



Whistleblower Protection Assessment

Slovakia

May 2009, Bratislava



Prevention of and Fight Against Crime 2009
With financial support from the Prevention of and Fight Against Crime Programme
European Commission - Directorate-General Justice, Freedom and Security

Introduction

The presented report forms part of the project: Blowing the Whistle Harder: Enhancing Whistleblower Protection in the European Union, which is focused on the comparing of the whistleblower protection mechanisms in 8 countries and identifying best practices in this area. This project includes both analytical expertise and hands-on experience in identifying the best practice.

The structure of the report is divided into two separate sections. **The first section** presents a legislative analysis of the provisions with content related to the issue of whistleblowing, since the legal order of the Slovak Republic does not explicitly recognize this concept, although it uses several supportive and related concepts. Therefore, this section includes an analysis of the relevant provisions of the Act on Complaints, Labour Code, Act on Civil Service¹, Act on the Performance of Work in the Public Interest, Criminal Code and other provisions related to the issue of whistleblowing in Slovakia.

In addition to the analysis of the legislation, the research has been also focused on the obtaining of information concerning the situation in the field of whistleblowing in Slovakia by other research methods. Important tools used for the gathering of information concerning the application of legislation in practice and approach to the solving of the issue of the whistleblower protection have been in particular questionnaires, personal meetings, and a workshop with selected stakeholders. We have extended the gathering of data concerning the Institutional Policies in the public administration to 27 organizations approached in the form of a questionnaire. These have been in particular ministries and other central state administration bodies and further the Attorney Generalship and territorial self-government bodies. Also the ministries recommended within the Terms of Reference have been included.

The data concerning private companies have been obtained through e-mails, phone calls and personal meetings. In addition to the answering of the given questions, we have also focused on the Codes of Ethics, Annual Reports and web sites of the private companies. Some of the examined private companies have schemes for whistleblowing in place, in particular for the obtaining of consent to the processing of personal data from the Personal Data Protection Office.

As a part of the research, we have also performed the media monitoring for 2008 and examined the archives of the Slovak university libraries². The public opinion surveys focused on the issue of corruption in the Slovak Republic have been used as another source of information.

The second section of the report is focused in more detail on the selected aspects related to the protection of whistleblowers and their application in practice. A total of 13 areas has been evaluated: Scope of personnel coverage, Subject matter (definition of wrongdoing), Internal disclosure channels, External disclosure channels, Additional disclosure channel, Confidentiality, Time scale,

¹ A special act replacing the Labour Code for the State Administration Employees.

² Union on-line catalogue of the library of the Comenius University in Bratislava, Union on-line catalogue of the library of the Bratislava School of Law, Union on-line catalogue of the University Library, Union on-line catalogue of the library of the Trnava University, Union on-line catalogue of the library of the University of Economics, Union on-line catalogue of the library of the Slovak National Library in Martin, Union on-line catalogue of the library of the P. J. Šafárik University, and Union on-line catalogue of the library of the Matej Bel University.

Protection against reprisal/retaliation, Right to refuse, Legal liability, Whistleblower participation, Independent Review, Offered remedies.

SECTION A - OVERVIEW OF WHISTLEBLOWING PROTECTION RULES & PROTECTION IN PRACTICE

1. WB Legal Provisions: What are the existing legal provisions covering whistleblowing in the public and in the private sector?

Currently, the Slovak Republic doesn't have a free standing regulation addressing the issue of whistleblowing. This concept or any other concept with the corresponding to whistleblowing is not directly used in any legislation applicable in the Slovak Republic. However, the legislation contains provisions enabling for the protection of a whistleblower. Also, with regard to the contextual aspect of the concept of whistleblowing and its perception by the public, this concept is used very rarely and is practically not applied in the public sector. According to the press monitoring, in 2008 there have only been noted 3 articles in the Slovak media concerning the issue of whistleblowing.³ We can speak of certain penetration and domestication of certain whistleblowing elements, in particular in connection with the private sector.

However, the legal order of the Slovak Republic contains certain provisions in various pieces of legislation, which by their nature either provide for the protection of a whistleblower or impose certain obligations on the whistleblower.

The following section will be at first more closely focused on civil servants, employees in the public service, and subsequently on the private sector.

1a. Public Sector

The Act No. 312/2001 Coll. on Civil Service ("**the Civil Service Act**") as amended, governs the rights and obligations of the civil servants⁴. These employees are not subject to the Labour Code.

The Civil Service Act grants a civil servant the right to submit to his/her service office⁵ complaints concerning the matters of execution of the civil service, and in certain cases also imposes on the civil servant the obligation to notify the supervisor or a law-enforcement authority of a loss of, damage to the property owned or administered by the service office. The legal regulation declares the right to

³ The NEWTON MEDIA agency, key words and phrases:

whistleblowing; whistle-blowing; protected disclosure; sanctioning of whistleblowers (notifies); disclosure of illegitimate practices at the workplace/in the office; lawsuits concerning the persecution of whistleblowers.

⁴ These include e.g. the employees of ministries and other central state administration bodies, local state administration bodies, other state administration bodies defined under special acts.

⁵ within the organization

submit a complaint; however, on the other hand, it fails to guarantee protection of the civil servant against possible recourse.

The Civil Service Act also contains a reference to the Labour Code, which grants civil servants a similar level of protection as in the case of employees in the private sector.⁶

The group of employees in the public service is also regulated similarly; however, the labour relationships of employees during the execution of work in the public interest are subject to the Labour Code. Therefore, these employees enjoy the same protection as employees in the private sector. The Act No. 552/2003 Coll. on the Performance of Work in the Public Interest, as amended ("**The Act on the Performance of Work in the Public Interest**") allows, beyond the scope of the Labour Code, for the investigation of notifications concerning an employee, which may be also submitted by another employee or a third person.

From the view of application of certain whistleblowing schemes, also Section 12 of the Act in question is interesting, since it empowers the employer to issue the work rules and thereby to regulate in more detail the submission of notifications within the meaning of Section 13. Therefore, there is room for certain progress towards a more accurate and detailed regulation.

The Act No. 152/1998 Coll. on Complaints ("**The Act on Complaints**") can be regarded as a general regulation of the submission of complaints and thus, directly related to the issue of whistleblowing. The Act on Complaints enables to address a public body with a notification, and at the same time, it imposes on the public body the obligation to handle such notification. Personal scope of this Act does not cover private sector as an obliged entity. The complaints are filed both by natural persons and legal entities which means that the group of potential claimants is not limited in any way. The public administration bodies which register, handle and check the handling of complaints within the meaning of this Act are: state authorities and organizations established by them, municipalities and organizations established by them, legal entities and natural persons entrusted by law with the making of decisions concerning the rights and obligations of natural persons or legal entities.

The protection of the claimant is addressed in Section 6, 7 and 8 of the Act on Complaints.

