



D 2.6– Whistleblower Slovenia

WP 2 - Research and implementation assessment

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Due Date 31.05.2019

Delivery Date 29.07.2019

Type Report

Dissemination level PU = Public

Revision Procedure

Version	Date	Description	Author(s)
V1	06.05.2019	First Draft	Miha Šepec
V2	01.07.2019	Comments	Valeria Ferraris
V3	29.07.2019	Final Version	Miha Šepec



This project is funded by the EU. This publication has been produced with the financial support of the European Union's Internal Security Fund - Police under grant agreement No 823799. The contents of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Commission.

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Whistleblowing Slovenia

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Whistleblowing Slovenia

Introduction

The Republic of Slovenia is a young democracy that was established in 1991 after separation from the former Yugoslavia. It has approximately 2 million citizens and the transition from the former communist regime has paved the way for potential corruption in the government system.

People in Slovenia are becoming increasingly critical of the phenomenon of corruption although they are becoming progressively doubtful about the success of the governmental institutions in rule of law and anti-corruption activities. They are also less inclined to report corruption and doubt in advance in success of any initiated proceedings. They still find the media one of the most convenient and trustworthy mean for uncovering irregularities in the society.¹

According to the Annual Report of the Commission for the Prevention of Corruption of the Republic of Slovenia, which is the main institution for fighting corruption in Slovenia, the people of Slovenia have a very negative attitude towards corruption and believe that it is quite common in the state institutions.²

Everyday corruption scandals brought Slovene people on the streets and have led to protests in Ljubljana and Maribor in November and December 2012.³

Therefore, the need for proper legislation regarding corruption and protection for whistleblowers was in dire need.

The National Assembly of the Republic of Slovenia ratified the UN Convention against Corruption on Wednesday, 6 February 2008. By ratifying it, the Convention became part of Slovenian legal system. Article 33 of the Convention defines that each state party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Slovenia also ratified The Civil Law Convention on Corruption on 17th of March 2003. The latter defines protection of employees in way that each state party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.

The role of whistleblowers in modern society is growing ever more important - whistleblowers are individuals who believe that society should operate according to the principles of integrity and professional ethics, and are therefore willing to speak about suspicious actions and activities in their organizations. They draw attention to the various irregularities in the functioning of organizations, and therefore must be protected. On the basis of legal standards developed by the decisions of the European Court of Human Rights, where it is permissible to require from the journalists to disclose their secret sources only in exceptional cases and when there is an intense public interest therein, the Slovenian government should adopt clear legislation to provide effective protection to whistleblowers. For further consideration of this question, it is first necessary to explain the difference between the whistleblowers and the journalist's sources. Whistleblowers are individuals who, when detecting suspicion of irregularities, disclose this information through various channels - within the organization

¹ *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU.* Transparency International, National report for Slovenia 2013.

² *Annual Reports of the Commission for the Prevention of Corruption of the Republic of Slovenia;* Available at: <https://www.kpk-rs.si/sl/komisija/letna-porocila>.

³ *Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU.* Transparency International, National report for Slovenia 2013.



or the supervisory or law enforcement authorities, and only in a small percentage, they disclose this information through the media. A journalistic source is a source of information for a journalist, for which it is crucial that the identity of the source remains hidden or known only to a journalist. Whistleblowers are an important source of information for journalists, but not all whistleblowers are journalist's sources, and, conversely, every journalist's source is far from a whistleblower.⁴ Whistleblowers reveal irregularities in the public interest, while a journalist's source can be motivated by completely different reasons and tendencies.

General principles

According to its international commitments Slovenia adopted or amended the following legislations in order to fight corruption and to protect whistleblowers:

- The Integrity and Prevention of Corruption Act⁵
- The Civil Servants Act⁶
- The Employment Relationships Act⁷
- The Media Act⁸
- The Access to Public Information Act⁹
- The Criminal procedure act¹⁰
- The Witness Protection Act¹¹
- The Criminal Code¹²

In this chapter we will present all the Slovenian legislation regarding whistleblowers and their protection.

1.1. The Integrity and Prevention of Corruption Act

The Integrity and Prevention of Corruption Act was adopted in 2010 and changed twice in 2011 is the main law that regulates whistleblower protection and the law that established a new state institution – Commission for prevention of corruption – that has the sole purpose of preventing and fighting corruption.

The Act has numerous articles that directly provide protection to whistleblowers and regulate the procedure in which their identity is safeguarded.

⁴ Sedlar, Alma. 2017. Kdo si iskreno želi uspešnega boja proti korupciji. Available at: <https://www.vecer.com/alma-sedlar-kdo-si-iskreno-zeli-uspesnega-boja-proti-korupciji-6347204?mView=1&tmpl=component>

⁵ The integrity and prevention of corruption act, Uradni list no. 69/2011; Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056>

⁶ The Civil servants act with amendments, Uradni list no. 65/2002 and changes; Available at: http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO3177.html

⁷ The employment relationship act, Uradni list RS, no. 42/2002 and changes; Available at: http://www.mddsz.gov.si/si/zakonodaja_in_dokumenti/veljavni_predpisi/zakon_o_delovnih_razmerjih/

⁸ The Media act, Uradni list no. 35/ 2001 and changes. Available at: http://zakonodaja.gov.si/rpsi/r05/predpis_ZAKO4955.html

⁹ The Access to Public Information Act, Uradni list no. 51/2006. Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=200651&stevilka=2180>

¹⁰ The Criminal procedure act, Uradni list no. 63/ 1994 with changes. Available at: http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO4787.html

¹¹ The Witness Protection Act, Uradni list RS, št. 81/06. Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4265>

¹² The Criminal Code, Uradni list no. 55/08 of 4. 6. 2008. Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5050>



The most important part of the Act is article 23 that provides legal basis so that anyone can report any kind of corruption to the Commission and that his identity will be kept secret by the Commission. Only the court can demand that the identity of the whistleblower is revealed and only if this is strictly necessary in order to safeguard the public interest or the rights of others.

The article states as follows:

Reporting of corruption and protection of reporting persons (whistleblowers)

(1) Any person may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he believes that it contains elements of corruption, to the Commission or any other competent body. At the reporting person's (whistleblower's) request, the Commission and other competent authorities shall notify the reporting person (whistleblower) of the measures or the course of action taken in this respect. This provision shall not encroach on the reporting person's (whistleblower's) right to inform the public of the corrupt practice in question.

