



SLOVAK REPUBLIC: FOLLOW-UP TO THE PHASE 3 REPORT & RECOMMENDATIONS

November 2014

This report, submitted by the Slovak Republic, provides information on the progress made by the Slovak Republic in implementing the recommendations of its Phase 3 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 28 November 2014.

The Phase 3 report evaluated the Slovak Republic's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

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SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

a) Summary of Findings

1. Since the Slovak Republic's Phase 3 review by the Working Group on Bribery (WGB) in June 2013, it has implemented the majority of Phase 3 recommendations. However, key recommendations on amending the foreign bribery offence and establishing the liability of legal persons have not been implemented, and the Slovak Republic has still not prosecuted a case of the bribery of foreign public officials. Potential loopholes in the foreign bribery offence have only been addressed in draft amendments to the Criminal Code that are at a very early stage in the legislative process. In addition, draft legislation before Parliament for establishing the criminal liability of legal persons has so far not been adopted.

2. The key recommendations that remain unimplemented address the following steps needed to be taken regarding the Slovak Republic's foreign bribery offence: a) clarify that the definition of a foreign public official in section 128(2) of the Criminal Code applies to any use of the public official's position, whether or not within the official's authorised competence; b) amend the foreign bribery offence in section 335 of the Criminal Code so that it covers the bribery of officials or agents of a public international organisation, in which the Slovak Republic is not a member; and c) amend the offence in section 335 in order to exclude the defence of "effective regret". The Slovak Republic has also not established a form of liability of legal persons punishable by effective, proportionate and dissuasive sanctions, and that does not require the natural person or persons who perpetrated the offence to be prosecuted or convicted.

3. Fully implemented recommendations include those that address training and awareness needs for judges, police, prosecutors and tax inspectors. The Slovak Chamber of Commerce and Industry and Slovak Chamber of Auditors have also been providing regular training and awareness to the accounting and auditing profession on detecting bribe payments in companies' books and records. Additionally, the Slovak Republic increased the use of proactive steps for detecting foreign bribery cases by using sources including mutual legal assistance (MLA) requests, allegations in mass media, and suspicions detected by public service employees and embassy personnel. Other important measures include fully staffing the Special Prosecution Office, and taking concrete steps to effectively respond to MLA requests from other Parties to the Anti-Bribery Convention in relation to foreign bribery cases.

4. Other important recommendations that have not been implemented address the level of sanctions for accounting offences, which have been lowered since Phase 3, and the need for whistleblower protections. Regarding the latter, the legislation was adopted by the Parliament on 16 October 2014. It will enter into force on 1 January 2015 as soon as it is signed by the President of the Slovak Republic.

b) Conclusions

5. The WGB concludes that the Slovak Republic has fully implemented recommendations 1(d), 3(a), 3(c), 4(a), 4(b), 4(c), 4(d), 5, 6, 7(b), 8(a), 8(b) and 11. The Slovak Republic has partly implemented recommendations 9 and 7(a), and has not implemented recommendations 1(a), 1(b), 1(c), 2, 3(b) and 10.

6. The WGB invites the Slovak Republic to submit a further written follow-up report within one year on all non-implemented and partly implemented recommendations. The Working Group also invites the Slovak Republic to provide information in the written follow-up report on the following: 1) practice providing immunities to cooperating offenders, in relation to recommendation 1(d) of the Phase 3 report; and 2) further information on the correct translation of the requirement that the offender "gained or tried to gain a property benefit" in order to be able to sanction foreign bribery under section 56(1) of the Criminal Code, in relation to recommendation 3(a)(ii) of the Phase 3 report.

7. If within one year, the key recommendations on the foreign bribery offence [1(a), 1(b), and 1(c)] and recommendation 2 on the liability of legal persons have not been fully implemented, the WGB will consider sending a high level mission to the Slovak Republic to meet with the relevant ministers and senior officials.

PHASE 3 EVALUATION OF SLOVAK REPUBLIC: WRITTEN FOLLOW-UP REPORT

Name of country:	Slovak Republic
Date of approval of Phase 3 evaluation report:	15 June 2012
Information to be submitted:	16 September 2014

PART I: RECOMMENDATIONS FOR ACTION

Recommendations for ensuring effective investigation, prosecution and sanctioning of foreign bribery

Text of recommendation 1(a):

1. Regarding the foreign bribery offence, the Working Group recommends that the Slovak Republic:
 - (a) Clarify as soon as possible, by any appropriate means, that the requirement under section 128(2) CC that the offence be committed in connection with the public official's "competencies for running public affairs" shall be interpreted as covering any use of the public official's position whether or not it is within the official's authorised competence [Convention, Article 1, 4 (c)];

Action taken as of the date of the follow-up report to implement this recommendation:

This request is dealt in draft of new wording of Article 128 Para 2 of Criminal Code – at the end of part: "by means of using/abusing of his/her position". See taken steps for recommendation 1(b).

Text of recommendation 1(b):

1. Regarding the foreign bribery offence, the Working Group recommends that the Slovak Republic:
 - (b) Amend the wording of section 335 CC to align it to the broader definition of a foreign public official provided under section 128 CC and hence ensure the coverage of "any officials or agent of a public international organisation" in the definition of the foreign bribery offence [Convention, Article 1, 4 (a), Phase 2 evaluation, issue for follow up 14 (a)];

Action taken as of the date of the follow-up report to implement this recommendation:

Concerning the WGB recommendation the Ministry of Justice of the Slovak Republic did the analyse relating to definition of foreign public official and prepared a legislation proposal. So this issue is dealt in actual amendment of Criminal Code and Criminal Procedure Code, which is in the legislation process at the moment. The foreseen date of approval of the amendment in Parliament is by the end of the year 2014, and the Government discussion is expected any time soon.

Draft amendment:

Article 128 Para 2:

„(2) Foreign Public Official for the purposes of this law is person

a) standing a function in legislative, executive, judicial or arbitration body or in other body of public administration in foreign country, including the head of the state,

b) holding a position or being employed or working for unit or institution in international organisation or supranational organisation built up by states or subjects under international public law, or having a mandate to act on its behalf,

c) holding a position or being employed or working in international judicial body or having a mandate to act on its behalf,

d) holding a position in corporation, which is mostly influent by foreign country,

if the performing of this kind of function is connected to competency in procuring of public matters a and the crime was committed in relation to this competency or by means of using/abusing of his/her position“.

Text of recommendation 1(c):

1. Regarding the foreign bribery offence, the Working Group recommends that the Slovak Republic:

- (c) Amend its legislation to exclude the defence of effective regrets from the offence of foreign bribery under section 335 CC and from the provisions applying to legal persons, currently under sections 83(a)(2) and 83(b)(2) CC [Convention, Article 1, 2009 Recommendation III(ii) and V, Phase 2 evaluation, recommendation 8a.]; and

Action taken as of the date of the follow-up report to implement this recommendation:

This issue is solved in the new amendment of Criminal Code; in Article 86 letter g) the reference to Article 335 (Effective regret) is omitted.

In draft legislation on criminal liability of legal person, effective regret is excluded in relation to criminal offences of corruption.

Article 8 Para 2 of draft legislation:

(2) Criminal liability of legal person due to Para 1 shall not forfeit, if the legal person committed any of criminal offences of corruption listed in third section of eight head specialized part of Criminal Code or if the legal person committed a crime of damage of financial interests of European Union concerning Article 261 of Criminal Code.

