

# THE **WHISTLEBLOWER** PROTECTION OFFICE 2023 ANNUAL REPORT



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WHISTLEBLOWER  
PROTECTION OFFICE

THE **WHISTLEBLOWER** PROTECTION OFFICE  
2023 ANNUAL REPORT



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**ZUZANA DLUGOŠOVÁ**  
WPO President



# FOREWORD BY THE WPO PRESIDENT

## ZUZANA DLUGOŠOVÁ

The year 2023 marks the second full calendar year since the Whistleblower Protection Office entered the government agency scene. Although these are the toddler years from both a human and institutional perspective, the WPO has had its share of stress tests in addition to the ordinary first steps.

The Government's 2018 initiative to establish a new independent institution to navigate and oversee the protection of those who blow the whistle regarding threats to the public interest was visionary. It even came a few years before the community of European Union Member States agreed on common whistleblower protection rules, including the related institutional arrangements. And although the WPO only finally became operational in September 2021, it is one of the first European institutions dedicated to the protection of whistleblowers.

The WPO has gradually become known to the economically active population, which has been a major challenge since its incep-

tion. Polling data shows that while only 13% knew about the institution protecting whistleblowers in 2021, it was already 40% by the end of 2023. This is also shown by data on the numbers of people contacting the WPO.

However, the WPO is not the only authority responsible for the protection and support of whistleblowers. In the first line, it is mainly individual employers, in the public sphere these are most public employers, and in the private sphere those who employ at least 50 people. The tone from the top – from managers, ministers, directors – determines how honest and perceptive people behave in the face of dishonesty. Whether they raise their voice in the institution directly or choose to blow the whistle externally, or whether they fear negative consequences and choose not to speak up, or even adapt to the unfair practices. Not only the impressions from interviews with employees, but also data now clearly tell us that economically active people in public administration are more likely to report fraud if they expect more support from the institution.

At the same time, the strongest disincentive to whistleblowing is the expected consequences in the workplace. The responsibility lies on everyone's shoulders, but it is all the greater when we are in a leadership position at any level.

Towards the end of last year, the WPO was faced with statements by some public officials who, unfortunately without being familiar with the whistleblower protection rules in force, questioned their meaning. Alternatively, they attributed actions or decisions to the WPO that did not happen and were not even within its powers. Statements without knowledge of the content of the applicable laws are never indicative of the professional exercise of public office. They send a negative signal to the public that state institutions are not to be respected or trusted. Subsequent efforts to change the existing rules in the Whistleblower Protection Act without any expert discussion, through an accelerated legislative procedure, have sent a further signal of legal uncertainty. Expert debate is essential when making fundamental amendments to legislation and is partic-

ularly true in the sensitive agenda of whistleblower protection.

The WPO was set up to protect the rights of people who, in good faith, blow the whistle on violations of the law. The WPO has the necessary expertise and experience that it is willing to share. Whether with employers who are unsure of their obligations towards protected whistleblowers in the workplace, or with legislators in amending legislation. Quality legislation, as well as the desire of employers to have rules not only in appearance, leads to better conditions for whistleblowers and also to a fairer and more just society.

If we want to live in a democratic state governed by the rule of law, it is important that every state authority creates the conditions for safe whistleblowing without the risk of reprisals and intimidation. Equally without trying to discredit whistleblowers who follow the rules. The strength of the rule of law is tested precisely in situations where the consequences of the rules in force may not be to everyone's liking but are nevertheless respected by all.



**ABOUT THE  
WHISTLEBLOWER  
PROTECTION OFFICE**



The Whistleblower Protection Office was established by Act No 54/2019 Coll. on the Protection of Whistleblowers as a budgetary organisation accountable to the National Council (Parliament) of the Slovak Republic. It is an independent state authority with nationwide remit. The official seat of the WPO is at Námestie slobody 29 in Bratislava, however, due to reconstruction works the WPO has temporarily moved its offices to Jozefská 1 in Bratislava.

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

The basic tasks of the WPO include:

### **1. Whistleblower protection**

The WPO protects the rights and legitimate interests of whistleblowers during and after whistleblowing. For whistleblowers who have obtained "protected whistleblower" status from a prosecutor or an administrative authority, the WPO must approve in advance any work-related measure taken by the employer with which the employees disagree. This is a precautionary protection that gives whistleblowers a guarantee that they will not suffer any harm for choosing to speak up about violations of the law in their workplace.

In the case of what is referred to as 'follow-up protection', the WPO lends a helping hand to whistleblowers who do not have the protected whistleblower status and have already been subjected to a work-related measure with which they disagree. If the WPO determines that it was related to their whistleblowing report, it will sus-

pend the work-related measure for 30 days. The whistleblower must then apply to the court within 30 days, which issues a preliminary injunction, which in practice means that the measure is “frozen” until the court finally decides whether it is valid.

## **2. Advice and support**

The WPO also provides free legal advice to whistleblowers who wish to make a whistleblowing report or seek advice on the protection options available to them. People can approach the WPO at any stage of their case, but ideally, they should do so as soon as they suspect they have encountered an unlawful practice in their workplace.

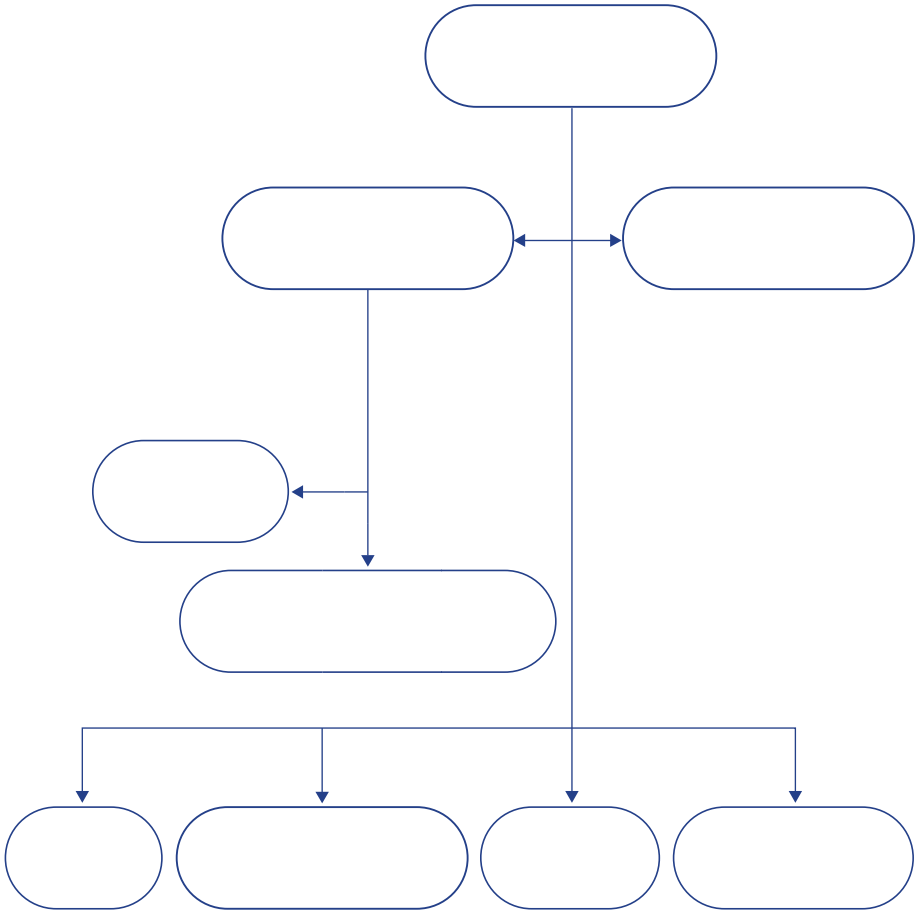
Employers are also supported by the WPO in designing or streamlining their internal whistleblowing mechanisms within the organisation or in investigating complex whistleblowing reports. Both whistleblowers as well as persons responsible can consult the WPO's lawyer via the hotline. Legally binding opinions are issued to employers by the WPO's Legal Department.

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

The WPO receives whistleblowing reports concerning corruption, fraud, serious breaches of the law or other unfair practices compromising the public interest. It is essential that the misconduct is one that the whistleblower has discovered during his or her work – with their employer, in the performance of his or her duties or in the exercise of his or her profession, internship, temporary job, or even in the context of a job interview. Also, that it is made in good faith, which means that at the time of blowing the whistle, the whistleblower believes that they are providing truthful information.

If the whistleblower approaches the WPO anonymously or requests anonymity, the WPO shall file a criminal complaint in its own name.

# ORGANISATIONAL CHART





**WHISTLEBLOWER  
PROTECTION**

The Whistleblower Protection Office is a kind of navigator for people who blow the whistle on violations of the law at work. It provides them with expert advice, but also assistance in reporting misconduct. Mainly, however, the WPO provides protection if their employers somehow penalize them for making the whistleblowing report.

## 2.1 LEGAL PROTECTION

In 2023, the Legal Department's agenda significantly grew year-on-year. The WPO was approached by 533 people and acted on 211 cases within its remit in the year. This includes whistleblowing reports, the whistleblower protection agenda, but also, for example, legal advice to employers or other legal entities, inspection activities and court proceedings. In particular, the share in the agenda of advice to employers and administrative proceedings on suspensions and consents to work-related measures has increased significantly.

Graph 1: Development of the WPO's caseload since its establishment



Out of the 68 cases in 2023 involving whistleblowers, 21 led to retaliation by employers. In most cases, whistleblowers were subjected to coercion, intimidation, or harassment. Also, to suspension, dismissal or discrimination.

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

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

A whistleblower obtains protected whistleblower status if, acting in good faith, they make a qualified whistleblowing report, which may contribute or has contributed to the clarification of serious misconduct harmful to the society or to the detection or conviction of its perpetrator, and the prosecutor or an administrative authority recognises it as such.

The whistleblower then receives a confirmation from the prosecutor or an administrative authority, of which his/her employer and the WPO are also informed and becomes a protected whistleblower. This means that the employer cannot take any work-related measure against the whistleblower, which the whistleblower does not agree to, without the Whistleblower Protection Office's approval. The essence of requesting the WPO's consent is to exclude the possibility that the planned measure is related to the whistleblowing report made. Thus, protected whistleblower status preemptively protects the whistleblower from suffering retaliation for speaking up and blowing the whistle.

**A total of 62 new protected whistleblower statuses** were granted in 2023 to **57 whistleblowers**. Five whistleblowers received two statuses each – one from the prosecutor and one from an administrative authority, or two statuses from the prosecutor's office, as applicable. Most protections were granted by the Public Prosecutor's Office, followed by labour inspectorates and one protection was also granted by the Public Procurement Office.

