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Economic crime in the context of Slovak Republic

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Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

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ECONOMIC CRIME IN THE CONTEXT OF THE SLOVAK REPUBLIC

The first references to a crime in the economic sphere were mentioned in the second half of the 19th century, in the speech by Edwin C. Hill, who named the perpetrators of the economic crime the “criminal capitalists”. Significant progress in this regard was made by Edwin H. Sutherland, who in 1939 described economic crime as a “White-Collar Criminality” (white collar crime), and this name is used till now. B. Clinard, as a successor of the Sutherland theory, defines the crime of “white collars” as a violation of the law by a particular group of traders, free workers and officials in connection with their work.¹

Similarly, Frank E. Hartung, in 1950, defines the crime of “white collars” as a violation of economic law, which is committed for financial gain; by a company, with its help, or by its staff carrying out commercial activities. Expert efforts to define economic crime remained constant even after the World War II. Between 1945 and 1948, Fress defined the economic crime as a crime; where the main aspect is the perpetration of an economic system.²

In the past, Czechoslovak Socialist Republic was one of the countries with a “totalitarian regime”, which was characterized by the restriction of fundamental human rights and freedoms. It was a period of government of one political party, the period of five-year economic planning. In our country, the regime changed after 17 November 1989, after the so-called “Velvet Revolution”.

The Communist Party of Czechoslovakia ceased to be the only a single ruling party, there was a change to a market economy, and to a gradual development of legislation. Fundamental human rights and freedoms were no more restricted, the border to the West has been opened, citizens have had new opportunities, and they have reconsidered their moral principles and so on. Broad changes in the former Czechoslovak Socialist Republic have brought many positives, but also previously unknown negatives, such as unemployment, poverty, organized crime, drugs, etc.

The disintegration of the socialist bloc led to changes in the structure and the realities of social life in other countries. For example in Poland, as indicated J. Dworzecki and J. Szymczyk, also there were many social problems after the collapse of the communist system in this country.³

Based on these changes, we can conclude that the quantity and quality of crime has significantly changed in our country. One of the more serious forms of crime is economic crime. Compared to the property crime (in which the motive is

¹ Team of Authors: *Kriminológia – special section, vol. II*. Bratislava: APZ 2001, p. 185-186

² Team of Authors: *Kriminológia – special section, vol. II*. Bratislava : APZ 2001, p. 186

³ J. Dworzecki, J. Szymczyk: *Kryminologia. Wybrane zagadnienia*. GWSP, Gliwice 2010, s. 129

also to gain an unauthorized material benefit), economic crime is much more sophisticated and well thought through. Consequently, there is also a high latency.

Many experts were involved in creating the definition of economic crime and in determination of its content and criteria. Based on these definitions, we can define economic crime as socially hazardous action, meeting the criteria of offences contained in a separate Section V of the Criminal Code,⁴ which provides protection for the interests of the state economy.⁵

The main source of information on changes in crime trends are statistical data recorded by the police. Official statistics of the Police Force of the Slovak Republic⁶ keep records of an officially recorded crime only; there are no records of the real crime that is being committed. The crime situation is still very influenced by the permanent modifications of laws and standards. These are not taken into account when statistical data was compiled.⁷

In 1993, the number of crimes registered in the Slovak Republic (SR) has reached the maximum amount for the entire so-called "post-revolutionary period". After that, in 1993 there was a decrease in the total number of recorded crimes, while in the period from 1996 to 2001, it ranged just below 100 000 offenses. In 2004, the total number of recorded crimes peaked again and reached the number of 131 244 offenses. After that year, the number of crimes in 2009 fell to 104,905, but in comparison with 2008, it represents a slight increase in 147 of the total number of recorded crimes. By comparing the total number of crimes registered in the Slovak Republic in 1993 and in 2009, we noted a decrease of 41,234 crimes in the total number of crimes.

During the period from 1993 to 2009, there were more than 4,716 criminal offences registered each year; such as economic crime, but their number does not exceed the limit of 19,518 offences. Most crimes were registered in the last year of the period. In 1997, there were the least crimes registered as an economic crime. After that year, the number of crimes rose every year to 18 859 until 2007. The following two years it declined again and the last year of the above-mentioned period reached its maximum. When comparing the number of crimes recorded as economic crime in 1993 and in 2009, we found that the crime almost doubled.