The submission of a complaint shall not become an impulse or reason for drawing consequences resulting in any harm to the claimant.

The head of the public administration body or an employee entrusted by the head shall be competent to handle the complaint. If the complaint is against the head of such body, it shall be handled by the most immediate superior body. If there is no such body, the central state administration body responsible for the control of the complaint handling shall be competent to handle the complaint in the area of state administration.

⁶ The Civil Service Act does not state the right of an employee explicitly but makes references to the numbers of sections in the Labour Code which should be used proportionally. Such approach makes the reading and understanding of legal provisions more difficult for the employees.

The central body for the complaint handling within the meaning of Section 24 Par. 1 of Act No. 575/2001 on the Organization of Activities of the Government and Organization of the Central State Administration shall be the Office of the Government of the SR.

The introductory provision of the Act on Complaints brings uncertainty to the interpretation in the context of whistleblowing, since it states that a complaint pursuant to this Act shall not be regarded as a filing the handling of which is governed by a special regulation. If there is a special regulation in other act, the complaint has to be filed according to such special regulation and not according to the Act on Complaints. According to the opinion of the Office of the Government of the SR⁷ this also allows for the exclusion of filings leading to crimes. However, it is not completely clear what the proceedings in various cases would be like, and where the dividing line is, in particular given the fact that the institute of whistleblowing is not provided for in the legislation. The Act on Complaints should also cover the filings falling within the definition of whistleblowing.

1b. Private Sector

The private sector follows in particular the Labour Code.

Within the meaning of Section 13, Par. 3 of the Labour Code, the exercise of rights and obligations arising from the labour relationships in accordance with good moral. No one may abuse these rights and obligations to the detriment of another participant of the labour relationship or co-employees.

No one can be persecuted or otherwise sanctioned at the workplace in connection with the exercise of labour relationships for filing a complaint, action or petition for the commencement of prosecution against another employee.

This provision may be understood as a certain principle valid for the entire area of labour relationships, thus also for the application of the whistleblowing system.

The provision of Section 81 (f) of the Labour Code is problematic and also conflicting to certain extent. According to this provision the employee shall be obliged to “keep confidential the facts he/she has learnt during the execution of employment and which may not be, in the interest of the employer, disclosed to other persons”. Of course, there is no legal definition of the “fact which may not be disclosed to other persons in the interest of the employer”.

Also Section 340 of the **Criminal Code** is interesting from the perspective of the issue of whistleblowing. Within its meaning a person who learns, in a trustworthy manner, that other person has committed e.g. one of the crimes of corruption, and fails to immediately notify the law-enforcement authority or police forces of such offence or crime, shall be sentenced to imprisonment of up to three years.

This provision may be regarded as the laying down of the general whistleblowing obligation in the case of the criminal acts reaching a certain level of social danger as specified in the provision in

⁷ Interview with Milan Ježo, the Office of the Government of the SR, the Section of Control of the Fight against Corruption, April 14, 2009

question, under the sanction of imprisonment of up to three years. However, the provision in question is double-edged, since it might also function as a threat against the whistleblower, in the case she/he only makes the notification within the organization and fails to notify the law-enforcement authorities.

Restrictions concerning the obligation to provide information follow from several legal regulations⁸ on the protection of secrecy, personal data protection. Certain restrictions for an employee also result from the Labour Code as specified above.

1c. Cases of Whistleblowing

The following section also presents several cases related to the issue of whistleblowing.

There are no publicly accessible statistics from which lawsuits of employees due to sanctions for submitting a complaint could be identified. We could learn of certain specific cases from the activities of ALAC in Slovakia⁹, further, indications of such cases are presented by the media and, as a source of information, we have also used personal interviews with the personnel of the Slovak National Centre for Human Rights who focus on the employees' rights.

The media presented a case of an employee of the Ministry of Environment of the SR who criticized the extraction of trees in the protected national park of Vysoké Tatry. Allegedly, he faced several threats and subsequently left the job by himself.¹⁰

Another case involves an employee who had been employed with her former employer since 1983 to 2005. Her husband had worked with the same employer until 2003. During his employment, the employee's husband often indicated and criticized inadequacies in the employer's economy in the given department, which won him unfavourable position in the eyes of the executives. After several months of conflicts of working and personal nature between the claimant's husband and his supervising employee, the employer finished the employment relationship with the claimant's husband by immediate termination, while the claimant's husband brought an action to the court against this termination of employment on the merits of nullity of the employment termination. Discrimination of the wife followed and her employment was also terminated.¹¹

Another issue discussed in the media is the lawsuit between Mondi Business Paper SCP a. s. Ružomberok and former employees which has ended by a judgement on the nullity of the termination of employment of five employees who were members of the petition committee. The

⁸ For example Act No. 215/2004 Coll. on the Protection of Classified Information and on the amendment to certain acts, Sections 91 to 93(a) of Act No. 483/2001 Coll. on Banks and on the amendment to certain acts, as amended, Section 40 of Act of the National Council of the Slovak Republic No. 566/1992 Coll. on the National Bank of Slovakia, as amended, Section 122 of the Criminal Code, Section 23 of Act of the National Council of the Slovak Republic No. 511/1992 Coll. on the Tax and Fees Administration and on the Changes in the System of the Territorial Financial Authorities, as amended.

⁹ <http://www.transparency.sk/poradna/>, [accessed 20.05.2009]

¹⁰ Database of cases of ALAC in the Slovak Republic.

¹¹ Opinion of the Slovak National Centre for Human Rights on Whistleblowing in Slovakia, 30.4.2009

workers have allegedly caused harm to the Mondi BP SCP company by disclosing false information concerning the amount of their pay, which has not been proven to be true.¹²

Štátne Lesy Slovenskej republiky is a state owned company with the sale of wood as core business. The management of this company is under strong influence of political parties. One half of the employees in the General Directory wrote and undersigned a letter warning that the decision-making of the company management is influenced by clientelism and lobbying groups.¹³ Although the entire management of the company was later sacked and the director resigned, department for public communication (from which initiation came from) was abolished under the new management and can not communicate with media. Moreover, several employees were displaced to other department situated in another city, the new Centre of the Forest and Wood Museum.

¹² The Mondi SCP employees won the lawsuit against their employer, SITA, 24.6.2005

¹³ Sme, 28.6.2009

2. WB Protection Policy & Practice: To what extent is the implementation/enforcement of these protections being promoted by government and the private sector?

As we have already mentioned above, schemes of credible protection of a public employee when disclosing illegitimate practices has not yet been very “domesticated” in Slovakia. There are relatively large differences in the understanding and implementation of whistleblowing in the public and private sectors.

In this section we will focus on the application of the Act on Complaints¹⁴, and subsequently on the practice in the ministries and private companies which have been the subject of our research.

2a Public Sector

The Act on Complaints applies to a relatively large group of public administration bodies¹⁵. On the other hand, the notifications pursuant to the Act on Complaints are only acceptable if they meet certain criteria. This fact leads to ambiguity of the regulation and its possible unintelligibility for employees in the state and public administrations.

