

Good Governance in Local Government
by
**Transparency International Slovakia and Slovak Governance
Institute**

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INTRODUCTION

Slovakia, as a relatively new democracy, has undergone complete political, economic, and social transition over the past twenty years. In Western Europe change of such magnitude did not happen simultaneously over such a short period of time. Therefore, it should come as no surprise that Slovakia and many other new EU member states still face serious challenges in the evolution of good governance practices at both the national and local levels of government. Although democratic governance is too often taken for granted in Eastern Europe, its adoption has been a slow and gradual process. Its importance for the well-being of citizens and democratic society is crucial.

Democratic governance can be defined as “a system in which citizens participate in government planning and decision-making, while those in office respond to citizen needs with accountability and transparency” (IRI 2012). If such a system functions well, not only do citizens receive the services that their government is supposed to provide, they also tend to trust in their elected officials and in their government more. In the end, such a system is achievable when government and its institutions are accessible, responsible, effective, efficient, equitable, inclusive, responsive and transparent. If citizens are able to engage in decision making processes in a meaningful and inclusive way, and if government operates in a transparent and accountable manner, confidence in democracy as a system of government increases. When a government enjoys a high level of confidence on the part of its citizenry, it is more likely to experience stability and prosperity over the long term.

The main goal of the present study is to identify these challenges to national and local governance and civil society, suggest feasible and effective recommendations on how these challenges can be addressed, and demonstrate that childhood diseases of new democracies, such as secrecy, corruption, cronyism, or any other manifestation of unethical behaviour can be dealt with, and that governments can deliver its citizens professional, client-oriented and transparent services reflecting their needs. This study also aims at identifying best practice examples of civic engagement in local government which catalysed positive changes in governance practices, and identifying conditions under which these successes can be replicated in municipalities throughout the region.

The study focuses on transparency mechanisms across a diverse set of policy areas. One of the chapters discusses the right to access publicly held information and freedom of information act issues in Slovakia, identifies the most serious drawbacks in complying with freedom of information legislation in terms of time limits, extent of information disclosure, reasons for non-disclosure or personal data protection, and suggests measures, which governments should adopt if they want to build an image of open, transparent and responsive government. Free access to information, or rather proactive information disclosure, is a common denominator in many of our transparency mechanisms case studies and policy recommendations. In the chapter discussing public administration recruitment policy the open contest method, including open call for available positions, advance advertisement and notification, and setting appropriate selection criteria is assessed as the most suitable and transparent method of hiring public servants. This chapter also assesses best practice examples of municipalities, where open contest recruitment policy was introduced, and demonstrates the commensurate political benefits for the municipality and its leadership. The chapter on public subsidies focuses on information disclosure, in addition to other important areas, as on important aspect of reducing mismanagement or corruption while operating public subsidy or grant programs. The chapter provides detailed recommendations on how to run good subsidy programs at the municipal government level.

The study discusses in some detail the many contributions of ICTs in enhancing transparency and the development of more “citizen-focused” public administration. While, one chapter contrasts e-government service provisions of different municipalities and describes how and under what conditions municipalities can benefit profit from the adoption of e-government services, two chapters focus on the administration of concrete e-government services; online budgeting, and e-procurement.

Our chapter on online budgeting describes detailed preconditions necessary for rendering budgets comprehensible to citizens, and essential measures to ensure transparent and efficient public spending. The chapter on e-procurement compares the traditional method of public procurement with electronic auctions, and explains the benefits of the latter offering concrete examples from Slovak municipalities which have successfully introduced e-auctions.

Finally, this study briefly summarizes the key recommendations and best practices identified in each chapter in an effort to develop a framework to address challenges to national, local governance, and civil society across the region.

EXECUTIVE SUMMARY

The experience of many Eastern European countries shows that anticorruption policies are not only effective, but also make for good politics. This publication focuses on case studies of such policies implemented at the municipal level in the Slovak Republic. The following are the major lessons and recommendations that can be derived from studying these examples.

