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Ad hoc Report on the Slovak Republic (Rule 34)

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I. INTRODUCTION

1. This Rule 34 *ad hoc* report assesses the compliance of recent amendments to Slovak criminal law and of institutional reforms with the Council of Europe's anti-corruption standards and GRECO's practice. It outlines the procedural background leading to the application by GRECO of its Rule 34, followed by an overview of the legislative and institutional framework and changes, including related judicial proceedings challenging their constitutionality. The report concludes with an analysis of the reforms in terms of compliance with anti-corruption standards, identifies shortcomings and makes recommendations, where necessary, and highlights other relevant important issues.

2. Early 2024, GRECO took an interest in the adopted legislative amendments to Slovak criminal law and the proposed institutional reforms. During its 96th Plenary Meeting (18-22 March 2024), at the request of the Bureau, the Head of the Slovak delegation was invited to provide GRECO with information on these amendments and reforms. At the time, mindful of pending judicial proceedings (see paragraph 26 et al. below), GRECO decided to keep the situation under review and requested the Head of the Slovak delegation to promptly inform GRECO of any developments.

3. In line with this request, the Head of the Slovak delegation provided updates at the 97th Plenary Meeting (17-21 June 2024) and submitted additional written information on 2 September 2024. At its 106th meeting on 7 October 2024, the Bureau of GRECO decided to submit to the Plenary a revised proposal to initiate an *ad hoc* procedure in respect of the Slovak Republic.

4. At its 98th Plenary Meeting (18-22 November 2024), after discussing the information provided by the Slovak delegation and the Bureau's report, GRECO decided to initiate, pursuant to Rule 34, an *ad hoc* procedure in respect of the Slovak Republic. Rule 34 provides for an *ad hoc* procedure which can be triggered in exceptional circumstances, such as when GRECO receives reliable information concerning institutional reforms, legislative initiatives or procedural changes that may result in serious violations of anti-corruption standards of the Council of Europe.

5. GRECO further instructed the Secretariat to nominate two rapporteurs for the above procedure and to prepare an *ad hoc* report for examination by GRECO at its 100th plenary meeting. Subsequently, Ms Anca Jurma, former Counsellor of the Chief Prosecutor, National Anticorruption Directorate, Prosecutors' Office attached to the High Court of Cassation and Justice, Romania and Mr Alastair Brown, Jurist, Retired Judge, Member of the Faculty of Advocates, Scotland, United Kingdom, were appointed as rapporteurs.

6. An *ad hoc* on-site visit to the Slovak Republic took place from 18 to 19 February 2025. The rapporteurs were assisted by Mr Ylli Peco, Senior Legal Adviser at the GRECO's secretariat. This *ad hoc* GRECO evaluation team (hereafter referred to as the "GET") met with representatives from the National Council (Parliament), the Ministry of Justice, the Constitutional Court, the Supreme Administrative Court, the Specialised Criminal Court, the Judicial Council, the Public Prosecution Service, the Public Defender of Rights, the Whistleblower Protection Office and the Police Force. Also, meetings were organised with

civil society organisations, journalists, academics and associations of judges and prosecutors. The GET is grateful to the Slovak authorities for the excellent organisation of the on-site meetings, as well as for the prompt provision of additional information requested following the visit.

II. CONTEXT AND BACKGROUND INFORMATION

7. This chapter describes the current relevant legal and institutional anti-corruption framework in the Slovak Republic, the legislative amendments, including judicial proceedings challenging their constitutionality, as well as the institutional changes under review.

1. Legal and institutional framework

8. The major legal instruments include the Constitution and other relevant primary legislation. The Constitution represents the supreme law of the Slovak Republic. Article 1 affirms the observance of international treaties and other obligations entered into by the country. Article 50 (6) provides for the retroactive application of more favourable criminal law. The main constitutional bodies are: the *National Council* (Parliament), which is the sole legislative body; the *President*, who may submit legislation to the Constitutional Court to examine its conformity with the Constitution; the *Government*, which can prepare and submit draft laws for enactment; the *Constitutional Court*, an independent judicial authority that decides on the conformity of laws with the Constitution; the *Judicial Council* as well as the *courts* and the *Office of the Public Prosecution*.

9. Draft laws may be submitted to the National Council by a committee, a parliamentarian or the Government. According to Article 7 of the Creation of Legislation Act (Law no. 400/2015 Coll.), as amended, they are accompanied by an explanatory report and an impact analysis. Draft laws undergo three readings in the National Council. Article 27 of the Creation of Legislation Act and Article 89 of the National Council's Rules of Procedure regulate the use of a fast-track legislative procedure[1], in extraordinary circumstances, particularly when there is a threat to fundamental human rights and freedoms, national security, significant economic damage or during declared states of emergency or measures.

10. A proposal for a fast-track legislative procedure may be submitted exclusively by the government, regardless of whether the bill itself was introduced by the government, individual parliamentarians, or a parliamentary committee. Once the fast-track procedure is triggered in the National Council, certain statutory requirements concerning time-limits do not apply[2]. Additionally, it is possible to shorten parliamentary debate to prevent filibustering, i.e. a form of obstruction intended to delay law-making.

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[1] The fast-track procedure is also referred to as abridged, expedited, emergency or accelerated legislative procedure.

[2] The procedural deadlines that do not apply are cross-referenced in Article 89 (3) of the National Council's Rules of Procedure, which refers to other provisions setting out those deadlines, and include: the 24-hour period for the delivery of documents prior to the start of parliamentary sessions (Article 25); the 15-day period for the publication of the draft law before the first reading (Article 72(1)); the 30-day period for consideration of the draft law by parliamentary committees once it has been referred to the second reading (Article 74(2)); the 48-hour period for considering the draft law in the second reading after the submission of the parliamentary committees' report (Article 81(2); the 48-hour period for voting on proposed amendments after their submission

11. Corruption offences are mainly criminalised in the Criminal Code (Act no. 300/2005 Coll. of 1 January 2006, as amended) in Articles 328-336b. They were examined in detail in GRECO's Third Evaluation Round Report. Under Article 2 (1), the most favourable criminal law applies retroactively (*lex mitior* principle). That means that the criminality of the offence and the punishment to be imposed are to be assessed according to the law in force at the time when the offence was committed. However, if the legislation changes between the commission of the act and the pronouncement of the sentence, criminality and punishment must be determined according to the law which is most favourable to the offender. Mitigating and aggravating circumstances are laid down in Articles 36 and 37, and statutory limitations are set out in Articles 87 and 88. Articles 49-57 provide for the possibilities of suspending prison sentences and imposing alternative sentences. The definitions for various types of damage (small, serious, significant and large) are given in Articles 124 and 125. In addition, Article 326a of the Criminal Code provides for the offence of "bending the law" committed by a judge (see paragraph 131 et al below for details).

12. These criminal provisions are enforced by dedicated investigative bodies, notably within the Police Force. The detection and investigation of corruption offences are carried out by the Police Force, which operates through regional police departments and district police offices. Established in 2012, through the merger of the Office for the Fight Against Corruption and the Office for the Fight against Organised Crime, the National Crime Agency (NAKA) was the sole investigative authority for handling corruption offences, regardless of their complexity or scale, until its reorganisation in September 2024. Its goal was to improve efficiency in combating crime, especially the most serious forms of criminal offences, by unifying former bureaus to prevent duplication in investigations and criminal proceedings.

13. Criminal prosecution is exercised by the public prosecution service, which is a separate, independent, hierarchically organised and unified system led by the General Prosecutor. According to the Public Prosecution Service Act (Law no. 153/2001 Coll.), the prosecution system consists of the General Prosecutor's Office (GPO), regional prosecutor's offices and district prosecutor's offices. A Specialised Prosecutor's Office (SPO) existed from 2004 to 2024, which was responsible for prosecuting corruption and serious economic crime offences falling within the jurisdiction of the Specialised Criminal Court, and for exercising oversight over NAKA's investigations[3].

14. The General Prosecutor directs and controls the activities of the prosecution service at all levels, issuing binding orders, instructions or other service regulations for the performance of tasks. Under the law, a superior prosecutor has the right to instruct a subordinate prosecutor on the proceedings and in the performance of tasks. Subordinate prosecutors must follow instructions from superior prosecutors, save for exceptions provided

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during the second reading (Article 83 (4); the one-day deadline for holding the third reading when amendments were passed during the second reading (Article 84 (2); and the rule requiring the postponement of voting in the third reading until the adopted amendments have been distributed in writing to all members of Parliament (Article 86).

[3] According to the most recent publicly available 2022 annual report from the SPO, it was composed of an economic crime unit, with 11 prosecutors, a general crime unit, with 14 prosecutors, as well as the Head of the SPO and his deputy.

for by law. Consequently, the GPO supervises all subordinate offices, ensuring compliance with the law. The regional public prosecution service is the superior body of the district prosecutor's offices.

15. Criminal cases are adjudicated by independent and impartial courts. The criminal court system consists of district courts, which act as first-instance courts, regional/county courts which handle appeals and the Supreme Court, which serves as an appellate and review court. In accordance with Article 14 of the Code of Criminal Procedure, the Specialised Criminal Court, which functions as a regional court, acts as a first-instance court for serious crimes, including corruption (Articles 328-336 of the Criminal Code), organised crime, offences involving high-ranking officials (parliamentarians, judges, prosecutors and heads of public agencies), and the offence of "bending the law".

16. According to Article 144 of the Constitution, judges must act independently and are bound by the Constitution, constitutional laws, international treaties ratified by the Slovak Republic and ordinary laws. The Judicial Council ensures the independence, professionalism, and accountability of the judiciary. It acts as a self-governing body that manages judicial affairs independently from the executive and legislative powers. Its members include: nine judges elected by their peers; three members, each appointed and recalled by the National Council, the President and the Government. According to Article 141a (3) only a person who is not a judge may be appointed as a member of the Judicial Council by the National Council, the President and the Government. According to Sections 4 (l) and 27hi of the Judicial Council Act, it may decide to oppose the prosecution of a judge charged with bending the law under Article 326a of the Criminal Code (see paragraph 11 above). The decision must be reasoned, taken *in camera* within 30 days of receiving the judge's application, and only after hearing the parties concerned.

17. In the Slovak Republic, judges are appointed until the mandatory retirement age of 67[4] and may face disciplinary proceedings. The Supreme Administrative Court is the highest judicial body in matters of administrative justice, and adjudicates disciplinary cases involving judges, public prosecutors and other persons, as specified by law.

18. For the purpose of this report, two additional institutions contribute to exposing maladministration by public authorities, preventing corruption and promoting integrity: the Whistleblower Protection Office (WPO) and the Public Defender of Rights (Ombudsperson). The WPO was set up by the Whistleblower Protection Act, and acts independently as an external reporting channel, grants protected whistleblower status and oversees protection for whistleblowers. The Ombudsperson investigates the procedure by which the administration dealt with a public complaint. As a result, the Ombudsperson may propose remedial action, refer the matter to a superior authority, or file a constitutional complaint to challenge the constitutionality of laws.

[4] See Article 146, paragraph 2 of the Constitution.

2. Amendments to the legal and institutional framework

19. The anti-corruption framework described above underwent legislative and institutional changes, which are summarised below, along with the judicial proceedings reviewing their conformity with the Constitution.

A. Legislative amendments

Initial legal amendments introduced through Law no. 40/2024

20. In October 2023, following the results of parliamentary elections, a new Government took office in the Slovak Republic. The Government's manifesto for the period 2023-2027 proposed to modernise Slovak criminal policy in order to: align it with European standards by emphasising proportionality in sentencing and adopting restorative justice principles; humanise sentences by prioritising alternative punishments (e.g., fines, house arrest) over unconditional imprisonment, particularly for non-violent and economic crimes; encourage resocialisation and reintegration by promoting rehabilitation programmes, reducing recidivism and promoting alternative punishments; address prison overcrowding by shifting the focus from imprisonment to alternative punishments; encourage proportionality of punishments by seeking to eliminate disproportionate sentences and ensure that punishment fits the severity of the crime; adjust statutory damage thresholds for financial crimes to reflect inflation and economic conditions; and reform the Specialised Prosecutor's Office (SPO) to address concerns over political influence and prosecutorial independence. The manifesto formed the basis of a draft law which is described below.

21. On 6 December 2023 the Government proposed a draft law containing a series of legislative amendments to the Criminal Code, the Code of Criminal Procedure, the Act on the Public Prosecutor's Office, the Act on criminal liability of legal persons and other related laws, under the fast-track procedure. The proposal was included in the agenda of National Council's session on the same day. According to the authorities, the aim of the draft law was to modernise and rationalise procedures related to economic crime as a whole, including corruption offences. The key objectives of the amendments were to implement the case-law of the European Court of Human Rights[5] (ECtHR) and other standards concerning the institute of the cooperating accused[6], strengthen procedural safeguards, humanise criminal law and apply better proportionality of criminal penalties by introducing the use of alternative sanctions and other elements of restorative justice, properly transpose European Union (EU)

[5] *Adamčo v. Slovakia* (no. 45084/14, 19 November 2019) concerned the applicant's conviction for murder in the context of organised crime, based to a decisive degree on statements by an accomplice arising from plea-bargaining arrangement, without adequate judicial scrutiny; *Mucha v. Slovakia* (no. 63703/19, 25 November 2021) addressed the applicant's objectively justified doubts as to impartiality of the trial court which convicted him of various organised crime activities, based on evidence testimony by accomplices who had turned State's evidence following plea-bargain agreements; *Vasaráb and Paulus v. Slovakia* (nos. 28081/19 and 29664/19, 15 December 2022) related to the domestic courts' refusal to examine witnesses who would have allegedly been able to rebut key evidence that had led to the applicants' convictions for murder; and *Erik Adamčo v. Slovakia* (no. 19990/20, 1 September 2023) examined the applicant's conviction of two counts of complicity in murder, committed in an organised-crime context, based to a significant degree on incriminating evidence by accomplices who cooperated with the prosecution in return for immunity or other advantages.