Economic crime made more than 5.1% of the total crime registered in the Slovak Republic every year, but its share did not exceed 18.6%. The lowest proportion was recorded in 1995 and the highest proportion, more than triple amount of the total number of crimes, was reached in the last year of the period, in 2009.

⁴ Act No. 300/2005 Coll. Penal Code

⁵ Note: Until 2005, these crimes were included the II. head of a special section in the Act No. 141/1964 Coll

⁶ Note: Ministry of Interior of the Slovak Republic bulletin. Year: 2005, issue 108. Regulation of the Minister of Interior on the use of information systems of the Police, the record and statistical system of a crime and detainees. Information system of the Police recording and statistical system. Its outputs originate in the statistics of the Police Force. Source: ÚCEP Banská Bystrica

⁷ Note: Often there is an intention or the underestimation of changes in legislation. For example, seemingly irrelevant increase of a minimum wage brings more or less offenses against property. These are not reported as a crime, thus the crime rate will fall but the terms for a victim will remain the same. Such "evolution" of crime is rather fictitious, biased, does not relieve the citizens and not work on real criminal scene

After 1993, economic crime not only decreased by 1,687; but also the share in the overall crime fell by 0.9% and it made a share of 5.2%. In 1995, compared to 1994, there was a significant increase in the number, 1426 more offenses, when the proportion of the total crime rose by 2.6%. In 1996 there was a slight decrease of 1% recorded, and the overall percentage of the total crime was 6.5%. In 1997, the number of crimes dropped again by 1723 economic crimes, when it fell to the mentioned minimum of 5.1%. In 1998 the proportion was at about the same level as in the previous year with 5.2%.

The number of economic crimes was rising to the number of 19 245 in 2005, but the share of the economic crime in the overall crime was (with the exception of 2004) rose up to 16.6% in 2006. The number of economic crimes dropped down to 16,974 crimes in the following years, it decreased by more than 2,200 crimes, and the share in the following two years stood just above the 16.0%. Last year, the share of economic crime increased again, to a maximum value of 18.6% and similarly increased the number of economic crimes, to 19 518, representing, in comparison with 2008, an increase by 2,544. Based on a comparison of the total registered crime to economic crime in Slovakia in the first and the last year of the period, we observed that there was an increase in the proportion of 12.5%, representing, as mentioned earlier, nearly a triple increase. That information can be viewed as a negative phenomenon in society.

The following chart shows the development of overall and economic crime registered in Slovakia during the period.

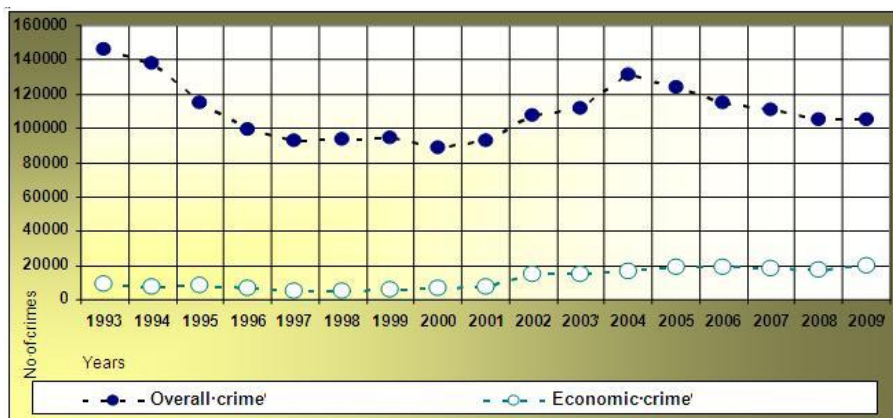


Chart 1. Development of an overall and economic crime registered in Slovakia between 1993 and 2009

