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ANNEX 24

ANNEX

SLOVENIA

to the

EU Anti-Corruption Report

SLOVENIA

1. INTRODUCTION – MAIN FEATURES AND CONTEXT

Anti-corruption framework

Strategic approach. Slovenia has improved its legal and institutional framework over time, ranking best in terms of perception and control of corruption among the Central and Eastern European Member States.[1] All Slovenian public authorities have a duty to develop integrity plans reflecting corruption-related risk assessments.[2] Nevertheless, some gaps remain between the legal and strategic framework and its effective enforcement, due in particular to weak control mechanisms.[3] In January 2013, the Commission for Prevention of Corruption (KPK) reported that the two most prominent political leaders in the country had violated asset disclosure laws.[4] This announcement led to political instability and eventually to the fall of the government. Criminal and administrative investigations carried out in recent years into alleged corrupt practices covered a number of elected and appointed officials, as well as business executives.[5] At the end of November 2013, the three-member leadership of the KPK resigned, citing insufficient support and political will to ensure follow-up of the risk assessments and cases handled by their institution.[6] While the KPK and other independent institutions made considerable progress in the fight against corruption, more effort appears to be needed from other public institutions in terms of promoting integrity standards and prevention of corruption . The Council of Europe Group of States against Corruption (GRECO) also highlighted in its report published in May 2013 that there is not yet a widespread culture of integrity amongst elected officials.[7] It stressed that budgetary and staff constraints in the KPK need to be addressed to ensure that its anti-corruption activity is not hindered.

Legal framework. Fairly well-developed anti-corruption legislation is in place. Recent legislative changes in 2010 and 2011 focused on integrity and prevention of corrupt practices, conflicts of interest, transparency of lobbying, whistleblower protection, public procurement, criminal law provisions and criminal procedure. In particular, through the Integrity and Prevention of Corruption Act adopted in 2010 and amended in 2011[8] a solid legislative framework was created to support prevention and integrity policy, defining the tasks and powers of the KPK, providing for verification mechanisms on asset disclosure, and including provisions on protection of whistleblowers and lobbying. Some loopholes remain, however, in the legislation concerning the financing of political parties and electoral campaigns where GRECO found in mid-2012[9] and reiterated in a report adopted in March 2013 and published in January 2014[10] that its recommendations had not been satisfactorily implemented. In mid-2013 the

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1 In 2011, Slovenia had the best score in Central and Eastern Europe on control of corruption in the World Bank's index: http://info.worldbank.org/governance/wgi/mc_chart.asp.

2 This obligation is provided by the Integrity and Prevention of Corruption Act. 1 216 such integrity plans were inspected by the Commission for Prevention of Corruption (KPK) in 2012: https://www.kpk-rs.si/sl/preventiva-in-nacrt-integritete .

3 Društvo Integriteta (2012) National Integrity System in Slovenia- assessment 2012. http://nis.integriteta.si/publikacija/nacionalni-sistem-integritete-v-sloveniji .

4 https://www.kpk-rs.si/en .

5 Cases where such investigations were carried out concerned both central and local level appointed and elected officials. See for more details the section on the 'Accountability and Integrity of Elected and Appointed Officials'.

6 https://www.kpk-rs.si/en

7 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf , p. 5

8 Integrity and Prevention of Corruption Act (2010), Official Journal of the Republic of Slovenia N. 45/10, 4/6/2010 (Zakon o integriteti in preprečevanju korupcije – ZIntPK, Uradni list RS, št. 45/10 z dne 4. 6. 2010). Amended in 2011, http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056

9 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)6_Second_Slovenia_EN.pdf.

10 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)4_Interim_Slovenia_EN.pdf.

government proposed new legislation on financing of political parties, elections and referendum campaigns. This is currently undergoing parliamentary debate. The government also proposed in mid-2013 new legislation on access to information, including provisions on transparency with regard to state-owned and state-controlled companies, and companies where the State has a significant number of shares, as well as transparency on services provided to the public sector. GRECO also stressed that the implementation of rules on conflicts of interest and lobbying is still insufficient and more needs to be done to raise awareness.[11]

Institutional framework. The KPK was established in 2002 and has gone through several institutional changes since then[12], further strengthening its powers and capabilities. The scope of the KPK's powers is very broad, ranging from administrative investigations to preventive measures, research and awareness-raising activities. Criminal investigation powers are vested in the criminal police, the National Bureau of Investigations and the prosecution services, which have recently taken steps to improve their track record of effective investigation policies.[13] Specialised law enforcement teams focusing on corruption and economic crime have also been set up.

Opinion polling

Perception surveys. A negative trend in overall public perception of corruption was visible, with a recent increase in public protests calling for reform of the political system. The 2013 Special Eurobarometer on Corruption[14] showed that 76% of Slovenian respondents (second highest percentage in the EU) believe that corruption increased in their country in the previous three years (EU average: 56%), while 91% say that corruption is widespread in their country (EU average: 76%). 88% of Slovenians responding to the same survey consider that bribery and the use of connections is often the easiest way to obtain certain public services (EU average: 73%) and 38% that are personally affected by corruption in their daily life (EU average: 26%).