The Office of the Government of the SR has a specific position as a central body for the handling of complaints. In 2008, from the total amount of 298 filings designated as complaints, 220 fulfilled the conditions for their processing pursuant to the Act on Complaints. Objections stated in the complaints received pointed to improper acting, non-acting, and violation of legislation e.g. in the area of: justice, self-administration of municipalities, towns and higher territorial units, social security and social assistance, geodesy, cartography, cadastre, taxes, healthcare, soil management and the environment.¹⁶

Within the meaning of the Act on Complaints, the ministries allow for anonymous disclosure of illegitimate practices.

Further, the research has shown that ministries do not specifically solve the question of responsibility for false disclosure and do not draw special responsibility against the person bringing such a false accusation¹⁷.

The state administration strictly follows the legal obligations and individual organizations do not bring innovative approaches to the protection of whistleblowers. On the one hand, the rights to submit notifications for illegitimate practices are guaranteed as mentioned in the preceding chapter

¹⁴ This act applies to a) state authorities and organizations established by them; b) municipalities and organizations established by them; c) legal entities and natural persons entrusted by law with the making of decisions concerning the rights and obligations of natural persons or legal entities.

¹⁵ This act applies to a) state authorities and organizations established by them; b) municipalities and organizations established by them; c) legal entities and natural persons entrusted by law with the making of decisions concerning the rights and obligations of natural persons or legal entities.

¹⁶ Information on the handling of petitions and complaints for 2008 by the Office of the Government of the SR and state administration authorities, <http://www.rokovania.sk/app/material.nsf/0/8C808800B69A8DDDC12575B4004A54F0?OpenDocument> [accessed 15.05.2009].

¹⁷ Replies to the questionnaire distributed to 27 public authority bodies, April/May 2009

but on the other hand, the possibility of trustworthy impartial investigation of the notification is absent. Even such a simple communication channel as a mailbox for notifications is only located in two of 27 examined institutions: at the Ministry of Finance of the SR and at the Antimonopoly Office of the SR. However, the existence of the mailbox at the Antimonopoly Office of the SR does not automatically mean that the received complaints are handled impartially and the whistleblower is protected. The Ministry of Finance of the SR has even no special personnel for the handling of notifications. These are handled by the employees and organizational units of the Ministry of Finance of the SR responsible for the area being the subject of complaints.

It can also be generally observed that there is no form of special compensation for the disclosure of illegitimate practices at the ministries. The payment of such compensation would also be problematic from the legal point of view, unless the relevant legislation is changed at the same time. The ministries do not publish or evaluate the cases of whistleblowing of illegitimate practices through an external mechanism – auditors, consultants. Also, it is not possible to exactly identify in the ministries the procedures defined for whistleblowing of illegitimate practices, since these are not described anywhere, and thus also trainings for civil servants in this issue are missing.

2b Private Sector

A relatively better situation can be found in the examined private companies. The concept of whistleblowing is more known in these companies and is also implemented in different forms and based on different reasons. However, as it follows from the questionnaires and personal interviews, there is a difference between the declared situation and actual use of the developed mechanisms¹⁸. Based on our research, it can be observed that certain private companies only fulfil this task formally and employees do not receive any real protection¹⁹.

All the large companies involved in our research²⁰ have Codes of Ethics also containing provisions concerning whistleblowing. With regard to communication channels, large companies ensure the collection of notifications especially through external consultants – corporate ombudsmen. Other tools used are mailboxes, hot-lines, and special e-mail addresses.

Three of five medium-size companies²¹ involved in our research do not have a code of ethics and they handle the collection of notifications from employees through anonymous mailboxes. A hot-line will be probably put in place in one case in the near future.

Further, we have found out that there is also a difference among private companies concerning the fact whether the employees are made sufficiently familiar with the procedures for whistleblowing of illegitimate practices. Large companies prefer work rules and trainings after the recruitment. They

¹⁸ Interview with Michal Dyttert, the Provident Financial company, 21.5.2009

¹⁹ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

²⁰ Large companies have included Volkswagen Slovakia, Slovnaft, Samsung Electronics Slovakia, U.S. Steel Košice and Slovensky plynarensky priemysel.

²¹ The approached medium-size companies have included IBS Slovakia, Viktor Hybben – HBBN, Unipharma, Provident Financial, Rademaker.

provide additional information to employees through the company's internal periodical or web site. A frequent approach is also the use of a link to the web site of the parent company where a lower interest of employees may be assumed (e.g. the language barrier). The information channel in medium-size companies is mainly in the form of a notice board or internal magazine or memo.

Entities handling the notifications in large companies are external companies – consultants, lawyers, and the like. Medium-size companies handle notifications internally, in particular within the HR department or company management.

The companies do not publish the cases of whistleblowing in their annual reports; they perceive it as the protection of the good reputation of the enterprise. Thus, the positive example of behaviour for other employees is not utilized.

With regard to the companies' procedures for the keeping of confidentiality of the data concerning the identity of the whistleblower, the actual fact of whistleblowing and respective accusations, the large companies handle it with the use of external colleagues and through binding to keep confidentiality. Medium-size companies are not able to successfully guarantee this.

All examined companies also accept anonymous notifications.

3. Incidence of Whistleblowing: How common is the practice of WB in the country?

There are no relevant statistics of the cases of whistleblowing in Slovakia. This fact results on the one hand from the non-existence of legal regulation of whistleblowing as a whole (only partial regulations in other acts) and on the other hand, it is the result of insufficient records of lawsuits. The existing statistics cover the submission of complaints within the meaning of the Act on Complaints, criminal proceedings or private disputes. It is impossible to assess from this data the information concerning the connection with whistleblowing. Records of the Ministry of Justice of the SR do not allow for the differentiation of lawsuits of employees and employers by the subject of the lawsuits. The notification of incidence of illegitimate practices representing a crime is conditioned by the existence of the legal obligation to notify such behaviour to the law-enforcement authorities under the threat of sanctions. There is no single central phone number for the notification of illegitimate practices; several phone lines have been published (e.g. police headquarters, Attorney Generalship, the Office of the Government of the SR, NGOs, and the like)²².

Likewise, it is not possible to identify the volume of funds saved by the disclosure of illegitimate practices by a whistleblower.

²² <http://www.olaf.vlada.gov.sk/3307/kontakt.php>, [accessed 15.05.2009]
<http://www.transparency.sk/poradna/kontakt.php>, [accessed 15.05.2009]
<http://www.genpro.gov.sk/-b-urad-specialnej-prokuratury--b--7381/4602>, [accessed 15.05.2009]

Due to the missing statistics and fragmented legislation in this area, it is not possible to track the incidence of whistleblowing over the time. Also, relevant data concerning lawsuits in this area is not available.

