

# Law Enforcement in the Slovak Republic

Presently, law enforcement in the Slovak Republic is a widely-discussed topic in the society. Given the dynamics of social development, both natural and legal persons come into contact with the courts more often. One essential element of the society's relationship with the courts is confidence. The courts' manner of functioning, the alleged poor law enforcement and not least of all, the status of the regulatory environment affect the daily lives of both citizens and entrepreneurial entities.

State of law enforcement in general is the advert of a legal and constitutional state, the overall legal culture and the current state of the society and the satisfaction of the population.

Considering the membership of the Slovak Republic in the European Union, the issues of law enforcement not only have national reach, but need to be seen in a European context and are crucial in both legal and theoretical terms as well as in terms of practical application.

Law enforcement is one of the pillars of a democratic state. Upholding citizens' rights is guaranteed to the populace directly by the Constitution of the Slovak Republic. Under Articles of the Constitution of the Slovak Republic No. 46 to 50, each citizen is guaranteed the right to a fair trial and other legal protection. Everyone has the right to have their case dealt with in the courts without undue delays, in public and with his/her personal participation, so that he/she can comment on all the facts.

Since the society-wide changes of 1989, the control of justice by the public has substantially increased. These changes, however, substantially changed both the legislative environment and the situation of the society as a whole, which resulted in a dramatic increase in litigations, for which the courts were unprepared from both the material and personal point of view.

In connection with the accession of the Slovak Republic to the European Union, a huge number of directives and regulations were transposed in the Slovak legal order. Over the last decade one can see a certain reduction in the number of pending litigations, acceleration of legal proceedings and an improvement in the work of the courts.

Given the current economic and social situation, any positive developments in the field of law enforcement are perceived as impossible by people in both the public and business environment.

This perception of the judicial and legislative environment has a variety of causes, legal and

otherwise. One reason for the current state of the judiciary is the extreme workload of the courts. Law enforcement is also affected by a number of extralegal circumstances. Inadequate staffing, lack of technical means and the like adversely affects the operation of the courts as well. These as well as many other factors may ultimately reduce the effectiveness of legal remedies, and a mere citizen or business entity is neither able nor allowed to recognize the main reason or cause of the unenforceability of his rights and justice.

In order to restore citizens' confidence in the rule of law, its institutions and confidence in justice itself, the current Slovak government, in the Policy Statement of the Government of the Slovak Republic for the years 2010 - 2014, embedded among the most important objectives, - significant improvement in the area of law enforcement and the fight against corruption.

change contributing to improving the business environment was the introduction of computerization of the Commercial Bulletin, which started on 1 July 2011. Commercial Journal Computerization allows the shortening of publication from several months to a few days.

Court reform and building a credible justice system have become priorities for the Slovak government and the purpose of the above is both improvement of the business environment and substantial improvement of law enforcement in the Slovak Republic.

The Ministry of Justice of the Slovak Republic, led by the current Minister of Justice of the Slovak Republic has been carrying out several steps in order to build a credible and effective judiciary which would significantly help improve the level of the business environment in Slovakia and promote the competitiveness of the Slovak Republic.

proceedings, according to which the Supreme Court of the Slovak Republic, as an appellate court in the case of having a different opinion than the lower court, may also terminate the proceedings, and as was the case in the past, apply the principle of cassation to cancel the decision of a lower court, which in actual practice only unnecessarily prolonged the proceedings. In the past, court proceedings could take several years and the senate of the Supreme Court of Appeal could set aside the decision and return the case back to the court of first instance. Consequently, a few more years could pass and another senate of the Supreme Court of Appeal could have a different legal opinion in the respective case, i.e. to return the case for further proceedings. For the parties to the proceedings themselves this implies nothing but a very lengthy trial.

The current management of the Justice Department has picked up the threads of long-term efforts to create greater opportunities in the legislation for amicable settlement of disputes, which mainly benefits the entrepreneurial public. For arbitration, i.e. amicable settlement of disputes, the state can only create legislative conditions. Real use in practice is then a matter of the entrepreneurial public, e.g. to which extent the entrepreneurs will embody arbitration clauses in their contracts. It is true that many developed countries do settle a considerable portion of their disputes through amicable settlement, namely through arbitration or mediation.

Significant changes regarding law enforcement have occurred in the field of legal certainty of consumers and these changes contributed to the strengthening of consumer confidence.

The Ministry of Economy of the Slovak Republic, together with the Ministry of Justice of the Slovak Republic, in compliance with regulations of the European Union, have responded to market developments and thus new legislation serving the protection of consumers' rights have been put into force in recent years. Of particular importance in this context are changes to legal regulations concerning general safety of products, a two-year law-mandated warranty and regulation of misleading and comparative advertising that have brought many benefits to consumers.