Experience of corruption. Petty corruption does not appear to be a widespread problem in Slovenia. According to the 2013 Special Eurobarometer on Corruption, Slovenia scores slightly better than the EU average as regards direct experiences of corruption, with only 3% of Slovenian respondents having said that they were asked or expected to pay a bribe in the last year (EU average: 4%).[15]

Business surveys. According to the 2013 Eurobarometer survey on businesses[16], 94% of Slovenian businesses say that business competition in their country is hampered by favouritism and corruption. This is the highest percentage in the Union (EU average: 73%).

Background issues

Economic context. Shortly after independence in 1991, Slovenia underwent fundamental reforms and experienced strong economic growth, becoming one of the frontrunners for EU integration among the Central and Eastern European countries. Slovenia was the first of the new EU Member States to join the eurozone in 2007, just three years after accession. However, the third quarter of

11 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf . p. 5.
12 Including denomination.
13 For more details on the institutional setting, see issues in focus: ' Independence and effectiveness of anti-corruption institutions'.
14 2013 Special Eurobarometer 397.
15 In 2011, 7% of Slovenian respondents said that they were asked or expected to pay a bribe in the last 12 months as compared with the EU average of 8%.
16 2013 Flash Eurobarometer 374.

2008 brought an end to Slovenia's rapid economic growth and marked the beginning of a recession period characterised by major bankruptcies, particularly in the construction sector.[17] Partially as a result of this economic downturn, the shadow economy was estimated in 2012 to constitute 16% of the GDP.[18] As part of the economic recovery process, a number of state-owned companies are being privatised. Independent monitoring and strong anti-corruption safeguards are essential in this context to mitigate corruption-related risks.

Private sector. Slovenia largely transposed the provisions of Framework Decision 2003/568/JHA concerning the definition of active and passive corruption in the private sector, as well as those regarding penalties applicable to natural and legal persons and liability of legal persons.[19] Favouritism and corruption are perceived as considerable obstacles to doing business in Slovenia.[20] This impression is reinforced by the 2012-13 Global Competitiveness Index where Slovenia ranks 56th out of 144 countries, while registering a low score of 2.6 (out of a maximum 7) in terms of favouritism in decisions of public officials.[21] Moreover, academic research has voiced concern about the alleged development of informal networks between businesses and politicians.[22] The KPK recently reported that, with the vast majority of the banking sector being at least partially controlled by the state, loans were granted according to political criteria.[23] Consequently, the KPK, jointly with the Court of Audit, proposed legislative anti-corruption safeguards for the banking sector, including on transparency aspects. However, these have not yet been put into place, despite a recent opportunity when the legislator adopted 'bad bank' legislation to introduce emergency procedures for banks in difficulty.[24]

Whistleblowing. The Integrity and Prevention of Corruption Act regulates protection of whistleblowers, including compensation in case of retaliation.[25] The KPK is tasked with ensuring that both the reporting and the protection systems function well. Nevertheless, as the KPK itself admits, the implementation of whistleblower protection is not without its flaws, and has produced few results to date.[26]

2. ISSUES IN FOCUS

Asset disclosure

Slovenia introduced an asset disclosure system for public officials in 1994. This was strengthened in 2010 through the Integrity and Prevention Corruption Act, subsequently amended in 2011. A wide range of public officials, including high-level, central and local, elected and appointed, must submit asset declarations when taking up and after leaving public office (i.e. for one year after

17 http://ec.europa.eu/economy_finance/publications/european_economy/2012/pdf/ee-2012-1_en.pdf .
18 http://ec.europa.eu/europe2020/pdf/themes/06_shadow_economy.pdf. .
19 COM(2011) 309 final, Second Implementation Report of FD 2003/568/JHA of 6 June 2011: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/docs/report_corruption_private_sector_en.pdf
20 See the results of the 2013 Eurobarometer survey on businesses mentioned above.
21 http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2012-13.pdf
22 Dobovšek, B., Meško, G. (2008) Informal networks in Slovenia: a blessing or a curse. Problems of post-communism, 55(2), p. 25-37. Dobovšek, B., (2005). Report of Informal Networks – Slovenia. Ljubljana, Faculty of criminal justice and security; and Guasti,P., Dobovšek, B., Ažman, B. (2012) Deficiencies in the Rule of Law in Slovenia in the Context of Central and Eastern Europe: http://www.fvv.uni-mb.si/rV/arhiv/2012-2/04_Guasti_Dobovsek_Azman-E.html .
23 Ocena stanja korupcije 2013.
24 Members of the executive boards of these banks are not obliged to declare assets. No particular provisions on prevention of conflicts of interests were included.
25 Integrity and Prevention of Corruption Act (2010), Official Journal of the Republic of Slovenia N. 45/10, 4/6/2010 (Zakon o integriteti in preprečevanju korupcije – ZIntPK, Uradni list RS, št. 45/10 z dne 4. 6. 2010). Amended in 2011, http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056.
26 The KPK implemented only 33 requests for protection of whistleblowers in 2011 and 22 in 2012.

leaving office).[27] They must also declare any changes to their situation of assets that take place while they hold public office. The asset disclosure obligation covers a wide range of assets.[28] However, the declarations do not cover other interests or relationships that may create conflicts of interest, including those related to businesses. Approximately 10 000 officials are subject to asset declarations.