4. Cultural context: What is the public attitude towards the act of whistleblowing?

During the Cold War, the Slovak Republic as one of the two members of Czechoslovakia belonged to communist countries. In 1989, the communist system had collapsed and the new government started to pursue the required reforms in the country. In 1993, Czechoslovakia broke up into two new states: the Slovak Republic and the Czech Republic.

Notification of certain facts concerning third persons to official institutions is not perceived positively in the Slovak society. Based on the conducted interviews, it can be observed that the past and the activities of secret services – ŠTB (former state secret police), which operated through agents and gathered information on third persons - play a certain negative role in this context. The files with information gathered by the secret service of the communist regime in the past concerning the citizens are being disclosed to the public, including the lists of agents.

With regard to the actual willingness of citizens to notify the police of illegitimate practices, only 7% of the citizens would for sure notify if they were asked to provide a bribe, or if they knew of someone accepting bribes. This is a relatively small number. On the contrary, almost two thirds of the respondents (64%) would not notify bribery, in details 41% would probably not notify, and 23% would certainly not notify.²³ On the one hand, the presented statistics prove certain distrust of citizens towards the notification of cases to the police but at the same time, also the unwillingness to solve negative cases the citizens become aware of.

Another factor influencing the decision-making of the citizens concerning the notification of information on unfair practices is the fear of reprisals. As it has followed from personal interviews,²⁴ the employees are not able to exactly identify these sanctions but they know for sure that “they do not want to have problems”. The fear of unemployment as the result of the sanctions against an employee plays a special role in this case. This results in frequent anonymous disclosures, since there is a strong fear of losing the job and of the fact that “they [employees] will not find a new job”. One of the experiences of the Slovak National Centre for Human Rights is also that employers refuse to complete questionnaires coming from external environment used by external entities to assess the working conditions of the employees. Employers try either not to name the problems or to solve them behind the closed doors, inside the enterprise.²⁵

The examined private companies have whistleblowing schemes in place but the effectiveness of the systems is sometimes doubted by their employees due to slow or unconvincing investigation of

²³ Perception of Corruption in Slovakia, Public Opinion Survey for the TI Slovakia, March 2006

²⁴ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

²⁵ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

notifications²⁶ The mechanisms guaranteed by the Codes of Ethics are not always perceived as an effective tool for employees. Formal rules are mostly well set but their implementation fails.

According to the press monitoring for 2008, only 3 articles were noted in the Slovak media concerning the issue of whistleblowing.²⁷ This fact also underlines the fact that this scheme is outside the centre of public attention.

In cooperation with the Surveillance company, several direct questions concerning whistleblowing have been included in the representative survey ordered by this company:

86 % of participants identified bribery and corruption as the most deteriorative sort of fraud for our society. The whistleblowing, meaning anonymous notification of mischievous practises, is perceived as one of the most efficient control measures. Although nearly 40 % of the respondents confirmed the use of whistleblowing within their organizations, only 32 % of the respondents acknowledged that the organizations took sufficient measures to train and familiarize their employees with the whistleblowing procedures.²⁸

²⁶ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

²⁷ The NEWTON MEDIA agency, key words and phrases: whistleblowing; whistle-blowing; protected disclosure; sanctioning of whistleblowers (notifies); disclosure of illegitimate practices at the workplace/in the office; lawsuits concerning the persecution of whistleblowers.

²⁸ The survey on fraud occurrence in selected Slovak organizations was conducted by ARRA, Surveillance and TPA Horwath in June and July 2009. The survey was strictly anonymous. The sample was made up of 1300 organizations selected according to their size and business segment. 74 organizations took part in the survey and sent their answers.

SECTION B: EXTENT OF WHISTLEBLOWING PROTECTION RULES & THEIR APPLICATION IN PRACTICE

1. Subject matter (definition of wrongdoing): How widely defined are the subject matters covered by WB legislation?

We have found out that the situation in the public and private sectors differs. But these differences consist especially in the practical implementation of whistleblowing.

In the public sector, within the meaning of Section 52, Par. 1 (a) of the **Civil Service Act**, a civil servant has the right to submit complaints concerning the matters of execution of the civil service to his/her service office²⁹. In addition to this right, there is also the obligation of a civil servant within the meaning of Section 53, Par. 1 (v) of the Civil Service Act to notify supervisor or a law-enforcement authority of a loss of, damage to the property owned or administered by the service office. The Civil Service Act also contains a reference to the Labour Code, which grants civil servants a similar level of protection as in the case of the employees in the private sector.³⁰

The Act on the **Execution of Work in the Public Interest for employees in the civil service** states in its Section 13 that if a natural person or legal entity notifies the employer of a violation of an obligation or restriction by an employee pursuant to this Act, the employers shall be obliged to find out whether the employee has violated the obligation or restriction, and to advise such legal entity or natural person, within 30 days of the receipt of the notification, of both the result and measure adopted. The employees in the civil service are also regulated by the Labour Code.

In both cases, the definition of the wrongdoing is focused on the compliance with work obligations or on the violation of **the Criminal Code**.

In the private sector, **the Labour Code** grants protection to every employee if he/she files a complaint. Within the meaning of Section 13, Par. 3 of the Labour Code, the exercise of rights and obligations arising from labour relationships must be in accordance with good faith. No one may abuse these rights and obligations to the detriment of other participant of the labour relationship or co-employees. No one can be persecuted or otherwise sanctioned at the workplace in connection with the exercise of labour relationships for filing a complaint, action or petition for the commencement of prosecution against another employee.

This regulation is relatively austere and has no additional follow-up provisions ensuring the exercise of this right of the employee, i.e. the mechanisms of his/her effective protection. The method of

²⁹ within the organization

³⁰ The Civil Service Act does not state the right of an employee explicitly but makes references to the numbers of sections in the Labour Code which should be used proportionally. Such approach makes the reading and understanding of legal provisions more difficult for the employees.

implementation of the given legal provision may vary in the respective institutions. Our survey has not acknowledged the effectiveness of the protection, since the public is not aware of successful cases of protection of an employee in the court.

However, if the notification concerns behaviour meeting the elements of crime, then the whistleblower shall be obliged to notify the law-enforcement authorities. Section 340 of the Criminal Code states that a person who learns, in a trustworthy manner, that other person has committed e.g. one of the crimes of corruption, and fails to immediately notify the law-enforcement authority or police forces of such offence or crime, shall be sentenced to imprisonment of up to three years

This provision may be regarded as the laying down of the general whistleblowing obligation in the case of the criminal acts reaching a certain level of social danger as specified in the provision in question, under the sanction of imprisonment of up to three years.

2. Scope of personnel coverage: How wide is the scope of personnel who is protected by the WB legislation?

Protection defined by several legal regulations differs with regard to the public sector and private sector.

The employees in the public sector are either covered by the State Service Act or by the Act on Execution of Work in the Public Interest. Both - public servants as well as civil servants are covered by the Act on Complaints. Public servants are also covered by Labour Code.

