for understanding the importance of whistleblowing. The goal is for institutions and companies to understand the importance and positive benefits of internal systems and to have them well designed, not for the sake of repression (punishment), but for their usefulness.

Tools:

- » Mapping, auditing and review of internal systems in the public and private sphere
- » Manual of the internal system for the review of public and private sector whistleblower complaints
- » The Office's methodological guidelines and consultations
- » Training on internal systems for both private and public sectors (how to design them to be functional and effective and to serve their purpose, how to promote a high level of corporate ethics, etc.)

LONG-TERM OBJECTIVES (2022-2028)

→ Contribute to reducing the level of corruption in Slovakia

Through whistleblower protection and other activities of the Office, we want to contribute in the long term to putting corruption outside the norm in Slovakia.

This is the only way we have a chance to join the ranks of prosperous countries with functioning education and healthcare systems, an ethical and innovative business environment, and an educated society that can make informed decisions.

Tools:

- » Existence of the Office as an expression of state support for whistleblowing
- » Helping whistleblowers, supporting them and bringing the issue as an important narrative in the societal debate
- » All activities of the Office and their ongoing measurement and evaluation of their effectiveness

→ Identification of systemic weaknesses and proposed solutions

We expect that the experience gathered in the area of whistleblower protection over a two-year timeframe will offer, among other things, insights into the most pressing gaps that enable corrupt behaviour in Slovakia.

Our ambition is to gather this knowledge and facts, analyse them and ideally propose solutions that can contribute to their elimination. Long-term insight into the issue of corruption and serious misconduct in Slovakia will allow us to gain a deeper understanding not only of the causes, but also to identify workable tools that can help eliminate them.

Tools:

Ongoing processing and analysis of cases and solution proposals will be carried out by the Legal and Analytical Unit of the Office.

The Whistleblower Protection Office is at the beginning of its journey. The goal of this journey is clear; Slovakia as a corruption-free country, Slovakia as a country that does not cheat and Slovakia as a country that is not hindered in its development by the misappropriation of public resources.

NOTES

- (1) European Parliament Resolution of 14 February 2017
- (2) Association of Certified Fraud Examiners, Report to the National. 2020 Global Study Occupational Fraud and Abuse, 2021
- (3) Stubben, Welch 2020
- (4) Focus poll for the Whistleblower Protection Office conducted with a representative sample of 1,017 respondents in January 2022.
- (5) Drafted as per <https://www.lewik.org/organy-verejnej-moci/>
- (6) Association of Certified Fraud Examiners, Report to the National. 2020 Global Study Occupational Fraud and Abuse, 2021
- (7) Focus poll for the Transparency International Slovensko conducted with a representative sample of 1009 respondents in 2021.
- (8) Act No. 307/2014 Coll. on Certain Measures related to Whistleblowing and on Amendments to Certain Acts
- (9) Focus poll for the Transparency International Slovensko conducted with a representative sample of 1009 respondents in 2021.
- (10) OECD 2003; The United States Department of Justice 2016; Kraus 2017; National Tax Service 2017; U.S. Security and Exchange Commission 2017; Maslen 2018; National Whistleblower Center 2018; Phillips & Cohen, 2020; Tennant 2021; Transparency International Canada 2022 (please refer to Resources)
- (11) In the U.S., a whistleblower may initiate a private cause of action on behalf of the state against an entity that has caused harm to the state (through fraud, tax evasion, etc.) The whistleblower has a share in the amount recovered for the state upon success (False Claims Act 2022).
- (12) Bank of England. Financial Incentives for Whistleblowers. Note by the Financial Conduct Authority and the Prudential Regulation Authority for the Treasury Select Committee, Bank of England, 2014.
- (13) Review of the basic anti-corruption legislation in the Slovak Republic. OECD, 2017.
- (14) Directive 1937/2019 of the European Parliament and of the Council Art. 5, para. 9
- (15) This is also evident from the Focus polls, which are evaluated by the non-profit organisation Transparency International Slovakia. The data shows that after Zuzana Hlávková's whistleblower complaint, the willingness to report corruption in Slovakia increased significantly (Chart 2, Transparency International Slovakia 2021)

