

# THE WHISTLEBLOWER PROTECTION OFFICE 2022 ANNUAL REPORT



WHISTLEBLOWER  
PROTECTION OFFICE

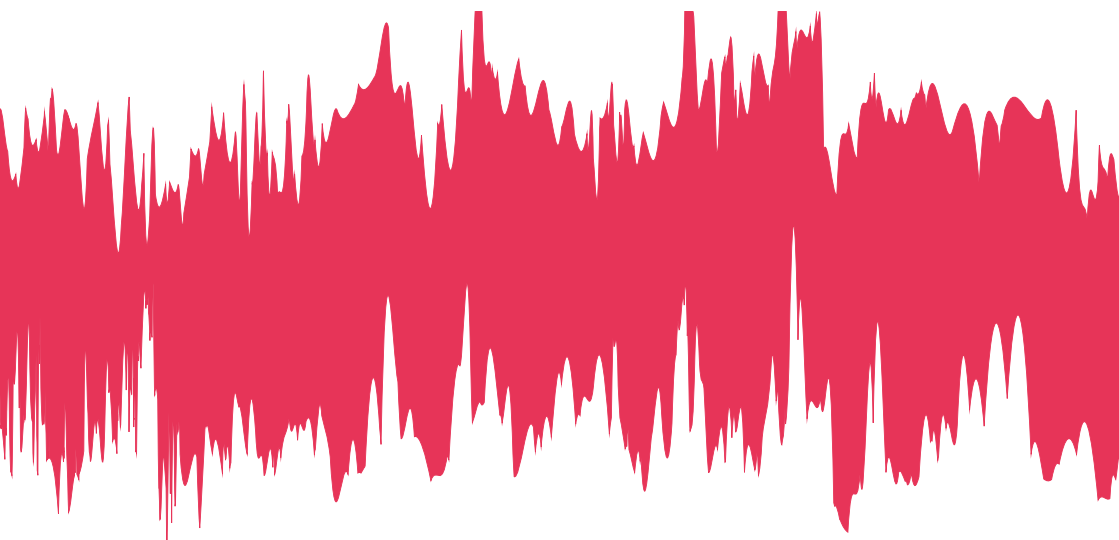




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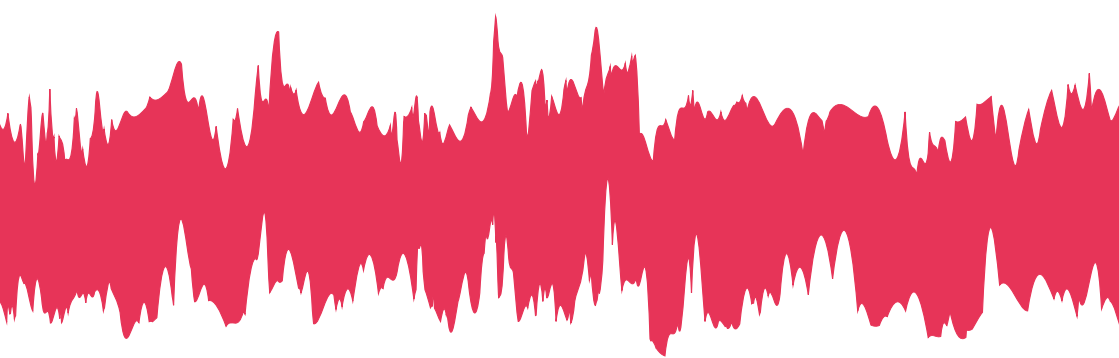
## 2022 ANNUAL REPORT





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ZUZANA DLUGOŠOVÁ  
President



# FOREWORD

We have progressed from a time when whistleblowers depended on the support of civil society to a time when they have new legal and institutional safeguards. This is thanks to the active work of NGOs, the support of political representatives, and also thanks to the Europe-wide debate which, at the European Union level, has resulted in the adoption of the Directive on the protection of persons who report breaches of Union law. And rightly so. Whistleblowers protect the public interest and the rights of others, and in doing so, they often put themselves and their families at risk, and it is important that the state supports and protects them in their vulnerable position.

The Whistleblower Protection Office has completed its first full year of work, which is summarised in this Annual Report. In September 2021, it joined the scene of state institutions with the ambition to be a trusted and respected whistleblower protection authority and thus contribute to protecting the public interest. We set to work. Indeed, there

has been no shortage of it in the past calendar year.

The WPO has launched its communication campaign with the slogan „Speaking Up Is Golden“ to let people know about its existence. We have brought poll data to the professional and general public about how we think about whistleblowing, what puts us off and who we tend to approach when we encounter fraud at work. We have held up a mirror to state institutions and private companies on how they themselves create space for whistleblowing, but we have also given them a helping hand in the form of manuals we have produced.

We are a year more experienced in protecting concrete whistleblowers who have chosen to risk and raise their voice and we are seeing more clearly how employers or criminal prosecution authorities respond to whistleblowing.

There are still many challenges ahead of us. We have summarised the concrete ones in the present Annual Report. The biggest

challenge, however, is the invisible binding force in every democratic society. It is trust. Trust among people and trust in public institutions. Indeed, trust affects whether people are willing not to remain quiet and speak up when fraud, threats to health or unjust enrichment at the expense of public finances are involved.

Today, it seems, trust is a scarce commodity in Slovakia. It can be built in the micro-environments of individual companies and institutions, including through well-functioning whistleblowing systems. At the central level, professionally functioning institutions and the accountable exercise of public authority are a constant challenge. These are even more crucial to the willingness to speak up than, for example, the theoretical possibility of financial rewards for whistleblowers.

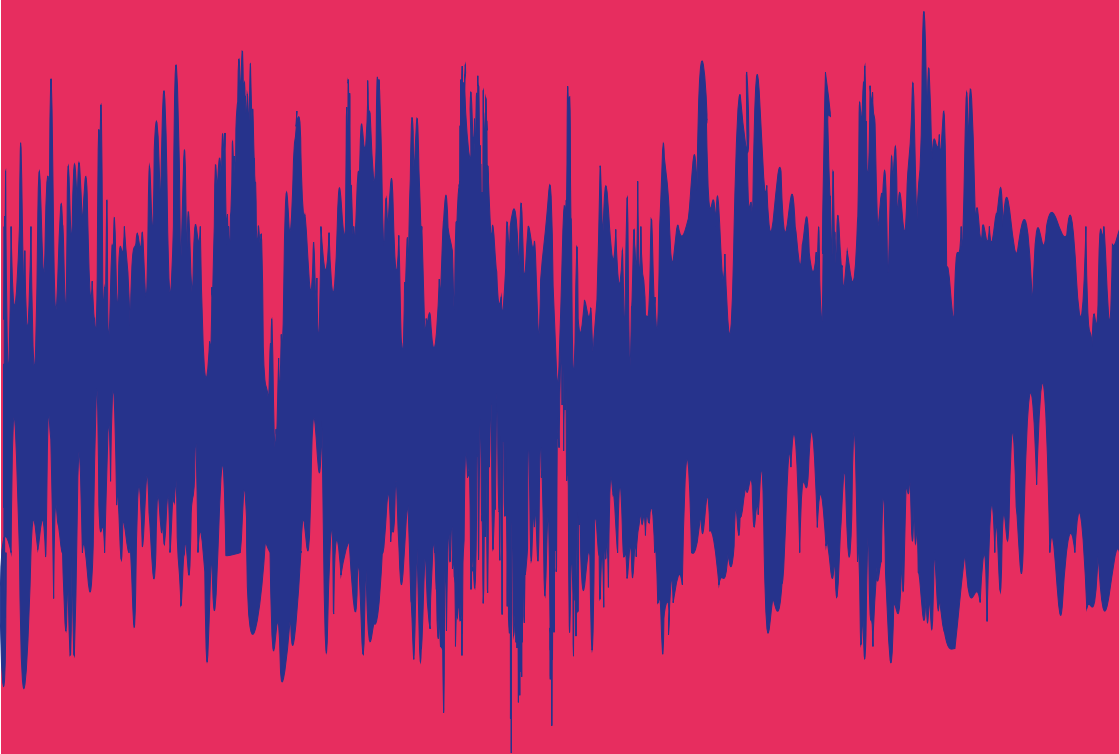
Some of the reactions to the whistleblowing reports sometimes make me think that we are more tolerant of certain types of fraudulent behaviour as a community. We don't have a problem with whistleblowers per se, but we don't see the problem they bring to our

attention as acutely.

However, it is extremely important to investigate whistleblowing reports properly and within a reasonable time. This appeal is directed at most employers, administrative authorities and criminal prosecution authorities. Only in this way can we show people that it makes sense to be concerned about the honest and corruption-free management of companies or state institutions. Otherwise, we will choose scepticism, cynicism and dishonesty, which sooner or later will catch up with us all in the form of a dysfunctional state, a deep distrust of public institutions and a failing economy.

My ideal is also a society where bullying and retaliation in the workplace against whistleblowers pointing out violations is simply not tolerated. I very much hope that one day we will mature in our minds so that we don't see retaliation as something that we sort of naturally expect from an employer. We will strive for that again and again, and we will continue to help those who do not want to remain silent when the protection of public interest is at stake.

# ABOUT THE WHISTLEBLOWER PROTECTION OFFICE



The Whistleblower Protection Office was established by Act No 54/2019 Coll. on the Protection of Whistleblowers as a budgetary organisation accountable to the National Council (Parliament) of the Slovak Republic. It is an independent state authority with nationwide remit. The physical headquarters of the WPO is at Námestie slobody 29 in Bratislava.

The WPO officially started operating on 2 September 2021. Its activities focus on the protection of whistleblowers and the related agenda. The establishment of the WPO can be seen as a logical outcome of the unsatisfactory state of whistleblower protection, but also of the low awareness and insufficient application of Act No 307/2014 Coll., which laid the foundations of the current legislation.

Basic tasks of the WPO:

### **1. Whistleblower protection**

The WPO provides preventive and follow-up protection. It protects “protected whistleblowers” from any adverse work-related measure taken by their employer and having a relation to their whistleblowing report. For whistleblowers without the protected whistleblower status, it suspends for 30 days their dismissal from employment in retaliation for whistleblowing pointing to misconduct of a co-worker, supervisor or employer.

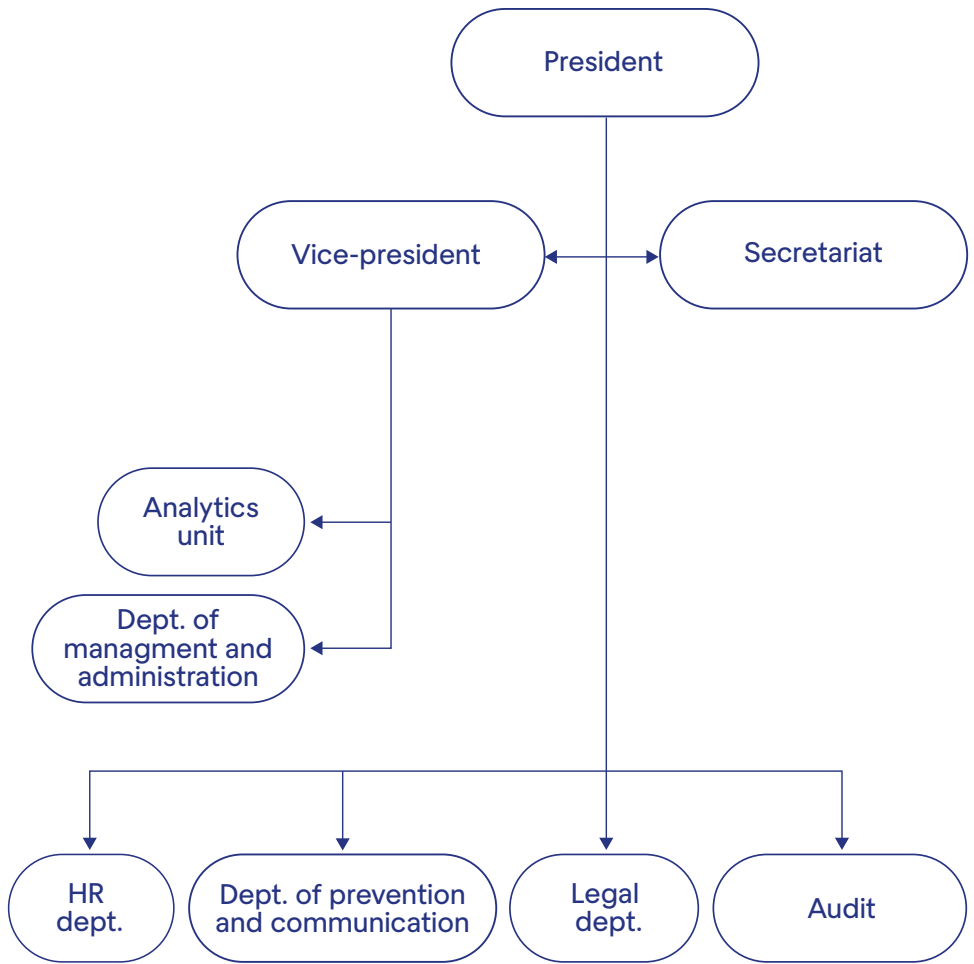
### **2. Advice and support**

The WPO provides free legal advice to whistleblowers wishing to make a whistleblowing report or advice on whistleblower protection. The WPO also supports employers in designing / streamlining internal whistleblowing mechanisms in their organisations or in investigating complex whistleblowing reports.

### **3. Receipt of whistleblowing reports**

The WPO receives whistleblowing reports concerning corruption, fraud, serious breaches of the law or other unfair practices compromising the public interest. It is essential that the misconduct is one that the whistleblower has discovered in the course of his or her work - with their employer, in the performance of his or her duties or in the exercise of his or her profession. In the most serious cases, where it is important to protect the whistleblowers' identity, the WPO will file criminal complaints on their behalf.

# ORGANISATIONAL CHART



# WHISTLEBLOWER PROTECTION



The Whistleblower Protection Office was set up so that people who blow the whistle on breaches of the law at work have a partner they can turn to from the very first moment. The WPO provides them with advice, help, assistance in filing a whistleblowing report, and, of course, protection in the event that they suffer retaliation or a sanction from their employer because of it.

## LEGAL PROTECTION

The fundamental task of the WPO is to protect the rights and legitimate interests of whistleblowers in and after whistleblowing to alert to unfair practices. Its very existence is supposed to ensure that the whistleblower does not suffer any harm for choosing to speak up and is not punished for their courage, protecting public funds or exposing fraud.