[6] In the Slovak Republic, a cooperating accused is an accomplice who agrees to cooperate with the prosecution in exchange for immunity or other advantages.

law, improve detention conditions in line with international recommendations (given by the Council of Europe's Committee for the Prevention of Torture - "CPT"), secure proportionality of forfeiture of assets and address structural problems with bias and impartiality of the Special Prosecution's Office.

22. Parliament began the deliberations on the draft law on 22 December 2023, with the debate continuing until 25 January 2024. It passed the draft law, through the fast-track legislative procedure, at the third reading on 8 February 2024 (Law no. 40/2024 Coll.). The President signed the amendments into law on 16 February 2024. The major and relevant changes resulting from Law no. 40/2024 relate to the reduction of the limitation period and criminal sentences for economic and property offences, including those linked to corruption; the adjustment of the statutory damage threshold for economic crimes; the expanded possibilities for imposing suspended prison sentences; and the suppression of the SPO. A summary table of the amended limitation periods, criminal sentences and damage threshold regarding corruption-related offences is included in the Appendix to the *ad hoc* report.

23. Regarding the amendments introduced by Law no. 40/2024, the authorities have indicated that there were no changes in the definition of crimes and their legal constituent elements. The amendments to the level of damage were made to keep pace with inflation and economic development. The level of damage had not been increased since 2005, when the threshold for 'small damage' was fixed at EUR 266. The suppression of the Specialised Prosecutor's Office (SPO) was provided for in the amendments to the Public Prosecution Service Act and entered into force on 20 March 2024 (also see paragraph 29 below).

24. While the Specialised Criminal Court remains in place, it will be competent to hear cases of property or economic offences where the damage is EUR 7 million (an increase from the previous threshold of EUR 6,650,000). This limit will not apply to cases related to the protection of EU financial interests and all corruption offences. The Specialised Criminal Court will continue the examination of all ongoing cases pending before it, regardless of the new threshold.

25. Law no. 40/2024 also introduced several amendments to the Code of Criminal Procedure (Act no. 301/2005 Coll.). Under the law, a judge cannot be prosecuted for the offence of bending the law under Article 326a of the Criminal Code if the Judicial Council of the Slovak Republic opposes the prosecution. The Judicial Council may do so following the filing of charges or the reclassification of a different offence with which the judge was initially charged to the criminal offence of bending the law pursuant to Article 326a of the Criminal Code. In such cases, a 60-day time limit has been introduced for the judge to submit a request to the Judicial Council, starting from the delivery of the prosecutor's decision to bring charges or notification of the reclassification under Article 326a. The judge must be informed of the Judicial Council's decision within 30 days from the date the request is received (see paragraph 16 above).

Judicial constitutional proceedings concerning the legislative amendments

26. On 19 and 20 February 2024, the then President of the Slovak Republic and members of Parliament (jointly referred to as the complainants) initiated proceedings before the

Constitutional Court, challenging the constitutionality of Law no. 40/2024 Coll. They requested its stay of application. The complainants' arguments can be grouped on procedural and substantive grounds. As regards the procedure, the complainants argued that the use of the abridged (fast-track) legislative procedure was unjustified, as no real, direct and imminent threat warranted bypassing the standard legislative process. No preliminary information had been prepared and published on the draft amendments by the Government. Also, they claimed that their rights to participate in meaningful debate and scrutiny were effectively negated in all three readings of the law.

27. Turning to the substance, the complainants contended that the law significantly reduced penalties for financial, economic, and corruption offenses, raised the statutory thresholds for damage without offering any justification, shortened limitation periods, reclassified crimes to misdemeanours and expanded the scope for the application of suspended sentences. The combination of these amendments would potentially weaken the fight against corruption (owing to the lack of effective, proportionate and dissuasive sanctions and of specialised institutions), give rise to a mass and *de facto* amnesty in ongoing investigated and prosecuted cases by favouring suspected and accused (even indicted) persons close to the ruling coalition, breach the principle of legal certainty and of the prohibition of arbitrariness, violate the rights to a fair investigation and punishment of the perpetrator and be contrary to the fair protection of victims' claims in criminal proceedings. They further argued that dissolving the SPO - without establishing an adequate replacement, without having sufficient time to prepare for the transfer of over 1,000 pending proceedings to the GPO and regional prosecutor's offices and without demonstrating that it was necessary - violated the country's international obligations under anti-corruption treaties and EU law and did not pass the proportionality test.

28. On 28 February 2024 the Constitutional Court issued an interim decision, suspending the effectiveness of certain parts of the contested law pending a final ruling. The Constitutional Court noted that the amendments to the Criminal Code were comprehensive and introduced substantial changes to several legal institutions. These included: a significant reduction of limitation periods which would affect ongoing criminal prosecutions; a substantial change in the classification of offences, due to revised thresholds for damage caused, the extent of the act or the benefit obtained, resulting in the reclassification of criminal offences from felonies (serious crimes) to misdemeanours (minor crimes), and from particularly serious crimes to ordinary or less serious ones; and major changes in sentencing rules in favour of non-custodial penalties. Taken together, the reforms amounted to more lenient punishment for offenders and represented fundamental changes to the system of criminal liability and sentencing. The Constitutional Court therefore held that the immediate application of the law could have irreversible consequences and make it impossible to eliminate all the effects of the unconstitutional legislation, particularly in light of the retroactive application of more lenient criminal law (in accordance with the *lex mitior* principle), if the law were subsequently declared unconstitutional in the final decision on the merits.

29. The Constitutional Court did not suspend the entry into force of amendments concerning the dissolution of the SPO (also see paragraph 23 above).

30. On 3 July 2024 the Constitutional Court gave its decision on the merits, which was published on 6 August 2024. The relevant parts of the decision are summarised below, based solely on the Constitutional Court's reasoning.

31. As regards the legislative process, in addition to noting that Law no. 40/2024 Coll. had not been subject to an inter-ministerial comment procedure or published due to the application of the abridged procedure (also see footnote 2 above), the Constitutional Court acknowledged that the legal requirements for applying this procedure had not been met. However, this failure was not found to be unconstitutional, as it had not reached a high constitutional intensity, affecting fundamental constitutional principles. The expedited legislative process had not completely prevented parliamentary debate, since the opposition members of Parliament had been able to express their views, table amendments, and participate in discussions. There was no constitutional requirement obliging the ruling coalition to engage with the opposition beyond the formal parliamentary process. Parliamentary debate had taken place in the first and second reading of the draft law. Closing the debate in the third reading (after only two parliamentarians had spoken), which was allowed by parliamentary rules in specific cases, did not amount to a constitutional breach.

32. Turning to the content of Law no. 40/2024, the Constitutional Court deferred to the legislature's discretion, holding that changes to criminal sentences, limitation periods, and prosecutorial structures were within the legislature's authority and discretion. It ruled that lawmakers had the authority to determine sentencing policies, even if controversial. The Constitutional Court held that the determination of criminal sanctions, including the lowering of penalties, fell within the authority of the elected legislature, which was guided by penological and political criteria. It did not find any arbitrariness on the part of the National Council (Parliament) or manifest excess in the amendments. Respect for the legislature's discretion was even more justified as the legislation under review did not abolish the criminality of offences, but merely allowed for a wider differentiation and scaling of penalties to individualise judicial decision-making. The mere fact that criminal penalties had been reduced did not inherently violate constitutional principles. The amendments aligned with the legal practice in other countries and EU legislation and were within acceptable limits.

33. With respect to limitation periods, the Constitutional Court stated that that the shortened limitation periods constituted an attempt by the Government to reduce the criminality of offences without abolishing any offence, since the legislation recodified in 2005 (i.e. the Criminal Code) had brought about a significant increase in criminality. The court rejected claims that the amendments were designed to target or benefit specific individuals, reaffirming that laws must be assessed in general and not based on personal impact. It did not find any determining, distinguishing or excluding criterion which, contrary to the principle of general application of the law, would target particular individuals. While every offender was entitled to the application of a new, more favourable criminal law, the victim in any criminal case could not, at the same time, have an opposing claim, namely that the criminal law in force at the time of the commission of the offence should be applied (as less favourable) in relation to the offender. The court stated that the shortened limitation period complied with EU requirements, as the amended provisions did not guarantee less favourable protection to EU's financial interests than to national interests. The changes did not

undermine effective prosecution. The court found no constitutional violation in the reduction of limitation periods.

34. Regarding the damage threshold, the Constitutional Court held that the determination of the amount of damage for the purposes of criminalising an act was within the competence of the legislature. The preservation of the amount of damage in the law in the long term posed a risk to the rule of law in that the influence of economic factors, such as the devaluation of money (inflation), with an unchanged amount of the threshold of damage led to a *de facto* expansion of criminal responsibility. The determination of the actual amount of damage was a decision for the legislature to make.

35. In relation to suspended prison sentences, the Constitutional Court stated that the amendments did not result in the automatic imposition of suspended sentences, as this depended on the circumstances of each case. However, if suspended sentences were banned altogether, it would lead to a more excessive and repressive system. A court's decision imposing a suspended sentence would always be subject to review on appeal. While the number of suspended sentences would likely increase, this was a matter for the criminal policy of the State, which was the responsibility of the legislature. The Constitutional Court further held that suspended sentences were excluded for repeat offenders who committed an intentional crime while on probation.

36. As to the dissolution of the SPO, the Constitutional Court stated that it had been established and existed as part of the GPO. It had not been a separate body within the prosecution system, nor as a prosecution body independent from the GPO. The organisation of the prosecutor's office and its functions did not relate to constitutional principles, but to legal principles. As such, the legislature had broad discretion to regulate the organisation of the prosecution service. The restructuring of the prosecution system was within the Slovak authorities' discretion. The SPO's abolition did not unconstitutionally interfere with the General Prosecutor's authority, nor did it interfere with judicial independence or effective judicial protection of the rights of persons under EU law. The requirement for specialised anti-corruption prosecution bodies, as emanating from international law, could also be fulfilled by internal specialisation within the GPO, for example by creating a separate specialised organisational unit or by specialising specific persons within the relevant state body. The law had provided transitional provisions ensuring transfer of cases and personnel to regional prosecutor's offices and the General Prosecutor's oversight to manage the transition. While the transition might cause temporary delays, they were not a systemic violation of fair trial guarantees, but a one-off matter. The court concluded that the abolition of the SPO was not contrary to constitutional principles.

37. Lastly, the Constitutional Court declared unconstitutional: provisions concerning the admissibility and use of illegally obtained evidence in criminal proceedings for the benefit of the accused; provisions concerning the retroactive reopening of plea agreements finalised before 15 March 2024; and transitional provisions relating to final decisions on forfeiture of property which had been imposed under the previous law, but had not been fully executed until the new law's entry into force.

Subsequent legislative amendments post-Law no. 40/2024

38. While the constitutional proceedings were pending, the Criminal Code was subsequently amended on 28 February and 16 July 2024, and, after their conclusion, also on 28 November 2024 (Laws nos. 47/2024, 214/2024 and 353/2024 Coll, respectively).

39. Law no. 47/2024 added paragraph 6 to Article 87 of the Criminal Code, retaining the 'old' regulation on the termination of criminality as a result of the statute of limitations in the case of offences against life and health, offences against freedom and human dignity, offences against family and youth, and offences against other rights and freedoms.

40. In response to concerns expressed by the European Union, Law no. 214/2024 introduced a definition of the term "financial interests of the European Union (EU)" in new Article 137a. It also added paragraph 7 to Article 87, which states that the amended limitation periods do not apply to, among others, the commission of certain corruption-related offences which are prejudicial to the EU's financial interests. As a result, the previous limitation periods were reinstated.

41. Furthermore, Article 34(6) on principles of sentencing was amended to allow courts to consider the need for penalties to ensure the protection of the EU's financial interests. Meanwhile, the Supreme Court of the Slovak Republic has provided interpretative unifying opinion (no. TPJ 129/2024 of 28 November 2024) of Article 2(1) of the Criminal Code, read in conjunction with Article 50(6) of the Constitution (also see paragraphs 8 and 11 above), emphasising that the more favourable criminal law must apply retrospectively except for cases involving harm to the financial interests of the EU, in line with Article 87(7) of the Criminal Code[7].

42. Law no. 353/2024 amended the Public Prosecution Service Act by setting up a specialised organisational unit for serious crime. It also amended the Criminal Code, stating that, when sanctions are imposed, care should be taken to ensure that the penalties include the forfeiture of any proceeds derived from criminal activity. Further, it introduced several amendments aimed at securing the protection of the EU's financial interests.

B. Institutional amendments

43. The consequences of the dissolution of the SPO, as introduced by Law no. 40/2024 and upheld by the Constitutional Court (see paragraphs 22, 29 and 36 above), are outlined below, together with the institutional reforms affecting the NAKA.

Dissolution of the Specialised Prosecutor's Office

44. The Slovak authorities consider that the dissolution of the SPO was justified on the grounds that it supervised itself, had created an autonomous criminal policy, did not respect the General Prosecutor as the head of the monocratic structure of the public prosecution

[7] https://www.pravnelisty.sk/clanky/a1505-stanovisko-najvyssieho-sudu-sr-ohladne-premlcania-trestneho-stihania-a-dalsia-novela-trestneho-zakona-ohladne-premlcania

service, failed to comply with decisions under Article 363 of the Code of Criminal Procedure[8], and gave fundamentally different interpretations to the legal norms. Following the visit, they argue that, based on press articles[9], the number of prosecuted individuals fluctuated significantly from year to year, often involving minor corruption cases that could be handled by regional prosecutor's offices, an aspect the GET did not have the opportunity to explore with interlocutors during the visit. In their view, as the main challenge in corruption cases lies in detection and investigation, specialised efforts should primarily fall under the remit of the Police Force, which is responsible for investigating criminal activity. Its dissolution did not affect the status of prosecutors, assistant prosecutors, civil servants and other employees, who were assigned to the GPO's organisational units. Until its dissolution on 20 March 2024, the SPO employed 28 prosecutors.

45. The following operational measures were taken in a chronological order:

(i) In December 2023, a working group was established to prepare the prosecution service for this institutional change. Consequently, the GPO Order no. 10/2024 set out the procedure for the transfer of case files from the SPO to the General Prosecutors' Office and the regional prosecutor's offices and included template documents that would be used for such transfers. It established procedural obligations for both transferring and receiving prosecutors, such as notifying the parties to the proceedings and ensuring compliance with relevant deadlines.