The WPO is automatically informed of persons who have obtained the protected whistleblower status by the competent authorities.

In 2023, the WPO considered **7 employer requests for consent to a work-related measure**, which is approximately the same level as the previous year. This means that there was a „conflict“ in only 10 percent of the cases of protections granted where the employer was obliged to engage the WPO to pre-emptively review the content and reasons for the proposed work-related measure.

In most cases, the proceedings concerned the termination of the protected whistleblower's employment. In three cases, the WPO granted its consent to the terminations. In two cases, concerning a reprimand and immediate termination of employment, the WPO did not grant its consent. Two proceedings were still pending at the end of 2023.

Unfortunately, the WPO has also encountered a case where the employer, namely the Ministry of the Interior of the Slovak Republic, did not comply with its statutory obligation to contact the WPO before taking a work-related measure with which the whistleblower disagrees. The Ministry temporarily placed 11 police officers with protected whistleblower status out of state service without the WPO's prior consent. The WPO initiated administrative proceedings against the Ministry after having obtained detailed information thereof.

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

If a whistleblower without the protected whistleblower status believes that their employer has taken a work-related measure against them in connection with the whistleblowing report and disagrees with it, the whistleblower may request its suspension by the WPO within 15 days. Unless the employer proves that the measure is unrelated to the whistleblowing report, the WPO will suspend it for 30 days.

This gives the whistleblower time to apply to the court for a pre-

liminary injunction. If the court grants such a preliminary injunction, the whistleblower's employment remains in effect until a final decision on the validity or invalidity of the termination of employment is issued.

In 2023, the WPO received 26 requests for suspension of a work-related measure, which is significantly more than the year before, when the WPO received two requests. It granted the request in three cases and suspended the work-related measure. In 17 cases, the work-related measure was not suspended mainly because the employer was able to prove that the work-related measure was unrelated to the whistleblowing report, the applicants did not indicate the measure that should be suspended, or other procedural conditions were not met (the applicants had been granted protected whistleblower status and the work-related measure should have been approved by the WPO in another proceeding). No decision has been taken yet in the remaining five proceedings pending at the end of December 2023.

### **Anonymised whistleblower cases assisted by the WPO in 2023**

#### **→ Case 1**

*An elementary school teacher reported her suspicions that her colleague was sexually abusing underage female students to school management. Later, several parents of the children did so, too, and they also filed a criminal complaint. The whistleblower was cooperative throughout the investigation by the inspection authorities, for which the employer retaliated against her. Among other things, the employer tried to terminate her employment, wherein the WPO intervened. After a thorough review of the case, the WPO assessed that this was retaliation for the whistleblowing report made and so suspended the termination. The WPO's conclusions were upheld by the competent court, which issued a preliminary injunction. This means that the whistleblower remained employed at the school.*



### → Case 2

An employee of a ministry blew the whistle about illegal public procurement of an IT system. First, internally, to his employer, who assessed that no misconduct had occurred. He therefore subsequently approached the WPO. After verifying the information and documents from the whistleblower, the WPO, in its own name, submitted a petition to the Public Procurement Office (PPO) to review the procurement. After the PPO launched its own inspection of the company, the whistleblower began to experience a change in his supervisor's behaviour, who prevented him from carrying out his normal work activities. The WPO therefore informed him of the option of obtaining the protected whistleblower status, which was granted to him by the Public Procurement Office upon his request. After the completion of the inspection, the PPO imposed two fines on the Ministry in May 2023 for two contracts where the law had been violated – one in the amount of €40,481 and the other in the amount of €7,084.

### → Case 3

There was pressure at the State Centre for Children and Families for staff and professional substitute parents to raise the children in their custody in a strictly Christian faith. When a professional substitute mother objected to what was referred to as the spiritual programme, her employment contract was not renewed, and a child was removed from her custody. That's when she decided to speak up about the practices at the Centre, and so did other staff members. They have filed a whistleblowing report with the WPO, and one employee has also filed a criminal complaint with the Public Prosecutor's Office.

The WPO provided legal advice and assistance to the whistleblowers in obtaining protected whistleblower status. The WPO President

*met with the then Minister of Labour, Social Affairs and Family, and the Centre was subsequently inspected by the Ministry.*

*After the case was publicized in the media, the spiritual program of the Centre was terminated with immediate effect by order of the Slovak Prosecutor General's Office, and the regional Police began to deal with the case. The director of the state-run Centre resigned, and 21 employees withdrew their employment termination notices, which they had jointly submitted in protest against the management and strange religious practices at the Centre. The professional mother received the custody of the removed child back.*

The WPO also oversees whistleblower protection in other ways:

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

## 2.2 ADVISORY ACTIVITIES

Whistleblowing is a complex issue, which is often not easy to navigate. It also appears that Act No 54/2029 Coll. on the Protection of Whistleblowers is not sufficiently clear and understandable for employers and ordinary citizens. That is why the WPO has set up a free hotline (0800 221 213), which can be reached from all over the country every Monday (13:00-16:00), Tuesday (9:00-12:00), Wednesday (13:00-16:00) and Thursday (9:00-12:00).

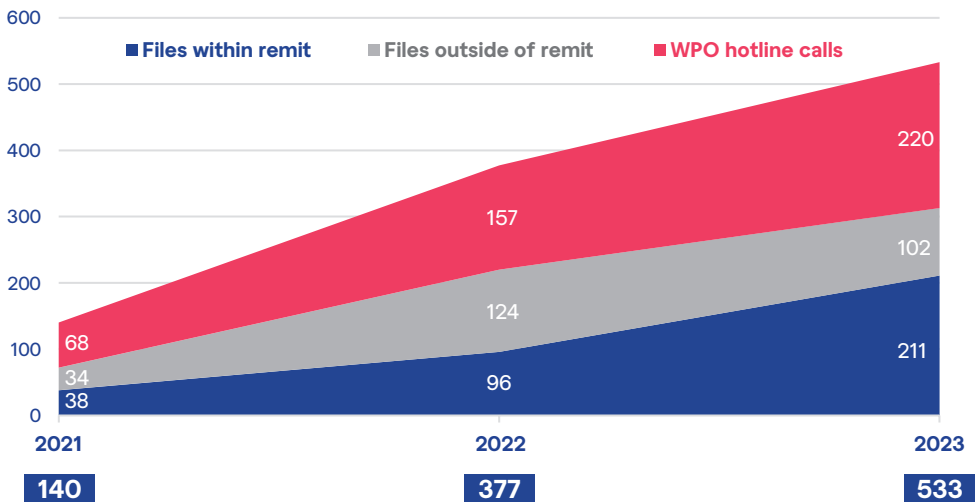
## WHISTLEBLOWER PROTECTION

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

**533 people** approached the WPO either via the hotline, a whistleblowing report form, by mail or in person in 2023. The hotline alone received **220 calls** during the year, a significant increase year-on-year.

The hotline was used mainly by citizens, but also by persons responsible who fulfil the tasks of employers within the meaning of Act No 54/2019 Coll. Also, by law firms and employers themselves.

Graph 2: Development of the WPO's agenda



**The most frequent topics of 2023 in the WPO's remit were, for example:**

- legal advice on legislation (amendment of the law, interpretation of the law, the employer's obligations),
- legal assistance to potential whistleblowers related to the submission of a whistleblowing report,
- advice on whistleblower protection pursuant to § 7 and § 12 of Act No 54/2019 Coll

In addition to advice on whistleblowing, legislation and protection options, citizens were also advised on private and employment disputes. From the beginning of its operation, the WPO has set itself the goal of not automatically turning citizens down when they approach it with problems that fall outside its remit, but at least providing basic guidance on which institution to contact.

## 2.3 PSYCHOSOCIAL SUPPORT

In the course of its practice, the WPO has identified that whistleblowers had other key needs in addition to legal support in their particular situation. Filing a whistleblowing report pointing to breaches of law is a significantly burdensome and crisis situation that not only affects a whistleblower's work life, but also impacts their health, mental health, and family relationships. Moreover, whistleblowers who do not want to continue to be employed where an illegal activity has been committed are also concerned about whether they will find a new job.

The WPO has therefore decided to launch a psychosocial support programme and has established external cooperation with experts in this field. Thus, in practice, in the most serious situations where the whistleblower needs this type of support, the WPO provides tar-

geted individual consultations and counselling focused on psycho-social and career support. One whistleblower used these services in 2023.

## 2.4 REWARDS

By law, the WPO may award a whistleblower a reward of 50 times the minimum wage if the whistleblower makes a qualified whistleblowing report. The legislation sets out the conditions that must be met. For example, a reward request may be made if an indictment has been filed in a case where the whistleblower has contributed to its detection and investigation, or if a final decision has already been taken that an administrative offence had been committed.

The provision of § 9(7) of Act No 54/2019 Coll. also stipulates that there is no legal entitlement to the reward. In practice this means that a whistleblower is not automatically entitled to a reward and the WPO may or may not grant it to the whistleblower after reviewing the specific case.

The law states in the fifth paragraph of § 9 that when deciding on a reward request, “the degree of the whistleblower’s merit in the clarification of serious misconduct harmful to the society, the identification of its perpetrator, the loss of the whistleblower’s earnings and the extent of the assets saved or recovered, if quantifiable, shall be taken into account in particular”.

The WPO received two reward requests in 2023. In one case, the WPO decided not to award the reward for failure to meet basic statutory requirements. The second procedure was still pending in that year.



# WHISTLEBLOWING REPORTS

## WHISTLEBLOWING REPORTS

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

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

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

The WPO received 173 whistleblowing reports from citizens in 2023. Of these, 102 whistleblowing reports could be assessed at the outset as not meeting the conditions for a whistleblowing report under Act No 54/2019 Coll. Of the remaining whistleblowing reports, the WPO recorded **36 where the whistleblowers had also contacted another state authority with their whistleblowing report** and the WPO provided them with advice. In **35 cases, the WPO was their first contact** that they turned to and reported a case of misconduct to.

Predominantly male employees in regular jobs filed whistleblowing reports with the WPO, which follows the 2022 trend. It should be noted, however, that the WPO was unable to determine the sex in all of the cases, as the whistleblowing reports were made anonymously. Overall, in 2023 the WPO has 34 anonymous **whistleblowing reports** on its records, **of which 10 were relevant whistleblowing reports.**

Of the 35 whistleblowing reports, about one third were closed as insufficiently substantiated or as not meeting the conditions of a whistleblowing report at the end of the year. The most frequent whistleblowing reports concerned breaches of duty, abuse of powers and gross waste or poor fi-

## WHISTLEBLOWING REPORTS

nancial management. They were mainly directed against workplace practices of employers in public administration and regional and local government. Also, employers operating in the wholesale and retail, health and social assistance and education sectors.

