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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 3 February 2014

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
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Subject: ANNEX SLOVAKIA to the EU Anti-Corruption Report

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Delegations will find attached Commission document COM(2014) 38 final Annex 25.

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ANNEX 25

**ANNEX**

**SLOVAKIA**

*to the*

**EU Anti-Corruption Report**

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# SLOVAKIA

## 1. INTRODUCTION – MAIN FEATURES AND CONTEXT

### *Anti-corruption framework*

**Strategic approach.** In 2011 the government approved a strategic plan to tackle corruption<sup>1</sup> which included the following measures: publication of state contracts, reform of the judiciary to increase the transparency of court decisions, competitive selection of judges and presidents of courts, as well as stricter rules for judicial governance and clear provisions for public procurement. However, the implementation of certain aspects of the strategic plan has slowed down over the last year. A number of amendments passed as part of the anti-corruption efforts are currently pending review by the Constitutional Court. An interdepartmental working group of experts representing ministries, the General Prosecutor's Office and the municipalities evaluates tasks based on the strategy, while NGOs participate as observers. This working group, however, has not been convened since the end of 2011.<sup>2</sup> Some local administrations have created their own anti-corruption strategies in cooperation with NGOs. Their involvement has allowed the NGOs to foster a lively public debate, which together with the new transparency measures creates an opportunity for continuing improvements in Slovakia.

**Legislative framework.** Slovakia has made considerable efforts to improve the legal framework for criminal law and public procurement but has failed to respond to international recommendations for party financing.<sup>3</sup> Criminal liability of legal persons was introduced in 2010,<sup>4</sup> and the Criminal Code was substantially amended in 2011 in line with GRECO recommendations.<sup>5</sup> In 2012, the Council of Europe's Group of States against Corruption (GRECO) concluded that all its recommendations concerning incriminations had been implemented satisfactorily. However, with respect to legislation covering the financing of political parties, none of the ten recommendations have been satisfactorily implemented.<sup>6</sup> Draft legislation on pre-election campaigns and on political parties, aimed at addressing those recommendations, is under discussion in the Slovak parliament.

**Institutional framework.** In an effort to fight serious crime more effectively, Slovakia created a specialised criminal court (SCC) with exclusive jurisdiction to hear corruption cases, including domestic and foreign bribery. The Court, which started its work in July 2005, is responsible for cases involving organised crime, serious economic crimes and crimes committed by certain categories of officials. It appears that the SCC is equipped with the necessary resources, its judges and auxiliary staff are adequately trained, and the proceedings are concluded within a sufficiently short timeframe.<sup>7</sup> Other institutions, including the

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1 Návrh strategického plánu boja proti korupcii v Slovenskej republike - upravené nové znenie  
<http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=20071>.

2 <http://bojprotikorupcii.vlada.gov.sk/19327/medzirezortna-pracovna-skupina-expetrov-pre-boj-tproti-korupcii.php>.

3 Third Evaluation Round, Compliance Report on the Slovak Republic, GRECO RC-III (2010) SE, Strasbourg, 26 March 2010.

4 By Act no. 224/2010 Coll. which amended the Criminal Code (new sections 83a and 83b of the Criminal Code).

5 Act no. 262/2011 Coll and other acts were adopted on 13 July 2011. For the evaluation of the rules, see the Second Interim Compliance Report on the Slovak Republic, GRECO RC-III (2010) 3E Second Interim Report, Strasbourg, 9 December 2011.

6 Third Evaluation Round –Second Compliance Report on the Slovak Republic. GRECO RC-III (2012) 23E, Strasbourg, 7 December 2012. See also Greco RC-III (2013) 21E.

7 See Transparency International, National Integrity System, Executive Summary:  
[http://www.transparency.org/whatwedo/nisarticle/slovakia\\_2012](http://www.transparency.org/whatwedo/nisarticle/slovakia_2012).