In 2022, the WPO handled 220 cases. Of these, 96 fell within its remit under Act No 54/2019 Coll. This includes whistleblowing reports, the whistleblower protection agenda, but also, for example, legal advice to employers and other legal entities.

Of the 63 cases involving whistleblowers, 17 led to retaliation by employers. In most cases, the whistleblowers were subjected to coercion or intimidation. They were also threatened with suspension of their employment or dismissal.

The following two most powerful whistleblower protection tools work in practice:

→ *Protected whistleblower status (§ 3 - § 8)*

A whistleblower obtains the protected whistleblower status if, in the course of his or her employment, the whistleblower, acting in good faith, makes a qualified whistleblowing report of a suspected crime/offense and the whistleblowing report is recognized as such by the prosecutor/administrative authority.

The whistleblower then receives confirmation from the prosecutor/administrative authority, of which his/her employer is also informed, and becomes a protected whistleblower. This means that the employer cannot take any work-related measure against the whistleblower, which the whistleblower does not agree to, without the WPO's approval.

In 2022, 9 new protected whistleblower statuses were granted; the WPO assisted with two of them. Three protections were granted by labour inspectorates and six protections were granted by the Public Prosecutor's Office.

The WPO is automatically informed of persons who have obtained the protected whistleblower status by the competent authorities. However, it is not always that the orders granting protection contain information on the whistleblowing report for which it has been granted.

Where the WPO has this information, whistleblowers have reported, for example, breaches of obligations in the management of third-party property and public procurement fraud, infringement of the financial interests of the European Union, or the crime of public procurement fraud and public auction fraud committed in complicity.

In 2022, the WPO considered 8 requests for approval of a work-related measure. In 7 cases, the employer wanted to dismiss the whistleblower, and in one case the employer wanted to remove the whistleblower's company vehicle. The WPO granted its approval in four cases (dismissals), and the request was declined in four cases.

→ *Suspension of a work-related measure (§ 12)*

If a whistleblower without the protected whistleblower status considers that the employer has taken a work-related measure against him/her in relation to the whistleblowing report, which measure the

whistleblower does not agree with, he/she may, within 15 days, apply for suspension of such measure with the WPO. Unless the employer proves that the measure is unrelated to the whistleblowing report, the WPO will suspend it for 30 days.

This gives the whistleblower time to apply to the court for a preliminary injunction. If the court grants such a preliminary injunction, the whistleblower's employment remains in effect and he/she receives his/her salary until a final decision on the validity/invalidity of the dismissal is issued.

The WPO received 2 requests for suspension of a work-related measure in 2022. One case involved a dismissal and the other one an organisational change. Both requests were dismissed by the WPO.

#### Anonymised whistleblower cases assisted by the WPO in 2022

##### → Case 1 - Protection against dismissal

An employee of a state-owned enterprise, being a senior officer in the inspection department, found serious irregularities in public procurement. The prosecutor granted her the protected whistleblower status.

Subsequently, the employer made an organisational change which led to the abolition of the whistleblower's job position. At the same time, however, a new, similar position was created in the enterprise, which the employer offered to another employee.

The offer was made to both of them via email, with the only criterion for the position being the speed of the candidate's response. Since the whistleblower responded second in line, she was definitely going to lose her job.

The WPO did not grant the employer's request to dismiss her, as the employer failed to prove that the decision to make the organizational change and the subsequent offer of the position were unrelated to the whistleblowing report. The whistleblower is therefore still an employee of the enterprise and receives a salary.

→ Case 2 - Protection against reassignment

An employee of a social services facility raised internally the issue of ill-treatment of clients of the social services facility by her colleague. She contacted the WPO, stating that she was threatened with sanctions by her employer for this, namely reassignment to another job position.

The WPO promptly sent a notice to the employer to refrain from taking any such action that could constitute retaliation for making an internal whistleblowing report, including reassigning the whistleblower to another job position. At the time of writing this Annual Report, the whistleblower continued to be employed in her former job position.

→ Prípád 3 – ochrana pred odhalením identity

An employee of a ministry approached the WPO with suspicions of a breach of rules in the procurement of an IT system. After reviewing the supporting documents from the whistleblower, the WPO found that the ministry had indeed erred and an unlawful procedure had been used in the tendering process. It has therefore lodged a complaint in its own name with the Public Procurement Office, which is currently investigating the suspicions. The identity of the whistleblower remains confidential.

The WPO also oversees the protection of whistleblowers in other ways:

- by checking compliance with the provisions governing the receipt and investigation of whistleblowing reports,
- by checking that the employer does not retaliate against or intimidate the whistleblower after a whistleblowing report is made,
- by providing advice and consultation in relation to whistleblowing.

## ADVISORY ACTIVITIES

Whistleblowing is a complex issue, which is often not easy to navigate. That is why the WPO has set up a free hotline (0800 221 213), which can be reached from all over the country every Monday (13:00-16:00), Tuesday (9:00-12:00), Wednesday (13:00-16:00) and Thursday (9:00-12:00).

The primary purpose of the hotline is to provide advice on whistleblowing. Calls are recorded and archived. An online form on the WPO's website is used to submit whistleblowing reports.

377 persons contacted the WPO in 2022, of which there were 157 calls made to the hotline. The WPO recorded the highest number of telephone enquiries for advice in September and October, when the WPO's nationwide information campaign was underway.

The WPO was most frequently approached by citizens seeking help with various types of issues and "persons responsible" who perform employer tasks under Act No 54/2019 Coll..

The most frequent topics that related to the WPO's powers were, for example:

- legal advice on legislation (amendment of the law, interpretation of the law, position and powers of the person responsible)
- legal assistance to potential whistleblowers related to the sub-

mission of a whistleblowing report

- advice on whistleblower protection pursuant to § 7 and § 12 of Act No 54/2019 Coll.
- insufficient investigation of whistleblowing reports within the institutions' internal whistleblowing system
- the absence of an internal whistleblowing system or application challenges associated with its implementation
- specific questions on the process of investigation of reports (conflict of interest of the person responsible, anonymous reports, etc.)

This year, too, the hotline was also frequently used by people to consult on topics that are not within the WPO's remit. These were mainly individual labor disputes that did not involve any public interest element and mostly fell within the remit of labour inspectorates (failure to pay wages, overtime, etc.).

The WPO was also approached by people, albeit to a lesser extent than in the first months of the WPO's operation, with civil disputes (neighbour disputes), commercial disputes (disputes between business partners) or public law disputes (dissatisfaction with the functioning of public institutions). In such cases, where the WPO is unable to intervene, an attempt is made to direct the caller to an institution or other bodies that have the relevant powers or could be of assistance.

## PSYCHOSOCIAL SUPPORT

The WPO has also identified additional needs of protected whistleblowers. Filing a whistleblowing report pointing to breaches of law is a significantly burdensome and crisis situation that not only affects a whistleblower's work life, but also impacts their health, mental health, and family relationships.

Moreover, whistleblowers who do not want to continue to be employed where illegal activity has been committed are also concerned about whether they will find a new job.

The WPO has therefore decided to launch a pilot phase of a psychosocial support programme, which can take two forms:

- arranging and funding appointments with a career guidance specialist,
- arranging and funding appointments with a therapist.

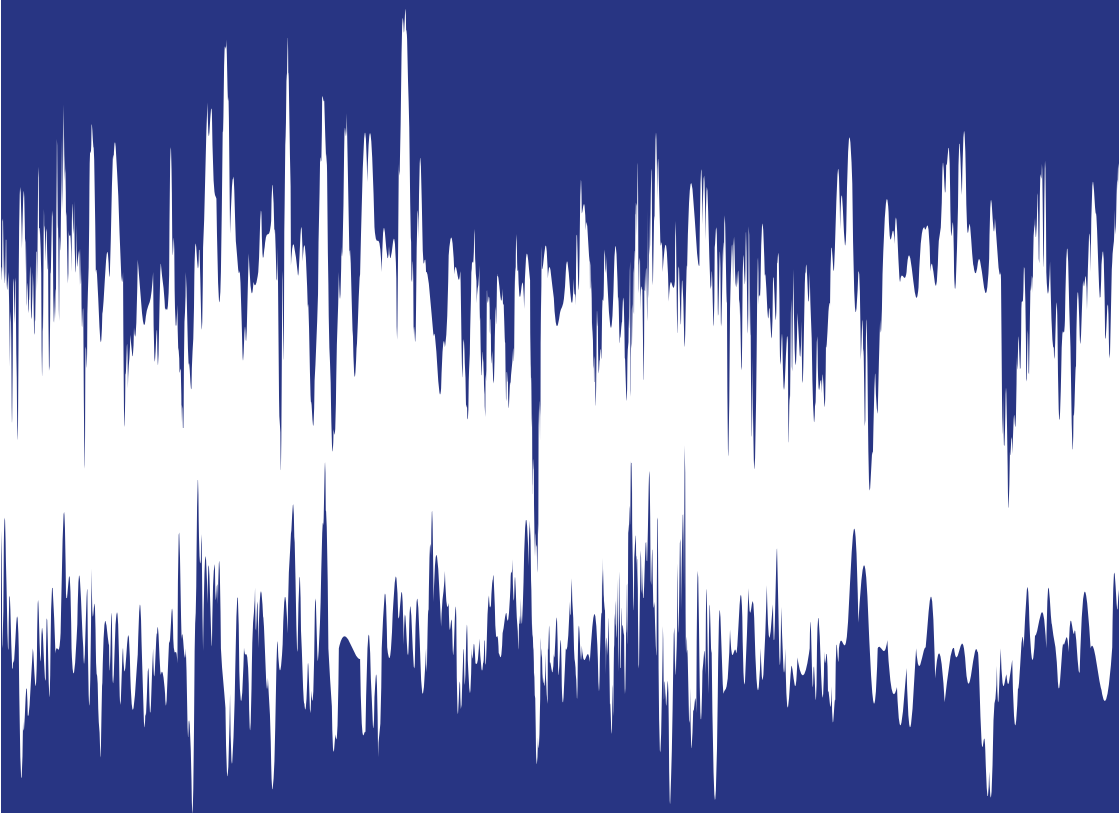
The WPO has established external cooperation with experts in this field and the evaluation of the pilot phase was underway at the time of writing this Annual Report.

## REWARDS

By law, the WPO may award a whistleblower a reward of 50 times the minimum wage if the whistleblower makes a qualified whistleblowing report. The legislation sets out the conditions that must be met. For example, a reward request may be made if an indictment has been filed in a case, which the whistleblower has contributed to the detection and investigation of, or if a final decision has already been taken on the commission of an administrative offence. The provision of § 9(7) of Act No 54/2019 Coll. also stipulates that there is no legal entitlement to the reward. In practice, this means that a whistleblower is not automatically entitled to a reward and the WPO may or may not grant it to the whistleblower after assessing all the criteria.

The law states in the fifth paragraph of § 9 that when deciding on a reward request, „the degree of the whistleblower's merit in the clarification of serious misconduct harmful to the society, the identification of its perpetrator, the loss of the whistleblower's earnings and the extent of the assets saved or recovered, if quantifiable, shall be taken into account“. No reward request was received by the WPO in 2022.

# WHISTLEBLOWING REPORTS



## WHISTLEBLOWING REPORTS

In addition to protecting whistleblowers from adverse work-related measures, whistleblowers may also contact the WPO directly with their suspicions of breaches of the law that compromise the public interest. To do so, they can use the form on the WPO's website through which they make a whistleblowing report.

At the same time, it should be pointed out that whistleblowers who wish to be protected if they report a criminal offence may turn directly to the Public Prosecutor's Office and to the administrative authorities if a suspected administrative offence is involved.

When reporting an unfair practice directly to the Whistleblower Protection Office, whistleblowers benefit from consultation and legal advice from the first contact on and, if necessary, assistance in filing a whistleblowing report and obtaining protection from possible sanctions imposed by the employer.

During January-December 2022, whistleblowers used the WPO as an external channel to report misconduct in 39 cases. Of these, 28 whistleblowers fulfilled the conditions of a whistleblower as defined in Act No 54/2019 Coll..

If the whistleblower fears disclosure of his or her identity, the WPO will preserve his or her anonymity in order to protect him or her from any possible negative repercussions. An anonymous submission may also be made to the WPO, however, the whistleblower should be prepared to communicate with the WPO on an ongoing basis.

The WPO has recorded 16 anonymous whistleblowers in 2022. In 13 cases they filed an anonymous whistleblowing report, and in three cases anonymous whistleblowers took advice on making a whistleblowing report. The WPO also records one case where the WPO knows the whistleblower's identity, but they wished to remain undisclosed to other agencies or the employer.

The WPO dealt with 11 of the 13 anonymous whistleblowing reports received.

## WHISTLEBLOWING REPORTS

In one case, it was not possible to assess whether the whistleblowing report had been made by an employee as the person had not communicated further with the WPO. In one case, it was not a whistleblowing report under the Whistleblower Protection Act.

The proportion of whistleblowers by gender and sector where they work (public vs. private) was about even.

The whistleblowing reports received by the WPO concerned:

- the health and safety of workers and working conditions
- public procurement
- tax fraud and tax evasion
- environmental protection
- public health protection
- EU funds
- abuse of participation in competition in Slovakia
- abuse of participation in competition in the EU and abuse of state aid
- privacy and personal data protection
- transport safety
- other

The WPO submitted two whistleblowing reports to administrative authorities – the Public Procurement Office and the Slovak Environmental Inspectorate – in its own name during 2022. In addition, it also filed four criminal complaints with the Office of the Special Prosecutor, the Žilina Regional Prosecutor's Office and the European Public Prosecutor's Office, in one of which a criminal prosecution was initiated during the year. In most cases, the whistleblowing reports concerned unlawful public procurement, bribe-taking or abuse of power of a public official.

### Anonymised cases in which the WPO has made a whistleblowing report

#### Case 1 - Criminal complaint to criminal prosecution authorities

A group of whistleblowers approached the WPO with information about suspicious corrupt behaviour by a senior employee of a state institution. According to them, he had taken bribes to carry out fictitious inspections on activities requiring a government certificate. At the same time, the employee was allegedly using a motor vehicle owned by the very company being inspected.

The WPO has filed a criminal complaint based on the whistleblowing report received and the case is being investigated by the National Crime Agency. At the time of writing this Annual Report, charges have been brought against a number of individuals for both bribery and bribe-taking.