Text of recommendation 1(d):

1. Regarding the foreign bribery offence, the Working Group recommends that the Slovak Republic:

- (d) Urgently take the necessary steps to ensure that the granting of immunity to cooperating offenders is not an impediment to the prosecution of the author of a bribe paid to a foreign public official and hence to the effective enforcement of the foreign bribery offence and that guidelines are issued by the appropriate authorities to explain certain key concepts, such as “significant contribution to clarifying a case of corruption” [Convention, Article 1, 2009 Recommendation III(ii) and V, Phase 2 evaluation, recommendation 8b, follow up issue 14(b)].

Action taken as of the date of the follow-up report to implement this recommendation:

On 1 January 2014 Special Prosecutor issued Instruction No. 1/2014 which regulates conduct of prosecutors of General Prosecutor’s Office while giving benefits to person in position of suspect or accused in preliminary proceedings. Instruction regulates the acting of prosecutors in cases of temporarily postponed accusation due to Article 205 of Criminal Procedure Code, stopped prosecution due to Article 215 Para 3 of Criminal procedure Code and conditionally stopped prosecution of cooperating accused person due to Article 218 of Criminal Procedure Code relating to criminal offences of corruption in accordance with Article 328 to 336a of Criminal Code.

In accordance with Article 3 of the Instruction, every prosecutor of Special Prosecutor’s Office is obliged to ask his/her superior prosecutor for prior approval with mentioned proceedings. The written report shall be made about given approval, which becomes a part of particular supervising folder and a part of separate collecting folder keep especially for this reason. The same procedure follows in the case of claiming benefits, when the decision is made by leading prosecutor in the same criminal case, in which he takes supervision on observation of laws in preliminary proceedings by himself. If the decision about using benefits is made by ordinary prosecutor of Special Prosecutor’s Office having service emergency, prosecutor is obliged to make a written report, which shall be submitted to the superior prosecutor for information and subsequently this record shall be put into relating folder and collecting folder as well. Leading prosecutors or directors of divisions and chiefs of units dealing with corruption of public officials and other prosecutors once a year evaluate the effect of using these benefits for whole progress of criminal proceedings of criminal offences of corruption.

As long as the crimes of corruption are exclusively part of competency of the Special Prosecutor’s Office, in accordance to Article § 14 letters e) to h) of Criminal Procedure Code, there was no necessity to issue this Instruction on conduct of prosecutors for all prosecutors by act of General Prosecutor effecting all prosecutors in Slovakia. Whether the Instruction is effective or not could be considered after some time of this Instruction being in force, at least one year from the date of issue.

Text of recommendation 2:

2. Regarding the responsibility of legal persons, the Working Group urges the Slovak Republic to, as a matter of priority, establish the liability of legal persons, to ensure that legal persons can be held liable for the offence of bribery of a foreign public official (reiterates Recommendation 10 of Phase 2), including when using intermediaries, and that the system thus established take one of the approaches described in Annex 1 to the 2009 Recommendation. [Convention, Article 2, 2009 Recommendation IV, Phase 2 evaluation, recommendation 10]

Action taken as of the date of the follow-up report to implement this recommendation:

Since the WGB plenary in June 2013, the Slovak Republic has adopted the following measures in order to comply with recommendation no. 2 of the WGB:

One of the priority tasks of the Commission for Criminal Law established by the Minister of Justice was to prepare the draft new legal regulation establishing liability of legal persons in the Slovak Republic. The Commission for Criminal Law prepared a draft law on criminal liability of legal persons and that draft was submitted into the legislation process on 27 November 2013. More specifically, the draft legislation has entered the preliminary comment procedure which is the beginning of the legislation procedure under the Slovak Law. This was followed by the interdepartmental comment procedure. Subsequently, the draft law was submitted to the Government. The last step will be the hearing and discussion of this draft in the Parliament and its final acceptance.

The draft law was elaborated on the basis of the Framework Plan of Legislative Tasks of the Government for the year 2013, the Action Plan to Combat Tax Frauds for the years 2012 to 2016, and Measures to Ensure the Fulfilment of Recommendations of the OECD Working Group on Bribery for the Slovak Republic in the Phase 3 of evaluation adopted by Government through its Resolution no. 137.

The draft of the new law takes the form of special legal act to general legal acts as Criminal Code and Criminal Procedure Code and specifically addresses the requirements for criminal liability of legal persons, types of sanctions, the imposition of sanctions and the criminal proceedings against legal persons. Criminal liability of legal persons does not depend on the criminal liability of a natural person. The legal person can be held liable even if the individual natural person who committed the offence has not been identified or tried.

The draft law includes a catalogue of offences to which the new act would be applicable. It also defines requirements for the criminal liability of the legal person, defines when the offence is deemed to be committed by a legal person and provides for the criminal liability of the legal successor of the legal person and the institute of effective regret.

The provisions on effective regret are, in general, also applicable to legal persons. However, if the legal person committed a corruption offence under the Criminal Code, the provisions on effective regret do not apply. In case of an offence according to this Act, the draft law provides for the following sanctions:

- a) dissolution of the legal person,
- b) forfeiture of property,
- c) confiscation of instrumentalities as well as of profits,
- d) fines,
- e) prohibition of certain business activities,
- f) exclusion from public grants or subsidies,
- g) disbarment from public procurement,
- h) publication of the court decision convicting the legal person.

The court would be able to impose one or more sanctions for the same offence in accordance new

prepared legislation. However, it is not possible to combine forfeiture of property and fines nor forfeiture and confiscation. Publication of the court decision can only be imposed in addition to any of the penalties specified in letters a) to g).

Criminal liability of legal persons does not end in case of bankruptcy, liquidation, dissolution of the legal person or imposition of forced administration.

Minister of Justice submitted the draft legislation on criminal liability of legal persons to the Government for its discussion. The Government opened discussion on this draft legislation on 20 August 2014 and afterwards Government has interrupted further discussion on this draft. The actual information about this legislation procedure will be brought to the WGB plenary meeting in October by Slovak delegation.

Text of recommendation 3(a):

3. Regarding sanctions and confiscation, the Working Group recommends that the Slovak Republic:

- (a) Take steps to ensure that the sanctions available under Slovak legislation are effective, proportionate and dissuasive in all foreign bribery cases, including through (i) continuing to raise awareness amongst the prosecutors and judges of the availability of fines as an optional part of the sentence, although it was deleted from the new text of the offence under section 334 and 335; (ii) eliminating the requirement that the offender “gained or tried to gain a property benefit” in order for a fine to be imposed; and (iii) reconsidering the enforceability and proportionality of mandatory forfeiture for aggravated foreign bribery offences [Convention, Article 3, 2009 Recommendation III(ii) and V];

Action taken as of the date of the follow-up report to implement this recommendation:

Sanctions also taking into account new draft legislation on criminal liability of legal persons are considered as effective, proportionate and dissuasive. New draft legislation on criminal liability of legal persons among other things also abolishes present legislation related to legal persons in Criminal Code (mostly it omits Articles 83a and 83b).

References to financial sanctions were omitted from all subject matters listed in Special Part of Criminal Code. It is a systematic solution admitted within recodifications criminal codes in year 2005 – see Article 34 Para 2 of Criminal Code „(2) Perpetrator can be imposed only by such a sort of sanction and in such a size as is allowed in this Code while this Code in its special part only recognizes the sanction of imprisonment.“

In accordance of Article 56 of Criminal Code, the financial sanction can be imposed from 160 Euro up to 331 930 Euro to perpetrator of will full crime, by which he gained or tried to gain monetary advantage. Without this condition being fulfilled the court can impose a financial sanction, if this sanction is imposed for less serious criminal offences considering the character of perpetrator and the chance for his rehabilitation the sanction of imprisonment is not necessarily imposed. We are of that opinion this legislation is in compliance with the nature of financial sanction. Because is another case in ab absurdum it would be possible to impose a financial sanction for a crime of murder, while by paying this sanction the penalty would be considered as executed and the crime would be suitable for expungement of record. In the same moment there is valid Article 36 Para 6 of Criminal Code saying: „ For crimes, where maximum length of imprisonment could be imposed for more than 5 years, imposing of sanction of

imprisonment is a must“.