Within the meaning of the Act on Complaints, the filing of a complaint shall not become an impulse or reason for the drawing of consequences causing any harm to the claimant. A complaint means a notification by any natural person or legal entity.

There is a special regulation for civil servants within the meaning of the Civil Service Act and Code of Ethics issued based on this Act. The Civil Service Act regulates the rights and obligations of civil servants.³¹ The Ministry of Labour, Social Affairs and Family of the SR states that the termination of the Office for Civil Service has also meant the extinction of the Code of Ethics of a Civil Servant, and there are no plans to issue a new one³². However, the Act itself contains many provisions speaking of the expected behaviour of a civil servant. It also contains provisions enabling for disciplinary sanctions and investigation of a notification. However, it does not guarantee efficient mechanisms of the whistleblower protection.

Likewise, the Act on the Execution of Work in the Public Interest imposes an obligation on the public administration employees, however, similarly to the Civil Service Act, it fails to guarantee efficient protection of the whistleblower of illegitimate practices at the workplace. There is also a

³¹ These include e.g. the employees of ministries and other central state administration bodies, local state administration bodies, other state administration bodies defined under special acts.

³² Reply of the Ministry of Labour, Social Affairs and Family of the SR, as of 27.5.2009

special regulation for other groups of employees, e.g. the police, Attorney Generalship, judges and the like – while the questions associated with the efficient protection are similar to those concerning the types of public sector employees mentioned above.

Private sector employees are covered by the Labour Code which also leaves the organizational autonomy to the employers when defining the whistleblower protection schemes.

Special notification obligations are imposed on the group of entities defined by law³³ in connection with the fight against legalization of income from criminal activities. The Act No. 297/2008 Coll. on the Prevention of Money Laundering and Terrorist Financing imposes the obligation to notify of a suspicious business operation³⁴.

3. Internal disclosure channels: To what extent is there an adequate internal disclosure mechanism available?

The state administration only follows the procedures defined by law. This means, in particular only the use of the legal institute of complaints according to the Civil Service Act, the handling of which is the responsibility of the service office. On the other hand, nothing prevents a state administration organization to introduce innovative elements for the implementation of legislation into practice through its own administrative practice. Through our research, we have identified three examples of implementation of a simple communication channel in the form of a mailbox for notifications in three out of 27 examined institutions: at the Ministry of Finance of the SR, Antimonopoly Office of the SR and Banska Bystrica regional self-government. Thus, the given examples show that

-
- ³³ a) credit institution;
b) financial institution;
c) Export-Import Bank of the Slovak Republic;
d) gambling operator;
e) postal service enterprise;
f) judicial executor;
g) administrator performing activities within bankruptcy proceedings, restructuring or discharge from debts proceedings according to special regulation;
h) auditor, accountant, tax consultant;
i) legal entity or natural person authorized to mediate sale, rent and purchase of real-estate;
j) lawyer or notary, if he/she provides to the client a service concerning
1. the purchase and sale of real-estate or business shares in a business company;
2. administration or custody of financial means, securities or other property;
3. opening or administration of an account in a bank or branch of a foreign bank or securities account; or
4. establishment, operation or management of a business company, association of natural persons and legal entities, special purpose association of property, or other legal entity
k) provider of the property administration services or services for business companies, unless being an obliged person pursuant to (h) or (j),
l) legal entity or natural person authorized to perform the activity of an organizational and economic consultant, services of public carriers and messengers or forwarding business;
m) legal entity or natural person authorized to operate an auction room, legal entity or natural person authorized to trade in works of art, collector's items, antiques, cultural monuments, cultural items, 31) precious metals or precious stones, legal entity or natural person authorized to introduce to the market products of precious metals or precious stones, 32) or legal entity or natural person authorized to operate a pawn shop;
n) legal entity or natural person authorized to mediate construction saving schemes;
o) other person, if specified by a special regulation.

- ³⁴ A suspicious business operation means, in particular a transaction which:
a) given its complexity, unusually large volume of resources or other characteristic evidently deviates from the usual framework or nature of a certain type of a transaction or transaction of a certain client;
b) given its complexity, unusually large volume of resources or other characteristic has no apparent economic purpose or apparent legal purpose, et sequentia

innovations in the area in question are possible even without legal regulation; however, there are few of them within the Slovak public administration.

However, in addition to the communication channel, it is important to also monitor the way of handling of the notifications received in this way, and it shall be said in this context, that although the Ministry of Finance of the SR has an internal communication channel identified above, however, it has no special personnel for the handling of notifications which are handled by the factually competent employees and organizational units of the Ministry of Finance of the SR. The existence of sufficient communication channels for the notification of illegitimate practices at the workplace without professional and impartial capacity for their handling, and without guaranteed protection of those who do not submit anonymous notifications, is of little added value.

The sample of the examined large companies ensures the collection of notifications in particular through external consultants – corporate ombudsmen. Another tools used are mailboxes, hot-lines, and also special e-mail addresses.

The sample of the examined medium-size companies mostly has no code of ethics and the collecting of employees' notifications is carried out through anonymous mailboxes. A hot-line will be probably put in place in one case in the near future.

4. External disclosure channels: To what extent there is an adequate external disclosure mechanism to independent regulators?

There is no possibility of external disclosure channels in the public sector, with the exception of the law-enforcement authorities.

On the other hand, the examined private companies make use of this method. The large companies subject to the research use for the handling of notifications from their employees external companies - consultants, lawyers, and the like. As mentioned during the interviews, the reason for their implementation is in particular the higher trust of employees in the confidentiality of their identity and the handling of the agenda outside the workplace.³⁵ Private companies also have the possibility to use the services of audit companies focused on forensic audit, which are used in particular by foreign companies in Slovakia.³⁶

³⁵ Interview with Michal Dyttert, the Provident Financial company, 21.5.2009

³⁶ Workshop on the Issue of Whistleblowing in the Slovak Republic, TI Slovakia, Bratislava 16.5.2009

5. Additional disclosure channel: To what extent does the external disclosure mechanism include a disclosure to the media, MP or civil society organizations?

The possibility to approach the media or NGOs³⁷ is not regulated by law or internal rules of any organization. In spite of this fact, such possibility obviously exists. However, both on the part of the public sector and private companies, such behaviour of their employee is not welcomed, and just on the contrary, they exclude it through the obligation to keep confidentiality. Annual reports of the private companies represent a certain disclosure element towards the public, while only one of the examined private companies discloses the cases in the “whole group” annual report.

The Act No. 167/2008 Coll. on the Periodicals and News Agency Service and on the amendment to certain acts (the Press Act) guarantees whistleblower protection.