#### Case 2 - Whistleblowing report to the Public Procurement Office

A whistleblower approached the WPO with information about a municipality's suspicious procurement of wifi. The municipality had signed a contract with the winner of a below-the-threshold contract, but had never published it as required by law. The chief inspector advised the municipality that the contract was void and therefore the procurement was repeated. It was suspected that the procurement was merely formal, as the works procured were carried out in advance and some works were billed to the municipality twice. After a thorough review of the supporting documents from the whistleblower and documents from publicly available sources, the WPO filed a criminal complaint in its own name. The case was subject to investigation at the end of 2022.

In addition, the WPO refers whistleblowing reports to competent authorities. 22 out of 220 cases were referred in 2022. 10 of these were cases where the WPO identified unfair practices, however, they concerned individual labour disputes involving no public interest element.

The WPO most often refers whistleblowing reports to labour inspectorates. These are mainly cases where , for example, an employee points out that the employer has acted in breach of the Labour Code, safety regulations or the employment contract in the employee's individual case. The WPO will notify the employee before referring such a whistleblowing report. In 2022, the WPO recorded nine cases that it has referred to the relevant labour inspectorates.

The WPO refers a whistleblowing report to the criminal prosecution authorities (CPA), or files criminal complaints in place of the whistleblower, in cases where there is a suspicion that a crime has been committed. Again, the WPO will first notify the whistleblower. The WPO did so twice in 2022. The WPO refers such whistleblowing reports to employers, which can be investigated under their internal investigation systems. However, whistleblowers are always consulted beforehand so that they do not run a risk of retaliation. The WPO referred whistleblowing reports for internal investigation nine times in 2022.

When a whistleblower contacts the WPO to report misconduct by employees of municipalities or regional self-government authorities, the WPO's lawyer contacts the whistleblower to determine whether the whistleblower has filed or wishes to file a whistleblowing report through the municipality's or region's internal whistleblowing system. This course of action is taken when the WPO assesses that, given the nature of the breach, the internal system for the investigation of whistleblowing reports may be most effective in establishing the facts of the case. Unless the whistleblower has reasons for not wishing to use the internal whistleblowing mechanisms, the WPO will refer the whistleblowing report to the chief inspector, who is the person responsible under the law for investigating such whistleblowing reports in the municipality or region. The WPO also refers to chief inspectors whistleblowing reports that have not been submitted by a whistleblower pursuant to Act No 54/2019 Coll., but by an ordinary citizen. The WPO referred two cases to the chief inspectors in 2022.

# INTERNAL WHISTLEBLOWING SYSTEMS



The Whistleblower Protection Act stipulates that a private employer with 50 or more employees and a public employer with more than five employees must provide an internal system for receiving, recording and investigating whistleblowing reports.

Internal whistleblowing systems are an effective tool to combat fraud in both the private and public sectors, according to several studies and surveys<sup>1</sup>. They contribute to prevention, efficient follow-up of cases of corruption or unfair practices, saving time and eliminating financial losses<sup>2</sup>.

Where internal whistleblowing systems are well designed, whistleblowers often declare a greater willingness to report suspected misconducts<sup>3</sup>. However, if they do not trust the internal whistleblowing system or it is not well designed, external whistleblowing channels are still available to them (Whistleblower Protection Office, administrative authorities, Public Prosecutor's Office).

Well designed whistleblowing systems can help, among other things:

- identify risk areas and processes,
- save company or society resources,
- positively influence the entire internal environment of the organisation and set it up as a transparent and anti-corruption setting,
- protect institutions from reputational damage.

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1 Association of Certified Fraud Examiners Report: Report to the Nations on Occupational Fraud and Abuse, 2020

2 Stubben, Welch: Evidence on the Use and Efficacy of Internal Whistleblowing Systems, 2020

3 Focus Agency poll for the Whistleblower Protection Office on a sample of 1,017 respondents, January 2022

### Public Sector Mapping

The questionnaire survey on how Act No 54/2019 Coll. on the Protection of Whistleblowers in State Administration was implemented in practice, which was conducted by the WPO in late 2021 and evaluated in 2022, shows that in practice:

1. 87 per cent of the institutions that responded to the questionnaire had their internal whistleblowing systems in place. However, it is clear from other data collected that this obligation is only formally fulfilled and that the internal whistleblowing mechanisms are hardly used in practice or are not used at all.
2. As many as 91 per cent of organisations have not recorded any whistleblowing report between 2019 and 2021. Only 5-6 per cent of organisations record a whistleblowing report annually.
3. The institutions only provide passive information about who the person responsible is (only an indication on the intranet/website).
4. Around half of the organisations lacked information about both whistleblower protection options and the existence of the Whistleblower Protection Office in their guidelines on filing and investigating whistleblowing reports. Yet this information could be of great help to a potential whistleblower at this point, and the state institutions have the obligation to inform employees about protection options also directly pursuant to Directive 2019/1937 of the European Parliament and of the Council of the EU on the protection of persons who report breaches of Union law.

Moreover, the guidelines lacked information on the following:

- a direct indication of the option to file a whistleblowing report anonymously,

- a direct definition of the separation of the recording of whistleblowing reports and the access of the person responsible only,
  - a detailed definition of the powers of the person responsible,
  - the obligation to inform employees of the existence of the Directive.
5. The formalism of the internal whistleblowing systems also stems from the inadequate staffing of this agenda. The role of the person responsible in state institutions often falls on the shoulders of a single employee. Moreover, the duties of the person responsible are often an additional agenda on top of the regular work of the employee concerned and thus, for objective reasons, receive a lower priority. In addition, no training on whistleblowing has been provided to the persons responsible in 2019-2021.

The results of the mapping were also compiled by the WPO into an informative report for the Government of the Slovak Republic. In addition, at a Government meeting in May 2022, the WPO President appealed to ministers to personally stand up for internal whistleblowing systems in their departments and to strengthen the position of persons responsible for the internal investigation of whistleblowing reports.

She stressed the role of leaders, who largely set the tone for the willingness of staff to raise concerns about breaches of the law in the institution. She advised them to openly communicate to staff that they will not tolerate unfair practices in the workplace and encourage them to raise such cases. Employees should know that they need not fear retaliation from their managers in turn, but rather that their responsible and courageous approach will be appreciated.

The Government meeting was followed by individual meetings with some ministers. More detailed data for specific ministries and the WPO's recommendations were communicated by the WPO President to Minister of Justice Maria Kolíková, Minister of the Environment Ján Budaj, Minister of Culture Natalia Milanová and Minister of the Interior Roman Mikulec.

### Private Sector Mapping

During June-July 2022, Median SK conducted a telephone survey of 301 companies on behalf of the WPO on how Act No 54/2019 Coll. was complied with in the private sector. The main objective was to find out whether employers were aware of the existence of the Act, whether they had internal whistleblowing systems in place, and, if so, whether their systems met the main requirements and were used by employees. Also, how employers perceived the obligation to have such internal whistleblowing systems in place.

The survey showed:

1. Almost half of the companies with 50 or more employees did not have internal whistleblowing systems in place. These were mainly smaller and medium-sized enterprises. The existence of internal whistleblowing mechanisms was more likely to be declared by large companies and companies registered in the Register of Public Sector Partners.
2. Only 4 per cent of businesses recorded any whistleblowing report in 2021, receiving 18 whistleblowing reports in total.
3. In a third of cases, businesses had only one whistleblowing method (email or form) in place. Only a quarter of businesses had more than four channels, as is common in central government.
4. The assignment of the person responsible agenda to a single em-

ployee was predominant also in the private sector.

5. There was a lack of transparency and verification of trust in the internal whistleblowing system among employees.

6. More than 3/4 of businesses perceived the internal whistleblowing systems as a useful tool. However, another third of companies were inclined to believe that it was also an administrative burden for them.

## PUBLIC AND PRIVATE SECTOR MANUALS

Although the obligation to put internal whistleblowing systems in place has been introduced by the Slovak legislation since June 2015, following the mapping of compliance with the law, the WPO perceived a need for clear and understandable instructions for employers on how to design internal whistleblowing systems as soon as it was established. It has therefore developed manuals for both the public and private sector to help them understand what internal whistleblowing systems are for, why they are useful and how to design them to be functional.

The manuals contain answers to basic questions and practical guidance on how to put the system in place in institutions that are legally required to have it, in the following areas:

- Why it is important to have an internal system for the investigation of whistleblowing reports
- How to design an internal system for submitting and investigating whistleblowing reports
- Staffing and technical arrangements
- Whistleblowing channels
- Investigation of whistleblowing reports
- Designing measures and monitoring their implementation
- Prevention saves money

- Staff training
- Internal policies
- How to increase trust in the internal whistleblowing system
- A practice-inspired case
- Statutory obligations

The WPO consulted the public sector manual with persons responsible and anti-corruption coordinators of ministries and with the non-governmental organisation Transparency International Slovakia, which has long been working on the topic of whistleblowing.

It was subsequently published on the WPO's website and also distributed via a newsletter to persons responsible of public and state institutions. The WPO also presented the manual to the public, together with the findings of the public sector mapping exercise, at a press conference in March 2022.

In the process of drafting the private sector manual, the WPO consulted with experts from commercial companies, especially in positions in charge of overseeing compliance with legal and other regulations (also referred to as compliance officers), who have many years of experience with this agenda.

## METHODOLOGICAL GUIDELINES

The WPO has quite often encountered questions from persons responsible about what is and what is not considered a whistleblowing report, how to investigate or record them. Therefore, in 2022, the WPO's Legal Department developed methodological guidelines on these topics.

In order for the person responsible to be able to fully perform his or her role and duties, it is essential that he or she is able to properly qualify a whistleblowing report. This is also important for the efficient

provision of protection to the very persons who have made such a whistleblowing report and who may face unjustified sanctions for doing so. Therefore, as a first step, in August 2022, the WPO issued guidance on the concept of a whistleblowing report.

The purpose of the methodological guideline on the recording of whistleblowing reports, issued in October 2022, is to standardise the procedure of the persons responsible. In relation to their obligation to register in the institution's filing systems all documents received, including the identification data of the sender, it also addresses the question of the extent to which the whistleblower identification data should also be registered in the records received.

The December 2022 guideline on the investigation of whistleblowing reports presents the basic pillars and principles for conducting this process. Adherence to these is important precisely because it increases trust in the employer's internal whistleblowing system, as trust is key to ensuring effective whistleblowing and investigation of misconduct.

This methodological guideline is also intended to provide a practical insight into how whistleblowing reports can be tactically investigated so that the investigation is sufficient and compliant with the law. It also focuses specifically on the examination for conflicts of interest, which have been shown in practice to be a frequent issue and can also arise in relation to persons responsible and other members of the person responsible's staff who are involved in the actual internal investigation of whistleblowing reports.

## ASSISTANCE IN DESIGNING INTERNAL SYSTEMS

In addition to drafting the manual and methodological guidelines, the WPO also responds to requests for individual consultations in designing or streamlining internal whistleblowing systems. It also carries out more extensive assessments or provides assistance.

### **In assessing an organisation's internal systems for the investigation of whistleblowing reports, the WPO examines:**

- internal processes and regulations governing the receipt and investigation of whistleblowing reports,
- the manner in which the whistleblowing reports received up to that time will be investigated and followed up,
- staff trust in the internal whistleblowing system through an anonymous questionnaire,
- the attitude of the statutory representative body and the person responsible of the organisation towards the agenda in order to find out whether they find it meaningful and what they are doing to educate the employees on this topic.

### **In assisting to streamline the internal system for the investigation of whistleblowing reports, the WPO examines the following in the organization:**

- internal processes and regulations governing the receipt and investigation of whistleblowing reports,
- staff trust in the internal whistleblowing system through an anonymous questionnaire,
- the attitude of the person responsible of the organisation towards the agenda and the organisation's experience with whistleblowing reports and whistleblowers to date.

In follow-up of the assessment or assistance, proposals are made to change or modify the organisation's internal whistleblowing system. The aim of the WPO is to help employers design the most effective mechanisms, therefore it does not limit itself by the strict requirements defined by Act No 54/2019 Coll. on the Protection of Whistleblowers, but also provides other recommendations.

In 2023, the WPO carried out an assessment at a state organisation – the Government Office of the Slovak Republic – and two assistance

interventions at the Ministry of Justice of the Slovak Republic and the Agricultural Paying Agency. In addition, the WPO provided individual consultations to other ministries, a regional self-government authority and chief inspectors in municipalities and cities on the design of an internal whistleblowing system or on the investigation of whistleblowing reports.

# SLOVAK OPEN GOVERNMENT INITIATIVE'S 2022-2024 ACTION PLAN

The WPO is committed to assisting state organisations in streamlining their internal whistleblowing systems, including formally. As part of the Open Government Initiative's 2022-2024 Action Plan, approved by the Government in the summer of 2022, the WPO made a commitment to: improve the internal whistleblowing systems and whistleblower protection systems of central government agencies.

## **Tasks of the Whistleblower Protection Office to fulfill the commitment:**

- To organise training for government employees, persons responsible and anti-corruption coordinators on whistleblower protection, internal whistleblowing systems and the WPO's powers.
- In cooperation with civil society, monitor the implementation of the manual and methodological guidelines on designing an internal whistleblowing system in central government agencies.

## **Tasks of the ministries and other central government agencies to fulfill the commitment:**

- To ensure an annual report of the Whistleblower Protection Office on the quantity and subject matter of whistleblowing

reports received, the quantity and subject matter of whistleblowing reports investigated and the outcome of the investigation as of 1 March each year for the preceding calendar year.

- To ensure the participation of persons responsible in trainings or working meetings organised by the WPO.
- To conduct annual staff training on whistleblowing by the person responsible.

Thanks to information from public authorities, the commitment maps how Act No 54/2019 Coll. is implemented in practice. It also contributes to better and more effective whistleblower protection and raises employers' awareness of the obligations under the Act by regularly educating persons responsible. It also raises awareness of the principles of open government in the state administration.

## INSPECTION / OVERSIGHT

If ethical and practical principles are followed, the internal whistleblowing system becomes an extremely important tool in the fight against corruption and unfair practices. That is why inspection / oversight of internal systems for the investigation of whistleblowing reports is one of the fundamental pillars of Act No 54/2019 Coll. on the Protection of Whistleblowers.