In 2004, the KPK was tasked with checking the asset declarations of public officials. However, it was only in 2011 that the KPK's powers were strengthened and electronic monitoring of assets became possible, through the introduction of an electronic system for submission of asset declarations which allowed cross-checking of data. Certain data included in the asset declarations are published on the KPK website.[29] Data can only be made public if they concern assets acquired during the public office.

The Slovenian legislation on asset recovery states that any suspicion of unjustified wealth of public officials exceeding EUR 50 000 should be investigated by the prosecution services. Current legislation does not allow for reversal of the burden of proof in cases regarding such wealth. Public authorities have launched debates on whether this should change.

In 2012, KPK investigations into the asset declarations of a number of holders of top public offices and heads of seven political parties represented in Parliament found that the then-prime minister and the mayor of Ljubljana, who was also the leader of the main opposition party at the time, had breached asset disclosure laws. In total, the then-prime minister allegedly failed to report assets amounting to approximately EUR 210 000. The KPK also found that the mayor of Ljubljana had not declared EUR 2.4 million during the six years he had been in office, as well as a number of share transactions. The then-prime minister and the mayor acknowledged some administrative errors, but nevertheless denied the main KPK findings and the allegations related to the illegal origin of the undeclared assets. The case against the then-prime minister led to the fall of the government. The mayor of Ljubljana stepped down from his leadership position in his party but did not resign from the public office. During a general strike in January 2013, protest rallies took place in 14 towns across Slovenia. Following the above-mentioned cases, 36 MPs challenged the constitutionality of the law on integrity and prevention of corruption, including provisions regarding the procedures and powers of the KPK. The case is pending before the Constitutional Court.

In order to verify asset declarations, the KPK may request data on the assets of relatives of public officials where it can be reasonably concluded that assets were transferred to family members to avoid supervision provided for by the law. Nevertheless, the KPK has called for further changes to the current legislation to mitigate corruption-related risks including by facilitating access to data concerning assets transferred to third parties.[30] Moreover, the KPK has rather limited capacity,

27 Members of the National Council who are elected indirectly by local communities and interest groups (employers, employees, farmers, crafts, trade, etc) do not submit asset declarations.

28 These include: income, revenues, movable and immovable property, shares, management rights in companies or other entities, bank deposits, loans, savings, values and securities, etc.

29 Information on taxable income is not public. Full publication of asset declarations is not possible due to a Constitutional Court decision issued in 2007 that found certain provisions on publicity of such data unconstitutional on the grounds of data protection (Ustavno sodišče Republike Slovenije (2007) Odločba Ustavnega sodišča Republike slovenije. Ljubljana: U-I-57/06-28, pp. 16-20: http://odlocitve.us-rs.si/usrs/us-odl.nsf/0/5d317be6d9d8bb26c12572b30036f92b/$FILE/U-I-57-06.pdf).

30 *Nasprotje interesov*: https://www.kpk-rs.si/sl/zavezanci-in-njihove-dolznosti/nasprotje-interesov.

which prevents it from carrying out a large number of thorough checks.[31] Furthermore, it cannot check assets abroad.

The scope for sanctioning breaches of asset disclosure laws is limited.[32] The KPK can impose a relatively small fine[33] in cases of failure to declare assets or in case of incomplete or false data. If the public official fails to submit the required data within the timeframe set by the law, the KPK can ask the employer to cut the official's salary by 10%. If an official is found to have a considerable and unjustified difference between their income and their actual wealth and is unable to reasonably explain the discrepancy, the KPK will notify the official's institution and, if other irregularities or offences are suspected, any other competent authorities. The legislation allows for confiscation of unjustified wealth but no court decision has yet been rendered in such a case. The official's institution may, but is not obliged to, start disciplinary procedures for dismissal or termination of office. For directly elected officials, no sanction is provided. The KPK may also ask relevant authorities (law enforcement, tax, Financial Investigation Unit, etc) to take precautionary measures in order to interrupt transactions or seize assets if there is a reasonable risk that such assets may be hidden or transferred.[34]

Accountability and integrity of elected and appointed officials

The Integrity and Prevention of Corruption Act comprehensively covers conflicts of interest, imposing restrictions on business activities and including provisions on businesses of officials' family members. In addition, the KPK has issued a number of guidelines on conflicts of interest, covering topics such as retaining of law firms and the decision-making process in public institutions and in working groups and commissions where individuals from outside the public sector are involved.[35] The cancellation of public contracts awarded or decisions taken in conflict of interest situations is provided for by the Integrity and Prevention Corruption Act, as well as by general civil law and public procurement regulations. The Act also contains provisions regarding incompatibilities and gifts, as well as provisions on cooling-off periods, preventing non-elected officials from acting as the representative of a business entity they supervised while holding public office for two years after leaving the office, and preventing the office from doing business with bodies represented by a former public official for one year after the official's departure from the office. Recent legislative amendments banned people from simultaneously holding the positions of Member of Parliament and local elected official.[36]