Supreme Audit Office, also play an important role within the Slovak institutional framework.<sup>8</sup> However, despite efforts to make public procurement and the judiciary more transparent in the context of the implementation of EU structural funds, the European Commission recently recommended addressing a number of challenges related to the functioning of public institutions, law enforcement, efficiency of justice and the business environment.<sup>9</sup>

### *Opinion polling*

**Perception surveys.** According to the 2013 Special Eurobarometer,<sup>10</sup> 90% of Slovak respondents believe that corruption is widespread in their country (EU average: 76%). More than half of the respondents think that the abuse of positions for personal gain and giving or taking bribes are widespread in courts, political parties and in the public health sector.

**Experience of corruption.** Petty corruption appears to be widespread, with 40% of respondents claiming to have been affected by corruption in their daily lives (EU average: 26%). Among those who had come into contact in the last 12 months with Slovak institutions mentioned in the survey, 14% were asked or expected to pay a bribe (EU average: 4%).<sup>11</sup> 21% of the population have experienced or witnessed a case of corruption in the last 12 months (EU average: 8%). Transparency International's Global Corruption Barometer from 2013 noted that every fifth person having a contact with the institutions listed in the survey paid a bribe.<sup>12</sup> These findings are similar to the results in the 2013 Special Eurobarometer.

**Business surveys.** Corruption is perceived as the most important obstacle for doing business in Slovakia, mentioned by 66% of the 2013 Eurobarometer business survey respondents,<sup>13</sup> 13% of those who were in contact with institutions were asked or expected to pay a bribe (EU average: 5%). The World Economic Forum's Global Competitiveness Report 2013-14 indicates that in Slovakia, corruption is the second most problematic factor for doing business,<sup>14</sup> and the report ranked Slovakia as only the 78<sup>th</sup> most competitive economy worldwide.

### *Background issues*

**Private sector.** Slovakia transposed the Framework Decision 2003/568/JHA on combating corruption in the private sector, with the exception of offering a bribe or an undue advantage.<sup>15</sup> With regards the private sector, practical concerns are related to ties between business and politicians. Furthermore, the Slovak national security agency (SIS) pointed out in its annual report that ties between politicians and business damaged national interests, especially in the case of state- and municipality-owned companies.<sup>16</sup>

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8 Idem.

9 Commission staff working document. Assessment of the 2013 national reform programme and stability programme for Slovakia. Brussels, 29.5.2013 SWD(2013) 375 final. p. 8-9:  
[http://ec.europa.eu/europe2020/pdf/nd/swd2013\\_slovakia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/swd2013_slovakia_en.pdf).

10 2013 Special Eurobarometer 397.

11 2013 Special Eurobarometer 397.

12 <http://www.transparency.org/gcb2013/report>.

13 2013 Flash Eurobarometer 374.

14 [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2013-14.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf).

15 Report from the Commission to the European Parliament and the Council, based on Article 9 of Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector.

16 The report of the Slovak Intelligence Service from 2011. (Správa o činnosti SIS v roku 2011, Bratislava, október 2012.)  
[http://www.sis.gov.sk/vyr\\_sprava.html](http://www.sis.gov.sk/vyr_sprava.html).

**Conflicts of interest and asset disclosure.** Conflicts of interest and assets of MPs have to be declared by law, but only to a limited extent. A draft law on conflict of interest,<sup>17</sup> which would alleviate major problems with the application of the current law, is under discussion in Parliament. NGOs provide a voluntary platform to publish such declarations of interests.<sup>18</sup>

**Whistleblowing.** Slovakia does not have specific laws to protect whistleblowers. Labour legislation provides general protection against arbitrary dismissal and discrimination of employees. In this respect, the procedures envisaged by the anti-discrimination act could serve as a best practice example.

**Transparency of lobbying.** Despite previous attempts to establish rules on lobbying, it is not regulated in Slovakia. There is no specific obligation for registration of lobbyists or reporting of contacts between public officials and lobbyists.

## 2. ISSUES IN FOCUS

### *Independence of the judiciary*

Independence of the judiciary is a key element of anti-corruption policies from the point of view of the capacity of the justice system to handle corruption cases efficiently, including high-level corruption. It is also important from the viewpoint of integrity standards within the justice system. Effective independence safeguards and high ethical standards within the judiciary are essential in securing the necessary framework for an efficient judiciary which renders justice in corruption cases in an objective and impartial manner without any undue influence.