Text of recommendation 3(b):

3. Regarding sanctions and confiscation, the Working Group recommends that the Slovak Republic:

- (b) (i) Revisit its current system of “preventive measures of confiscation” and repeal sections 83a and 83b of its Criminal Code; (ii) introduce in its legal system effective, proportionate and dissuasive sanctions, including monetary sanctions, applicable to legal persons responsible for bribery of foreign officials, pursuant to a clearly established concept of liability for legal persons; (iii) ensure that the concepts of confiscation and pecuniary penalties be separated, in order to comply with Article 3 of the Convention; and (iv) ensure that the range of legal persons subject to sanctions is broad enough to include State owned and State controlled companies [Convention, Article 3, 2009 Recommendation III(ii) and V];

Action taken as of the date of the follow-up report to implement this recommendation:

All mentioned questions are solved in draft legislation on criminal liability of legal persons.

Text of recommendation 3(c):

3. Regarding sanctions and confiscation, the Working Group recommends that the Slovak Republic:

- (c) Provide training to judges and prosecutors to increase their awareness of the mandatory nature of the confiscation of the bribe and the proceeds of bribery for natural persons convicted of non-aggravated foreign bribery, as well as many types of domestic bribery, pursuant to section 60 of the Criminal Code [Convention, Article 3, 3].

Action taken as of the date of the follow-up report to implement this recommendation:

On the base of this recommendation the Judicial Academy provides the lifelong training to judges and prosecutors to problematic issues in the application of the Convention through regular seminars. In the years 2013 and 2014, the academy made the following seminars:

- “Organized crime” in the term of 17 to 18 March 2014 in Omšenie, in total of 48 participants;
- “Actual trends of financial sanctions for economic crimes” in the term of 5 to 6 June 2014 in Omšenie, in total of 52 participants;
- “Criminal liability of legal persons (relating to commercial and administrative law)” in the term of 14 to 15 November 2013 in Omšenie, in total of 40 participants;
- "Comparative study in European union countries focused on criminal liability of legal persons" in the period of 14 to 15 May 2013 in Omšenie, in total of 32 participants;

- "Crimes against property and economic. Tax offences. Customs offences. "In the term of 9 to 10 May 2013 in Omšenie, in total of 56 participants.

The study plan of the Judicial Academy for the year 2015 is under the preparation at the moment. Its acceptance can be expected by the end of September 2014.

Text of recommendation 4(a):

4. Regarding the investigation and prosecution of foreign bribery cases, the Working Group recommends that the Slovak Republic:

- (a) Increase the use of proactive steps to gather information from diverse sources at the pre-investigative stage, both to increase sources of allegations and enhance investigations [Article 5, 2009 Recommendation IX., Annex I, D.];

Action taken as of the date of the follow-up report to implement this recommendation:

General Prosecutor's Office of the Slovak Republic is represented in several multidisciplinary groups of experts, which were created in previous years mainly under the authority of the Ministry of Interior of the Slovak Republic and they are devoted to the solution of the specific areas of criminality. One of the groups is aimed on the elimination and combating the legalisation of the proceeds of crime and against financing terrorism, another group is aimed on the area of combating terrorism and the third group is aimed against illegal migration. In all groups there are representatives from Ministry of Interior of the Slovak Republic, Ministry of Justice of the Slovak Republic, Presidium of the Police Force, Slovak Information Service and other Ministries and central government bodies. Representatives of the General Prosecutor's Office of the Slovak Republic are approved directly by the General Prosecutor, for each Ministry they are approved by the relevant Minister and for the central governmental bodies by their directors. The representatives of each Ministry and central governmental bodies have task to present in expert groups opinions and knowledge of their sectors to negotiated matters and in the same time to inform their superiors about the outputs from the negotiations and about the measures adopted. In these expert groups there are discussed also matters of the causes of absences of corruption cases in international commercial transactions including the assessment of compliance of impartiality and independence criteria of the law enforcement bodies in the pursuance of Art. 5 of the Convention. Mainly the multidisciplinary group of experts on elimination and combating the legalisation of the proceeds of crime and against financing terrorism was dealing with the stated matter and it came to conclusion, that the absence of the cases of corruption in international commercial transactions is caused by the absence of the communication on committing such forms of corruption and the absence of knowledge of the police on committing particular criminal offences. Despite the fact, the police and prosecution are aware of the commitment flowing from the Art. 5 of the Convention and in the assessment of suspicions from corruption of foreign public official and the provisions of this Article they fully respect the Convention. One of the possible causes of the absence of the cases of corruption in the international commercial transactions could be also the fact, that the Slovak legislation was allowing payments in cash between natural persons and legal persons without limitation.

This was changed after the adoption of the Act No. 394/2012 on Limitation of payments in cash, which entered into force on 1 January 2013. According to this Act the payment of cash is allowed between the natural persons up to 15.000 € and in relation to legal persons to 5.000 €. There is a presumption that this act together with extension of the international cooperation will enable the wider detection and sanction against corruption in international commercial relations.

In accordance with the fulfilment of the concerned recommendation, were within the scope of Ministry of Interior of the Slovak Republic, proposed measures to make more effective the special sections of

National Criminal Agency of the Presidium of the Police Force, targeted on detection and investigation on criminal offences of corruption including the corruption of foreign public officials in international commercial transactions, as well as to provide effective prevention and enhance the awareness about this crime.

To strengthen and to make more effective the activity of specialized investigational units targeted on combating corruption of foreign public officials in international commercial transactions, occurred in 2012, when with effect from 1 December 2012 was in the organizational structure of the Presidium of the Police Force established the National Criminal Agency.

The reason for its establishment in accordance with § 4 (3) of the Act no. 171/1993 Coll. on the Police Force as amended, results from the need to improve and make the official activity on the field of combating crime more effective. Related crimes by their nature constitute the most serious forms of criminal offences, to which belong also crimes of corruption, including the corruption of foreign public officials in international commercial transactions and to it related legalisation of proceeds from crime. Relevance, hereby given to the establishment and existence of National Criminal Agency of the Presidium of the Police Force was in its structure among other units constituted also National Anti-Corruption Unit, with the priority of specialization on detection and investigation of the stated crime.

On the ground of capacity to strengthen specialized sections, aimed on combating corruption and related legalisation of proceeds of crime, were from 1 January 2014 increased the numbers of the operative workers and hearing officers of these sections and during that year occurred a substantial renewal of their material and technical equipment.

On the ground of need to enhance the knowledge and necessary expertise from the use of international instruments of legal cooperation in criminal matters, the International Criminal Agency of the Presidium of the Police Force during 2013-2014 ensured several expert seminars for specialised sectors of National Criminal Agency of the Presidium of the Police Force, with specialization on use of the instruments of international legal cooperation in detection of cross-border crime, including the crime of corruption of the foreign public officials in international commercial transactions.

The essential source of information about crimes of corruption of the foreign public officials in international commercial transactions are except its own operational-search activity, mass-media, initiatives of natural and legal persons, competitors, employees of Ministries and other institutions of central government bodies, submissions of embassies, information and reports from foreign authorities, organizations and institutions, initiatives on the basis of knowledge from another criminal cases. In relation to the crime of corruption of foreign public officials there absents the sufficiency of relevant and reliable information that the test of this crime is satisfied.

