



**NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY**

# **SLOVAKIA**

**A CASE STUDY**

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# Slovakia

## 1. Executive summary

This case study compares the governments of Mikulas Dzurinda, who has been the Slovak prime minister since 1998, and the 1994-1998 government of Vladimír Mečiar. During the past six years, Slovakia has undergone extensive modernisation as part of its ambition to become a successful industrialised country and a member of the European Union. The anti-corruption drive of the Dzurinda government has been part of these efforts. On the one hand, it has been successful in radically improving nearly all the key anti-corruption systems and has, more recently, started to vigorously pursue and prosecute actual corruption cases. On the other hand, it has not been able to retain public trust in anti-corruption institutions or decrease the level of perceived corruption. Corruption has continued to be one of the top issues on the public and political agendas during the past six years and is likely to remain so in the near future. A coalition of anti-corruption politicians, NGO activists and the media has proven to be a key ingredient in successful structural reforms, with the supplementary influence of the EU accession requirements. Progress in areas where this coalition, or indeed the executive, has limited power - such as the judiciary and prosecution - has been limited.

## 2. Country overview: conditions for transition

### 2.a. Country overview

#### Political system:

In 1918, the Slovak and Czech peoples formed Czechoslovakia. After World War II, Czechoslovakia became a Communist nation within Soviet-influenced Eastern Europe. Soviet influence collapsed in 1989 and Czechoslovakia, a federation since 1968, became free. The transition to democracy in the former Czechoslovakia therefore started in 1989. The Slovaks and the Czechs agreed to separate peacefully on 1 January 1993 and the Slovak Republic was formed.

Since then, Slovakia has been a parliamentary democracy with the president as the formal head of the state. There is one chamber in the Slovak parliament and parliamentary elections are held every four years. Slovakia has a proportional electoral system in place, which is one reason why the country has had coalition governments ever since its formation. After some initial political instability, there have been regular elections at four-

year intervals since 1994. Between 1994 and 1998, the government of Vladimir Mečiar was in power. Since 1998, with partial changes after the elections of 2002, the government of Mikuláš Dzurinda has been in place.

#### Administrative system:

Since 1990, Slovakia has followed the so-called 'dual system' of public administration, a state administration managed by ministries from Bratislava and local and regional self-government. They have separate competencies and also operate separately in organisational terms.

Slovakia has 14 ministries, most of which have a regional network of offices (e.g. tax administration, the police, social benefits and employment services), eight regions with their regional self-governments and 2,900 municipalities. Each region and each municipality has a directly elected chairman or mayor and a council of deputies, with division of power between the executive and the legislative branches.

Since 2000, there has been a tendency towards extensive decentralisation. Municipalities and regions have taken on new powers in organising and co-financing education, utilities, housing, transport, health care and other essential services. The decentralisation has led to new challenges in the area of corruption, which, however, are not related to the transition analysed in this case study.

#### Judicial system:

Slovakia has a bifurcated judicial system with both a supreme court and a constitutional court. The supreme court is the highest appellate body; the constitutional court decides specific issues related to the interpretation of the constitution. Additionally, Slovakia has regional and district courts. This court structure is currently undergoing reorganisation.

Slovak judges are appointed for life; only the judges of the constitutional court have a fixed term. Judges are paid the same salary as MPs and enjoy wide-ranging independence. Many powers over the judiciary are now held by the Judicial Council, composed of representatives of judges, parliament, the president and the government. While this has insulated the judiciary from the ruling government of the day, it has also lessened accountability.

The Slovak judicial system is highly fragmented and there has been only limited success in unifying adjudication procedures, leading to a highly discretionary system. Additionally, the system has been badly managed and overburdened, leading in many cases to enormous backlogs in the work of the judiciary.

**2.b. Transition conditions**

This case study focuses on the transition from the government of Vladimír Mečiar to that of Mikuláš Dzurinda, which took place in October 1998. This section presents basic facts about the conditions in which the transition took place, with the focus on official attempts to deal with corruption and official prosecutions, opinion polls and a special subsection devoted to privatisation.

The extent of corruption: official prosecutions

The lack of commitment to fighting corruption under the Mečiar government is reflected in the official figures on the state of corruption in Slovakia as captured in the table on the next page. The table lists investigations, indictments and sentences imposed under §160 of the Criminal Code from 1992-1998:

**Table No. 1 Survey on corruption developments in Slovakia**

Year	Investigations	Indictments	Sentences
1992	40	35	--
1993	18	15	13
1994	24	22	2
1995	30	29	12
1996	28	24	17
1997	23	21	13
1998	35	33	16

Source: Office of the Attorney General of the Slovak Republic

The number of persons prosecuted for bribery over the period 1992-1998 did not indicate the real extent of corruption existing in Slovakia. These numbers reflect rather the limited capacity of police, prosecution and judiciary to effectively deal with corruption cases. These three institutions were under enormous political pressure due to the institutional struggle between the government and other political and civil society actors that took place during the years 1994-1998. This struggle also led to Slovakia’s exclusion from the

first round of EU enlargement negotiations because the country did not fulfil the Copenhagen criteria on democracy and rule of law.

#### The extent of corruption - privatisation

Discussion of corruption during Vladimir Mečiar's government is incomplete without a special focus on the privatisation process. This is not to say that during this government, doctors or university administrators did not take bribes; instead, suspicions of grand corruption related to the privatisation process dominated the public discussion.

Privatisation started in 1990 and has proven to have been one of the areas most affected by non-transparency. Transfers of enormous amounts of property into private hands without developed capital markets, a capitalist class or other institutions of a sophisticated market economy are bound to be arbitrary and prone to corruption, particularly since the one-off nature of the process decreases any inhibitions individuals or institutions may feel about engaging in corrupt or arbitrary conduct.

Until 1994, the voucher method of privatisation dominated. Whatever the merits of this method, it was quite successful in preventing corruption as there was a limited role for exclusive information or discretionary decision-making. In addition to the voucher method, auctions were used for small properties. When the government took a discretionary decision on privatisation, it had to be with the authority of the cabinet, with full political accountability. This was utilised only in a limited number of cases.

When the Mečiar government took power in 1994, it introduced changes that had the effect of making privatisation highly non-transparent and excluding the public from control over the process. This was done by: transferring the power to make privatisation decisions from the government to a quasi-governmental institution, the National Property Fund; by not allowing external audit of the NPF; and by a preference for direct sales without any tenders or bidding. Thus, nine people from the ruling coalition - i.e. the members of the NPF board - were given exclusive power to decide who (and at what price) was to be allowed to buy state property. No register of privatised assets was established that could provide accessible information about privatised property.

Between 1995 and 1998, direct sales of state enterprises to Slovak individuals and corporations dominated the process. This was defended by government officials as a way of creating a 'domestic entrepreneurial class'. Critics questioned from the very beginning

both the transparency of this method and its impact on the restructuring of the Slovak economy. During the privatisation, a small group of people that included a number of political leaders was given preferential treatment.<sup>1</sup>

In the period between 1995 and 1997, the board of the NPF decided on 887 direct sales, transfers of shares of state companies or state asset transfers with a total book value of SKK 103bn (US \$3 billion at the time). The purchase price was, however, only 48 per cent of the book value. During the entire period, actual NPF privatisation-related revenues reached only 28.7 per cent of the book value of privatised assets.<sup>2</sup> Opportunities for corruption and unlawful conduct were therefore mostly linked to the direct sales of privatised property where the NPF board exercised complete discretion over sales of some of the largest enterprises in Slovakia behind a curtain of secrecy.