The Slovak Constitution guarantees the independence of judges. However, perception of judicial independence in Slovakia is low with Slovakia registering the lowest score on perceived judicial independence in the EU Justice Scoreboard, as well as in the 2013-2014 Global Competitiveness Report.<sup>19</sup> Moreover the use of the powers of the Minister of Justice to remove presidents and vice-presidents of courts, without a possibility for review or legal remedy<sup>20</sup> has raised serious concerns. For example, over a relatively short period of time, a considerable number<sup>21</sup> of court presidents were removed by two consecutive Ministers of Justice, thus contributing to an overall perception of politicisation and limited independence of the Slovak judiciary.

Furthermore, some judges who publicly criticised the state of the judiciary were subjected to disciplinary proceedings that they considered arbitrary.<sup>22</sup> Experts criticised the way in which the head of the judiciary made use of his powers to influence disciplinary panels, notably in procedures concerning judges who seemed to resist his influence. First instance disciplinary panels include one member nominated by regional councils of the judiciary, the Slovak

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17 National Council of the Slovak Republic *Návrh ústavného zákona, ktorým sa mení a dopĺňa ústavný zákon č. 357/2004 Z. z. o ochrane verejného záujmu pri výkone funkcií verejných funkcionárov v znení ústavného zákona č. 545/2005 Z. z.*, <http://www.nrsr.sk/web/Dynamic/Download.aspx?DocID=389419>].

18 See [Politikaopen.sk](http://Politikaopen.sk).

19 Based on the 2010 data in the EU Justice Scoreboard. [http://ec.europa.eu/justice/effective-justice/files/justice\\_scoreboard\\_communication\\_en.pdf](http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_communication_en.pdf). See also [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2013-14.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2013-14.pdf)

20 Section 38 and 41 of Act 757/2004 on courts (Zákon o súdoch a o zmene a doplnení niektorých zákonov).

21 E.g. 14 court presidents removed in May 2011.

22 See Bojarski, L. and Stemker Koster, W. (2012) *The Slovak judiciary: Its current state and challenges*. Bratislava: Nadácia otvorenej spoločnosti - Open Society Foundation.

Parliament and the Minister of Justice. At second instance, this ratio is 1:2:2, leading in both cases to an overrepresentation of politically elected panel members.<sup>23</sup>

Over the last five years, these issues have been subject to a public debate involving judges, NGOs, international experts and Slovak political leaders. In September 2009, 15 judges sent a letter to the President, the Prime Minister and other leaders drawing attention to the improper use of disciplinary procedures against independent judges.<sup>24</sup> A subsequent open statement was signed by 105 judges in October 2009.<sup>25</sup> In 2010, an organisation counting eleven Supreme Court judges as founding members, pointed to a number of issues, including political interference, selection procedures not based on meritocracy, unjustified delays in court proceedings, lack of rules on ethics, misuse of disciplinary actions and insufficient transparency.<sup>26</sup> The issues raised increase the vulnerability of the justice system to corruption.

The government responded to the call for reform by adopting a legislative amendment in 2011. Presidents and vice presidents of the courts have to pass a competitive procedure, the aim of which is to verify the skills and the ability of the candidates to ensure proper administration of justice and courts. Judgments now have to be published in an effort to create more transparency. Furthermore, the dismissal procedure of a president or a vice-president of a court must be launched by one of the three judicial bodies named by the act, or, in the case vice-presidents, also by the court presidents. The decision on dismissal is however taken by the Minister. While this system appears to be a step in the right direction, certain problems seem to persist in practice: for example, the Minister removed the court presidents of two county courts from office in 2012 on the basis of oral notification to them only.<sup>27</sup> This will require further improvement of existing criteria for the removal from office of presidents and vice-presidents of courts.

### ***Prosecution of corruption***

Slovakia has created the Office of the Special Prosecutor (SPO) to prosecute all cases brought before the SCC which is a commendable effort to focus on high profile cases needing special expertise. The Special Prosecutor is elected by Parliament upon a proposal by the General Prosecutor on the basis of competitive proceedings.