Of the cases monitored by the WPO, 17 have been the subject of a **criminal complaint**, one of which was filed directly by the WPO. **There were 23 submissions to administrative authorities**, of which five were filed on behalf of the WPO.

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

#### → Case 1 – Criminal complaint to criminal prosecution authorities

An employee of a private IT company noticed that his employer was involved in defrauding other companies that were their customers. This was initiated each time by the employees of the buying companies, who were arranging with his colleague to inflate the prices of the goods they were buying. This is how they enriched themselves and robbed their employer.

An employee of the contractor contacted the WPO directly and made a whistleblowing report. The WPO filed a criminal complaint after having reviewed the supporting documents. The case is currently being prosecuted for the criminal offence of breach of duty in the custody of property of another person.

#### → Case 2 – Whistleblowing report to an administrative authority

An anonymous whistleblower sent a whistleblowing report to the WPO alleging that the Faculty of Pharmacy was not handling hazardous waste according to regulations. After reviewing all evidence and documents, the WPO filed a complaint with the Slovak Environmental Inspectorate, which carried out an inspection at the Faculty in cooperation with the WPO. The inspection identified deficiencies in waste management and the inspectors announced the initiation of administrative proceedings for the imposition of a fine.





**INTERNAL  
WHISTLEBLOWING  
SYSTEMS**

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

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

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

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

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

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<sup>1</sup> Association of Certified Fraud Examiners Report: Report to the Nations on Occupational Fraud and Abuse. 2020.

<sup>2</sup> Stubben, Welch: Evidence on the Use and Efficacy of Internal Whistleblowing Systems. 2020.

<sup>3</sup> Focus Agency poll for the Whistleblower Protection Office on a sample of 1,017 respondents, January 2022.

## 4.1 QUALITATIVE CRITERIA FOR INTERNAL WHISTLEBLOWING SYSTEMS

In the previous period, the WPO has quite often faced questions from persons responsible about what is and what is not considered a whistleblowing report, how to investigate or record them. Therefore, in the early days of its operation, the WPO's Legal Department developed a number of methodological guidelines, which are published on the WPO website and are intended to help persons responsible to fully perform their roles and responsibilities. The public and private sector manuals, which have also been previously drafted and published by the WPO, can also help.

In 2023, the WPO focused on developing an overview of the essentials that effective and functional internal whistleblowing systems should contain. It is a list of qualitative criteria that summarise statutory obligations and the WPO's recommendations. At the same time, they contain a detailed analysis of each criterion, not only with reference to the specific wording of the respective statutory provision, methodological guidelines or the manuals mentioned above. Consequently, this document sets out specifically what must be fulfilled for the WPO to consider that the criteria are met.

In addition to statutory requirements, the individual criteria reflect good practice to date as well as the fact that good internal whistleblowing systems cannot just be on paper. The management of companies or institutions themselves must be involved in promoting them and encouraging employees to use internal whistleblowing systems. They must also be concerned about creating a safe environment in the workplace that allows employees to speak up if they identify any misconduct.

The WPO's aim was to provide employers, but particularly persons re-

sponsible, with even more detailed guidance, or a kind of 'checklist', to answer the question of whether their own internal whistleblowing system is likely to be workable and usable in practice. The WPO has therefore also published the qualitative criteria on its website so that it can be accessed at any time. At the same time, the WPO presented them personally to persons responsible of the central government agencies and to the professional community at the WPO conference. (Please refer to section 6.1.1 Events.)

## 4.2 ASSISTANCE WITH STREAMLINING INTERNAL WHISTLEBLOWING SYSTEMS

The WPO has also committed to developing qualitative criteria for effective internal whistleblowing systems in the Open Government Initiative 2024 – 2026 Action Plan. It also promised cooperation in their implementation into existing internal systems of the central government agencies. This task builds on the WPO's commitment in the previous 2022 – 2024 Action Plan: to assist in improving internal whistleblowing and whistleblower protection systems of central government.

The WPO considers that the review of the institutions' whistleblowing systems based on the established criteria will help to improve their quality and thus to better and more effectively protect whistleblowers and the public interest. In practice, the new commitment means:

- signing of a memorandum of cooperation between the WPO and a central government agency,
- review of the institution's current guidelines on the receipt and investigation of whistleblowing reports,
- a review of the internal whistleblowing reports received in the

last calendar year in which the institution recorded any whistleblowing report,

- an interview with the person responsible of the institution to complete the information,
- drafting and submission of an assessment report evaluating the internal system for the investigation of whistleblowing reports, with recommendations for changes where appropriate,
- if necessary, providing consultation on the introduction of changes to the internal system for investigation of whistleblower reports for the following two months.

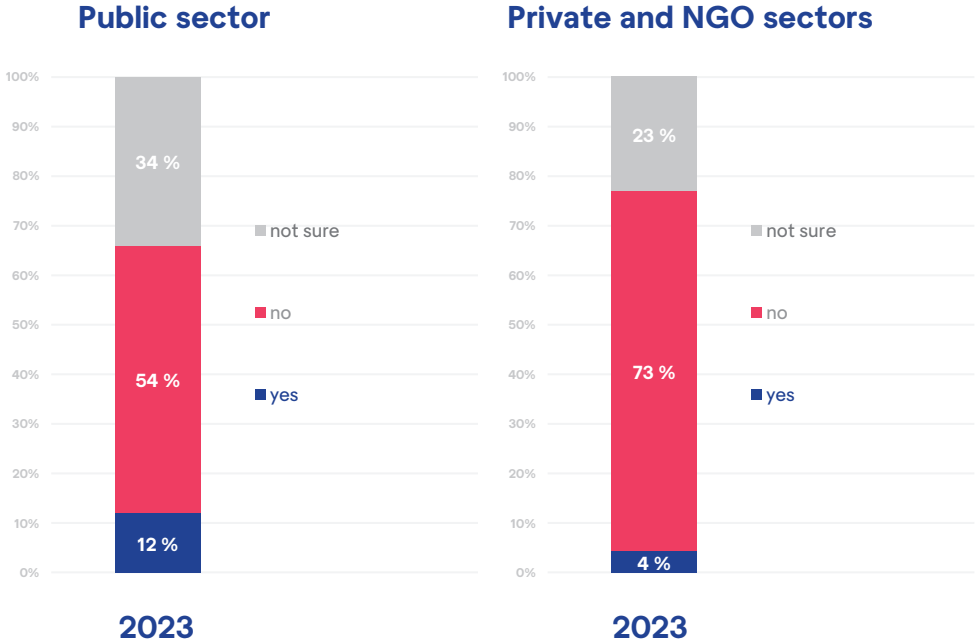
In late 2023, the WPO approached the Public Procurement Office (PPO) with a request for “piloting” the assistance. Following the signing of the memorandum between these institutions, the PPO's internal system for the investigation of whistleblowing reports was subsequently assessed.

The introduction of inception training of central government employees in making whistleblowing reports and whistleblower protection has also been approved in the current action plan. As a matter of fact, shortcomings in this area have also become apparent in practice. The low awareness of internal whistleblowing systems was also highlighted in a May 2023 survey carried out by the Focus polling agency for the WPO. It showed that only 12% of public administration employees were aware of the existence of an internal whistleblowing system in their workplace. In the private sector, the awareness was even lower, at four per cent.

## INTERNAL WHISTLEBLOWING SYSTEMS

At the same time, the WPO committed in the Action Plan (2024 – 2026) to develop and provide employers with inception training content.

Graph 3: Awareness of the internal whistleblowing system in the workplace



The commitment to introduce inception training on internal whistleblowing systems and internal systems for the verification of whistleblowing reports will contribute to staff awareness of their existence and thus to better and more effective whistleblower protection. Moreover, its introduction enables civil society to participate more effectively in the control and protection of the public interest, whereby this commitment also contributes to increasing citizen participation and reinforces the principle of transparency and accountability.

## 4.3 INSPECTION

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

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

The WPO is empowered to draw employers' attention to inadequate or incorrect follow-up of a whistleblowing report and to require rectification or to warn that the measure the employer intends to take against the whistleblower may be contrary to the law, or to recommend measures to ensure compliance with the law.

In 2023, the WPO carried out three inspections:

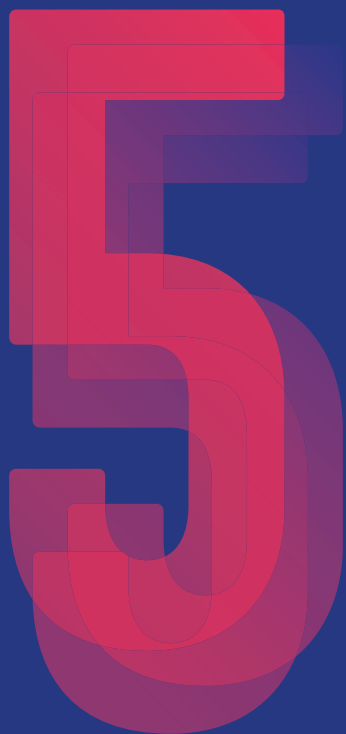
- The **inspection in the Poprad Hospital** was initiated based on a whistleblower's report in connection with the internal whistleblowing system. As the hospital demonstrated that it had internal mechanisms in place to receive and review whistleblowing reports, the inspection was concluded with no deficiencies identified.
- The **inspection at the Ministry of the Environment** was also initiated on the motion filed by an employee of the Ministry. The employee complained to the WPO that his rights had been violated during the investigation of a whistleblowing

report. The WPO subsequently carried out an inspection on both the investigation of the whistleblowing report, with an emphasis on compliance with the confidentiality principle, as well as on the internal whistleblowing system. The WPO noted a long-standing dysfunction of internal whistleblowing mechanisms. The Ministry was obligated to rectify the deficiencies identified, which it did. At the same time, the WPO decided to impose a fine of €7,000, against which the Ministry appealed. The appeal proceedings at the WPO were pending at the time of drafting this Annual Report.

- The **inspection at the Ministry of Foreign and European Affairs** was carried out on the motion of a whistleblower, who drew the WPO's attention to the wasteful conduct of a Ministry employee and at the same time challenged the outcome of an internal investigation of the whistleblowing report. The WPO's inspection focused on the way in which the whistleblowing report was investigated as well as on the functioning of the internal whistleblowing system in general. During the inspection, the WPO found that the whistleblowing report was not submitted through a channel for submission of whistleblowing reports pursuant to Act No 54/2019 Coll. Nevertheless, the Ministry investigated it and drew consequences. Thus, the WPO concluded the inspection without finding any deficiencies.