However, in its report published in May 2013, GRECO pointed out that in spite of a relatively well-developed legal framework, a widespread culture of integrity is not yet in place and there is a low degree of public confidence in the integrity and performance of elected officials.[37] Recent criminal investigations into allegations of corrupt practices concerned high-level elected and appointed officials, ranging from a former prime minister to former ministers, current and former MPs, and current and former mayors of municipalities. Most of these investigations are still ongoing, and some are currently being tried. In a few cases, the courts of first instance have

31 In 2001, the KPK had the capacity to carry out financial investigations in seven cases and in the first three quarters of 2012 it carried out financial investigations in 12 cases.

32 Cases in which dissuasive sanctions were applied are few and on rare occasions findings of violation of asset disclosure law or cases of unjustified difference in wealth triggered political consequences for the holder of a public office.

33 EUR 400 to EUR 1 200.

34 Integrity and Prevention of Corruption Act (2010), Official Journal of the Republic of Slovenia N. 45/10, 4/6/2010 (Zakon o integriteti in preprečevanju korupcije – ZIntPK, Uradni list RS, št. 45/10 z dne 4. 6. 2010). http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056.

35 KPK (2012): https://www.kpk-rs.si/sl/zavezanci-in-njihove-dolznosti/omejitve-poslovanja.

36 Before 2011, 18 of 90 MPs were also mayors of municipalities. In the following Parliamentary term, eleven MPs had to renounce their mayor posts to keep their mandate.

37 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf , p. 5 and 6.

handed down judgments, with most of the convictions resulting in suspended sentences. In one prominent case, a former prime minister was convicted in the first instance and sentenced to two years imprisonment for alleged bribe solicitation from a foreign company in exchange for a military supply contract. The decision is subject to appeal. Only in a few high-level corruption cases a final judgment has been handed down.

There are examples of political accountability where political parties have dismissed members on integrity grounds, or politicians have resigned from public office due to integrity issues, such as the case of a former Slovenian MEP involved in the 'cash for amendments' case in the European Parliament in 2011. Criminal investigations against the former MEP are ongoing. On the other hand, there are also examples where political accountability on integrity issues is less visible.

The KPK, as the institution responsible for administrative investigations into conflicts of interest, opened investigations into 65 cases between 2004 and December 2011.[38] In 35 cases, violations of conflict of interest rules were found; 16 of these concerned public procurement procedures and 13 involved environmental issues and urban planning.[39] At local level, the risks relating to conflicts of interest appear to be particularly high. Follow-up of confirmed conflicts of interest for elected officials at central and local level also poses certain problems. This view is confirmed by a 2012 study which highlighted public procurement as the most vulnerable area, and noted a rather weak sanctioning system, particularly as regards the lack of power to dismiss public officials.[40] The weaknesses of the sanctioning system are even greater in the case of elected officials, where a narrower range of sanctions is available. In addition, there are no standardised rules applicable to elected officials at the central or local levels when it comes to conflicts of interest or integrity standards in 'revolving doors' cases and lobbying. There are no codes of ethics applicable to elected officials at either central or local level. Moreover, awareness of and accountability for these matters seem to be limited, as highlighted by GRECO in its fourth evaluation round.[41] GRECO therefore recommended that codes of conduct or standards of behaviour are adopted for members of the National Assembly and the National Council and that a credible corresponding mechanism of supervision and sanction is elaborated.

More than 30% of the companies in Slovenia are state-owned or state-controlled.[42] Recent administrative investigations carried out by the KPK pointed to a number of issues regarding employment and conflicts of interest in state-owned or state-controlled companies.[43] These companies are not yet subject to the KPK's anti-corruption verifications (including on conflicts of interest, soundness of procedure, transparency standards, etc.). This is also true of privatisation procedures.

Financing of political parties

The Political Parties Act that regulates party funding in Slovenia dates back from 1994 and was subsequently amended. In 2007, GRECO concluded that the party funding legislation in Slovenia fulfils many of the Council of Europe standards, yet in practice the rules appear to be easily

38 Documents are publicly available on the KPK's website: http://www.kpk-rs.si/sl/nadzor-in-preiskave/odlocitve-in-mnenja-komisije.
39 Dobovšek, B., Škrbec, J. (2012) Nasprotje interesov v teoriji in praksi. In: Revija Varstvoslovje. Ljubljana: Fakulteta za varnostne vede pp. 42-59: http://www.fvv.uni-mb.si/rV/arhiv/2012-1/03_Dobovsek_Skrbec.pdf.
40 Dobovšek, B. and Škrbec, J. (2012) Nasprotje interesov v teoriji in praksi. In: Revija Varstvoslovje. Ljubljana: Fakulteta za varnostne vede pp. 42-59: http://www.fvv.uni-mb.si/rV/arhiv/2012-1/03_Dobovsek_Skrbec.pdf
41 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf .
42 Društvo Integriteta (2012) National Integrity System in Slovenia- assessment 2012. http://nis.integriteta.si/publikacija/nacionalni-sistem-integritete-v-sloveniji .
43 https://www.kpk-rs.si/sl/nadzor-in-preiskave.