The Slovak prosecution service is an independent, hierarchical and uniform organisation headed by a Prosecutor General, who is appointed by the President upon proposal of the Parliament. The position was vacant between February 2011 and July 2013. Multiple constitutional court appeals were lodged in this regard, and the head of state did not appoint the elected candidate. The protracted absence of the head of the prosecution office had a negative impact on the confidence of prosecution services, including the ones specialised in corruption, in that they are effectively protected from any undue influence. The parliament subsequently elected another person to be Prosecutor General, and the President appointed him to the office in mid-2013.

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23 The disciplinary panel is composed of three or five members selected from the three database set up by law, which stores 15 names, elected by judges, by the Minister and the National Council respectively. See Title Two of act on judges and lay-judges (Zákon č. 385/2000 Z.z. o sudcoch a prísediacich a o zmene a doplnení niektorých zákonov v znení neskorších predpisov).

24 'Open Letter' <http://sudcovia.sk/en/documents/archive/204-open-letter>.

25 'Five Sentences' <http://sudcovia.sk/en/documents/archive/202-five-sentences>.

26 <http://sudcovia.sk/en/documents/archive/211-orientation-initiative-for-open-judiciary>.

27 Assessment of the 2013 national reform programme and stability programme for Slovakia. Brussels, 29.5.2013 SWD(2013) 375 final. p. 31. As the document notes, references to previous recommendations with regards to the judiciary remained valid in 2013 and 2012, as no major progress was observed.

According to prosecution statistics, in 2010, 18 persons were indicted for accepting bribes, 74 for active bribery, four for trafficking in influence, and five for favouritism. These figures represent an important increase from 2009,<sup>28</sup> but are still low in view of the size of the country and the scale of the problem as presented by surveys on actual experience of bribery.<sup>29</sup> It is too early to evaluate the new criminal legislation which came into force in September 2011. However, low numbers of prosecutions in the context of corruption can only partially be attributed to insufficient legislation. According to a recent assessment by the European Commission, there are structural weaknesses in the functioning of law enforcement.<sup>30</sup> In its National Integrity System analysis (NIS), Transparency International considered the police force to be among the weakest institutions in Slovakia as they scored the second lowest (after the judiciary).<sup>31</sup> The NIS points to extensive changes in the leadership of the police force after every parliamentary election that included not only the head of police but also heads of key departments, including the unit for fight against corruption.

### *Financing of political parties*

The 2005 Act on political parties imposed stricter rules on parties' accounting, obliging them to publish annual reports including information on party income and expenditure.<sup>32</sup> However, in 2011, GRECO identified significant shortcomings in the legal framework for party financing and issued ten detailed recommendations, including establishing a single body with sufficient resources to supervise and investigate party funding and election campaign financing, enhancing transparency of funding of presidential candidates and putting in place effective sanctions for violations of the rules on political funding.<sup>33</sup> In particular, GRECO noted that the act does not clarify the level of detail required for local and regional branches of parties. The legislation furthermore does not cover campaign expenses of individual candidates. The law is insufficiently implemented, as the supervision exercised by the Ministry of Finance and the parliamentary committee is considered to be a purely formal exercise. GRECO strongly recommended that Slovakia take measures to enhance the transparency of income and expenditure of parties and candidates at local and regional level (in particular in connection with mayoral elections) and that the authorities provide advice and training to political parties and election candidates on the applicable political funding regulations.<sup>34</sup>

In the context of sanctions, Slovakia provides for administrative liability of political parties for infringements of political finance rules. The Ministry of Finance has to impose administrative fines of approximately EUR 3 000 for infringements relating to the late or incomplete submission of the election campaign and annual reports. If a party accepts a gift or service in violation of 2005 Act, the Ministry of Finance may also impose a fine of up to twice the value of the gift or service. Finally, public funding may be suspended if deficiencies in the annual report have not been remedied by the party. GRECO expressed concerns as to

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28 <http://www.genpro.gov.sk/statisticky-12c1.html>. These statistics are based on the old legislation, ie. before the amendment of the Criminal Code.