The WPO has a statutory obligation to oversee, among other things, compliance with the provisions governing the internal system for the investigation of whistleblowing reports. The same applies to the provision and exercise of protection or the employer's conduct towards the whistleblower in the period after the whistleblowing report has been made.

The WPO is empowered to draw employers' attention to the inadequate or incorrect follow-up of a whistleblowing report and to require rectification or to warn that the measure the employer intends to

take against the whistleblower may be contrary to the law, or to recommend measures to ensure compliance with the law.

The WPO may impose a fine of up to €20,000 for a breach of the Whistleblower Protection Act, specifically the provisions governing internal systems for the investigation of whistleblowing reports and the recording of whistleblowing reports. A fine of €2,000 may be imposed by the WPO on an employer for retaliation or a work-related measure taken without the WPO's approval against a whistleblower, or if the employer breaches the non-disclosure obligation with regard to the whistleblower's identity.

The WPO's first inspection / oversight steps mainly involved giving advice and guidance. In 2022, one inspection was carried out at a regional self-government authority, with the inspected authority having implemented the WPO's corrective actions and recommendations.

# EDUCATION



## EDUCATION OF PERSONS RESPONSIBLE AND STAFF

The employer is obliged to ensure that the professional qualifications of the person responsible who performs the employer's tasks under the Act are maintained on an ongoing basis. The employer must therefore provide the person responsible with the space and means for education in whistleblowing and whistleblower protection.

Practical training and training of persons responsible under the Whistleblower Protection Act is carried out by the WPO. In November 2022, the WPO organised the first face-to-face training for 40 persons responsible from central government agencies and their subordinate organisations.

The content of the day-long training activity included the following topics:

- how to design efficient whistleblowing mechanisms,
- how to evaluate what is a whistleblowing report,
- how to record whistleblowing reports,
- how to investigate whistleblowing reports,
- how to communicate with whistleblowers.

The persons responsible were trained by both the WPO staff as well as by external collaborators of the WPO. With a private sector legal compliance expert (compliance officer) Ivan Skaloš they tried out, using a practical case, how to tactically investigate a whistleblowing report. The lawyer and psychologist Zuzana Vasičáková Očenášová provided guidance to government employees on how to suitably communicate with whistleblowers.

Employees who exercise the agenda of the person responsible in private companies were trained by the WPO staff at the Business Leaders Forum under the auspices of the Pontis Foundation in April 2022, at the Slovak Compliance Days in May and at a workshop as part of the Slovak Compliance Circle conference in October. A total of 165 persons attended the training.

In addition to educating persons responsible, it is equally important to educate employees in the workplace. This is because, as both foreign research<sup>4</sup> and private sector practice show, it increases the likelihood that unfair practices will be detected.

In addition to explaining how an organisation's internal whistleblowing system works, it is also an opportunity to communicate to staff that whistleblowing is appreciated in the institution and that they need not fear retaliation.

Moreover, in July 2022, the Government approved the Open Government Initiative's 2022-2024 Action Plan, and it passed a resolution obliging the persons responsible of ministries, the Office of the Government of the Slovak Republic and other central government agencies to train employees in whistleblowing on an annual basis. (Please refer to Section 4.4 Slovak Open Government Initiative's 2022-2024 Action Plan)

The WPO has created and published sample training materials on its website both for them as well as for persons responsible in other organisations, which can be used in these trainings. In addition, the WPO has also been actively involved in staff training. During 2022, the WPO trained a total of 1,137 government sector and private sector employees in person or online.

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<sup>4</sup> Association of Certified Fraud Examiners, 2020 Report to the Nations on Occupational Fraud and Abuse, n=2504 Certified Fraud Examiners (CFEs), collected July-September 2019

## SCHOOL EDUCATION

As part of the activities of the Prevention and Communication Department, the WPO also held lectures at universities and secondary schools, in which it introduced the topic of whistleblowing to a total of 364 students. In both cases, it responded to a demand from the schools themselves.

In the course of 2022, lectures were held at four universities - the Faculty of Law of Comenius University in Bratislava, the Faculty of National Economy of the University of Economics in Bratislava, the Faculty of Economics of Matej Bel University in Banská Bystrica, the Trenčín University of Alexander Dubček in Trenčín and at one higher education institution - the Pan-European Institution of Higher Education in Bratislava.

The lectures were mainly focused on Act No 54/2019 Coll., but also on the change of attitudes and values in respect of fighting corruption, fraud and other unfair practices, or the perception of whistleblowers.

Lectures for secondary school students took place at the Private Secondary Vocational School Bukovecká in Košice. They focused on issues of academic honesty, plagiarism, values and acceptance of their diversity. Using a variety of methods, such as role-play, guided discussion or explanation, the aim was to communicate to students the importance of an honest approach to their studies, to complying with other academic obligations or to the work tasks they will encounter in the future. The WPO President, in turn, lectured at the Anti-Corruption Academy for active university students from all over Slovakia, organised by Nadácia Zastavme korupciu (Stop Corruption Foundation) in Bratislava.

A paradigm shift in the fight against corruption cannot be achieved without a proactive approach to the education of children and young people, and the WPO is therefore keen to get involved in these processes as well and to help influence, within its means, how children and young people are educated about values today. Thus, a project with the working title Values Education was launched in 2022 as an additional activity aimed at preventing misconduct.

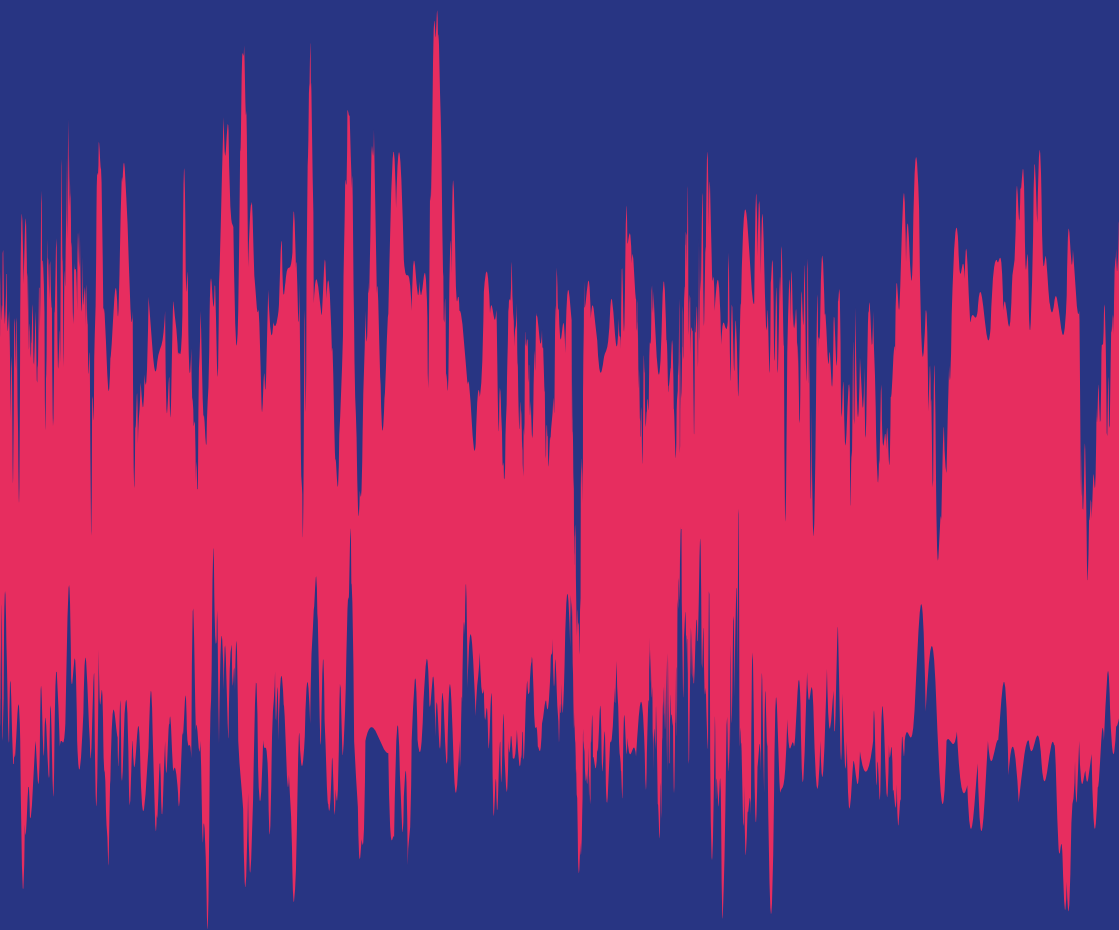
The aim is to develop a coherent curriculum of the subject, methodological materials for teachers and secondary resources for the needs of teaching the subject with a focus on values education, all in accordance with the current legislation and the national curriculum.

To ensure the successful implementation of this project, the WPO established cooperation with the Ministry of Education, Science, Research and Sport of the Slovak Republic (MoEd SR), the Slovak Debating Association (SDA) and the Institute for Active Citizenship (IPAO).

The project is divided into several phases and sub-activities, which include initial measurement of students' attitudes and values, analysis of the necessary materials, specialised content development, communication with selected high schools and pilot implementation (teaching) of the subject at selected schools.

In collaboration with the National Institute of Education and Youth (NIVAM), the WPO analysts developed the questions and methodology for conducting the Survey of Students' Values and Attitudes on Academic Honesty and Relationship to Justice. NIVAM distributed the questions electronically to 31 secondary schools. This will be the first time that the state of values education at Slovak schools will be examined, and ideally the survey will be repeated and the results compared over time.

# COMMUNICATION



In the field of communication, the WPO works mainly on basic objectives such as the awareness of the WPO, the understanding of its role and remit by the general public and the importance of the fight against corruption. The communication campaign funded under the Recovery and Resilience Plan was particularly dominant in achieving these objectives in 2022. However, collaborations with strategic partners and various online and offline activities also contributed.

The 2022 communication strategy was based on data from an omnibus survey conducted by Focus on behalf of the WPO in January 2022 with a sample of 1,017 respondents. The survey showed that awareness of whistleblowing as such was relatively low among Slovaks. Only 11.6 per cent of respondents said they had already encountered the term, and then about 80 per cent of them also chose the correct definition.

Perceptions of whistleblowing (after all respondents were offered its definition) came out quite favourably. A hypothetical whistleblower would be perceived positively by 58.1 percent. An even larger proportion of respondents, almost 75 percent, thought whistleblowers should have protection from the state.

Supported knowledge of the Whistleblower Protection Office was only 12% among economically active citizens.

Over 45 percent of respondents would be willing to report an unfair practice to their employer. Approximately one third of respondents were willing to make a whistleblowing report to the WPO. The least willingness to report was declared towards the Public Prosecutor's Office, the courts and the media (about 20 percent).

# COMMUNICATION CAMPAIGN FUNDED UNDER THE RECOVERY AND RESILIENCE PLAN OF THE SLOVAK REPUBLIC

During the months September to November 2022, the WPO ran a nationwide communication campaign with the title „Nemlčať je zlato“ („Speaking Up Is Golden“). The campaign's aim was to reach the economically active population.

Thanks to funding from the Recovery and Resilience Plan of the Slovak Republic, the WPO procured professional contractors to develop the creative content of the campaign and to produce TV and radio spots.

The slogan of the campaign „Speaking Up Is Golden“ was based on the well-known Slovak proverb „silence is golden“. The campaign stressed that when it comes to fraud and corruption, the opposite is true. The campaign was also symbolised by mimes, which became the central theme of the TV spot. The aim was to motivate people to speak up about misconduct at work and to inform about the existence of the new Whistleblower Protection Office.

The legendary Slovak mime Milan Sládek also joined the campaign, recording a video and narrating a radio spot for the WPO. Based on his personal experience, he talks about why it is important not to be silent and to speak up when faced with violations of the law. In the spots, he also urges people to contact the WPO if they find themselves in such a situation.

The WPO paid for media space worth EUR 400 thousand via a media agency selected in a public procurement procedure. The media mix included the broadcasting of the WPO's campaign spots on the

commercial TV JOJ and the state-owned TV Rozhlas a televízia Slovenska, Rádio Express and Rádio Slovensko. The WPO also invested in citylights and billboards in regional capitals. One quarter of the total media budget was invested online, i.e. in banner advertising on the most widely read news portals and in advertising on the social networks Facebook and Youtube.

The WPO launched the campaign on 8 September 2022 with a press conference, where it presented statistics for the first year of its operation and introduced one of its first clients, a whistleblower from Košice. The press conference was attended by 11 journalists. The campaign was covered by a total of 186 media outputs reporting on the WPO's activities.

An animated video was created for online promotion of the WPO, especially its activities and powers. The video features a fictitious case of an employee to explain in a simple and comprehensible way how the WPO can practically help employees who report on unfair practices in the workplace.

The WPO has also established cooperation with several Slovak personalities who have helped it to inform the public about its existence through their social media accounts. To name a few, scientist Pavol Čekan, Samuel Kováčik alias Vedátor, Veronika Cifrová Ostrihoňová, Juraj Kemka, Dominika Fričová, Tamara Heribanová and many others. Wearing the WPO sweatshirts with the slogan „Speaking Up Is Golden“, they made a video or added a post with a photo, sharing their personal stories when they pointed out something illegal or unfair. The aim was to motivate others to do the same.

For its promotion, the WPO used the funds from the Recovery Plan to produce T-shirts, bags and pens with the slogan „Speaking Up Is Golden“ in addition to the aforementioned sweatshirts. As there was a great demand for these promotional items, the WPO held competitions on its social media sites Instagram and Facebook in which participants could win one of these items.

As part of the campaign, the WPO also sought to make direct contact with people, so it organised two concerts by the singer Jana Kirschner, who reaches a wide audience of different ages. The concerts took place in Bratislava and Žilina. The WPO President and the aforementioned whistleblower also made their public appearance at the concerts.

In Košice, the WPO organised a light-hearted talkshow moderated by comedian Ján Gordulič, who talked with Police President Štefan Hamran and police agent and Director General of the Slovak Environmental Inspectorate Ján Jenč, who helped the Police document an attempt to bribe him.

For the professional public, the WPO held two expert discussions in Bratislava with guests from the journalistic, prosecutorial and non-profit community.

The Recovery Plan funds were also used to finance the WPO's new website [www.oznamovatelia.sk](http://www.oznamovatelia.sk), which serves not only as a whistleblowing channel but also to inform the general public about the WPO's activities and news in the area of whistleblowing. Above all, however, it informs the general public in a clear and comprehensible manner about the WPO's remit. 36 texts were published on the website during 2022 to promote the WPO's activities and to inform about the WPO's news.