From the statistical indicators related to the crime of corruption, recorded by the National Criminal Agency of the Presidium of the Police Force, it follows that there is reduction of the numbers of notices from the field of legal and natural persons, which would meet the qualified framework for one of the criminal offences of corruption. The result of reduction of the notices is detection of this type of infringement generally acting in the exercise of its own operational-search activity. The majority of the adopted notices on the crime of corruption constitute mainly statements of dissatisfaction with the decision making of the public authorities, local government authorities and equivalent institutions, which do not have relevance in merits of the criminal offences of corruption.

National Anti-Corruption Unit of National Criminal Agency of the Presidium of the Police Force has acceded to the strengthening of the policy that supports detection and investigation of the crimes of corruption of the foreign public officials in international commercial transactions, enhancing the

awareness of this crime towards the potential sources of information, as so as with the proactive approach to monitoring of the relevant information from open sources.

Except the priority task in the field of repressive activity and sanctioning criminal-law related actions, the National Criminal Agency of the Presidium of the Police Force develops the activities also in the field of the society as a whole and the creation of the prevention policy and initiative proposals of enhancing the awareness on corruption of foreign public officials in international business transactions directed in the fields of public administration, businesses operators, and to the sphere of general public.

In the conditions of National Criminal Agency of the Presidium of Police Force was for this purpose drawn up a material, which supplements the Strategic Plan on Combating Corruption in the Slovak Republic with recommendations of the OECD Working Group for bribery in international commercial transactions within the Phase 3 of the evaluation.

For the purpose to enhancing the awareness on crimes of corruption, including corruption of foreign public officials in international commercial transactions, the workers of National Criminal Agency of the Presidium of the Police Force are ensuring the training and lecturing activity throughout the cycle of training on the issue of corruption in public sector, including the issue of corruption in international commercial transactions and the issue of public procurement organized by the Department on Control and Corruption Prevention of the Government Office of the Slovak Republic for the Ministries and other government authorities.

Articles and expertise contributions published within departmental and interdepartmental specialized publications, contribute in raising the awareness on the specificities of criminal offences of corruption, its manifestations, new trends and means on its detection and criminal prosecution. Published information on evaluation of the Slovak Republic in particular phases of the OECD evaluation within the OECD Working Group on Bribery in International Commercial Transactions, contribute to improve the identification and notification of suspected transactions in foreign-commercial relations.

National Criminal Agency of the Presidium of the Police Force ensures the raising of awareness on criminal offences of corruption and it also ensures precautionary interplay into ranks of civil society. This is carried out by developing and publishing of the annual reports on the activity of National Criminal Agency of the Presidium of the Police Force, with a particular focus on special units, their activity and their final results.

Text of recommendation 4(b):

4. Regarding the investigation and prosecution of foreign bribery cases, the Working Group recommends that the Slovak Republic:

- (b) Take the necessary steps to ensure that: (i) investigations and prosecutions of foreign bribery cases are not influenced by considerations of national economic interest, the potential effect upon relations with another State, or the identity of the natural or the legal persons involved;

Action taken as of the date of the follow-up report to implement this recommendation:

Within the ordinary cooperation with the investigatory elements of the Police the management of Special Prosecutor's Office takes care consistently, so that the investigation of suspicion of criminal offences of corruption with an international element is realized without undue delay and irrespective of any

externalities including the influences of national or international interests of the Slovak Republic. The criminal prosecution of the cases of corruption, including the corruption of foreign public officials is in the conditions of the National Anti-Corruption Unit of the National Criminal Agency of the Presidium of the Police Force performed in accordance within the established legal order of the Slovak Republic, regardless of the national-economic interests, potential effect on the relations to other states or to the identity of the natural persons or legal persons concerned in accordance with the Article 5 of the Convention.

Within the criminal prosecution of the corruption related criminal offences, the general binding rules and related internal rules do not allow the hearing officers of the Police Force to take into consideration the economic interests of the state and their potential impact on the relations with another states or on the identity with natural or legal persons. The impartiality of the hearing officers of the Police Force within the investigation is secured by the provision of § 201 (3) of the Code on Criminal Procedure, which reads as follows “Except where they have to obtain the decision or the consent of a judge for pre-trial proceedings or a prosecutor, police officers shall carry out investigation procedures under their sole authority, in compliance with the law and in time.”

Provided impartiality of the hearing officers of the Police Force within the investigation covers inter alia Art. 26 of the Regulation no. 175/2010 of the Ministry of Interior on the definition of competence of the Police Force and units of the Ministry of Interior in detection of criminal offences, identifying of the perpetrators and the process in the criminal procedure as amended. Independence of the police officers in the matters of investigation is provided for in § 7 (1) of the Act 171/1993 Coll. on the Police Force as amended.

Consistent application of Art. 5 of the Convention is confirmed also by the fact, that all police officers assigned into service must be apolitical. This duty is regulated by the provision § 48 (5) of the Act 73/1998 Coll. on the civil service of the members of the Police Force, Slovak Information Service, Judiciary Guards and Prison Wardens Corps of the Slovak Republic and Railroad Police as amended, which reads as follows “Police officer, assigned into employment must not be a Member of a Political Party or a Political movement and must not take efforts for its benefits.”

Text of recommendation 4(c):

4. Regarding the investigation and prosecution of foreign bribery cases, the Working Group recommends that the Slovak Republic:

- (c) Continue the efforts made since Phase 2 to ensure that the Special Court and Special Prosecutor’s office are adequately staffed and that the Special Prosecutor’s Office fill the four remaining prosecutor positions that are still open and therefore fully implement Phase 2 recommendation 9a.[Convention, Article 5, 2009 Recommendation, Annex I, D]; and

Action taken as of the date of the follow-up report to implement this recommendation:

By the 1st of January 2013 new prosecutors were established to work for the Special Prosecutor’s Office and the Office is fully staffed now with 25 prosecutors at the moment.

Text of recommendation 4(d):

4. Regarding the investigation and prosecution of foreign bribery cases, the Working Group recommends that the Slovak Republic:

- (d) Provide adequate training to the law enforcement authorities and police forces: (i) on the specificity of the foreign bribery offence; (ii) on the investigative techniques adapted to this offence; and, more generally, (iii) about the need to more actively and proactively detect, investigate and prosecute the offence of bribery of foreign public officials by both individuals and companies [Convention, Article 5, 2009 Recommendation, Annex I, D].

Action taken as of the date of the follow-up report to implement this recommendation:

The prosecutors of the Special Prosecutor's Office joined few training programs in Czech Republic focused on exchanging of experiences on the field of combating corruption issue. The most of these events were managed in cooperation with the Judicial Academy of the Czech Republic in Kroměříž. Special Prosecutor's Office in cooperation with the Judicial Academy of the Czech Republic decided to organize trainings focused on issue of foreign commercial relations. There is also effort to provide a participation of foreign legal experts as investigators, prosecutors, judges from the countries with a high success rate, detection and investigation of corruption in international business transactions. Concerning lot of activities of the Judicial Academy of the Slovak Republic, these trainings have not been realized yet.

In the year 2012 there was a conference on topic „Combating corruption – support of transparency and liability in justice“ in Romania which was joined by the delegate from the Special Prosecutor's Office.

In April 2013 the prosecutor from Special Prosecutor's Office participated on the business trip to the USA within the project on the issue of mutual effort in fighting international organized crime, organized by the Ministry of Foreign Affairs of the USA. One of the topics was also the issue of corruption and money laundering.

Prosecutors of Special Prosecutor's Office regularly participate on seminars organised by Department on Control and Corruption Prevention of Government Office called: „ Legal Awareness Raising in the Area of the Corruption Prevention and Combating Corruption “. 800 employees of public administration participating on EU funds were educated during 16 seminars. The goal of these seminars is to provide participants with the whole framework of information about corruption, combating bribery, legislation in the Slovak Republic, international documents relating to corruption, including the OECD Convention and about separate tools and possible procedure in case of having suspicion of corruption. Lectors for these seminars were experts from the Ministry of Justice, investigators, prosecutors from Special Prosecutor's Office and employees from Government Office.