29 See the results of consecutive Eurobarometer surveys from 2007, 2009, 2011 and 2013; see also the Eurobarometer Flash survey for businesses from 2013, where the percentage of respondents having been expected to pay a bribe was always among the highest in the EU.

30 Assessment of the 2013 national reform programme and stability programme for Slovakia. Brussels, 29.5.2013 SWD(2013) 375 final. p. 8-9.; the Commission's position paper for Slovakia for the 2014-2020 programming period [http://ec.europa.eu/regional\\_policy/what/future/pdf/partnership/sk\\_position\\_paper.pdf](http://ec.europa.eu/regional_policy/what/future/pdf/partnership/sk_position_paper.pdf).

31 TI, NIS executive summary.

32 85/2005 Z.z. ZÁKON zo 4. februára 2005o politických stranách a politických hnutiach.

33 GRECO: Third Evaluation Round – Second Interim Compliance Report on the Slovak Republic, December 2011, [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2010\)3\\_2nd\\_Interim\\_Slovakia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2010)3_2nd_Interim_Slovakia_EN.pdf).

34 GRECO: Third Evaluation Round – Second Interim Compliance Report pp. 8 and 11.



whether these sanctions were deterrent, and noted that sanctions were not known to have been imposed for infringements of party funding rules, other than for non-submission of financial reports.<sup>35</sup> The recommendation on improving sanctions had not been implemented by early 2013.<sup>36</sup>

GRECO considered in its last evaluation that none of its recommendations with respect to political party financing had been implemented.<sup>37</sup> A draft law on pre-election campaigns<sup>38</sup> and a draft law on elections,<sup>39</sup> aimed at addressing GRECO's concerns, are now under discussion in the Slovak Parliament. The legislation under discussion aims at limiting the possibility of donations made in cash, increasing the transparency of accounts related to election campaigns, and strengthening sanctions for violation of campaign financing rules.

### ***Good practice: database for tracing public money***

*Slovakia reformed its access to information laws in 2000 and created a system that has become exemplary over the last 12 years. Freedom of access to information has allowed NGOs and think-tanks to devise innovative solutions to flag risks and to build an information network allowing the detection of conflicts of interest and improper influence on decision making. The NGO Fair Play Alliance created a database that anyone can access via their website.<sup>40</sup> The database focuses on public money paid to private entities (state subsidies, privatisation, tax and custom remissions, grants, European funds, debts to the public sector) and on public representatives (managers of state institutions, governments, elected positions, the judiciary, self-governing bodies, Parliament, advisers to political leaders). It provides media and NGOs with tools for monitoring and makes public administration aware of the fact that their decisions can be easily monitored. This database is also helpful for investigative journalism; for example, the media were able to draw attention to concrete allegations of illicit practices regarding political party finance including fake donors and non-transparent party loans. The network has been emulated by NGOs abroad and the software is used in the Czech Republic, Hungary and Georgia. The know-how is also used in Montenegro.*

### ***Use of EU funds***

The Slovak national security agency (SIS) reported in 2011 on corrupt practices in the distribution of subsidies from the EU and the state budget.<sup>41</sup> The SIS found evidence of non-transparent allocation of both EU and state funds, which were not used in accordance with the declared purpose.

35 GRECO: Third Evaluation Round - Evaluation Report on the Slovak Republic on Transparency of party funding (Theme II). Strasbourg, 15 February 2008.

36 Second Compliance Report, on the Slovak Republic, Greco RC-III (2012) 23E  
[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282012%2923\\_Second\\_SlovakRepublic\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282012%2923_Second_SlovakRepublic_EN.pdf).

37 GRECO: Third Evaluation Round – Second Interim Compliance Report pp. 8. When adopting the 3rd Interim Third Round Compliance Report in October 2013, GRECO described the level of compliance as ‘globally unsatisfactory’, see [http://www.coe.int/t/dghl/monitoring/greco/documents/2013/Greco%282013%2914\\_Summary%20Report%2061\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/2013/Greco%282013%2914_Summary%20Report%2061_EN.pdf).

