

Dear Members of the TAX3 Committee,

Let us start with the excuse of the absence of the General Prosecutor of the Slovak Republic, who can not attend the meeting of a Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance due to exigent official circumstances.

The General Prosecutor's Office of the Slovak Republic and its subordinated Regional and District Prosecution Offices shall pay special attention to clarification of all forms of criminal activities including information promoted in the media on the unlawful proceedings reported by the press community.

The surveillance on compliance with legality prior to the initiation of public prosecutions and in the pre-trial proceedings are being performed by all sections of the Prosecution Offices of the Slovak Republic, the District Prosecution Offices, Regional Prosecution Offices and the General Prosecutor's Office of the Slovak Republic within the competences entrusted to them by the legal order, whereby a special position among them has the Special Prosecution Office of the General Prosecutor's Office of the Slovak Republic, the scope of which relates in particular to the offenses of premediated murder, establishing, plotting and supporting a criminal group and particularly serious crimes committed by a criminal group, corruption offences, but also economic criminal offences, if by committing such a crime was caused the damage or was obtained a benefit, or if such criminal offence was committed within the extent reaching a damage at least Euro 6 650 000.

With the reference to the above mentioned, today's hearing, as the representatives of the Slovak Republic, are participating JUDr. Radovan Kajaba, PhD., Head of the Criminal Department of the General Prosecutor's Office of the Slovak Republic and Dr.h.c. JUDr. Maroš Žilinka, Phd., Head of the Economic Criminality Department of the Special Prosecution Office of the General Prosecutor's Office of the Slovak Republic.

Since the creation of the Special Prosecution Office as a separate part of the General Prosecutor's Office of the Slovak Republic with competence for the entire territory of the Slovak Republic, which occurred at 1 September 2004, is in exclusive competence of prosecutors of the Special Prosecution Office the performance surveillance on compliance with legality prior to the initiation of public prosecutions and in the pre-trial proceedings, as well as representing the prosecution before the Specialized Criminal Court (as a court of a first instance) and the Supreme Court of the Slovak Republic (as a second instance court) in cases of crimes against the financial interests of the European Union.

It is worth noting that the authorities of the prosecution, thus also the Special Prosecution Office, are the repressive authorities who enter into proceedings only when the suspected offence (the most frequently detected irregularity) is indicating a suspicion of committing the criminal offence against the financial interests of the European Union. The Special Prosecution Office is not the authority who performs the detection of criminal offences and the detection of their perpetrators, which are primarily the task of the Police Force of the Slovak Republic. The Special Prosecution Office is neither the state authority empowered to decide to grant a non-repayable financial contribution made by the European Structural and Investment Funds nor to decide on the granted repayment of the non-repayable financial contribution. The Special Prosecution Office is not the state authority controlling and neither responsible for the manner and efficiency of the use of euro funds.

Prosecutors of the Special Prosecution Office perform their competence (in relation to suspicions of a criminal offence against the financial interests of the European Union) on the basis of criminal complaints of natural persons, legal entities, state authorities (usually managing authorities or intermediate bodies) control authorities, operational findings of the authorities of the Police Force but also on the basis of their own knowledges (for example from the mass media).

The economic crimes with a financial impact on the interests of the European Union, including the findings presented by the deceased Ján Kuciak, have always been treated with the utmost level of responsibility. In the past year, 77 people were prosecuted for the offence damage to the financial interests of the European Union, which represents an increase of 25 persons compared to the year 2017. With regard to the forms of committing the offence, the offenders elicit the funds from the European Structural and Investment Funds by pretending to fulfil the conditions for granting them by submitting counterfeited or unrealistic documents, to the donors did not provide with mandatory data, the granted funds of the European Union have used for other purposes than intended purpose and the use of funds has been documented by false or incorrect documents. In the case of contributions to the agro-sector they deceptively declared the obligations to meet the conditions for the granting of the support concerning the management of the land and fulfilment of the conditions of the cross compliance.

For the tax offences that were committed in the extent surpassing of Euro 6 650 000, 93 people were accused in the year 2018. From the point of view of the way in which the tax offences were committed, it involved the concealment of revenues, the overvaluation of taxable transactions carried out, the demonstration of fictitious taxable transactions by fake or unreal tax documents, the use of the business chain scheme involving numerous so-called lost (disappeared) merchants (whose managers are “white horses”) and the so-transition (buffer) companies, with the increasingly frequent use of ever more complicated business chain schemes involving the foreign element (foreign business companies), with their constant change accompanied by the “loss” of accounting, or the long-term unusual price of the commodity (usually much lower than the market price, or the price at which the goods could be purchased directly from the primary producer).

In the criminal proceedings on economic offences the financial investigation is also carried out to identify and document the proceeds of crime and property of the offender and to clarify the legal conditions for their subsequent reinsurance for the purpose of the lawful removal, forfeiture or carrying out of the claim of aggrieved party for damages. The financial investigation also includes the fact of finding, whether in connection with the income or a thing originating from the predicate offence, was not committed the crime of money laundering. In 2018, after the financial investigation was carried out by the prosecutors of the Special Prosecution Office, the assets worth more than Euro 56.6 million were secured (among others also in the cases reported by deceased Ján Kuciak).

With regard to the protection of the European Union’s financial interests it is important to say that the Slovak Republic,

aware of its importance, has been deeply engaged and has joined the project of the European Prosecution, which is arises on the basis of Council Regulation (EU) 2017/1939 of

12 October 2017, by which is being performed enhanced cooperation for the intention to set up the European Public Prosecutor's Office.

Achievement of the objectives and priorities of the Prosecution Office of the Slovak Republic as a whole, outside the statutory competence of the Special Prosecution Office of the General Prosecutor's Office of the Slovak Republic, in the detection of the tax crimes and the overall elimination of criminal activity in the state budget section, is being documented by the intensive cooperation of the General Prosecutor's Office of the Slovak Republic with the National Financial Police Unit, the National Crime Agency of the Presidium of the Police Force and the Financial Directorate. The result of this cooperation is the improvement of the coordination of these entities in detecting, clarifying and investigating of tax offences also within the frame of the project of so-called tax cobra. Within the frame of this project 224 tax subjects were audited, 265 tax inspections were carried out for the 987 tax periods. The results of the project so-called tax cobra present its relevance and high efficiency and success in the cases carried out, reaching up to 87.17% of the effectiveness of tax controls.

There is the above standard cooperation between the individual authorities, whereby there are annual consultations carried out with participation of representatives of the individual authorities, on the one hand to carry out financial investigations and on the other on tax crimes in general. On these workshops is being addressed and evaluated the mutual cooperation as well as actual legal regulation including application issues.

The Prosecution Office, in the referred issue of tax crimes and with this related financial investigation is the Prosecution Office still an active participant in collecting the knowledge available to individual departments in the framework of the activities of the National Expert Group on Prevention and Combating the money laundering and the financing of terrorism.

In our conclusion, let us state that in specific criminal cases the scope of information provided is limited by the valid legal regulations of the Slovak Republic and therefore it is not possible to provide closer expression to this information, particularly at the pre-trial stage.

However, it is necessary in our conclusion to repeat, that all authorities of the Prosecution Offices of the Slovak Republic pay the highest attention to the matter of a tax crimes and related financial investigation and this matter is one of the priorities of the actual General Prosecutor of the Slovak Republic.