#### The extent of corruption - opinion polls

Since figures on official prosecutions do not capture the reality of corruption, we also look at the results of opinion polls conducted during the period 1998-1999. In the first poll, the views of the Slovak elite on corruption and crime were elicited as part of a research programme conducted simultaneously in nine CEE countries and three Caucasus states and co-ordinated by InterMedia. The programme in total obtained the views of 3,600 elite respondents - political decision makers, leaders, entrepreneurs, media representatives, people from the fields of culture and science, opinion makers, etc - from the 12 countries. In the second poll, which collected the views of the business community with respect to corruption and other aspects of the business environment, 850 respondents were approached. The return rate was 25 per cent. Public opinion research on bribery and corruption was conducted by the FOCUS agency for the Centre for Economic Development through a network of skilled data collectors using a sample of 1,045 Slovak citizens aged over 18. The data was collected through standardised personal interviews and recorded in questionnaires.

The main findings were that, at the time of the surveys:

- corruption was perceived to be widespread in Slovakia;
- two-thirds of those interviewed had already encountered the problem in person in at least one sector or institution;
- corruption in health care was seen as being most widespread by the electorate;

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<sup>1</sup> *Hospodárske noviny*, 3 December 1997.

<sup>2</sup> *FINI67*, 11 August 1998.d.

- according to businessmen, corruption at ministries and other central state administrative bodies was the most critical, followed by customs authorities and (with a certain lag) local state administration and courts as well as municipalities;
- university graduates, creative professionals, experts and businessmen were more sensitive to corruption; and
- there was an extensive (and ever increasing) presence of all forms of corruption in Slovakia during the whole of the transition.

In the context of the overall study, based on the research results on corruption perceptions, corruption was at the time most widespread in Russia and Slovakia, followed by Ukraine and Bulgaria, with Romania and the Czech Republic occupying the two bottom rankings. This result has been calculated based on the answers to four questions mapping the size of corruption. In this regard, it is worth remembering that perceptions of the extent of corruption do not necessarily correspond to its actual extent. If there is a debate about corruption in the society, or if cases of corruption are revealed as a first step in the fight against it, the general public may get the impression that corruption is much more frequent and widespread than in countries where it takes place out of the public eye.

As for the CPI in 1998, Slovakia had, in comparison with other Central European countries, the worst score, as shown in following table:

**Table No. 2: CPI 1998 in Central Europe**

Country	CPI 1998
Slovakia	3.9
Czech Republic	4.8
Poland	4.6
Hungary	5.0

Source: [www.transparency.org](http://www.transparency.org)

#### Attempts to tackle corruption by Vladimir Mečiar's government

The first attempt to solve the problem of corruption in Slovakia took place in 1995 when the government adopted the 'Clean Hands' (Čisté ruky) anti-corruption programme. Although the programme proposed a number of new laws or amendments, it faded away with few specific results or evidence of genuine commitment by the government. On the contrary, bribe paying ceased to be a crime after a 1995 amendment to the penal code, contributing to a permissive environment with regard to corruption.

### **2.c. Preparations for transition**

In 1998, the opposition overwhelmingly won the parliamentary elections (with approximately 60 per cent of the vote) with the rule of law, integration into the EU and corruption being among the key issues. Therefore, in pre-election debates, the opposition made a strong commitment to addressing corruption. These debates dealt nearly exclusively with privatisation<sup>3</sup>, focusing on the extent to which privatisation decisions should be reversed and what other steps should be taken in this area. Wider debate about anti-corruption strategies was missing from the policy mainstream.

On the other hand, the population and the elites had already expressed strong revulsion at corruption (as evidenced by surveys mentioned above) and it is not coincidental that it was at this time that the local chapter of Transparency International was founded in Slovakia.

In other words, while at the time of the 1998 elections corruption was a politically salient topic only within the context of privatisation, Slovakia was ready for a much more wide-ranging change both in attitudes and policies.

### **3. Initiatives taken by the new government**

As there have been two Mikuláš Dzurinda governments and there are some distinctions related to the questions examined below, this section is structured as follows:

- The first Dzurinda government (1998 - 2002),
- The second Dzurinda government (2002 - present).

#### **3.a. Designing a realistic plan of action**

##### How to determine sequencing

*1998 experience:* During the first Dzurinda government, anti-corruption activities were slow to take off: the National Programme for the Fight against Corruption was adopted only in June 2000. The government therefore had just about two years to implement a fairly ambitious programme. As it takes time to prepare specific anti-corruption measures, have them adopted by the Slovak parliament and then implement them, to have expected a decrease in the perception of corruption in two years was not realistic - especially in areas that required extensive reforms, such as health care, education, police and the judiciary.

Another organisational aspect worked against quick implementation of the government anti-corruption agenda. The co-ordination of an anti-corruption programme implementation by the Central Co-ordination Unit became highly bureaucratised. The unit, instead of playing the role of a proactive leader in the fight against corruption, came to act as a 'check list body' formally monitoring the fulfilment of tasks defined in the National Anti-Corruption Programme. It emerges in hindsight that it is important to clearly define the roles of formal anti-corruption institutions and communicate these accurately in order not to create false expectations.

The perception of corruption is influenced among other things by the number of cases that are publicly discussed or become the subject of court proceedings and sanctions, especially cases of political corruption. Without real reform in the key control institutions - the police, prosecution and judiciary - the expectation that effective and comprehensive criminal sanctions will be imposed is highly unrealistic. In this period, minimal progress was achieved; indeed, there was an increase in the perception of corruption in precisely these key control institutions.

Aid received from the European Union was partly used by the Central Coordination Unit for a media campaign. For example, anti-corruption billboards were put up all around Slovakia. A great many doubts were expressed concerning this activity for several reasons. For example, because the EU aid was limited and was intended to finance serious discussions, questions were raised over whether a media campaign with the simplistic message 'corruption is bad' was the best possible anti-corruption investment - especially during a period when this issue and its negative aspects were already being widely discussed. This kind of campaign only serves to fuel scepticism in a situation where no politician has been formally penalised.

*The 2002 experience:* The second Dzurinda government declared from the very beginning that the fight against corruption as one of its top priorities. Already by December 2002, the anti-corruption agenda had been discussed at the first government session and basic decisions had been made.

As for the organisational aspect, the Central Co-ordination Unit was replaced by the Office for the Fight against Corruption. That office immediately became directly involved in the

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<sup>3</sup> For example, the future prime minister Mikuláš Dzurinda made repeated statements on the need to reclaim property that was privatised improperly for very low prices.

formulation and pursuit of anti-corruption agendas, and its position, presentation and media communications became that much clearer.

It should be stressed here by way of qualification that the success of government anti-corruption efforts is dependent on the efficacy of a multiplicity of public institutions and that there are many variables upon which politicians do not exercise direct control.

#### *Quick wins versus longer-term gains*

*The 1998 experience:* Based on the experience of this period, it is important to point out the need to combine quick wins with long term anti-corruption reforms. While some changes cannot be realised without deeper reforms, the public expects immediate, tangible change, as promised by the politicians. The quick wins can be achieved in areas that do not necessarily require legislative changes, but rather changes in particular public administration bodies. The Slovak example of a quick win is the introduction of enhanced transparency in granting of licenses through the creation of a website where basic information on licensing is publicly available.

#### *Flexibility versus clear-cut rules:*

*The 1998 experience:* The Slovak government adopted an anti-corruption programme and its ministries prepared anti-corruption action plans. This had its advantages as well as disadvantages in that it was relatively easy to monitor the formal accomplishment of agreed tasks, but the public institutions concerned did not evaluate the real changes in their environment and did not come up with new proposals. They interpreted their roles in this exercise formalistically.

A less formalistic approach is possible when there is a real, political anti-corruption leader with a dedicated team to do the work and conduct regular evaluations of the situation.

#### *Start-up difficulties:*

*1998 experience:* The Slovak government did not have any serious plan prepared in advance to tackle corruption after the election. There were also very few officials in the public sector who had a clear picture of the anti-corruption agenda. Among other things, the public sector was the legacy of the previous government and it took some time to introduce a higher quality of public sector employees. Anti-corruption know-how was provided to the government by the NGO Transparency International Slovakia upon the request of the prime minister in 1999. All this delayed the initiation of concrete anti-

corruption actions. Many other NGOs helped with formulation of needed anti-corruption measures as well.