In early 2023, the WPO also initiated administrative proceedings to impose a fine on the state-owned company Transpetrol based on an inspection that took place back in 2022. The result was a fine of €3,000 for the state-owned company's failure to comply with its obligations with regard to the internal whistleblowing system. In particular, it failed to investigate the whistleblowing report within the statutory time limit and failed to inform the whistleblower of the outcome of the investigation and the measures taken. At the same time, it failed to register the whistleblowing report in the records of whistleblowing reports, which is an obligation under the Whistleblower Protection Act.





**EDUCATION**

## 5.1 EDUCATION OF PERSONS RESPONSIBLE AND STAFF

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

Practical training and training of persons responsible under the Whistleblower Protection Act is carried out by the WPO. In 2023, the WPO focused mainly on the organisation of face-to-face training sessions, which it delivered six times during the year, with a total of 203 participants, persons responsible from both the public administration and the private sector.

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

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

At year end, a first separate working meeting was held with 24 persons responsible from central government agencies, at which the intention and objective to organise regular networking meetings was presented. The WPO included them in the training of persons responsible to exchange knowledge and experience, which will lead to a more effective design of internal whistleblowing systems and investigation of whistleblowing reports in these institutions.

At the first joint meeting, the quality criteria of internal whistleblowing systems were also presented to persons responsible. (Please refer to section 4.1 Qualitative Criteria for Internal Whistleblowing Systems.). The attendees then communicated to the WPO representatives what topics they would be interested in for the next working meetings.

The training of chief inspectors, who perform the role of the person responsible in municipalities pursuant to Act No 54/2019 Coll., was also delivered in 2023. At the working conference of the Association of Municipal Inspectors in Piešť'any, the WPO lawyer explained the legislation and the changes brought by the amendment to the inspectors, the obligations of the inspectors under the law, and answered questions concerning practice.

In addition to training persons responsible, it is equally important to educate employees in the workplace. This is because, as both international research<sup>4</sup> and private sector practice show, it increases the likelihood that unfair practices will be detected. In addition to explaining how an organisation's internal whistleblowing system works, it is also an opportunity to communicate to staff that whistleblowing is appreciated in the institution and that they need not fear retaliation.

Moreover, back in July 2022, the Government approved the Open Government Initiative's 2022 – 2024 Action Plan, and it passed a resolution obliging the persons responsible of ministries, the Office of the Government of the Slovak Republic and other central government agencies to train employees in whistleblowing on an annual basis. Earlier, the WPO has created and published sample training materials on its website both for them as well as for persons responsible in other organisations, which can be used in these trainings.

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

In addition, the WPO has also been actively involved in staff training. During 2023, the WPO trained a total of 616 government sector employees in person or online.

## **5.2 SCHOOL EDUCATION**

As part of the activities of the Prevention and Communication Department, the WPO conducts outreach and educational lectures for university students when requested by the school. In 2023, the WPO taught two hours as part of a lecture for final year students of the Faculty of Security Engineering at the University of Žilina about crime prevention. The WPO lecture was mainly focused on Act No 54/2019 Coll., but also on the change of attitudes and values in respect of fighting corruption, fraud and other unfair practices, or the perception of whistleblowers.

During the year, however, most of the efforts in this area were devoted by the WPO mainly to a project with the working title Values Education in Secondary Schools. The project was divided into several phases. To begin with, the WPO, in collaboration with the National Institute of Education and Youth (NIVAM), conducted a Survey of Students' Values and Attitudes on Academic Honesty and Relationship to Justice. The WPO analysts prepared the questions and methodology for the survey, and NIVAM distributed it electronically to 31 secondary schools.

The questionnaire was completed by 2,508 students and for the first time examined the state of values education in Slovak schools. Among other things the survey found that only half of high school students would be willing to report corrupt conduct they have encountered. This reflects the well-developed culture of not speaking up that still prevails in Slovakia. Appropriate teaching in schools could reverse this society-wide mindset. However, according to the

survey, most high school students in Slovakia have not received education on topics such as anti-corruption behaviour and/or values and integrity. At the same time, almost half of teenagers believe they could play an active role in spreading honesty and anti-corruption behaviour in the country. (Please refer to Chapter 7 Analytical Activities)

Lack of knowledge may prevent them from doing so. Personal integrity is one of the behaviours we adopt, we learn. This is where schools can make a significant contribution to preparing young people to become active citizens. The WPO has therefore developed alternative content for the subject of ethics education, i.e., a comprehensive curriculum for the subject, methodological materials for teachers and secondary resources for the needs of teaching the subject. The new content responds to the current challenges of society but is still in line with current legislation and the national curriculum.

The alternative content of ethics education began to be “piloted” in selected secondary schools in 2023 in cooperation with the Ministry of Education, NIVAM and the Bratislava self-governing region. More specifically, these are three grammar schools and two vocational secondary schools from the Bratislava self-governing region. On a regular basis, i.e., once a month, with the participation of a professional mentor, the WPO communicates with the teachers of ethics education in these schools, consults with them on possible questions on individual teaching topics, provides guidance and collects comments from them.

This pilot phase of the project will be followed in the 2023/2024 school year by a two-year experimental validation of the proposed innovative ethics education standards. After a positive evaluation of the experimental validation, the new content will be incorporated into the national curriculum for all secondary schools. This will add topics such as academic honesty, integrity, anti-corruption behaviour and critical thinking to the ethics education.



**COMMUNICATION  
ACTIVITIES**

## COMMUNICATION ACTIVITIES

The WPO's communication activities are mainly aimed at raising awareness about the WPO and explaining its powers. Their goal is also to influence the society that tolerates unfair practices and to contribute to Slovaks being active citizens who speak up when they encounter fraud, corruption, or any other misconduct.

As a means of achieving these goals, the WPO uses not only social media and communication in conventional media, but also its own podcast and events where there is a likelihood of reaching out to more citizens. The WPO organised fewer events in 2023 than in the previous year, when it ran a major communication campaign Silence Is Not Golden, funded under the Recovery and Resilience Plan. It is worth mentioning that in March 2023, this campaign won awards in PROKOP, a prestigious competition of the best communication projects. It ranked top in two categories: best political communication and best integrated campaign of 2022.

In 2023, the WPO's communication was influenced, among other things, by current political events. In particular, the WPO had to respond to a situation in which the Ministry of the Interior, without the WPO's prior consent, placed off duty police officers who had been granted protected whistleblower status by prosecutors, as well as to various verbal attacks questioning the purpose of the WPO and spreading inaccurate or even misleading information about the WPO's activities and powers.

The WPO also responded to a draft amendment to the Whistleblower Protection Act that would, in practice, put whistleblowers at risk and impede investigations into most serious crimes. The WPO – as a body with nationwide remit and practical experience in the whistleblower protection agenda – also communicated its substantive and professional reservations at a press conference, through a press release, social media and several media statements. (Please refer to Chapter 11 Conclusion)

The WPO's communication activities, which are described in more detail in the following sections, as well as the more frequent appearance of the WPO and its President Zuzana Dluhošová in the media, have had an impact on the visibility of the WPO. According to the November 2023 omnibus survey conducted for the WPO by Focus on a sample of 1,015 respondents, awareness of the WPO has increased significantly. Approximately every second citizen of Slovakia already knows that there is an institution that protects whistleblowers, and every third person knows that it is the Whistleblower Protection Office. Thus, the awareness of the WPO among the general population increased from 19% to 34% year-on-year. For the economically active population, which is the target group of the WPO, it increased from 22% to 40%.

As many as 62% of respondents would be willing to report an unfair practice in the workplace, according to a May survey by Focus for the WPO. Most citizens would approach their employer directly (44%), followed by the WPO, non-profit organizations, and the Police. The least willingness was declared towards the Public Prosecutor's Office (22%) and the media (20%). (Please refer to Chapter 7 Analytical Activities)

## 6.1 EVENTS

In 2023, the WPO was involved in three major events as an organiser, partner or guest, informing the public about its powers.

### **Pucung**

In April, the WPO participated in a multi-genre anti-corruption festival Pucung of Nadácia Zastavme korupciu (Stop Corruption Foundation) in Košice. At the information stand, participants could learn about the existence, operation, and tasks of the WPO. They could test their knowledge in whistleblower protection and public interest



protection in an online quiz in which they could also win the WPO merchandise.

Zuzana Dlugošová, the WPO President, was part of the discussion "The (Un)Known Whistleblowers: Why They Spoke Up". Natália Pindrochová, Director of the Prevention and Communication Department, was invited to participate in the discussion "That's How It's Done!", where the WPO was represented as an example of good practice in the field of state communication with the public.

### **What Does the Courage of a Slovak Look Like? Talk Show**

In June, on the occasion of the World Whistleblowers Day, the WPO organised a talk show in Banská Bystrica on the topic of whether we are a courageous nation and whether we are not afraid to investigate and punish those in power, combined with a concert.

### **Pohoda Festival**

In July, the WPO was part of the biggest Slovak music festival Pohoda in Trenčín, which is visited by about 35 thousand people from all over Slovakia. Many of them who visited the WPO's stand were previously unaware of the existence of the WPO or its powers.

They could learn more about the WPO not only directly from the WPO's staff, who spent three days talking and explaining to people the whistleblower protection options and the WPO's remit, but also, for example, by taking an informative online quiz. Other interactive activities for the festival participants were prepared, too.

Zuzana Dlugošová, the WPO President, was at Pohoda in a discussion of the Aktuality.sk portal on current social topics, where she spoke about the WPO's activities and its focus.

### **Whistleblowing in Europe: From the Directive to Action. Conference with international participation**

In early December 2023, the WPO organised a major expert conference in Bratislava. Its aim was to talk both from the professional and human perspective about what whistleblowing and its protection means in practice and to discuss the experience so far and the current challenges arising from the Slovak law as well as the European Union directive.

Representatives of various Slovak institutions, including ministries, the Police, prosecutors, NGOs, and employers, were invited to attend the conference. Not only the WPO's professional staff, but also several distinguished guests from abroad spoke as lecturers.

Among them, for example, Tom Devine, director of the Government Accountability Project's legal program, who has been working on whistleblower protection for decades and has been involved in the development of whistleblower legislation in several countries. Also, Paul Hafellner, legal expert of the European Commission, Viggilencia Abazi, Director of the European Whistleblowing Institute, Laura Valli, member of the Board of Directors of the Italian Anti-Corruption Authority (ANAC) and President of NEIWA, and Harald Christian Scheu, professor at Charles University in Prague.

The session featuring whistleblowers was also highly rated among participants: Raphaël Halet, who as an auditor drew attention to preferential tax treatment of multinational corporations (LuxLeaks case), Marta Bočková, who exposed illegal financial management at the Catholic University in Ružomberok, and Jaroslav Hornof, who pointed out illegal practices on a merchant ship.