Transparency is one of the most effective methods for preventing corruption. Officials tend to care much more about the ethics and quality of their work if their results can be seen by the general public. Moreover, the introduction of transparency mechanisms has been made much easier and is less expensive now with the advent of the internet age. Uploading information about budgets, public contracts, hiring decisions or public procurement online advances internal institutional control over government officials, and boosts external control and oversight by Civil Society Organizations (CSOs), private sector experts, and the public at large. While governments certainly need to be sensitive to issues such as personal data and trade secret protection, it is advisable for local administrations to pro-actively publish as much information as possible on municipal websites.

Promoting competition for public resources increases the potential for higher quality services thus and enhances hence public satisfaction with municipal government. This is true in procurement, public subsidy or grant competition, and recruitment of public employees. Greater competition also lowers the risk of inappropriate political influence in the allocation of public resources. An important consideration in increasing competition in municipal contracting is to avoid prescribing overly strict and unnecessarily detailed procurement criteria to avoid discourage potential competitors. It is also important to disseminate information about job openings and requests for proposals widely. Furthermore, competitors will be attracted if the selection process is generally perceived as being fair. The use of electronic auctions in public procurement is a valuable tool to assure a level playing field.

Finally, promoting public participation in the local public policy dialogue enables municipal leadership to better identify the best policy options for a community and bridges the gap between the public and their elected representatives in the decision-making process. The public can be engaged in public discussions if local governments take measures to provide citizens with current information about public issues and create channels for participation and feedback such as participatory budgeting, online complaint mechanisms, and open and accessible municipal council sessions.

While political success depends on many factors, the following chapters suggest that transparency reforms can play an important role. Politicians in numerous municipalities throughout Eastern Europe won elections by offering innovative anti-corruption reform policies during their campaigns, and later won re-election by introducing their ideas. It is clear that there is a substantial public demand for politicians and parties which advance clear transparency and reform agendas.

It is important for these politicians to demonstrate that their reforms work. This is often easier said than done, because saying that there is less corruption is much less persuasive than by unveiling a newly-built bridge or highway, even if it is significantly over-priced. Therefore, it is important for elected officials to devote significant energy to highlighting successes such as government cost savings and the benefits associated with increased competition in public procurement. It is also advisable for local political leadership to tie anticorruption policies such as e-government to other more direct benefits, such as more convenient public access to government services.

Freedom of Information --

Ensure public servants responsible for responding to Freedom of Information Act (FOIA) applications receive adequate training. CSO monitoring of FOIA implementation by municipalities discovered serious inaccuracies on the part of public servants, such as non-compliance with time limits, misapplication of exemptions from disclosure, violation of personal data protection, and inconsistencies in notifying applicants when information requests are denied. To avoid or at least mitigate these inaccuracies we recommend that Mayors ensure that each public servant responsible for handling FOIA requests completes a training course led by a qualified lawyer to become familiarized with the duties and responsibilities associated with FOIA, and to make sure they understand and respect the fundamental FOIA assumptions of government openness and transparency.

Set internal mechanisms for tracking and rules for registering information requests. CSO monitoring demonstrated that if information requests are registered only in paper form, they may easily be lost. Therefore, we recommend that Mayors develop rules for registering FOIA requests in the municipality, and that municipalities register FOIA requests electronically, ideally in a spread sheet or another similar form that enables basic mathematical and statistical operation. We also recommend that municipalities register information beyond that which is formally required under FOIA, particularly the basic statistics on FOIA implementation.

Publish statistics on FOIA implementation on the municipality's website. We recommend that municipal governments publish basic statistics on FOIA implementation on a municipality's website to inform citizens about FOIA performance and compliance.

Publish information pro-actively, and publish all information that has been disclosed. Interviews with public servants responsible for FOIA compliance expressed concern about administrative burden resulting from duplicate requests submitted to the municipality. This shortcoming is easily eliminated by publishing all FOIA responses on an on-going basis. Therefore, we recommend that municipalities publish all disclosed information on municipal websites in a well-organized and searchable database. Such a public archive will prevent the submission of identical requests and reduce administrative burden. Municipalities should publish public interest information proactively, without being asked for it formally through FOIA requests.