**2002:** The government did not face the same challenge after the election in 2002 as mentioned above because the basic anti-corruption know-how was already in place. The main question moved from ‘what to reform?’ to ‘sequencing, drafting laws and tackling difficulties in implementing them’. The quality of public sector personnel was also less of a challenge now. This contributed to a quicker take-off of anti-corruption activities.

### **3.b. Keeping up the reform momentum**

There were, and still are, several actors who played a crucial role in keeping the fight against corruption on the public agenda. Their particular roles are changing over time and so keeping up the reform momentum has its own dynamics. The main actors are dealt with below.

- ***Domestic political forces - ruling coalitions***

*1998 - 2002*

*Demand for an anti-corruption agenda:* The 1998 Dzurinda government, though elected by a populace eager for greater transparency in Slovak society, did not make any explicit anti-corruption pledges in its election manifesto. Nevertheless, the pressure for action against corruption increased dramatically after the corruption-related scandal at the Ministry of Telecommunications. Then, in the summer of 1999, at a conference organised by the World Bank and TI-Slovakia, alarming data on corruption was publicly presented. The EU also began monitoring Slovakia more closely from this perspective.

*Reaction:* As the result of the above pressures, Dzurinda asked TI-Slovakia to prepare the first proposal of an anti-corruption programme.

On 21 June 2000, the Slovak government approved a National Programme for the Fight against Corruption.<sup>4</sup> The final version of the programme was developed by the Office of the Deputy Prime Minister of Economic Policy on the basis of a proposal prepared by TI-Slovakia and submitted in February 2000 as a draft for public discussion. Ivan Mikloš, the deputy prime minister of economic policy, became responsible for the anti-corruption agenda. He set up the Central Co-ordination Unit in December 2000 mainly to co-ordinate specific plans for implementing the national programme and screen complaints and

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<sup>4</sup> Government Decree No. 461, 21 June 2000.

proposals received from citizens. The other institution - an anti-corruption steering committee - was set up in July 2000 at the Office of Government to monitor implementation of the national programme. This steering committee included representatives from ministries, other state administration, NGOs and international donors. As of June 2002, however, the steering committee had not met since March 2001.

The national programme was based on the general objectives of increasing transparency, limiting the scope for abuse of discretionary powers, reinforcing control and audit mechanisms, enhancing the quality and impartiality of the civil service and strengthening law enforcement. Ministries and central administrative bodies were charged with the task of drafting action plans by September 2000. Based on these, the government approved an overall action plan<sup>5</sup> on 22 November 2000, containing around 1,600 tasks divided between all state authorities and with a significant proportion falling under the responsibility of the Slovak Ministry of Economy.

*Implementation:* According to government officials, around 600 tasks remained at the end of February 2002. A number of important changes were still at the stage of preparation or discussion at the time of the 2002 election. The implementation of the national programme and the work of the Central Co-ordination Unit for the Fight Against Corruption had become bureaucratic - in other words, they had lost flexibility and did not reflect the changing environment. Important changes in the legislative framework for the judiciary and law enforcement bodies had not been translated into visible improvements in their ability to prosecute corruption cases, especially important high-level cases.<sup>6</sup>

TI-Slovakia voiced several criticisms of government anti-corruption policy: many tasks defined in the national programme were only formal; many did not deal with restricting corruption; the process of implementing the national programme had become overly bureaucratic; co-ordination between various ministries and other central authorities was poor; deadlines were not always met; and the steering committee was not functioning.

Although the 1998 government had broken clearly with the style of the previous one, and some of its ministers had had to resign as a result of corruption-related scandals, there appeared to be a perception that the government itself did not set the right example. This

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<sup>5</sup> [www.government.gov.sk/bojprotikorupcii](http://www.government.gov.sk/bojprotikorupcii).

<sup>6</sup> For example, after a scandal broke in spring 2001 over the misuse of PHARE funds, the official under suspicion was not questioned for a month and then only under media pressure. As of March 2002, it appeared doubtful that charges would be pressed. At the beginning of November 1999, the first trial related to organised crime began, but neither this case nor numerous other investigations into alleged fraud, corruption and abuse of power connected with the previous government have yielded any convictions.

was probably the result of the fact that ministers continued to employ advisers with bad reputations, and also because even when officials under suspicion of corruption were removed, they were not punished while some soon reappeared in new official positions.<sup>7</sup>

#### *2002 - 2004*

*Demand for an anti-corruption agenda:* Prior to the 2002 election, TI-Slovakia tried to make the anti-corruption agenda a leading election issue. It organised activities around an Anti-Corruption Minimum Programme. TI-Slovakia also enlisted a group of experts to evaluate the fulfilment of government anti-corruption pledges and formulated 15 clear recommendations on what most needed to be done over the next four years to contain corruption. TI-Slovakia also asked all the political parties to sign up to the Anti-Corruption Minimum Programme and incorporate it into their political programmes.

*Reaction:* Twelve out of the 15 political parties agreed to endorse the anti-corruption pledges in the Minimum Programme. Most of the recommendations were reflected in their programmes and later also in the 2002 government manifesto.

*Implementation:* Anti-corruption activities began being conducted or discussed by the 2002 coalition government soon after the September election, in December 2002. As the Central Co-ordination Unit and the steering committee had been heavily criticised, the government introduced some organisational changes. Instead of I. Mikloš, the deputy prime minister of economic policy, the new anti-corruption leader became Daniel Lipšic, the deputy prime minister of legislation. The Office for the Fight against Corruption at the Office of the Government started its activities in March 2003.

In May 2003, the government and the parliament adopted an Anti-Corruption Programme, in which activities are defined for particular ministries.

The government manifesto and Anti-Corruption Programme define many tasks for tackling corruption, in the area of prosecution as well as prevention. Some of them have since been adopted.

The government has not yet been able to fulfil all its pledges, for example, in terms of decreasing the immunity of MPs and broadening the competencies of the Supreme Audit

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<sup>7</sup> One of the more blatant examples of this was the appointment of Jaromír Košin as director of the State Fund for Market Regulation in 1999, despite the fact that all parties in the governing coalition were aware of indictments against him for embezzlement, fraud and other offences as a previous director of a private company. *Národná obroda*, 17 September 1999.

Office. The post-election anti-corruption activities of public bodies are losing their initial dynamism. The fight against corruption is complicated by the fact that in order to reduce corruption in key public sectors like education and health care, radical reforms are required, the fruit of which will be reaped over the mid-term. Delivering change in a short period of time in these public sectors is therefore extremely difficult. The public is also sceptical because the investigation and prosecution process - involving as it does police, prosecutors and judges - takes time. While many scandals have been exposed and publicly discussed by the media, few criminal sentences have been handed down by the courts. Political corruption in particular remains almost 'untouched' so far.

- ***Domestic political forces - opposition***

The political opposition is concentrated in the parliament. It can deal with the fight against corruption in two ways - directly or indirectly. It can do so directly by preparing anti-corruption laws and pursuing them in parliament, pressurising the government to conduct specific anti-corruption activities or conducting parliamentary inspections of relevant public institutions. It can also indirectly support the fight against corruption by voting for the anti-corruption laws prepared by the government.

#### *1998 - 2002*

The political opposition was not noticeably active in the anti-corruption arena during this period. Opposition MPs neither prepared nor pursued any anti-corruption laws. The opposition parties did not even support the changes in conflict of interest legislation submitted to the parliament.

#### *2002 - 2004*

The attitude of the political opposition changed during this period, at least formally.

In March 2003, the political opposition together with one of the coalition parties, ANO, called a special parliamentary session to discuss the anti-corruption agenda. The parliament asked the government to prepare laws dealing with, for example, lobbying, conflict of interest, MP immunity, financing of political parties. The government submitted the required report with defined tasks and related schedules and - as already stated in the section dealing with government - adopted the Anti-Corruption Programme.