### **Discussion by Transparency International Slovakia**

At the end of the year, traditionally on the occasion of the Interna-

tional Anti-Corruption Day, the WPO also took part in a discussion by Transparency International Slovakia (TIS) entitled “Whistleblowing in Slovakia – Where We Are and What Lies Ahead”.

## 6.2 PODCAST

In 2023, the WPO continued the production of the Neumlčaní (Unsilenced) podcast produced by the daily SME. Through interviews with whistleblowers, it tries to:

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

Last but not least also:

- change the perception of whistleblowers by a part of the public to view them as courageous and honest people and not “snitches”,
- inform about the current whistleblower protection options,
- raise people's awareness of the existence of the Whistleblower Protection Office

Six episodes were published during the year which are available on the SME website and on all podcast platforms. On the Spotify platform alone, the podcast has 1,660 subscribers. Its listeners include people aged 18 to 60, but the largest group is aged 28 – 34.

## 6.3 MEDIA

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

In 2023 the number of people following the WPO's social networks grew continuously – at year end there were approximately 8,000 followers on Facebook, 1,500 on Instagram and over 700 on LinkedIn.

Cooperation with conventional media is an obvious part of the communication activities to promote the WPO and its activities to the public. There were 2,788 media mentions of the WPO during the year. The WPO sent five press releases to the media and published them on its website and held two press conferences.

In press releases the WPO reported on:

- the results of a WPO survey which showed that up to half of private companies did not have internal whistleblowing systems in the workplace,
- a survey among high school students, which revealed that half of the teenagers had experience of corruption, and on the validation of the new content of ethics education in secondary schools developed by the WPO (Please refer to section 5.2 School Education.),
- the successful intervention of the WPO in the Centre for Children and Families in Trnava, whose staff alerted the WPO to an inappropriate spiritual programme that the children in its custody had to be involved in,

## COMMUNICATION ACTIVITIES

- the WPO's opinion on the Interior Ministry's treatment of protected police officers,
- the WPO's criticism regarding the forthcoming amendments to the Whistleblower Protection Act.

In addition to standard news reports in print media or online articles, the WPO was also featured in radio and television programmes, where the WPO President commented in particular on the forthcoming amendments to the Whistleblower Protection Act. In this context, the WPO also organised press conferences at which it gave factual and professional explanations of how in practice they would threaten existing whistleblowers and discourage potential whistleblowers.

The WPO also continued its media partnership with the SME daily in connection with the production of the Neumlčaní (Unsilenced) podcast and with the Aktuality.sk news portal in connection with its discussion at Pohoda, which was also broadcast online.



# **ANALYTICAL ACTIVITIES**

## ANALYTICAL ACTIVITIES

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

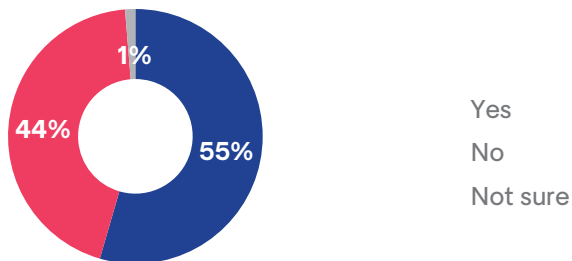
During 2023, the WPO analysts prepared:

→ **Commentary on the mapping of compliance with Act No 54/2019 Coll. in the private sector**

A commentary entitled "Do Slovak Companies Support Whistleblowers?" was published on the WPO's website in February 2023. It was preceded by a survey carried out in cooperation with the MEDIAN SK agency. Its aim was to find out how the Whistleblower Protection Act was implemented in practice in the private sector.

The main finding was that almost half of employers with at least 50 employees did not have internal whistleblowing mechanisms in place. As a matter of fact, they have had this legal obligation since 2015.

Graph 4: Internal whistleblowing mechanisms in the private sector



The WPO's mapping also revealed that only about two-fifths of the companies met all the requirements imposed by the Whistleblower Protection Act. In addition, only 4% of companies recorded any whistleblowing report in 2021.

It follows that internal whistleblowing systems are not widely used by employees in the private sector. Thus, it is likely that companies do not even have them in place, or, even if they do, they do not show many indicators of active employee support for whistleblowing. The result is an underdeveloped speak-up culture in Slovak companies.

### → **Public opinion poll on whistleblowing in Slovakia**

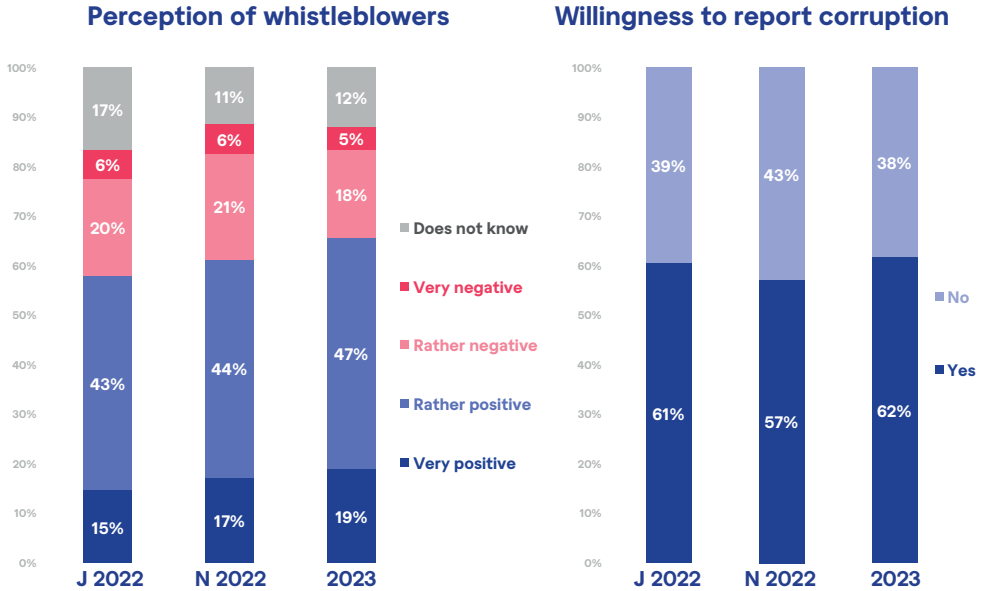
The Analytics Unit developed questions on whistleblowing in Slovakia, which were included in a public opinion poll in cooperation with Focus. The aim was to find out the attitudes of the Slovak population towards whistleblowing on corruption and other unfair practices, the perception of whistleblowers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

Such survey was carried out for the first time in January 2022, and the second wave took place in November 2022, following the WPO's intensive communication campaign, *Silence is Not Golden*. The 2023 survey was conducted in May and subsequently analysts produced an internal report with conclusions.

It turns out that the positive view of whistleblowers has been growing with every measurement. Declared willingness to report violations of the law in the workplace is comparable to January 2022 data.



Graph 5: Perception of whistleblowers & Graph 6 : Willingness to report corruption



In the latest survey in May, people most often mentioned that they would be motivated to report an unfair practice, especially if they could do so anonymously. Also, the availability of protection from dismissal or other retaliation at work, free legal assistance with preparing a whistleblowing report and free advice mattered.

Demand for whistleblower protection has stabilised at 77 per cent and, as already mentioned, awareness of the WPO has increased significantly. (Please refer to Chapter 6 Communication)

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

### → **Research report on the survey into the willingness to whistleblow**

In August, the WPO's analysts published a research report, "To Blow the Whistle or to Keep Silent? Factors Influencing the Decision to Blow the Whistle Regarding an Unfair Practice at the Workplace". It was preceded by qualitative survey conducted in late 2022 in the form of four focus groups, which the WPO did in collaboration with the 2muse agency. Its aim was to understand more closely what factors increase and decrease the willingness of Slovak male and female employees to blow the whistle regarding misconduct they observe.

The main findings of the survey are that individual characteristics of potential whistleblowers do not play any major role in their willingness to whistleblow. More influential are situational characteristics such as organisational culture, possibly the severity of the misconduct identified, as well as environmental factors (legal support and whistleblower protection options). One of the important environmental factors is also the normalisation of rule-breaking, i.e., the general acceptance of the perpetration of various unfair practices in society and the passive attitude of individuals.

Building a speak-up culture is therefore possible not only through appeals to personal responsibility of individuals, but also through building a whistleblowing infrastructure, increasing trust in institutions, improving legislation, raising awareness about whistleblower protection options and comprehensive whistleblower support in extraordinary life situations (e.g., in the form of psycho-social support).

The analysis also identified five groups of factors that contribute to non-/unwillingness to whistleblow. These factors do not operate in isolation, but in various combinations enter individuals' decisions on how to deal with (potential) identified misconduct. The relational as-

pect is also important, as whistleblowers have a particular position in the structure of the company and organisation that employs them, and within these they are dependent on relationships with other people.

Table 1: Factors influencing un-/willingness to whistleblow

INCREASES WILLINGNESS TO WHISTLEBLOW		DECREASES WILLINGNESS TO WHISTLEBLOW	
Sense of integrity/justice Prior whistleblowing experience	<b>Individual and relationship factors</b>	Lack of economic stability Psychological discomfort	
Tone from the top	<b>Organisational factors</b>	Fear of retaliation Delegation of responsibility Mistrust in senior management Mistrust in investigation	
Serious misconduct Personal victimisation	<b>Nature of the identified misconduct</b>	Less serious misconduct by colleagues Lack of evidence Personal gain	
Trust in institutions Legislative protection	<b>Environmental factors</b>	Normalisation of unfair practices in society	
Anonymous whistleblowing Guidance along the process Positive examples	<b>The WPO's role</b>	Perceived dependence on political actors	

Data from the focus groups show that Slovak men and women have experience with unlawful conduct or other misconduct in the course of their work. A part of respondents have reported some violations in the past, although often they have not made any formal whistleblowing report within the whistleblowing infrastructure (internal or external notification systems), either due to its non-existence in the past or their lack of knowledge of such an option.

At the same time, the decision to speak up when such misconduct is identified does not only involve making a formal whistleblowing report but may also take other forms. Most often it is a personal talk to a colleague or subordinate who is responsible for the misconduct. Respondents' accounts suggest that personal talks are more likely to be an option in horizontal relationships (the peer-to-peer level of rank-and-file employees), or when there is a negative perception of whistleblowing. Another type of response to the occurrence of workplace misconduct is termination of employment. Especially in cases where the employee does not want to get into a confrontation with their employer. In such case, several respondents mentioned leaving their job, either as a hypothetical solution or as a personal experience.