(2) The provisions of the law regulating access to public information shall not apply to documents, files, records and other documentary material relating to a procedure conducted by the Commission with regard to the reported suspicion of corruption until the procedure before the Commission has been concluded. The information on the protected reporting person (whistleblower) shall not be made public after the procedure has been concluded. This provision shall also apply in the event that the material referred to in this paragraph has been referred to another body for consideration. The reporting person (whistleblower) may send the report that contains information that is defined by law as classified information only to criminal law enforcement authorities or to the Commission.

(3) If the Commission finds that the report referred to in the preceding paragraphs contains elements of a criminal offence for which the offender is prosecuted ex officio, it shall inform the law enforcement authorities of this in accordance with the law governing the criminal procedure and request that they keep it informed of any further courses of action.

(4) The identity of the reporting person (whistleblower) referred to in paragraph 1 of this Article, who has made a report in good faith and has reasonably believed that the information he has provided with regard to the report is true, which shall be assessed by the Commission, shall not be established or disclosed. The filing of a malicious report shall be an offence punishable under this Act if no elements of a criminal offence have been established.

(5) In assessing whether the report has been made in good faith, or whether the reporting person (whistleblower) has reasonably believed that the information he provided is true, the Commission shall take into account, in particular, the nature and gravity of the practice reported, the threat of damage posed by that practice or the actual damage caused as a result, a possible breach of the reporting person's (whistleblower's) duty to protect specific information, and the status of the body or person to which the report has been made.

(6) If in connection with the report of corruption, the conditions for the protection of the reporting person (whistleblower) or his family members are fulfilled under the law on witness protection, the Commission may submit a proposal to the Commission for the Protection of Persons at Risk to include them in the protection program or may propose that the State Prosecutor General take urgent safeguarding measures.

(7) When the Commission for the Protection of Persons at Risk considers the Commission's proposal, its session may also be attended by the chair of the Commission.



(8) Only the court may rule that any information on and the identity of the persons referred to in paragraph 4 of this Article be disclosed if this is strictly necessary in order to safeguard the public interest or the rights of others.

Next is article 24 that presents the legal basis for official to report any kind of unethical or illegal conduct in their sphere of work.

The article states as follows:

Reporting unethical or illegal conduct

(1) An official person who has reasonable grounds to believe that he has been requested to engage in illegal or unethical conduct, or has been subject to psychological or physical violence to that end, may report such practice to the superior or the person authorized by the superior (hereinafter: the responsible person).

(2) If there is no responsible person, or if the responsible person fails to respond to the report in writing within five working days, or if it is the responsible person himself who requests that the official should engage in illegal or unethical conduct, the report referred to in the preceding paragraph and the procedure pertaining to it shall fall within the competence of the Commission.

(3) The responsible person or the Commission shall assess the actual situation on the basis of the report, issue appropriate instructions on further action to be taken if necessary, and take all necessary steps to prevent any illegal or unethical requests and adverse consequences that may ensue.

And finally, article 25 presents the measures to protect the whistleblower. There must be no retaliatory measures against the whistleblower. If some have already been taken, the Commission shall demand that such conduct is discontinued.

The article states as follows:

Measures to protect the reporting person (whistleblower)

(1) If the reporting persons (whistleblowers) have been subject to retaliatory measures as a consequence of filing the report referred to in Articles 23 and 24 of this Act, and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage.

(2) The Commission may offer reporting persons (whistleblowers) assistance in establishing a causal link between the adverse consequences and retaliatory measures referred to in the preceding paragraph.

(3) If during the course of the procedure referred to in the preceding paragraph the Commission establishes a causal link between the report and the retaliatory measures taken against the reporting person (whistleblower), it shall demand that the employer ensure that such conduct is discontinued immediately.

(4) If the reporting persons (whistleblowers) referred to in paragraph 1 of this Article are public servants, and if they continue to be the focus of retaliation despite the Commission's demand referred to in the preceding paragraph, making it impossible for them to continue work in their current work post, they may request that their employer transfer them to another equivalent post and inform the Commission of this.

(5) If a reporting person (whistleblower) cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer due to having filed a report, the burden of proof



shall rest with the employer.

(6) The public servant's employer shall ensure that the demand under paragraph 4 of this Article is met within 90 days at the latest and shall inform the Commission of this.

If the commission demands are not respected and if natural persons or legal persons do not follow the provisions of this act, article 77 and 78 provide the list of minor offences that can be attributed to natural persons (article 77) and legal persons (article 78).

In the following translation we only provide the paragraphs of the article 77 that is relevant for whistleblowers:¹³

Minor offences by natural persons (article 77)

(1) A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who acts as follows:

– in contravention of the provision of paragraph 4 of Article 23 of this Act, attempts to establish the identity of the reporting person (whistleblower) who has made the report in good faith or has reasonably believed that his information is true.

(6) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, and legal person governed by public or private law which, in contravention of the provision of paragraph 4 of Article 23, initiates a procedure for the establishment or disclosure of the identity of the reporting person (whistleblower) due to the report having been filed by this person.

(7) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the provision of paragraph 1 of Article 25 of this Act, acts in a manner that has adverse consequences for the reporting person (whistleblower), or takes retaliatory measures against the reporting person (whistleblower).

(8) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the demand of the Commission referred to in paragraph 3 of Article 25 of this Act, fails to immediately cease imposing retaliatory measures.

(9) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of paragraphs 4 and 6 of Article 25 of this Act, fails to transfer a public servant without justification.

Article 78 stipulates, that legal persons can be sentenced with a penalty from 400 to 100.000 euros.

The Integrity and Prevention of Corruption Act is one of the key pillars of effective whistleblower protection. The Commission for the Prevention of Corruption protects the applicant by granting him a pseudonym. An application containing data for which the degree of classification is established by law, may only be submitted by the applicant to the authorities for the detection and prosecution of criminal offences or to the commission. If the application is anonymous, the identity of the applicant cannot be identified and disclosed, but only if the commission assesses that the applicant has submitted a report

¹³ See also: Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.



in good faith. This is defined in the fourth paragraph of Article 23 and stipulates that the identity of the applicant who made the application in good faith or who has reasonably concluded that his data are true is not allowed to be disclosed by the commission.

1.2. The Civil Servants Act

The Civil Servants Act governs the civil servants system in state bodies and in local community administrations, and the particularities of civil servants employment in state bodies and in local community administrations. The Article 15a establishes a principle of non-harassment and therefore prohibits any kind of harassment that could be the result of a retaliatory measures against the whistleblower. The article states that *any physical, verbal or non-verbal conduct or behaviour of a civil servant, based on any personal circumstance that creates an intimidating, hostile, degrading, humiliating or offensive working environment for the person and insulting its dignity, is prohibited.*

1.3. The Employment Relationships Act

The Employment Relationships Act regulates employment relationships between employers and employees. It has two important articles 6a. and 45 that prohibit sexual and other harassment and bullying on the workplace, and also protect the worker's dignity at work. Again these could be the result of a retaliatory measures against the whistleblower.