Nevertheless, this parliamentary activity remained in a sense purely formal due to the fact that no real action was followed through by the parliament or opposition politicians in this

area. The MPs did not even support formally agreed measures such as a reduction in the scope of their immunity from prosecution for corruption-related offences. But at least they could publicly claim to be working on the fight against corruption. Since 2002, it has been rare to find opposition MPs developing anti-corruption laws.

On the other hand, corruption is a handy issue to use in political battles. This has helped keep this agenda alive in the political sphere. The political opposition could thus still become an important anti-corruption actor in the future.

- ***Domestic political forces - local politicians***

Decentralisation of public administration has brought with it many challenges, including the increased risk of decentralising corruption. Moreover, public pressure to adopt stricter anti-corruption measures is often resisted by municipality representatives, especially those united in the Association of Slovak Towns and Villages (ZMOS). They were, for example, active in lobbying against legislation that sought to regulate conflicts of interest on the part of local elected representatives, strengthen control mechanisms of local self-governments through the SAO and compel local elected representatives to provide information about, and enhance transparency in, the handling of funds at the level of local government. Therefore, local self-governments, insofar as they oppose changing the status quo, have proven to be a counter-reform element.

- ***Domestic forces - Slovak civil society***

The non-governmental sector in Slovakia has played, and continues to play, an important role in the development of anti-corruption policy. Since the 1998 elections, a major shift has taken place towards co-operation between civil society groups and public authorities.

There are two major orientations of NGOs in the anti-corruption area: think-tank activities (focused mainly on anti-corruption-related systemic changes) and watchdog activities (focused mainly on monitoring the implementation of relevant anti-corruption legislation, advocating for change and opening up corruption-related cases).

For example:

- NGO campaigns were instrumental in securing the adoption of the Freedom of Information Act in 1999, and have played an important part in lobbying for, and influencing, the Act on the Ombudsman, the Public Procurement Act and the Civil Service Act.

- The government's anti-corruption strategy was formulated on the basis of a proposal written by TI-Slovakia and the draft strategy was opened to input from civil society organisations.
- NGOs have played an active role in implementing the strategy. For example, the Institute for Economic and Social Reforms organised and led the Audit of Central State Administration carried out in 2000.
- The Stop Conflict of Interest Alliance was created by NGOs in 2001 to lobby for more effective conflict of interest legislation.<sup>8</sup> The new law dealing with conflict of interest was adopted in 2004.
- The Alliance was instrumental in the monitoring of political parties' finances in the 2002 parliamentary election.
- TI-Slovakia played a crucial role in the introduction of the anti-corruption agenda into the curricula of secondary schools.

As already mentioned above, NGOs also played a critical role in making the anti-corruption agenda one of the most discussed issues in the 2002 parliamentary elections.

Most of above mentioned interventions were made by NGOs based in the Slovak capital, Bratislava. To a certain extent, this reflects the public policy-making and administrative realities of Slovakia. However, as decentralisation is effected, more locally oriented NGOs will be needed to work on anti-corruption issues in their respective localities. Therefore, TI-Slovakia has initiated various activities to support the development of local watchdogs. Their involvement and sustainability is not certain yet. The other major challenge is the financial sustainability of anti-corruption NGOs, given the reduction in international aid provided to Slovakia for such purposes, the relatively low interest and involvement of the EU in this agenda, and the fact that almost no funds are provided by the Slovak government for the work of anti-corruption NGOs.

- ***Domestic forces - private sector***

Most corruption scandals in Slovakia and elsewhere occur at the point where the public and private sectors meet (i.e. public procurement, privatisation, licensing). The country's media have exposed a number of corruption scandals indicating the existence of 'clientelist' links between entrepreneurs, politicians, public administration bodies and even some members of the

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<sup>8</sup> [www.konfliktzaujmov.sk](http://www.konfliktzaujmov.sk).

media. Any corrupt transaction has a supply side and a demand side, regardless of whether it involves individual citizens or legal entities.<sup>9</sup>

Further possibilities for improvement thus also exist on the supply side of corruption; however, initiatives designed to tackle this aspect of corruption are still in their infancy. Entrepreneurs and business organisations are taking the first steps to organise themselves around this issue. It is possible that they can come to be important anti-corruption actors in the future.

- ***Domestic forces - the media***

During both Dzurinda governments, members of the media could be seen as active anti-corruption actors. They regularly expose corruption-related cases, discuss anti-corruption measures and challenge the government as well as the opposition on corruption-related issues.

- ***The international community - EU integration***

The prevalence of corruption in Slovakia was repeatedly criticised in annual evaluation reports by the European Commission. Throughout the accession process, this represented a serious obstacle to Slovakia's eventual entry to the EU. In its final complex evaluation of individual candidate countries released in November 2001, the Commission observed that corruption was a 'serious problem' or a 'cause for serious concern' in five of 10 candidate countries from Central and Eastern Europe, that is, Bulgaria, the Czech Republic, Poland, Romania and Slovakia.

The Commission's annual evaluations provided the necessary impetus for particular candidate countries to address corruption. Since most candidates considered the evaluations vital for their future EU ambitions, these reports encouraged the emergence of the political will to improve the existing status quo. By forcing the government to think about the issue, these reports played a crucial role in the process of adopting and implementing anti-corruption measures in Slovakia.

However, the EU's influence on the Slovak government's anti-corruption policies declined after Slovakia became a fully-fledged EU member. The EU does not champion any specific common policy in the field of anti-corruption. Consequently, it has no tools to require its member states to fulfil certain explicit anti-corruption standards. In other words, Slovakia's status changed from that of a pupil to that of a partner. And although the future process of adopting common European legislation may have a positive impact in terms of curbing the space for corruption in

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<sup>9</sup> In March 2003, TI-Slovakia, in co-operation with the FOCUS agency, conducted a survey among 100 top corporate officials, including owners, legal representatives or executives of legal business entities. One of the questions asked in the survey was 'Who is the most frequent instigator of corrupt practices?' Entrepreneurs seemed to admit their share of the blame, as 18 per cent of respondents said it was private firms or businesspeople. But even more entrepreneurs (34 per cent) stated that civil servants and clerks were the most

Slovakia's public sector, the Commission is no longer perceived as an important anti-corruption player in the country.

- ***International community - international organisations and bilateral help***

The Council of Europe, the OECD and the UN have developed various instruments to combat corruption in their member states. However, ratifying legal instruments and implementing them in practice is a long-term process. Among other things, these instruments can serve as valuable benchmarks for anti-corruption measures in countries embarking on an anti-corruption agenda.

As for bilateral help, it was certainly effective during the 1998 Dzurinda government in various ways, including by providing reform navigation and aid and discussing anti-corruption issues with the government. This role has been diluted since Slovakia became an EU member state and the role of the international community as an anti-corruption actor looks likely to decline even more in the near future.

### **3.c. Reforming dysfunctional institutions**

#### **Addressing political corruption**

Political corruption can be addressed through the adoption of preventive measures and through formal and informal sanctions against corruption-related behaviour.

The effectiveness of these mechanisms will be discussed under the following headings:

- Conflict of interest and asset monitoring;
- Immunity;
- Lobbying;
- Sanctions.

- ***Conflict of interest regulation and asset monitoring***

Until 1 October 2004, the main instrument for regulating both conflict of interest and asset declarations was the 1995 Act on Prevention of Conflict of Interest in Performance of Tasks of Constitutional Officials and High-Ranking Officials.<sup>10</sup> This Act lays down various duties and prohibits certain activities for high-ranking public functionaries. The law applies to around 230 officials.<sup>11</sup>

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frequent instigators of corruption. One in five entrepreneurs (22 per cent) believed corrupt practices were most commonly instigated by a third party, i.e. mediators or lawyers. According to 11 per cent of respondents, politicians were to blame.

