

Transparency International on progress by the Slovak Republic

The Slovak Republic has scored 49/100 in the 2024 Transparency Corruption Perceptions Index (CPI), with the country now ranked 59th out of 180 countries. This is a noticeable drop from last year's score of 54/100, which saw the Slovak Republic ranked in 47th place.

In 2024, amendments to criminal law brought about the introduction of significant changes to the prosecution of corruption offences. This reform included a reduction in criminal penalties for corruption-related crimes, along with a decrease in statutory limitation periods. For instance, for more

serious offences carrying a maximum prison sentence of more than ten years, the limitation period was reduced from 20 to 15 years. Additionally, the reform also led to the abolition of the Special Prosecutor's Office, which had been responsible for combating corruption, with its powers being transferred to regional prosecutors' offices.

Below, we provide a short overview of the legal framework governing criminal liability for bribery in the Slovak Republic, in which we highlight key aspects of national and international relevance, including cross-border compliance considerations.

1. Bribery and corruption

A bribe can be anything that constitutes an undue advantage. There is no set form or minimum value for an advantage to be considered a bribe, meaning there is no clear distinction between acts of bribery and lawful acts such as hospitality, gifts, travel expenses, or meals. The amount of the bribe is considered together with other circumstances which determine the degree of severity of the crime. However, no bribes can be tolerated in the exercise of public authority, even if they are of negligible value.

Slovak criminal law comprehensively covers all forms of bribery. Bribery can be active (offering, promising, or giving a bribe) or passive (accepting or soliciting a bribe). Requesting a bribe (explicitly or implicitly) is also punishable. Therefore, all forms of bribery are punishable regardless of the number of intermediaries between the parties.

Bribery cases most frequently involve influencing public officials (in a broad sense), bid rigging, bribery in public tenders and trading in influence (bribery of third persons to exert influence over public officials).

Both public and private bribery are criminalised. Public bribery is explicitly defined as an offence relating to matters of general interest and is regulated as a standalone offence. Likewise, bribing a public official is also a standalone offence, rather than merely an aggravating circumstance. The offences that give rise to the status of "public official" are explicitly defined in the Criminal Code, as are those giving rise to the status of foreign public officials who are referred to only in relation to bribery offences.

2. Corporate criminal liability (including bribery offences)

A company is liable for a crime if it was committed in its favour, in its name, within its activities or through it. Liability arises if the crime is committed by an executive body or a member of that body, a person performing control or supervisory functions within the company, or any other person authorised to represent or make decisions on behalf of the company. A company cannot avoid criminal liability simply by changing its legal form, or by way of restructuring or transformation. For example, in mergers with another company, the criminal liability will fall proportionally on each of the acquiring and new companies. Criminal liability can also be transferred through a company's key assets. If a criminally liable company transfers key assets to another company, the company that acquired these assets might be found criminally liable.

3. Duty to report bribery

The duty to report a crime (reporting duty) is a legal obligation to immediately report (or prevent) certain offences to the enforcement authorities. This applies not only to crimes carrying a maximum prison sentence of 10 years or more but also explicitly to any corruption-related offences. This falls on all individuals and companies and includes both active and passive bribery. Failure to report is a crime.

Individuals (whether employees or subcontractors of a company, or third parties) are personally required to report these crimes even where such reporting could incriminate the company. Apart from limited exceptions (e.g. a person entrusted with pastoral duties or a healthcare worker), Slovak attorneys are the sole persons exempt from this reporting duty. If there is a risk that a reporting duty will be triggered a Slovak attorney should be engaged to review the issue.

4. Legal privilege and cross-border investigations

The concept of legal privilege (or attorney–client privilege) does not exist in the same form as in some other jurisdictions, with only Slovak attorneys covered by legal privilege to the full extent. Slovak attorneys are bound by a confidentiality obligation stemming from the Legal Profession Act and from constitutional rights to a fair trial of their clients and, consequently, must maintain confidentiality over all information which they have acquired in connection with their legal services to their clients.

Therefore, special care must be taken where companies conduct cross-border investigations as, mostly, foreign investigators do not enjoy legal privilege in the Slovak Republic even if they are attorneys in their home country or if they are inhouse lawyers.

5. Whistleblowing

Companies with at least 50 employees must implement a whistleblowing management system for reports relating to (potential) breaches in specific areas (including bribery). They must also appoint a whistleblowing investigator and must investigate reports diligently, impartially and independently.

Recent whistleblowing legislation has resulted in a significant rise in whistleblower activity. This can carry a risk of triggering a reporting duty on the part of those receiving the whistleblowing reports if they are not protected by legal privilege.

6. Cooperation with prosecutors

Launching an internal investigation and being willing to cooperate with the prosecuting authorities, or even disclosing any misconduct, can arguably be considered a sign of effective compliance. However, the company does not derive any automatic statutory benefit from voluntary self-reporting or cooperating with prosecutors. The law does not make explicit provision in matters of cooperation with prosecutors or about companies that wish to cooperate. Therefore, companies must rely on the mutual trust built up between their attorneys and prosecution authorities.

7. Non-trial resolution of bribery cases

There is limited practice of non-trial resolutions of bribery cases. While Slovak law recognises the concept of effective remorse, it does not apply to corruption offences.

The only practical option for companies is to negotiate a plea agreement with the public prosecutor. Upon concluding negotiations, the company must admit that the facts as presented by the prosecution are accurate and agree to the proposed sanctions. The primary benefit of this instrument is that if the company can demonstrate that it took sufficient compliance measures, it may negotiate a more lenient sentence, such as a monetary penalty or a reduced sanction.

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