Article 6a. states as follows:

Prohibition on sexual and other harassment and bullying at the workplace (Article 6a):

(1) Sexual and other harassment is prohibited. Sexual harassment is any form of undesired verbal, non-verbal or physical action or behaviour of a sexual nature with the effect or intent of adversely affecting the dignity of a person, especially where this involves the creation of an intimidating, hateful, degrading, shaming or insulting environment. Harassment is any undesired behaviour associated with any personal circumstance with the effect or intent of adversely affecting the dignity of a person or of creating an intimidating, hateful, degrading, shaming or insulting environment.

(2) Sexual and other harassment referred to in the preceding paragraph shall be deemed to be discrimination pursuant to the provisions of this Act.

(3) Rejection of action and behaviour referred to in the first paragraph of this article on the part of an affected candidate or worker may not serve as grounds for discrimination in employment and work.

(4) Bullying at the workplace is prohibited. Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work.

Article 45. states as follows:

Protecting the Worker's Dignity at Work (Article 45):

(1) The employer shall be bound to provide such a working environment in which none of the workers is subjected to sexual and other harassment or bullying on the part of the employer, a superior or co-workers. To this end the employer must take appropriate steps to protect workers from sexual and other harassment or from bullying in the workplace.

(2) If in the event of a dispute a worker cites facts giving grounds for the suspicion that the employer has acted counter to the preceding paragraph, the burden of proof shall be on the side of the employer.

(3) In the event of a failure to ensure protection from sexual and other harassment or bullying pursuant to the first paragraph of this article, the employer shall be liable to provide compensation to the worker pursuant to the general rules of civil law.



Nonetheless, we must also mention that chapter 12 in articles 77 to 119 clearly defines when a contract of an employee can be terminated by stipulating legal reasons for terminating the contract – meaning this is not in sole discretion of the employer. Therefore, the contract cannot be legally terminated as a retaliatory measure against the whistleblower. This kind of termination of the contract would be illegal and would therefore be ground for a lawsuit and monetary compensation to the whistleblower.

1.4. The Media Act

The Media Act defines the rights, obligations and responsibilities of legal and natural persons and the public interest of the Republic of Slovenia in the area of the mass media. From the whistleblower perspective there is a crucial article 21 that defines that editorial personnel, journalists and the authors/creators of articles shall not be obliged to reveal the sources of their information, except in cases where such is stipulated by criminal legislation. Meaning those who report information to media should be protected by the journalist. Only exception being the criminal law legislation, where the court can demand that the journalist reveals the source if that is needed in a criminal trial. This practice has also been established by the European Court of Human Rights in at least the following cases *Voskuil v. Netherland*,¹⁴ *Nordisk v. Denmark*,¹⁵ and *Sanoma Uitgevers v. Netherland*.¹⁶

This however means that the journalist has the right to non-disclosure of the source, unless he is bound by the provisions of the Criminal Code or the Criminal Procedure Act. Consequently, the Media Act therefore grants journalists the right to non-disclosure of the source only in theory and apparently, but not in practical terms, since the criminal law provisions do not expressly recognize journalists' right to the protection of confidentiality of sources. This has been corrected with the amendment to the Criminal Procedural Act (ZKP-N) in 2019, that also recognizes reporters and journal editors as a privileged witness that can refuse to testify about its source, however the reporter cannot refuse a court's order when his testimony about the sources of information is necessary for a prosecution of a crime with penalty over three years of imprisonment.

1.5. Access to Public Information Act

The Access to Public Information Act will be thoroughly analysed in the other part of the Slovenian report, created by the assistant Jan Stajnko. In this part of the report we therefore only mention its importance as it enables transparent functioning of the state institutions, state bodies and in local community administrations, by labelling all their work and products as something that must be available to the public.

1.6. The Criminal Procedure Act

The Criminal procedure act governs the basic principles of criminal procedure, the pre-trial and post criminal proceedings, international cooperation in criminal matters and includes provision regarding witness protection.

The criminal procedural act also has provision where it forces the journalist to potentially reveal his source. This can happen in regard to:

- The investigation of electronic and related devices and electronic data carriers
- Seizing of items relevant for criminal procedure

¹⁴ *Voskuil v. Netherland*, no. 64752/01, 22. 11. 2007.

¹⁵ *Nordisk Film & AS v. Denmark*, no. 40485, 8. 12. 2005.

¹⁶ *Sanoma Uitgevers v. Netherland*, no. 38224/03, 14. 9. 2010.



- Interrogation of a journalist as a witness.

There is a possibility that a journalist will have a status of a privileged witness meaning he will not have to testify or cooperate with the court (article 235 and 236 of the Criminal Procedural Act) regarding the facts which he has learned in the pursuit of his profession, if he is obliged to keep as confidential what he has learned in the pursuit of his profession (legal groundwork for that is the Media Act which was already discussed above).

This has been addressed with the amendment to the Criminal Procedural Act (ZKP-N) in 2019, that also recognizes reporters and journal editors as a privileged witness that can refuse to testify about its source, however the reporter cannot refuse a court's order when his testimony about the sources of information is necessary for a prosecution of a crime with penalty over three years of imprisonment.

The criminal procedural act also has provisions on safeguarding the identity and personal data of a witness, which can be extremely effective when a whistleblower would need to testify in order that the criminal procedure as a whole is fair – the defendant must still be able to question the damaging witness in order to execute his right to defence. By covering the identity of the whistleblower in a criminal trial, the latter will be protected from retaliatory measures against him.

Such measures may be ordered by the investigating judge on the proposal of the public prosecutor, witness, victim, defendant or their legal representatives. After the special hearing, the investigating judge may also issue a decision on the use of protective measures in order to completely cover up the identity of the witness (anonymous witness) if he assesses:

- There is a justified danger to the life of a witness or the life of her close relative
- The testimony of the witness is relevant to the criminal proceedings
- That the witness demonstrates a sufficient degree of credibility
- That the interest of fairness and the successful conduct of criminal proceedings outweighs the interest of the defence in order to become acquainted with the identity of the witness.

By ensuring anonymity, the threatened witness is guaranteed her fundamental right to the inviolability of life, while at the same time the right to an effective defence is made more difficult for the defendant. Therefore, when deciding whether to give anonymity to the witness, it is always necessary to weigh the rights of the defence in order to become acquainted with the identity of the witness, the interests of the defendant to obtain impartial evidence, and on the other hand the security and safety of the witness. The guaranteed anonymity of the witness does not protect her from prosecution, if there is a reasonable suspicion that she has committed the criminal offence of giving a false testimony under Article 289 of the Criminal Code.