(ii) In addition, pursuant to Section 14 of the GPO Order no. 11/2024 on the organisation, management and control of work at the Public Prosecutor's Office (the Organisational Code), the Serious Crime Unit (SCU) at the GPO was established. As mentioned in paragraph 42 above, the SCU has become part of the GPO by law. Its powers include the management, direction and control of the activities of the subordinate regional prosecutor's offices (RPOs) when supervising compliance with legality prior to the initiation of criminal proceedings and in pre-trial proceedings in matters falling within the jurisdiction of the Specialised Criminal Court. In these cases, it manages, directs and controls the procedure of the RPOs also in proceedings before the Specialised Criminal Court and the Supreme Court, and exercises other supervisory powers within a limited scope. It may prosecute cases falling within the competence of the Specialised Criminal Court only if this is provided for on an *ad hoc* basis by a decision of the General Prosecutor taken pursuant to Article 51 of the Public Prosecution Service Act[10].

(iii) As of 20 March 2024, all 28 prosecutors of the SPO were transferred to other organisational units of the GPO, as follows: eight prosecutors to the SCU, two to RPOs, and sixteen to the GPO's Criminal Department, International Department, Non-criminal

[8] Article 363 of the Code of Criminal Procedure empowers the General Prosecutor, as an extraordinary remedy, to annul a final decision issued by a lower-ranking prosecutor or a police officer in the pre-trial stage of criminal proceedings, if it is found to be in breach of the law. The General Prosecutor's resolution is not subject to appeal.

[9] See https://www.pravnelisty.sk/clanky/a1325-pozornost-dar-alebo-korupcia, https://www.pravnelisty.sk/clanky/a1328-zrusenie-uradu-specialnej-prokuratury-alebo-vela-kriku-pre-nic, and https://plus7dni.pluska.sk/domov/lovenie-dokazov-zdlhave-rozhodovanie-pri-ruseni-usp-spominaju-desiatky-poruseni-prav

[10] Article 51 of the Public Prosecution Service Act empowers the General Prosecutor to provide for exceptions to the prosecution of cases falling within the jurisdiction of specific courts.

Department and Legislation, Strategy and Constitutional Law Department. Two prosecutors resigned.

(iv) On the same date, 963 cases at different stages of pre-trial proceedings were transferred from the SPO to the RPOs, pursuant to Article 46(3) of the Public Prosecution Act. If an indictment had already been filed by a former SPO prosecutor with the Specialised Criminal Court, the General Prosecutor decided, on a case-by-case basis and in accordance with Section 51 of the Public Prosecution Act, that former SPO prosecutors would continue handling the cases, regardless of their new positions.

(v) Completed cases and other documents logged in the registers were transferred to various GPO's organisational units, in accordance with the Organisational Code.

(vi) Section 14 of the General Prosecutor's Order no. 43/2024 of 17 December 2024 further describes the responsibilities of the SCU. Appendix 2 to the Order lists the specific offences in respect of which the SCU exercises the powers of the public prosecutor. The responsibilities of the Head of the SCU have been set out in Section 7 of Order no. 35/2024.

46. The General Prosecutor has instructed all regional prosecutors, who are in charge of prosecuting corruption offences, to elaborate and/or update every six months, in cooperation with the SCU, the list of measures on coordination between investigators and prosecutors in charge of corruption cases. In addition, the General Prosecutor has issued other internal organisational acts to ensure a unified application of the new legal framework and the efficiency and continuity of the prosecution.

47. Following the visit, the GET was informed that the SCU now consists of ten prosecutors, eight of whom were formerly with the SPO. Neither the ten SCU prosecutors nor 69 out of 89 prosecutors assigned to the RPOs work exclusively on corruption cases, as they also handle other types of cases previously managed by the SPO.

48. In terms of capacity building, several training activities were organised in 2024 as follows:

Date	No. of participants	Training event
18 April 2024	24 prosecutors	Liability of statutory bodies from the perspective of criminal law
6-7 May 2024	20 prosecutors	Methodology for detecting and proving corruption crimes and decision-making practice of courts
30 May 2024	7 prosecutors	Current case law of the ECHR in criminal and administrative law
19-20 September 2024	31 prosecutors	Financial Investigation VII – selected aspects and experiences
11-12 November 2024	25 prosecutors	Criminal offences of corruption, preliminary proceeding – knowledge of the US and Slovak prosecutors

49. In 2025, the authorities have indicated that they plan to organise four training activities: three workshops on detecting and proving corruption offences and resolving application problems in the context of the latest amendments to the Criminal Code and the Criminal Procedure Code (targeting 110 prosecutors, scheduled for April, May and June); and one workshop on supervision of the prosecutor in cases falling within the jurisdiction of the Specialised Criminal Court (targeting 20 prosecutors, planned for October).

50. Furthermore, the authorities provided the following statistical data on the processing of prosecutions.

Item / year		2022	2023	2024 before/after 20/03/2024)	2025 (until 1/3/2025)
Number of prosecutions initiated for corruption offences		151	105	11/39	20
Number of prosecutions initiated/handled by prosecutors of the Serious Crimes Unit of the General Prosecutor's Office		0	0	5/6	0
Number of corruption-related prosecuted cases referred to the Specialised Criminal Court		78	46	27/30	8
Of which	indictments	51	43	25/22	8
	Plea Agreement proposals	27	23	2/8	0
Number of corruption-related prosecuted cases resulting in a conviction		85	79	43	7
Number of prosecuted cases, indicating corruption-related cases, that were discontinued or dropped due to the criminal law reform		-	-	7 known perpetrators 1 unknown perpetrator	0

Reorganisation of the National Crime Agency

51. In addition to changes within the prosecution service, institutional reforms were also carried out within the Police Force. NAKA, which was a specialised unit within the Presidium of the Police Force that forms part of the Ministry of the Interior, was reorganised on 1 September 2024. While NAKA was previously responsible for investigating corruption offences, its functions have been divided into three areas focusing on drug-trafficking, anti-terrorism, and corruption and organised crime. The investigation of corruption offences is now the responsibility of the regional directorates of the Police Force. Pursuant to Article 24 of Regulation No. 87 of 13 September 2024 on the Organisational Regulations of the Police Directorate of the Police, the Office for Combatting Organised Crime of the Presidium of the Police Force (UBOK) carries out the detection and investigation of corruption offences based on a selective jurisdiction determined in accordance with an internal regulation.

52. UBOK is a centrally organised, executive, analytical and coordinating unit of the Presidium of the Police Force. It is headed by a director and is directly answerable to the Vice-President of the Police Force for the Criminal Police Service and Migration. UBOK specialises in combating the most serious forms of crime and is responsible for, among other tasks, detecting and investigating corruption offences based on a selection of jurisdiction determined in accordance with internal regulations, performing statistical and evidentiary tasks in relation to corruption offences, conducting financial investigations and detecting and investigating money laundering, including where it constitutes a predicate offence.

53. UBOK comprises five units as follows: the Management Support Department, responsible for providing overall support services; the Counter-Crime Unit, tasked with resolving the most serious offences related to organised crime; the Anti-corruption Unit (ACU), which includes the Corruption Analysis Centre; the Financial Police Unit, responsible for investigating the most serious economic and property-related crimes; and the Financial Investigation and Analysis Unit, which focuses on financial investigations and analytical activities.

54. The ACU's Corruption Analysis Centre assesses the severity of corruption cases reported to it and, based on a selection of jurisdiction determined in accordance with internal regulations, decides whether to retain the most serious cases at UBOK or to delegate less serious ones to regional police directorates. At the same time, the ACU conducts investigations into cases falling within the competence of the European Public Prosecutor's Office.[11]

55. With respect to staffing capacity, as of 31 August 2024, NAKA employed 643 police officers. NAKA's third division, which was primarily responsible for detecting and investigating corruption-related offences, comprised 103 staff members. Following the reorganisation, 13 police officers resigned, and a total of 250 were reassigned as follows: 47 to regional police directorates, 67 to district police directorates, 23 to the anti-terrorist police, 80 to the national anti-drug unit and 33 to the criminal police department.

56. Currently, UBOK employs 302 police officers, 90% of whom came from NAKA. The ACU has a total of 72 staff members, comprising police officers and investigators. Five police officers are assigned to the Corruption Analysis Centre, while the remaining staff are assigned to regional clusters, covering the east, west and centre of the country.

57. Turning to the number of police officers working on corruption cases, the authorities indicated that in four out of eight regional police directorates cases are allocated equally among all investigators working in the investigation departments, who also handle cases unrelated to corruption. In the remaining four regional police directorates, between two and six investigators are assigned to corruption cases, with only a limited number of them appearing to work exclusively on such cases.

[11] The European Public Prosecutor's Office (EPPO) is an independent public prosecution office of the EU, responsible for investigating, prosecuting and bringing to judgment crimes against the financial interests of the EU (see https://www.eppo.europa.eu/en/about/mission-and-tasks).

58. In addition to staffing considerations, the authorities provided the following information regarding training activities organised for police officers.

Date	No. of participants	Training event
December 2024 – ongoing	5,936 police officers	Online training on prevention of corruption in the conditions of the Ministry of the Interior
December 2024	All departments of the Police Force	Conduct of a corruption prevention awareness campaign, accompanied by a questionnaire on the perception of corruption within the Police Force.
29 November and 9 December 2024	90 police officers from two regional police directorates	Manual for detection and investigation of crimes of corruption
7-8 October 2024	70 police officers, incl. 15 from regional police directorates	Applied practice of financial investigation
1 September 2024 – 15 March 2025	572 police officers	Online and in-person trainings conducted for various organisational units.
September 2024	70 police officers	'Use your potential and be a leader' in-person training workshop, targeting women in management positions within the Police Force.

59. In 2025, the authorities plan to organise a few training activities on prevention of corruption. A training workshop is scheduled to take place on 19-21 May 2025 on "Measures against Corruption: sustainable future", with the expected participation of 50 police officers from regional directorates. Another training event is expected to occur on 11 June on "Integrity manager: implementation of the GRECO principles for police officers". A similar 'Use your potential and be a leader' training workshop will be organised in September 2025, targeting 70 women in management positions within the Police Force. An instructional-methodological workshop titled "Detection and investigation of corruption offences" will be organised between October and December 2025, with the expected participation of 70 police officers. In addition, an online information campaign on corruption prevention will be launched for all departments of the Police Force to mark the International Anti-Corruption Day.

60. Furthermore, the authorities provided the following statistical data on the number of criminal reports and investigations.

Item / year	2022	2023	2024 (specifying figures up to 20/03/2024 and those recorded	2025

			after that date)	
Number of criminal reports registered concerning corruption-related offences	246	175	118/79	14
Number of investigations opened in response to criminal reports for corruption-related offences	86	41	26/17	1
Number of corruption-related investigations referred to the prosecution service for prosecution	52	36	12/6	1
Number of corruption-related investigations discontinued or dropped due to the criminal law reform	0	2	5	2
Number of individuals who have benefitted from the discontinuation of investigations as a result of the criminal law reform	0	0	0	0
Number of SPO cases reassigned to different police investigators—other than those initially involved—after 31 August 2024	0	0	0	0

III. GRECO'S ANALYSIS

1. General observations

61. GRECO's task is to assess the compliance of the legislative and institutional reforms with, and monitor the observance of, Council of Europe's standards.[12] In this connection, the Twenty Guiding Principles for the fight Against Corruption require member states, amongst other things, "*to ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations*", "*to limit immunity from investigation, prosecution and adjudication of corruption offences to the degree necessary in a democratic society*", "*to promote specialisation of persons or bodies in charge of fighting corruption and to provide them with appropriate means and training to perform their tasks*".

62. In addition, the Criminal Law Convention on Corruption and its Additional Protocol require member states to criminalise certain corruption-related offences. Article 19 obliges member States to establish "*effective, proportionate and dissuasive sanctions and measures*" and Article 20 "*to adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption*".

63. GRECO notes that the legislative amendments were reviewed by the Constitutional Court, which largely ruled in favour of their conformity with the Constitution. During its meeting with the GET, representatives from the Constitutional Court clarified that its role was

[12] See also Article 2 of the Agreement establishing GRECO.

limited to assessing compliance with the Constitution and did not extend to evaluating the impact of the reforms on anti-corruption efforts. In this context, GRECO emphasises that its assessment will focus on whether the legislative and institutional reforms comply with anti-corruption standards. Where necessary, it will consider the findings of the Constitutional Court, which, nevertheless, did not expressly address the matters that GRECO will assess below.

64. In support of this assessment, GRECO relies on Article 1 of the Constitution of the Slovak Republic, which states that "the Slovak Republic acknowledges and honours the general rules of international law, international treaties by which it is bound, and its other international obligations" (see paragraph 8 above). Also, it is recalled that the Slovak Republic joined GRECO in 1999 and is bound by the Council of Europe's anti-corruption standards, in particular the Criminal Law Convention on Corruption and the Additional Protocol thereto, which entered into force in respect of the country on 1 July 2002 and 1 August 2005, respectively. Furthermore, the 1969 Vienna Convention on the Law of Treaties, to which the Slovak Republic is a party, provides in Article 26 that "every treaty is binding upon the parties to it and must be performed by them in good faith" (*pacta sunt servanda*), thereby reinforcing the binding nature of the country's treaty obligations. In addition, its Article 27 states that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

65. Against this overall background, GRECO will now assess the following matters: the use of the fast-track legislative procedure, the shortened limitation periods, the reduced criminal penalties for corruption offences, the institutional reforms related to the prosecution service and the police, the application of the offence of "bending the law", and other important issues concerning transparency of information and protection of whistleblowers.

2. Assessment of specific issues

A. Fast-track legislative procedure

66. The GET will first consider the use of the fast-track legislative procedure and whether any public consultations were conducted in that context. It notes that Slovak legislation provides for the use of a fast-track legislative procedure in exceptional circumstances, and that it is subject to waived procedural deadlines (see paragraph 9 and footnote 2 above). The criminal law reforms were adopted through this procedure (see paragraph 22 above). The Constitutional Court found that none of the legal requirements for using the fast-track procedure had been met. Nevertheless, it concluded that the fast-track legislative procedure did not breach fundamental constitutional principles, and was therefore not unconstitutional, particularly because there had been some degree of parliamentary debate, including from opposition members (see paragraph 31 above).