A periodic press publisher and press agency shall be obliged to keep confidential the source of information obtained for publication in the periodicals or in agency news and also the content of such information, so that the identity of the source cannot be established, if the natural person providing such information requests so, and so that the disclosure of content of the information does not violate rights of third persons; they are obliged to handle written materials, printed materials and other data media, in particular video recordings, audio recordings and audio-visual recordings, based on which the identity of the natural person providing the information might be established, so that the identity of the source of information cannot be disclosed. The media use this protection of their sources of information and present cases the publication of which has been initiated by internal employees.

The confidentiality obligation does not apply to a case when it is an obligation imposed by law to prevent the committing of a crime.

6. Confidentiality: Does the WB legislation include provisions ensuring confidentiality? If so, how stringent and effectively applied are confidentiality rules?

Within the meaning of the Act on Complaints, if the claimant has asked to keep his/her identity confidential or if the confidentiality is in the interest of the proper handling of the complaint, only a copy of the complaint stating nothing which would enable the identification of the claimant shall be used during the investigation. Each party involved in the handling of the matter and which knows the identity of the claimant shall be obliged to keep it confidential. If the claimant has asked for keeping his/her identity confidential but the nature of the complaint does not allow for the handling of the complaint without stating some of the personal data, the claimant must be immediately notified thereof. At the same time, the claimant must be notified that the handling of the complaint will only continue after she/he grants, within the specified period, a written consent to the mentioning of certain required information concerning his/her person.

³⁷ TI Slovakia operates ALAC – advisory center for corruption cases

Civil servants have no special protection of confidentiality pursuant to the Civil Service Act. The submission and handling of notifications at the ministries is subject to the internal procedure which brings several disadvantages, e.g. endangered confidentiality, notifications concerning supervisors are problematic, and the like. Thus, the current legal regulation for the handling of complaints fails to guarantee impartial handling of anonymous cases/complaints and not even of the cases where the whistleblower is known.

Public servants have also no special protection of confidentiality pursuant to the Act on the Performance of Work in the Public Interest. Section 12 of the Act in question empowers the employer to issue the work rules and thereby to regulate in more detail the confidentiality.

The examined private companies also accept anonymous disclosures and they also guarantee confidentiality through a contact person for whistleblowers. Such person is an external consultant bound not to provide identification data of the claimant if the claimant requests so. A private sector employee in large, and sometimes also in medium-size, companies undergoes internal trainings within the company. Also, the Code of Ethics mostly provides him/her with accurate instructions as to where to submit a notification. Companies' documents contain a sufficient scope of rights for employees.

But on the other hand, there are cases of sanctions against employees, the confidentiality of a notification is not always preserved, and the notification system sometimes plays only a formal role³⁸.

However, the fulfilment of this goal is very problematic in practice. Direct disclosure of the person or disclosure through indications for identification in smaller companies may occur both in the public and private sectors³⁹.

7. Restrictions: To what extent do other legal provisions exist which prevent/restrict WB in certain areas? (e.g. state secret act)

In this connection, we can mention the Civil Code which guarantees the protection of the publicity of every natural person, and also grants rights to defence in the court. Also, the Act No. 428/2002 Coll. on the Personal Data Protection represents a certain restriction in connection with the implementation of the whistleblowing schemes. These schemes are approved by the Personal Data Protection Office of the SR. Another restriction is the business secret regulated in Section 17 of the Commercial Code as follows: "A business secret consists of all facts of business, production or technical nature related to the enterprise, which are of actual or at least potential material or non-material value, are not normally available in the relevant business environment, shall be kept confidential according to the entrepreneur's will, and entrepreneur ensures their confidentiality in an appropriate way."

³⁸ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

³⁹ Workshop on the Issues of Whistleblowing in the Slovak Republic, TI Slovakia, Bratislava 16.4.2009

Protection of classified information is defined in several legal regulations: for example Act No. 215/2004 Coll. on the Protection of Classified Information, Sections 91 to 93a of the Act No. 483/2001 Coll. on Banks and on the amendment to certain acts, as amended, Section 40 of the Act No. 566/1992 Coll. on the National Bank of Slovakia, as amended, Section 122 of the Criminal Code, Section 23 of the Act No. 511/1992 Coll. on Tax a Fees Administration and on the Changes in the System of Territorial Financial Authorities, as amended.

Confidentiality obligation – provision of Section 81 (f) of the Labour Code according to which an employee shall be obliged to “keep confidentiality” with regard to the facts he/she has learnt during the performance of employment and which cannot be, in the interest of the employer, disclosed to other persons.” Of course, there is no legal definition of ”the fact which may not be disclosed to other persons in the interest of the employer”.

8. Protection against reprisal/retaliation: What is the scope of reprisals which the WB is protected against?

A legally defined protection only exists in the Labour Code, when no one can be persecuted or otherwise sanctioned at the workplace in connection with the exercise of labour relationships for filing a complaint, action or petition for the commencement of prosecution against another employee. The Civil Service Act also contains a reference to the Labour Code, which grants civil servants a similar level of protection as in the case of the employees in the private sector.⁴⁰

There is no other form of protection. Employees use the assistance of the Slovak National Centre for Human Rights and other non-governmental organizations. Also, there is a possibility of free-of-charge legal assistance. However, this is conditioned by poor economic situation of the claimant.

With regard to sanctions against employees, according to our research they do not take place directly. Employees are either forced (mobbing, bossing) to leave the job or their employment is terminated based on organizational reasons. Basically, the Labour Code does not create major barriers for an employer if he/she wants to dismiss an employee. Employees have the possibility to address the court within the Anti-Discrimination Act. However, the implementation in practice has been so far problematic.⁴¹ The Labour Inspectorate supervises the adhering to the rule of law within the meaning of Section 2 of the Act No. 125/2006 Coll.; after inspections in such organization, it recommends the whistleblowers to exercise their rights in the court within the meaning of the provision of Section 14 of the Labour Code.⁴²

⁴⁰ The Civil Service Act does not state the right of an employee explicitly but makes references to the numbers of sections in the Labour Code which should be used proportionally. Such approach makes the reading and understanding of legal provisions more difficult for the employees.

⁴¹ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

⁴² Reply of Ing. Kubica, The Labour Inspectorate in Žilina to an e-mail as of 23.4.2009

The submission of a complaint within the meaning of the Act on Complaints shall not become an impulse or reason for drawing consequences resulting in any harm to the claimant.

9. Offered remedies: How wide is the scope of offered remedies available to WB?

The Civil Code defines the general liability for damage. Within the meaning of Section 420, Par. 1 of the Civil Code, every one is liable for the damage he/she caused by violating a legal obligation. Employees both from the public and private sectors might seek such compensation. There is no special regulation in connection with whistleblowing.

A remedy consists in particular in the form of the court decision on the nullity of the dismissal of an employee, if the employee received it in connection with the disclosure of illegitimate practices. In such case, the employee shall be also entitled to the compensation for the salary for the period without employment.

There is no form of special compensation for the disclosure of illegitimate practices in the public sector. The payment of such reward would also be problematic from the legal point of view, unless the relevant legislation is changed at the same time.