1.7. The Witness Protection Act

The Witness protection act regulates conditions and procedures for witness protection and for protection of other person, who are endangered due to their cooperation in criminal procedure. In this aspect, Slovenian act is broader than Framework decision on standing of victims in criminal procedure, which regulates only witness protection, when Slovenian act also protects others,¹⁷ as the article 4 of

¹⁷ Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.



the Witness protection act stipulates that *»The Act is also used for suspects and accused persons, whose punishment can be mitigated and who are endangered because they prevented crime or revealed information, relevant for investigation and prosecution of the committed acts. The act is used also for persons who are endangered because of their relation to suspects and accused persons.»*

On account of the Act a special department of the Slovenian Police has been established called The Department for witness protection that executes the witness protection in practice. The decision to include a person in witness protection program or to terminate it is made by the Commission for witness protection on the proposal of a supreme state prosecutor. The Commission consists of four members: a supreme judge, a supreme state prosecutor, a representative of the Ministry of Interior and Ministry of Justice. The act precisely defines measures for witness protection, including psychological, social and legal assistance, which is emphasized in the framework.¹⁸

1.8. The Criminal Code

Individuals gathering courage to publicly disclose violations, allegedly unfair, unethical, discriminatory, inappropriate or illegal acts or activities occurring in an organization tend to act in the public interest, but not all information that whistleblowers reveal to the public or to a journalist is always in the public interest. It is possible that the information they reveal is considered a business or professional secret, and that their whistleblowing would be considered a criminal offence. Possible offences in the Criminal Code are the following:

- Article 142 (Unjustified revealment of a professional secrecy)
- Article 236 (Disclosure and unjustified acquisition of business secrets)
- Article 238 (Abuse of internal information)
- Article 260 (Disclosure of classified information)

The crucial element whether whistleblowing is a crime is in the fact whether the disclosed documents and information was deemed as classified or secret, and whether the disclosure was in the public interest. Disclosing information of a potential criminal offence or corruption will never be a criminal offence, even if the information was regarded as classified. If the disclosed information have no public interest value and were regarded by the organization as classified or secret, such disclosure can present a criminal offence.

All state agencies and organizations having public authority are bound to report criminal offences liable to public prosecution of which they have been informed or which were brought to their notice in some other way. They have to preserve evidence of the potential crime and must undertake steps to preserve traces of the crime.

There are no soft laws in Slovenia with the exception of The Code of Ethics of Slovene Public Servants,¹⁹ which is more of a moral code than a legally binding document, however its importance cannot be underestimated. Article 12 of the Code imposes a requirement on administrative bodies to ensure that public servants who report violations of the code or other criminal offences shall not suffer any kind of damage. The code defines that the administrative bodies must ensure that public servants, who report in good faith any kind of irregularity or a criminal offence, are protected from threats and similar acts which endanger the performance of public tasks. This provision has no sanctions if it not obeyed, as this is only a morally binding document.

¹⁸ Ibidem.

¹⁹ The Code of ethics of Slovene public servants, Uradni list RS, no. 8/2001; Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=20018&stevilka=474>



Objective field of application

As defined in the article 23 of the Integrity and Prevention of Corruption Act any person may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he believes that it contains elements of corruption, to the Commission or any other competent body. Therefore, the scope of protection is very broad and extends not only to public companies and state administration, but also to private companies.

Categories of subjects to whom the protection applies

The Integrity and Prevention of Corruption Act in article 23 provides legal basis so that anyone can report any kind of corruption to the Commission and that his identity will be kept secret by the Commission. Only the court can demand that the identity of the whistleblower is revealed and only if this is strictly necessary in order to safeguard the public interest or the rights of others. Also important is article 24 of the Act that presents the legal basis for an official to report any kind of unethical or illegal conduct in their sphere of work.

The article states as follows:

Reporting unethical or illegal conduct

(1) An official person who has reasonable grounds to believe that he has been requested to engage in illegal or unethical conduct, or has been subject to psychological or physical violence to that end, may report such practice to the superior or the person authorized by the superior (hereinafter: the responsible person).

The Integrity and Prevention of Corruption Act extends its protection to all who report any kind of corruptive behaviour. Therefore, the protection is applied to employees, consultants, suppliers of public administration and all others.

However, protection of whistleblowers is also extended in the Civil Servants Act and the Employment Relationship Act.

The Civil Servants Act governs the civil servants system in state bodies and in local community administrations, and the particularities of civil servants employment in state bodies and in local community administrations. The Article 15a establishes a principle of non-harassment and therefore prohibits any kind of harassment that could be the result of a retaliatory measures against the whistleblower. The article states that *any physical, verbal or non-verbal conduct or behaviour of a civil servant, based on any personal circumstance that creates an intimidating, hostile, degrading, humiliating or offensive working environment for the person and insulting its dignity, is prohibited.*

The Employment Relationships Act regulates employment relationships between employers and employees. It has two important articles 6a. and 45 that prohibit sexual and other harassment and bullying on the workplace, and also protect the worker's dignity at work. Again these could be the result of a retaliatory measures against the whistleblower.

Article 6a. states as follows:

Prohibition on sexual and other harassment and bullying at the workplace (Article 6a):

(1) Sexual and other harassment is prohibited. Sexual harassment is any form of undesired verbal, non-verbal or physical action or behaviour of a sexual nature with the effect or intent of adversely affecting



the dignity of a person, especially where this involves the creation of an intimidating, hateful, degrading, shaming or insulting environment. Harassment is any undesired behaviour associated with any personal circumstance with the effect or intent of adversely affecting the dignity of a person or of creating an intimidating, hateful, degrading, shaming or insulting environment.

(2) Sexual and other harassment referred to in the preceding paragraph shall be deemed to be discrimination pursuant to the provisions of this Act.

(3) Rejection of action and behaviour referred to in the first paragraph of this article on the part of an affected candidate or worker may not serve as grounds for discrimination in employment and work.

(4) Bullying at the workplace is prohibited. Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work.

Article 45. states as follows:

Protecting the Worker's Dignity at Work (Article 45):

(1) The employer shall be bound to provide such a working environment in which none of the workers is subjected to sexual and other harassment or bullying on the part of the employer, a superior or co-workers. To this end the employer must take appropriate steps to protect workers from sexual and other harassment or from bullying in the workplace.

(2) If in the event of a dispute a worker cites facts giving grounds for the suspicion that the employer has acted counter to the preceding paragraph, the burden of proof shall be on the side of the employer.