67. The GET does not object, in principle, to the use of fast-track legislative procedure which, in the context of the Slovak Republic, has its legal basis in the Creation of Legislation Act and the National Council's Rules of Procedure. However, the GET was informed, during the on-site visit, that this procedure had become increasingly common over the years, regardless of which government was in power. The statistics on the use of the fast-track procedure, as provided by the authorities, are presented below:

Year	Total no. of laws passed	No. of laws passed via fast-track procedure
2020	124	59 (47.58%)
2021	168	27 (16.07%)
2022	175	20 (11.42%)
2023	119	12 (10.08%)
2024	141	32 (22.69%)

68. The GET observes that, while the high number of laws passed through the fast-track procedure in 2020 and 2021 was due to objective reasons related to the urgent restrictions imposed as a result of the Covid-19 pandemic, the overall trend in the use of the fast-track procedure in the last five years remains high, with an average annual rate at 21.57%. The GET is seriously concerned that legislation passed through this procedure entirely escapes public scrutiny, especially when it introduces fundamental changes to the criminal justice system. The use of that procedure deprives the executive and the legislature of the valuable insights offered by academics, practitioners and the public, and denies them of the opportunity for informed deliberation. It consequently increases the risk of a breach of Council of Europe benchmarks[13], even if only inadvertently.

69. For example, the Venice Commission has consistently been "critical of situations in which acts of Parliament regulating important aspects of the legal or political order were being adopted in an accelerated procedure. Such an approach to the legislative process cannot provide conditions for proper consultations with the opposition or the civil society. Especially when adopting decisions on issues of major importance for society, such as criminal justice and the fight against corruption, wide and substantive consultations are a key condition for adopting a legal framework which is practicable and acceptable for those working in the field".[14] Limited parliamentary debate, even with the participation of opposition members, cannot substitute for broader and meaningful public consultation.[15]

70. These general concerns are particularly relevant in the case of Law no. 40/2024 Coll., which was adopted through the fact-track procedure, without meaningful public consultation. As stated by the Constitutional Court, Law no. 40/2024 Coll. had not been subject to an inter-ministerial comment procedure or published due to the application of the fast-track procedure (see paragraph 31 above). The GET takes notes of the authorities' submissions that the underlying philosophy of Law no. 40/2024 Coll. was inspired by previously proposed amendments to the Criminal Code, which had been subject to extensive public consultations and advanced to the second reading, but were ultimately not adopted[16],

[13] See, for example, the Council of Europe's Venice Commission Rule of Law Checklist.
[14] See CDL-AD(2018)21 Venice Commission Opinion on draft amendments to the Criminal Code and the Criminal Procedure Code of Romania.
[15] See CDL-AD(2011)001 Venice Commission Opinion on three legal questions arising in the process of drafting the New Constitution of Hungary, §§ 14-19.
[16] See the Ministry of Justice's press release at https://www.justice.gov.sk/tlacovespravy/tlacova-sprava-3780/ and the progression of the legislative process for the adoption of the draft amendments at https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=9230. The press release stated that the objective of the draft amendments was to promote restorative justice and alternative non-custodial penalties, through measures such as introducing penalties for drunk driving, extending the scope of probation and mediation services, distinguishing between dealers and victims in drug-related crime, adjusting the range of

as well as by the Government's manifesto, which received parliamentary support upon the appointment of the new Government, a concept document on the Prison System Development Strategy for 2022-2030, and academic research papers.

71. Without prejudice to the content and value of these referenced documents, the fact remains that Law no. 40/2024 Coll., which, according to the Constitutional Court's decisions, introduced substantial changes to several legal institutions set out in the Criminal Code, was adopted without any dedicated public consultation or an *ex-ante* impact assessment. The authorities' reliance on public consultations conducted in relation to earlier, unadopted legislative proposals cannot justify the absence of a public consultation process specific to Law no. 40/2024 Coll., since the GET heard during the visit that the substance and extent of amendments, particularly with regards to limitation periods and sentences for corruption offences, had not been proposed at all in previous drafts (also see footnote 16 above). Given the strong and divided public response to the criminal law reform, once it had been included on the agenda of the National Council, in the GET's view, there were clear indications of the need for a targeted, broad and meaningful public consultation process beyond the confines of parliamentary debate.

72. Having regard to these concerns, the GET considers that, as a matter of principle, important draft legislation, particularly when passed via the fast-track procedure, should be subject to some adequate degree of public review, whereby the public, civil society and interested stakeholders (e.g. legal practitioners, judges and prosecutors) should have access to the published draft legislation and be given a meaningful opportunity to provide comments. This is all the more important when enacting or amending major laws concerning criminal justice and the fight against corruption, in respect of which public consultation is crucial for ensuring the effective implementation of the laws. The stakeholders' input could be helpful in providing lawmakers with information relevant to proposed reforms and policy choices. Furthermore, such legislation should be accompanied by an *ex-ante* impact assessment, particularly given the potential negative consequences on the legal system. By contrast, shorter timeframes and simpler procedures may be designed for the adoption of minor or uncontroversial legislation.[17]

73. Throughout its Fourth and Fifth Evaluation Rounds, GRECO has repeatedly emphasised the need to improve the transparency of the legislative process by publishing draft legislation on websites, systematically holding adequate and meaningful public consultations within reasonable timelines and using the fast-track legislative procedure only in duly justified circumstances. For example, in the Fourth Round Evaluation Report on Azerbaijan, GRECO recommended that public consultations be systematically held on bills, including those subject to an accelerated adoption procedure within parliament. A similar recommendation was made in the Fourth Round Evaluation Report on the Republic of Moldova, which further called for the use of emergency procedure only in exceptional and duly justified circumstances. Comparable recommendations were included in the Fourth Round Evaluation

penalties for drug and economic crimes and increasing damage thresholds to reflect inflation. None of the proposed amendments affected limitation periods or the sentencing regime applicable to corruption offences, which remained unchanged.

[17] See CDL-AD(2019)015 Venice Commission Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy: a checklist, § 75.

Report on Ukraine and the Fifth Round Evaluation Report on Romania. Furthermore, the Rule 34 *ad hoc* report on Romania recommended that the transparency of the legislative process be improved by, among other things, taking appropriate measures so that the urgent procedure is applied as an exception in a limited number of circumstances.

74. The authorities' apparent failure to anticipate the effect of changing the limitation periods on their First-Round compliance illustrates the kind of issue that might have been identified through an adequate public consultation process (see paragraph 88 below for more information). No estimate was provided to the National Council (Parliament) of the number of criminal cases that would be discontinued as a result of the shortened limitation period. At the time of the visit, the authorities did not have such numbers available (also see paragraph 84 below). The opposition was not involved in drafting the proposed amendments and, as noted by the Constitutional Court, opposition members could only contribute to the parliamentary debate, albeit to a limited extent (see paragraph 31 above).

75. While the Constitutional Court reviewed the procedural aspect of the debate in constitutional terms, the GET applies standards of transparency and accountability in the legislative process, particularly with regard to the conduct of public consultation, as developed throughout the Fourth and Fifth Evaluation Rounds. It is therefore not for the GET to substitute the Constitutional Court or to make a fresh assessment of the conduct and extent of the parliamentary debate. However, limited parliamentary participation cannot compensate for the absence of broader stakeholder engagement. Given the cumulative impact of these shortcomings, such as the general frequent use of the fast-track procedure to adopt legislation, the absence of public consultation for laws passed under this procedure and the waived procedural time limits, GRECO recommends (i) conducting a comprehensive review of the rules governing the use of the fast-track legislative procedure and, based on the findings which should be made public, revising the rules to further restrict its application to strictly exceptional cases, which are clearly defined and duly justified, and (ii) subjecting all draft legislation adopted through this procedure to public consultation to the fullest extent possible, involving timely publication of draft laws and a meaningful opportunity for stakeholder participation to provide input prior to adoption.

B. Shortening of limitation periods and reduction of criminal sentences

76. The GET will now turn to the substantive changes introduced by the reforms. It notes that, as shown in the Appendix, the legislative amendments shortened limitation periods and reduced criminal sentences for corruption-related offences. The authorities gave several reasons to justify these changes, such as implementing ECtHR judgments, complying with the CPT recommendations, and aligning with European standards (also see paragraph 21 above). They further submitted that the adoption of the contested criminal law reform, including changes to limitation periods, was an unavoidable response to the long-term and serious abuse of criminal law instruments. These abuses had resulted in repeated violations of the fundamental rights of accused individuals, including the presumption of innocence, the right to a fair trial, and protection against arbitrary prosecution. The scale and systemic nature of these violations, particularly by institutions involved in criminal proceedings, had left the government with no choice but to act decisively. The reform was therefore a necessary step to restore legality, proportionality, and legitimacy in the application of criminal law.

77. While the GET does not question the authorities' justifications and objective to address abuses of criminal law and protect an individual's fundamental human rights, it nevertheless examined the legal and factual basis of some of them. To start with, the four ECtHR judgments relied on by the authorities relate to fair trial issues under Article 6 of the European Convention on Human Rights (see footnote 5 above). The judgments raised concerns about convictions based on plea-bargained statements made by accomplices without adequate scrutiny (in *Adamčo v. Slovakia*, *Mucha v. Slovakia* and *Erik Adamčo v. Slovakia*) and domestic courts' refusal to examine witnesses who could have challenged key evidence (in *Vasaráb and Paulus v. Slovakia*).

78. The GET positively acknowledges that, as asserted by some interlocutors, these judgments introduced a requirement to maintain, as part of the case file, a record in relation to a cooperating accused. However, the issues in the cases, regardless of any link they may have with other amendments introduced as part of the criminal law reform, do not have any connection with, or bearing on, the changes which are under scrutiny in this Rule 34 procedure, such as shorter limitation periods or reduced criminal sentences. These cases related only to a serious and fundamental breach of the right to a fair trial.

79. Turning to compliance with the CPT recommendations to ameliorate conditions of detention, the GET refers to the CPT's latest report following its periodic visit to the Slovak Republic from 28 November to 8 December 2023, which was made public on 10 April 2025 and welcomed developments relating to the legal framework of imprisonment. The legal framework now guarantees more living space to adult men held on remand (compared to the previous entitlement). The report noted a decrease in the overall prison population, which was below the official capacity. However, the prison population rate (186.5 prisoners per 100,000 inhabitants in 2022) remains one of the highest in Europe and above the average value (108.2) among Council of Europe member states. The CPT encouraged Slovak authorities to continue their efforts to address the high prison population rate in the country, while taking due account of relevant Council of Europe Committee of Ministers' recommendations.

80. The GET supports a coherent strategy against prison overcrowding, which, consistent with the Committee of Ministers' Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation, should be based on a detailed analysis of the main contributing factors (such as the types of offences which carry long prison sentences, priorities in crime control, public attitudes and existing sentencing practices), need to be embedded in a coherent and rational crime policy directed towards the prevention of crime and criminal behaviour and should require the support of judges, prosecutors and the general public. However, the GET found no CPT recommendation suggesting that the high prison population should be dealt with by weakening anti-corruption standards[18], such as reducing limitation periods and sentences, which has, in fact, led to the release of prisoners.

[18] See also the CPT Report following its periodic visit to the Slovak Republic from 28 November to 8 December 2023 19 to 28 March 2018, published on 19 June 2019.

81. The GET learned during the visit that a table had been drawn up comparing criminal sentences and limitation periods in about six neighbouring countries. The table was prepared by parliamentarians and used by the Ministry of Justice, but not shared with the GET. While the desire to achieve consistency with neighbouring countries is understandable, it is an overstatement to describe these practices as "European standards" with normative force throughout Council of Europe member states.

82. The GET underlines that limitation regimes differ widely in GRECO member states. In some, limitation periods are a matter of substantive law, which means that conduct may be reclassified, or not, as criminal once the period expires. In others, limitation provisions are a matter of procedural law, barring the prosecution of an alleged crime once the limitation period expires, without changing the criminal nature of the behaviour. The starting point for the limitation period, the rules for its interruption, and required procedural steps/actions to be taken (such as charging a person, starting court proceedings, or completing the trial) also vary. A simple table is an inadequate tool and cannot substitute for a proper, thorough comparative study.

83. Even though the GET was not convinced by the authorities' arguments for changing the criminal law, it consistently heard from all interlocutors that the reforms were the result of a 'political decision'. The GET recognises and respects the right of governments to take political decisions and carry out reforms motivated by political considerations. However, in this case, the decision in the Slovak Republic appears to have been taken without an adequate assessment of the legal implications, particularly the internal legal obligations resulting from the Council of Europe's standards, as set out in paragraphs 61-64 above.

84. The GET also recalls its findings in paragraph 71 above, noting that the legislative amendments were not supported by an *ex-ante* impact assessment or any public consultation. No estimates were provided to the National Council (Parliament) of how many cases would be discontinued if the limitation periods were shortened or how many prisoners would be released because of the reduced sentences. The GET takes note of the authorities' argument that the shortening of limitation periods was justified by the deterioration of evidence over time and the resulting inefficiency of continuing prosecutions and criminal proceedings.

85. While the GET agrees that it would be wrong to continue with a prosecution in which there is no longer a realistic prospect of conviction, it is of the opinion that the judgment about whether that point has been reached needs to be taken individually, for each case and not simply on the basis that an arbitrary length of time has passed. The rate at which memory deteriorates is highly variable and documentary evidence, such as bank records, which are common in corruption cases, does not deteriorate at all. Moreover, this justification does not address the absence of an *ex-ante* impact assessment or supporting estimates, particularly given the far-reaching effects of the criminal law reform on ongoing prosecutions and existing convictions, including those involving individuals currently serving prison sentences.