→ ***Research report on the mapping of secondary school students' willingness to report unfair practices***

In 2023, a research report entitled "Corruption and Cheating through the Eyes of Secondary School Students" was also produced and published, which analysed in detail a survey carried out in cooperation with the National Institute of Education and Youth. Thanks to it, the first data is available in Slovakia on how young people perceive values such as personal integrity, honesty versus cheating and corruption. Also, how they perceive the relationship between the selected values and their success in personal and professional life.

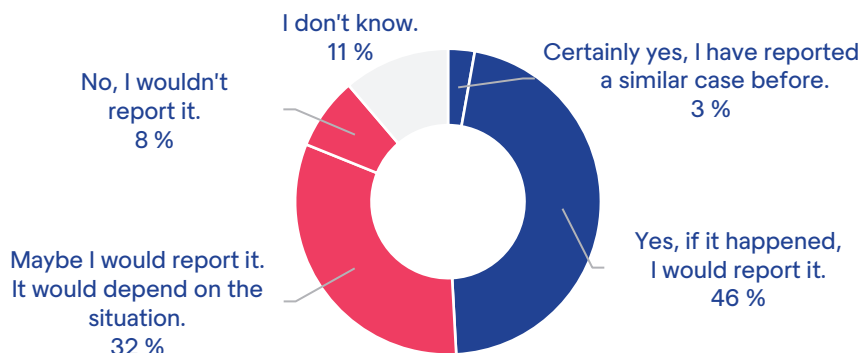
The questionnaire survey was completed by first- and second-year secondary school students and revealed that corruption was not only perceived by young people in Slovakia as widespread, but half of them have also had experience with it. According to secondary school students, the most widespread forms are nepotism, academic dishonesty, and petty bribes in health care. These three types

of misconduct are perceived as common by over 65% of teenagers. These are also corruption situations that about one in four young people have encountered.

What is most accepted among young people is corruption that benefits the family. Almost half of them are benevolent towards such form. However, in addition to family cohesion, secondary school students are also attracted by the possible unfair benefits that can accrue from nepotism. More than half of young people would resort to it to get a good job or to be admitted to a prestigious university. Although slightly more of them said they would feel uncomfortable doing so (31%).

Only half of secondary school students would be willing to report corrupt conduct they have encountered. This reflects the well-developed culture of not speaking up that still prevails in Slovakia. The reasons include fear of retaliation, lack of perception of personal accountability, lack of trust in solving the problem, and relativisation of corrupt acts as not serious.

*Graph 8: Willingness of secondary school students to report corrupt conduct*



### → **Qualitative research into the experience of chief inspectors with whistleblowing in municipalities**

In 2023, the WPO's analysts also carried out qualitative research among chief inspectors who perform the role of the person responsible in municipalities pursuant to Act No 54/2019 Coll. The main intention was to find out their views and practical experiences in relation to whistleblowing in municipalities and the performance of the role of the person responsible. Data collection was conducted through semi-structured interviews with inspectors across regions.

One of the main research findings is that municipal inspectors, especially in larger municipalities (over 2,500 inhabitants), also perform the role of the person responsible for a wider range of established organisations. At the same time, the May 2023 amendment to the Act has complicated the situation in this respect by introducing a "floating" threshold of 50 employees as a criterion for the obligation to set up their own internal whistleblowing system. In addition, it exempted municipal/regional enterprises and non-profit organizations from the option of covering smaller established organizations with a municipal or regional internal system.

There is also a lack of more extensive experience in investigating whistleblowing reports in municipal authorities, which creates room for future training by the WPO. What appears to be another challenge is part-time employment of inspectors in smaller municipalities, which can pose a challenge in practice, due to capacity and time constraints of inspectors, in investigation of whistleblowing reports under the internal whistleblowing system and compliance with statutory deadlines.

### → **Behavioural experiment**

In late 2023, a behavioural experiment was conducted to examine the impact of selected legislative instruments on the stated willingness to report unfair practices in the workplace.

The experiment was conducted in collaboration with the Behavioural and Experimental Analyses Department of the Financial Policy Institute and carried out using a quantitative questionnaire survey conducted by 2muse agency on a sample of 932 respondents.

The main finding of the experiment is that the declared willingness to make a whistleblowing report was positively influenced by the presented option to do so anonymously, using a secure web form. The sole information on legislative protection options or the provision of rewards or financial compensation alone did not lead to a significant increase in the declared willingness to whistleblow.

### → **Statistics of the WPO**

The collection and monthly reporting of data on the WPO's activities is a regular agenda of the Analytics Unit to regularly evaluate the WPO's activities as well as to provide an objective picture of how many people use the WPO's services and in which areas. The focus is on several indicators, such as the number of people who approach the WPO, the number and nature of whistleblowing reports addressed to the WPO, the protection granted to whistleblowers, training provided by the WPO, and others. Quarterly and annual statistics are regularly published on the WPO's website.



# **COLLABORATIONS AND PARTNERSHIPS**



The Whistleblower Protection Office is an independent institution, however, in its work it forges partnerships and collaborations with other organisations, both nationally and internationally. The aim is to increase the WPO's impact and effectiveness and to better achieve its objective – whistleblower protection and prevention of corruption and other unfair practices that compromise the public interest.

The WPO established or enhanced the following partnerships in 2023:

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

Cooperation with the Police and the Public Prosecutor's Office is crucial for the operation of the WPO. As a matter of fact, they are one of the channels to which whistleblowers turn with their suspicions of a crime. The Police or prosecutors are thus one of the contacts where whistleblowers can learn that they are entitled to protection under Act No 54/2019 Coll.

However, whistleblowers may also file a whistleblowing report with the WPO, which forwards them to investigators after the whistleblower's suspicions and relevant documents have been verified. Cooperation can therefore also be important for the successful investigation of cases.

The WPO initiated a meeting with representatives of the Office of the Prosecutor General to address:

- the model of functioning of the Public Prosecutor's Office as an external body for filing whistleblowing reports pursuant to Act No 54/2019 Coll.,
- the scope of data to be disclosed by the Public Prosecutor's Office to the WPO on the number of whistleblowing reports received through the channels established under Act No 54/2019 Coll. and the outcome of their investigation,
- unifying the practice of granting protected whistleblower status.

In 2023, the WPO representatives also participated in a working meeting of an inter-ministerial working group of prosecutors, investigators and members of the police operations services of the National Crime Agency aimed at mutual exchange of knowledge from the investigation of crime suspicions.

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

The Office of the Government of the Slovak Republic (OG SR) is responsible for Act No 54/2019 Coll. on the Protection of Whistleblowers. Both in 2022 and 2023, the WPO worked intensively with the Legislative Department of the OG SR on the amendment of the Act, which Slovakia was required to implement in order to ensure the transposition of Directive 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law. (Please refer to Chapter 10 Amendment to the Whistleblower Protection Act)

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

The WPO cooperated with the Office of the Government Plenipotentiary for Civil Society Development in the preparation of the sixth 2024-2026 Action Plan of the Open Government Initiative. The WPO promised to develop quality criteria for internal whistleblowing systems and the content of inception training in the Action Plan. (Please refer to section 4.2 Assistance with Streamlining Internal Whistleblowing Systems)

Another joint activity is the Platform for Press Freedom and Protection of Journalists, which was established in accordance with the implementation of the task of Government Resolution No 483 of 27 September 2023 on the 2024-2026 Open Government Initiative Action Plan. Its aim is to coordinate the implementation of commitments under international and national initiatives to promote press

freedom and protect journalists. The Platform, of which the WPO is a member, also serves as the national coordinating committee of the Council of Europe's campaign for the safety of journalists.

→ ***The National Institute of Education and Youth, the Ministry of Education and the Bratislava Self-Governing Region***

The WPO has established a partnership with the National Institute of Education and Youth, the Ministry of Education, and the Bratislava Self-Governing Region in connection with the values education project. The purpose of the cooperation is to develop, test and implement new objectives, content, and methods of teaching ethics education in secondary schools that will respond to the current challenges of society, and thus incorporate topics such as academic honesty, integrity, anti-corruption behaviour and critical thinking into the content with innovative methods. (Please refer to section 5.1 School Education)

→ **NGOs**

Cooperation with NGOs working on whistleblowing and anti-corruption themes continued in 2023. In April, the WPO was given room at Nadácia Zastavme korupciu (Stop Corruption Foundation's) Pucung anti-corruption festival. (Please refer to section 6.1 Events.) The WPO President Zuzana Dlugošová was also a lecturer at the Anti-Corruption Academy of the Stop Corruption Community. It focuses on education, awareness raising, and activation of young people aged 17 – 28 years.

The WPO President accepted an invitation from the non-profit organisation Transparency International Slovakia to participate in a discussion on the International Anti-Corruption Day. (Please refer to section 6.1 Events.) The Czech TI headquarters interviewed the WPO President about the WPO's experience so far, which it published on its website.

As part of cooperation with the Pontis Foundation, Zuzana Dluhošová was a juror in the selection of the winner of the Responsible Large Company award. It is awarded to companies with more than 250 employees for their comprehensive and exceptional approach to responsible business conduct.

### → **NEIWA European Network**

In addition to important national collaborations, the WPO has joined international whistleblower protection structures. Back in 2021, the WPO became an active member of NEIWA – Network of European Integrity and Whistleblowing Authorities. It brings together state organisations of the EU Member States and serves primarily as a platform for the exchange and dissemination of whistleblower protection knowledge and experience. It also informally oversees the transposition process of European Directive 2019/1937 on the protection of persons who report breaches of Union law.

As a member of this network, the WPO has offered its analytical capacity to map and compare the activities of the individual institutions in EU Member States that are also members of NEIWA. In 2023, the WPO analysts also started to participate in two working groups, one on the preparation of internal rules for the functioning of the network and the other on whistleblower support. The latter group collects knowledge and “good practice” on the functioning of the various elements of whistleblower support from individual member organisations.

In March 2023, Zuzana Dluhošová was elected Vice President of NEIWA. Together with Laura Valli from Italy, who has become the head of the network, she is in charge of coordinating and sharing experience in whistleblower protection at European level.



# **RESOURCES OF THE WPO**

# 9.1 FINANCING OF THE WPO

2023 was the second year that the WPO went through a complete budget cycle and the first year its spending was not significantly distorted by spending the Recovery and Resilience Plan (RRP) resources. As such, it can therefore be considered as a reference year for the organisation's future budgeting.

By implementing rigorous public procurement and expenditure planning, the WPO did not need to initiate any budget measures in 2023 that would increase the amount of funding for ordinary goods or services.