(3) In the event of a failure to ensure protection from sexual and other harassment or bullying pursuant to the first paragraph of this article, the employer shall be liable to provide compensation to the worker pursuant to the general rules of civil law.

Nonetheless, we must also mention that chapter 12 in articles 77 to 119 of the Employment Relationships Act clearly defines when a contract of an employee can be terminated by stipulating legal reasons for terminating the contract – meaning this is not in sole discretion of the employer. Therefore, the contract cannot be legally terminated as a retaliatory measure against the whistleblower. This kind of termination of the contract would be illegal and would therefore be ground for a lawsuit and monetary compensation to the whistleblower.

Channels to report irregularities

The main reporting channel for reporting corruption is a state institution – Commission for prevention of corruption – that has the sole purpose of preventing and fighting corruption. Corruption can also be reported to the police, an official person can report directly to the superior or an authorized person by the superior. This is defined in article 24 of the Integrity and Prevention of Corruption Act that stipulates:

(1) An official person who has reasonable grounds to believe that he has been requested to engage in illegal or unethical conduct, or has been subject to psychological or physical violence to that end, may report such practice to the superior or the person authorized by the superior (hereinafter: the responsible person).

(2) If there is no responsible person, or if the responsible person fails to respond to the report in writing within five working days, or if it is the responsible person himself who requests that the official should engage in illegal or unethical conduct, the report referred to in the



Reporting corruption to the courts directly is not possible, however it is possible to report criminal offences (when a case of corruption becomes a crime) directly to the State Prosecutor's Office. The State Prosecutor, The Police and the Court will safeguard the identity of the whistleblower, unless his identity is necessary for safeguarding the right to a fair trial of a defendant, and if revealing his identity will not put the whistleblower or his family in any kind of danger (see also the Criminal Procedural Act and the Witness Protection Act).

Protection of the privacy of the reporter

The Media Act defines the rights, obligations and responsibilities of legal and natural persons and the public interest of the Republic of Slovenia in the area of the mass media. From the whistleblower perspective there is a crucial article 21 that defines that editorial personnel, journalists and the authors/creators of articles shall not be obliged to reveal the sources of their information, except in cases where such is stipulated by criminal legislation. Meaning those who report information to media should be protected by the journalist. Only exception being the criminal law legislation, where the court can demand that the journalist reveals the source if that is needed in a criminal trial. This practice has also been established by the European Court of Human Rights in at least the following cases *Voskuil v. Netherland*,²⁰ *Nordisk v. Denmark*,²¹ and *Sanoma Uitgevers v. Netherland*.²²

This however means that the journalist has the right to non-disclosure of the source, unless he is bound by the provisions of the Criminal Code or the Criminal Procedure Act. Consequently, the Media Act therefore grants journalists the right to non-disclosure of the source only in theory and apparently, but not in practical terms, since the criminal law provisions do not expressly recognize journalists' right to the protection of confidentiality of sources. This has been corrected with the amendment to the Criminal Procedural Act (ZKP-N) in 2019, that also recognizes reporters and journal editors as a privileged witness that can refuse to testify about its source, however the reporter cannot refuse a court's order when his testimony about the sources of information is necessary for a prosecution of a crime with penalty over three years of imprisonment.

The Criminal procedure act governs the basic principles of criminal procedure, the pre-trial and post criminal proceedings, international cooperation in criminal matters and includes provision regarding witness protection.

The criminal procedural act also has provision where it forces the journalist to potentially reveal his source. This can happen in regard to:

- The investigation of electronic and related devices and electronic data carriers
- Seizing of items relevant for criminal procedure
- Interrogation of a journalist as a witness.

There is a possibility that a journalist will have a status of a privileged witness meaning he will not have to testify or cooperate with the court (article 235 and 236 of the Criminal Procedural Act) regarding the facts which he has learned in the pursuit of his profession, if he is obliged to keep as confidential what he has learned in the pursuit of his profession (legal groundwork for that is the Media Act which was already discussed above).

²⁰ *Voskuil v. Netherland*, no. 64752/01, 22. 11. 2007.

²¹ *Nordisk Film & AS v. Denmark*, no. 40485, 8. 12. 2005.

²² *Sanoma Uitgevers v. Netherland*, no. 38224/03, 14. 9. 2010.



This has been addressed with the amendment to the Criminal Procedural Act (ZKP-N) in 2019, that also recognizes reporters and journal editors as a privileged witness that can refuse to testify about its source, however the reporter cannot refuse a court's order when his testimony about the sources of information is necessary for a prosecution of a crime with penalty over three years of imprisonment.

The criminal procedural act also has provisions on safeguarding the identity and personal data of a witnesses, which can be extremely effective when a whistleblower would need to testify in order that the criminal procedure as a whole is fair – the defendant must still be able to question the damaging witness in order to execute his right to defence. By covering the identity of the whistleblower in a criminal trial, the latter will be protected from retaliatory measures against him.

Such measures may be ordered by the investigating judge on the proposal of the public prosecutor, witness, victim, defendant or their legal representatives. After the special hearing, the investigating judge may also issue a decision on the use of protective measures in order to completely cover up the identity of the witness (anonymous witness) if he assesses:

- There is a justified danger to the life of a witness or the life of her close relative
- The testimony of the witness is relevant to the criminal proceedings
- That the witness demonstrates a sufficient degree of credibility
- That the interest of fairness and the successful conduct of criminal proceedings outweighs the interest of the defence in order to become acquainted with the identity of the witness.

By ensuring anonymity, the threatened witness is guaranteed her fundamental right to the inviolability of life, while at the same time the right to an effective defence is made more difficult for the defendant. Therefore, when deciding whether to give anonymity to the witness, it is always necessary to weigh the rights of the defence in order to become acquainted with the identity of the witness, the interests of the defendant to obtain impartial evidence, and on the other hand the security and safety of the witness. The guaranteed anonymity of the witness does not protect her from prosecution, if there is a reasonable suspicion that she has committed the criminal offense of giving a false testimony under Article 289 of the Criminal Code.

