



*General Prosecutor's Office of the Slovak Republic  
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### **Special Prosecution Office of the Slovak Republic**

European Union represents special type of international community which consists – since its last enlargement in 2007 – of 27 countries with 496 million of inhabitants in total.

After the entry into force of the Maastricht Treaty, the communities (ESUO, EURATOM, EC) have created the first pillar of the European Union. That pillar is of extraordinary importance since, first of all, it is not the European Union but different communities that have legal personality within which any decision-making process is carried out. With regard taken to substance and extent of tasks to be fulfilled by the European Union, protection of financial interests of the European Union has significant importance.

Of course, any activities of criminal nature are considered the most dangerous especially those ones who rely on organized structures operating with the aim to use the financial system for the purposes of money laundering. Organized crime activities have acquired transnational character since they pass out of national boundaries and involve nationals of several countries.

In addition to adoption of relevant substantial legal rules, there is also the need to establish and create appropriate national institutional basis in order to successfully and efficiently counter criminal activities.

As far as the legal rules of the Slovak Republic are concerned, criminal acts affecting financial interests of the European Communities are defined in the Criminal Code and are included into a chapter dealing with economic crime.

In order to fight against organized crime which is always trying to systematically create connections with local prosecuting and adjudicating authorities, the Slovak Republic has decided to build special judicial bodies. By its 2003 Act, the Specialized Criminal Court as well as Office of Special Prosecution were established.

**The Specialized Criminal Court** has the status of a court of higher instance and has nation-wide jurisdiction. To this Court, judges may be assigned who reached 35 years of age and authorized to deal with secret information (degree „top secret“) according to statement issued by the National Security Agency.

Persons suspect of commission of certain type of criminal act fall within the jurisdiction of that Court. For example, criminal act of corruption, extremely serious criminal acts, economic crime or criminal acts against property are dealt with by the Specialized Criminal Court.

According to the relevant provision of the Code of Criminal Procedure, the following categories of persons fall within the jurisdiction of the mentioned Court:

E.g. Deputies of the National Council (Parliament) of the Slovak Republic, Members of Cabinet, Presidents of the Central Government Administration Authorities, Ombudsman, Judges, Prosecutors, Head of the National Security Agency.

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Simultaneously, the **Office of Special Prosecution of the Slovak Republic** – separate part of the General Prosecutor's Office of the Slovak Republic has been established. Office of Special Prosecution of the Slovak Republic has nation-wide jurisdiction.

It is headed by the Special Prosecutor accountable to the General Prosecutor. The General Prosecutor has the position of superiority with regard to the Special Prosecutor, however, he is not authorized to issue certain instructions to the Special Prosecutor. Only a Prosecutor of the General Prosecutor's Office may be appointed as Special Prosecutor. The National Council of the Slovak Republic elects Special Prosecutor upon proposal by the General Prosecutor and on the basis of selection proceeding. The term of Office of the Special Prosecutor is five years.

Any other Head/Chief Prosecutors and Prosecutors of the Office of Special Prosecution are appointed by the General Prosecutor upon proposal of Special Prosecutor and upon previous approval by the Council of Prosecutors. Only prosecutor of the General Prosecutor's Office may become prosecutor of this institution. He/she needs to be authorized to deal with confidential information, level „top secret“. Ten years of practice are required as usual but the General Prosecutor may make an exception of that rule.

The Office of Special Prosecution carries out supervision over observation of legality prior to commencement of criminal prosecution as well as in pre-trial proceedings, it also prosecutes individuals suspect of commission of criminal acts and it exercises powers of prosecutor in proceedings before the court as for matters falling within the jurisdiction of the Special Court. (nemalo by tu byť Specialized Criminal Court?).

In this context, we need to explain that according to the Slovak legal order, a prosecutor does not investigate he even does not govern it directly. Primarily, it is the Police Force of the Slovak Republic which carries out any investigation of criminal acts, and the Police acts independently and autonomously. In pre-trial proceedings, the Police has to collect evidence and applies any necessary means in order to detect and reveal crime. Without coordination and adequate Police activity, the Office of Special Prosecution neither the *Specialized Criminal Court (tentoraz názov prosím preverit')* would never have expected impact.

Just for interest, reactions in relation to the creation of both institutions i.e. Specialized Criminal Court and Office of Special Prosecution were very various. One part of political representation, public opinion and majority of medias reacted positively, on the other hand, reactions of other part of political spectrum and especially of legal experts may be described as confused or negative.

The major argument is represented by the fact that in the Slovak Republic actually does not exist a level of crime which could justify existence of such institutes and that the whole situation has been created by certain politicians or some part of the executive in order to show their distrust in relation to the existing judicial system.

Successfulness of this solution made in order to counter crime is a question which can only be assessed after expiration of longer period of time.

Criminal acts affecting financial interests fall under the jurisdiction of the prosecutors of the Office of Special Prosecution. Along with Police forces and Office of Special Prosecution, it is also the **Agency/Office for the Fight against Organized Crime** which deals (in addition to other types of crime) with criminal acts affecting financial interests of the European Communities; that Agency is a part of the Presidium of the Police Forces of the Slovak Republic.

By its own activity and also based on information referred to it by any other Police Units, this authority collects information about suspicions of commission of that kind of crime; suspicion may also be submitted to it by any statement made by state control bodies, any other government institutions and also by individuals.

Currently there are 58 cases criminally prosecuted on grounds of crimes affecting financial interests of the European Communities, from among them, there are 25 cases before the court and 33 cases in stage of pre-trial proceedings and investigation.

The Office of Special Prosecution carries out prosecutorial supervision concerning individual cases and it also collects and analyses any information in the field in order to define and specify major forms of this kind of crime and areas within which it is mostly committed. According to information collected up to now, we can see that this kind of crime is mostly committed in the area of agricultural grants and subsidies as well as in the area of small and medium business. In few and rare cases, some unlawful activities have been revealed in the area of social programs.

As far as agricultural area is concerned, intentionally incorrect statements on agricultural land area (acreage) or incorrect statements on cultivation of such lands is the most committed crime.

In the area of small and medium business, intentionally incorrect statements (accounting) of works and outputs which actually never have been implemented and subsequently, manipulation of financial means so acquired is the most frequent crime.

In conclusion, we present one specific case in relation to which the Office of Special Prosecution of the Slovak Republic submitted indictment in 2009.

The criminal charge was brought against a trader who concluded contract with National Agency for Development of Small and Medium Business in order to obtain a grant within external assistance of the European Union connected to implementation of a project of building of a small hotel (boarding house) and financed from PHARE Program.

In his project final report – account and financial statement – he declared (contrary to reality) that the project was finalized and, among eligible expenditures he stated also payment of invoices to a company; however, actually these payments have been returned to him upon his request. As result, the amount of 68 455, 59 Euros has been transferred to him illegitimately to prejudice of the National Agency for Development of Small and Medium Business.

Pursuant to the Criminal Code of the Slovak Republic he committed criminal act affecting financial interests of the European Communities. By valid and final decision of the court he was imposed the sentence of unconditional deprivation of liberty for 2 years as well as to partially return back financial means.