86. In this connection, a study by a non-governmental organisation reported that the legal amendments granted immunity to over 1,300 individuals[19]. At least 79 cases were discontinued at the prosecution level. Even though the authorities questioned the reliability of the data presented by the non-governmental organisation, noting that it was not based on official sources, following the visit, they provided that: (i) due to changes in limitation periods, a total of 376 criminal prosecutions were discontinued; and (ii) owing to the adjustment of the damage threshold for engaging criminal liability, 784 criminal prosecutions were discontinued, and a further 1,938 cases were referred to another competent authority for examination as misdemeanour or other administrative offence. In view of these figures, whose accuracy and related offences the GET has been unable to verify, the GET finds it particularly worrying that a significant number of cases were clearly discontinued, including some important cases - not mere trivial infringements, which risk weakening public trust in the system.[20]

87. The GET has serious concerns about how sanctions and measures in a criminal justice system can be described as effective, proportionate and dissuasive, as required by Article 19 of the Criminal Law Convention on Corruption, when such discontinuations occur. This indicates that decisions about changes, including political decisions, ought to be informed by an assessment of the effect they are likely to have in practice. The pursuit of criminal law reforms, such as shortened limitation periods and reduced criminal sentences, should not come at the expense of the effectiveness and deterrent effect of anti-corruption legislation.

88. A more fundamental problem, which appeared to have gone unnoticed by the Slovak authorities until raised by the GET, related to a recommendation made in GRECO's First Round evaluation report. That recommendation called for "*prolonging the limitation period…with respect to offences in corruption in order to allow extra time for investigation in complex cases*". The corresponding Compliance Report found that the recommendation had been implemented satisfactorily because the criminal sentences applicable to corruption offences had been increased, thus extending the limitation periods. However, the recent reforms shortened the limitation periods and reduced criminal sentences, directly and effectively reversing the Slovak Republic's previous compliance with an accepted and fulfilled recommendation. In the GET's view, remedial action is urgently required, in particular by reinstating the previous limitation period applicable to corruption offences, thereby restoring compliance with a previously fully implemented recommendation made in the First Evaluation Round report and ensuring sufficient time for the investigation and prosecution of corruption-related crimes.

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[19] https://zastavmekorupciu.sk/kauzy/mal-podplacat-exministra-pred-sud-nepojde-novela-uz-vysekala-najmenej-1324-osob/.

[20] The study reported that the case against a former parliamentarian and ex-minister was dropped due to the expiry of the amended limitation period. Criminal proceedings against a businessman accused of bribing a specialised prosecutor were also discontinued (https://dennikn.sk/minuta/4143924/). The prosecution of a former Minister of Finance and Transport for breach of duty in the administration/management of a property, was discontinued because it was found to be time-barred (https://domov.sme.sk/c/23438601/jan-pociatek-kauza-tipos-lemikon.html). Another case, directed against an attorney who allegedly bribed a former parliamentarian and ex-minister, was also dropped (https://www.genpro.gov.sk/download/uznesenie/2024/11/gp_1000_2929_10_2024_a_5e8d60ae8.pdf). The authorities have submitted that, according to data from the Prison and Judicial Guard Corps, 448 convicted persons and 8 accused persons were released as a result of the amendment.

89. The GET underlines that corruption is a covert crime, which usually involves complex investigation and may not be discovered for months or even years after its commission. This was also asserted by interlocutors the GET met with. A shortened limitation period clearly and significantly benefits the accused but appears to take no account of the public interest, which is equally important. In the GET's opinion, this change should have been given due and careful consideration to find a solution which maintained compliance with the earlier GRECO recommendation and its implementation.

90. Lastly, the GET notes that, following the passage of Law no. 40/2024 and further to discussions with the European Commission regarding compliance with EU standards, the criminal law was further amended to provide enhanced protection to the EU's financial interests[21] through Law no. 214/2024 (see paragraph 40 above). This would appear to be a tacit acknowledgment that the legal changes introduced through Law no. 40/2024 were insufficiently effective and dissuasive to protect those interests. As a result, there is a lower level of protection for domestic financial resources than for EU funds. In other words, taking account of both the shortened limitation period and the reduced criminal sentences, the legal regime applicable to domestic financial interests is unequivocally less dissuasive than the one applicable to the EU's financial interests.

91. The authorities have subsequently submitted that the differentiation in terms of criminal sentences and limitation period is justified by the need: to ensure compliance with international obligations; to address the greater seriousness of corrupt conduct involving EU funds, as it affects the EU's financial interests; to tackle the more frequent cross-border dimension of corruption involving EU funds compared to domestic funds, which increases the time and resources required for its detection and prosecution; to ensure stronger and broader protection in cases of corruption involving EU funds than in purely domestic cases; and to respond to a ruling by the Court of Justice of the European Union (CJEU) in the case of M.A.S. and M.B. (C-42/17, otherwise known as *Taricco II* judgment), delivered following a request for a preliminary ruling by a national court.[22]

92. While the GET acknowledges the Slovak authorities' arguments, it does not agree with their proposition that corrupt conduct regarding EU funds is more serious than such conduct regarding Slovak funds. To begin with, that assumes, incorrectly, that corruption is an economic crime. It is, in fact, much more than that. The seriousness of any crime is not

[21] Under the EU Directive on the protection of the EU's financial interests, these interests refer to the EU budget, which includes, amongst others, national contributions based on gross national income, as established in a Council decision.

[22] In Taricco II judgment, the CJEU decided that EU law requires national courts to disapply national limitation rules, which either prevent the application of effective and deterrent criminal penalties in serious fraud cases affecting the EU's financial interests or set shorter limitation periods for such fraud than for similar fraud against the member State's own finances, unless such disapplication would breach the principle of legality, for example if the law is not sufficiently precise or if its retroactive application would impose stricter criminal liability than existed at the time the offence was committed.
Taricco II followed the earlier Taricco I judgment (C-105/14), in which the CJEU required national courts to disapply national limitation rules that could prevent the imposition of effective and dissuasive penalties in VAT fraud cases affecting the EU's financial interests or set longer limitation periods for fraud against the member States' own finances that for fraud against the EU's financial interests.

measured by its financial value alone. To assess the seriousness of corruption, one would also have to take into account the nature of the inducement, the function of the decision-maker whom it was sought to influence, the nature of the harm done or intended to be done, and all the other circumstances of the particular corrupt act. It is entirely possible that, even taking account of the particular nature of EU resources identified by the authorities, some EU-related corruption would turn out to be much less serious than some domestic corruption.

93. Neither does the GET share the authorities' view that the case-law of CJEU (whose role is to interpret EU law, not national law) necessarily means that the financial interests of the EU should be afforded greater protection than those of the Slovak Republic. Article 325 of the Treaty on the Functioning of the European Union requires the EU member States, such as the Slovak Republic, to "take the same measures to counter fraud affecting the financial interests of the [EU] as they take to counter fraud affecting their own financial interests". The Article does not imply that the protection of EU financial interests must exceed that of national interests, but rather speaks of equivalent protection (also see CJEU's *Taricco I* and *Taricco II* judgments).

94. In this connection, the GET wishes to draw attention to the preamble to the Criminal Law Convention on Corruption which states that Contracting Parties are "convinced of the need to pursue, as a matter of priority, a common criminal policy aimed at the protection of society against corruption, including the adoption of appropriate legislation and preventive measures". The Criminal Law Convention on Corruption does not make any distinction based on the type of budget or source of funds that are threatened. An equivalent approach would contribute to maintaining public trust and credibility in the State's anti-corruption efforts with regards to the protection of the national and EU financial interests, whose different treatment was met with concern and disapproval by interlocutors met during the visit. The GET further recognises that cross-border cases may require more time and resources, but this would rather depend on the complexity of the case instead of the source of funds and could be addressed through specific procedural means. Some national corruption cases, which would not necessarily involve EU funds, may be equally complex.

95. The GET therefore perceives a clear risk of displacement, where domestic financial interests could be targeted as a matter of calculated choice. For organised crime, the question is not whether to engage in or commit corruption or economic crime, but, rather, which target to choose in order to aim at and exploit weaker regimes. The GET considers that the legal protection afforded to national financial interests is less stringent and subject to less stringent enforcement than the protection and enforcement extended to the EU's financial interests. The cumulative effect of the differences between the two legal regimes is such as to undermine the overall deterrent character of the regime applicable to Slovak domestic financial interests, increasing the risk that criminal behaviour shifts toward the less-prosecuted Slovak financial resources. This, in turn, justifies engaging the Rule 34 procedure and necessitates a recommendation.

96. In view of the cumulative effect of the above considerations, both procedural and substantive, such as the absence of an *ex-ante* impact assessment or supporting estimates on the effects of the criminal law reform, the reversal of prior compliance with a GRECO recommendation, the creation of disparate regimes for the protection of national and

transnational financial interests, and the weakening of the overall deterrent effect of the anti-corruption legislation, GRECO recommends revising legislation to provide for a sufficiently long limitation period and sentencing framework for all corruption offences, in order to enable effective investigation and prosecution and to ensure equivalent protection of all national and transnational financial interests, regardless of the source of funds. This must be based on good practices and substantive (not merely numerical) comparative benchmarks (such as lengths of sentences, lengths of limitation periods, duration required to detect, investigate and prosecute serious corruption cases (especially those involving high-level or transnational corruption), and impact data on the number of discontinued cases or early releases) in peer countries, particularly those with similar legal systems. It must also reflect legally binding obligations, such as those under the Criminal Law Convention on Corruption, and be developed following broad and meaningful stakeholder consultation.

97. In addition to changes affecting limitation periods, the criminal law reforms also revised the sentencing regime and expanded the possibilities for the application of suspended sentences. Several interlocutors, including judges and prosecutors, supported the revised sentencing regime for corruption offences, arguing that previous sentencing practices had been excessively harsh. The criminal law provisions prescribe both minimum and maximum prison terms. Such an approach puts the emphasis on punishment and leaves sentencing judges with little discretion to tailor the disposal of a case in such a way as to reflect sentencing purposes such as rehabilitation or restorative justice. This contrasts with practices taken in other member states, where only a maximum sentence is prescribed, allowing greater judicial flexibility to apply a broader range of measures corresponding to sentencing objectives.

98. As noted by the Constitutional Court (see paragraph 35 above), the criminal law reforms now provide for expanded use of suspended sentences and alternatives to imprisonment, whose application is expected to increase. In this regard, the Slovak reform aligns in principle with the Criminal Law Convention on Corruption. Indeed, its Article 19 refers to effective, proportionate and dissuasive sanctions and measures. The Explanatory Memorandum provides that this does not mean that a prison sentence must be imposed every time a person is found guilty of having committed a corruption offence.

99. However, the GET is concerned that, while corruption offences have now been brought within the scope of suspended and alternative sentences in a way that they previously had not, there was, at the time of the visit, limited information on the available resources for the use of such sentences or on how they operate in practice. Following the visit, the authorities provided information that probation and mediation officers, assigned to the general court department, are responsible for supervising suspended sentences, including through electronic monitoring. They further acknowledged that the absence of a sufficient number of probation and mediation officers negatively affects the quality of individualised services and the reintegration of both offenders and victims. Under current conditions, the situation is described as ‘untenable’, since services are largely delivered in a formalistic manner and fall short of being sufficiently dissuasive.

100. The authorities further submitted that a first concept of probation and mediation has been developed and is undergoing the approval process. A specialised national restorative

project[23] (RAJ) has been created which will result primarily in an increase in probation and mediation officers, the development of targeted restorative programs, and the specialisation of probation and mediation officers. Future training of qualified probation and mediation officers will be ensured through a long-standing study program at the Greek Catholic Theological Faculty of the University of Prešov and a newly established study program at the Faculty of Law of Comenius University in Bratislava. Consultations and expert discussions have taken place amongst representatives from the Ministry of Justice, courts, probation and mediation officers, and academics. An order of the Minister of Justice has been amended to expand the powers of prison directors to submit a motion to the court for the conversion of the remainder of a custodial sentence into house arrest and clarified the criteria for such conversion.

101. The GET welcomes the measures taken by the authorities and those in the pipeline. In these circumstances, if such suspended sentences and alternatives to imprisonment are to be implemented effectively, they require the involvement of skilled professionals to change mindsets and behaviour. Without adequate staffing and resources, such measures risk being ineffective and lacking any dissuasive effect. The GET notes that the Ministry of Justice plans to recruit 26 additional probation and mediation officers to strengthen capacity, 10 of whom have already been hired. Furthermore, the authorities would benefit from a comparative study on suspended sentences and alternative sentencing practices implemented in other, possibly neighbouring jurisdictions, in order to revise the sentencing framework so that it ensures judicial flexibility, maintains proportionality and effectiveness, and secures sufficient resources. Consequently, GRECO recommends (i) conducting a comparative study on the use of suspended sentences and alternative sanctions in other jurisdictions, with a focus on promoting judicial flexibility, proportionality and effectiveness; and (ii) depending on its findings, revising the sentencing framework and ensuring its effective implementation, supervision and evaluation by allocating adequate financial and human resources.

C. Institutional reforms

102. The GET will now examine the institutional reforms that led to the dissolution of the Specialised Prosecutor's Office (SPO) and the restructuring of the National Crime Agency (NAKA). It should be underlined that these reforms did not affect the Specialised Criminal Court, which remains in place and operational (also see paragraph 24 above).

Dissolution of the SPO

103. As mentioned in paragraph 45 above, the dissolution of the SPO resulted in the creation of the GPO's Serious Crimes Unit (SCU), which may, on an *ad hoc* basis and by a decision of the General Prosecutor, handle prosecution of high-level corruption cases and provides guidance to regional prosecutor's offices that deal with the remaining corruption cases. During the visit, the GET sought to understand not only the reasons for the dissolution of the SPO but also the practical consequences of the reform on prosecutorial capacity, specialisation and continuity in handling corruption offences, without prejudging the Constitutional Court's findings (see paragraph 36 above).