circumvented without any dissuasive sanctioning system in place. In 2012, GRECO's compliance report noted that none of the 13 recommendations issued in 2007 had been implemented satisfactorily.[44] This was reiterated in a report adopted in March 2013 and published in January 2014 when GRECO noted that 'Slovenia has not made any substantial progress' in this regard.[45] The main shortcomings identified by GRECO concern: the transparency of donations and loans for electoral campaigns; the guarantees related to corporate donations that should avoid the risk of kickbacks; the scope of the supervisory powers of the Court of Audit, and the insufficiently dissuasive sanctioning system. Two pieces of legislation to amend the Political Party Financing Act and the Elections and Referenda Campaign Act have been drafted in the recent years, but nevertheless encountered difficulties in reaching political consensus.

According to the legislation in force,[46] the Court of Audit can only check the accuracy and legality of the regular reports submitted by the parties. It has no power to check on substance the origin of funding and the financial flows. The sanctioning system provided for in current legislation in cases of breaches of the Political Parties Act appears to be ineffective. No financial sanctions have been applied to date to any political party, although violations have been found in the form of failure to submit financial reports, and receipt of donations above the legal threshold. Cooperation between the KPK and the Court of Audit does not yet ensure systematic cross-checks between the data on public expenditure verified by the former and the financing of political parties and electoral campaigns audited by the latter. Closer cooperation in this regard would allow more effective detection of possible corrupt practices.

Key areas for further improvement concern the transparency of party and campaign accounts, in particular regarding donations (including from legal entities operating under public law) and loans, as well as the supervisory powers and capacity of the Court of Audit (which is prevented from auditing all party and campaign finances)[47] and the level of sanctions for violations of the law. The Ministry of Finance has established a list of companies in which the state owns at least 25% of the shares; these companies are not allowed to give donations to political parties or electoral campaigns. The list does not include companies where local authorities hold 25% or more of the shares, nor does it give any information on the legal entities in which the listed companies themselves hold shares. As regards corporate donations, amendments to the Political Parties Act and the Elections and Referenda Campaign Act were adopted at the end of 2013. The amendments provide for a total ban on corporate donations to political parties. They also provide for new rules on transparency and reporting of loans, as well as increased levels of sanctions, although in the case of the latter shortcomings remain in relation to the variety and nature of applicable sanctions and their capacity to deter and ensure high accountability standards.

Transparency of lobbying

Lobbying is regulated in Slovenia. Registration of lobbyists is mandatory and a monitoring mechanism for lobbying activities is in place.[48] In its regional report on the assessment of National Integrity Systems in Europe, Transparency International highlights lobbying legislation in

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44 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)6_Second_Slovenia_EN.pdf.
45 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)4_Interim_Slovenia_EN.pdf.
46 The Elections and Referenda Campaigns Act (2007): Zakon o volilni in referendumski kampanji (Uradni list RS, št. 41/07 in 103/07 ZPolS-D, 11/11, 28/11 Odl. US, v nadaljnjem besedilu ZVRK) adopted in 2007, amended in 2011 and the Political Parties Act (1994), as subsequently amended.
47 STA (2009) Računsko sodišče objavilo revizije financiranjakampanj za volite v DZ.
48 Integrity and Prevention of Corruption Act (2010), The Official Journal of the Republic of Slovenia N. 45/10, 4/6/2010 (Zakon o integriteti in preprečevanju korupcije – ZIntPK, Uradni list RS, št. 45/10 z dne 4. 6. 2010). http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056 .

Slovenia as a promising best practice for achieving greater transparency.[49] The KPK, in charge of monitoring lobbying, set up a registry for lobbyists and the number of registrations is on the rise.[50] The law requires all public officials to report all contacts with lobbyists, and any attempt at illegal lobbying, to the KPK. Public officials may agree to establish contact with a lobbyist only if the latter is registered. There are also sanctions provided for by the law, ranging from warnings to temporary bans from lobbying and deletion from the register.