The primary objective of the campaign was to increase the awareness of the WPO within the target group of 23-55 year olds and to increase traffic to the [www.oznamovatelia.sk](http://www.oznamovatelia.sk) website. These objectives were achieved.

Supported awareness of the WPO increased from 12 per cent to 23 per cent in the target group surveyed. This means that approximately one in five economically active Slovaks aged between 25 and 54 years were able to select the WPO from a list as a state institution whose main mission is to protect whistleblowers of corruption and fraud in Slovakia. The average monthly traffic to the website before

the campaign was 776 visitors. During the campaign, it was 8.6 times higher, i.e. a monthly average of 6,700 people visited the website [oznamovatelia.sk](http://oznamovatelia.sk).

The number of calls to the WPO's hotline and the number of whistleblowing reports made during September to November were monitored as secondary indicators. Telephone consultations doubled and the WPO received three times more whistleblowing reports than in other months of the year. It should be noted, however, that there was also an increase in the number of irrelevant reports which were not within the WPO's remit.

# COMMUNICATION ACTIVITIES

## Podcast

In September 2022, the WPO began producing the Neumlčaní (Not Silenced) podcast, produced by the daily SME. It features interviews with whistleblowers who have spoken up in more distant or recent past when they have faced violations of the law at work.

The aim of this communication activity of the WPO was to:

- encourage employees to whistleblow if they encounter misconduct in the course of their work,
- name the moral dilemmas faced by whistleblowers,
- give a realistic picture of what whistleblowers may experience when they whistleblow on unfair practices.

Last but not least also:

- change the public perception of whistleblowers to view them as courageous and honest people and not "snitches",
- inform about the current whistleblower protection options,
- raise people's awareness of the existence of the WPO

The first episode of the Unsilenced podcast was released in September 2022, and three more episodes were published by the end of the year. The WPO has set a frequency of once a month and has committed to producing a minimum of eight episodes in cooperation with the SME daily. The podcast is available on all podcast platforms and the newspaper's website.

## Events

In April 2022, the WPO participated as a partner in Nadácia Zastavme korupciu (Stop Corruption Foundation's) multi-genre anti-corruption festival Pucung. In addition to organising its own discussions, it also ensured the participation of European Public Prosecutor Laura Kövesi. More than 500 people attended the festival and the ticket sales revenue, a total of EUR 6,713, was sent by the Foundation to help Ukraine.

The WPO organised three discussions at the festival:

- **How to Use Law in the Fight against Lawlessness?** – with the participation of the European Public Prosecutor Laura Kövesi, the European Public Prosecutor delegated for Slovakia Renáta Ontkovičová and the WPO President Zuzana Dlugošová.
- **About Companies That Make More Than Sales** – with the participation of Tomáš Kafka, an expert on fraud and corruption, Ivan Skaloš, an ambassador of business ethics and ethical leadership and Dalibor Cicman, owner of GymBeam.
- **How the Czechs Dealt with the War in the Police** – with the participation of Tomáš Gregor, a former police investigator, currently an employee of the Ministry of the Interior of the Czech Republic and the Slovak Police President Štefan Hamran.

In April, the WPO also organised a quiz in Bratislava for members of the civic association Klub úradníkov dobrej vôle (Club of Good Will Civil Servants) on the biggest corruption cases, whistleblowing, known whistleblowers and the Whistleblower Protection Act. In December, in cooperation with the Club, the WPO organised a discussion entitled **Civil Servant Dilemmas in the Face of Corruption** with the participation of the WPO President, Police Vice-President Damián Imre, and Director General of the Slovak Environmental Inspectorate Ján Jenčo.

During the campaign months, the WPO organised events aimed at increasing the awareness of the WPO among the general public:

- **A concert by Janka Kirschner in Bratislava** - with the participation of one of the first whistleblowers from Košice and the WPO President;
- **A discussion entitled Are We Used to Remain Silent When it Comes to Corruption?** - with the participation of Martin Milan Šimečka and the WPO President, investigative journalist Laura Kelloövä from Aktuality, moderated by Radio Expres journalist Braňo Závodský;
- **A concert of Jana Kirschner in Žilina** - with the same attendance as in Bratislava;
- **A talkshow on corruption We Change Old Truths into New Ones** - with the participation of Police President Štefan Hamran, the head of the Slovak Environmental Inspectorate Jan Jenč and the WPO President. The musical guest was the singer Katarína Koščová, the moderator was Ján Gordulič.

In December, on the eve of the International Anti-Corruption Day, the WPO, in cooperation with Transparency International Slovakia (TIS), organised a discussion entitled **The Whistleblower's Journey - From the Whistleblowing Report to Protection**. It was a practical debate among practitioners on what a whistleblower who decides to report misconduct goes through.

The WPO President Zuzana Dlugošová, Prosecutor Ján Šanta, attorney representing whistleblowers Stanislav Ďurica, and TIS lawyer Ján Ivančík talked about, for example, what one should prepare for if one wants to report corrupt behavior or fraud at work, or what the process of granting whistleblower protection looks like.

## Media

The WPO uses all available communication channels to communicate with the public. In addition to its own website, it also uses social networks (LinkedIn, Facebook, Instagram) and opinion-forming media.

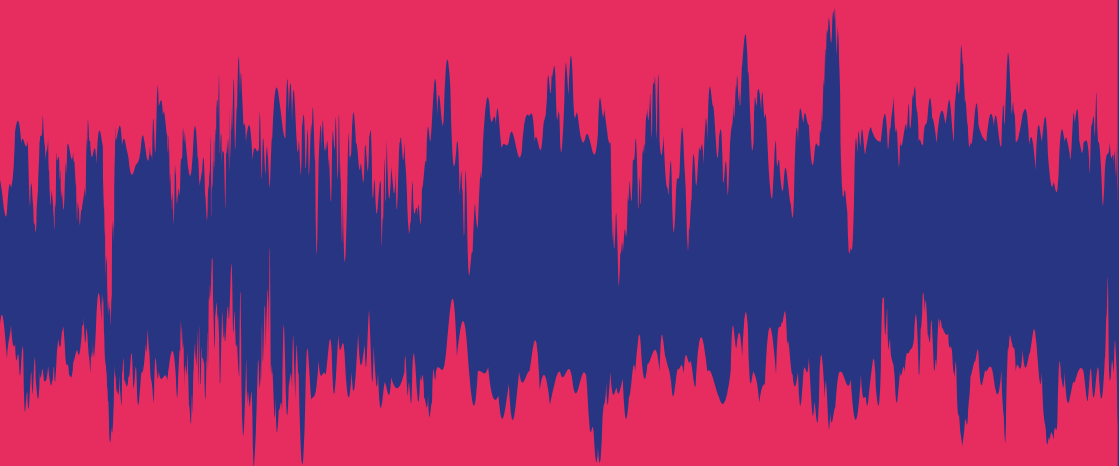
The WPO's social networks grew rapidly in 2022, with the number of Facebook fans increasing from over 600 to almost 6,000, and Instagram from around 260 to around 1,100.

Cooperation with conventional media is an obvious part of the communication mix to promote the WPO and its activities to the general public. During the year there were 508 media mentions of the WPO and the WPO published 5 press releases.

In addition to the standard news reports in print media or online articles, the WPO was also featured in radio and television programmes, where in particular the WPO President communicated the remit and results of the WPO's activities.

As already mentioned, the WPO has also established media partnerships - with the SME daily in connection with the production of the Neumlčaní (Unsilenced) podcast and with the Aktuality.sk news portal for streaming of the WPO and TIS discussion The Whistleblower's Journey – from the Whistleblowing Report to Protection.

# ANALYTICAL WORK



The Analytics Unit is also part of the WPO's organisational structure and is key to making informed and data-driven decisions by the WPO's management. In particular, it plays important roles in mapping the environment, conducting opinion polls, collecting and analysing data. The Analytics Unit is also part of the State's network of Analytics Units since April 2022.

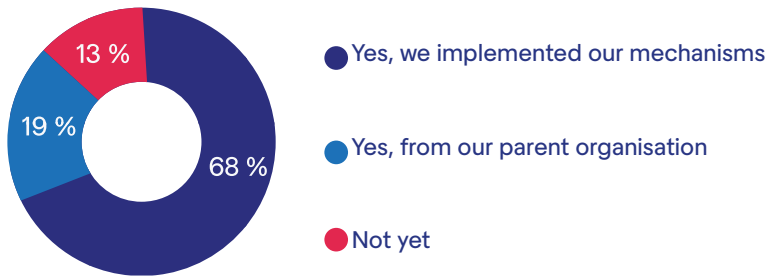
During 2022, the WPO analysts conducted:

- *Mapping of compliance with Act No 54/2019 Coll. in the public sector*

The WPO sent a questionnaire to 321 state institutions and their subordinate organisations in order to find out whether and how they have set up internal whistleblowing systems, how many whistleblowing reports have been filed in the institutions, who performs the role of the person responsible and how they perform it. (Please refer to Chapter 4. Internal Whistleblowing Systems)

Responses were received from 254 organisations, which were subsequently analysed and evaluated by the WPO analysts in early 2022. The opinion poll showed that 87 per cent of government agencies had their own whistleblowing system or a system from their parent organisation in place (Chart 1). The findings were compiled into internal documents and a research report, Functioning of Internal Whistleblowing Systems in the State Administration. They also compiled the collected data into supporting documents for meetings with selected ministries' statutory representative officers.

Chart 1: Internal whistleblowing mechanisms in state administration



Source: own survey, 254 government agencies responded  
Wording of the question: Did you have INTERNAL WHISTLEBLOWING MECHANISMS in place as of 1 December 2021 pursuant to Act No 54/2019 Coll. (the Whistleblower Protection Act)?

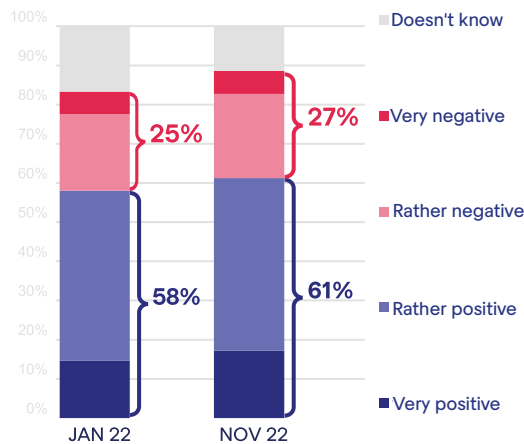
*Public opinion poll on whistleblowing in Slovakia*

The Analytics Unit developed questions on whistleblowing in Slovakia, which were included in a public opinion poll in cooperation with Focus. The aim was to learn about the attitudes of the Slovak population towards whistleblowing on corruption and other unfair practices, the perception of whistleblowers and the perception of the Whistleblower Protection Office.

The first wave of the poll was conducted in January 2022. Subsequently, the analysts produced an internal report on the poll findings as well as an analytical commentary, which was published on the WPO's website under the title Public Opinion Supports Whistleblowers.

The aim of the second wave of the poll, which was launched in October 2022, was to find out to what extent the WPO's intensive communication campaign helped to raise the profile of the WPO and the topic of whistleblower protection, as well as the willingness to whistleblow. (Please refer to Chapter 6. Communication). Similar to the first wave, the WPO's analysts were involved in the preparation of the poll questions and, after the poll was conducted, processed the data into an internal report. Both polls showed that the public perception of whistleblowers remains positive (Chart 2)

Chart 2: Perception of whistleblowers



Source: representative opinion poll conducted with Focus, January (n=1,017), November (n=1,017)  
Wording of the question: Imagine if your colleague reported corrupt behaviour or fraud committed by another colleague or supervisor. What would be your opinion on this person?

The WPO plans to conduct an opinion poll on whistleblowing in Slovakia on a regular annual basis, or after each major media campaign, in order to evaluate the effectiveness of the activities aimed at raising awareness of the topic.

→ Mapping of NEIWA members

The Whistleblower Protection Office has been a member of the Network of European Integrity and Whistleblowing Authorities (NEIWA) since 2021. As a member of this network, the WPO has offered its analytical capacity to map and compare the activities of the individual institutions in EU Member States that are also members of NEIWA. In 2022, the analysts, together with the WPO President, attended a conference in Barcelona where, in addition to presenting the WPO's activities, they also presented the conclusions of the ongoing mapping and comparison of what powers the different members of the network have and in what whistleblower protection areas they operate. Later, a final summary report entitled Who Protects Whistleblowers in Europe? was published on the WPO's website in

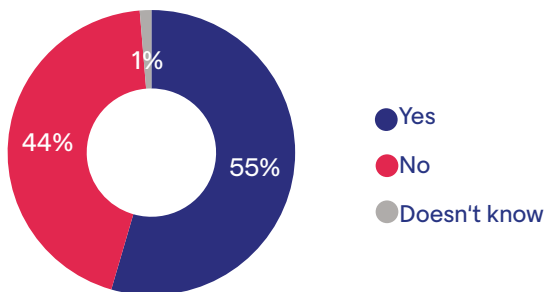
English. Members of the Network of European Integrity and Whistleblowing Authorities and their Competence (Who Protects Whistleblowers in Europe?).

→ Mapping of compliance with Act No 54/2019 Coll. in the private sector

During June-July 2022, the WPO, in cooperation with MEDIAN SK, conducted a survey on how the Whistleblower Protection Act is implemented in the private sector in practice. The main objective was to find out whether employers with 50 or more employees were aware of the obligation to have an internal whistleblowing system in place, and if so, whether they met the main requirements under the Act and whether these systems were used in practice.

The Analytics Unit prepared the survey questions, then analysed and interpreted the responses from 301 commercial companies. The field data collection was carried out by MEDIAN SK. A commentary on the survey will also be published on the WPO's website in the course of 2023, entitled Functionality of Internal Whistleblowing Systems in the Private Sector. The main finding is that almost half of the private sector employers still do not have internal whistleblowing systems in place despite the statutory obligation.

Chart 3: Internal whistleblowing mechanisms in the private sector



Source: representative survey conducted with Median (n=301)  
Wording of the question: Does your organisation have an INTERNAL WHISTLEBLOWING SYSTEM in place? By this we mean established policies on how employees can report fraud and corruption, or designated channels through which they can report, or a designated person responsible who receives and investigates whistleblowing reports.