In 2013 and 2014, for the purposes of knowledge raising of using tools of international cooperation in criminal matters, the National Criminal Agency of the Presidium of Police Force organized few professional seminars including international representatives from European Union states, focused on police and judicial cooperation with European union countries and third countries in detecting crime and offence, including the foreign bribery offence of foreign public officials in international business transactions. The lecturers of the training were national representatives of the Slovak Republic in Eurojust, vice president of Eurojust and representatives of the General Prosecutor's Office.

The training focused on tax frauds in energetic industry with the participation of representatives of Europol with international experiences took place on 4 June 2014 and was organized by National unit of

Financial Police of the National Criminal Agency of the Presidium of Police Force. This training was joined by 80 investigators and operative staff of the National unit of Financial Police of the National Criminal Agency of the Presidium of Police Force.

Text of recommendation 5:

5. Regarding mutual legal assistance (MLA), the Working Group recommends that the Slovak Republic ensure that its authorities are more proactive about following up on outstanding MLA requests and on executing incoming MLA requests in foreign bribery matters [Convention Article 9; 2009 Recommendation XIII].

Action taken as of the date of the follow-up report to implement this recommendation:

Prosecutors of Special Prosecutor's Office supervising the observation of laws in preliminary proceedings in criminal matters for criminal offences of foreign bribery, yearly attempt working meetings in International department of General Prosecutor's Office, which is responsible for international legal assistance. Last such a meeting took place on 5 to 7 May 2014. One of repeatedly discussed theme was the issue of delays foreign partners while executing requests of Special Prosecutor's Office for mutual legal assistance as long as passiveness of foreign partners or declining to execute the request. Prosecutors were asked, in case of any delays on foreign partner's side, immediately and if necessary also repeatedly to request via International department of General Prosecutor's Office for speed up the procedure in every single criminal matter if needed. The absence of active approach of prosecutor in these kinds of cases can be a reason for disciplinary sanction. International department of General Prosecutor's Office requests the speeding up of the procedure in different ways including diplomatic channels via the Ministry of Foreign Affairs. In most cases the requests of the Slovak authorities are executed in appropriate time framework.

On 28 April 2014, the National Criminal Agency of the Presidium of the Police Force organized specialized seminar for investigators and operative staff of specialized units of the National Criminal Agency, focused on application of tools in international cooperation in criminal matters while detecting cross boarder crimes, including bribery of foreign public officials in international business transactions. International framework, national legislative environment, institutional conditions of using mutual legal assistance for needs of taking evidence in criminal procedure and procedural limits were also presented.

Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 6:

6. Regarding money laundering, the Working Group recommends that the Slovak Republic: (i) take appropriate measures to effectively enforce its money laundering offence, particularly in connection with bribery cases (reiterates Recommendation 11 of Phase 2); (ii) that it take all necessary measures to ensure that all stakeholders involved in fighting money laundering be adequately made aware that the bribery of foreign public officials is a predicate offence to money laundering, including by offering training to investigators and prosecutors concerning how to build evidence of money laundering offences in corruption cases; and (iii) that it examine its investigative and prosecution priorities to determine whether the way resources are focused creates an impediment to pursuing money laundering offences and whether more resources are necessary [Convention, Article 7; 2009 Recommendation III(i, ii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Listed recommendations are directed to the specialized units of the National Criminal Agency of the Presidium of the Police Force, with the priority to the National Anti-Corruption unit and the Financial Intelligence Unit.

To ensure the evidence of the income of crime and the means designated to its perpetration, their location, nature, state and their value, Instruction by the President of the Police Force was issued. In the operative-investigational activity it obliges within the detection, clarification and in the criminal procedure within the investigation (criminal evidence procedure) of the criminal offence, in which the intent of the perpetrators is to obtain the proceeds from crime, to consistently detecting, clarifying and investigating in addition to these predicate criminal offences (which can also be the criminal offences of corruption) also the criminal offence of the legalisation of the proceeds of crime.

For the purpose to strengthen the detection and the investigation of a criminal offence of corruption perpetrated by foreign public officials, the director of the National Anti-Corruption unit has issued on 15th July 2014 an internal instruction, by which he imposed to perform the re-training of the subordinate officers in the techniques of detection, clarification and investigation of the criminal offences of corruption, with the emphasis on the specificity of the criminal offences of accepting a bribe, paying a bribe to the foreign public officials and the necessity of more vigorous detection and criminal prosecution. At the same time the director imposed to perform the re-training of the subordinate officers in the specifics of the criminal offence of paying a bribe to the foreign public officials as predicate criminal offences of legalisation of the proceeds of crime, with the emphasis on the effective techniques of detection, clarification and investigation of this criminal offence.

Due to the improvement of the activity and as a reason to strengthen the process of detection and investigation of corruption, including the corruption of the foreign public officials in the international commercial transactions, the National Anti-Corruption unit is preparing internal methodical material "Methodology of detection and investigation of the corruption and related criminal offences." The goals of this methodology are to provide the officers detecting, clarifying and investigating the criminal offences of corruption unified and clearly defined methodology for detection, clarification and investigation of the criminal offences of corruption, while a part of the methodology will be dedicated to the specifics of detection and investigation of the criminal offences of foreign public officials and related legalisation of the proceeds of crime. The assumption of the usability of the stated methodology in application on the National Anti-Corruption unit is set from 1 January 2015.

In relation to the recommendation directed to the awareness-raising about the specifics of the perpetration of criminal offence of paying a bribe to the foreign public officer and related legalisation of the proceeds of the crime the Financial Intelligence Unit is also contributing to the activities, which help to deal with this problem. Within its capacities it provides training for staff of the obliged person and the members of a professional organization, in the form of training and interpretation of the Act No. 297/2008 Coll. on the Protection against money laundering and on the protection against the financing of terrorism and on amending and supplementing certain acts.

The trainings of the obliged persons from the banking and insurance sector are directed to the clients, including the specific category of clients, which are foreign politically exposed persons in the link to the risk of the criminal offences of legalisation of the proceeds of crime or financing of terrorism, as well as in following the connection in conclusion of business with these persons. Within the trainings carried out for the obliged persons and the professional organizations the newest indicators are featured, identified typologies and the expected trends of legalisation of the proceeds of crime and the financing of terrorism, to which in entrusted authorities of the related subjects is necessary to dedicate due care.

In the observed period the trainings for the obliged persons were performed with the focus on detection of the criminal offences of the legalisation and financing of terrorism and the application issues related to the application of the above mentioned act, regarding also the issues of the foreign politically exposed persons and to the financial transactions was paid, which could indicate on paying a bribe to the foreign public officials. Guidelines for the obliged persons and the professional organisations to the application of the law are made public on the website of the Financial Intelligence Unit, within the platform of the Ministry of Interior of the Slovak Republic.

For the purpose of creating the conditions of proactive approach in detection and investigation of the foreign bribery offence on the Financial Intelligence Unit there was established and put into service an information system, its goal is to strengthen combating against the legalisation of the proceeds of crime and the financing of terrorism, organization of a criminal act, automation of operations of the data processing, simplification and acceleration of the information exchange between the Financial Intelligence Unit and the obliged persons, with the emphasis on the consistent protection of the information, banking secret, tax secret and the personal data related.