<sup>10</sup> Constitutional Act No. 119/1995.

<sup>11</sup> Under this law, functionaries must submit annual declarations showing compliance with the above provisions restricting activities, any positions or functions held in addition to their official one, all incomes from such activities and any changes to these within 30 days of the change. They are also required to list assets and property, including any real estate and

Declarations are submitted to the chairman of the parliament, and may be checked by the parliamentary committee for incompatibility with public officials' functions. However, the committee does not have access to tax returns.

The law did not prove very effective in practice. It had too many loopholes, for one thing. For example, relatives of the officials covered by the law did not have any obligations to declare assets, while state companies and companies with state ownership were not covered. Moreover, declarations of assets and interests were not publicly available, which largely ruled out public scrutiny, although recently some MP's have decided to publish their own declarations. Although the parliament can vote to force an official who violates the Act to stop engaging in illegal practices, and even punish refusal to do so by removing him or her from office, these powers have never been used.

During the 1998 Dzurinda government, several attempts were made to adopt a new conflict of interest law. Despite public declarations, however, these attempts all failed. The main reason lay in the fact that the MPs themselves were in conflict of interest when adopting stricter rules in this area. The resistance was evident throughout the political spectrum. There was particularly strong resistance to the introduction of conflict of interest rules for local government officials. The main pro-reform oriented actors were NGOs, united in the Stop Conflict of Interests Alliance, and the media.

The 2002 Dzurinda government and the new parliament again addressed the issue of reforming conflict of interest rules in Slovakia. A steady stream of scandals provided a powerful impetus for change, and a number of civil society coalitions have emerged to campaign on the issue. After several failed attempts by the government to pass stronger conflict of interest legislation, TI-Slovakia initiated the formation of the Stop Conflict of Interest Alliance, an informal association of more than 240 NGOs who worked with Minister of Justice Daniel Lipsic to present a draft bill to the parliament in January 2004. Amendments to the draft bill by parliamentary committees led Lipsic to withdraw the bill in early 2004, but the initiative had generated the impetus for legal reform. Unsurprisingly, the bill eventually adopted by the parliament in May 2004 was much weaker than that presented by Lipsic and replicated some of the failings of the existing legislation both in terms of scope and implementation.

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moveable property with a value exceeding €34,850, and any gift accepted with a value exceeding the minimum monthly salary.

- ***Immunity***

Parliamentary immunity is generally regarded as excessive: MPs are immune from prosecution or pre-trial detention unless the parliament votes to lift immunity on the basis of a proposal of the Mandate and Immunity Committee.

During the 1998 Dzurinda government an attempt was made to decrease the scope of immunity. Proposals to narrow the scope of MPs' immunity formed part of the amendments to the constitution passed in 2000, but these were rejected. There has been no apparent progress on this issue under the government's Anti-Corruption Programme.

Under the 2002 Dzurinda government, there have so far been two attempts to deal with the problem of legislators' immunity. The first one, which was approved, was proposed by governing coalition MPs and was widely accepted in the parliament. This initiative actually broadens MPs' immunity. The second attempt, prepared by Lipsic with the aim of decreasing immunity, was not supported in the parliament.

- ***Lobbying***

The 1998 Dzurinda government adopted changes in policy-making, opening the process to the general public. Proposals on binding regulations (acts, government decrees, ordinances, rulings) as well as the most important documents approved by the government (strategies, concepts, decisions) must be published on the mover's web page as well as on the central web page of the government. Any natural or legal person is entitled to submit comments. For legislation, comments may be submitted within 15 working days; for other documents, a minimum period of 10 days is allowed during which comments may be submitted. These terms are not always upheld, however, especially when there is political pressure to speed up the process. Each comment must be dealt with by the mover, and the comment must be either accepted or an explanation in an appendix to the document must be provided as to why the comment was not accepted and incorporated. Should the comment be submitted by a major player (for example, a consumer association) or several hundred individuals represented by a single person, the mover is obliged to discuss the comment with them. If they fail to reach agreement, this must be mentioned in the document. The material may not be submitted to the government for discussion until all these steps are fulfilled. This procedure was introduced in 2001 and it is one of the most open systems of ex ante transparency in Europe. The system has been applied by non-

governmental players in all those areas where they are traditionally well organised, for example, in the field of the environment. In other fields, however, such as the field of water services, it has not been applied to any significant extent.

As a further step, the Central Co-ordination Unit prepared a draft Act on Regulation of Access of Interest Groups to the Decision-making and Legislative Process, based on the duty of all state bodies involved in the preparation of laws to publish proposed laws before they are approved. In addition, the Central Co-ordination Unit prepared a set of Principles for the Legal Regulation of Lobbying, aimed at defining lobbying, lobbyists and lobbied subjects, defining the rights and duties of lobbyists, and establishing sanctions for violations of these duties. Neither of these proposals has yet been adopted.

The 2002 Dzurinda term saw the parliament adopt similar rules for local government and thus open up the process of public policy-making at this level.

- ***Sanctions against corruption-related behaviour of politicians***

Sanctions against corruption can take various forms. Before 1998, no attempt was made to focus on this issue more closely. But the situation slowly started to change after 1998.

The 1998 government faced a lot of criticism from the media and NGOs for suspicious moves in the fields of public procurement, privatisation, financing of political parties and conflict of interest. No MP faced any formal sanction related to breaches of the 1995 Conflict of Interest Act during this term. Also, no politician was sentenced on corruption-related charges. But, for the first time, no less than four ministers facing allegations of unethical behaviour had to resign. They also received an informal sanction in the sense that not one of them was re-elected to the parliament in the 2002 parliamentary elections.

After the 2002 parliamentary election, one of the major anti-corruption issues to emerge was the reform of the institutions of control: the police, prosecution and courts. The perception of corruption in those institutions increased and they began to appear as one of the weakest links in the efforts to curb corruption. The parliament adopted a law establishing a special anti-corruption prosecutor and court. But the initiative was weakened by interest groups within the legislature, effectively limiting which public officials were to come under the ambit of the institution. The wording of the Act was also weakened so that it only applied to activities directly related to execution of a public official's job. In practice, this means that criminal acts committed by a public official

before or after his period in office remain under the purview of the general prosecutor. Concerns have also been raised over the office of the general prosecutor and its relationship to the office of the special prosecutor. The law provides that the special prosecutor is to be chosen by the parliament from a slate of candidates forwarded by the general prosecutor. The office of the general prosecutor was also strengthened by a provision to the effect that the prosecution of a member of the parliament by the special prosecutor required the consent of the general prosecutor as well as the parliament. Concerns over the role of the general prosecutor led to fierce political debate, particularly from the political party SMER, which objected to the possible misuse of the powers the law provides against parties that are not in the government coalition.

The special prosecutor's office started operating in September 2004, while the special court has yet to begin its operations. No politician has so far been sentenced on corruption-related charges, but there is already one corruption case before the court involving an opposition MP.

### **Reshaping and depoliticising the civil service**

Several changes were introduced in this area during the 1998 Dzurinda government. Until 1 April 2002, the civil service was regulated mainly by the Labour Code. Based on EU integration pressure as well as the results of the Audit of Central State Administration carried out in 2000, a new Civil Service Act was adopted and came into effect on 1 April 2002. The Act creates the framework for a merit-based career civil service. A Central Civil Service Office was formed to exercise overall supervision over compliance with the new Act, to ensure both fair and merit-based recruitment and to promote as well as supervise of the behaviour of civil servants and disciplinary proceedings. Under the Act, civil servants at all levels must be recruited by competitive selection open to everyone. The Act also contains strong anti-corruption instruments ranging from annual property declarations for each civil servant to a detailed list of proscribed behaviour in the Ethical Code issued under the Act. The results have so far lagged behind the legal provisions both as a result of the administrative weakness of the Civil Service Office and the unclear *de jure* and *de facto* boundaries between political and merit-based positions in the civil service.