Last but not least there is the Witness protection act that regulates conditions and procedures for witness protection and for protection of other person, who are endangered due to their cooperation in criminal procedure. In this aspect, Slovenian act is broader than Framework decision on standing of victims in criminal procedure, which regulates only witness protection, when Slovenian act also protects others,²³ as the article 4 of the Witness protection act stipulates that *"The Act is also used for suspects and accused persons, whose punishment can be mitigated and who are endangered because they prevented crime or revealed information, relevant for investigation and prosecution of the committed acts. The act is used also for persons who are endangered because of their relation to suspects and accused persons."*

On account of the Act a special department of the Slovenian Police has been established called The Department for witness protection that executes the witness protection in practice. The decision to include a person in witness protection program or to terminate it is made by the Commission for

²³ Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.



witness protection on the proposal of a supreme state prosecutor. The Commission consists of four members: a supreme judge, a supreme state prosecutor, a representative of the Ministry of Interior and Ministry of Justice. The act precisely defines measures for witness protection, including psychological, social and legal assistance, which is emphasized in the framework.²⁴

According to the Report on corruption done by the Transparency International Slovenia,²⁵ the biggest problem in practice is in the protection of the identity of the whistleblower in criminal procedures, where whistleblowers are almost always identified, only exception being if their revelation would present life threatening danger to them. Otherwise, the courts will practically always rule in favour of the defence that demands the identity of the whistleblower in order to question his credibility as a witness. This is especially problematic in cases, where the whistleblower is not evidence per se, but only the source to gather evidence and in this respect his testimony is not needed at all. Therefore, there are still possibilities for improvement in safeguarding whistleblowers.

Protection against retaliation, discrimination and mobbing

Article 25 of the Integrity and Prevention of Corruption Act presents the measures to protect the whistleblower. There must be no retaliatory measures against the whistleblower. If some have already been taken, the Commission shall demand that such conduct is discontinued.

The article states as follows:

Measures to protect the reporting person (whistleblower)

- (1) If the reporting persons (whistleblowers) have been subject to retaliatory measures as a consequence of filing the report referred to in Articles 23 and 24 of this Act, and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage.*
- (2) The Commission may offer reporting persons (whistleblowers) assistance in establishing a causal link between the adverse consequences and retaliatory measures referred to in the preceding paragraph.*
- (3) If during the course of the procedure referred to in the preceding paragraph the Commission establishes a causal link between the report and the retaliatory measures taken against the reporting person (whistleblower), it shall demand that the employer ensure that such conduct is discontinued immediately.*
- (4) If the reporting persons (whistleblowers) referred to in paragraph 1 of this Article are public servants, and if they continue to be the focus of retaliation despite the Commission's demand referred to in the preceding paragraph, making it impossible for them to continue work in their current work post, they may request that their employer transfer them to another equivalent post and inform the Commission of this.*
- (5) If a reporting person (whistleblower) cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer due to having filed a report, the burden of proof shall rest with the employer.*
- (6) The public servant's employer shall ensure that the demand under paragraph 4 of this Article is met within 90 days at the latest and shall inform the Commission of this.*

If the commission demands are not respected and if natural persons or legal persons do not follow the provisions of this act, article 77 and 78 provide the list of minor offences that can be attributed to natural persons (article 77) and legal persons (article 78).

²⁴ Ibidem.

²⁵ Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.



The Integrity and Prevention of Corruption Act is one of the key pillars of effective whistleblower protection. The Commission for the Prevention of Corruption protects the applicant by granting him a pseudonym. An application containing data for which the degree of classification is established by law, may only be submitted by the applicant to the authorities for the detection and prosecution of criminal offences or to the commission. If the application is anonymous, the identity of the applicant cannot be identified and disclosed, but only if the commission assesses that the applicant has submitted a report in good faith. This is defined in the fourth paragraph of Article 23 and stipulates that the identity of the applicant who made the application in good faith or who has reasonably concluded that his data are true is not allowed to be disclosed by the commission.

Then there is also the Employment Relationships Act that regulates employment relationships between employers and employees. It has two important articles 6a. and 45 that prohibit sexual and other harassment and bullying on the workplace, and also protect the worker's dignity at work. Again these could be the result of a retaliatory measures against the whistleblower.

Article 6a. states as follows:

Prohibition on sexual and other harassment and bullying at the workplace (Article 6a):

(1) Sexual and other harassment is prohibited. Sexual harassment is any form of undesired verbal, non-verbal or physical action or behaviour of a sexual nature with the effect or intent of adversely affecting the dignity of a person, especially where this involves the creation of an intimidating, hateful, degrading, shaming or insulting environment. Harassment is any undesired behaviour associated with any personal circumstance with the effect or intent of adversely affecting the dignity of a person or of creating an intimidating, hateful, degrading, shaming or insulting environment.

(2) Sexual and other harassment referred to in the preceding paragraph shall be deemed to be discrimination pursuant to the provisions of this Act.

(3) Rejection of action and behaviour referred to in the first paragraph of this article on the part of an affected candidate or worker may not serve as grounds for discrimination in employment and work.

(4) Bullying at the workplace is prohibited. Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work.

Article 45. states as follows:

Protecting the Worker's Dignity at Work (Article 45):

(1) The employer shall be bound to provide such a working environment in which none of the workers is subjected to sexual and other harassment or bullying on the part of the employer, a superior or co-workers. To this end the employer must take appropriate steps to protect workers from sexual and other harassment or from bullying in the workplace.

(2) If in the event of a dispute a worker cites facts giving grounds for the suspicion that the employer has acted counter to the preceding paragraph, the burden of proof shall be on the side of the employer.

(3) In the event of a failure to ensure protection from sexual and other harassment or bullying pursuant to the first paragraph of this article, the employer shall be liable to provide compensation to the worker pursuant to the general rules of civil law.

Nonetheless, we must also mention that chapter 12 in articles 77 to 119 of the Employment Relationships Act clearly defines when a contract of an employee can be terminated by stipulating legal reasons for terminating the contract – meaning this is not in sole discretion of the employer. Therefore, the contract cannot be legally terminated as a retaliatory measure against the whistleblower. This kind of termination of the contract would be illegal and would therefore be ground for a lawsuit and monetary compensation to the whistleblower.

There is no reward system for encouraging whistleblowers. All they receive for their good deed is protection of identity by the Commission for the Prevention of Corruption. They are also protected against retribution and retaliatory measures - they have the right to claim compensation from their employer for the unlawfully caused damage.



The law also provides for a full range of remedies with focus on recovery of losses and making the complainant whole. Among others, this includes interim and injunctive relief, compensation for any pain and suffering incurred, compensation for loss of past, present and future earnings and status, etc.²⁶ Whistleblowers in the public sector can be also transferred to another equivalent working position, if the conditions where they work become unbearable.

Sanctions

Penalties for retaliation against whistleblowers are defined in article 77 and 78 of the Integrity and Prevention of Corruption Act. Articles provide a list of minor offences that can be attributed to natural persons (article 77) and legal persons (article 78).