RESOURCES

- Association of Certified Fraud Examiners, 2021. Report to the Nations. 2020 Global Study Occupational Fraud and Abuse. Available online: <<https://acfepublic.s3-us-west-2.amazonaws.com/2020-Report-to-the-Nations.pdf>>
- Bank of England, 2014. Financial Incentives for Whistleblowers. Note by the Financial Conduct Authority and the Prudential Regulation Authority for the Treasury Select Committee. Available online: <<https://www.fca.org.uk/publication/financial-incentives-for-whistleblowers.pdf>>
- False Claims Act. The United States Department of Justice, 2022. Available online: <<https://www.justice.gov/civil/false-claims-act>>
- Kraus, P.: The Difference Between U.S. & U.K. Whistleblowers - A Reward. Waterskrauspaul 21.9.2017. Available online: <<https://waterskraus.com/the-difference-between-u-s-u-k-whistleblowers-a-reward/>>
- Maslen, C.: Whistleblower Reward Programmes. Transparency International, 27.9.2018. Available online: <<https://knowledgehub.transparency.org/helpdesk/financial-incentives-for-whistleblowers>>
- National Tax Service, 2017. Tax Whistleblower in Republic of Korea.. Available online: <<https://kkc.com/wp-content/uploads/2019/07/South-Korean-Whistleblower.pdf>>
- National Whistleblower Center, 2018. The Importance of Rewards. Whistleblower reward laws are the key to successfully combating fraud and corruption. Available online: <<https://www.whistleblowers.org/the-importance-of-rewards/>>
- OECD, 2003. Managing Conflict of Interest in the Public Service. OECD guidelines and country experiences. Available online: <<https://www.oecd.org/gov/ethics/48994419.pdf>>
- Phillips & Cohen, 2020, Whistleblower Rewards: Award Payouts and How They Work. Phillips Available online: <<https://www.phillipsandcohen.com/whistleblower-rewards/>>
- Review of the basic anti-corruption legislation in the Slovak Republic. OECD, 2017. Available online: <<https://www.oecd.org/gov/ethics/pos%C3%BAdenie-z%C3%A1kladn%C3%BDch-protikorup%C4%8Dn%C3%BDch-pr%C3%A1vnych-predpisov-v-Slovenskej.pdf>>
- Stubben S., Welch, K.: Evidence on the Use and Efficacy of Internal Whistleblowing Systems. In Journal of Accounting Research, 2020, vol. 58, no. 2. pp. 473-518.
- Tennant, F.: Sharpening the teeth of whistleblower protection in Japan. Financier Worldwide Magazine, 2021. Available online: <<https://www.financierworldwide.com/sharpening-the-teeth-of-whistleblower-protection-in-japan#.YkQ-7ShBw2y>>
- The United States Department of Justice, 2016. Justice Department Recovers Over \$4.7 Billion From False Claims Act Cases in Fiscal Year 2016. Third Highest Annual Recovery in FCA History. Available online: <<https://www.justice.gov/opa/pr/justice-department-recovers-over-47-billion-false-claims-act-cases-fiscal-year-2016>>

Transparency International Slovakia, 2021. Public opinion polls and corruption statistics. Available online: <<https://transparency.sk/sk/prieskumy/>>

Transparency International Canada, 2022. Enhancing Whistleblower Protection. Available online: <<https://open.canada.ca/en/idea/enhancing-whistleblower-protection>>

Official Journal of the European Union. Directive 1937/2019 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report infringements of Union law.

U.S. Securities and Exchange Commission, 2017. 2016 Annual Report to Congress of the Dodd-Frank Whistleblower Program. Available online: <<https://www.sec.gov/files/owb-annual-report-2016.pdf>>

European Parliament Resolution of 14 February 2017 on the role of whistleblowers in the protection of the EU's financial interests. European Parliament, 2017. Available online: <https://www.europarl.europa.eu/doceo/document/TA-8-2017-0022_SK.html?redirect>

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