[23] https://eurofondy.gov.sk/wp-content/uploads/2025/03/Zamer_NP_RAJ_schvaleny.pdf

104. It is worth underlining from the outset that the GET does not assess the legitimacy of the decision to abolish the SPO. However, it must examine the rationale provided for this decision. The GET notes the authorities' position that the SPO operated an autonomous criminal policy, lacked oversight and did not follow the authority of the General Prosecutor (see paragraph 44 above). However, such functional autonomy is not uncommon for specialised prosecutorial bodies, which often require a high degree of operational independence to investigate complex and sensitive corruption cases effectively. As already stated, no public consultation, either within the judiciary, the prosecutorial corps or academia took place prior to the institutional changes in order to take stock of the SPO's performance or debate alternative proposals.

105. At the same time, the GET was made aware of certain allegations that some SPO prosecutors had abused their power, resulting in procedural errors in certain high-level or sensitive cases, thereby calling into question the SPO's impartiality. While it is not for the GET to examine such allegations, and assuming that a credible case about abuse of power had been made, disciplinary proceedings against SPO prosecutors would have been opened. In fact, subsequent to the visit, the GET was informed of only one case initiated against an SPO prosecutor concerning delays in filing an indictment. The prosecutor was sanctioned with a one-month reduction in basic salary.

106. It became clear to the GET that its abolition was a sudden development, about which all interlocutors expressed strong and varying views. It also appeared that the change happened without warning or prior consultation. The GET became accustomed to hearing interlocutors describe the dissolution of the SPO as a 'political decision'. The GET further learned from public sources that the abolition aimed "to eliminate inconsistencies in the prosecution system", "to increase the efficiency of the prosecution service as a whole [and] the independence of prosecution from political influences".[24]

107. It is undisputed that the internal organisation of a prosecution system can vary across countries, and that no single model could apply universally. For this reason, the GET underscores that it is neither necessary nor appropriate to assess the decision to abolish the SPO. Instead, the GET will now address the context and expedient manner in which it happened, as well as the new arrangements put in place in regional prosecutor's offices to handle case files. These aspects are important to determine the adequacy of these arrangements, the necessary specialisation and the sufficient capacity of regional prosecutors to handle corruption cases.

108. The GET takes note of the Constitutional Court's findings that the dissolution of the SPO was not unconstitutional (see paragraph 36 above). However, its task remains to assess compliance with the Council of Europe's anti-corruption standards, as set out in paragraphs 61 and 62 above, which require the existence of specialised entities, bodies or persons to fight corruption. These standards were examined by GRECO in its previous rounds. In this context, the First Round Evaluation Report on the Slovak Republic noted that, in 2000, an anti-corruption unit had been established within the General Prosecutor's Office, dealing with important corruption cases, while local prosecutors handled 'petty corruption'. Specialised

[24] https://newsnow.tasr.sk/government-proposes-scrapping-of-special-prosecutors-office/

prosecutors operated at the regional level. Furthermore, the 2008 Third Evaluation Report on the Slovak Republic emphasised that "the existence of a chain of specialist institutions and practitioners in the police, prosecution and judiciary [meaning the Bureau for the Fight Against Corruption in the Police, the Specialised Prosecutor's Office and the Specialised Criminal Court] had greatly reduced 'leaks' at the various stages of criminal proceedings".

109. In the light of this, it was not surprising to the GET to learn that, prior to its abolition, the SPO functioned well and enjoyed a 93-95% success rate in corruption cases, which was consistent with the Third Evaluation Round's findings. This was further corroborated by the SPO annual reports for 2019-2022. The accumulated professional expertise that the SPO prosecutors had developed over 20 years in building and testing a methodology to fight corruption, and their good professional relationships with the competent law enforcement agencies, was undeniably an advantage worth preserving.

110. Accordingly, based on the information available to the GET, the SPO, which operated until 2024 and dealt with corruption and other serious crimes, functioned effectively and achieved a high rate of success. In addition, the prosecutors met on-site admitted that it was more efficient to coordinate the work of colleagues from a single office than to direct colleagues in regional units spread across the country.

111. Against that background, the GET expresses concerns about the following two issues. First, the SPO was dismantled on 20 March 2024, within a little more than a month from the entry into force of the criminal law amendments on 16 February 2024 (see paragraph 22 above). During this time, 963 case files were transferred to and registered with regional prosecutor's offices. During the visit, regional prosecutors asserted that the change had been well-managed, and the transfer of case files had been smooth.

112. However, the GET also heard that no impact assessment had been carried out to assess the absorption capacity of regional prosecutor's offices and ensure the smooth continuity of prosecutorial work in respect of ongoing cases. The General Prosecutor issued internal orders and guidelines in an effort to address problems (see paragraph 45 above), while the process remained challenging.

113. Following the visit and the concerns raised by the GET, the General Prosecutor's Office (GPO) submitted that, after the first meeting of the working group on 13 December 2023, separate lists were drawn up for: pending cases in individual registers; cases where a where a police officer had made a proposal for final action; pre-trial detention cases; cases pending before the courts; cases reassigned to regional prosecutor's offices; cases in which the jurisdiction of the Public Prosecutor's Office has been decided by a measure pursuant to section 51 of the Code of Criminal Procedure. The authorities maintain that a separate information sheet was prepared for each file.

114. According to the GPO, other coordination and monitoring measures included the following. A meeting was held on 4 March 2024 between the GPO and the SPO to assess the implementation of the interim measures. At the same time, the General Prosecutor issued an instruction to update the list of cases in the relevant registers and indicate the jurisdiction of the competent regional prosecutor's office. In particular, custody cases were to be identified

with an indication of the duration of detention, especially in grouped cases involving several defendants. On 5 March 2024 summary lists were drawn up for criminal cases with hearing dates scheduled between 20 March and 31 March 2024, for cases with hearing dates fixed from April 2024, and for cases with no scheduled hearing dates. These were listed according to the place of commission of the offence and assigned to the appropriate county within the territorial-legal subdivisions. Prosecutors were continuously reminded of their obligations under Section 56ag (1)(b) of the Public Prosecution Act and the GPO Order no. 10/2024. Subsequently, on 20 August 2024 an extraordinary meeting was convened between the SCU and regional prosecutors to report on the takeover process. Regional prosecutors are also required to report biannually to the SCU head, on 10 January and 10 July, and to notify GPO of any cases falling within the jurisdiction of the Specialised Criminal Court for which they are competent to proceed.

115. The GET recognises the considerable efforts undertaken by the prosecution service to manage the transfer of cases from the former SPO, including the adoption of the GPO's orders, the preparation of detailed case lists and the conduct of coordination meetings. The measures demonstrate the authorities' attempts to ensure a smooth transition and maintain continuity in proceedings. However, the GET is not in position to verify the administrative groundwork or the practical implementation or effectiveness of these measures. It heard concerns that complex and sensitive corruption cases, some of which contained voluminous folders, were reportedly difficult for regional prosecutors to process. Furthermore, the transition from SPO to regional prosecution offices and the transfer of cases sparked public debate. Former SPO prosecutors claimed that the process was confusing and procedural deadlines had been missed, while a letter signed by regional prosecutors stated that such criticisms were unfounded and the process had proceeded smoothly.[25]

116. Given the effects produced by the transfer of case files, and the situation as it has since evolved, the GET encourages the authorities to conduct an *ex-post* analysis, which should assess the current procedural status of all corruption related cases transferred to regional prosecutor's offices, evaluate the effectiveness of the measures already taken, identify and implement any corrective measures to ensure effective and timely proceedings, and publish the conclusions of the analysis.

117. Secondly, the GET was informed that the dissolution of the SPO resulted in a dilution or loss of specialised expertise and a severe interruption of experience. The General Prosecutor's Office itself referred to this as 'a severe interruption of experience'. The GET notes that a system, in which the competence for prosecuting corruption offences is assigned to several prosecutors operating in several regional prosecutor's offices, coordinated by a central unit at the level of the GPO, is not *per se* contrary to anti-corruption standards. This arrangement was considered positively by prosecutors met during the visit, since it provided an opportunity to unify the practice and coordinate the work of prosecutors across the country.

[25] See the Joint statement by regional prosecutors in response to public criticism from former SPO prosecutors regarding proceedings following the dissolution of the SPO at https://www.genpro.gov.sk/informacie/spravy/detail/prokuratura-sr-spolocne-vyhlasenie-krajskych-prokuratorov-v-suvislosti-so-sposobom-verejnej-kritiky-procesov-po-zruseni-usp-zo-strany-byvalych-prokuratorov-tohto-uradu/

118. However, the GET is not entirely convinced by the specific context and manner in which this was implemented, not least because regional prosecutors, the majority of whom have had no prior experience, have now been entrusted with the prosecution of corruption cases. In principle, specialisation within generalist offices is capable of meeting the anti-corruption standards. However, the GET had the impression, and received subsequent confirmation, that the new arrangements in each regional prosecutor's office appeared somewhat *ad hoc*, since prosecutors would be working on cases other than corruption-related ones, to the detriment of specialisation.

119. In response to these concerns, the authorities have pointed out that the SPO's abolition did not result in a weakening of specialisation in the prosecution of serious crime including corruption crimes. Specialisation as a professional approach to the investigation and prosecution of complex criminal cases has been preserved and continues to be systematically applied at the level of regional prosecutor's offices. Within individual regional offices, dedicated teams have been established or strengthened to focus exclusively on these types of criminal cases, thus further expanding specialisation across the regions.

120. The GET acknowledges the authorities' post-visit clarification that specialisation has been maintained or expanded across regional prosecutor's offices. It also takes note of the SCU's role in providing oversight, coordination and training. Without prejudice to the training events conducted in 2024 and those planned for 2025, and taking into account the comparative statistics presented in paragraph 50 above, the GET considers that, in the absence of a formal and structured framework, the specialisation of prosecutors handling corruption cases should be institutionalised, along with a proper programme of training and continued professional development. This would be consistent with the anti-corruption standards outlined in paragraphs 61 and 62 above.

121. The GET further notes the authorities' argument that, to date, there is no evidence that the current set-up, which does not provide for dedicated full-time anti-corruption prosecutors but includes corruption-related training, is inadequate. However, although it is premature to draw firm conclusions about the long-term sufficiency of the new framework, given the short period since the SPO's dissolution on 20 March 2024, a comparison of the number of cases handled and solved by the new anti-corruption arrangement of the Prosecution Service with the results of the SPO do not favour the current model. This may suggest that specialisation of prosecutors needs more time and a more structured framework to reach a satisfactory level. Moreover, a model that is based only on specialised training, without a formal institutional structure, might prove vulnerable to possible future changes of the human resources policy of the Prosecution Service, with the risk of losing the already-allocated training resources and undermining continuity. Consequently, GRECO recommends (i) conducting a comprehensive review of the current framework for prosecutorial specialisation in corruption cases, with a view to identifying possible gaps or weaknesses and, based on its publicly available findings, adopting further measures; and (ii) developing a formal plan for specialisation and continued professional development of prosecutors, in order to ensure compliance with anti-corruption standards.

122. Lastly, the GET notes that the dissolution of the SPO raises the issue of criteria used for the assignment and withdrawal of cases. The authorities stated that, based on orders of the General Prosecutor issued following the dismantling of SPO, prosecutors who had already brought indictments before the Specialised Criminal Court would continue handling those cases, regardless of any subsequent changes in their official positions. At the same time, the GET was made aware of allegations that some related cases, linked to those brought before the court, were reassigned to other prosecutors, even though the interest of the criminal investigation would have required them to be handled by the original prosecutor, who was familiar with the case. However, the GET is not in a position to verify these claims. It recalls that GRECO has previously recommended on several occasions that clear and objective criteria for the assignment and withdrawal of cases to/from individual prosecutors should be established in law, as a safeguard to ensure the impartiality of prosecutorial decisions and prevent the discretionary application of procedural rules[26]. In the case of the Slovak Republic, the Fourth Round Evaluation Report on the Slovak Republic stated that "at any moment, a senior prosecutor may – by his/her reasoned decision provided in writing – take over a case or assign it to another subordinate", suggesting the absence of objective criteria for the reassignment of cases in primary or other applicable secondary legislation. Therefore, it would be advisable for the Slovak authorities to introduce objective and transparent criteria into legislation for the reassignment of cases in order to avoid public perceptions that might question the motivations behind the re-allocation of cases to new prosecutors. Transparency and accountability in a monocratic institution, such as the prosecution service, must not only be done – they must also be seen to be done.

Reorganisation of the NAKA

123. In addition to the changes to the prosecution service, the NAKA was reorganised on 31 August 2024. It was replaced by three separate entities responsible for investigating drug-trafficking, anti-terrorism, and corruption and organised crime. The latter now falls under the authority of the Office for Combatting Organised Crime (UBOK), which handles serious or high-level corruption.

124. The GET refers to GRECO's findings in previous evaluation reports regarding the role and work of specialised institutions in detecting and prosecuting corruption-related offences (see paragraph 108 above). As in many other countries, the investigation of corruption offences in the Slovak criminal system is carried out by the police under the supervision of prosecutors. The success of corruption cases – or the lack thereof – is to a large extent attributed to the work of police officers. According to statistical data provided by the authorities, and the views expressed by most interlocutors during the visit, the long-standing work carried out by NAKA in detecting and investigating corruption cases, including prominent high-level ones, was considered effective.

125. Notwithstanding this, the GET heard that controversies existed around, and subsequent legal actions had been taken regarding, certain procedural actions carried out by NAKA police officers. The GET underlines that it is not its task to assess such controversies and

[26] See, for example, the Fourth Round Evaluation Report on Bulgaria, recommendation xvi; the Fourth Round Evaluation Report on Greece, recommendation xviii; the Fourth Round Evaluation Report on Georgia, recommendation xii.

legal actions. It emphasises that, even if the procedural actions taken in one case could prove to be erroneous, this could not, in and of itself, justify the termination of what had been an effective law enforcement agency.

126. The GET was informed that the current UBOK has a dedicated anti-corruption unit. This represents a progress, as, under the new organisation, the central office is relieved of handling low-level corruption cases, which are now distributed to regional offices. This reinforced the views expressed by interlocutors in paragraph 147 of the Fifth Round Evaluation Report on the Slovak Republic.

127. Furthermore, the GET reiterates that there is no single organisation model of law enforcement agencies that could be effective in the detection and investigation of corruption offenses. Meanwhile, it is equally true that, similar to the SPO's dissolution, the abrupt restructuring of NAKA led to the transfer of its responsibilities and case files to regional police directorates. Interlocutors, other than the police officers with whom the GET met on site, raised concerns that this restructuring had disrupted the continuation of cases and affected the effectiveness of the fight against corruption, at least in the short term.