Also, private companies offer no reward for such disclosures.

10. Right to refuse: To what extent does the WB legislation cover the right to refuse participation in illegal activities?

The Civil Code excludes the binding nature of contracts if they were entered into contrary to the legal order of the Slovak Republic. The right to refuse exists and it is not required to define it specifically in the Codes of Ethics or other internal documents.

11. Legal liability: To what extent does the law impose legal liability for false or malicious reporting?

Illegitimate accusation by a whistleblower can have civil or criminal consequences for him/her.

Civil protection of the victim of accusation:

In this connection, we can mention the Civil Code which guarantees the **protection of the publicity** of every natural persons and also grants rights to defence in the court. A natural person shall have the right to protect his/her personality, in particular life and health, civic honour, and human dignity, and also privacy, his/her name and expression of personal nature. A person who by an illegitimate intervention causes damage, shall be liable for such damage pursuant to the provisions of this Act on Liability for Damage. This would allow the affected persons to defend themselves.

Criminal protection of the victim of accusation:

Another sanction may be the prosecution within the meaning of Sections 345 and 346 of the Criminal Code. **False accusation:** A person who falsely accuses another person from the committing of a crime, with an intention to induce prosecution, shall be sentenced to imprisonment of one to five years. **False testimony and false oath:** A person who as a witness in the court proceedings or in the criminal proceedings or for the purposes of criminal proceedings abroad in front of a procurator or policeman or judge of an international body recognized by the Slovak Republic provides false information concerning a circumstance with significant influence on the decisions or who conceals such circumstance shall be sentenced to imprisonment of one to five years.

A person who in the court proceedings or for the purposes of criminal proceedings abroad, after taking an oath, provides false information concerning a circumstance with substantial influence on the decision or conceals such circumstance, shall be sentenced to imprisonment of two to five years.

12. Whistleblower participation: To what extent is the WB able to participate in the follow-up process to the disclosure?

In cases leading to an investigation by law-enforcement authorities, the WB gets to the position of a witness. The Criminal Code allows for the confidentiality of a witness.

The Act on Complaints: Whistleblowers are notified of the results of the investigation. the claimant is notified in writing of the result of the complaint investigation, if the measures to remove the identified shortcomings and causes of their occurrence have been taken. There is no written notification in the case of an oral complaint handled immediately after its submission. In this connection, no further special rights of WB to participate in the follow-up process to the disclosure arise.

13. Time scale: What are the limits on a time scale for whistle-blowing?

The disclosed illegitimate practices in most case also represent a crime or an offence, and therefore, the relevant provisions of the Criminal Code or Misdemeanour Act are applied. The statues of limitation of a crime depend on the specific merits of the case⁴³. An offence cannot be tried if two years have elapsed from its commitment.

The Civil Code solves the question of the statues of limitation e.g. concerning the compensation for damage which might be claimed by a whistleblower for recourse in connection with the notification of illegitimate practices. There is no further special regulation which would regulate the possibility to disclose an act which happened in the past.

⁴³ The length of the statues of limitation for prosecution represents in case of merits of crimes 5 to 30 years.

14. Independent review: How comprehensive is the independent review system?

There is no independent review system for the disclosure of illegitimate practices. The WB has access to the law-enforcement authorities, and also to other public authority bodies.

The Slovak Republic has the institute of the Ombudsman in place. The Ombudsman cannot cancel or change a decision of any body. He/she can notify the relevant body that its decision or acting is incorrect or in the case of non-acting. He/she performs the so-called "soft law" within which he/she ensures the exercise of his/her scope of powers by means of his/her authority and by appealing to the relevant bodies. Since the establishment in 2002 until March 1, 2009, the Ombudsman has handled a total of 15 632 notifications. The current closing rate of notifications is 96.5% of the total amount of notifications.⁴⁴

⁴⁴ <http://www.vop.gov.sk/v-com-vam-moze-pomoc> [accessed 28 May 2009]

Key Results and Recommendations

The fact that there is no explicit special regulation of whistleblowing is not the biggest problem within the issue of protection of whistleblowing of illegitimate practices at the workplace. The guarantees brought by such regulation in other states can be also achieved by the modification of the existing legislation, while a part of such guarantees is already contained in the existing legislation.

The legal regulation relatively clearly speaks of the possibility, and in criminal cases also of the obligation, to disclose illegitimate practices – also in the case of employees of public and private sectors. However, this regulation does not pay sufficient attention to the WB protection mechanisms during the disclosure of illegitimate practices, and it de facto creates space for employers to ensure this right through internal rules of the organization. The Labour Code provides protection for employees in the private sector and in civil service. However, the Civil Service Act contains no such protective provision.

However, the attitude of employers to the assurance of efficient WB protection differs. Within the sample of the state administration organization, we have not identified any innovations in the area of effective WB protection schemes.

From the point of view of criminal law, it is an obligation of each citizen to notify for example the crimes of corruption. Therefore, the notifications from whistleblowers must be at first examined for the accomplishment of the merits for example of a crime of corruption. Further investigation of the notification not being a crime may take place pursuant to the Labour Code, the Civil Service Act, the Act on the Performance of Work in the Public Interest or the Act on Complaints.

In the examined sample of private companies we have identified progress in the efforts to implement effective protection schemes. The approach differs in the connection to the size of the evaluated company, while it applies that large companies have the system of disclosure of illegitimate practices laid down in detail in their Codes of Ethics, they perform trainings for employees and have mechanisms for the implementation of such provisions in place. Medium-size companies perform the disclosure of illegitimate practices through HR departments or company management.

A more serious problem is the relatively high fragmentation of the legal regulation, and thus also the unfamiliarity with the rights of the whistleblowers. It is relatively difficult for an employee to find out which institution is competent to handle his/her notification concerning illegitimate practices. Although the employee knows that he/she has to make such notification to the law-enforcement agencies, only 7% of citizens would certainly do so⁴⁵.

The fragmented legal regulation also allows for bureaucratic approach to the handling of notifications and for their transfer to other authorities from the reasons of incompetence. For example, the Office of the Government of the SR has transferred to other bodies, from the reasons

⁴⁵ Perception of Corruption in Slovakia, Public Opinion Survey for the TI Slovakia, March 2006

of incompetence, 125 out of 298 complaints in 2008.⁴⁶ This can result in a very long period needed for the handling of a complaint and in associated de-motivation of the whistleblower. Whistleblowing and handling of notifications at the ministries is subject to internal procedure which brings several disadvantages, e.g. endangered confidentiality, notifications concerning supervisors are problematic, and the like. Thus, the current legal regulation of the handling of complaints fails to guarantee impartial handling of anonymous cases/complaints or cases where the WB is known.