Nevertheless, there is room for improvement in the implementation of this legislation. The KPK found that public officials in practice rarely report lobbying contacts and agree to meetings with non-registered lobbyists.[51] In April 2012, the KPK conducted an assessment of the lobbying reports from both lobbyists and public officials and found that in 12% of lobbying contacts, the reports did not match.[52] According to the KPK, 216 lobbying reports were filed in 2012 and 171 in 2011.[53] The KPK issued 19 final administrative decisions on lobbying, anti-corruption clauses and additional business performance and it has carried out 60 procedures to control lobbying. The KPK issued warnings with regard to corruption risks, conflicts of interest and breach of lobbying regulations in a number of cases, including a large-scale project in the energy sector.[54] There is very limited reporting on lobbying by municipalities.[55]

Therefore, there are strong indications that the provisions on lobbying in the Integrity and Prevention of Corruption Act have not been fully implemented. The KPK warned that it has limited ability to intervene in this field. The shortcomings identified include not using the standard form required to report lobbying contacts, which creates difficulties in the verification procedure, and the lack of rules on lobbying abroad and foreign lobbyists in Slovenia (who are currently not registered, although verifications revealed such lobbying contacts).[56] The KPK noted that its resources are too limited to be able to carry out a thorough and systematic check of all lobbying activities.[57]

GRECO recommended that the implementation of rules on contacts with lobbyists by members of the National Assembly and the National Council be subject to a thorough review.[58]

Independence and effectiveness of anti-corruption institutions

In 2010 the powers and mandate of the KPK were extended significantly and its independence was strengthened, allowing for a more effective role in the implementing anti-corruption policies.[59] The KPK conducts administrative investigations into allegations of corruption, conflicts of interest, and illegal lobbying. It also monitors the financial status of public officials' wealth, keeps a central registry of lobbyists, undertakes tasks related to the protection of

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49 Transparency International (2012) Money, politics, power: corruption risks in Europe. p. 28. http://nis.integriteta.si/images/pdf/enis_regional_report.pdf .

50 https://www.kpk-rs.si/sl/nadzor-in-preiskave/odlocitve-in-mnenja-komisije/pojasnila/07/2011/sistemsko-pojasnilo-o-lobiranju ; https://www.kpk-rs.si/en/lobbying .

51 KPK (2011) https://www.kpk-rs.si/sl/komisija/medijsko-sredisce/arhiv-kpk-vestnik.

52 I.e. 41 lobbying reports inspected in 2012.

53 KPK (2013) Letno poročilo o delu Komisije za preprečevanje korupcije. p. 12-13: https://www.kpk-rs.si/sl/komisija/letna-porocila.

54 http://bankwatch.org/sites/default/files/StateCommissionReport-corruption-TES6-23Feb2012.pdf .

55 KPK (2012) Obdobno poročilo 2011-2012: https://www.kpk-rs.si/download/t_datoteke/5564 .

56 DELIĆ, A. (2012) Lobiranje: Kdo si podaja kljuke funkcionarjev? Journal Delo: http://www.delo.si/zgodbe/ozadja/lobiranje-kdo-si-podaja-kljuke-funkcionarjev.html .

57 See the KPK activity report covering 2010-2012 published at the beginning of 2013. There is only one full-time employee tasked with monitoring lobbying for the entire public sector.

58 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf, p. 54.

59 Integrity and Prevention of Corruption Act (2010), The Official Journal of the Republic of Slovenia N. 45/10, 4/6/2010 (Zakon o integriteti in preprečevanju korupcije – ZIntPK, Uradni list RS, št. 45/10 z dne 4. 6. 2010). Amended in 2011, http://www.uradni-list.si/1/objava.jsp?urlid=201169&stevilka=3056.

whistleblowers, coordinates the development and implementation of the national anti-corruption action plan, assists public and private institutions in developing integrity plans and monitoring their implementation, develops and enforces preventive measures such as awareness-raising, training, etc., and serves as a national focal point for anti-corruption matters for international organisations and mechanisms.

Since 2010, the KPK has consolidated its role. Given the rather limited resources at its disposal,[60] its track record of implementation is solid: 1 389 reviews/investigations were completed in 2011 and 1 214 in the first three quarters of 2012.[61] The KPK's guarantees of stability and independence are key to carrying out its investigative and oversight tasks effectively and without undue pressure. However, the KPK alone cannot ensure effective prevention and measures against corruption across the board. GRECO also noted that the financial and human resources of the KPK dedicated to asset disclosure, lobbying and conflicts of interest are insufficient and must be increased as a matter of priority to avoid hampering its core activities in the future.[62] Internal control and supervision mechanisms, external oversight and police, prosecution and the judiciary also have an important role to play. At the end of November 2013, the KPK leadership resigned in protest against the insufficient support from other authorities and their limited effort to follow-up on the work of KPK and address corruption risks identified by the KPK.[63]

Law enforcement bodies and prosecution services have recently taken steps towards improving their track record on effective investigation policies. However, as stressed by GRECO in its report published in May 2013, recent changes to the framework governing the exercise of their powers have raised concern as to their future operational independence.[64] In early 2012, the government moved the coordination of the prosecutors' office from the Ministry of Justice to the Ministry of Interior, a decision that led to intense debate on the potential risks posed by this new organisational setting to their operational independence and effectiveness.[65] GRECO stressed that the transfer of responsibility for the prosecution service to the Ministry of Interior 'may further increase the fear of citizens that prosecutors are vulnerable to improper influence' and that in these circumstances 'the appearance of intervention in the conduct of cases can be as damaging as real interference'. It recommended that the authority of the Ministry of Interior over the prosecution services is exercised 'in such a way as not to undermine prosecutors' integrity and create risks of improper influence'.[66] In 2013, in new amendments to the law on state administration the prosecutors' offices were moved back under the coordination of the Ministry of Justice.[67]