128. A significant number of experienced investigating officers left the Police Force before or after NAKA's reorganisation, including for reasons not directly related to the restructuring. The most recent publicly available 2022 annual report from the SPO also expressed concerns about the turnover of investigators and the associated reassignment of files, which it identified as a potential threat to the smooth and uninterrupted flow of investigations. Following NAKA's restructuring, some high-profile cases remained with UBOK, while the remaining case files were transferred to regional police officers, the overwhelming majority of whom reportedly had little or no prior experience in investigating corruption. Additionally, prosecutors informed the GET that they encountered difficulties identifying the new investigators assigned to cases previously handled by NAKA police officers.

129. This situation undoubtedly calls for specialisation and training of police officers in detecting and investigating corruption offences. This need is even more pressing in view of the comparative statistical data provided by the authorities in paragraph 60 above and the notably low number of reports and investigations registered as of March 2024 and throughout 2025. The SPO's 2022 annual report further highlighted the absence of a functioning system of analysts and operatives within the Police Force in detecting complex corruption schemes. While the Slovak Republic had already received a recommendation under the Fifth Round that "specialised training for investigators dealing with corruption cases be enhanced", which was considered to have been complied with in the Second Compliance Report, based on the training received by the then NAKA investigators in 2021 and 2022, the GET is of the view that, given the changed circumstances obtained with the restructuring of NAKA, training alone is no longer sufficient and should be complemented by the development of a plan for the specialisation of police officers, including analysts and operatives. Consequently, GRECO recommends developing, publishing and implementing a plan for the specialisation of investigating police officers, involving specific job descriptions and specific, measurable, achievable, realistic and time-specific targets.

130. Lastly, the GET considers it advisable for the Slovak authorities to conduct an independent review of the restructuring of the Police Force after two years, to assess its impact on corruption investigations, identify operational gaps, and make necessary adjustments to maintain investigative capacity, institutional stability and effectiveness.

D. "Bending the law" offence

131. The GET will now proceed to examine another provision – Article 326a of the Criminal Code[27]. This Article, which provides for the offence of bending the law, was introduced into the Criminal Code in 2020[28], effective from 1 January 2021, reportedly in response to a milestone set out in the Slovak Recovery and Resilience Plan. The offence targets judges, lay judges and arbiters, who arbitrarily apply the law in their decisions, which result in harm or favour to parties to court proceedings. Prior to the amendments to the Code of Criminal Procedure, a judge could seek protection from the Judicial Council only after a decision bringing charges against him/her had become final. In practice, the finality took several months or even a year, during which time the judge had no possibility of requesting such protection. The legislation also failed to address situations where a judge was initially charged with another offence, which was outside the competence of the Judicial Council, and which was subsequently reclassified as the offence of bending the law under Article 326a of the Criminal Code.

132. The relevance of Article 326a of the Criminal Code has increased following the amendments to the Code of Criminal Procedure introduced by Law no. 40/2024 (see paragraph 25 above). According to the amendments[29], a judge may now request the Judicial Council to oppose the prosecution within 60 days from the prosecutor's decision to bring charges or notification of the reclassification of the offence under Article 326a. Such opposition is only possible if the judge's conduct cannot be legally classified as a different criminal offence. The Judicial Council is required to decide the matter within 30 days of receiving the judge's application (see paragraph 16 above) and to inform the judge accordingly. It appears, however, that, during this time, the accused judge might remain in custody. Despite the amendments, which appear to provide stronger protection than the previous legislation, the GET remains concerned about the very existence of this offence and the insufficient safeguards surrounding its application, as will be explained below.

133. To start with, the GET considers that criminalising arbitrary judicial decisions is problematic. Article 326a of the Criminal Code is vaguely worded, increasing the risk of overbroad interpretation and abuse. This vagueness has a chilling effect on the ability of a

[27] Article 326a - Bending the law
"(1) Whoever, as a judge, presiding judge or arbitrator of an arbitral tribunal, arbitrarily applies the law in making a decision and thereby harms or favours another, shall be punished by imprisonment for one to five years.
(2) The offender shall be sentenced to imprisonment for a term of three to eight years if he commits an act referred to in paragraph (1) a) to the protected person, or (b) from a special motive."

[28] See Law no. 320/2020 at https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2020/312/20241230.

[29] Article 207a (3) of the Code of Criminal Procedure reads as follows: "(3) A judge who has been charged with the offence of bending the law under Article 326a of the Criminal Code, or whose legal qualification has been changed to [this offence], has the right, within 60 days of the delivery of the decision to bring the charge or the notification on the change of legal qualification, to propose to the Judicial Council of the Slovak Republic that it express its disagreement with the criminal prosecution for this offence; the judge must be informed of this."

judge to take decisions freely and independently, based exclusively on the relevant laws, leading to self-censorship and undermining judicial independence. The main mischief targeted by Article 326a of the Criminal Code appears to be a flagrantly wrong judicial decision, taken in a cavalier fashion, without any basis in the applicable law, resulting in the harm or benefit done to parties involved in court proceedings. Criminalising arbitrary judicial decisions is problematic *per se*, and further discourages judges from making independent decisions.

134. Furthermore, the GET heard on-site that the broad and vague provisions of Article 326a has contributed to an increase in personal and political attacks on judges by dissatisfied litigants, politicians and sections of the press. The annual report for 2022 of the SPO, which was responsible for examining criminal complaints under Article 326a, also referred to "an excessive burden on law enforcement authorities with a number of unsubstantiated reports", calling into question the introduction of the offence of "bending the law" and recommending its removal. In the GET's view, in order to ensure judges' accountability, without compromising judicial independence and their freedom to interpret the law, assess facts and weigh evidence in individual cases, a more appropriate, and better targeted, approach would include (i) a prompt appeal to an appellate court procedure with power to quash the flawed decision, combined with (ii) a disciplinary procedure that allows for immediate suspension of a judge from judicial duties and, in the most egregious and exceptional cases, dismissal.[30]

135. This approach finds support in Council of Europe's standards. For example, Opinion no. 3 of the Consultative Council of European Judges (CCJE) on "Ethics and responsibility of judges" (CCJE (2002)3) affirms that, while criminal liability is not entirely excluded, a judge should not have to operate under the threat of a financial penalty, still less imprisonment, the presence of which may, even sub-consciously affect the judge's decision-making.[31] Similarly, the Committee of Ministers' recommendation on "Judges: independence, efficiency and responsibilities" (CM/Rec (2010) 12) stresses that judicial interpretation or assessment should not result in criminal liability, except in cases of malice. In keeping with this approach, the CCJE's Opinion no. 21 (2018) on preventing corruption among judges stresses the need for adequate criminal, administrative or disciplinary penalties for cases of corrupt behaviour by a judge, rather than for judicial decisions or assessments of facts and law. Instead, disciplinary proceedings under the authority of an independent body are preferred.[32] The same principle

[30] In this context, the Venice Commission has underlined that "disciplinary proceedings should deal with gross and inexcusable professional misconduct but should never extend to differences in legal interpretation of the law or judicial mistakes", which should instead be addressed through the appellate system (see, for example, CDL-AD(2015)042 Venice Commission Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "The former Yugoslav Republic of Macedonia", §§ 42-44).

[31] The CCJE Opinion no. 3 (CCJE(2002)3) states that "while current practice does not therefore entirely exclude criminal liability on the part of judges for unintentional failings in the exercise of their functions, the CCJE does not regard the introduction of such liability as either generally acceptable or to be encouraged. A judge should not have to operate under the threat of a financial penalty, still less imprisonment, the presence of which may, however sub-consciously, affect his judgment. The CCJE considers that in countries where a criminal investigation or proceedings can be started at the instigation of a private individual, there should be a mechanism for preventing or stopping such investigation or proceedings against a judge relating to the purported performance of his or her office where there is no proper case for suggesting that any criminal liability exists on the part of the judge".

[32] The Committee of Ministers' Recommendation (CM/Rec(2012)12) reads that "the interpretation of the law, assessment of facts or weighing of evidence carried out by judges to determine cases should not give rise to

is reaffirmed in the CCJE's Opinion no. 27 (2024) on the disciplinary liability of judges, which states that "a judge's decision, including the interpretation of the law, assessment of facts or weighing of evidence and/or departing from established case law, must not give rise to disciplinary liability, except in cases of malice, wilful default or serious misconduct". The Venice Commission has also maintained that judges should not be held liable for judicial mistakes that do not involve bad faith, nor for differences in the interpretation of the law. Criminal liability should only be possible in cases of malice, deliberate abuse and, arguably, serious or gross negligence.[33] In one of its opinions, it further clarified that the mere fact that a judge has wilfully chosen not to follow established standards or case-law should not, in itself, become a ground for personal liability, but must be assessed against certain criteria, such as whether the damage was caused intentionally/wilfully or with extreme/gross negligence.[34]

136. The GET also notes that based on the review of existing case-law[35], the Judicial Council examines whether the conditions for prosecuting a judge under Article 326a are met, i.e. whether the judge's conduct meets all the constituent elements of the offence of bending the law, without assessing the broader merits of the case, the examination of evidence, witnesses' statements or the commission of another offence.

137. The GET acknowledges that the vexatious pursuit of criminal proceedings against a judge by disgruntled litigants has become common in some European states. It believes that the current safeguards in the Slovak Republic are insufficient, particularly in circumstances, where, as discussed during the visit and as has happened in practice, a judge may be initially accused and remanded for other unrelated offences, which are later reclassified under Article 326a. It is only after the reclassification that the Judicial Council may be called upon to intervene. In the meantime, the prolonged pre-trial detention of the accused judge, pending a decision exonerating him/her, is likely to have profound, personal and professional consequences. Such a situation necessitates the introduction of additional timely and effective safeguards in law if Article 326a is to be retained, such as strengthening the Judicial Council's powers to oppose the prosecution from the outset without making it conditional on the submission of a request by the accused judge; introducing an automatic stay of prosecution until the Judicial Council has ruled on the indictment; empowering the Judicial Council to assess whether a *prima facie* case exists, by expanding the scope of its review; or

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criminal liability , except in cases of malice. Disciplinary proceedings may follow where judges fail to carry out their duties in an efficient and proper manner. Such proceedings should be conducted by an independent authority or a court with all the guarantees of a fair trial and provide the judge with the right to challenge the decision and sanction. Disciplinary sanction should be proportionate. Judges should not be personally accountable where their decision is overruled or modified on appeal".

[33] See CDL-AD(2017)002 Venice Commission Amicus Curiae Brief for the Constitutional Court of the Republic of Moldova on the criminal liability of judges, §53; CDL-AD(2018)017 Venice Commission Opinion on draft amendments to Law No. 303/2004 on the Statute of Judges and Prosecutors, Law No. 304/2004 on Judicial Organisation, and Law No. 317/2004 on the Superior Council for Magistracy of Romania, §§113-118; and CDL-AD(2019)028 Venice Commission Amicus Curiae Brief for the Constitutional Court of the Republic of Moldova on the criminal liability of Constitutional Court judges, §§ 25-29.

[34] See CDL-AD(2013)005 Venice Commission Opinion on Draft amendments to Laws on the Judiciary of Serbia, §§18-19 and 22.

[35] See the Judicial Council's Resolutions nos. 3/2024 of 28 May 2024 and 6/2024 of 7 June 2024, expressing disapproval of the criminal prosecution of judges under Article 326a of the Criminal Code.

even limiting the scope of Article 326a's application strictly to cases of malice, deliberate intent and, arguably, gross negligence.

138. While the intervention of the Judicial Council to consent to the prosecution of a judge under Article 326a may serve as a safeguard against the misuse of the offence for unjustified prosecution, the composition of the Judicial Council, which lacks a guaranteed clear majority of judges elected by their peers, undermines its effectiveness. It formally consists of nine judges elected by their peers, with the remaining nine members appointed and removed at will by the President, the Government and the National Council, as laid down in the Constitution. This raises serious concerns about the Judicial Council's independence and ability to protect judges from undue political pressure, particularly given that previous members have been prematurely recalled by the current President, the current Government and the current National Council before the end of their term.[36] The ECtHR has underscored the independence of Judicial Councils from the executive and legislative powers.[37]

139. In this context, GRECO, in its 2013 Fourth Evaluation Round Report, recommended that the Slovak Republic provide in law for not less than half of the members of the Judicial Council to be elected by their peers to strengthen the independence of the judiciary from undue political influences. However, the introduction of Article 326a has changed the context regarding the composition of the Judicial Council, making the case for a judicial majority elected by judges more compelling, even if that entails changes to the supreme law.[38] The 2016 Fourth Evaluation Round Report on the Czech Republic, a country often referenced in relation to Slovak criminal law reforms, also stressed the importance for the Judicial Council to be composed either of judges exclusively or of a substantial majority of judges elected by their peers[39]. This view is shared by the Venice Commission[40], CCJE's Opinion no. 24 (2021) on the evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems and interlocutors met during the visit.

140. Alternatively, if the authorities wish to maintain the current composition of the Judicial Council and increase its legitimacy, robust safeguards should be introduced into the domestic framework to ensure the security of tenure of its members, particularly the nine members appointed and removed by the President, the Government and the National Council. Such safeguards are a prerequisite for the independence of the Judicial Council[41]. These could include the introduction of explicit, legally defined grounds for removal, which

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[36] See, for example, https://enrsi.stvr.sk/articles/news/370367/president-appoints-new-judicial-council-members.

[37] See, for example, Grzęda v. Poland, [GC], no. 43572/18, 15/03/2022.

[38] See GRECO's Fourth Round Second Interim Compliance Report on Serbia, which welcomed the adoption and entry into force of constitutional amendments to comply with the recommendation on changing the composition of the High Judicial Council (paragraphs 19-24).

[39] § 94.

[40] See CDL-AD(2008)006 Venice Commission Opinion on the Draft Law on the High Judicial Council of the Republic of Serbia §§19 and 75; and CDL-AD(2023)039 Venice Commission Opinion on the Draft Amendments to the Constitution of Bulgaria §123.