Establish indexes of the information held by your municipality. Municipalities sometimes refuse to release information stating that the requested information is not held by or was not available to the municipality. This is a dubious explanation for refusal since it is impossible for an applicant to evaluate when a public authority does indeed not hold the information, or in fact holds it, but does not wish to disclose it. Therefore, we recommend that municipal administration establish indexes of information held by the municipality as a helpful tool for citizens to assess what information they have an opportunity to secure, and for public servants to retrieve the information quickly, or to identify requested data as "not held."

Instruct public servants not to use overly legalistic language. Taking into consideration that FOIA is a tool available to all citizens, whose age, educational, and occupational background may vary enormously, Mayors should instruct public servants responsible for FOIA compliance not to use

overly legalistic language, and in the case of refusals to use clearly formulated justifications, as opposed to quoting relevant but complex legislation.

Respond with a clear written decision complying with all legal requirements in the event a FOIA request is refused even partially. Municipalities frequently do not issue written decisions in instances when a FOIA request was refused partially. Therefore, we recommend that Mayors strictly instruct public officials to issue written decisions in any case of non-disclosure, as these decisions (if they adhere to legal requirements) provide applicants with a clear explanation of why their request was refused and instructions on how to proceed with an appeal.

Make it easy for applicants to submit FOIA requests by utilizing ICTs. To demonstrate openness and transparency it is important to remove technical obstacles to the FOIA application process and to make it as easy as possible for citizens to submit requests utilizing ICTs. Therefore, we recommend that municipalities utilize user friendly interactive forms on municipal websites that applicants can easily use to submit FOIA requests.

Enable CSOs to monitor FOIA implementation in your municipality. Mayors should cooperate with CSOs and local media interested in monitoring FOIA implementation in their city or town. CSO oversight will encourage public officials to improve their performance and provide higher quality services for citizens.

Civil Society Engagement --

For Mayors:

Ensure that each public servant responsible for external communication completes a training course on citizen outreach. We recommend introducing constituent relations training for public servants who are responsible for external communication on how to pro-actively engage citizens in the life of the municipality; how to encourage and increase public awareness of policy issues impacting the municipality, how to increase citizen participation in governmental processes, and how to create, develop, and promote a constructive public dialogue on local policy issues. Such training will improve the overall communication and cooperation between the municipality and its citizens and strengthen their relationship.

Cooperate with local CSOs. Mutual cooperation between municipalities and local CSOs increases strengthens the social and political fabric of a community as it leads to more transparent governance. Therefore, we recommend that Mayors proactively participate in CSO projects, such as Odkazprestarostu.sk, which enables more effective and transparent communication with citizens. While participating in CSO projects Mayors should communicate in an open and friendly manner, be clear and concrete, and address citizen complaints and comments in an expeditious and responsive manner. We also recommend that Mayors establish a CSO forum, providing an opportunity for local CSOs to present their positions on local issues and provide suggestions directly to the Mayor and other locally elected officials.

Appreciate and reward good examples of civic engagement. To encourage civic engagement it is imperative to acknowledge that citizen participation is desired and appreciated. In instances where individuals have demonstrated exemplary civic leadership, do not hesitate to reward them and to publically acknowledge their achievements. Organize an independent jury consisting of respected public figures to nominate and select winners. It is also important to promote local volunteerism.

Publicize examples of exemplary cooperation among CSOs and citizens, but do not forget to apologize for failures. If you want citizens to engage in community projects such as Odkazprestarostu.sk, Mayors should demonstrate that public engagement has the potential to bring

positive change. Citizens need to know that if they speak out, their voices will be heard. Therefore, publicize examples of good cooperation with citizens and CSOs. Conversely, if a municipality should fail in fulfilling some of its duties, never try to cover it up, but rather take responsibility, admit the shortcoming, and describe what steps will be taken to remedy the situation.