Text of recommendation 7(a):

7. Regarding accounting requirements, external audit, and corporate compliance, the Working Group recommends that the Slovak Republic:

- (a) Ensure that the provisions in Slovak legislation implementing Article 8 of the Convention are fully used to prevent and detect accounting offences linked to corruption cases, in particular foreign bribery, and that the sanctions for false accounting in practice are effective, proportionate and dissuasive (reiterates Recommendation 12.b. of Phase 2) [Convention Article 8; 2009 Recommendation X(A(iii))]; and

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Finance of the Slovak Republic adopted measures to ensure the effective imposing of sanctions for accounting misconducts relating to bribery of foreign public officials. Provision of Article 38 of the Act No. 431/2002 Coll. on Accounting dealing with administrative offences of accounting breaches was revised. The Ministry of Finance while providing trainings for FIU also pays attention to effective imposing of fines for breaking of provisions of the Act on Accounting.

Text of recommendation 7(b):

7. Regarding accounting requirements, external audit, and corporate compliance, the Working Group recommends that the Slovak Republic:

- (b) Provide training and awareness-raising in foreign bribery that targets the accounting and auditing profession; raise awareness of the need for internal controls, ethics and compliance measures; and provide clearer guidance on reporting requirements introduced under 27.3 of the Act on Accounting [2009 Recommendation III(i), X.B, X.C].

Action taken as of the date of the follow-up report to implement this recommendation:

Slovak Chamber of Auditors and Slovak Chamber of Certified Accountants organize regularly trainings on the topic: awareness raising of the Convention on Combating Bribery of Foreign Public Officials in

International Business Transactions and the participation on such training is mandatory.

In 2013 the Slovak Chamber of Auditors (SKAU) organized a training focused on the issues related to the combating bribes paid to the foreign public officials. Since 2011, on the website of the above mentioned association, there is e-learning course available on topic: “Protection from money laundering, the financing of terrorism and combating corruption.”

In 2014 the SKAU is repeatedly preparing trainings on this topic, which will be held from September to December.

Slovak Chamber of Commerce and Industry (SOPK), in the interest to inform the entrepreneurs and the legal persons performing commercial activity on the territory of the Slovak Republic, as well as in the interest of the general public, about the notification obligation of a suspicion from the criminal offences of corruption has in relation to this published on its web domain www.sopk.sk “Rules of the International Chamber of Commerce on combating corruption” (ICC Rules on Combating Corruption) as approved by the ICC on 15th September 2011 and a “Prevention of Corruption Handbook”.

Since 2002 the SOPK organizes annually a contest – Grand Prix of SOPK – which is aimed to the implementation and the adherence to the ethical principles in the entrepreneurship. Individual entrepreneurs engage in this competition – the members of the chamber – national also with the share of foreign capital. The 12th annual year of this contest was announced in 2013. So far, during the 11 annual contests, 150 entrepreneurs who met the conditions to qualify were involved to this contest.

In the frame of the educational activity for the entrepreneurs, SOPK also continuously popularizes above mentioned rules of the ICC and the recommendations from the Prevention of Corruption Handbook.

Text of recommendation 8(a):

8. Regarding tax measures, the Working Group recommends that the Slovak Republic:
- (a) Provide guidelines and training to tax inspectors as to the types of expenses that constitute bribes to foreign public officials, using the OECD Bribery Awareness Handbook for Tax Examiners [2009 Recommendation VIII(i); 2009 Tax Recommendation II]; and

Action taken as of the date of the follow-up report to implement this recommendation:

Guidelines found in OECD Handbook were taken into account in the Internal Control Act (IRA) No. 47/2013/P – Direction issued by the President of the financial management on the exclusion of the possibility of manipulating the employees of the tax authority as being effective from 1 January 2014. The above mentioned IRA replaced IRA No. 15/2013/1100102/P, which was effective from 1 June 2013. At the same time the guidelines from the OECD Handbook are taken into account in the Program on Combating Corruption in the financial report, which applies for all employees of the financial management.

Ministry of Finance of the Slovak Republic incorporated into regular trainings for the tax controllers with the use of the guide, the matter of identification of types of expenditures, which could indicate or form the basis for the criminal offence of foreign bribery, respectively. The matter of corruption is regulated in the education curricula and taught in the following educational activities, performed within the unified

system of education in the financial management:

1. Adaptation Education (newly recruited employees - without distinction to their profession),
2. Basic tax course (without distinction to their profession),
3. Expert tax courses.

Text of recommendation 8(b):

8. Regarding tax measures, the Working Group recommends that the Slovak Republic:

- (b) Consider the inclusion of the optional language in paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention in all future bilateral tax treaties and consider signing the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters [2009 Recommendation VIII (i); 2009 Tax Recommendation I(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

In the process of negotiations on future double tax treaties the Ministry of Finance of the Slovak Republic continuously ensures the drafting of the broader text of the Article on the exchange of information, which allows the transmission of the tax information to the criminal procedure authorities in required cases. The broader scope of the Article on the exchange of information was proposed recently by the Tax and Customs Department of the Ministry of Finance in the negotiations with following states: Albania, Iran, India.

EXIMBANKA SR pays attention to the efforts of awareness raising in compliance with the revised recommendations of the OECD Council for the combat against bribery in officially supported export credits and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, with respect to their employees, regular seminars and trainings and also with respect to the first contact with clients or potential clients. In the beginning of 2014 the internal directives on processing applications were revised, in all directives is also a measure for the suppression of corruption with regard to state supported export credits. With respect to acquisition, the meetings and the commercial negotiations the clients are regularly informed about all significant aspects and internal processes related to bribery of foreign public officials in international business transactions with the definition of OECD.

The questionnaire is a part of a primary application to the international business transaction and the subsequent declaration of honour from the client. The questionnaire is an integral part of the application to provide officially supported export credits. On the basis of acquired information the employees of EXIMBANKA SR scrutinise the fact, if a client has been or is examined in relation to the bribery of foreign public officials within the international publicly accessible lists of the excluded organizations and persons, so called “debarment lists” of one of the following financial institutions:

- World Bank Group,
- African Development Bank,
- Asian Development Bank,
- European Bank for Reconstruction and Development,
- Inter-American Development Bank.

If it stems from the character of the international commercial transaction, EXIMBANKA SR requests the client for the supplement of detailed data about a broker commission. EXIMBANKA SR published on its web domains a Prevention of Corruption Handbook and at the same time the combating corruption of

foreign public officials was included into the Action Plan on Combating Corruption in EXIMBANKA SR.

Text of recommendation 9:

9. With respect to awareness-raising, the Working Group recommends that the Slovak Republic actively step up its awareness-raising activities by, among other measures: (i) clearly making foreign bribery a priority by addressing foreign bribery in its national anti-corruption policy; (ii) including the 2009 Anti-Bribery Recommendation in the Ministry of Justice's Prevention of Corruption Handbook; (iii) considering undertaking and publishing a risk assessment of the Slovak economy's exposure to foreign bribery; (iv) taking further action to raise awareness of the Slovak foreign bribery offence among the private sector (reiterates recommendation 1.a. of Phase 2); and (v) raise awareness of foreign bribery among public officials, particularly those involved in public advantages, of the Slovak Republic's obligations under the Anti-Bribery Convention [2009 Recommendation III(i)].

Action taken as of the date of the follow-up report to implement this recommendation:

Internal state preventive policy on combating corruption is set by the Strategic Plan on Combating Corruption in the Slovak Republic, adopted by a resolution of the Government of the Slovak Republic No. 517 of 10 August 2011. For the purpose to ensure the compliance of the recommendation in point (i) "clearly determine foreign bribery as its priority, solving the foreign bribery in its national anti-corruption policy" the National Criminal Agency of the Presidium of the Police Force has adopted amendments to the material "Supplement of the tasks to the Strategic Plan on Combating Corruption in the Slovak Republic by the recommendations of the OECD Working Group on Bribery in International Business Transactions within the Phase 3 of the evaluation."