→ Qualitative survey on the willingness to whistleblow

The Analytics Unit, in cooperation with the 2muse agency, conducted a qualitative survey in the form of four focus groups on the barriers and motivators of whistleblowing in the workplace. The aim was to understand how Slovaks think about this topic. Thus, the research focused on how employees perceive unfair practices, to what extent they are aware of corrupt behaviour, what influences their willingness to point out misconduct they encounter at work, to what extent and to whom they are willing to report it. The factors summarised in the table below have a particular influence on the willingness to whistleblow:

Increases willingness	Willingness	Reduces willingness
sense of fairness/justice previous whistleblowing experience	<i>Individual factors</i>	lack of economic stability psychological discomfort
tone from above	<i>Organisational factors</i>	fear of retaliation shifting responsibility mistrust in senior management mistrust in the investigation
serious breaches personal victimisation	<i>Breach factor</i>	minor breaches by colleagues lack of evidence personal benefit
trust in institutions legislative protection	<i>Environmental factors</i>	normalisation of unfair practices in society
anonymous whistleblowing guidance through the process positive examples	<i>The WPO's role</i>	perceived dependence on political actors

- \* *individual factors* - personal features of the whistleblower, such as socio-economic indicators or personal beliefs
- \* *organisational factors* - characteristics of the organisation within which the breach was identified, such as the organisational culture or ethical mindset of the organisation
- \* *breach factor* - characteristics of the breach itself, such as its intensity and the extent of its impact (individual, team, society)
- \* *environmental factors* - cultural and legislative specificities of the country in question
- \* *The WPO's role* - the specific role of the WPO as an independent institution responsible for receiving whistleblowing reports and protecting whistleblowers

Source: qualitative survey in cooperation with 2muse

### → *Survey of students' values and attitudes*

The main objective of the questionnaire survey prepared by the WPO analysts in 2022 was to learn about the values, attitudes and integrity of young people. Such a survey has not been done in Slovakia so far, and so for the first time we will have relevant data that could be used, for example, in education, designing leisure activities or more effective design of school curricula or targeting a communication campaign that would primarily address and activate the group of secondary school students.

The questionnaire survey was divided into several parts and its aim is to obtain data on how young people perceive values such as personal integrity, honesty versus cheating and corruption. Also how they perceive the relationship between the selected values and their success in personal and professional life. The questionnaire was distributed to first and second year secondary school students in cooperation with the National Institute of Education and Youth.

Once the results have been processed, the outputs will be used, for example, for the WPO's forthcoming education programme for secondary school students, which will focus specifically on issues and topics related to values education. (Please refer to Section School Education)

### → *Questionnaire on trust in the internal whistleblowing system*

One of the tools used in more extensive assessments or assistance provided by the WPO to institutions wishing to streamline their internal whistleblowing systems is a questionnaire on staff trust in existing internal whistleblowing mechanisms. This questionnaire was developed by the Analytics Unit, which also collected and evaluated the questionnaire data for the organisations. The questionnaire outputs and recommendations can then be used by the institutions to redesign, or improve, their internal systems for receiving and investigating whistleblowing reports.

The analysts evaluated 4 questionnaire surveys in 2022.

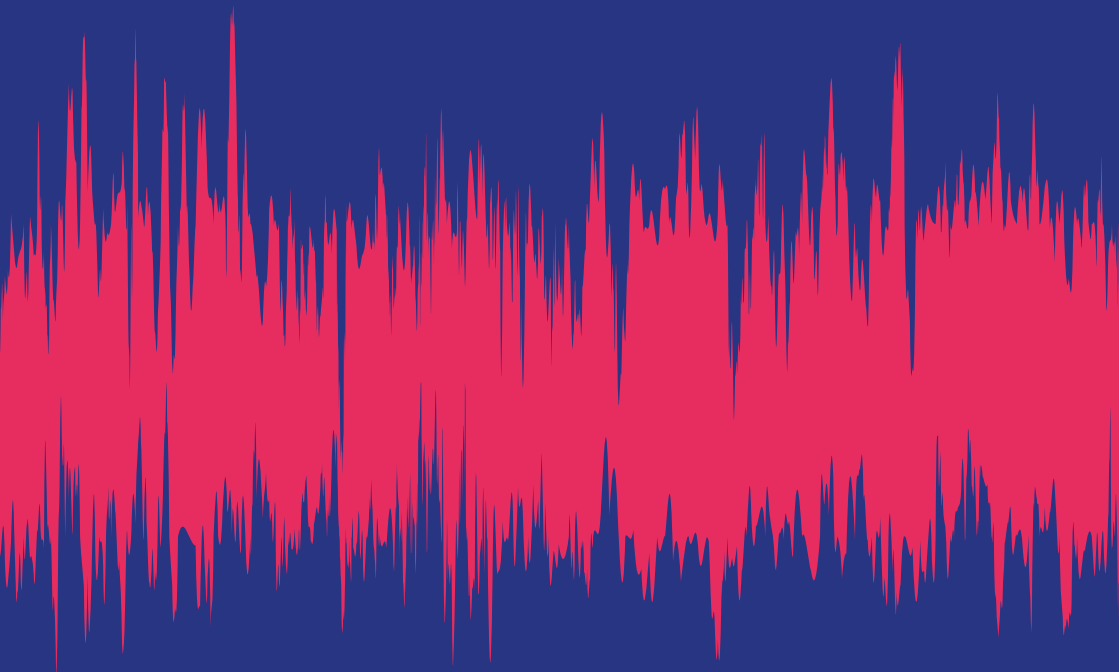
### → *Training Activities*

The WPO's analysts also conducted a half-day training for state analysts in 2023 on questionnaire design and development, question wording, and scales. During May and June 2022, the WPO analysts trained a total of 48 analysts from other state organizations.

### → *Statistics of the WPO*

The collection and monthly reporting of data on the WPO's activities is a regular agenda of the Analytics Unit in order to regularly evaluate the WPO's activities as well as to provide an objective picture of how many people use the WPO's services and in which areas. The focus is on the number of people who contact the WPO, the number and nature of whistleblowing reports addressed to the WPO, the protection granted to whistleblowers and the external training provided by the WPO.

# **COLLABORATIONS AND PARTNERSHIPS**



The Whistleblower Protection Office is an independent institution, but it cannot operate in isolation. It has therefore continued to forge partnerships and collaborations with other organisations, both nationally and internationally, during 2022. The aim is to increase the impact and effectiveness of the WPO and to better achieve its objective – the protection of whistleblowers and the prevention of corruption and other unfair practices that compromise the public interest.

The WPO established or enhanced the following partnerships in 2022:

→ *The Police and the Public Prosecutor's Office*

Cooperation with the Police and the Public Prosecutor's Office is absolutely crucial for the functioning of the WPO. Since whistleblowers often approach the Police or prosecutors, they are one of the contacts where the whistleblowers can learn that they are entitled to protection under Act No 54/2019 Coll..

The WPO has therefore established cooperation with both the Office of the Prosecutor General of the Slovak Republic and the Office of the Special Prosecutor, which consists, among other things, in the exchange of more detailed statistical data on whistleblowing reports. There was also agreement on the need for uniform communication with whistleblowers so that they have clear and accessible information on the protection options in situations where they contact the criminal prosecution authorities directly, without being accompanied by the WPO.

Cooperation with the Office of the Special Prosecutor also took place in mediating protected whistleblower statuses in cases where the whistleblowers contacted the WPO. In November 2022, the WPO representatives participated in a working meeting of an inter-ministerial working group of prosecutors, investigators and members of the operational services of the National Crime Agency aimed at mutual exchange of knowledge from the investigation of suspected criminal activities.

### → *The Public Procurement Office*

In April 2022, the WPO and the Public Procurement Office (PPO) committed to mutual cooperation through a memorandum. As a matter of fact, the whistleblowing reports received by the WPO show that the most serious suspicions of unfair practices and fraud are related to public procurement.

Cooperation with the PPO consists of consultation on whistleblower cases or mutual training and sharing of practical experience. This should lead to a high quality assessment of whistleblowing reports and thus more effective protection of whistleblowers.

### → *The Supreme Audit Office*

A memorandum of cooperation was also signed by the WPO with the Supreme Audit Office in 2022. As in the case of the PPO, the memorandum covers the sharing of practical experience and consultation on whistleblower cases.

### → *The Office of the Government of the Slovak Republic*

The Office of the Government of the Slovak Republic (OG SR) is responsible for Act No 54/2019 Coll. on the Protection of Whistleblowers. Therefore, in 2022, the WPO worked intensively with the Legislative Department of the OG SR on the amendment of the Act, which Slovakia was required to implement in order to ensure the transposition of Directive 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law.

### → *The Office of the Slovak Government Plenipotentiary for Civil Society Development*

The WPO became a member of the multistakeholder forum composed of representatives of the government and civil sector, which was established in connection with the preparation of the Open Go-

vernment Initiative's 2022–2024 Action Plan. The content of the new commitments was discussed and prepared at joint meetings organized by the Office of the Slovak Government Plenipotentiary for Civil Society Development.

The preparation of the Fifth Action Plan took place from autumn 2021 to summer 2022 and was adopted by a Slovak Government Resolution on 13 July 2022. In the Action Plan, the WPO committed to help central government agencies improve their internal whistleblowing systems and whistleblower protection systems. (Please refer to Section 4.4 Slovak Open Government Initiative's 2022-2024 Action Plan)

The first large-scale in-person training of persons responsible in November 2022 was carried out by the WPO also in cooperation with the Office of the Plenipotentiary, which provided a venue for the training during its open government conference in Bratislava's Cvernovka.

### → *The National Institute of Education and Youth*

In collaboration with the National Institute of Education and Youth (NIVAM), the WPO's analysts developed the questions and methodology for the Survey of Students' Values and Attitudes on Academic Honesty and Relationship to Justice (Please refer to Chapter 5. Education). Under a cooperation agreement, NIVAM also distributed the questionnaires to selected schools to ensure the survey was representative.

### → *NGOs*

Also in 2022, the WPO cooperated with NGOs working on whistleblowing and the fight against corruption. In April, the WPO was a partner of the Nadácia Zastavme korupciu (Stop Corruption Foundation's) Pucung anti-corruption festival. (Please refer to Section 6.1 Communication Activities) In the summer, the WPO acted as a jury member of the Fair Act of the Year of the Nadácia Zastavme korupciu.

ciu (Stop Corruption Foundation's) Community, which aims to recognise active and committed young people.

The WPO President was also invited as a guest on the Foundation's podcast entitled A Light Podcast on Heavy Corruption, where she gave an overview of the role and remit of the WPO. She was also given space at the Anti-Corruption Academy aimed at educating, enlightening and activating young people aged 17-28. Zuzana Vasičáková Očenášová, a psychologist and associate of the Foundation, came to the WPO's training to give advice to participants on how to communicate with whistleblowers.

In turn, the NGO Transparency International Slovakia invited the WPO President as a speaker at the seminar Public Scrutiny of Local Government, where she discussed the topic of whistleblowing with more than forty participants. In addition, the WPO co-organised the discussion The Whistleblower's Journey - from Whistleblowing to Protection with Transparency. (Please refer to Section 6.1 Communication Activities)

In terms of cooperation with Nadácia Pontis (the Pontis Foundation), the WPO President participated in the training of members of the Business Leaders Forum. This is an informal association of companies committed to being leaders in promoting the principles of responsible business in Slovakia. At the Business Leaders Forum Small Talk in April 2022 Zuzana Dlugošová spoke about internal whistleblowing systems and whistleblower protection.

She was also a juror in the selection of the winner of the Responsible Large Company award. The Pontis Foundation awards it to companies with more than 250 employees for their comprehensive and exceptional approach to responsible business conduct.

In November 2022, the Czech non-profit organisation Oživení (Revived) invited the WPO President to the opening of the Whistleblowing Centre in Prague. This is the first contact point of its kind in the

Czech Republic, where whistleblowers will receive free help from lawyers, psychologists, financial and media consultants and other experts. At the event, Zuzana Dlugošová spoke in a panel discussion “The Invisible or is There a Place for Whistleblowers in Our Society?”.

In addition, she also gave a video interview to Oživení in which she advised potential whistleblowers on what to prepare for and what to look out for if they want to whistleblow on a violation of the law.

### → *The Slovak Compliance Circle*

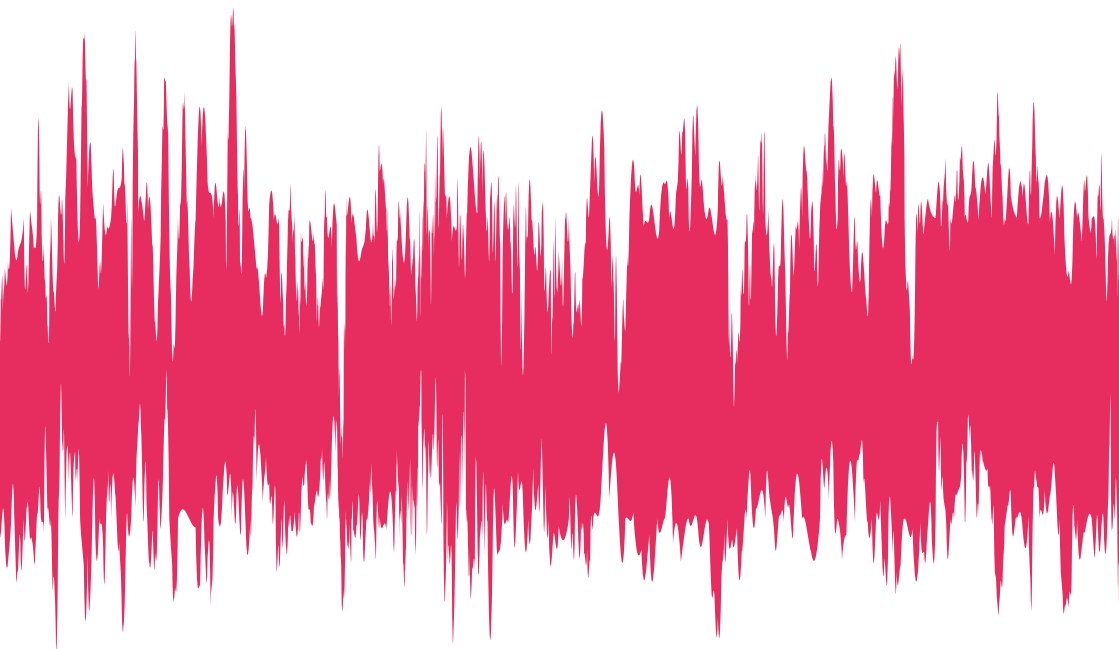
The first of the corporate groups with which the WPO established cooperation was the Slovak Compliance Circle initiative, which was established to raise the level of ethical behaviour on the Slovak market. In the course of 2022, the WPO representatives conducted two workshops and one lecture for the members of the Slovak Compliance Circle as part of cooperation focused on the exchange of experience.

