

Providing an Alternative to Silence:
Towards Greater Protection and Support for
Whistleblowers in the EU

Country Report: Slovenia

This report belongs to a series of 27 national reports that assess the adequacy of whistleblower protection laws of all member states of the European Union. *Whistleblowing in Europe: Legal Protection for Whistleblowers in the EU*, published by Transparency International in November 2013, compiles the findings from these national reports. It can be accessed at www.transparency.org.

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1. INTRODUCTION

The Republic of Slovenia is a young democracy. After a brief armed conflict in 1991, it separated successfully from the rest of Yugoslavia and has mostly avoided the tragedies faced by other former Yugoslav republics. Some of Slovenia's 2 million citizens, however, are finding that the transition from the old communist regime and the accompanying redistribution of wealth bring new problems.

People in Slovenia are becoming increasingly critical of the phenomenon of corruption although they are becoming progressively doubtful about the success of the governmental institutions in rule of law and anticorruption activities. They are also less inclined to report corruption and doubt in advance in success of any initiated proceedings. They still find the media one of the most convenient and trustworthy mean for uncovering irregularities in the society, with certain exceptions and are nevertheless able to relatively realistically and objectively comprehend problems in the society and the players affecting their occurrence and resolution. According to the assessment¹, the gap between the negative attitude of the Slovenian people and the inadequate operation of the entire state apparatus in the fight against corruption is drawing near the critical line. When that line is reached there will be a serious danger of rash and poorly thought-out legal, institutional and practical solutions which may cause more damage to the rule of law than the damage caused by the current level of corruption in Slovenia (Škrbec and Dobovšek, 2011). Part of this line has already been breached. Everyday corruption scandals brought Slovene people on the streets. Ongoing protests against corruption, unethical behaviour and political elites have been taking place all of the major cities in Slovenia in November and December 2012: 10, 000 people protested peacefully as smaller groups in Ljubljana and Maribor clashed with the police.

The National Assembly of the Republic of Slovenia ratified the UN Convention against Corruption on Wednesday, 6 February 2008. By ratifying it, the Convention became part of Slovenian legal system. Article 33 of the Convention defines that each country (state party) shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention. On the other hand, the Civil Law Convention on Corruption Slovenia ratified on 17th of March 2003. It defines protection of employees in way that each country (state party) shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities.

In such manner Slovenia adopted few regulations regards whistleblower and witness protection: the Code of Ethics of Slovene Public Servants², the Civil Servants Act³, the Employment Relationships Act⁴, the Witness protection act⁵, the Integrity and Prevention of Corruption Act⁶, the Criminal

¹ Annual Reports of the Commission for the Prevention of Corruption of the Republic of Slovenia; Available at: <https://www.kpk-rs.si/sl/komisija/letna-porocila>.

² Code of ethics of Slovene public servants, Uradni list RS, no. 8/2001; Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=20018&stevilka=474>

³ Civil servants act with amendments, Uradni list no. 65/2002 and changes; Available at: http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO3177.html

⁴ The employment relationship act, Uradni list RS, no. 42/2002 and changes; Available at: http://www.mdds.gov.si/si/zakonodaja_in_dokumenti/veljavni_predpisi/zakon_o_delovnih_razmerjih/

procedure act⁷, the Media Act⁸ and the Access to Public Information Act⁹. Amongst mentioned laws a stand-alone whistleblowing protection law does not exist, but we have to point out that the Integrity and Prevention of Corruption Act regulates in general way protection of WB in its own chapter.

2. A COMPILATION, DESCRIPTION AND ASSESSMENT OF WB PROTECTION LAWS

Slovenia approached (regarding whistleblowers protection) the most to mentioned Conventions when the **Code of Ethics of Slovene Public Servants** was adopted (18th of January 2001 - Official gazette of the Republic of Slovenia, Number 8/2001) which imposes in Article 12 a requirement on administrative bodies to ensure that public servants who report violations of code or other criminal offences shall not suffer any kind of damage. The code defines that they must ensure that public servants, who report in good faith any kind of irregularity or criminal offence, are protected from threats and similar acts which endanger the performance of public tasks. This provision has no sanctions if not obeying it.

The Integrity and Prevention of Corruption Act which was adopted in 2010 and changed twice in 2011 (the Official gazette of the Republic of Slovenia, Number. 69/2011) is the only law in Slovenia, besides mentioned Code of conduct, which regulates whistleblower protection as follows:

Article 23¹⁰

(Reporting of corruption and protection of reporting persons (whistleblowers))

(1) Any person may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he believes that it contains elements of corruption, to the Commission or any other competent body. At the reporting person's (whistleblower's) request, the Commission and other competent authorities shall notify the reporting person (whistleblower) of the measures or the course of action taken in this respect. This provision shall not encroach on the reporting person's (whistleblower's) right to inform the public of the corrupt practice in question.

(2) The provisions of the law regulating access to public information shall not apply to documents, files, records and other documentary material relating to a procedure conducted by the Commission with regard to the reported suspicion of corruption until the procedure before the Commission has been concluded. The information on the protected reporting person (whistleblower) shall not be made public after the procedure has been concluded. This provision shall also apply in the event that the material referred to in this paragraph has been referred to another body for consideration. The reporting person (whistleblower) may send the report that contains information that is defined by law as classified information only to criminal law enforcement authorities or to the Commission.

⁵ Witness protection act, Uradni list no. 113/2005 and changes. Available at: http://zakonodaja.gov.si/rpsi/r05/predpis_ZAKO4265.html

⁶ The integrity and prevention of corruption act, Uradni list no. 69/2011; Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056>

⁷ Criminal procedure act, Uradni list no. 63/1994 with changes. Available at: http://zakonodaja.gov.si/rpsi/r07/predpis_ZAKO4787.html

⁸ Media act, Uradni list no. 35/2001 and changes. Available at: http://zakonodaja.gov.si/rpsi/r05/predpis_ZAKO4955.html

⁹ Access to Public Information Act, Uradni list no. 51/2006. Available at: <http://www.uradni-list.si/1/objava.jsp?urlid=200651&stevilka=2180>

¹⁰ By way of the Act amending the Integrity and Prevention of Corruption Act (*Uradni list RS*, no. 43/11), paragraphs 1 and 2 have been amended therein and the final provision has been adopted, stating that part of paragraph 2 will not apply until 1 January 2013.

(3) If the Commission finds that the report referred to in the preceding paragraphs contains elements of a criminal offence for which the offender is prosecuted *ex officio*, it shall inform the law enforcement authorities of this in accordance with the law governing the criminal procedure and request that they keep it informed of any further courses of action.

(4) The identity of the reporting person (whistleblower) referred to in paragraph 1 of this Article, who has made a report in good faith and has reasonably believed that the information he has provided with regard to the report is true, which shall be assessed by the Commission, shall not be established or disclosed. The filing of a malicious report shall be an offence punishable under this Act if no elements of a criminal offence have been established.

(5) In assessing whether the report has been made in good faith, or whether the reporting person (whistleblower) has reasonably believed that the information he provided is true, the Commission shall take into account, in particular, the nature and gravity of the practice reported, the threat of damage posed by that practice or the actual damage caused as a result, a possible breach of the reporting person's (whistleblower's) duty to protect specific information, and the status of the body or person to which the report has been made.

(6) If in connection with the report of corruption, the conditions for the protection of the reporting person (whistleblower) or his family members are fulfilled under the law on witness protection, the Commission may submit a proposal to the Commission for the Protection of Persons at Risk to include them in the protection programme or may propose that the State Prosecutor General take urgent safeguarding measures.

(7) When the Commission for the Protection of Persons at Risk considers the Commission's proposal, its session may also be attended by the chair of the Commission.

(8) Only the court may rule that any information on and the identity of the persons referred to in paragraph 4 of this Article be disclosed if this is strictly necessary in order to safeguard the public interest or the rights of others.

Article 24

(Reporting unethical or illegal conduct)

(1) An official person who has reasonable grounds to believe that he has been requested to engage in illegal or unethical conduct, or has been subject to psychological or physical violence to that end, may report such practice to the superior or the person authorised by the superior (hereinafter: the responsible person).

(2) If there is no responsible person, or if the responsible person fails to respond to the report in writing within five working days, or if it is the responsible person himself who requests that the official should engage in illegal or unethical conduct, the report referred to in the preceding paragraph and the procedure pertaining to it shall fall within the competence of the Commission.

(3) The responsible person or the Commission shall assess the actual situation on the basis of the report, issue appropriate instructions on further action to be taken if necessary, and take all necessary steps to prevent any illegal or unethical requests and adverse consequences that may ensue.

Article 25

(Measures to protect the reporting person (whistleblower))

(1) If the reporting persons (whistleblowers) have been subject to retaliatory measures as a consequence of filing the report referred to in Articles 23 and 24 of this Act, and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage.

(2) The Commission may offer reporting persons (whistleblowers) assistance in establishing a causal link between the adverse consequences and retaliatory measures referred to in the preceding paragraph.

(3) If during the course of the procedure referred to in the preceding paragraph the Commission establishes a causal link between the report and the retaliatory measures taken against the reporting person (whistleblower), it shall demand that the employer ensure that such conduct is discontinued immediately.

(4) If the reporting persons (whistleblowers) referred to in paragraph 1 of this Article are public servants, and if they continue to be the focus of retaliation despite the Commission's demand referred to in the preceding paragraph, making it impossible for them to continue work in their current work post, they may request that their employer transfer them to another equivalent post and inform the Commission of this.

(5) If a reporting person (whistleblower) cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer due to having filed a report, the burden of proof shall rest with the employer.

(6) The public servant's employer shall ensure that the demand under paragraph 4 of this Article is met within 90 days at the latest and shall inform the Commission of this.

X. PENAL PROVISIONS

Article 77

(Minor offences by natural persons)

(1) A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who acts as follows:

– in contravention of the provision of paragraph 4 of Article 23 of this Act, attempts to establish the identity of the reporting person (whistleblower) who has made the report in good faith or has reasonably believed that his information is true.

(6) A fine of between EUR 400 and EUR 4000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, and legal person governed by public or private law which, in contravention of the provision of paragraph 4 of Article 23, initiates a procedure for the establishment or disclosure of the identity of the reporting person (whistleblower) due to the report having been filed by this person.

(7) A fine of between EUR 400 and EUR 4000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the provision of paragraph 1 of Article 25 of this Act, acts in a manner that has adverse consequences for the reporting person (whistleblower), or takes retaliatory measures against the reporting person (whistleblower).

(8) A fine of between EUR 400 and EUR 4000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of the demand of the Commission referred to in paragraph 3 of Article 25 of this Act, fails to immediately cease imposing retaliatory measures.

(9) A fine of between EUR 400 and EUR 4000 shall be imposed on a responsible person of a State body, local community body, holder of public authority, or other legal person governed by public or private law which, in contravention of paragraphs 4 and 6 of Article 25 of this Act, fails to transfer a public servant without justification.

In Slovenia only mentioned regulations directly protect endangered persons who report, warns... about possible corruption, wrongdoings etc. But on the other hand there are few other acts which regulate a kind of whistleblowing / witness protection:

1. The **Witness protection act** (the Official Gazette of the Republic of Slovenia, Number: 113/2005 and changes) was adopted. It regulates conditions and procedures for witness protection and for protection of other person, who are endangered due to their cooperation in criminal procedure. In this aspect, Slovenian act is broader than Framework decision on standing of victims in criminal procedure, which regulates only witness protection, when Slovenian act protects also others (Article 4 of the Witness protection act: »The Act is also used for suspects and accused persons, whose punishment can be mitigated and who are endangered because they prevented crime or revealed information, relevant for investigation and prosecution of the committed acts. The act is used also for persons who are endangered because of their relation to suspects and accused persons.» Special department of the Slovenian Police has been established: the Department for witness protection. It executes the witness protection in practice. The decision to include a person in witness protection program or to terminate it is made by the Commission for witness protection on the proposal of a supreme state prosecutor. The Commission has four members: a supreme judge, a supreme state prosecutor, a representative of the Ministry of Interior and Ministry of Justice. The act precisely defines measures for witness protection, including psychological, social and legal assistance, which is

emphasized in the framework. The Department for witness protection should cooperate with non-governmental organizations.

This act regulates also all the legal and technical questions concerning witness protection program and ensures stronger protection than the Criminal procedure act, which guarantees protection only in investigation and on trial, in judicial phase. It was adopted according to the European framework decision but it also considers experiences from other states.

3. The Civil Servants Act (the Official Gazette of the Republic of Slovenia, Number 56/2002 and changes) governs the civil servants system in state bodies and in local community administrations, and the particularities of civil servants employment in state bodies and in local community administrations. In the Article 15a also defines *principle of non-harassment*:

It is prohibited any physical, verbal or non-verbal conduct or behaviour of a civil servant, based on any personal circumstance, and creates an intimidating, hostile, degrading, humiliating or offensive working environment for the person and insulting its dignity.

4. The Employment Relationships Act (the Official Gazette of the Republic of Slovenia, Number 42/02 and changes) regulates employment relationships entered into on the basis of employment contracts between workers and employers. It also includes the Articles 6a. and 45. which defines:

Prohibition on sexual and other harassment and bullying at the workplace (Article 6a):

(1) Sexual and other harassment is prohibited. Sexual harassment is any form of undesired verbal, non-verbal or physical action or behavior of a sexual nature with the effect or intent of adversely affecting the dignity of a person, especially where this involves the creation of an intimidating, hateful, degrading, shaming or insulting environment. Harassment is any undesired behavior associated with any personal circumstance with the effect or intent of adversely affecting the dignity of a person or of creating an intimidating, hateful, degrading, shaming or insulting environment.

(2) Sexual and other harassment referred to in the preceding paragraph shall be deemed to be discrimination pursuant to the provisions of this Act.

(3) Rejection of action and behavior referred to in the first paragraph of this article on the part of an affected candidate or worker may not serve as grounds for discrimination in employment and work.

(4) Bullying at the workplace is prohibited. Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behavior aimed at individual workers in the workplace or in connection with work.

Protecting the Worker's Dignity at Work (Article 45):

(1) The employer shall be bound to provide such a working environment in which none of the workers is subjected to sexual and other harassment or bullying on the part of the employer, a superior or co-workers. To this end the employer must take appropriate steps to protect workers from sexual and other harassment or from bullying in the workplace.

(2) If in the event of a dispute a worker cites facts giving grounds for the suspicion that the employer has acted counter to the preceding paragraph, the burden of proof shall be on the side of the employer.

(3) In the event of a failure to ensure protection from sexual and other harassment or bullying pursuant to the first paragraph of this article, the employer shall be liable to provide compensation to the worker pursuant to the general rules of civil law.

5. The Criminal procedure act (the Official Gazette of the Republic of Slovenia, Number: 63/1994 and changes) governs the basic principles of criminal procedure, the pre-trial and criminal proceedings

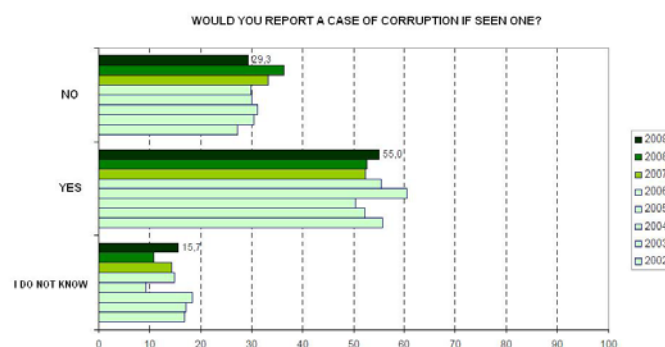
and in international cooperation in criminal matters. It also includes some general provisions on witness protection. Witnesses are protected when giving testimony in investigation and on trial. With an act amending criminal procedure act (2004) the circle of endangered persons, entitled to witness protection, broadened. It also regulated more precisely the procedure of deciding, whether the person is entitled to witness protection in the phase of judicial investigation and trial. Another act amending criminal procedure act was adopted in 2005. It, again, slightly changed the range of persons, who are entitled to witness protection. Even though changes occurred there are important deficiencies in practice which endanger the anonymity of the whistleblower in the panel procedure¹¹.

6. The **Media Act** (the Official Gazette of the Republic of Slovenia, Number 35/2001 and changes) stipulate the rights, obligations and responsibilities of legal and natural persons and the public interest of the Republic of Slovenia in the area of the mass media. The Article 21. defines: (2) Editorial personnel, journalists and the authors/creators of pieces shall not be obliged to reveal the sources of their information, except in cases where such is stipulated by criminal legislation.

7. We would also like to mention that according to the article 145 of the **Penal Code**, which contains all criminal offences recognized in the Republic of Slovenia, all state agencies and organisations having public authority shall be bound to report criminal offences liable to public prosecution of which they have been informed or which were brought to their notice in some other way. In submitting crime reports the agencies and organisations from the preceding paragraph shall indicate evidence known to them and shall undertake steps to preserve traces of the crime, objects on which or by means of which the crime was committed and other items of evidence.

3. PERCEPTIONS AND POLITICAL WILL

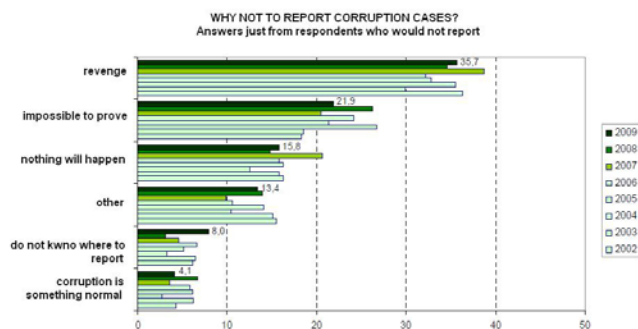
The Slovenian Commission for the Prevention of Corruption runs public opinion survey about corruption every year. The main topics are, whether people are prepared to report corruption to competent bodies, in which way and to whom. In this research there are also questions regarding whistleblowers / reporters of corruption crimes. Please see the graph ¹², showing the most significant reports of corruption crimes:



¹¹ See below point 4. Strengths, weaknesses and recommendations

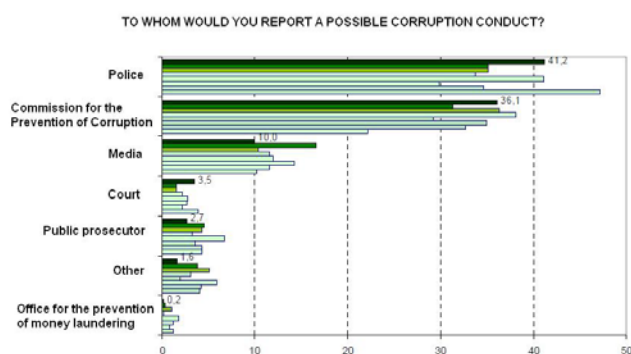
¹² Commission for the prevention of corruption, raziskave in statistika. Available at: <https://www.kpk-rs.si/sl/korupcija-integriteta-in-etika/analize-raziskave-in-statistika/raziskave-in-statistika>.

As we can see from the graph 1 above majority (55%) of people would report corruption case if seen one. There has been almost the same percentage of such opinion in all years of surveying (2002 – 2009; every year we have approximately 1000 respondents). But on the other hand we can see, that there is obvious change from 2008 to 2009 in number of respondents, who would not report such cases. The main reasons for not reporting are (see graph 2¹³): being afraid of negative consequences (37%), reporting is meaningless, because it is impossible to prove (22%), competent bodies are ignorant (16%), not knowing, where to make a report etc.



According to the statistics of the Commission for the Prevention of Corruption more than 50% of the reporters entrusted their identification data to the Commission, while others submitted their report anonymously. The majority of the reporters were prepared to deliver to the Commission, if required, additional clarifications or additional documentation, related to the contents of their report (Annual reports of the Commission for the Prevention of Corruption, available at: <https://www.kpk-rs.si/sl/komisija/letna-porocila>).

Besides mentioned we have stress out, that more and more people make a report to the competent bodies – especially to the Commission for the Prevention of Corruption to which public trust is increasing from year to year. Reports are also possible to Police, Prosecutors offices, Courts, Media.



In Slovenia, as surveys show, media has the biggest influence on public (newspapers, internet news, and TV news). But we also have to be careful in analysing data on this, as media is also being influenced by political elites and business elites and we have to look deeply also in intransparent

13 Source: <https://www.kpk-rs.si/sl/korupcija-integriteta-in-etika/analize-raziskave-in-statistika/raziskave-in-statistika>.

ownership of Slovenian media. Media, thus operate like an excellent “network”, which gets and publishes different information. People often say: *If police or Commission could not help, I will give the story to the media.* In our opinion, media are very powerful and far in front. On the other hand, there are different “associations” or NGOs’, like the “Društvo Integriteta- Transparency International Slovenia”, which is trying to get more and more attention in the public and is working on anti-corruption activities. The NGO is promoting implementation of integrity and transparency in public service and also in informing public on whistleblowers rights and protection. Otherwise there are no “so-called groups, public interests” which would be somehow informal “institution” for protection of whistleblowers.

Even though the whistleblowing provisions in the Integrity and Prevention of Corruption Act has minor deficiencies political will at this point is not so important. Politics cannot interfere with the work of the independent Commission for the Prevention of corruption which is competent for implementation of the Integrity and Prevention of Corruption Act, anti-corruption strategy and the articles about whistleblowers protection. Political will was truly important at the moment of passing and voting for this law. In 2010 great majority of all members of parliament (90) was for these provisions of whistleblower protection. No one did not raise his voice regards this questions.

Till now there is no official data on whistleblower protection in Slovenia neither there is a revealed case in public.

4. Strengths, weaknesses and recommendations

Slovenian definition of whistleblowing protection is as broad as it should be according to the UNCAC convention and the TI's recommendation – it covers all illegal or unethical behaviour.

Article 23 (1) states internal and also external channels of disclosure but does not explicitly specify the disclosure to the public as one of them. It only gives the right to the whistleblower to inform the public. This provision could be interpreted in some ways, which could present some problems. Among other things, the question may arise if only the disclosure to the media, without any report to the relevant body or authority, constitutes a legitimate whistleblowing (not in the case of classified data), which is highlighted in the recommendations of the Transparency International¹⁴.

Integrity and Prevention of Corruption Act and Code of Ethics adequately covers cases where public and private officials are asked to carry out illegal and unethical practices of any kind (not only corruption), but small differences still exist. We think that public and private sector employees would need to be treated and protected equally, especially because of intertwining of Slovenian private and public sector.

The law also defines good faith limitation of reporting person and all disclosure procedures. Firstly person can talk or directly report to his superior or person in charge for WB protection or/and to the Commission for the prevention of Corruption of the Republic of Slovenia. If a whistleblower wants to be informed about official procedures in his case, authority has to give and present to them.

¹⁴ Recommended draft principles for whistleblowing legislation:

http://www.transparency.org/files/content/activity/2009_PrinciplesForWhistleblowingLegislation_EN.pdf

There is no reward system for encouraging disclosures in Slovenia, but there are strictly defined protection of identity by the Commission for the prevention of corruption. The Integrity and Prevention of Corruption act defines that only the Court may rule that any information on and the identity of the persons can be disclosed if this is strictly necessary in order to safeguard the public interest or the rights of others.

Besides, the law also protect against retribution - If the reporting persons (whistleblowers) have been subject to retaliatory measures as a consequence of filing the report and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage.

The Commission for the prevention of corruption may offer reporting persons (whistleblowers) assistance in establishing a causal link between the adverse consequences and retaliatory measures. Even more, if a reporting person (whistleblower) cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer (due to having filed a report) the burden of proof shall rest with the employer. This provisions are really helpful since there is no need for the whistleblower to prove the casual link but only to cite facts which substantiate the assumption that the retaliation was due to having field a report.

Whistleblowers have the right to refuse the participation in proceedings.

One of the Slovenian strengths is also the fact that the responsible institution for implementation of the whistleblower provision is the independent and autonomous Commission for the Prevention of Corruption. It has many positive roles, amongst others also that it may offer reporting persons (whistleblowers) assistance in establishing a causal link between the adverse consequences and retaliatory measures; inform public about whistleblower provision etc.

The law also provides for a full range of remedies with focus on recovery of losses and making the complainant whole. Among others, this includes interim and injunctive relief, compensation for any pain and suffering incurred, compensation for loss of past, present and future earnings and status, etc. Reporting person can be also transferred to another equivalent working position (job) in other institution in Slovenia.

According to the estimation of the Commission for the Prevention of Corruption¹⁵, it is very important to implement provisions of the Integrity and Prevention of Corruption Act, to use existing resources, institutions and other options for protection of human dignity in the workplace (especially in the environments where the threatening of reported persons is under big expectation). On their opinion mentioned issues demands for:

a) The Independent and autonomous state institution which is responsible for ensuring the rule of law, integrity, responsibility and efficient preventing of corruption;

b) Whistleblower protection: We are talking about concrete examples, where it must be (with a high degree of independence and responsibility) intervened between the victim-offender-employer. It is equally important the independence and centralization of protection of WB in a special authority, especially when it comes to cases outside the public sector and the working environment.

c) Doctrine, policy, strategy and proactive operation of all whistleblower subsystems: latter are most effective issues when they are the third pillar of an independent body. That is important not only because United Nations Convention against corruption demands that, but also due to objective

¹⁵ Reply to our request for comments regards implementation of WB provisions / statistics etc.

reasons arising from the nature of things. Any independent institution with a comprehensive overview and related tools can effectively realize these goals.

According to the Commission for the Prevention of Corruption, the decision that the Commission for the Prevention of Corruption takes care of all mentioned three pillars has proven to be effective, as evidenced by the experiences (see also the table below).

Years Taken Measures	2010	2011	2012
Protection of identity (usage of pseudonym)	3	13	14
Demand to stop with threats / retaliatory measures	/	1	1 for 3 persons
The test of good faith	/	/	4
Protection of WB	/	/	5
Establishing a causal link between the adverse consequences and retaliatory measures	/	/	4
Transfer / removal of employee to another work position	/	/	/
Malicious report	/	2	/

(Source: information gathered from the Commission for the Prevention of Corruption of the Republic of Slovenia)

Indeed, not having as many information as the Commission for the Prevention of Corruption, we still think that more has to be done. Our work indicates¹⁶ that whistleblowing provisions are not fully implemented in practice yet. The whole system, meaning not only the work of the Commission for the Prevention of Corruption but also other institutions (inspection bodies, courts and police) is not yet fully adapted to work efficiently, as National Integrity system assessment shows. The holistic and proactive approach with cooperation of all relevant public and private institutions must be implemented. Let us present few examples we were notified about (the information is based on whistleblowers:

- 1) An example of a revealing identity of whistleblower. By whistleblowers statement to TI Slovenia when asking for help, he reviled, that the judge in whistleblowers case allegedly sent to the defendant's lawyer documents, including references to the whistleblower's identity and his co-workers who announced wrongdoing in the hospital.
- 2) We identified cases where individuals reported cases of corruption to the Commission for the Prevention of Corruption but were not protected. For example, our previous board member argues that it takes too long for the Commission for the Prevention of Corruption to respond. He asked for the protection in January 2011 after revealing high profile corruption cases in construction of hospital and high official's misuse of power. He suffered for discrimination and retaliatory measures after this. He argues that the Commission for the Prevention of

¹⁶ National Integrity System assessment in Slovenia. Available at: <http://nis.integriteta.si/publikacija/nacionalni-sistem-integritete-v-sloveniji>

Corruption in accordance with the law notified the employer about ongoing procedure which is now lasting for almost 2 years. And after that, this measure helped and minimized the retaliation. Just after few months, the employer realized that apparently nothing will happen with the whistleblower's report and no measures will be taken, pressure and victimization started again. Being a doctor and cancer surgeon this employers measures highly affect his patients and work as well. He is also under pressure and can not proceed with professional accreditations. The Commission for the Prevention of Corruption should act quickly and with high level of priority in whistleblowing protection mechanism and the report he or she makes.

- 3) In another case, a man reported misuse of money and funds after bankruptcy of companies to the Commission for the Prevention of Corruption. Corruption cases include high rank officials, judges and the companies' bankruptcy managers. He was as he states not protected. In general, more have to be done in responsiveness of the authorities, while, as we stressed above, we hardly speak about individual cases duo to a lack of information.

By our knowledge and available reports which are sent to our email as well we can state, there are more cases on the waiting list at the Commission for the Prevention of Corruption.

As it turns out, practice showed a problem of *protecting the identity* of the whistleblower in penal procedures. Whistleblower is in pre-penal procedure a police source. If the charges against a criminal offender are based on the information acquired from the whistleblower that potentially lead to a situation in court where the defendant party insist on hearing the witness evidence (whistleblower). This witness (whistleblower) is an identifiable person and the right to defence and the right to direct hearing of evidence – both constitutional principles – provide the accused person with the right to hear the evidence of the plaintiff or anyone who collected it or based their charges on (Slovenian case law). The court may decide if the witness may stay anonymous or the police have to show his identity. If the witness (whistleblower) stay anonymous he can testify with protection and discretion but the downside is that the witness' identity gets disclosed anyway – the contents of testimony are usually know to a limited number of persons; the witness is absent from his local environment or job during the hearing; the witness is not able to answer on phone calls, etc. We have to highlight the problem here, since the defendants' to question the witness is practically 100 percent, even if the whistleblower is only the source on what the police and public prosecutor's office gathered evidence to build the case. In many cases he is not the evidence per se, but only the source to gather evidence and in this respect his testimony is not needed. Defendant is using this legal institute in many cases just to identify the whistleblower.¹⁷

The new Act is in force for two and a half years, but is maybe still a bit early to fully see the results of the regulation or to be too critical on the work of the authority, which by our assessment National Integrity System, does not have sufficient human resources and material resources to tackle all problems regarding corruption in the country. This is the only anti-corruption focal point. But still regarding the situation of reviled corruption I the country and higher level of cases, whistleblower protection has to be also implemented in practice. The legislation was developed on the basis of the Commission for the prevention of corruption past practice, we can also see from the statistical data above the progress has been made. It is also our belief that the culture of whistleblowing in Slovenia

¹⁷ Matjaž Jerkič, Pre-penal and penal procedure. Whistleblower protection in a corruption case. Presentation EACT 3th workshop – Whistleblowing protection, Bled 22 - 24.10.2012.

is not yet in common, and the notion of protection has not known too many. Everyone, also civil society, have to do more about it. The system for whistleblowing protection has to come in place as a whole, which does not include only Commission for the prevention of corruption, but also the Inspectorate of the Ministry of the Interior, Police, Judiciary, Public prosecutor's office, Clinical Institute of Occupational, Traffic and Sports medicine, Institute of Public Health and others. The holistic and proactive approach is needed to establish the healthy working environment which will encourage whistleblowers to come forward.

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6. Chart(s)

The only regulation which defines whistleblowers protection is the Integrity and Prevention of Corruption Act. Other acts which were identified above are “sectoral” laws and are talking about witnesses, which is not directly the same meaning to whistleblowers protection.

Complete title of law or regulation: Integrity and Prevention of Corruption Act

	Yes	No	Partial	Notes
Broad definition of whistleblowing	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Broad definition of whistleblower	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Broad definition of retribution protection	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Internal reporting mechanism	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
External reporting mechanism	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act and
Whistleblower participation			x	Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Rewards system		x		
Protection of confidentiality			x	Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Anonymous reports accepted	x			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
No sanctions for misguided reporting		X		Sanctions defined in above mentioned article 77 of Integrity and Prevention of Corruption Act.
Whistleblower complaints authority	x			Commission for the Prevention of Corruption

Genuine day in court	x			Indeed, whistleblower in a case where he/she believes that has suffered injuries can claim for a compensation in front of the independent court.
Full range of remedies	X			Please see above mentioned articles 23-25 of Integrity and Prevention of Corruption Act.
Penalties for retaliation	x			Sanctions defined in above mentioned article 77 of Integrity and Prevention of Corruption Act.
Involvement of multiple actors		x		

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¹⁸ Please note: views expressed in the report are the researcher's own, and may not necessarily reflect the views of the organisation for which he works.