Table 2: The WPO budget table as of 31 December 2023 (state budget resources, without RRP)

Budget classification		Approved (EUR)	Adjusted (EUR)	Spending (EUR)	Balance (EUR)
610	Wages	563 888	568 904	560 431	8 473
620	Insurance Contributions	186 684	217 611	216 965	646
630	Goods and Services	342 774	371 554	326 033	45 521
640	Current Transfers	35 000	6 543	1 352	5 191
700	Capital Expenditure	50 000	50 000	49 896	104
<b>Total</b>		<b>1 178 346</b>	<b>1 214 612</b>	<b>1 214 612</b>	<b>59 935</b>

## State budget

The WPO has successfully sought to ensure low staff turnover through its pay and staffing policies. Given that the WPO staffing was almost constantly full in 2023, the resources allocated for ex-

isting staff were spent at 98 %. (Please refer to section 10.3 Human Resources)

In terms of the cost of goods and services, the limit was used up at almost 85%, while it was the WPO's priority also in 2023 to rationalise costs through the implementation of public procurement, self-regulation, or finding alternative and less costly ways of carrying out its activities (e.g. outsourcing payroll accounting instead of employing a full-time employee, preparing a learning platform based on open-source solutions instead of costly software purchases, etc.). Detailed descriptions of the goods and services procured are published on the WPO's website and on the relevant specialised portals (the Central Register of Contracts and the Public Procurement Office portal).

Capital resources from the state budget were invested in the renovation of a non-functioning elevator in the WPO headquarters.

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

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

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

Activities 2, 3 and partly 4 have been accounted for under the 2023 activities.

Under Activity 1 - Whistleblower Protection Office Headquarters Reconstruction, a building permit for the reconstruction was obtained in 2023 and planning documentation for the implementation of the construction was delivered. The implementation project was carried out in phases, mainly due to time constraints of the RRP in force at that time. Thus, separate phases covered the exterior part, the interior part and the basement part. The latter part has also been tendered and its implementation has started.

Activity	Approved (EUR)	Spending (EUR)	Balance (EUR)
A1: WPO Building Reconstruction - capital expenditure	961 800	79 020	882 780
A1: WPO Building Reconstruction - current expenditure	23 200	1 020	22 180
A4: Specialised SW	95 624	0	95 624
<b>Total</b>	<b>1 080 624</b>	<b>80 040</b>	<b>1 000 584</b>

### Public procurement

The WPO carried out several public procurements in 2023, most of them for its basic operational needs. However, in addition to these, the WPO also carried out several more complex public procurements, specifically, for the renovation of a non-functioning lift, the implementation of the zero phase of the building reconstruction and the preparation of the purchase of interior furnishings.

During all the above-mentioned activities, the WPO has ensured transparency of the processes. All related supporting documents were duly published on the relevant platforms (EVO, Public Procurement Journal, etc.).



## 9.2 ASSET MANAGEMENT

During the year, the WPO also managed and improved the assets in its custody or possession. The investments or preparations for them were largely directed towards the building reconstruction project. The scope of the reconstruction was reduced due to circumstances related to time constraints using Recovery and Resilience Plan resources, and the entire project was divided into several phases.

The public procurement and signing the contract with the winner of the “zero phase”, which will be implemented by the end of the Q1 2024, took place in late 2023. This phase will include a significant restoration of the underground part of the building, which has had a long-standing problem with dampness, groundwater, and the technical condition of horizontal sewerage pipes. In addition to remediation works and the replacement of the sewerage system, the underground of the building will also be insulated, the windows will be replaced and the common staircase of the building, which is its main communication axis, will be cultivated. In addition, a complete replacement of the dysfunctional lift was carried out in 2023, gradually reducing the movement barriers in the building.

Ongoing work was also carried out to enhance the IT security of the internal environment and the protection of the data held by the institution.

In the context of the WPO's nationwide remit and with an emphasis on enhancing inspection activities, a second official motor vehicle was also procured to carry out activities outside the capital. In purchasing, care was taken to ensure that the car was environmentally friendly, which was reflected in the purchase of a hybrid vehicle. This purchase, funded under the Recovery and Resilience Plan, fulfilled the original fleet procurement intent.

## 9.3 HUMAN RESOURCES

The WPO had almost full staff capacity during 2023. Of the planned 21 staff, 20 were employed at the WPO for most of the year, with vacancies during the year mainly due to natural staff turnover (maternity leaves or staff-initiated job changes).

The WPO has the ambition to be a fair and attractive employer, which is why it has changed its staff appraisal system in 2023. Now it provides even more feedback to both employees and managers.

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

The WPO is stable in terms of staffing but has development objectives. These include mainly the expansion of the WPO's staff capacity and its expertise for the implementation of inspection activities vested in the WPO by law.

10

**AMENDMENT TO THE  
WHISTLEBLOWER  
PROTECTION ACT**

During the summer of 2021, the Office of the Government of the Slovak Republic, which is the promoter of Act No 54/2019 Coll. on the Protection of Whistleblowers, started to prepare its amendment in order to transpose Directive 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law.

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

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

The Government of the Slovak Republic approved the draft amendment to the Whistleblower Protection Act on 9 November 2022, however, the members of the National Council (Parliament) of the Slovak Republic only passed it in May 2023. As a matter of fact, the deadline for transposition of the Directive into the national laws of the Member States has been set at 17 December 2021.

The WPO made efforts to assist the Government Office of the Slovak Republic in amending the Act. Not only by bringing in knowledge from practice on the application of the Act, but also by com-

ing up with concrete legislative proposals. However, some of them were not accepted and, from the WPO's point of view, will result in further dialogue with the European Commission on compliance of the domestic legislation with the Directive.

However, the amendment has brought several important changes to the whistleblower protection agenda. The most important ones include:

- A more precise definition of the concept of a whistleblower and thus of persons who may enjoy protection under Act No 54/2019 Coll. In addition to whistleblowers in an employment relationship, statutory protection also applies to whistleblowers in a relationship equivalent to an employment relationship (e.g., a member of a legal entity's body, activities of a self-employed person, professional practice, volunteer, contractor).
- At the WPO's initiative, the scope of offences that are deemed serious misconduct harmful to the society was expanded, i.e., the whistleblower may be granted protection for reporting them. This is an across-the-board reduction of the upper prison sentence limit of offences from three to two years and an explicit listing of offences for the reporting of which protection may also be granted, although in the basic body of the crime the duration of the sentence does not exceed two years' imprisonment (e.g., compromising health with unauthorised medicines, drugs and medical devices, theft or obstruction of bankruptcy proceedings).
- Trade secrets are no longer a circumstance that excludes the possibility of protection.

- Fines have been increased from €2,000 to €6,000 if a natural person:
  - » threatens to retaliate, attempts to retaliate, or retaliates against the whistleblower for making the whistleblowing report;
  - » breaches the non-disclosure obligation regarding the identity of the whistleblower or the identity of the person concerned; or
  - » attempts to prevent or obstruct the making of the whistleblowing report.

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

- *A fine of up to €100,000 to be imposed on an employer (legal entity) who takes a work-related measure against a whistleblower without the WPO's approval, threatens to retaliate against the whistleblower, attempts to retaliate against the whistleblower, or retaliates against the whistleblower in connection with the filing of a whistleblowing report was introduced. Also to an employer who employs 250 or more employees and has violated any of its statutory obligations relating to internal whistleblowing systems.*
- *A fine of up to €50,000 to be imposed on an employer who is not a public authority and employs at least 50 employees and less than 250 employees, or an employer who is a public authority and employs at least 5 employees and less than 250 employees, who has breached any of its statutory obligations relating to the internal system for the investigation of whistleblowing reports, has been added.*
- *A fine of up to €30,000 is to be imposed on an employer who has not taken any measures to rectify deficiencies identified*

during the inspection of compliance with obligations under the Act or has not submitted to the WPO a written report on the measures taken to rectify the identified deficiencies.

- The scope of obliged persons who will have to have an internal whistleblowing system in place was expanded to include employers who provide financial, transport safety or environmental services.
- A clear obligation has been introduced for employers to have a person responsible for the investigation of whistleblowing reports and communication with the whistleblower from among their employees. Outsourcing or contract performance of the duties of the person responsible is virtually not possible, as employers must have a person responsible at their workplace in all circumstances.
- The external channels or authorities competent to receive whistleblowing reports have been explicitly defined. These include the WPO, the Public Prosecutor's Office and administrative authorities, which may also impose fines.
- Retaliation was also prohibited against people who aided the whistleblower in connection with the whistleblowing report and against persons responsible who investigate internal whistleblowing reports in the workplace.
- The concept of retaliation has been defined and the types of retaliation listed are, by way of example, dismissal, termination of trial period or non-renewal of employment for an indefinite period, removal from office, demotion, or refusal of promotion, and change of job duties, time or place of work.
- The deadlines for informing the whistleblower of the outcome of the investigation of their whistleblowing report have been amended. Before the amendment, the employer could do so within 10 days of investigation of the whistleblowing report; after the amendment, the employer must do so within

*90 days of confirmation of receipt of the whistleblowing report. That is, within the deadline for investigation of the whistleblowing report.*

The amendment entered into force on 1 July 2023, but some of its provisions relating to internal whistleblowing systems and sanctions entered into force on 1 September 2023.

The second attempt to amend the Whistleblower Protection Act came after the parliamentary elections and thus the change of government in the Slovak Republic. On 6 December 2023, the Government approved a draft amendment that was not preceded by any expert and substantive discussion. The Government submitted it to the Parliament without any consultation procedure, using what is referred to as the abbreviated legislative procedure. The WPO has publicly warned that it would cause extensive legal and moral damage to the whistleblowing agenda in practice. Subsequently, not only the WPO, but also the Prosecutor General of the Slovak Republic expressed their concern that the proposed retroactive revocation or revision of protected whistleblower statuses already granted was not consistent with the Constitution of the Slovak Republic. In addition, in the WPO's view, the amendment exposed existing whistleblowers to enormous legal uncertainty.

After a detailed study of the document drafted by the Government, the WPO identified several other controversial provisions which, in addition to their practical negative effects, were in direct contradiction with the binding EU Directive 2019/1937 on the protection of persons who report breaches of Union law.

In its letter, the WPO therefore called on the Prime Minister, the Speaker of the National Council (Parliament) of the Slovak Republic and the Members of Parliament not to support this draft amendment. All the objections communicated in the detailed written opinion were based on substantive arguments and past practice of the WPO.