In the following translation we only provide the paragraphs of the article 77 that is relevant for whistleblowers:²⁷

Minor offences by natural persons (Article 77)

(1) A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who acts as follows:

– in contravention of the provision of paragraph 4 of Article 23 of this Act, attempts to establish the identity of the reporting person (whistleblower) who has made the report in good faith or has reasonably believed that his information is true.

(6) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, and legal person governed by public or private law which, in contravention of the provision of paragraph 4 of Article 23, initiates a procedure for the establishment or disclosure of the identity of the reporting person (whistleblower) due to the report having been filed by this person.

(7) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the provision of paragraph 1 of Article 25 of this Act, acts in a manner that has adverse consequences for the reporting person (whistleblower), or takes retaliatory measures against the reporting person (whistleblower).

(8) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the demand of the Commission referred to in paragraph 3 of Article 25 of this Act, fails to immediately cease imposing retaliatory measures.

(9) A fine of between EUR 400 and EUR 4 000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of paragraphs 4 and 6 of Article 25 of this Act, fails to transfer a public servant without justification.

Article 78 stipulates, that legal persons can be sentenced with a penalty from 400 to 100.000 euros.

We must also mention chapter 12 of the Employment Relationships Act that clearly defines in articles 77 to 119 when a contract of an employee can be terminated by stipulating legal reasons for terminating the contract – meaning this is not in sole discretion of the employer. Therefore, the contract cannot be legally terminated as a retaliatory measure against the whistleblower. This kind of termination of the contract would be illegal and would therefore be ground for a lawsuit and monetary compensation to the whistleblower.

²⁶ Ibidem.

²⁷ See also: Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.



Burden of proof

If a whistleblower cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer (due to having filed a report) the burden of proof shall rest with the employer. These provisions are very beneficial for the whistleblower, since there is no need for the whistleblower to prove the causation but only to cite facts which substantiate the assumption that the retaliation was due to having filed a report.²⁸ These provisions can be found in the Integrity and Prevention of Corruption Act (Article 25/V) and the Employment Relationship Act.

Organizational measures

Organizational measures are defined in the Integrity and Prevention of Corruption Act. Article 47 defines the Integrity Plan as follows:

- (1) State bodies, self-governing local communities, public agencies, public institutions, public economic institutions and public funds (hereinafter: taxpayers for the preparation of integrity plans) must, in accordance with this law, draft and adopt an integrity plan and inform the Commission thereof.
- (2) If the Commission finds that the performance of activities in the public interest and the disposal of public assets are expressly exposed to the risks of corruption or other forms of unlawful conduct, the commission may issue a decision whereby a public entity not covered by the preceding paragraph in which this performs or disposes of the activity, instructs to draw up, implement and supplement the integrity plan in cooperation with the Commission.

The Integrity Plan shall contain in particular:

- an assessment of the institution's corrupt exposure,
- personal names and posts of persons responsible for the integrity plan,
- a description of the areas and the decision-making method by assessing exposure to risks to corruption and proposals for integrity improvements, measures for the timely detection, prevention and correction of risks to corruption, and
- other parts of the plan, defined in the guidelines made by the Commission.

Next important organizational measure is the Resolution of prevention of corruption in the Republic of Slovenia (Resolution) that is also defined in the Integrity and Prevention of Corruption Act in articles 51, 52 and 53. The Resolution is an act adopted by the National Assembly on the proposal of the Government. The Resolution aims at realistic, gradual and deliberate measures to eliminate corruption; its basic goals are preventive: long-term and permanent elimination of the conditions for the creation and development of corruption, the establishment of an appropriate legal and institutional environment for preventing corruption, consistent enforcement of responsibility for unlawful acts, the construction of a generally acceptable zero tolerance system to all corrupt practices through various forms of education and the effective use of internationally established standards in this field.

The Commission monitors the implementation of the resolution on the basis of an action plan adopted by the Commission in cooperation with the measures taken in the resolution within three months of the adoption of the resolution or its amendments. In order to fulfil these obligations, the Commission may submit proposals for the adoption and amendment of regulations and guidelines on the manner of implementing the measures contained in the resolution and plans for its implementation.

When implementing the resolution and plans for its implementation, the commission cooperates with public and private sector organizations, non-profit private law organizations in the field of corruption

²⁸ Ibidem.



prevention, and with citizens. This cooperation refers to joint activities in the implementation of the resolution and plans for its implementation, analyses of the situation in the field of corruption, the conduct of media campaigns and other activities important for strengthening integrity and preventing corruption.

For this purpose article 53 of the Integrity and Prevention of Corruption Act demands that public sector has an action plan. The action plan for the implementation of the public sector resolution to the Commission shall be reported to the Commission by the end of February each year on the activities for the implementation of these measures in the previous year. Within three months after receiving these reports the Commission shall draw up a report on the implementation of the resolution, indicating key achievements, problems, risk factors and performance appraisal, and shall include it in the annual report. In the absence of measures from the action plan for the implementation of the resolution, the Commission may propose to the competent authority, against the persons responsible for the implementation of the measures, to establish liability.

Reports of the Commission for prevention of corruption

Commission for prevention of corruption (thereafter Commission) issues yearly reports on its work. These reports serve as valuable information on corruption in the Republic of Slovenia, and the problems its main institution deals with every year. We have analysed the reports for the last three years.

In the year 2016 the Commission has:

- Received 1160 reports of suspected corruption and other violations of the Integrity and Prevention of Corruption Act, of which 494 were discarded and 666 were considered in a preliminary trial;
- Resolved 1078 cases by issuing a closing document in the case, dismissing the case or responded to other competent authorities;
- Issued a closing document in 367 cases of suspected corruption;
- Introduced 375 misdemeanor proceedings for found violations of the Integrity and Prevention of Corruption Act;
- Filed 48 notices and charges on suspicion of committing a crime to the authorities and prosecution;
- Submitted 99 initiatives to supervisory authorities to carry out the process under their responsibility (police, inspection bodies, the Court of Auditors of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia and other competent authorities supervisory institutions);
- Conducted 46 Senate sessions;
- Developed and upgraded the online Erar tool that successfully replaced Supervisor – a tool that monitors all monetary payments from and to public legal persons;
- Received 61 requests for access to public information;
- Received 9770 wealth reports on people in public sector;
- Received 2004 lobbying contacts;
- Conducted 46 trainings, lectures and consultations attended by 1810 listeners (all training provided by the commission is free of charge);
- Updated the Action Plan for the implementation of the Resolution on the Prevention of Corruption in the Republic Slovenia, which was adopted in 2005 and in 2009;
- Celebrated International Anti-Corruption Day with Anti-Corruption Week, within which hosted a film festival, lectures and a roundtable;
- Conducted creative competitions for kindergartens and schools in order to get acquainted with the idea of integrity and prevention of corruption;
- Carried out an assessment of corruption risks in Slovenian schools;