The material was submitted to the intradepartmental comment procedure and it was discussed within the interdepartmental Working Group of experts oriented on the combat against the corruption established at the interdepartmental Experts Coordination Body in the fight against crime. Currently, in accordance with the legislative rules it was submitted to the preliminary ruling. After its conclusion it will be submitted into interdepartmental ruling.

Submitted material reflects the recommendations of the WGB within the Phase 3 of the evaluations and it supplements the Strategic Plan on Combating Corruption in the Slovak Republic by setting the new tasks, oriented on reporting requirements of prevention and enhancing the awareness about engagement in the criminal activities of corruption of foreign public officials in international commercial transactions, in accordance with the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the Recommendation of the Council on further combating bribery of foreign public officials in international business transactions from 2009.

The Material, which supplements the tasks of the Strategic Plan on Combating Corruption in the Slovak Republic with the recommendations of WGB within the Phase 3 of the evaluations is conceived into 9 Chapters. In the initial Chapters, there are clarified the efforts for the coordinated approach of the international organizations and institutions when dealing with the issue of corruption in the meaning of creating international mechanisms of monitoring anti-corruption activities, with the priority in the mechanism of evaluation of the OECD Working Group on Bribery in International Commercial Transactions, its various stages and the resulting recommendations for the Slovak Republic.

In the following Chapters the legislative assumptions of sanctioning the corruption of the foreign public

officials in the conditions of the Slovak Republic are specified. These assumptions reflect the actual state of the incorporation of the provisions of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions into the national law of the Slovak Republic. There are further developed preventive anti-corruption initiatives in the form of new practical guides and directives, established at the level of the OECD for the public sector and the business.

The material focuses on the analysis of the recommendations, arising for the Slovak Republic from the Phase 3 of the evaluation, with the specification on the area of prevention and enhancing the potential of knowledge in corruption of the foreign public officials in international commercial transaction, as well as on the definition of underlying assumptions to supplement the Strategic Plan on Combating Corruption in the Slovak Republic from the point of view of its current state and the initiatives of the OECD, directed to the implementation of measures, which minimize the corruption of the foreign public officials in international commercial transactions.

For the purpose to secure the fulfilment of the recommendations, identified by the WGB within the Phase 3 of the evaluation of the Slovak Republic and with this also the commitments of the Slovak Republic, arising from the membership in OECD, a proposal of specific tasks for the supplement of the Strategic Plan on Combating Corruption in the Slovak Republic was drawn up, with particular attention on the prevention of corruption of the foreign public officials in international commercial transactions, together with the terms, the attribution of responsibility and an explanatory commentary, pointing to the relevant documents of the OECD, mentioned in the Annexes of the material.

The tasks, which supplement the Strategic Plan on Combating Corruption in the Slovak Republic with the recommendations of WGB within the Phase 3 of the evaluation are designed to:

- Identification of the risk areas of the corruption of the foreign public officials in international commercial transactions,
- Adopting of the effective measures on elimination of the risk of the corruption of foreign public officials in international commercial transactions,
- Establishing the mechanisms of internal control, audit and monitoring of the risk areas for the purpose of evaluation of the effectiveness of the measures proposed,
- Incorporating the corruption prevention of the foreign public officials in international commercial transactions into internal anti-corruption programmes and in to the code of ethics,
- Ensuring that the employees will be notified with the internal anti-corruption programmes and the codes of ethics,
- Publishing internal anti-corruption programmes, codes of ethics and other anti-corruption documents on the websites,
- Ensuring educational programmes with the specialization on prevention or the identification of the foreign bribery offence,
- Adopting anti-corruption measures and enhancing the potential of knowledge about the corruption of foreign public officials in international commercial transactions,
- Providing that the employees will be notified and further providing information about prevention of the corruption of foreign public officials in international commercial transactions,
- Adopting measures to enhancing the awareness of the multinational enterprises about the OECD directives,
- Incorporating the recommendations, with the priority to the Chapter VII of the OECD Directives for multinational enterprises into anti-corruption programmes and the codes of ethics,
- Incorporating transparent publication and information to employees about anti-corruption measures.

Subjects of the fulfilment of the proposed tasks are from the area of public administration as well as from

business sector. In the last section of the document the efforts of the Slovak Republic to ensure the fulfilment of the OECD recommendations, directed to the area of prevention and enhancing the awareness of the corruption of foreign public officials in international foreign transactions, following the political priority and the strategic goal of the Slovak Republic in the view of economic development and enhancing competitiveness in the international commercial relations system.

Slovak Auditors Association (SKAU) and the Slovak Association of Certified Accountants are exercising regular trainings on the topic of enhancing the awareness about Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the participation on such training is mandatory.

The Ministry of Foreign and European Affairs of the Slovak Republic through the Division of Diplomatic Preparation, education and library included issues of combating corruption to lifelong learning of its employees. The issues of combating corruption are included also specifically into internal focus of program accredited for the training of the economic diplomats on the work abroad. The scientific expertise within the educational activity “Legal Awareness Raising in the Area of the Corruption Prevention and Combating Corruption” were presented by the experts of the Special Prosecutor’s Office of General Prosecutor’s Office of the Slovak Republic, Ministry of Justice of the Slovak Republic, Government Office of the Slovak Republic and the Ministry of Foreign and European Affairs of the Slovak Republic on 8 April 2014. Participants of the education by resolving the case studies concerning the issues of bribery of the foreign public officials in international commercial transactions have achieved learned lessons, how to prevent such practices, which could lead to criminal activities. The representatives from other Ministries, state institutions and offices also participated on this activity. This issue is actualized by the Ministry of Foreign and European Affairs of the Slovak Republic in cooperation with experts from the Government Office of the Slovak Republic who determine on the basis of an analysis the thematic concentration for the calendar year concerned.

Since 2013, the Government Office of the Slovak Republic, Department on Control and Combating Corruption (herein after “SKBPK”) organizes seminars on the topic: “Awareness - Raising of Corruption in the Public Sector, Including the Issues of Corruption in International Business Transactions,” including the issues of corruption in the public procurement. On the seminars, which are designed for the employees of the of the public administration, the employees of Ministry of Interior of the Slovak Republic act as lectors – National Criminal Agency, Ministry of Justice of the Slovak Republic, General Prosecution of the Slovak Republic, Public Procurement Authority and the Government Office of the Slovak Republic.

In 2013 three seminars were organised – on 6 June 2013, 26 September 2013 and 21 November 2013 in which took part a total of 128 employees of state government, in particular from the Ministries. At the same time SKBPK was the expert coordinator of the seminar on the mentioned topic, which took place on 8 November 2013 in the auspices of the Ministry of Foreign and European Affairs of the Slovak Republic with the participation of 62 employees.

Another seminar was organized on 8 April 2014. The topic of the seminar was “Awareness - Raising of Corruption in the Public Sector, Including the Issues of Corruption in International Business Transactions.” 57 employees of the public administration, in particular from the Ministries, took part at the Seminar. At the same time SKBPK was the expert coordinator of the seminar on the mentioned topic, which was held on 14 May 2014 in the auspices of the Ministry of Foreign and European Affairs of the Slovak Republic, with the participation of 39 employees – future economic diplomats.

Ministry of Justice of the Slovak Republic has updated the Prevention of Corruption Handbook, which is

focused on the international business transaction. Translations of the WGB recommendations were provided and they were incorporated into the Handbook as well. Updated Handbook is published in electronic form on the web domain of the Ministry of Justice of the Slovak Republic. In the future it will be necessary to incorporate also the criminal liability of legal persons into this Handbook. After adoption of the new legislation on criminal liability of legal persons and its incorporation into the Handbook, the Handbook will be published also in printed format.