38 Ministry of Justice Zákon o volebnej kampani, ktorým sa mení a dopĺňa zákon č. 85/2005 Z.z. Citing electronic source of information. (2013) Ministerstvo spravodlivosti SR.  
<https://lt.justice.gov.sk/Attachment/navrh%20zakona.rtf?instEID=-1&attEID=56854&docEID=318935&matEID=6443&langEID=1&tStamp=20130803000119053>.

39 Ministry of Justice Zákon o podmienkach výkonu volebného práva a o zmene Občianskeho súdneho poriadku. (2013) Ministerstvo spravodlivosti SR.: <https://lt.justice.gov.sk/Attachment/navrh%20zakona.rtf?instEID=-1&attEID=56862&docEID=318944&matEID=6444&langEID=1&tStamp=20130803000148247>.

40 <http://datanest.fair-play.sk/en/pages/index>.

41 The report of the Slovak Intelligence Service from 2011. (Správa o činnosti SIS v roku 2011, Bratislava, október 2012.) [http://www.sis.gov.sk/vyr\\_sprava.html](http://www.sis.gov.sk/vyr_sprava.html).



The European Commission found that the risk of corruption in the allocation of EU funds creates a reputational risk for the funds and threatens their efficient and effective use. As a result, the Commission interrupted payments for the Transport Programme of the Cohesion Fund in the 2007-13 programming period, citing allegations of bribery and conflicts of interest in rail projects as one of the reasons. These suspicions are currently being investigated by the European Anti-Fraud Office (OLAF). There have also been allegations of corruption in the area of public tenders for urban transport projects which were tailored to one bidder (cancelled at the request of the Commission). Furthermore, in other tenders, major construction companies submitted complaints to the Commission that the lowest bids were rejected on unfair grounds.

In the context of the European Social Funds operational programmes (OP Employment, Social Inclusion and Education) repeated Commission audits identified material shortcomings in the public procurement and in the verification of cost eligibility. As a result of the malfunctioning management and control systems, the programmes underwent the procedure for suspending payments until the weaknesses were corrected.

Tackling corruption is highlighted as a central action in the Commission's position paper for Slovakia for the 2014-2020 programming period,<sup>42</sup> which proposes restricting the room for corruption, conflicts of interest and cronyism in the use of EU co-financed spending. The annual joint roadmaps for Structural Funds implementation in Slovakia agreed at political level have highlighted the need to continue to strengthen the management and control systems to ensure their effective implementation, in particular in the areas of public procurement and project selection.

Audits by national and European Commission auditors have confirmed that significant weaknesses exist in the practical implementation of financial management and control procedures in Slovakia, and that there are shortcomings in the structure of the main national control bodies. Procurement procedures, management verification and project selection remain the main areas of weakness. These weaknesses are reflected in the high costs of infrastructure projects and in the level of errors detected. For example, a review of public procurement contracts in the Environment Operational Programme in 2012 detected an error rate of 7.3%, causing the Commission to impose a corresponding correction of 7.3% of expenditure.

### ***Public procurement***

In Slovakia, the total expenditure on works, goods and services in public procurement is estimated at EUR 15.61 billion in 2010. According to the 2013 Eurobarometer business survey, 57% (the second highest percentage in the EU) of those who participated in public procurement in the past three years reported that they were prevented from winning because of corruption. Respondents in Slovakia reported tailor-made specifications for particular companies in 84% of cases and 77% reported collusive bidding as being a widespread practice.<sup>43</sup> Moreover, 63% of respondents noted conflicts of interest in the evaluation of bids and 62% pointed to unclear selection or evaluation criteria.<sup>44</sup> Given the perception of business representatives that these practices are widespread, monitoring them by introducing ex-ante checks would improve the situation.

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42 Position of the Commission Services on the development of the Partnership Agreement and programmes in Slovakia for the period 2014-2020 p. 44. [http://ec.europa.eu/regional\\_policy/what/future/pdf/partnership/sk\\_position\\_paper.pdf](http://ec.europa.eu/regional_policy/what/future/pdf/partnership/sk_position_paper.pdf).