A private sector employee, in large and sometimes also in medium-size companies, undergoes internal company training. In most cases, the Code of Ethics also provides the employee with exact instructions where to address the notification but on the other hand, sanctions against employees occur, the confidentiality of the disclosure is not always maintained, and the disclosure system sometimes plays only a formal role.⁴⁷

Also the establishment of the facts of the crime “Non-notification of a Crime” is problematic from the perspective of intentions of whistleblowing. The use of the whistleblowing scheme and at the same time, non-filing of a complaint may result in the prosecution of the claimant for this crime. The justness of this legal regulation is questionable.

Sanctions against employees are carried out through the permitted institutes of the Labour Code concerning the termination of employment, e.g. the agreement on termination, dismissal based on organizational reasons. In such cases, the judicial protection of the former employee is very difficult.

Communication means, external or internal, are insufficient, with the exception of large companies. Hot-lines operated by the public administration bodies are not publicized and are not used very frequently.

Also, the WB gains no special protection of his/her interests by filing such a disclosure.

The business secret is used relatively often in practice to cover illegitimate practices, for example when the State cheaply sells state property to a private company the transaction price is not disclosed. Although the legislation⁴⁸ does not exclude this possibility, the political representation accepts such provisions in the contracts with private companies.

Recommendations:

The existing provisions need to be improved significantly. This concerns in particular the improving the degree **of the whistleblower protection**. The legal regulation in the Anti-Discrimination Act might serve as a certain model. An employee is in an unequal position in relation to the employer, since he/she loses lawsuits based on formal reasons. The dismissal is formally correct, although it is evident that the reasons behind the dismissal have been different.

⁴⁶ Information on the handling of petitions and complaints by the Office of the Government of the SR and state administration bodies in 2008, <http://www.rokovania.sk/appl/material.nsf/0/8C808800B69A8DDDC12575B4004A54F0?OpenDocument> [accessed 15.05.2009]

⁴⁷ Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

⁴⁸ Act No. 211/2000 Coll. on the Free Access to Information, as amended.

Further, we recommend the concentration of information on how to proceed **for whistleblowers at one location**. A suitable way would be the unification of the legislative regulation, but this goal is relatively difficult to achieve. Employees may get the information also via the Internet, TV, trade unions, and the like. This information might also include the results of lawsuits in the field of whistleblowing.

Development of the statistics allowing for the monitoring of notifications and their handling. Also, a regulation for the statistics concerning lawsuits. The Ministry of Justice of the SR keeps such statistics and thus, just an extension by several measurable data⁴⁹ would suffice.

Strengthening of communication channels, in particular in the state administration. Inevitably, the external communication channels which would at least bring higher trust among the whistleblowers are missing. Such system may be provided for through the existing institutions, e.g. the Ombudsman or on a contractual basis with private companies, consultants.

Financial motivation of whistleblowers to disclose illegitimate practices. For example a share in the saved financial resources of the employer might serve as such motivation for whistleblowers.

⁴⁹ Date of the particular cases, including the section of the Labour Code, decision in that case, etc.

References

Legal Acts

Act No. 312/2001 Coll. on the Civil Service

Act No. 552/2003 Coll. on the Performance of Work in the Public Interest

Act No. 152/1998 Coll. on Complaints

Act No. 575/2001 Coll. on the Organization of Activities of the Government and Organization of the Central State Administration

The Labour Code

The Criminal Code

Act No. 297/2008 Coll. on the Prevention of Money Laundering and Terrorist Financing

Act No. 428/2002 Coll. on the Personal Data Protection

Commercial Code

Act No. 483/2001 Coll. on Banks

Act No. 566/1992 Coll. on the National Bank of Slovakia

Act No. 511/1992 Coll. on Tax and Fees Administration and on Changes in the System of Territorial Financial Authorities

Act No. 211/2000 Coll. on the Free Access to Information, as amended

Act No. 167/2008 Coll. on Periodicals and Agency News Service and on amendment to certain acts (the Press Act)

Publications, Surveys and Monitoring

Perception of Corruption in Slovakia, Public Opinion Survey for the TI Slovakia, March 2006

Slovak Media Monitoring for 2008, the NEWTON MEDIA agency, May 2009

Information on the handling of petitions and complaints by the Office of the Government of the SR and state administration bodies in 2008

<http://www.rokovania.sk/appl/material.nsf/0/8C808800B69A8DDDC12575B4004A54F0?OpenDocument> [accessed 15.05.2009]

Survey on Presence of Frauds in organizations in Slovakia in 2009, ARRA, Surveillence a TPA Horwath, September 2009

Union on-line catalogue of the library of the Comenius University in Bratislava, Union on-line catalogue of the library of the Bratislava School of Law, Union on-line catalogue of the University Library, Union on-line catalogue of the library of the Trnava University, Union on-line catalogue of the library of the University of Economics, Union on-line catalogue of the library of the Slovak National Library in Martin, Union on-line catalogue of the library of the P. J. Šafárik University, and Union on-line catalogue of the library of the Matej Bel University [accessed May 2009]

Questionnaires, Interviews

Replies to the questionnaire distributed to 27 public authority bodies, April/May 2009

Replies to the questionnaire distributed to 10 medium-size and large companies, April/May 2009

Large companies have included Volkswagen Slovakia, Slovnaft⁵⁰, Samsung Electronics Slovakia, U.S. Steel Košice and Slovenský plynárenský priemysel⁵¹. The approached medium-size companies have included IBS Slovakia, Viktor Hybben – HBBN, Unipharma, Provident Financial, Rademaker.

Interview with Milan Ježo, the Office of the Government of the SR, Department for the Control of the Fight against Corruption, April 14, 2009

Workshop on the Issue of Whistleblowing in the Slovak Republic, TI Slovakia, Bratislava 16.4.2009

Workshop participants:

JUDr. Alexandra Stachová	- Ombudsman's office
Ján Lalka	- the Surveillance company
Rudolf Kubica	- the Labour Inspectorate in Žilina
Andrea Hubíková	- the Price Waterhouse Coopers company
Eliška Čísařová	- TI Czech Republic
Veronika Žuffová-Kuncová	- The Personal Data Protection Office of the SR
Jarmila Trnovská	- The Office of the Government of the SR
Milan Ježo	- The Office of the Government of the SR

⁵⁰ Chemical and petroleum refinery, member of the MOL Group

⁵¹ A gas company, shareholders: Slovak Republic through the National Property Fund (51%) and Slovak Gas Holding B.V. – a consortium of the E.ON Ruhrgas and Gaz de France companies (49%)

Emília Sičáková-Beblavá - TIS

Pavel Nechala - TIS

Interview with Michal Dyttert, the Provident Financial company, 21.5.2009

Interview with Daniela Gemerska, Slovak National Centre for Human Rights, 22.5.2009

The opinion of the Slovak National Centre for Human Rights on the Whistleblowing in Slovakia, 30.4.2009

The reply of the Ministry of Labour, Social Affairs and Family of the SR, as of 27.5.2009