During the 1998 government, the Free Access to Information Act was also adopted to bring more transparency into public sector processes. Its adoption was the result of an intensive public campaign run by NGOs and media. The main resistance to the implementation of the Act was experienced in local governments. Still, after more than three years of its

operation, the transparency of public administration had increased. There are still many grey areas that need to be clarified by precedents and court decisions, for example, establishing the dividing line between commercial secrets and public information. Several attempts have been made to amend the Act and restrict its scope, but these have met with strong opposition, especially from NGOs. The media has also strongly supported the existing scope of the Act.

Other measures were introduced after 1998 to increase the transparency of public administration in the areas of granting of licenses and subsidies.

Under the 2002 Dzurinda government, there have been several amendments to the Civil Service Act. The Act on Employment in the Public Interest attempts to depoliticise the public sector and covers employees of the local governments. The Act stipulates that recruitment to managerial positions shall be by competitive selection. It is also called the ‘ethical law’ as it defines basic duties for employees. As there has been no serious monitoring of its implementation, it is difficult to judge its real value so far.

Among other public-sector regulations adopted after 2002, it is important to mention the amendment of the Act on Administrative Procedures. The original wording dated from 1967 and had long ceased to be relevant to the needs of modern and transparent public administration. The amendment, for example, allows for increased access to information.

Another change that makes corrupt behaviour more risky is the amendment to the 1969 Act on Damages Caused by an Unlawful State Decision or Unlawful State Action, allowing citizens to claim compensation for damages incurred as a result of unreasonably lengthy proceedings.

### **Reforming the judiciary**

Perceptions of corruption in the Slovakia judiciary run high, and there is evidence to suggest that they are well-founded. The Slovak government has started to carry out important reforms to the legal framework for the judiciary, and is in the process of implementing important reforms in court organisation.

Since 1998, several steps have been taken to increase judicial independence. A new Judicial Code<sup>12</sup> was adopted in 2000, and the passage of the Act on the Judicial Council in

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<sup>12</sup> Act on Judges and Associate Judges, No. 385/2000.

April 2002 was expected to result in a functioning Judicial Council by the end of 2002. That Act was supported by the judges as it creates a self-governing structure for the judiciary, something judges had been advocating for a long time.

The Ministry of Justice has also introduced other important reforms in the organisation of court work, based on a pilot project in Banská Bystrica in 2000. The new system introduced principles such as automated allocation of judges, deadlines for carrying out certain acts, and the abolition of judicial offices and their replacement by assistants. According to government officials, the changes have reduced the average time taken to deal with a case file from 124 days to 51, as the average number of actions taken in relation to a file has fallen from six to two. Based on this experience, the random allocation of court cases is being implemented in other courts as well. The main resistance was recorded in the supreme court.

The 2001 Regular Report from the European Commission noted specifically that:

*The judiciary is not united in approaches to combat corruption. For instance, the attempts of some courts to monitor corruption have been criticised by a number of judges, including the President of the Supreme Court.*<sup>13</sup>

Under the constitution and Judicial Code, judges may not hold any other employment or function, with a few exceptions such as educational or scientific activity. In addition, since January 2001, judges have had to submit declarations of interest and asset declarations to the chairman of the judicial council and minister of justice within 30 days of taking office and by 31 March of every year. These declarations were not made publicly available at first and there was a much publicised case of a judge who refused to submit the declaration. The property declarations of judges started to be provided to the public by the Ministry of Justice in 2004.

After 2002, reform of the judiciary picked up even more momentum. The reform of law enforcement was one of the most discussed issues in the pre-election period and public opinion polls were very critical of the effectiveness of law enforcement in Slovakia. The public demand for change translated into implementation of reforms in the judiciary. As for the stricter anti-corruption measures, the main resistance to many proposed changes came from the judiciary, and the Judicial Council did not play an active role in fighting

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<sup>13</sup> European Commission, 2001 Regular Report.

corruption and improving the ethical standards of judges. Following the reforms, disciplinary proceedings can be initiated by the minister of justice or the chairman of a regional or district court. They have to be decided by a disciplinary court. This is an important change to the system previously in operation, under which disciplinary proceedings were solely in the hands of judges.

The expectations raised by the new disciplinary proceedings and the related introduction of higher standards of judges' behaviour by the Judicial Council have not yet been met, however. The council does not seem to be able to provide self-cleansing mechanisms in the profession. In general, judges have been quicker to organise themselves around remuneration issues than around fighting corruption in the judiciary. But public pressure is still intense. From the very beginning, the chairman of the supreme court had opposed many of the changes that have now been made. He was not re-elected to this position.

#### **Addressing corruption in the police**

The Slovak police falls under the responsibility of the Ministry of Interior. Although the 1998 Act on State Service for Police Corps Members specifies professional criteria for appointment to various positions in the police force, and the 1993 Police Act forbids police from being members of a political party or movement, senior police officials are replaced after every election.

One major barrier faced by the police when it comes to fighting corruption in general and in the police force itself after 1998 was the unwillingness of the public to report cases of corruption. According to a survey conducted by Focus in March 2002, only 17 per cent of respondents said they would in certain cases be willing to report cases of police corruption, and only four per cent would definitely do so. Eighteen per cent of respondents would not do so for fear of retaliation, while 15 per cent believed that doing so would not lead to any result.<sup>14</sup> Public trust in the police was obviously quite low.

A more radical reform of the police was therefore expected after the 2002 election. This reform and building of public trust in the police started to be seen within the broader context of better law enforcement. It became one of the most important political agendas of the current minister of the interior, Vladimir Palko. Special bodies and institutions have since been formed within the police structure to tackle corruption. Within the Ministry of the Interior, the Bureau of Control and Inspection is authorised to use special operative

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<sup>14</sup> Focus Marketing and Research, *Závěrečná správa* (Final Report), 2002.

measures to detect criminal activity in the police. 'Agent provocateurs' are used as well. Public trust in police work has increased and they have started to bring more corruption-related cases to court.

### **The role of codes of conduct and ethics education**

The 2000 Civil Service Act required the development of a Code of Ethics. Therefore, the Central Office for the Civil Service developed A Code of Ethics for Employees of the State Administration in 2002. Some civil servants' duties are dealt with directly in the Civil Service Act, too. The initiative for a Code of Ethics did not come from the bottom, however. It is, rather, perceived as a measure defined by the Central Office for the Civil Service that has yet to take root in the state administration. One of the reasons lies in the minimal attention paid to the ethical infrastructure by the Central Office for the Civil Service. For example, no ethical education of civil servants has been done on a large scale. Therefore, the overall approach to this Code of Ethics is quite formalistic.

As for local government employees, their duties are covered by the Act on Employment in the Public Interest (as mentioned above). This Act is also called the 'ethical law' as it defines basic duties for related employees. As there has been no serious monitoring of its implementation, it is difficult to judge its real value so far. For example, only a few local self-governments voluntarily adopted the Ethics Code for their employees or elected representatives. Even then, whether it is legally binding can be challenged and the code appears to have a declarative rather than effective purpose. Ethics education is also minimal at the local government level. Ethics is not seen as an integral part of office and personnel management at either state or municipal level.

### **The salaries question**

The level of remuneration of public officials has not been seen as a key problem in Slovakia with the exception of central institutions, tax administration and the structure of remuneration for police.

The level of public salaries, while often complained about, is in line with private sector remuneration and the public sector wage bill has been quite substantial compared to GDP. The pay structure tended to be highly compressed and uncompetitive for more senior officials, however, especially those serving in central institutions in Bratislava. While the 1998 Dzurinda government did very little about this issue, the 2002 government reformed

the pay system for civil servants to decompress it and make it more competitive with the private sector.