43 These are the highest percentages in the EU.

44 These indicators, while not necessarily directly related to corruption, illustrate risk factors that increase vulnerabilities to corruption in public procurement procedures.

The SIS reported on cases of corruption and cronyism in the bodies of national, local and regional governments, as well as in entities with state participation involved in public procurement and in the allocation of state funds.<sup>45</sup> The SIS also noted that tenders for contracts for the construction and modernisation of transport infrastructure were designed in favour of predetermined suppliers. More specifically, the SIS pointed to corruption and rigging of competition for the reconstruction of a building for state institutions. Lack of transparent management was also found in the energy and heating sectors, water companies and companies using transport infrastructure.

A Slovak weekly published an award-winning analysis of tenders for construction of highways during the years 2006 to 2010, which pointed to significant overpricing and inefficient use of public finances. For example, the tender for the collection of an electronic toll was awarded to the bidder with the highest offer after the procuring entity excluded competitors from the bidding.

One of the underlying structural issues is the status of the Public Procurement Office (PPO), whose operational and financial independence is not guaranteed by law. The law on public procurement<sup>46</sup> does not prevent political appointments at the PPO, nor does it ensure sufficient guarantees against undue interference in decisions taken by PPO staff. Although recent amendments have ensured that the president of the PPO is elected by Parliament on a proposal from the government.<sup>47</sup> However the legal provisions on the dismissal of the PPO's chair are vaguely formulated and may be misused, thus limiting guarantees of independence.<sup>48</sup> Public procurement in healthcare appears to be particularly vulnerable to corruption in Slovakia. Transparency International published a review of prices that hospitals paid for purchasing medical equipment (CTs) between 2007 and 2012. According to the review, the hospitals' purchase price varied significantly. For a CT with the same technical parameters, the price in one hospital is double the price paid in another hospital. The review argues that one of the main problems in this case is lack of competition – very often only one bidder applies for a tender, or the criteria are tailored to a specific bidder. Furthermore, according to the review, it is often unclear what exactly is included in the price for the CT – the type of software and service, which makes comparison of prices difficult.

In 2012, the government prepared a major amendment of the Public Procurement Act, which aimed at – *inter alia* – streamlining lengthy tender procedures and increasing competition and transparency.<sup>49</sup> Part of the amendment was adopted in February 2013. As a consequence, the government also decided to strengthen human resources at the PPO. Moreover, there are credible efforts to make the business environment less prone to the risks of corruption. In 2010 and 2011, the Slovak government created an obligation to publish all contracts concluded by the public sector online.<sup>50</sup> The Central Register of Contracts<sup>51</sup> provides a list of contracts concluded by ministries, state administration bodies, public bodies and their subordinate organisations since 1 January 2011. All such contracts have to be published in the

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45 The report of the Slovak Intelligence Service from 2011. (Správa o činnosti SIS v roku 2011, Bratislava, október 2012.) [http://www.sis.gov.sk/vyr\\_sprava.html](http://www.sis.gov.sk/vyr_sprava.html).

46 Act on Public Procurement (Zákon o verejnom obstarávaní - Zákon č. 25/2006 Z. z.).

47 Rules on the status of the chair are in Article 110. of the public procurement act.

48 According to Article 110. (1), the Office is headed by the President, on the proposal of the Government of the Slovak Republic shall be elected and recalled by the National Council of the Slovak Republic. (2) The Chair, Deputy Chairperson of the Authority. Vice-Chair is appointed and dismissed by the Government on the proposal of the President of the Office. For the reasons of dismissal, see Art 111 which is limited to the lack of compliance with duties.

49 Z 19. marca 2013, ktorým sa mení a dopĺňa zákon č. 25/2006 Z. z. o verejnom obstarávaní a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a o zmene zákona č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov.