The stronger supervisory mechanisms introduced by the Integrity and Prevention of Corruption Act and the creation of specialised law enforcement teams focusing on corruption and economic crime are welcome. The resources at their disposal seem, however, to be insufficient. The judiciary's capacity to deal with complex corruption and economic crime cases could also be further enhanced, including through specialised training. According to the annual report of the

60 Overall 40 staff and an annual budget of approximately EUR 1.7 million.
61 Other relevant statistics regarding the activity of the KPK include: 33 civil administrative sanctions imposed on private and legal entities in 2011, and 53 in the first three quarters of 2012; 32 requests for annulment of public/private contracts due to violations of integrity provisions and 156 in the first three quarters of 2012; 237 criminal reports filed in 2011 and 115 in the first three quarters of 2012, etc.
62 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf, p. 41.
63 https://www.kpk-rs.si/en.
64 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf, p. 41.
65 Transparency International:tožilci pod MNZ-jem je korak v napačno smer, MMC, 6, Sept. 2012 7:12. http://www.rtvslo.si/slovenija/transparency-international-tozilci-pod-mnz-jem-je-korak-v-napacno-smer/290893 .
66 http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)1_Slovenia_EN.pdf, p. 41-42.
67 Uradni List RS (2013) Zakon o spremembah in dopolnitvah Zakona o državni upravi (ZDU). Št. 47. Ljubljana, petek; 31. 5. 2013; ISSN 1318-0576; Leto XXIII: http://www.uradni-list.si/_pdf/2013/Ur/u2013047.pdf#!/u2013047-pdf.

Supreme Prosecution Office, investigations into 129 defendants were carried out in corruption cases in 2012. In the same period, 35 defendants were indicted and 22 were convicted.[68]

Public procurement

Public works, goods and services in Slovenia accounted for about 16.9% of GDP in 2011. The value of calls for tender published in the Official Journal as a percentage of total expenditure on public works, good and services was 31.7% in 2011.[69]

Good practice: transparency of public expenditure

The online application 'Supervizor' provides information on business transactions by public sector bodies, including the legislative, the judicial and the executive branch, autonomous and independent state bodies, local communities and their branches with legal personality, etc. It does not monitor transactions by state-owned, state controlled companies or companies where the State holds significant shares. The application indicates contracting parties, the largest recipients of funds, related legal entities (for all services and goods and payments above EUR 4 000), dates, amounts and purpose of transactions. It will be further upgraded to include contracts and financial details. It provides an overview of the EUR 4.7 billion spent on average per year on goods and services by the public sector. It also provides details on management and supervisory boards of all state-owned and state-controlled companies and on their annual reports. The tool was a success from its first day, when it was used 1 200 000 times, climbing to 2 616 000 in just 6 days.

In 2013, 'Supervizor' was awarded the UN Public Service Award.[70]

In addition, an online project called Transparency was also launched as a public web-based service to ensure transparency on a number of activities carried out by the KPK, including oversight of lobbying.

As the above example of good practice shows, Slovenia has taken some steps to ensure better transparency of public spending and contracts. It has also reinforced its criminal legislation, introducing new provisions for offences affecting public funds, including the procurement process.

In 2007, an e-procurement portal was launched by the Ministry of Finance to publish public procurement and contract documentation.[71] Shortcomings remain, however, in the way the portal works and the timely publication of documentation.

As is the case for any other official, those responsible for public procurement are obliged to declare their assets which are monitored by the KPK.[72] Public contracts must also include an anti-corruption clause that provides for more effective follow-up if corrupt practices are proven during the lifetime of the contract (e.g. clear-cut procedures for declaring a contract null and void or for applying other contractual penalties). The contracting authorities are obliged to adopt integrity plans and assess corruption risks. Current public procurement legislation also provides for low national thresholds for publishing notices on the national public procurement platform[73] and mandatory publication of ex ante contract award notices in negotiated procedures without prior

68 http://www.dt-rs.si/sl/informacije_za_medije/147/ .
69 http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf.
70 http://workspace.unpan.org/sites/Internet/Documents/2013%20UNPSA%20Winners%20Category%201.pdf.
71 The Portal of E-procurement: http://www.enarocanje.si/?podrocje=portal.
72 KPK (2011) Pojasnilo o načinu sporočanja seznamov oseb, odgovornih za javna naročila, Številka: 035-2/2011/10, 2.12.2011: https://www.kpkrs.si/upload/datoteke/Pojasnilo_o_nacinu_sporocanja_seznamov_oseb_odgovornih_za_javna_narocila(1).pdf.
73 (portal javnih naročil) - Article 12(2) of Public Procurement Act (Official Gazette no. 128/06, 16/08, 19/10, 18/11, 43/12 - Constitutional Court Decision and 90/12; hereafter: ZJN-2).

publication of a contract notice. Moreover, addenda to the contracts may be concluded only if the supervisory body of the contracting authority agrees to this beforehand. Stricter rules are provided for procurements by privately owned companies if they are co-financed or subsidised by public funds. Current public procurement legislation also provides for the right to access submitted bids. In addition, all documentation on public procurement is made public after the decision to award a contract becomes final.