The overall level of police remuneration is quite high, but much of it comes in the form of payments not incorporated into the basic salary or in overly generous pension provisions. There have been repeated, but so far unsuccessful, attempts to reform the pay structure to emphasise the competitiveness of the basic salary.

The remuneration levels of the tax administration have, however, been inadequate given the set of skills required and compared to the private sector. This problem is being remedied during the 2004-2005 period by increasing salary levels, especially for specialists, at the expense of restructuring the tax and customs administrations following the country's entry into the EU.

### **3.d. Financing reform**

- ***Improving financial control mechanisms***

The 1998 Dzurinda government adopted the Financial Control and Internal Audit Act in 2001 as a part of its EU entry pledges and it also focused on introduction of the treasury system to improve monitoring of financial flows in the public sector. Utilisation of these mechanisms has been slow, however, and has only begun picking up pace since 2004, when the treasury system actually started to operate for most of the Slovak public sector, since the entry into the EU on 1 May 2004 required a functioning financial control and internal audit system as opposed to just passing a law. Nonetheless, this is one of the areas where the EU accession has been most beneficial in anti-corruption efforts.

- ***Procurement***

The first Public Procurement Act in Slovakia was adopted in 1993. Market and public sector developments in Slovakia and EU integration were the main driving factors, and also explain the fact that the law has since been changed several times. The current legal public procurement framework is in line with the standard public procurement systems used in other EU countries. Among other things, it defines basic public procurement methods. The Public Procurement Office has been established to maintain oversight over the system, objections can be submitted and dealt with by the Public Procurement Office, professional procurers have to organise procurement and greater transparency through different tools has been introduced.

Pressure to 'standardise' the public procurement system has come from both domestic and international circles. Public procurement is widely discussed in the media (especially procurement-related scandals) and it has been studied for several years by various NGOs, which have come up with a range of proposals on what needs to be changed. The main influential international actor has been the EU and the integration process.

Currently, the main challenge does not necessarily lie in pursuing formal legal changes. Rather, the challenge resides in the implementation of the existing legal framework in the everyday life of public bodies. And that cannot be done in one or two years.

### **3.e. Dealing with the past**

- ***The question of amnesties***

Slovakia has a system of amnesties related to criminal offences. According to the Slovak constitution, the power to grant this kind of amnesty lies with the president. In general, amnesties are announced when a new president takes office. An amnesty is also valid when signed by the prime minister or a minister designated by the prime minister.

There was perceived political abuse of this system by Mečiar, who for a certain time held a dual position - prime minister as well as president. Upon assuming presidential power, he granted amnesties in the sensational kidnapping case of the son of the former president, consequently preventing some suspected persons from being investigated for this crime.

This institution has not yet been publicly discussed in relation to corruption-related offences.

- ***Truth, justice and reconciliation***

Several cases of corruption relating to privatisations approved by the Mečiar government were exposed and publicly discussed during the 1998 Dzurinda government. No privatisation official or beneficiary has been sent to prison so far, however, although some cases are still pending in the courts. Some companies voluntarily agreed to pay additional money for privatised property and several privatisations have been cancelled. This happened especially because the 1998 Dzurinda government promised to look into privatisation cases and its 1998 election rhetoric was based on making changes in this area.

- ***The question of contract cancellations***

The issue of contract cancellation in case of corrupt behaviour was raised several times in the context of amending the Public Procurement Act. However, as this provision is not part of EU public procurement directives, it is very hard to pursue this kind of change.

Some other aspects are worth mentioning here. The Public Procurement Office approves the list of companies that can participate in public procurement process. If they are convinced of corrupt activities by companies, those companies are to be erased from the list and thus excluded from receiving public contracts. This blacklisting mechanism is hampered by the fact that it is very hard to get evidence of corrupt behaviour, and so far there has been no case of excluding a company from the public procurement process in Slovakia.

#### **4. Summary**

##### **4.a. Overall outcomes and current status**

- ***Major reforms achieved, but has there been a significant drop in corruption?***

The issue of corruption is not longer taboo in Slovak society. It is a publicly discussed topic that attracts the attention of NGOs, media and politicians. Relevant actors conduct anti-corruption activities with varying degrees of success.

Since 1998, the Slovak government has declared the fight against corruption one of its priorities. The aim of anti-corruption policies is to curb corruption in the various parts of the public sector. Therefore, the tools chosen by the government have taken two forms.

- Relatively big structural and systemic changes in particular segments of the Slovak public sector, for example, in the judiciary, management of public finances and public administration. It is expected that these reforms will have also anti-corruption effects.
- The adoption of special anti-corruption programmes (1998 Dzurinda government in 2000 and 2002 Dzurinda government in 2003).

How are those efforts reflected in practice? Have these reforms and programmes borne any tangible anti-corruption fruit for the citizenry? Let us look at some indicators of the scale of corruption, such as the number of cases investigated by the police and the number of people sentenced in relation to the corruption-related criminal offences. The following table provides this information for the past few years:

**Table 3: Corruption developments in recent years in Slovakia**

Year	Investigations	Indictments	Sentences
2001	83	78	51
2002	139	118	57
2003	147	95	49
Till the end of June 2004	134	95	29

Source:

Sentence: Office of the Attorney General of the SR

Investigated and indicted criminal acts: Ministry of Interior of the SR

The first impression is that corruption has increased because more cases are uncovered by the police. We suggest, however, that this instead reflects a better institutional framework for dealing with corruption cases, higher transparency that allows for disclosing them and higher awareness that demands the penalisation of this kind of behaviour. The situation, as seen from the table, is far from ideal. That is demonstrated, for example, by the fact that criminal proceedings take quite a long time to move from police investigation to prosecution and then to sentencing. The number of sentences is lower than the cases prosecuted and indicted. This may also reflect existing corruption in these institutions.

A second indicator is the perception of corruption as reflected by public polls and surveys. In general, according to public polls in 2003, 24 per cent of citizens considered corruption to be a serious problem, whereas in 2004 this figure was 18 per cent. In 2004, corruption was considered to be the fourth biggest problem in Slovak society after living standards, unemployment and health care.<sup>15</sup> When comparing the results from surveys prepared by the agency Focus for TI-Slovakia in 1999, 2002 and 2004, the following three trends can be identified:

- the perception of corruption has not been significantly changed in the area of health care,<sup>16</sup> judiciary, ministries, etc;
- the number of respondents who perceive corruption to be very widespread increased slightly in the area of local government (from 25 per cent in 2002 to 28 per cent in 2004); and

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<sup>15</sup> *Daily SME*, 26 June 2004.

- the decrease in perceptions of corruption is the most significant in the work of the police (from 50 per cent in 1999 and 55 per cent in 2002 to 43 per cent in 2004). A slight decrease is also seen in the case of customs (from 42 per cent in 1999/2002 to 39 per cent in 2004) and education (from 38 per cent in 1999 and 41 per cent in 2002 to 35 per cent in 2004).

There are several explanations for these trends. Many reforms have not been fully implemented yet, including judiciary reform. Meanwhile, the public policies adopted face various challenges in the implementation process. For example, in the judiciary, the failure is of the Judicial Council where independence does not mean irresponsibility. Some reforms are still being discussed and adopted by the parliament, for instance in the health care system. Therefore, expecting immediate change when deep structural reforms are effected is unrealistic. Increasing decentralisation of corruption is related to the ongoing decentralisation of public power and finances to the local level without introducing sufficient anti-corruption safeguards.

There are also very positive examples that prove that it is worthwhile to finalise reforms and pursue their implementation. One example is the reform of the banking sector by the 1998 Dzurinda government. The perceived corruption in this area moved from 29 per cent in 1999 to 18 per cent in 2004. Therefore, it seems to be crucial not to stop half way in the process of conducting structural reforms.