The amendment to the Act on Bankruptcy and Restructuring (Zákon o konkurze a reštrukturalizácii) has also brought positive changes in the area of claims recovery and is a key measure aimed at better law enforcement. The



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objective of the justice department is to address those areas of bankruptcy law which so far in practical application have proved to be inefficient or insufficiently worded and simultaneously to modify the definition of extension in the manner customary in developed foreign legal regulations, to make feasible the creditor's petitions for declaring bankruptcy due to insolvency of the debtor. In practice, therefore, creditors can initiate bankruptcy proceedings against debtors earlier, so at the time when a debtor has property; also it gives creditors the opportunity to submit a petition for declaring their debtors bankrupt even if the creditor's claim was not accepted by the debtor or if the creditor does not have an enforceable claim. Simultaneously the legal responsibility of statutory bodies of debtors for failure to file an application to declare them bankrupt on time is thus increased. In order to align the bankruptcy law with judicial decisions of the European Court of Human Rights, the "assessment of the creditor's petition for bankruptcy order" (sporové posúdenie návrhu) has been introduced. A real impact will be the debtor's right to submit evidence rebutting assessments of the creditor and the right to be heard before issuing the bankruptcy order. In accordance with the standards of European law, the right to lodge claims during the bankruptcy proceedings has also been introduced.

The main objectives of the actual management of the Justice Department are to implement effective measures in our judiciary,

not only as associated with the adoption of amendments to legislation and transposing the directives of the European Union, but also that our judiciary undergoes a thorough reform, so that the result of its activities can serve the citizens, i.e. to protect their rights and interests protected by law.

Effective functioning of the courts and the very justice also requires a change in technical and administrative are of the judiciary.

The Ministry of Justice of the Slovak Republic is currently preparing the project Computerization of the Justice System, which has a planned launch window of 2012/2013. The aim of computerization of the justice system is to streamline and expedite proceedings by means of the technical tools available. Computerization of the justice system specifically includes an electronic court file, fast electronic delivery of documents from the court, recording of court proceedings or transcription of spoken word. The introduction of a fully electronic case file would greatly reduce corrupt behaviour of all parties to the proceedings, and would increase legal certainty and transparency, especially for participants in legal relations.

Within the last major changes in the justice system, effective from 1 May 2011, new open competitions for vacant positions for judges, publishing of court decisions, stricter penalties for deliberate circumvention of the random allocation of cases, were introduced. **Currently the justice department** is also preparing a further package of changes to the judiciary, under which judges should expect again regular assessment of their work and assessment of observance of principles of judicial ethics. Three consecutive negative assessments of any judge should be grounds for disciplinary action with a possibility of termination of the judge's appointment in his/her position.

Problems in law enforcement, as any other existing problem, can be solved. The current level of law enforcement in the Slovak Republic is thus a reflection of the legislation, as well as the economic security of the Department of Justice and the overall social situation. To ensure that the citizens of the Slovak Republic's rights are enforced by the state is a long process. **Developments in this area can be assessed positively today.**

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LAW FIRM

The Ministry of Justice of the Slovak Republic, with regard to the essential role played by law enforcement in our society, is continuously looking for solutions that would not only improve law enforcement, but would also contribute to creating conditions for the modernization of court proceedings by making them more flexible and increasing the autonomy, professionalism and speed of court proceedings. Improving law enforcement would also positively influence the business environment.

Legal certainty of a party to a legal relationship, based for instance on an agreement, is the basis for conviction that the parties'/party's rights will be fulfilled and in case of any infringement the party has at its disposal an effective tool to recover its rights in real time, i.e. at the time when recovery of its claim is economical, which is essential for the functioning of business relations. The level of law enforcement thus has a substantial impact on the business environment in the Slovak Republic. The last

On its website, the Ministry of Justice of the Slovak Republic published for the first time an overview of files being processed at district and regional courts in the Slovak Republic, which both for the professional and the wider public provides relevant data for having a complete picture of the activity of the courts. Statistics on the handling of cases in specific courts, from which follows the apparent occupancy of judges in various courts, have not yet been published in such a form and even the judges themselves do not have access to them.

When statutory conditions are fulfilled, it is possible to deliver documents and papers electronically; the use of electronic signature was introduced in proceedings held at Commercial Register, access to various types of information by public is ensured through publicly available networks and the department of justice also seeks to educate judges and court employees on a regular basis.

In order to speed up court proceedings and enhance legal certainty, the so-called Revisory Principle was introduced into appeal