### → *The NEIWA Working Group*

In addition to important national collaborations, the WPO has the ambition to join international whistleblower protection structures. For this reason, it has approached the NEIWA - Network of European Integrity and Whistleblowing Authorities - working group and has become its active member.

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.

# **AMENDMENT TO THE WHISTLEBLOWER PROTECTION ACT**



The Act obliges the WPO to „cooperate with the state authorities in drafting of legislation and to submit proposals to the central government agencies for its amendment on the basis of its own findings and knowledge“.

An amendment to Act No 54/2019 Coll. on the Protection of Whistleblowers was being prepared in the summer of 2021 to transpose Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law.

Slovakia, like other 14 EU Member States, has been late in this process. Although it has to be said that, compared to other states, it had most of the essential rules set out in the current law, including the establishment of an independent institution to receive whistleblowing reports and to protect whistleblowers. However, the EU Directive has not been fully transposed into Slovak national law. For this reason, Slovakia was at risk of failing to meet its obligations under the Treaty of Accession of the Slovak Republic to the European Union by failing to comply with the deadline set for the transposition of Directive (EU) 2019/1937.

In 2022, the European Commission initiated what is referred to as the infringement procedure against Slovakia, i.e. a procedure concerning non-compliance with the obligations under Union law. On 27 January, it called on Slovakia to report on the state of transposition of the EU Directive. It then sent a reasoned opinion – a formal request for compliance with EU law – to the Government of the Slovak Republic on 15 July, which precedes a referral to the Court of Justice.

The Government of the Slovak Republic approved the draft amendment to the Whistleblower Protection Act on 9 November 2022. It was subsequently submitted to the National Council (Parliament) of the Slovak Republic, where MPs moved it to a second reading on 20 December, and Slovakia thus avoided being sued by the European Commission by the end of 2022.

It should be noted, however, that even at the time of writing this Annual Report, the Government's amendment to the Act had not yet been passed by MPs as of 29 March 2023. The deadline for transposition of the Directive into the national laws of the Member States has been set by the Directive at 17 December 2021.

The Office of the Government of the Slovak Republic was responsible for the transposition of the Directive. The WPO assisted in the amendment of the Act not only by bringing in knowledge from practice on the application of the Act, but also by coming up with concrete legislative proposals. Representatives of the Whistleblower Protection Office also participated in the meetings of the Economic and Social Council of the Slovak Republic and the Legislative Council of the Slovak Government, which were involved in drafting the amendment.

### **The most important changes contained in the draft amendment are:**

1. Extension of the concept of a whistleblower and thus of the persons who may enjoy protection under Act No 54/2019 Coll. This means that in addition to whistleblowers in an employment relationship, the statutory protection will also apply to whistleblowers in a relationship similar to an employment relationship (e.g. member of a legal entity's body, a self-employed person, professional practice, volunteer, contractor).
2. At the WPO's initiative, the scope of offences that will constitute serious misconduct harmful to the society will be expanded, i.e. the whistleblower may be granted protection for reporting them. This is an across-the-board reduction of the upper prison sentence limit of offences from three to two years and also an explicit listing of offences for the reporting of which protection may also be granted, although in the basic body of the crime the duration of the sentence does not exceed two years' imprisonment

(e.g. compromising health with unauthorised medicines, drugs and medical devices, theft or obstruction of bankruptcy proceedings).

3. The draft amendment also includes the possibility to report facts related to business secrets. This will not be considered a breach of the law and whistleblowers of such information will be protected under Act No 54/2019 Coll..

2. Increase of the fine from €2,000 to €6,000 if the natural person:

(a) threatens to retaliate, attempts to retaliate, or retaliates against the whistleblower for making the whistleblowing report,

(b) breaches the non-disclosure obligation with regard to the identity of the whistleblower or the identity of the person concerned; or

(c) attempts to prevent or obstruct the making of the whistleblowing report.

The amendment will also address the possible repetition of such conduct against the whistleblower. If the employer retaliates again within the next two years of the first act, the WPO will be able to impose double the initial fine, up to a maximum of €12,000.

3. Introduction of a fine of up to €100,000 to an employer (legal entity) who takes a work-related measure against a whistleblower without the WPO's approval, threatens to retaliate against the whistleblower, attempts to retaliate against the whistleblower, or retaliates against the whistleblower in connection with the filing of a whistleblowing report. Also to an employer who employs 250 or more employees and has violated any of its statutory obligations relating to internal whistleblowing systems.

4. Introduction of a fine of up to €50,000 to an employer who is not a public authority and employs at least 50 employees and less than 250 employees, or an employer who is a public authority and employs at least 5 employees and less than 250 employees, who has breached any of its statutory obligations relating to the internal system for the investigation of whistleblowing reports.

5. Introduction of a fine of up to €30,000 to an employer who has not taken any measures to rectify deficiencies identified during the inspection of compliance with the obligations under the Act or has not submitted to the WPO a written report on the measures taken to rectify the identified deficiencies.

6. Extension of the obliged persons who will have to have an internal whistleblowing system in place to include employers who provide financial, transport safety or environmental services.

7. Introduction of a clear obligation for employers to have a person responsible for the investigation of whistleblowing reports and communication with the whistleblower from among their employees. It will not be possible to outsource the obligations of the person responsible, i.e. have the same provided by an external contractor. If private companies with fewer than 250 employees contract a third party to investigate whistleblowing reports, they will also have to have a designated person at their workplace responsible for the investigation of whistleblowing reports and subsequent communication with the whistleblower.

8. Explicit naming of external channels, i.e. the authorities competent to receive whistleblowing reports. These will be the WPO, the Public Prosecutor's Office and the administrative authorities, which may also grant the protected whistleblower status.

The aim of the WPO's involvement in the amendment is to ensure appropriate conditions for whistleblowing and effective whistleblower protection. Therefore, the WPO wants to continue to be an active and helpful partner of the Office of the Government of the Slovak Republic and to draw attention to the needs of practice or shortcomings of legislative solutions.

### **We are already identifying other areas that could be addressed in more detail in the Act:**

**1. The regulation of oversight** - in order to ensure the enforcement of whistleblowing legislation and whistleblower protection in practice, it is necessary to set specific rules to ensure that the WPO's oversight activities are non-bureaucratic, agile and transparent. The reference to the general regulation of Act No 10/1996 Coll. on Inspection in the State Administration, as amended, is not sufficient and, moreover, it covers only a part of the inspection / oversight activities in state administration, whereas the WPO's task is to ensure oversight of compliance with and application of the Act also in private law entities.

In order to carry out an inspection, the WPO is obliged to prepare a number of documents (e.g. interim report, partial report, report on the result of the inspection, record of the inspection, authorisation to carry out the inspection, addendum to the authorisation to carry out the inspection, request for documents, statements and documents, confirmation of the removal of original documents, written documents and other materials and so on). The final report must be submitted to the inspected entity for comments, then the comments have to be discussed individually, and only then can the final report on the deficiencies identified be submitted. However, such inspection, which results in a finding as to whether there has been a breach of the law, does not end with any sanction. If the WPO wishes to impose a sanction, it must initiate a new administrative procedure where the inspected entity comments on the same matters again.

**2. The regulation of external bodies obliged to receive whistleblowing reports** - je potrebné jasnejšie zdefinovať a konkrétne určiť orgány, ktorým zákon ukladá povinnosť prijímať oznámenia o protispoločenskej činnosti, a ktoré budú následne komunikovať s oznamovateľom, prípadne mu poskytnú náležitú ochranu.

it is necessary to define more clearly and specifically identify the bodies on which the law imposes the obligation to receive whistleblowing reports and which will subsequently communicate with the whistleblower or provide him/her with appropriate protection.

The WPO considers the current legal regulation, where the Act only refers in general terms to the administrative authorities, which are competent to receive whistleblowing reports and to conduct proceedings on administrative offences and which may grant the protected whistleblower status, to be the most problematic in terms of the correct implementation of the Directive as well as in terms of clarity and legal certainty of the Slovak citizens. As a matter of fact, it appears that even the authors of the original legislation, who gave the power of granting the protected whistleblower status to the administrative authorities, did not have a clear idea of how this system would be applied in practice. Many administrative authorities are unfamiliar with the issue of granting the protected whistleblower status. Although this legislation was introduced in practice in January 2015, they have no knowledge of the legislation and therefore do not apply it in practice.

The clear definition of the authorities competent to receive a whistleblowing report (and, in the case of Slovakia, of the authorities that can grant the protected whistleblower status), which the Directive refers to as external channels, should aim to establish a system for receiving whistleblowing reports with precisely defined rules. Whistleblowers should know where they can go and what will be the follow-up of their whistleblowing report.

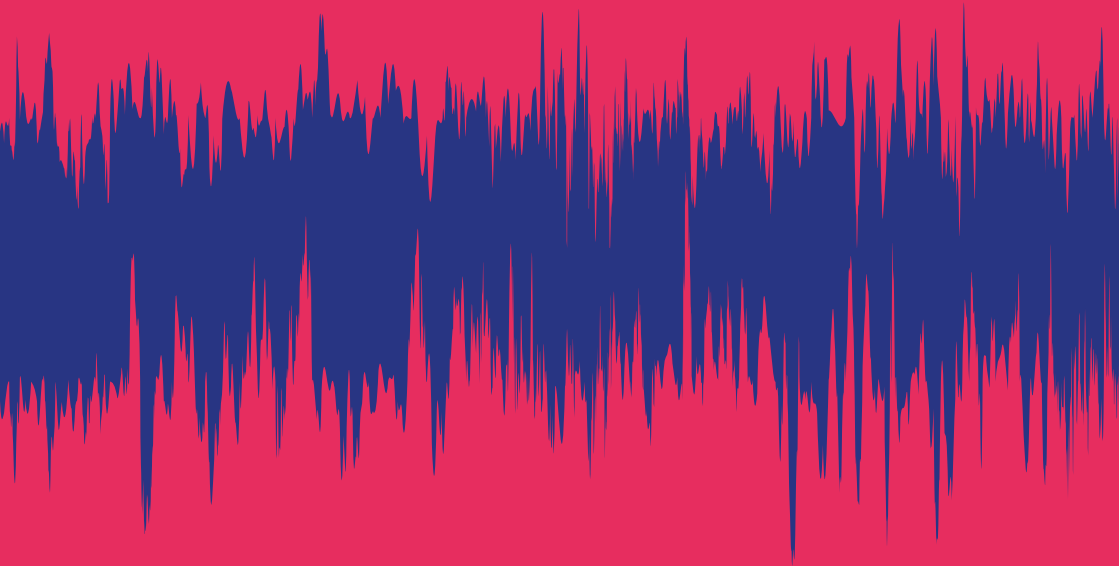
The WPO notes that the systems for receiving whistleblowing reports through both administrative authorities and prosecutorial authorities do not function as envisaged by the Directive, which requires:

- designing a system for a confidential receipt of whistleblowing reports, which allows for specific re-cording and storage of information, together with observing the non-disclosure obligation with regard to the identity of the whistleblower and the person concerned,
- the possibility of making whistleblowing reports in writing or orally, by telephone or on request at a face-to-face meeting,
- the designation of staff to receive specific training and be responsible for: (1) receiving information from whistleblowers, (2) following up on the whistleblowing reports, (3) maintaining contact and in-forming the whistleblower of the results of the investigation.

Apart from the Whistleblower Protection Office, these conditions are not met today either by the Public Prosecution Offices or administrative authorities, and most of them are unaware of their obligations and powers under Act No 54/2019 Coll.. Moreover, the State does not keep a list of the competent administrative authorities referred to in the Act.

The solution for the future may be to entrust the agenda of receiving whistleblowing reports and further communication with whistleblowers exclusively to the WPO, which would then mediate the granting of the protected whistleblower status, or to establish clear procedural rules for whistleblowing and granting protection with specific institutions precisely defined by the law (e.g. the Whistleblower Protection Office, the Public Procurement Office, the Labour Inspectorate, etc.).

# RESOURCES OF THE WPO



# FINANCING OF THE WPO

2022 was the first year that the WPO went through a complete budget cycle. Still, it cannot yet be said to have been a completely standard and future reference year for the organisation's budget planning. This was mainly due to the fact that, in addition to the state budget resources, the resources allocated for the launch of the institution under the Recovery and Resilience Plan of the Slovak Republic were, to a large extent, also used in the implementation of the WPO's activities.

## The WPO budget table as of 31 December 2022 (state budget resources, without RRP)

Budget classification		Approved (EUR)	Adjusted (EUR)	Spending (EUR)	Balance (EUR)
610	Wages	257,051	513,133	513,101	32
620	Insurance contribution	89,839	200,662	200,662	0
630	Goods and services	508,740	380,822	277,745	103,077
640	Current transfers	37,000	37,000	2,716	34,284
700	Capital Expenditure	0	79,752	32,192	47,560
Total		892,630	1,211,368	1,026,416	184,954

## State budget

Given that the WPO staffing was almost constantly full in 2022, the resources allocated for staff were almost completely spent. The alignment of staffing levels was also reflected in the budget measure that set the limits for wages and social and health insurance contributions from the launch phase to a full-year phase.

In terms of the cost of goods and services, the unspent amount at year end was quite significant, however, this was largely due to the efforts to rationalise the use of state budget resources and the rigorous implementation of public procurement, as well as the continued slowdown in foreign travel associated with the pandemic reverberations, but in particular the extensive use of Recovery and Resilience Plan resources and the reimbursement of some of the costs incurred in 2021.

While in 2021, the WPO's funds used for goods and services were spent with priority on building basic infrastructure for staff (workstations, basic connectivity) and launching the client service, the 2022 resources were used to standardise and improve the quality of the service provided. Resources were mainly invested in training of expert staff, promotion of the WPO's activities, work to strengthen IT infrastructure security and data protection, training of persons responsible, and the provision of software, databases or other tools needed for the day-to-day execution of the agenda.