Text of recommendation 10:

10. Regarding whistleblower protection, the Working Group recommends that the Slovak Republic urgently pass whistleblower protection legislation and, once passed, take steps to raise awareness of these new protections [2009 Recommendation IX(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Interior elaborated draft legislation on Certain Measures Related to Reporting of Antisocial Activities and on Amending and Supplementing Certain Acts. Because of the nation-wide importance non-government organization - Transparency International Slovakia has participated on preparation of this draft.

Draft legislation besides setting the protection for whistleblowing of corruption, the protection is also set for whistleblowing of any other antisocial activity. This protection is meant for employee, whose announcement can significantly help or significantly helped to detect and clarify antisocial activity or to detect or to confute the perpetrator and about which he knew in relation with his employment, function or position.

Minister of Interior submitted the draft legislation into the legislation process and it was approved by Government on its session held on 20 August 2014. Subsequently the draft legislation was submitted to Parliament for its final approval. The foreseen date of this legislation coming in force is 1 January 2015. Despite the fact that international documents have tendency to protect only whistleblowers of corruption, the draft legislation goes even broader and gives protection also to whistleblowers of any antisocial activities (including corruption).

Or if there is criminal proceedings or administrative proceedings, prosecutor or court consider whether the employee fulfills conditions for being a whistleblower and if the protection against employer can be given. By Protection, it is meant additional approval of all steps made by employer in labor relation by Labor Inspectorate.

Important change relating to employee protection against unlawful sanctions from employer's side for announcement counts also with prohibition of discrimination inter alia prohibition of discrimination of reason of announcing antisocial activity.

Other changes, which are meant to motivate employees to announce antisocial activity, which they got known about in relation with their employment, are:

- claim for free legal aid,
- Authority providing protection is Labor Inspectorate,
- Non-claiming bonus, if upon the announcement made by whistleblower, the perpetrator was found guilty, up to 50 times of minimal wage,
- collecting of information on whistleblowing issue at one spot by Slovak national center for human rights,

- unified regulation of breaking the duty of confidentiality in relation to announcement or prohibition of pursuit or another punishment for making announcement,
- possibility to classify identity of person, who files a criminal announcement,
- no limitation of salary compensation in case of invalid termination of employment.

Text of recommendation 11:

11. Regarding official development assistance, the Working Group recommends that the Slovak Republic consider systematically including anti-corruption provisions in bilateral aid-funding procurement [2009 Recommendation XI(ii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Since 2013, the revised form of the Agreement Granting Subsidy for the Implementation of the Project of the Official Development Aid to the Slovak republic in in force, from the program SlovakAid, which the Agency SAMRS (Slovak Agency for International Development Cooperation) is signing with each contract. The Agreement contains information that the contracting parties shall be governed by the provisions of "Convention on Combating Bribery of Foreign Public Officials in International Business Transactions." At the same time it contains anti-corruption clause as follows: "No offer, gift, payment or advantage of any kind, which could meets the attributes of illegal or corrupt practices, was not and will not be provided to any person, either directly or indirectly as a remuneration or reward for the conclusion of this contract. Any fact of this matter will be a reason for termination of the contract or for the adoption of any other measure to remedy as required." Besides the above mentioned, in 2013 SAMRS adopted Plan on Combating Corruption, which was developed in accordance with the Strategic Plan on Combating Corruption in the Slovak Republic (adopted by the resolution of the Government of the Slovak Republic no. 571 from 10. August 2011). Its goal is to identify the areas of possible emergence of corruption and to adopt the measures to minimize the opportunities of corruption behavior, adopt Action Plan on Combating Corruption on the annual basis and evaluate it subsequently. The Code of Ethics of the Employee of SAMRS is being a part of the plan and in Art. 1 paragraph 2 it explicitly refers to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and an obligation of the employees of the agency to be informed with its contents.

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:
- (a) The determination of aggravated and non aggravated foreign bribery and the application of corresponding level of sentence [Convention, Article 1 and 3];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:
- (b) The statistics concerning confiscation orders in domestic and foreign bribery cases [Convention, Article 3.3, 2009 Recommendation III(ii)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The statistics on the competent reinsurance acts is sent to the Financial Intelligence Unit of the National Criminal Agency of the Presidium of the Police Force, which following Act no. 297/2008 Coll. on the Protection against Money Laundering and on the Protection against Financing of Terrorism and on Amending and Supplementing Certain Acts as Amended and related internal legislation undertakes tasks of the authority and the processor of the statistical indicators of seized property, forfeited property, confiscated property and another data in relation to evidence the proceeds of crime pursuant to acts of the criminal procedure .

Financial Intelligence Unit of the National Criminal Agency of Presidium of the Police Force collects relevant statistic data, analyses them and processes them for the bodies of the Police Force, bodies of the Ministry of Interior of the Slovak Republic, for the Criminal Office of the Financial Administration, General Prosecution of the Slovak Republic and the Ministry of Justice of the Slovak Republic. From the performed analyse of the statistical data about the seized things from crime it annually processes summary statistical overviews, which in pursuance of a legal obligation publishes in its annual report.

The role in maintaining of the statistical indicators on seized things from crime is ensured also by interdepartmental Expert Coordination Body on Combating Crime (hereinafter “MEKO”) of Presidium of the Police Force. At a work session MEKO in December 2013, the participating representatives from Presidium of the Police Force, Ministry of Justice of the Slovak Republic and General Prosecution of the Slovak Republic were informed about the decision of the European Commission no. 2012/C42/02 from 14 February 2012 to pursue together the indicators of the statistical data for demarcated areas of criminality, including corruption, money laundering and the indicators about the seized things from crime. In this matter of fact the MEKO resolution no. 21/2013 addressed a task to the departments in

question from 2014 ensuring the statistical monitoring of defined indicators of criminality.

General Prosecution of the Slovak Republic keeps the statistical data of the number of the things, in which a penalty of forfeiture of a thing was imposed, the penalty on forfeiture of a property from criminal offence and fines. Furthermore, also imposition of protective measure is specifically statistically monitored, confiscation of a property, confiscation of a sum of money and confiscation of a thing. These data are sometimes different from the data, kept by the Ministry of Justice, which records all penalties imposed by the Slovak Republic's courts. So far it is neither specifically recorded in which form of the criminal offence the seized and forfeited property was involved, nor it is recorded its value. The value of seized and forfeited things was started being monitored by the Ministry of Interior of the Slovak Republic in 2012, when on the basis of the recommendation of the evaluation processes of the Slovak Republic in the OECD, European Union, etc. some of the indicators were changed and mainly the value and the type of the confiscated property started to being recorded as well as some forms of criminal offence, in which there was imposed a penalty of forfeiture of a thing or property.

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:

- (c) The Court decisions published online include elements of the arrangements reached through plea bargaining agreements, when appropriate, such as the reasons why such a plea bargain was deemed appropriate in a specific case and the terms of the arrangement (in particular, the amount agreed to be paid) to ensure accountability, raise awareness, and enhance public confidence in the enforcement of the anti-corruption legislation in the Slovak Republic [Convention, Article 3];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:

- (d) The application of the statute of limitations, to ensure that it allows an adequate period of time for the investigation and prosecution of the foreign bribery offence [Convention Article 6];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:
- (e) The efficiency of mechanisms for incoming and outgoing mutual legal assistance regarding cases of bribing foreign public officials, in particular where the target of the foreign investigation is a legal person [Convention Article 9; 2009 Recommendation XIII];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up:

12. The Working Group will also follow up the issues below as case law and practice develop:
- (f) The application of the money laundering offence, given the absence of investigations and prosecutions of money laundering based on a predicate offence of foreign bribery [Convention Article 7].

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate: