

SLOVENIA

● Limited enforcement

0.2% of global exports

Investigations and cases

In the period 2016-2019, Slovenia opened two investigations and neither commenced nor concluded any cases.¹

Recent developments

In 2019, the OECD WGB expressed concern about potential political interference by Slovenia's National Assembly with prosecutorial and judicial independence. This was in the context of the corruption prosecution of a member of the National Council.²

The 2017-2019 Programme to Enhance Integrity and Transparency and intermediary reports on its implementation make no mention of foreign bribery or the OECD Convention.³ It is unclear whether this shift in reporting means that foreign bribery

measures set out in the 2015-2016 programme are no longer considered relevant.

The Moneyval 2nd Follow-Up Report on Slovenia in 2019 states that the country remains in "enhanced follow-up".⁴ The report analyses Slovenia's progress in addressing the technical compliance deficiencies identified in the June 2017 assessment of its measures to combat money laundering and terrorist financing.⁵

Transparency of enforcement data

Annual statistics on the work of the police and prosecution services are published on their websites, including statistics on corruption cases as defined in the Criminal Code.⁶ No distinction is made for foreign bribery cases. It is possible to access statistics on foreign bribery enforcement on demand.⁷ The Ministry of Justice's system of records allows for the processing of statistical data on incoming and outgoing requests for mutual legal assistance.⁸ Information and basic general statistics on international cooperation are published in the State Prosecutor's annual reports.⁹ There are no published statistics specific to foreign bribery.

Court jurisprudence is available online, but the databases do not include substantial details of cases

¹ Reply from the Office of the State Prosecutor General Expert Information Centre to Transparency International Slovenia (nr. VDT Tu 15 2/19/2020), 1 June 2020.

² <https://www.oecd.org/slovenia/the-oecd-working-group-on-bribery-is-concerned-about-potential-political-interference-by-the-legislative-branch-in-the-independence-of-the-judiciary-in-slovenia.htm>

³ The Programme of Government of the Republic of Slovenia to enhance Integrity and Transparency 2017-2019, http://www.gov.si/assets/ministrstva/MJU/STIPS/Integriteta/Program-Vlade-2017-2019/7520264ce8/Programme_Integrity_Transparency_2017-2019.pdf. However, the current programme is based on the 2015-2016 Anti-Corruption Programme and intermediary reports on its implementation, which do mention foreign bribery. Details of that programme are set out in the *Exporting Corruption* Report 2018.

⁴ <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-sloveni/1680998aa9>

⁵ <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/MONEYVAL-Slovenia-MER-2017.pdf>; www.fatf-gafi.org/media/fatf/documents/reports/fur/MONEYVAL-FUR-Slovenia.pdf

⁶ <https://www.policija.si/o-slovenski-policiji/statistika> <https://www.policija.si/images/stories/Statistika/LetnaPorocila/PDF/LetnoPorocilo2016.pdf> ; <https://www.policija.si/images/stories/Statistika/LetnaPorocila/PDF/LetnoPorocilo2017.pdf> ; <https://www.policija.si/images/stories/Statistika/LetnaPorocila/PDF/LetnoPorocilo2018.pdf>

https://www.policija.si/images/stories/Statistika/LetnaPorocila/PDF/LetnoPorocilo2019_popr.pdf; <https://www.dt-rs.si/letna-porocila> ;

<https://www.dt-rs.si/files/documents/POROCILO-2016-koncno-min.pdf> ; <https://www.dt-rs.si/files/documents/Skupno%20letno%20poro%C4%8Dilo%202017.pdf> ; https://www.dt-rs.si/files/documents/Porocilo_2018.pdf ; <https://www.dt-rs.si/files/documents/Letno%20poroc%C4%8Cilo%20DT%20za%20leto%202019.pdf>

⁷ Requests for data for this report (statistics and/or narrative replies) were sent to different institutions: Ministry of Justice, Office of the State Prosecutor General, Slovenian Police, Commission for the Prevention of Corruption and the Supreme Court. At the date of these requests, most of these institutions were operating with limited capacity, due to COVID-19 restrictions.

