

# Steps taken to implement and enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

## SLOVAK REPUBLIC

(Information as of 17 May 2011)

### *Date of deposit of instrument of ratification/acceptance or date of accession*

Slovak Republic signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on 17 December 1997 and ratified it on 14 April 1999.

The instrument of ratification was deposited on 24 September 1999.

Convention entered into effect on 23 November 1999.

### *Implementing legislation*

Criminal Code (Act No. 140/1961 Coll.)<sup>1</sup> was amended by the Act no. 183/1999 Coll. which introduced Article 161b penalising bribery of a foreign public official in international business transactions.

The Slovak Republic introduced the corporate liability into its legal order by Act no. 224/2010 Coll. which amended the Criminal Code (new sections 83a and 83b of the Criminal Code). The act no. 224/2010 Coll. entered into force on 1 September 2010.

### *Other relevant laws, regulations or decrees that have an impact on a country's implementation of the OECD Convention or the Recommendations*

*Criminal Code and Code of Criminal Procedure:* On 1 January 2006 the re-codification of the Slovak criminal law, as based on the work of the Commission for Re-codification of Criminal Law, took effect. The Criminal Code (Act No. 300/2005 Coll. in the wording of latter amendments) together with the Code of Criminal Procedure (Act No. 301/2005 Coll. in the wording of latter amendments) and related laws were adopted by the National Council of the Slovak Republic respectively. Fulfilling international obligations arising from international treaties on fight against corruption and binding for the Slovak Republic, was amongst the aims as set out in preparatory works.

### *Relevant provisions of the Criminal Code:*

- Statute of limitations for the foreign bribery offence: limitation periods vary (from 5 to 20 years) depending on the size of bribe (Section 87 in connection with Section 334)
- Separate definition of foreign public official pursuant to Section 128 paragraph 2
- Separate definition of bribe pursuant to Section 130 paragraph 3 describing bribe as any kind of thing or performance of property or non-property nature to which there is no legal entitlement and thus allowing no exception like e.g. small facilitation payments, as supported also by the recent Slovak Courts' rulings in bribery cases.

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<sup>1</sup> This Act was repealed by a new Criminal Code (Act No. 300/2005 Coll.) which entered into force on 1 January 2006. The new Criminal Code penalises bribery of a foreign public official in the section 334.

- Availability of using an (undercover) “agent” under strict conditions set out in Section 30 in connection with Section 117 (especially paragraph 2) of the Code of Criminal Procedure for the purposes of detection and prosecution of bribery, including bribery of foreign public officials
- General reporting obligation regarding the offence of bribery or suspicion thereof derives from Section 340

*Relevant provisions of the Code of Criminal Procedure:*

- Availability of using broad range of surveillance techniques as stipulated in Chapter 4 of the first part of the Code of Criminal Procedure, Sections 108- 112
- Provisions on undercover “agent” (see above)

*Income Tax Act* (Act No. 595/2003 Coll. as amended by the Act no. 534/ 2005 Coll.) expressly denies tax deductibility of bribes in Section 21 paragraph 1 letter c)

*Act on Auditors, Auditing and Supervision over Execution of Audit* (Act No. 540/ 2007) which entered into effect on 1 January 2008 expressly stipulates in Section 27 paragraph 3 the obligation of auditors to report without undue delay the suspicions of bribery, as based on evidence obtained in the course of carrying out the audit, to law enforcement authorities by the means of written notice sent to them.

*Act on Accounting* (Act No. 431/ 2002 Coll. in the wording of the latter amendments).

*Act on Protection against Legalisation of Proceeds from Criminal Activity and on Protection against Financing of Terrorism* (Act No. 297/ 2008 Coll.). (Relevant provisions) The act was adopted by the National Council of the Slovak Republic (by its Resolution No. 931) on 2 July 2008 and entered into force on 1 September 2008. It contains, inter alia, provisions defining “unusual business transaction” in Section 4, “politically exposed person” in Section 6 and provisions related thereto as well (e.g. reporting obligation of “obliged persons” as stipulated by Section 17, without prejudice to the obligation to report suspicions that a criminal offence was committed to law enforcement authorities pursuant to the Criminal Code).

#### **Section 4**

##### Unusual Business Transaction

1. Unusual business transaction for the purpose of this Act shall mean a legal act or other act which indicates that if it is effected it may lead to legalisation or financing of terrorism.
2. Unusual business transaction shall mean, in particular, a business (transaction):
  - a) which, with respect to its complexity, unusually high amount of financial means used or any other nature obviously deviates from the framework or nature of the specific type of business or business of a specific client
  - b) which, with respect to its complexity, unusually high amount of financial means used or any other nature has no obvious economic purpose or has no obvious statutory purpose
  - c) in respect of which client refuses to identify himself or provide data needed for carrying out the care by obliged person pursuant to Sections 10 to 12

- d) in respect of which client refuses to provide information on anticipated business or tries to provide as little information as possible or provides such information which can be verified by the obliged person only with great difficulties or with considerable costs
- e) in respect of which client makes a request for its execution based on a project which raises doubts
- f) in respect of which the used financial means of low nominal value are in disproportionately high quantity
- g) with a client in respect of whom it can be anticipated that he is not or cannot be an owner of the necessary financial means, taking into account his occupation, status or any other characteristic
- h) in respect of which the amount of financial means at disposal of a client is manifestly disproportionate to nature or extent of his business conduct or to means declared as belonging to him
- i) in respect of which a substantiated assumption exists that a client or an ultimate user of benefits is a person against whom international sanctions are being enforced pursuant to (provisions of) a specific statute or a person who may be in relationship with a person against whom international sanctions are being enforced pursuant to (provisions of) a specific statute or
- j) in respect of which a substantiated assumption exists that its object is or is going to be a thing or service which may be related to a thing or service against which international sanctions are being enforced pursuant to (provisions of) specific statute