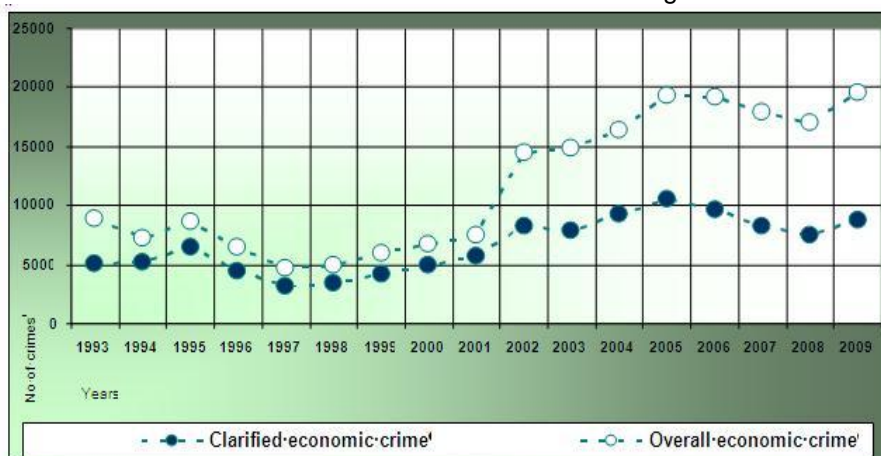
Source: Own calculation of information from EŠSK ÚCEP Banská Bystrica

The success rate in clarifying the recorded criminal acts committed by individual offenders or groups of offenders is also an indicator of satisfaction and subsequent confidence in the Police Force. The success rate in detecting crimes committed during the period ranged above 40% and reached values up to 76.2%, representing more than 3,177 but less than 10,486 clarified crimes per year.

The number of clarified crimes, however, developed more in conformity with the registered economic crime. The least clarified crimes were registered in 1997,

when the lowest number of economic crimes during the entire period from 1993 to 2009 was recorded. Detection rate of crime in 1997 reached the top of 68.8%. Most crimes were clarified in 2005, when 19,245 crimes were registered. It represented the second highest number of economic crimes registered during the period, but only the twelfth in order of detection rate.

Chart 2. The detection rate of the economic crimes registered in Slovakia



between 1993 and 2009

Source: Own calculation of information from EŠSK ÚCEP Banská Bystrica)

The first nine years of the period, until 2001, the success rate in detecting crimes ranged (with the exception of 1993) around 70%. In 2002, the success rate dropped by almost 20% and until 2009 it was declining to 44.8%. This means, that law enforcement agencies clarified every second recorded offense. Based on the information and comparison of the number of clarified economic crimes in the first and in the last year of the period, there can be seen, that the number of clarified crimes rose by 3,660, while the level of detection decreased by 12.5%.

Table 1. The damage caused by committing economic crime in the SR from 1993 to 2009

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
total damage (in 10 000 Sk)	99800	183719	579624	624417	542914	271307	1146050	1408702	800096	2462490	5711769	3783942	5266757	911959	1171367	836371	836871

Source: Own calculation of information from EŠSK ÚCEP Banská Bystrica

As mentioned earlier, economic crime made less than 18.6% of the overall crime, but taking into account the amount of damage caused, it represents damage which can be expressed in 10 000 Slovak crowns (SKK).

The amount of damage caused by economic crime; ranged from 1 billion in 1993, to 14 billion SKK in 2000. Based on the Table 1, it is evident that the amount of damage during the first six years ranged from nearly 1 billion to more than 6 billion SKK. In the first four years, the amount of damage increased from the already mentioned 1 billion to more than 6 billion SKK. After 1996, however, it decreases to almost 3 billion, more specifically 2.7 billion SKK. Maximum damage over the years from 1993 to 2009 was caused in 2003; it was more than 15 billion SKK and more than 52 billion SKK in 2000. In the last year of the period, the amount of damage caused by committing economic crime has reached a value of more than 8 billion SKK. More details in the Chart 3.

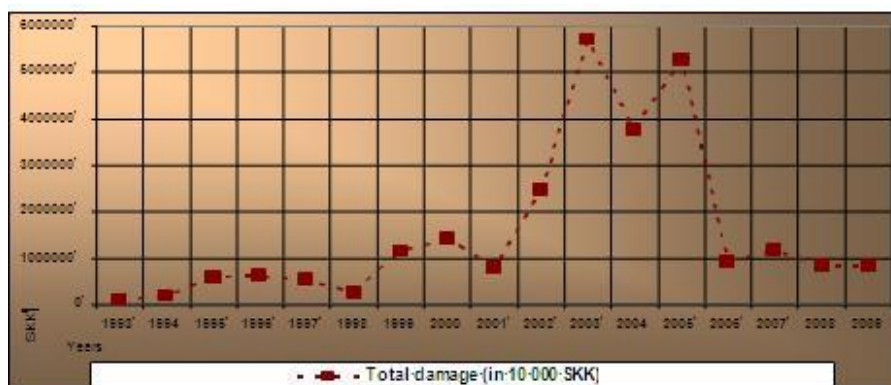


Chart 3. The damage caused by committing economic crime in the SR from 1993 to 2009