⁸ <http://www.oecd.org/daf/anti-bribery/Slovenia-Phase-3-Written-Follow-Up-Report-ENG.pdf>, p.62.

⁹ State Prosecutors' Annual Reports 2016, p.83; 2017, p.95, and 2018, p.116.

or first-instance court judgements.¹⁰ The Supreme Court was tasked in 2016 with organising online publication of court jurisprudence and data from registries within six months.¹¹ This has been delayed to ensure personal data contained in judgements can be managed appropriately.¹²

Beneficial ownership transparency

There is a public register of beneficial owners available on the website of the Slovenian Agency for Public Legal Records and Related Services.¹³ This was established in 2017 and started operation in 2018.¹⁴ Trusts are not a recognised form of legal entity in the Slovenian legal framework. If foreign trusts earn a taxable income in Slovenia, they are required to register in the beneficial ownership register as a recognised entity.¹⁵ Access to the site is free to the public when they register, but only some of the information is accessible and there are limitations to the register. There is no verification of data, the search engine is poor (the public can only search by company name), the register is not indexed by search engines, and the database is not available in a machine-readable form. All data is available to oversight bodies.¹⁶ Unlike public users, relevant authorities can search by a beneficial owner's name in the register.¹⁷

Inadequacies in legal framework

While there are no major shortcomings in the legal framework specifically linked to foreign bribery,¹⁸ Slovenia continues to have an inadequate legal framework on anti-corruption,¹⁹ and questionable political commitment to implementing and improving it. Awareness of relevant stakeholders of the legal framework in place remains inadequate. Whistleblower protection is fragmented and primarily covered in the Integrity and Prevention of Corruption Act, with some elements also covered in other acts, such as the Criminal Procedure Act, the Witness Protection Act, the Mass Media Act and the Public Employees Act.²⁰ In January 2020, the Ministry of Justice stated that a draft law would be prepared by the end of the year to comply with the requirements of the EU Directive on Whistleblower Protection.²¹ Political commitment to transposition of the directive remains after the change of government in March 2020.²² However, no draft law had yet been presented as of mid-August 2020.

Proposed amendments to the Integrity and Prevention of Corruption Act (IPCA) have yet to be adopted, despite the evident need for them.²³ These include, but are not limited to, the regulation of lobbying, revolving doors and asset declaration, and resolving shortcomings of the *sui generis* procedure before the Commission for the Prevention of

¹⁰ <http://www.sodnapraksa.si/>

¹¹ Court rules, Official Gazette of the Republic of Slovenia, nr. 87/16, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=DRUG4076>

¹² Amendments to the Court Rules, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=DRUG4629>; <https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=10251>

¹³ <https://www.ajpes.si/eRDL/Iskalnik/Javni>

¹⁴ Rules on the establishment, maintenance and management of the Register of Beneficial Owners, Official Gazette of the Republic of Slovenia nr. 66/17), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV13022>

¹⁵ Prevention of Money Laundering and Terrorist Financing Act, Official Gazette of the Republic of Slovenia nr. 68/16 and 81/19, Articles 37 and 41, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7132>; www.ajpes.si/eRDL/Iskalnik/Javni

¹⁶ Prevention of Money Laundering and Terrorist Financing Act, Articles 45 and 46: 14

¹⁷ Article 46 of the Prevention of Money Laundering and Terrorist Financing Act prescribes who can access data.

¹⁸ <https://www.oecd.org/daf/anti-bribery/Slovenia-Phase-3-Written-Follow-Up-Report-ENG.pdf>

¹⁹ <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/16807912a8>

²⁰ Some whistleblower protection provisions also can be found in other acts, such as the Criminal Procedure Act, the Mass Media Act and the Public Employees Act.

²¹ EU Member States need to transpose the Directive by December 2021.