[41] CCJE Opinion No. 10 (2007) on Council for the Judiciary in the service of society states that members of the Judicial Council (both judges and non-judges) should be granted guarantees for their independence and impartiality. Also, see CDL-AD(2020)001 Joint Opinion of the Venice Commission and the Directorate General of Human Rights and the Rule of Law on the draft law on amending and supplementing the Constitution with respect to the Superior Council of Magistracy of the Republic of Moldova, §§ 55-56.

are neither vague, broad nor discretionary, and are surrounded by appropriate procedural safeguards guaranteeing the right to an appeal and a fair hearing/trial.

141. As emphasised in the CCJE's Opinion no. 24 (2021), except in cases of death, retirement or removal from office - such as through disciplinary action for serious misconduct, a member's term should only end upon the lawful election of a successor, as this ensures that the Judicial Council is able to exercise its duties lawfully, even if the appointment of new members is delayed. Members may also cease to serve in the event of incapacity or loss of the status on the basis of which they were elected or appointed to the Judicial Council. If the Judicial Council itself or a special body within it are responsible for this decision, the rights of the dismissed member to an appeal must be ensured.

142. For its part, the Venice Commission has also recognised that legislation should specify the substantive grounds for termination of office of Judicial Council members, such as criminal conviction rendering a member dishonourable to exercise the functions[42], repeated failure to fulfil duties without serious and objective reasons[43] and should also introduce appropriate procedural safeguards[44].

143. In the light of the above considerations, GRECO recommends either
(i) repealing Article 326a of the Criminal Code in its entirety or,
(ii) if retained:

(1) introducing additional timely and effective safeguards in law to protect judges accused of bending the law under Article 326a of the Criminal Code, namely limiting the scope of its application strictly to cases of malice and deliberate intent, and providing an automatic stay of prosecution until the Judicial Council has made a determination; and
(2) strengthening the Judicial Council's independence and capacity to enforce these safeguards by either

(a) revising the composition of the Judicial Council to ensure a clear majority of judges elected by their peers, or
(b) if the current composition is maintained, introducing robust safeguards to ensure the security of tenure for its members, including explicitly defined legal grounds for removal that are neither vague, broad nor discretionary, and that are accompanied by appropriate procedural safeguards guaranteeing the right to an appeal and a fair hearing/trial.

E. Other relevant issues

144. Two final issues – while outside the Rule 34 procedure, as they were not affected by the criminal law reforms that triggered the launch of the *ad hoc* procedure – are relevant for

[42] See CDL-AD(2014)028, Venice Commission Opinion on the draft amendments to the Law on the High Judicial Council of Serbia, § 53.
[43] See CDL-AD(2022)030, Venice Commission Opinion on three draft laws implementing the constitutional amendments on Judiciary of Serbia, §86.
[44] See CDL-AD(2022)019, Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rules of Law (DGI) of the Council of Europe on the draft law on amending some normative acts (judiciary) § 34.

strengthening transparency as well as the reporting, investigation and prosecution of wrongdoing, including corruption, and are described below.

Protection of whistleblowers

145. During the on-site visit, discussions also covered the implementation of the Whistleblower Protection Act (Law no. 54/2019 Coll.). In this regard, in February 2024 the Government withdrew proposed amendments to the Act, which, according to publicly available information, intended to introduce vague terminology, unrealistic prerequisites to qualify for protection, a new mechanism for employers to challenge the whistleblower status at an early stage, the sudden exclusion of an entire category of public servants, namely members of Police Corps, from protection, and to make these changes retroactive.[45]

146. The GET learned during the visit that the implementation of the Whistleblower Protection Act has encountered certain problems, particularly concerning the protection granted under whistleblower status. In 2023, 20 police officers were granted the protected status, with a total of 57 individuals having benefited from such status. In some instances, the Minister of the Interior temporarily suspended police officers accused of intentional offences, despite their protected status. These cases are now pending before the Bratislava Administrative Court, with one case referred to the Court of Justice of the European Union for a preliminary ruling regarding the participation and status of the Whistleblowers' Protection Office in domestic judicial proceedings[46], without prejudice to the decision on the merits. The GET heard that this situation, combined with the dissolution of the SPO and the reorganisation of NAKA, appears to have created a chilling effect and increased scepticism amongst citizens, making them less inclined to report misconduct or corruption.

147. The GET was also made aware of the absence of clear procedural guidelines for handling whistleblower reports. The Act does not specify how reports should be processed, nor does it provide explicit guarantees regarding confidentiality and protection for whistleblowers. Various institutions, including the prosecution service, the WPO, and certain administrative bodies, are legally authorised to receive whistleblower reports, but there is no clear framework defining their respective roles. Additionally, standardised rules for collecting and managing whistleblower data are lacking.

148. The GET is aware that, in the context of the Fifth Round, GRECO recommended "that that the effectiveness of the protection of whistleblowers be improved in terms of the processing of such reports, in particular in respect of the independence and autonomy of the processing authority and that police members be trained and informed on a regular basis about whistleblowing protection measures".

149. Without prejudice to the ongoing compliance procedure with the implementation of the above recommendation, which will be assessed separately, the GET encourages the Slovak authorities to take additional measures to support the full and effective

[45] https://whistleblowingnetwork.org/WIN/media/pdfs/MyersPressStmtENG-SLOVAK-18-02-2024.pdf

[46] https://curia.europa.eu/juris/showPdf.jsf?text=whistleblower&docid=294270&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=303598

implementation of the Whistleblower Protection Act. Internal reporting channels should be actively promoted, especially by political leadership and senior management, to foster a culture of reporting misconduct, including corruption-related offences. The Act could be further strengthened by providing a clear procedure for processing whistleblower reports, upon their submission, including strict provisions on confidentiality and protection guarantees.

150. In addition, rules on the clear roles of external reporting channels and on the collection of data could also be introduced to help inform the authorities of possible legislative amendments. These measures are all the more important given that the Slovak Republic has lost five points in the overall score of Transparency International's Corruption Perception Index (from 54/100 in 2023 to 49/100 in 2024, where 0 means highly corrupt and 100 means very clean).

Freedom of information

151. Meetings with interlocutors also revealed that the freedom of information legislation (Act no. 211/2000 Coll. on Free Access to Information) was recently amended, with the changes entering into force on 1 March 2025. The amendments allow public authorities to require the payment of a fee for the costs associated with responding to information requests, including exceptionally extensive searches, copies, procurement of technical media and the delivery of information. Failure to pay the fee within seven days from receiving the notification for payment will result in the indefinite deferral of the request and non-disclosure of the information. The amount of the fee is determined by the public authority, which is required to explain the method for its calculation in the notification to the requester (Sections 14 (6) and (7), and 21(1)). The determined fee may be challenged before the public authority and, subsequently, before a court.

152. The Ombudsperson has challenged the amendments before the Constitutional Court, arguing that they introduce further restrictions on the right to information, thereby impairing or encroaching upon the very essence of that right. According to the Ombudsperson, the amendments do not conform with constitutional provisions, particularly the principles of legality and equality, as they leave the determination of costs to the discretion of public authorities and rely on the broad and vague concept of an "exceptionally extensive search". In the Ombudsperson's view, the amendments also fail to pass the proportionality test. The proceedings are currently pending.

153. In addition, non-State stakeholders informed the GET that, following the legislative and institutional reforms, the Analytical Centre of the Ministry of Justice, which provided statistical data on court proceedings, had been dissolved.[47] This made it difficult for

[47] Following the visit, the authorities confirmed that, after a comprehensive internal assessment, the Analytical Centre, which employed 26 staff, was abolished effective 1 August 2024 due to high operational costs, rising expenditures on salaries and external services and the limited quality and relevance of certain outputs. The Analytical Centre's functions have been redistributed among existing organisational units and, as of 1 December 2024, also assigned to the newly established Department of Sectoral Strategies, which is responsible for data processing. According to the authorities, this reorganisation enables more efficient use of public funds, eliminates duplication of work, and strengthens the integration of analytical support within the Ministry of

watchdogs to access or collect information (statistics) on discontinued criminal proceedings needed to effectively assess the impact of the criminal justice sector reforms. They also reported problems to obtain information from the Police Presidium. In their view, the Government's approach toward non-State actors appeared disengaged, as the authorities were reluctant to respond to their requests in a timely manner or at all.

154. Having regard to the above, the GET encourages the Slovak authorities to safeguard the effective and practical application of the right to information. This may include avoiding unnecessary restrictions, particularly those left to the discretion of public authorities, and introducing exemptions from covering costs for extensive searches. Such exemptions could apply, for example, when collecting the fee would be economically inefficient, when the information is requested for research purposes, or when the requester lacks financial means to cover the costs. The need to challenge restrictions or expenses before national courts and to exhaust all legal remedies may render the eventual disclosure of requested information irrelevant or too late to be effective. Timely responses to information request are essential for the public to exercise their right to scrutinise public authorities and hold them accountable.

IV. CONCLUSIONS

155. GRECO fully acknowledges that member states, in the exercise of their sovereign authority, should take the necessary measures to reform their legislative and institutional frameworks in order to address evolving societal needs. Nevertheless, such reforms must be undertaken in full and strict conformity with the international obligations to which they have freely committed themselves. Following a careful analysis, and in the light of the findings in the present *ad hoc* report regarding the use of the fast-track legislative procedure, the shortening of limitation periods, the reduction of criminal sentences, the institutional reforms affecting the public prosecution service and the Police Force, as well as the application of the offence of "bending the law", GRECO addresses the following recommendations to the Slovak Republic:

(i) (i) conducting a comprehensive review of the rules governing the use of the fast-track legislative procedure and, based on the findings which should be made public, revising the rules to further restrict its application to strictly exceptional cases, which are clearly defined and duly justified, and (ii) subjecting all draft legislation adopted through this procedure to public consultation to the fullest extent possible, involving timely publication of draft laws and a meaningful opportunity for stakeholder participation to provide input prior to adoption (paragraph 75);

(ii) revising legislation to provide for a sufficiently long limitation period and sentencing framework for all corruption offences, in order to enable effective investigation and prosecution and to ensure equivalent protection of all national and transnational financial interests, regardless of the source of funds (paragraph 96);

Justice. Most importantly, the work of collecting and analysing data continues without disruption, with a renewed focus on making that work more useful, practical, and relevant to real needs.

(iii) (i) conducting a comparative study on the use of suspended sentences and alternative sanctions in other jurisdictions, with a focus on promoting judicial flexibility, proportionality and effectiveness; and (ii) depending on its findings, revising the sentencing framework and ensuring its effective implementation, supervision and evaluation by allocating adequate financial and human resources (paragraph 101);

(iv) (i) conducting a comprehensive review of the current framework for prosecutorial specialisation in corruption cases, with a view to identifying possible gaps or weaknesses and, based on its publicly available findings, adopting further measures; and (ii) developing a formal plan for specialisation and continued professional development of prosecutors, in order to ensure compliance with anti-corruption standards (paragraph 121);

(v) developing, publishing and implementing a plan for the specialisation of investigating police officers, involving specific job descriptions and specific, measurable, achievable, realistic and time-specific targets (paragraph 129);

(vi) (i) repealing Article 326a of the Criminal Code in its entirety or,
(ii) if retained:
(1) introducing additional timely and effective safeguards in law to protect judges accused of bending the law under Article 326a of the Criminal Code, namely limiting the scope of its application strictly to cases of malice and deliberate intent, and providing an automatic stay of prosecution until the Judicial Council has made a determination; and
(2) strengthening the Judicial Council's independence and capacity to enforce these safeguards by either
(a) revising the composition of the Judicial Council to ensure a clear majority of judges elected by their peers, or
(b) if the current composition is maintained, introducing robust safeguards to ensure the security of tenure for its members, including explicitly defined legal grounds for removal that are neither vague, broad nor discretionary, and that are accompanied by appropriate procedural safeguards guaranteeing the right to an appeal and a fair hearing/trial (paragraph 143).

156. GRECO invites the authorities of the Slovak Republic to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2026. The measures will be assessed by GRECO through the compliance procedure.

157. Finally, GRECO invites the authorities of the Slovak Republic to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

V. APPENDIX

Criminal offence	Criminal Code	Criminal penalties (in years)		Level of damage (in euros)		Limitation period (in years)		Monetary penalty (in euros)	
		Former	Present	Former	Present	Former	Present	Former	Present
Passive bribery	Article 328	2-5	up to 4	0	0	5	5	160 – 331,930	160 – 3,000,000
- committed in a serious manner		3-8	2-6	0	0	10	10		
- committed on a significant scale		new para.	3-8	-	250,000	-	10		
- committed on a large scale		7-12	4-10	133,000	650,000	20	10		
Passive bribery for procurement of items of general interest	Article 329	3-8	1-5	0	0	10	5		
- committed by a public official		5-12	3-8	0	0	20	10		
- committed on a significant scale		new para.	4-9	-	250,000	-	10		
- committed on a large scale		10-15	5-10	133,000	650,000	20	10		
Passive bribery of a public official or foreign official	Article 330	5-12	3-8	0	0	20	10		
- committed on a significant scale		new para.	4-9	-	250,000	-	10		
- committed on a large scale		10-15	5-10	133,000	650,000	20	10		
Active bribery in private sector	Article 332	0-3	up to 1	0	0	5	3		
- committed in a serious manner		1-5	up to 3	0	0	5	3		
- committed on a significant scale		new para.	1-5	-	250,000	-	5		
- committed on a large scale		4-10	2-8	133,000	650,000	20	10		
Active bribery for procurement of items of general interest	Article 333	6m-3	up to 2	0	0	5	3		
- committed in a serious manner or to a public official		2-5	6m-3	0	0	5	5		
- committed on a significant scale		new para.	2-7	-	250,000	-	10		
- committed on a large scale		5-12	3-9	133,000	650,000	20	10		

Active bribery of a public or foreign official	Article 334	2-5	1-5	0	0	5	5		
- committed on a significant scale		new para.	2-7	-	250,000	-	10		
- committed on a large scale		5-12	3-10	133,000	650,000	20	10		