Source: Own calculation of information from EŠSK ÚCEP Banská Bystrica

STRUCTURE OF THE ECONOMIC CRIME

Economic crime, by its nature and manifestations significantly differs from other types of crime. These crimes undermine public confidence and undermine social and economic relations in our society. Taking into account the physical character of the offense, social dangerousness of the economic crime is determined mainly by the damage caused.

The legislation before 1.1 2006, when the Penal Code No. 140/1961 Coll., was in effect as amended, it incorporated economic crimes in the Section II. Economic crimes were divided as follows:

1. Crimes against the economic system;
2. Crimes against economic discipline;
3. Crimes against the currency and tax offenses;
4. Crimes against the rules on competition, trade marks, designs and inventions and against copyright.⁸

⁸ More details in Act No. 140/1961 Coll. As amended – Penal Code

In addition to these groups of crimes, offenses that from a criminological point of view belong to economic crime, were included in the third, fourth and Section IX. of the specific part of the Penal Code No 140/1961 Coll., in the case, where they meet the criteria of crime, for example corruption, bribery, theft (theft of postal shipments wagons), embezzlement, fraud, etc.

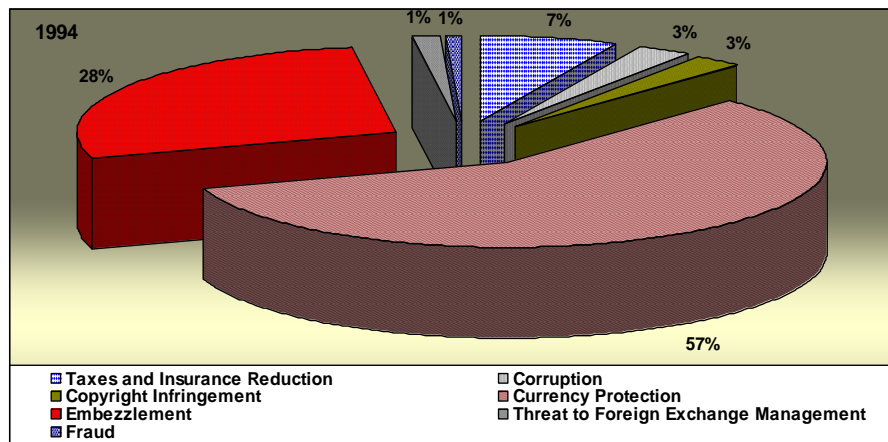


Chart 4. Overview of the structure of the crime registered in Slovakia in 1994

Source: Own calculation of information from ŠÚ SR and ÚCEP Banská Bystrica

In May 2005, Slovakia adopted new criminal codes, law no. 300/2005 Coll., Criminal and Law no. 301/2005 Coll., Criminal Procedure, which came into force on 1. January 2006. Recodification of the criminal law did not significantly affect the economic crime. Some elements of criminal acts have been reassigned to a different section, and the order of separate sections of the Criminal Code was changed according to their importance to society.

Offences which are included in this group of crimes from the perspective of criminal law differ in the objective aspects of the offence. Common for these crimes is the interest in the proper functioning of the economic system.

It should be borne in mind that criminal law is subsidiary. The protection of the social relations is to be carried out by other legal means available. Criminal law should be applied only when these resources are not sufficient to achieve protection of the body. Criminal and legal protection from economic crime is carried out under the current Penal Code No. 300/2005 Coll. in the provisions of the Section V, where the economic crimes are defined. Section V of the Penal Code is divided into four sections:

Offences endangering the market economy: an abuse of participation in competition, unauthorized business, unauthorized foreign exchange dealing, violations of regulations on the circulation of goods in foreign relations, violations of regulations on the handling of controlled goods and technology, unauthorized production of alcohol.

Offences against the economic system: the distortion of data in financial and commercial records, damaging the financial interests of the European

Communities, the threat to commercial confidentiality, banking secrecy and tax secrets, insider trade, deceit in government procurement and auction, harming consumers.