## ***Section 17***

### **Reporting Unusual Business Transaction**

1. Obligated person is obliged to report an unusual business transaction or attempt of its execution to financial intelligence unit without undue delay. Obligated person shall report also refusal to execute a requested unusual business transaction pursuant to Section 15 to financial intelligence unit without undue delay.
4. Notification of an unusual business transaction must not contain data of employee who detected an unusual business transaction.
6. Fulfilling the obligation to report an unusual business transaction to financial intelligence unit pursuant to paragraph 1 is not limited by the statutory obligation to observe secrecy pursuant to specific regulations.
7. By reporting an unusual business transaction the obligation to give notice of facts suggesting that criminal act was committed is not affected.

## ***Section 6***

### **Politically Exposed Person**

1. Politically Exposed Person for the purpose of this Act shall mean a natural person holding a public office of considerable significance who does not have a permanent residence on the territory of the Slovak Republic during the discharge of her/his office or during the period of one year after termination of discharging of a public office of considerable significance.
2. Public office of considerable significance shall mean:
  - a) Head of State, Prime Minister, Deputy Prime Minister, Minister, Head of central authority of public administration, Secretary of State or a similar deputy of Minister
  - b) Member of legislative body
  - c) Judge of the Supreme Court, judge of the Constitutional Court or other judicial body of higher instance, against decisions of which no appeal is admissible, except of specific cases,
  - d) Member of the Court of Auditors or of the Council of the Central Bank
  - e) Ambassador, Chargé d'affaires
  - f) High-ranking member of the Armed Forces
  - g) Member of managing body, supervisory body or controlling authority of state-owned enterprise or company of which the state is a proprietor or
  - h) a person holding other similar office in institutions of the European Union or international organisation
3. Politically exposed person for the purpose of this Act shall mean also a natural person, who is:
  - a) a spouse or a person having similar position as a spouse of the person described in paragraph 1
  - b) a child, son-in-law, daughter-in-law of the person described in paragraph 1 or a person having similar position as a son-in-law or daughter-in-law of the person described in paragraph 1 or
  - c) a parent of the person described in paragraph 1
4. Politically exposed person for the purpose of this Act shall mean also a natural person who is known to be an ultimate user of benefits
  - a) of a same client or who otherwise controls a same client as the person described in paragraph 1 or a person conducting business together with the person described in paragraph 1 or
  - b) of a client established for the benefit of the person described in paragraph 1

## ***Other information***

### *Relevant authorities*

#### Bureau of the Fight against Corruption of the Presidium of the Police Corps:

Postal Address:

Račianska 45, 812 72 Bratislava, Slovak Republic

Postal Address of head office:

Novosvetská 8, Bratislava, Slovak Republic

Web: <http://www.minv.sk/?kontakty-7>

#### Office of the Attorney General:

Postal Address: Special Prosecutor's Office

Štúrova 2

812 85 Bratislava, Slovak Republic

or

Suvorovova ulica

Pezinok 90201, Slovak Republic

Web: <http://www.genpro.gov.sk/index/go.php?id=459>

### *Relevant Internet links to national implementing legislation*

[www.minv.sk](http://www.minv.sk) – Ministry of Interior of the Slovak Republic, Bureau of the Fight against Corruption

[www.genpro.gov.sk](http://www.genpro.gov.sk) - Office of the Attorney General

[www.justice.gov.sk](http://www.justice.gov.sk) – Ministry of Justice of the Slovak Republic

### ***Signature/Ratification of other relevant international instruments***

Concerning other relevant international documents aimed, inter alia, at fighting corruption the Slovak Republic has signed and ratified the following conventions and protocols:

#### *United Nations*

1. The UN Convention Against Corruption was signed on behalf of the Slovak Republic (hereinafter only "was signed") on 9 December 2003 and subsequently ratified by the president (hereinafter only "was ratified") on 25 April 2006. With regard to the Slovak Republic it entered into force (hereinafter only "it entered into force") on 1 July 2006;

#### *Council of Europe*

2. The Council of Europe Criminal Law Convention on Corruption was signed on 27 January 1999 and ratified on 25 May 2000. It entered into force on 1 July 2002;
3. The Additional Protocol to the Criminal Law Convention on Corruption was signed on 12 January 2005 and ratified on 6 April 2005. It entered into force on 1 August 2005.
4. The Council of Europe Civil Law Convention on Corruption was signed on 8 June 2000 and ratified on 5 May 2003. It entered into force on 1 November 2003;

5. The Council of Europe Convention on Searching, Detection, Seizure and Confiscation of the Proceeds from Crime was signed on 8 September 1999 and ratified on 12 April 2001. It entered into force on 1 September 2001.

#### *European Union*

6. EU Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union. The instrument of accession was signed on 25 August 2004 and deposited on 30 September 2004. The convention entered into effect on 28 September 2005.
7. Council Framework Decision 2003/568/JHA of 22 July 2003 on Combating Corruption in the Private Sector]

#### ***Working Group on Bribery Monitoring Reports***

Phase 1: Review of Implementation of the Convention and 1997 Recommendation (February 2003)  
<http://www.oecd.org/dataoecd/16/15/2389408.pdf>

Phase 2: Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions (December 2005)  
<http://www.oecd.org/dataoecd/28/15/35778308.pdf>

Phase 2: Follow-up Report on the Implementation of the Phase 2 Recommendations on the Application of the Convention and the 1997 Revised Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions (October 2009)  
<http://www.oecd.org/dataoecd/62/38/40027840.pdf>