²² <https://www.gov.si/novice/2020-04-24-ministrice-kozlovic-s-predsednikom-kpk-sumijem-o-krepitevi-protikorupcijske-komisije/>

²³ Filed for the first time during the mandate of the 12th Government of the Republic of Slovenia in the National Assembly system under EPA 2551-VII on 19 January 2018. Filed for the second time during mandate of the 13th Government of the Republic of Slovenia in the National Assembly system under EPA 0703 – VIII on 5 July 2019. Proposed amendments, http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=657A1386BBA62760C125842E00348501&db=pre_zak&mandat=VIII

Corruption (CPC), enabling more effective operation of the commission. Calls for these amendments have been made by international institutions, such as the OECD WGB and the Group of States against Corruption (GRECO).²⁴ The CPC and Transparency International Slovenia attribute the lack of progress to absence of political will to prevent corruption.²⁵

The 2004 Resolution on the Prevention of Corruption in the Republic of Slovenia – a cornerstone document that gives direction to subsequent policies on anti-corruption – is outdated.

Inadequacies in enforcement system

There is an ongoing failure by Slovenia to enforce the laws prohibiting foreign bribery. This is partly due to inadequate resourcing and low awareness of foreign bribery among public institutions and the public. Detection of foreign bribery cases is poor and could be improved by providing training to and enhancing the roles of staff in diplomatic missions and consular posts, including police attachés. Training in the implementation of laws prohibiting foreign bribery has dropped significantly in recent years.²⁶ The Office of the State Prosecutor General does not have a permanent system of training on foreign bribery in place, resulting in lack of training for new employees.

Considering the lack of detection and prosecution of foreign bribery cases, there are also concerns about the lack of will to pursue such cases. The inadequacies are highlighted by concerns the OECD WGB has expressed about potential direct pressure on and interference with the work and functioning of the judiciary by Slovenia's National Assembly.²⁷

Despite the independence of the prosecution service, there is a concern that the lack of political will to improve anti-corruption efforts could translate into a lack of will to pursue foreign bribery

cases. Additionally, the politically unfriendly environment – highlighted by the OECD WGB's expression of concern about political pressure on the judiciary by the National Assembly²⁸ – could also hinder the capacity to pursue foreign bribery cases.

Recommendations

- Keep and publish improved and separate statistics on all stages of foreign bribery enforcement, unified across institutions, with the CPC publishing disaggregated statistics
- Improve the quality of the public information in the beneficial ownership register
- Strengthen whistleblower protections in line with the EU Directive on Whistleblower Protection, to ensure that persons reporting suspicions of foreign bribery are adequately protected from retaliation
- Improve training of public officials and enforcement personnel by introducing permanent and regular training programmes
- Provide training to and enhance the roles of staff in diplomatic missions and consular posts, including police attachés, in the detection of foreign bribery cases
- Increase awareness about foreign bribery offences, both in the private and public sectors
- Update the 2004 Resolution on the Prevention of Corruption in the Republic of Slovenia with a revised assessment, strategy and action plan to meet current needs
- Amend the Integrity and Prevention of Corruption Act
- Ensure the Integrity and Transparency programme addresses foreign bribery, including a more detailed plan to tackle it, with clearly determined responsibilities for implementation and details on evaluation of implementation.

²⁴ Respectively, <http://www.coe.int/en/web/greco/evaluations/slovenia>; <http://www.oecd.org/daf/anti-bribery/slovenia-oecdanti-briberyconvention.htm>

²⁵ <http://www.delo.si/novice/slovenija/dokler-bodo-politiki-zavracali-ugotovitve-kpk-ne-bo-napredka-271745.html>

²⁶ There is only one mention of prosecutors attending training on foreign bribery in the Prosecutors' Annual Reports 2016-2018. The reply from the Office of the State Prosecutor General to Transparency International Slovenia dated 1 June 2020 does not mention any training on the OECD Foreign Bribery Convention in 2018 and 2019.

²⁷ <http://www.oecd.org/corruption/anti-bribery/the-oecd-working-group-on-bribery-is-concerned-about-potential-political-interference-by-the-legislative-branch-in-the-independence-of-the-judiciary-in-slovenia.htm>; The European Commission expressed a similar concern in its 2019 EU Justice Scoreboard.

²⁸ <http://www.oecd.org/corruption/anti-bribery/the-oecd-working-group-on-bribery-is-concerned-about-potential-political-interference-by-the-legislative-branch-in-the-independence-of-the-judiciary-in-slovenia.htm>; The European Commission expressed a similar concern in its 2019 EU Justice Scoreboard.