Offences against the currency and tax crimes: counterfeiting, forgery and unlawful production of money and securities, placing counterfeit, forged and illegally obtained money and securities, production and possession of equipment used for counterfeiting, endangering the circulation of money, forgery of technical control measures to identify goods, counterfeiting, forgery and unlawful production of stamps, postal stamps, postal stamps and stickers, reduction of taxes and insurance premiums, taxes and payment of taxes and insurance, failure to pay taxes.

Offences against industrial rights and against copyright law: infringement of trade marks, geographical indications and trade name product, infringement of industrial property rights, copyright infringement.⁹

The various types of crimes, in addition to those already included in the Criminal Code as economic crimes, are stated in the following articles and provisions of the Criminal Code:

The provisions of the Article IV of the Criminal Code define the crimes against property. Although this article is not composed of sections, in terms of economic crime, the following provisions can be divided into three groups.

The first group: theft (in cases that it meets the criteria of a crime), embezzlement, failure to pay wages and severance pay, unauthorized use of foreign affairs, unauthorized use of a foreign vehicle, fraud (credit fraud, insurance fraud, subsidy fraud), unjustified enrichment, fraudulent bankruptcy, causing the fall, rogue operation and gambling, unauthorized operation of lotteries and other similar games, hiding things. In cases where it complies with the conditions of a crime, it also includes the deceit in connection with the adjustment or bankruptcy, insolvency or obstruction of an amicable settlement.¹⁰

Merits of that crime based on unjust enrichment to the detriment of foreign assets and a typical motive is profiteering.

The second group: crimes whose merits lie in the deliberate destruction of foreign property. Offender causes damage not only for their own benefit, but as a rule of malice, revenge, and so on. These are specific offenses: "damage to someone else, where the criteria of a crime are met, violations of obligations in the management of foreign assets, damage to the creditor, the creditor favouritism, abuse and damage to property and abuse of the record to support information".¹¹

The third group: Merits lie in hiding and finish the crime: shareholding, in cases where it meets the criteria of a crime and the legalization of income from crime.

The provisions of the Article VI of the Criminal Code, which defines crimes generally dangerous and against the environment can be divided into 2 sections:

Offences generally dangerous: a general threat, if it meets the criteria of an economic crime, damage and interference of the charitable body operation.

Offences against the environment: environmental damage, threat to the environment, infringements of a plant and animal protection, poaching.

⁹ Act No. 300/2005 Coll. – Penal Code

¹⁰ Act No. 300/2005Coll. - Penal Code

¹¹ Act No. 300/2005 Coll. - Penal Code

The provisions of the eighth article of the Criminal Code defined offenses against public order matters. Economic crime is affected by the second and the third sections of this article: **crimes of public officials**: abuse of authority, in cases where they meet the criteria of an economic crime and **corruption**: taking a bribe, bribery, indirect corruption¹²

Committing a crime occurs in all sectors of the economy, especially in the field of taxation, intellectual property law and banking and insurance sectors. In terms of types of crime, the most frequent crimes are fraud, all types of fraud, laundering of an illicit income, tax offenses, violations of copyright and more.