- Represented the Republic of Slovenia in international committees, commissions and evaluations by law The United Nations (UN), the Organization for Economic Co-operation and Development Commission for the Prevention of Corruption 2016 Annual Report (OECD), the Anti-Corruption Group (GRECO) of the Council of Europe, the European Commission, the International Anti-Corruption Academy (IACA).
- The budget of the Commission was € 1.532.873;

In the year 2017 the Commission has:

- Received 725 reports of suspected corruption and other violations of the Integrity and Prevention of Corruption Act, of which 163 discarded, and 562 were considered in a preliminary trial;
- Solved 880 cases (with closing document, discard, subsequent response to other competent authorities, reply to the applicant...);
- Issued a closing document in 535 cases of suspected corruption;
- Initiated 47 misdemeanor proceedings for found violations of the Integrity and Prevention of Corruption Act;
- Submitted 63 notices and complaints on suspicion of committing a crime to law enforcement agencies;
- Submitted 143 initiatives to the supervisory authorities to carry out the process under their responsibility (police, inspection and inspection bodies, the Court of Auditors of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia and other competent supervisory institutions);
- Conducted 37 Senate sessions;
- Received 56 requests for access to public information;
- Received 7126 wealth reports on people in public sector;
- Received 3943 lobbying contacts;
- Conducted 38 trainings, lectures and consultations attended by 1781 students (all the trainings provided by the commission are free of charge);
- Celebrated International Anti-Corruption Day with the Anti-Corruption Week in which it held film screenings, public readings for children and exhibitions;
- Conducted a creative competition for kindergartens in order to get acquainted with the idea of integrity and prevention corruption;
- Conducted a photo contest focusing on the idea of corruption;
- Represented the Republic of Slovenia by law in the international committees, commissions and evaluations of the Organization United Nations (UN), Organization for Economic Co-operation and Development (OECD), Group of States Against Corruption (GRECO) at the Council of Europe, the European Commission and the International Anti - Corruption Academy corruption (IACA).
- The budget of the Commission was € 1.631.082;

In the year 2018 the Commission has:

- Received 541 reports of suspected corruption and other violations of Integrity and Prevention of Corruption Act;
- Resolved 638 allegations of corruption and other violations of the Integrity and Prevention of Corruption Act (which includes 611 first time resolved cases with reports of suspected corruption and other violations of the Integrity and Prevention of Corruption Act, one reopening of the procedure and 26 reactivations);
- Issued a closing document in 367 cases of suspected corruption;
- Initiated 58 misdemeanor proceedings for found violations of the Integrity and Prevention of Corruption Act;
- Made 61 charges and allegations of suspected criminal offenses to law enforcement agencies;



- Submitted 160 initiatives to the supervisory authorities to carry out the process under their responsibility (police, inspection and other inspection bodies, the Court of Auditors of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia and other competent supervisory institutions);
- Conducted 42 sessions of the Senate;
- Received 75 requests for access to public information;
- Received 8296 wealth reports on people in public sector;
- Received 4861 lobbying contacts;
- Conducted 31 trainings, lectures and consultations attended by 1597 students (all training provided by conducted by the commission are free);
- Celebrated International Anti-Corruption Day with the Anti-Corruption Week; the commission prepared professional training for journalists in the field of lobbying and conflict of interests; in cooperation with The National Council of the Republic of Slovenia organized a professional consultation entitled “The Impact of Politics on Public Governance and Management health institutions in Slovenia, ”and traditionally rounded up the event at the Slovenian Cinema, where she performed the final event of the creative competition for the youngest and the presentation of a film on corruption or anti-corruption;
- Conducted a creative competition for kindergartens with the aim of getting to know the value of honesty or integrity - 25 kindergartens attended;
- Represented the Republic of Slovenia in the activities of international organizations such as the United Organization Nations, Organization for Economic Co-operation and Development (OECD), Group of States against Corruption (GRECO) at the Council of Europe, the European Commission and the International Anti-Corruption Academy (IACA).
- The budget of the Commission was EUR 1.687.223;

Final thoughts and recommendations

Report on corruption done by the Transparency International Slovenia²⁹ reveals that more and more people make a report to the competent bodies – especially to the Commission for the Prevention of Corruption to which public trust is increasing from year to year. On the other hand, media has the biggest influence on the public, which is problematic since practically all the media in Slovenia are owned or heavily influenced by political parties and business elites (meaning that some media is left and some right). NGO’s like Transparency International Slovenia are therefore very welcome as they are not politically influenced. Transparency International Slovenia is promoting implementation of integrity and transparency in public service and also in informing public on whistleblowers rights and protection. It is important to point out that politics cannot interfere with the work of the independent Commission for the Prevention of corruption which is competent for implementation of the Integrity and Prevention of Corruption Act, anti-corruption strategy and the laws about whistleblowers protection.³⁰ This means that the Commission is an extremely powerful institution in fighting corruption.

There is no reward system for encouraging whistleblowers. All they receive for their good deed is protection of identity by the Commission for the Prevention of Corruption. They are also protected

²⁹ Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.

³⁰ Ibidem.



against retribution and retaliatory measures - they have the right to claim compensation from their employer for the unlawfully caused damage. If a whistleblower cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer (due to having filed a report) the burden of proof shall rest with the employer. These provisions are very beneficial for the whistleblower, since there is no need for the whistleblower to prove the causation but only to cite facts which substantiate the assumption that the retaliation was due to having filed a report.³¹

The law also provides for a full range of remedies with focus on recovery of losses and making the complainant whole. Among others, this includes interim and injunctive relief, compensation for any pain and suffering incurred, compensation for loss of past, present and future earnings and status, etc.³² Whistleblowers in the public sector can be also transferred to another equivalent working position, if the conditions where they work become unbearable.

According to the Report on corruption done by the Transparency International Slovenia,³³ the biggest problem in practice is in the protection of the identity of the whistleblower in criminal procedures, where whistleblowers are almost always identified, only exception being if their revealment would present life threatening danger to them. Otherwise, the courts will practically always rule in favour of the defence that demands the identity of the whistleblower in order to question his credibility as a witness. This is especially problematic in cases, where the whistleblower is not evidence per se, but only the source to gather evidence and in this respect his testimony is not needed at all.

Therefore, there are still possibilities for improvement in safeguarding whistleblowers.

³¹ Ibidem.

³² Ibidem.

³³ Providing an Alternative to Silence: Towards Greater Protection and Support for Whistleblowers in the EU. Transparency International, National report for Slovenia 2013.