As for the current anti-corruption government programme, not all of its pledges have been adopted yet. In addition, the anti-corruption programme is not updated to reflect new challenges and the changing situation in the Slovak public sector. On the other hand, the measures that have been approved so far are of relevance and can help in making corrupt practices riskier in the Slovak public sector.

- ***Main obstacles and main opponents to the anti-corruption reform***

In general, as stated above, corruption is a publicly discussed issue and the public is demanding change. Therefore, no political party can publicly reject the anti-corruption agenda. But looking deeper at real practices, one can draw several conclusions.

First, deep structural reforms are an important element to curbing corruption in transition economies. To effect them requires political will and to a certain extent political stability.

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<sup>16</sup> For several years, health care has figured in the category of public institutions perceived as highly corrupt: 66 per cent of citizens think that corruption in this area is very widespread.

If the governing coalition does not possess the relevant majority in the parliament, the government becomes, to a certain extent, powerless and anti-corruption declarations face the risk of staying on paper. That is one of the obstacles Slovak reforms face. Even MPs from the governing coalition do not necessarily support all structural reforms and explicit anti-corruption changes. The declared political will of the government is not always reflected in practice in the parliament, especially when dealing with issues of MPs' personal interests. As the director of the office, Jan Hrubala, told the *Daily SME*: 'People perceive the situation negatively when politicians do not make stricter the acts that govern their own behaviour.'<sup>17</sup>

Second, another group of partial opponents comes from the camp of representatives of local governments.

Third, failure to deal with corruption and perceptible lack of interest in combating it can be found also among the self-regulating professional associations, including judges, notaries, attorneys, and university teachers. The trade unions are highly politicised and are reluctant to undertake any anti-corruption activities.

Finally, various scandals are discussed in the media without prompting quick feedback and related sanctions. This is especially so in the areas of public procurement and political clientelism in the selection of political nominees for various professional public positions. The public therefore becomes pessimistic about the existence of real will in the government to fight corruption.

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- ***Main success factors and reform drivers***

There are four key factors that have driven anti-corruption reforms over the past four years. The first is strong and sustained public pressure. The public has consistently rated corruption as one of its key preoccupations in all opinion polls and continued to reward (in polls) politicians who are seen as corruption fighters. In the vigorous and dynamic Slovak democracy, this has been crucial in keeping the interest of the political elite focused on the issue and in the emergence of senior political figures who base their credibility on their anti-corruption efforts.

The second factor of success is the overall environment of rapid reforms on all fronts in Slovakia since 1998. This environment is important for two reasons. First of all, it contributes to the overall feeling that when change is possible in so many areas, it should be also possible to do something about corruption. More importantly, deep structural

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<sup>17</sup> *Daily SME*, 26 June 2004.

reforms of key elements of the public sector have made it possible to remove or diminish, at low political cost, some of the structural underpinnings of corruption.

Thirdly, anti-corruption pressure groups, particularly NGOs, have been well-researched, well-organised, articulate and media-savvy, thus making a vital contribution both to continuing political and public interest in the issue and to providing recipes for specific action.

Last but not least, the preparations for EU membership have helped in many areas both through infusion of know-how (for example, in financial control and audit mechanisms) as well as in the creation of pressure for change (for example, in the passage of the Civil Service Act).

#### **4.b. Current challenges**

The fight against corruption has its own peculiar dynamics. Improvement in one field can bring new corruption-related challenges in other public sector fields.

Many areas of public life are undergoing reform processes and one can expect a better anti-corruption equilibrium to be achieved with time. So-called petty corruption in health care, in education and the everyday operations of public administration may decrease in a few years. As seen also from the situation in older EU member states or other OECD countries, however, so-called grand corruption (especially political) is much harder to curb.

The face of the public sector is changing as public services are increasingly delivered by state firms in the legal form of shareholding companies or in partnership with private companies (so-called PPPs or public-private partnerships). The challenge is to make those companies and partnerships more publicly accountable (they enjoy much lower accountability in other OECD countries also).

The other challenge is related to a perceived increase in the 'decentralisation of corruption'. The mainstream media pay much more attention to what is done at the central level and for a long time municipal activities have been out of the public focus. Although there are several exceptions, the local media are usually in the hands of municipalities. Increasingly, municipalities are becoming important public actors in Slovak public life and the challenge of monitoring them is also increasing. Several attempts are underway to form networks of local watchdogs, and many civil society leaders have expressed their interest in becoming involved in such activities. But the requisite finances are not yet in place to help them to establish themselves.

This is related to the challenge of the decrease in financing for anti-corruption activities of NGOs in general. Once Slovakia became an EU member, the majority of the donors financing such activities left the country. Domestic financing sources are almost nonexistent. And if the NGOs want to maintain their watchdog status and necessary independence from the government in order to perform anti-corruption monitoring and other relevant activities, government funds are hardly an appropriate replacement for the support provided by the departed donors.

#### **4.c. Evaluation and lessons learnt**

The Slovak experience of 1998-2004 shows that sustained effort can bring about significant improvements in corruption if it is linked with overall reform of the economy and governance structures. Such efforts need to maintain a careful balance between rooting out structural causes of corruption and vigorous pursuit of corrupt individuals by law enforcement agencies, however. In Slovakia, the period 1998-2002 has seen extensive activity on the structural reform front, but public perceptions have not reflected this. On the other hand, since 2002, when the law-enforcement angle has been more pronounced, trust among the public that 'something is happening on the corruption front' is higher.

The second lesson of the Slovak experience is that reform can rarely be expected to be an inside job. Even if there are politicians who place emphasis on fighting corruption, they need strong external allies if they are to overcome the obstacles in their path. Therefore, the coalition of the media and the NGOs that keeps the spotlight on corruption is essential to preserve public attention and support.

The third lesson is that the politics of anti-corruption is among the most complex of all. Since measurement of actual corruption is extremely difficult and even perception indices are strongly influenced by the level of public information and interest, there are strong incentives for any government to deal with symptoms rather than with root causes. Thus, a spotlight on corruption is likely to be damaging to the public trust even if it is accompanied by increased vigour in the government action and actual results. Additionally, the difficulty of measurement and the moral aspect of the problem make for symbolic rather than systematic politics, again creating incentives to focus on a few high-profile arrests rather than detailed day-to-day structural work.

Last but not least, again because of the difficulty of measurement and the strong moral angle, there is a thin line between detailed scrutiny and disillusion that NGOs, media and

other publicly active institutions in discussing corruption must be constantly aware of. If the media and activists give the same level of public criticism and attention to minor infractions and questionable practices as to major scandals, they risk confusion among the electorate, fostering feelings that ‘they are all the same’ and ‘nothing changes’.

#### **4.d. Recommendations**

Based on the Slovak experience from the anti-corruption efforts of the past six years, several basic recommendations can be made.

- There are only limited funds available to be used in the fight against corruption in both government and non-governmental sectors. Therefore, it is recommended that anti-corruption players carefully rethink which reforms should be financed to decrease corruption in a particular country.
- Outside actors, such as the media and NGOs, need to be vigorous in their scrutiny, but careful about giving a clear impression to the public about the relative importance of various issues, scandals and problems in order to enable the public to distinguish between the level and extent of corruption under various governments and the actual commitment to fighting corruption among various parties and politicians.
- The political will to focus attention on this agenda can be fostered by clear and professionally based advocacy by NGOs and the media. It is recommended that NGOs involve relevant experts to come up with constructive recommendations on what should be done to decrease corruption and advocate for these changes. The same applies for the governmental side: it must form highly professional teams that are able to develop and pursue the anti-corruption agenda.
- In transition countries, the fight against corruption cannot be based only on increasing the powers to investigate and prosecute corrupt behaviour. Preventive measures, consisting of both systemic reforms that may only have an impact in the medium to long-term and short-term preventive measures, are crucial as well. Special institutions like agent provocateurs can be used in special cases, but the main principle is to reform specific areas of the public sector in such a way as to decrease incentives for corruption.