50 Act No. 546/2010 Coll. amending Act No. 40/1964 Coll., the Civil Code, as amended.

51 Centrálny register zmlúv. <http://crz.gov.sk/>.

Register and only enter into force the next day following their publication in the register. Despite greater transparency, irregularities in public procurement remain.<sup>52</sup> The effective application of the new procurement rules, however, could be facilitated by further developing the skills of officials in charge of drafting terms of references, and of evaluating and selecting bids.<sup>53</sup>

Furthermore, an internal appeal mechanism within the PPO was created. The first-level decisions on complaints received by the PPO shall be submitted to appeal before a 'Council of Public Procurement Office'. The Council shall be composed of PPO employees and some external persons in order to ensure greater independence in the decision making-process.

### ***Good practice: transparency in local public procurement***

*As part of measures allowing the external monitoring of public spending, the Open Local Government initiative ranks 100 Slovak towns according to a set of criteria based on transparency in public procurement, access to information, availability of data of public interest, public participation, professional ethics and conflicts of interests. Sal'a, Martin and Rožňava currently appear at the top of the list. The project is run by Transparency International Slovakia. The northern city of Martin received the prestigious UN Public Service Award for its anti-corruption reforms.<sup>54</sup> These were based on close cooperation with TI Slovakia: In late 2008, the newly elected mayor of Martin approached the organisation looking for a transparency package that he could implement in the city of 60 000 inhabitants. TI Slovakia proposed to carry out the project in three phases. First, experts drew up a list of recommendations in 17 policy areas such as procurement, staffing, awarding grants, public participation and municipal company policy. In a second step, they compared them with the city's legislation and internal rules. Having identified the gaps, the team of experts, together with municipal officials, drafted new by-laws and regulations adapted to Martin's conditions, which were then implemented by the municipality.*

### **3. FUTURE STEPS**

Problems with legislation and its application, the perceived lack of independence of part of the judiciary, and close ties between the political and business elite limit the effectiveness of the anti-corruption framework. Structural reforms, measures to address conflicts of interest, focused efforts for prevention of corruption and good coordination in investigations should therefore be prioritised. Both legislative reforms and practical disincentives for corruption are required in party funding, public procurement and conflicts of interest.

The following points require further attention:

- Strengthening the independence of the **judiciary**, in particular by laying down well-defined criteria for the removal from office of presidents and vice-presidents of courts. Strengthening procedural guarantees in disciplinary proceedings against judges and ensuring the independence of disciplinary panels.

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52 Commission staff working document: Assessment of the 2013 national reform programme and stability programme for Slovakia. Brussels, 29.5.2013 SWD(2013) 375 final. p. 30:  
[http://ec.europa.eu/europe2020/pdf/nd/swd2013\\_slovakia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/swd2013_slovakia_en.pdf).

53 Commission staff working document: Assessment of the 2013 national reform programme and stability programme for Slovakia. Brussels, 29.5.2013 SWD(2013) 375 final. p. 30:  
[http://ec.europa.eu/europe2020/pdf/nd/swd2013\\_slovakia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/swd2013_slovakia_en.pdf).

54 <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan048624.pdf>.

- Strengthening a merit-based approach to appointments to management positions within the **police**. Developing a strategy to more effectively detect and prosecute corruption crimes.
- Increasing transparency of **party funding** at local and regional levels, including by completing the pending legislative process. Setting up an independent body to investigate and supervise party financing, and ensuring that the sanctions applicable in case of violations of political funding rules are proportionate and dissuasive.
- Intensifying checks by relevant authorities in order to decrease the risk of **misuse of EU funds** and strengthening control mechanisms for prevention, detection and dissuasive sanctioning of conflicts of interest. Developing a policy to fight corruption in healthcare, including public procurement. Reinforcing efforts of law enforcement, prosecution and judiciary to pursue corruption cases affecting EU funds. Carrying out efficient independent ex-ante checks of **public procurement** procedures at central and local levels. Strengthening the internal control mechanisms within contracting authorities and their capacity to effectively prevent corrupt practices. Monitoring the impact of the recent amendments to the Public Procurement Act, especially on the independent functioning of the Public Procurement Office. Promoting greater stability, efficiency, independence and expertise in Slovak public administration, including central and local public procurement authorities.