Despite the transparency provided by 'Supervizor' and changes in legislation, shortcomings remain in enforcing public procurement rules and in the effectiveness of control mechanisms, as illustrated by the perception of widespread corruption in the public procurement sector. Public procurement legislation was also made more complex, which may adversely affect the effectiveness of implementation. According to the 2013 Eurobarometer on businesses' attitudes towards corruption in the EU, Slovenian respondents from the business sector whose companies participated in public tenders in the last three years perceived the following practices as being widespread in public procurement procedures: abuse of negotiated procedures (53%), involvement of bidders in the design of specifications (63%), unclear selection or evaluation criteria (60%), conflicts of interest in the evaluation of the bids (60%), specifications tailor-made for particular companies (73%), and collusive bidding (74%). 77% considered that corruption is widespread in public procurement managed by national authorities (EU average: 56%) and 71% considered it to be widespread in procurement managed by local authorities (EU average: 60%). In spite of a high risk of corruption, currently the number of notification of suspicions of corruption coming from public procurement authorities is quite low, amounting to fewer than 10 per year.[74] These indicators, while not necessarily directly related to corruption, illustrate risk factors that increase vulnerabilities to corruption in public procurement procedures. Public procurement carried out at municipalities level poses particular corruption-related risks.[75]

The KPK has identified particular vulnerabilities in the energy, construction, urban planning and healthcare sectors.[76] In the construction sector in particular, deficiencies were found in the preparation of the specifications leading to unfair competition and conditions that are too narrow, as well as instances of substantial changes that occurred after the award of the contract. Recent corruption cases adjudicated by courts further highlight vulnerabilities in public procurement procedures in the construction sector, such as one case concerning corrupt practices in the tendering process for the construction of the control tower at Ljubljana airport. In this particular case, prison sentences were handed down in the first instance against three former presidents of companies, and a number of criminal proceedings are still ongoing at municipal level.

3. FUTURE STEPS

Slovenia has a fairly well-developed legal and institutional anti-corruption framework. However, recent years appear to have seen a decline in the political drive against corruption, amidst allegations of corruption and doubts about the integrity of high-level officials, both elected and appointed, and of other officials within the public administration and state-owned or state-controlled companies. Corruption at both central and local levels came to the forefront of public attention, culminating in the fall of a government. In this context, anti-corruption institutions such as the Commission for Prevention of Corruption (KPK), which has shown tangible results in the detection and prevention of corrupt practices, demonstrated the importance of preserving their

74 KPK (2011) Ocena stanja korupcije v Republiki Sloveniji: http://www.kpk-rs.si/download/t_datoteke/965.

75 KEČANOVIĆ, B. (2012) Nadzor občinskih funkcionarjev- med formalnostjo in dejasnko učinkovitostjo. Pravna Praksa. 13.9.2012.

76 KPK (2013) Ocena stanja korupcije 2013, p. 36-40: https://www.kpk-rs.se/upload/t_datoteke/Ocena_stanja_korupcije_v_RS.pdf.

independence and strength. In this context, there is a need for control and supervisory mechanisms at all layers of Slovenian public institutions to continue and intensify their efforts to curb corruption.

The following points require further attention:

- Applying dissuasive sanctions to **elected and appointed officials at central and local levels** for breaches of asset disclosure requirements, conflicts of interest and unjustified wealth. Developing comprehensive codes of conduct for elected officials, with adequate accountability and sanctioning tools for violations of such codes. Consider developing ethical codes within political parties or establishing ethics pacts between parties. Ensure effective supervision of **party funding** and electoral campaigns, focusing on donations and loans. Enhancing the powers of the Court of Audit to ensure more dissuasive sanctioning.

- Carrying out targeted ex ante and ex post checks to prevent, detect, and sanction conflicts of interest in supervisory boards of **state-owned, state-controlled companies** and companies where the State holds significant shares. Extending Supervizor's scope to cover transactions and contracts of state-owned, state-controlled companies and companies where the State holds significant shares. Ensuring anti-corruption checks and guarantees for holdings of state-owned companies and privatisation procedures. Ensuring effective implementation of the legislation on **lobbying**.

- Ensuring that the independence of the **Commission for Prevention of Corruption** is preserved and its powers and capacity further strengthened. Safeguarding the operational independence of **prosecution services** specialising in combating financial and economic crime and their powers to supervise investigations. Ensuring fair engagement in anti-corruption responsibilities and effective cooperation by all relevant public institutions and mechanisms.

- Strengthening ex ante and ex post control mechanisms for enforcement of **public procurement** and implementation of public contracts and ensuring a track record of dissuasive sanctions for breaches. Strengthening the anti-corruption measures taken by contracting authorities notably in vulnerable sectors such as energy, construction, urban planning and healthcare. Further encouraging notifications from public procurement authorities of suspected corrupt practices, including conflicts of interest.