The WPO warned particularly against the following proposed amendments:

→ ***Change to the definition of a qualified whistleblowing report***

In the amended wording, only a whistleblowing report which is necessary to clarify serious misconduct harmful to the society or which is necessary to identify or to convict the perpetrator of such misconduct should be deemed qualified. This is a condition that is impossible to meet in most cases, and it is also contrary to the EU Directive. Whistleblowers come forward with suspicions of criminal conduct most often at an early stage of the proceedings when such condition cannot be objectively assessed. At the same time, the purpose of protected whistleblowing is not to categorize information as more or less necessary, but to protect and support those who report violations of the law in good faith, regardless of whether the information later proves inaccurate.

→ ***Obligation to state the reasons for granting protected whistleblower status***

This was in stark contrast to the purpose and essence of preventive protection. Moreover, it would create room for obstruction of the investigation directly by law. As a matter of fact, criminal complaints or witness statements contain the suspicion of criminal conduct committed by a legal entity or natural person or employees or associates of the employer itself, who may be directly affected by the potential criminal or administrative proceedings.

→ ***Introduction of a procedure in which an employer could request a review of the protection granted***

According to the submitter of the draft amendment, this was to prevent interference with the employer's rights. Interference with the

employer's rights can only occur when the WPO does not grant its consent to a work-related measure requested by the employer. In such a case, the current legislation provides for proper remedies, including judicial protection, already to date. The essence of granting protection is not to decide on the employer's rights, but to establish a protective regime in relation to the whistleblower, whereby the State expresses that it has made a professional assessment of the quality of the whistleblowing report and establishes a protective regime for the whistleblower. The aim of this regime is to prevent possible retaliation by the employer as a precautionary measure.

Moreover, whistleblowers would be put in direct danger after such an amendment in the law, without any guarantee of protection from the State. Whereas under the existing legislation the whistleblower was informed by the competent prosecutor's office or administrative authority whether protection could be granted in their case, under the draft amendment they could no longer be sure of protection. Moreover, they would disclose their identity on making a whistleblowing report and the protection could be revoked by the Office of the Prosecutor General in turn.

### → ***Exemption of police officers from protection***

When proposing to exempt members of the Police Force from the Whistleblower Protection Act, the Government referred in its Explanatory Memorandum to the personal scope of the European Union Directive, which, however, does not imply that the Directive does not apply to this category of employees. The provision of Art. 25(2) of the Directive at the same time prohibits a reduction in the level of protection already afforded by Member States in the areas covered by the EU Directive.

A sudden change in the whistleblower protection standards for Police officers without any relevant expert discussion is not justified,

especially in a situation where the internal whistleblowing system within the Police Force does not show signs of functionality and is not used in practice, according to the WPO's knowledge so far. Therefore, among other things, Slovakia has long been criticised in the regular reports and recommendations of the Council of Europe's Group of States against Corruption GRECO.

### → ***Retroactivity of the submitted draft amendment***

In addition to retroactively withdrawing all protections granted to Police officers of the Slovak Republic, the draft amendment allowed for a review of all protections granted. Thus, a whistleblower who has decided to report suspicions of serious criminal conduct and has done so precisely because of the current legislation could, under the draft amendment, lose any guarantees of protection provided by the State. Such rules are in stark contradiction with the principle of legal certainty and the prohibition of retroactivity guaranteed by the Constitution of the Slovak Republic.

The Government wanted to adopt all the changes in an accelerated legislative procedure, which had no substantiation and not even a legal basis. The Government's planned steps have been criticised by MEPs, the European Commission and several foreign experts who have many years of practical experience in the agenda. The Whistleblowing International Network (WIN) Director Anna Myers even met with some politicians in Slovakia to warn them that the forthcoming amendment to the Whistleblower Protection Act was incompatible with EU law.

Similarly, the WPO has publicly warned on several occasions that the whistleblower protection agenda was too sensitive to allow changes in this area to proceed without any prior substantive and expert debate. The Government's draft amendment had not been debated in Parliament by the end of 2023.



**CONCLUSION**

## CONCLUSION

The Whistleblower Protection Office has made it its primary task over the past year to clearly highlight breaches of the Whistleblower Protection Act by employers. Also, to identify the negative impacts of a hasty amendment to the Whistleblower Protection Act prepared in December 2023 without any prior expert discussion.

However, in addition to receiving whistleblowing reports and accompanying whistleblowers, the WPO has also contributed significantly to the correct understanding of standards and the development of good practice rules within internal whistleblowing systems. It has given a helping hand to all employers by developing qualitative criteria for internal whistleblowing and also by continuous training of persons responsible. The international conference with the participation of whistleblowers from various countries, European and overseas experts, brought directly to Slovakia a useful professional debate on whistleblower protection.

The behavioural experiment, which showed us what discourages or motivates people to take a stand to protect the public interest, as well as public opinion polls and a survey among the young generation of secondary school students, have once again opened the door to self-knowledge in terms of value attitudes and the fight against corruption. This data also shows us that effectively fighting corruption remains a major challenge and must be everyone's responsibility. However, it is particularly a responsibility of an independent and professional Police and Public Prosecutor's Office, because even high-quality and well-founded anonymous criminal complaints can only be investigated by criminal prosecution authorities.

Last year, in addition to applying the Act in practice, the WPO continuously processed and analysed the need for amendments to the Act, not only from the perspective of the correct transposition of the EU Directive, but also from the perspective of clarity, consistency and predictability of the rules. It has identified several legislative

## CONCLUSION

amendments, but for the purposes hereof the WPO is only listing the most significant ones.

→ ***Rules for receiving and investigating whistleblowing reports through external whistleblowing channels***

Whistleblowers who do not want to or cannot use their employer's internal whistleblowing system can also turn to external channels. According to the law, these are the WPO, the Public Prosecutor's Office and administrative authorities. The main problem with the current legislation is that, despite the establishment of a central institution – the Whistleblower Protection Office – the law also refers to several other institutions that can receive whistleblowing reports, and it is not clear to the average citizen which ones these are. Moreover, the institutions themselves are often unaware of this obligation.

In addition to the clear designation of authorities competent to receive and follow up on whistleblowing reports, it will also be necessary to regulate the rules for such whistleblowing, which are currently absent in the law. From the receipt itself, through the follow-up process, deadlines, confidentiality of the process, to closing of the case and communication with the whistleblower. This is the essence of the rules for secure whistleblowing via external bodies, the details of which are clearly missing in the law.

→ ***Modification of the terms “financial, transport safety or environmental services”***

Pursuant to § 10(1) of the Whistleblower Protection Act, every employer that provides financial services, transport safety services or environmental services shall designate an organisational unit or a person within their organisation to carry out the employer functions pursuant to paragraphs (5) to (8) and § 11(1) (the “person responsible”).

The practice of the WPO suggests that there is no list of such en-

## CONCLUSION

tities in the specific legislation and internal policies of the institutions concerned. It is therefore not possible to identify a specific group of responsible entities which are obliged to set up an internal system to investigate whistleblowing reports, precisely because the above-mentioned statutory condition is met. The general concept of 'financial, transport safety and environmental services' requires an unambiguous definition for the sake of legal certainty for the addressees of the legal standard.

### → **Modification of the mechanism for determining the number of employees to meet the limit of the Directive and the Act**

Both the Directive and the Act make the legal obligation to have an internal system for investigation of whistleblowing reports dependent on the number of employees (Article 8(3) of the Directive, § 10(1) of the Act). For public employers, this is at least 5 employees; for private employers, it is at least 50 employees. However, the law does not specify the mechanisms of how the number of employees is calculated. Meaning what types of employment relationship are to be counted in the specified number and as of what date the specified number is relevant. This issue is legally significant when the employee numbers in private companies fluctuate around the statutory limit.

### → **Specific regulation of the concept of "misconduct harmful to the society"**

The concept of misconduct harmful to the society is currently regulated in Act No. 583/2008 Coll. on the Prevention of Crime and Other Misconduct Harmful to the Society, whereby other misconduct harmful to the society is also considered to be misconduct harmful to the society, which is defined as "an act which is a minor offence or another administrative offence; an act which is not a minor offence or another administrative offence but which has a negative impact

## CONCLUSION

on society is also considered to be other misconduct harmful to the society”.

Whistleblowing under the EU Directive is to include, particularly, the effective detection of serious harm to the public interest, within the recommended areas listed in Article 2 of the Directive. For the best fulfilment of the purpose of the Act as well as the Directive, it is therefore advisable to introduce a specific definition of misconduct harmful to the society in the Act, which will more clearly define the aspect of threat to the public interest and create a more predictable legal basis for the application practice of individual employers.

### → **Whistleblower protection exemptions**

In § 1(3), the Act provides for a number of exemptions, which completely exclude the application of whistleblower protection in selected areas such as: “non-disclosure obligation in connection with the protection of classified information, postal secrecy, banking secrecy, telecommunications secrecy or tax secrecy, the protection of confidential statistical data, unless it is a non-disclosure obligation in connection with the provision and disclosure of medical records, a non-disclosure obligation of members of the intelligence services, or a non-disclosure obligation in the provision of legal services”. However, the essence of effective European whistleblower protection is not to exclude any specific areas from any protection. These are complex legal issues which need to take account of the underlying objective of the Directive within the limits set by, for example, paragraphs 24 – 27 of the Directive's Preamble. At the same time, it is not a priori possible to exclude any whistleblower protection simply because they relate to, for example, tax or banking secrecy or any information from medical records.

According to Recital 31 of the Directive: “Persons who report information about threats or harm to the public interest obtained in the



## CONCLUSION

context of their work-related activities make use of their right to freedom of expression.” The right to freedom of expression and information, enshrined in Article 11 of the Charter and in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, encompasses the right to receive and impart information as well as the freedom and pluralism of the media. Accordingly, this Directive draws upon the case law of the European Court of Human Rights (ECHR) on the right to freedom of expression, and the principles developed on this basis by the Council of Europe in its Recommendation on the Protection of Whistleblowers adopted by its Committee of Ministers on 30 April 2014.

In this context, reference should also be made to the recent ECtHR judgment in *Halet v Luxembourg* (Grand Chamber judgment of 14 February 2023, Application No 21884/18), in which the European Court of Human Rights ruled on a violation of the right to freedom of expression of a whistleblower who disclosed data which, in summary, also contained secrets protected under criminal law. The quoted provision of § 1(3) of the Act thus comes into direct conflict with the Directive on several points.

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

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

seem to be physically manageable to the required quality.

→ **Conflict of interest**

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

Misinterpreted and unaddressed conflicts of interest also have an impact on the proper functioning of internal whistleblowing systems. The organisations or institutions concerned often fail to take into account what is referred to as potential or perceived conflicts of interest, i.e. situations where an official's personal interests or relationships may unduly influence the proper performance of his or her duties. This compromises both the objectivity and impartiality of decision-making and also trust in the internal whistleblowing system itself.

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