The WPO also invested capital funds in 2022 into acquiring an office car to ensure the mobility of its staff in connection with training events, oversight activities or domestic business trips.

### **The Recovery and Resilience Plan of the Slovak Republic**

The Whistleblower Protection Office is a beneficiary in the Recovery and Resilience Plan of the Slovak Republic under Investment 1: Tools and capacities to fight corruption and money laundering. Based on this, start-up assistance funds have been allocated to the WPO, with investments allocated to four projects, namely:

- Activity 1: Headquarters Reconstruction
- Activity 2: Opening Media Campaign
- Activity 3: Hardware
- Activity 4: Software

As part of the 2022 activities, the investment in Activity 2 - Opening Media Campaign (Please refer to Chapter 6. Communication) and Activity 4 - Software - was fully implemented. The investments budgeted in Activity 3 - Hardware - were implemented in 2021 and were reimbursed in the current year at the state budget level.

Activity 1 - Reconstruction of the headquarters of the Whistleblower Protection Office - is the remaining challenge. The WPO is currently housed in a building dating back to the 1940s, and its technical condition corresponds to this. In addition to being inadequately laid out and technically outdated - with a non-functioning lift, which makes it very limiting for people with reduced mobility - the original residential building has visible problems in the interior and, in particular, is energy inefficient. A professional architectural tender was therefore held in 2022 for the reconstruction, and an architectural studio was contracted to prepare the planning documents for the reconstruction. The aim of the investment is to improve and modernise the building of the WPO headquarters so that it meets the standards of a modern, energy-efficient, barrier-free and dignified administrative building for clients and staff.

Spending of funds under the Recovery Plan

WPO Headquarters Reconstruction	€835,000
WPO Opening Media Campaign	€595,000
WPO Hardware	€80,000
WPO Software	€195,000

Public procurement

The WPO carried out a number of public procurements in 2022, most of them for its basic operational needs. However, in addition to these, the WPO also carried out several complex procurements.

The public procurement of the media campaign (the creative part and the part of the media space purchase) and the procurement related to the building reconstruction (architectural tender, procurement of planning documents, etc.) proved to be a major challenge. Also the procurement of a specific IT solution, a whistleblowing channel, which has been developed as open-source, which means that it can be used by other public institutions if needed and wanted.

Throughout all of the above-mentioned activities, the WPO has been attentive to the transparency of processes and the institution's developing reputation, with information about the tenders actively promoted not only on the WPO's website, but also on social networks and professional portals.

## ASSET MANAGEMENT

During the year, the WPO also managed and improved the assets entrusted to it or acquired by it. The investments or preparations for them were largely directed towards the planned building reconstruction project, which should bring the WPO building up to current standards and provide a dignified place for a modern public institution.

Investments were also made in strengthening the WPO's IT infrastructure (replacing outdated IT infrastructure that had been handed over to the WPO by its previous owners to manage it) and in improving the security of the internal environment and the protection of the data held by the institution.

In the context of the WPO's national remit, an office car was also procured for activities outside the capital (business meetings, trainings, etc.), with a focus on the environmental friendliness of the car, which was reflected in the purchase of a hybrid vehicle.

## HUMAN RESOURCES

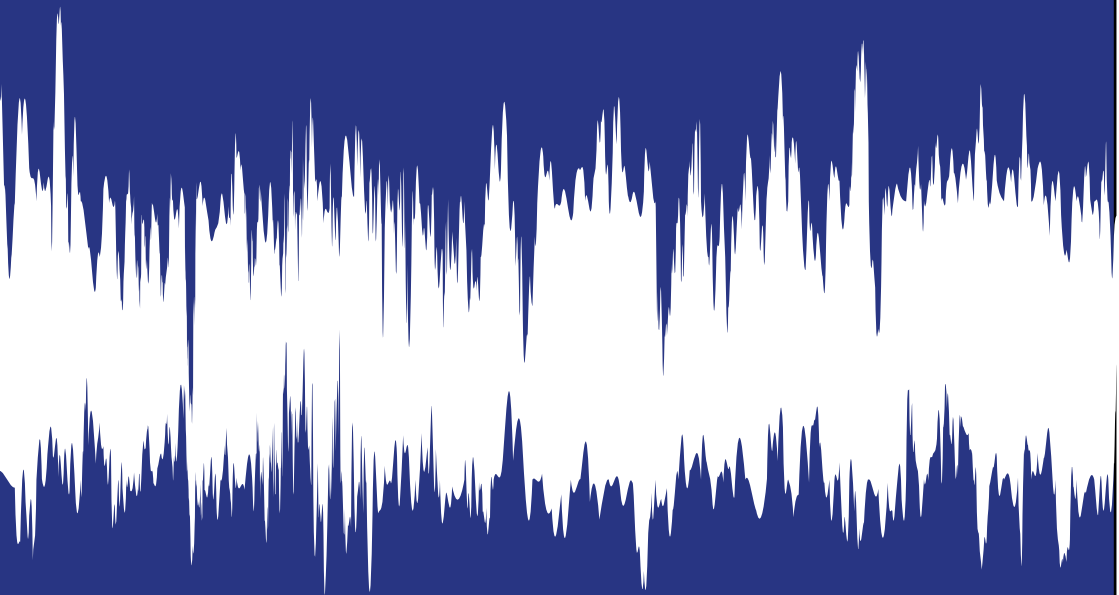
The WPO has almost reached its staffing capacity in 2022. 20 employees of the planned 21 were employed at the WPO. Despite several staff changes, the WPO considers the team to be stable.

The WPO has the ambition to be a fair and attractive employer for its employees, which is reflected not only in compliance with legislation and employer obligations (the WPO successfully passed the Labour Inspectorate inspection in 2022), but also in a consistently designed system of staff bonuses, which is set above and beyond the requirements of the law, or in the social programme, for example, by providing contributions to supplementary pension insurance.

At the same time, by allocating resources to training and developing the potential of its staff in the context of the Training Plan, the WPO is not only responding to legislative amendments, but also promoting the growth of knowledge and professional skills among its staff.

The successful media campaign, which introduced the WPO to the public and informed about its agenda and operation, brought a new major challenge for the next period, namely to ensure that the staff capacity of the WPO is strengthened, especially in the context of the increasing awareness of the WPO's agenda and thus the increase in whistleblowing reports and requests for, for example, the WPO's methodological guidance. Of course, also in connection with the necessary amendment of Act No 54/2019 Coll. on the Protection of Whistleblowers and the gradual systematic implementation of the WPO's oversight activities in accordance with the Act.

# CONCLUSION



## CONCLUSION

The idea behind the creation of the WPO is that whistleblower protection will remove some of the main barriers that have prevented potential whistleblowers from bringing to light corruption or unfair practices they encounter in the course of their work.

This mainly involves the fear of retaliation that whistleblowers face in the workplace – from being fired, not receiving financial or non-financial benefits, bonuses, pay cuts, to overt or covert bullying by their employer or co-workers.

These are barriers and unpleasant 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 misconduct.

However, it can now be stated that, apart from the deficiencies already mentioned, the Slovak legislation is well set up as far as the protection of whistleblowers is concerned. In many areas, Slovakia goes further than the minimum requirements of, for example, European Directive 2019/1937. Where the WPO perceives failures or deficiencies is in the application of this legislation and the insufficient speed in investigations.

The WPO also feels with regard to the cases of its clients that the Police do not have sufficient human capacity to investigate the individual whistleblowing reports in a reasonable time so that whistleblowers do not feel that, despite putting themselves at risk by exposing misconduct, nothing will be investigated in the end.

## CONCLUSION

In addition, the WPO has identified several systemic deficiencies in its 1.5 years of operation, some of which are due to poorly designed legislation, others to its inconsistent application:

### → *Granting of protections*

The WPO has encountered cases documenting that the Public Prosecutor's Office and administrative authorities do not apply the protected whistleblower institute uniformly. In many cases, the Public Prosecutor's Office or the administrative authority granted the protected whistleblower status to persons who, according to the WPO, should not have obtained it. These are mainly situations where no qualified whistleblowing report was filed, but whistleblowers reported less serious misconduct, or an activity where it was not obvious that a criminal offence could have been committed.

For some of the protections granted there was no underlying whistleblowing report; whistleblowers reported acts of retaliation without first reporting the preceding act of whistleblowing, such as the municipal council's efforts to issue a warning for violation of workplace discipline and neglect of duty. Thus, it seems that more education of the authorities that can grant protections is needed to maintain equal and fair treatment of whistleblowers and to respect the rights of employers as well, as the institute of a protected whistleblower greatly affects the employer's course of action in employment relations in particular.

The legislation itself is also a challenge in giving the power to grant protections to an indeterminate number of administrative authorities who are unaware of this obligation, and at the same time the law does not stipulate the process for receiving and following up on these whistleblowing reports. (Please refer to Chapter 9. Amendment to the Whistleblower Protection Act). The only support in this issue for now is the wording of Directive 2019/1937, but many state authorities are unfamiliar with its content.

### → *Position and protection of chief inspectors*

Chief inspectors, who, by law, are automatically the persons responsible for receiving and investigating whistleblowing reports in a municipality or self-governing region, can often find themselves in a position of conflict with the inspected entities. There has not yet been a proper expert debate as to how to effectively protect their position. Moreover, the WPO's experience to date shows that both municipalities and chief inspectors struggle with insufficient human capacity. Many inspectors perform this role for several municipalities at the same time and, when the agenda of the person responsible for whistleblowing in the municipality is added to their existing responsibilities, the number of tasks entrusted to them does not seem to be physically manageable to the required quality.

### → *Conflict of interest*

The conflict of interest, which employers are not able to sufficiently address in practice, continues to be one of the most significant systemic deficiencies in the public administration. There is still room for more detailed legislative rules and the introduction of generally respected good practice in this area. In the absence of more detailed rules, many organisations do not understand or ignore this issue, which has a particularly negative impact on the conduct of fair competition and allows room for corruption or unfair practices.

Misinterpreted and unaddressed conflicts of interest also have an impact on the proper functioning of internal whistleblowing systems. The organisations or institutions concerned often fail to take into account what is referred to as potential 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. This compromises both the objectivity and impartiality of decision-making and also trust in the internal whistleblowing system itself.

### → *Law enforceability*

In a number of cases, the WPO encountered a formalistic and often only 'desk-based' approach to the investigation of whistleblowing reports by the competent authorities on the basis of written supporting documents. This leads to failures to investigate suspicions, although concrete staff members can testify to unfair practices. The WPO has also identified an area where it lacks powers, and several whistleblowing reports received suggest that the issue requires a systemic approach by the State.

Last year, a number of individuals reported their employers' refusal to pay them the wages they had been promised, which were supposed to be paid to them in cash. Although this is an individual interest, given the frequency of these situations, the WPO notes that this practice steals not only the income of individuals who are unable to claim their wages from their employer, but also public revenue. In such cases, the inspection authorities warn the whistleblowers that their complaint is problematic because, by accepting the terms of wages payment, they are also participating in illegal conduct. While this is true, it cannot be ignored that employees in low-wage sectors are often held hostage by employers, and the work offered, including 'black' wages, may be their only income and employment option.

The State should therefore not turn a blind eye to these phenomena and should not take a formalistic approach to dismissing such individual complaints. Especially if it is aware that these are not isolated cases. A systematic and committed approach by the public authorities is what builds public trust in state institutions and, at the same time, reassures those who wish to point out unfair practices in the future that it makes sense to speak up.

## CONCLUSION

### → *Delays in labour disputes*

Another common phenomenon is the excessive time taken by the courts to decide on labour disputes over the invalidity of dismissal. A long wait for a 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.

### → *Lack of properly implemented external whistleblowing systems in prosecutor's offices and administrative authorities*

Whistleblowers who, for objective reasons, do not want to or cannot use their employer's internal whistleblowing system can also turn to external channels. According to the amendment to the Whistleblower Protection Act, these are the WPO, the Public Prosecutor's Office and administrative authorities. For the Public Prosecutor's Office and administrative authorities, this means that they should design processes for receiving and investigating whistleblowing reports in a „special“ regime separate from the standard one. (Please refer to Chapter 9. Amendment to the Whistleblower Protection Act)

Another challenge is that the list of such authorities competent to receive whistleblowing reports under the special regime is not clearly defined in the law, which is unacceptable from the point of view of legal certainty for potential whistleblowers.

## CONCLUSION

This reality poses a number of challenges for the WPO in the coming years. The WPO will strive to contribute to better whistleblower protection and public perception in the first place, but also to create a predictable environment for whistleblowers and whistleblower protection.

Raising awareness among employers of their obligation to have internal whistleblowing mechanisms in place, and also of the benefits they bring, is a long-term challenge. Indeed, as the questionnaire survey showed, some employers, albeit not a large number, consider these whistleblowing systems an administrative burden. Further mapping in turn revealed a formalistic approach to complying with this agenda and the fact that almost half of the obliged firms do not even have internal whistleblowing mechanisms in place. (Please refer to Chapter 4. Internal Whistleblowing Systems)

Unless the leaders of the institutions themselves take ownership of their internal whistleblowing systems, staff will not use them. Corporate managers and heads of state and local government organisations should therefore take an interest in how these systems are designed and whether they are functional. They should also ensure that all staff are sufficiently informed and educated about whistleblowing and anti-corruption behaviour, create sufficient space for persons responsible to work, and get personally involved.

It is also the WPO's ambition to ensure that as many employees as possible are aware of the possibility of using the internal whistleblowing mechanisms in the workplace to make a whistleblowing report. The WPO is considering enforcing compulsory induction training for staff on the filing and investigation of whistleblowing reports.

## CONCLUSION

The aforementioned external whistleblowing channels are also a definite challenge. In this area, the WPO has set itself the task of mapping which state authorities are obliged to have them in place pursuant to the amendment to Act No 54/2019 Coll. In this way, the WPO wants to contribute to the clear setting of rules for whistleblowing via external whistleblowing channels. In particular, in the sense that it should be clear which specific authorities and in what cases people can turn to and what they can expect from them. At the same time, these authorities should also know how to handle whistleblowing reports in order to protect the identity of whistleblowers.

Education of the authorities that grant protection to whistleblowers in the workplace is also proving necessary. If the protected whistleblower status is granted only to those who are genuinely entitled to it in the most serious cases, the purpose for which that institute was established will be truly fulfilled. This is, first and foremost, effective protection against retaliation at work for those who, in good faith, point out serious breaches of the law.

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