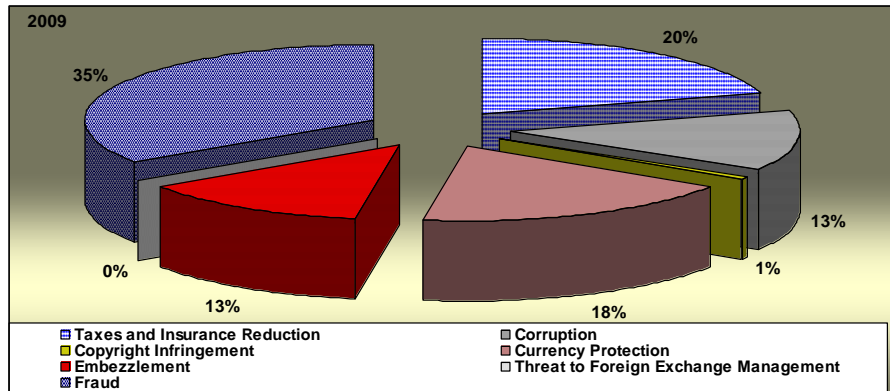


Chart 5. Structure of the crime registered in Slovakia in 2009

Source: Own calculation of information from ŠÚ SR and ÚCEP Banská Bystrica

Considering the structure of the crime, between 1993 and 2009, fraud and currency protection were most frequently committed crimes. However, the detection rate of crime was lowest at protection of exchange, which was only slightly more than 2% and during the reporting period did not exceeded up to 16%. Detection rate of the second most often occurring crime ranged from 67.3% to 88.8%. The least frequently recorded crimes were foreign exchange risk management, corruption and violation of copyright. The highest level of detection was achieved in detecting copyright infringement, which annually made more than 87%, and in some years, for example, in 1995, it was 100%. Similarly, the level of criminal investigation of corruption during the period ranged between 77.4% and 100%, in 1997 and 1998.

¹² Act No. 300/2005 Coll. - Penal Code

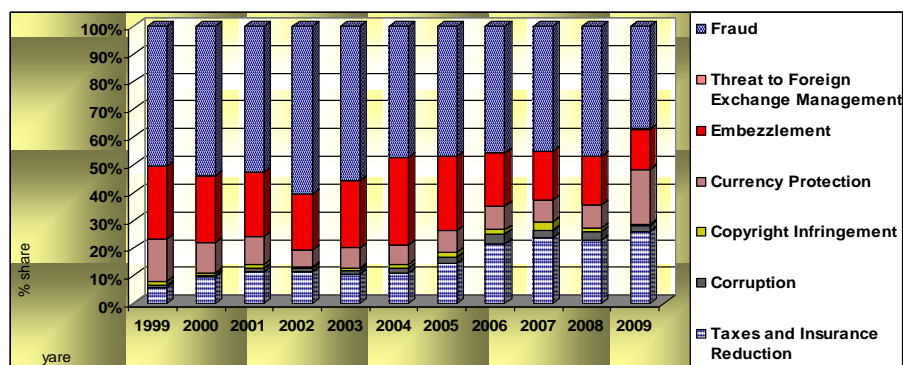


Chart 6. Structure of the crime registered in Slovakia between 1993 and 2009

Source: Own calculation of information from ŠÚ SR and ÚCEP Banská Bystrica

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Streszczenie:

Autorzy przedstawili zjawisko występowania przestępczości gospodarczej w Republice Słowacji od 1993 r. do 2009 r. Omówiono wybrane mechanizmy działania sprawców przestępstw o ekonomicznym – gospodarczym charakterze. Wskazano na czynniki warunkujące rozwój przestępczości gospodarczej u naszych południowych sąsiadów.

SŁOWA KLUCZE: przestępczość gospodarcza, struktura przestępczości, wykrywalność przestępstw

Summary

Number of economic crimes during the period between 1993 and 2009 ranged from 4,716 crimes registered in 1997 to 19,518 crimes recorded in 2009. Comparing the number of those crimes recorded in the first and in the last year of the period, we found that there was a decline of about 10,654 crimes.

The share of economic crime of the total crime varied from 5.1% in 1997 to 18.6% in 2009. Every fifteenth to sixteenth offence was registered in Slovakia as an economic crime. During the last years of the period, it was only every fifth to sixth offence.

During the monitored period, the number of clarified economic crimes ranged from 3 372 in 1998 to 10 486 crimes clarified in 2005. By a comparison of the number of economic crimes in the first and in the last year of the monitored period, we found that there was an increase by about 3660 acts.

The detection rate of economic crime ranged from 44.3% in 2008 to 76.2% in 2001. Comparing the level of detection achieved in the first and in the last year of the monitored period, we found that there was a decrease by 12.5%.

The most frequent crime was fraud, which ranged from 1769 in 1998 to 7,176 crimes registered in 2002. The least frequent crimes was violation of the exchange economy, which ranged from 0 recorded in 2004, 2005, 2007 and 2008 up to 37 registered in 1994. Comparing the year 1994 and last year, we found that the number of that crime has fallen by 36.

The detection was most successful in corruption, which ranged from 56.4% in 2007 to 100% in 1997 and 1998.

The detection was least successful in currency protection, which ranged from 2.5% in 1998 to 15.6% in 1999.

The amount of damage caused by committing economic crimes ranged from almost 1 billion SKK in 1993 to 57,000,000,000 SKK in 2003.

KEYWORDS: economic crime, crime situation, crime structure, detection rate of crime