Use ICTs and new media to engage with your constituents. ICTs and new media are great tools for reaching a wider range of citizens. We recommend that Mayors interact with citizens on available social networking sites depending on which sites have the largest number of users in a municipality, and to use these sites as official information channels informing citizens about news happening in the municipality, and posting videos of public events.

For CSOs:

Suggest specific opportunities for mutual cooperation with municipalities. Demand opportunities for engagement from the municipality, and encourage citizens to approach their municipalities as well.

Collect and analyse data on civic engagement. If there is no data on civic engagement available or partial data only, it is very difficult to evaluate why a particular trend in civil society occurs at a particular point in time, and it is impossible to identify the reasons why some CSOs campaigns are successful and others not. Therefore, to establish best practice examples, it is important to collect and analyse data on civic engagement in its different forms.

Serve as a government and fiscal watchdog. Provide watchdog activities – monitor local government actions to ensure that policies reflect public concerns, are implemented appropriately, and have the desired public outcome. Encourage regular attendance of citizens at town hall meetings. Encourage citizens to interact with elected officials and raise public awareness of important local issues using traditional tools, such as local print and broadcast media, and non-traditional tools, such as social networking sites and web portals.

Establish a code of ethics. To avoid unethical behaviour among CSOs, ethical codes of conduct should be developed and committed to in order to ensure transparency and accountability. These codes should describe fundamental ethical standards and procedures in relation to a CSOs operation, particularly in regard to financial and human resource management.

E-Government Services --

Provide quality information and 24/7 convenience. If the information provided by municipalities is out dated or the service breaks up frequently, citizens may be reluctant to adopt e-government services, and may abandon them if they are already users after experiencing such hurdles.

Keep minimum accessibility standards. Ensure that the quality of the information provided meets user needs, and that citizens with disabilities and non-native speakers are not left behind.

Make use of e-government services as easy as possible. If citizens spend more time searching for information than benefitting from it, or if they are required to fill out and provide duplicate personal or identification data forms, or use electronic signatures for each transaction, they will most likely abandon the use of such e-government services.

Engage Citizens. Develop participatory features such as discussion forums, city blog space, on-line complaint systems, on-line surveys/polls, and online petitions that will provide citizens an interesting opportunity to remain engaged in municipal life.

Municipal Budgeting --

All of the proposed tools and recommendations deliver results only when used by citizens and civil society. Design for both formal and informal consultation, and use during open public meetings.

Budgets – Circulate budget proposals, final year-end accounts and amendments widely, especially on the internet, before they are voted upon, and create mechanisms for citizens to submit comments. Write budget proposals, final year-end accounts and amendments in clear, non-specialized language. Visualize budgets online to provide citizens a better understanding of their structure.

Contracts – Design for online contract publication in internal processes and directives, and publish contracts, incoming invoices and outgoing orders online. Publish old contracts as well. Do not underestimate the importance of technical details, collect and publish all relevant metadata, using searchable files. Utilize an accessible web design, a user friendly internet contracting portal; provide interactive tools for questions and feedback, and use collected and publicly available data as a benchmark to optimize procurement. Provide training for staff as needed.

Public Grants --

Be specific about the desired public objectives of welfare and grant programs. Include public and civil society organizations when designing and monitoring programs. Conduct public consultations in defining both long-term and short-term objectives, and encourage public participation in meetings where grant or subsidy programs are discussed. Issue Requests for Proposals and encourage competition. Develop solid evaluation criteria, including an explanation of their weight in the decision making formula. Assure that the process is as accessible as possible through open public sessions, and consider expert participation. Prevent potential conflicts of interest, and assure the process is as accountable as possible by publishing all documents in one place, including lists of funded and non-funded proposals and their scores. Publicize lists of selection committee membership, and implementation reports and accounts, and periodically assess, evaluate and innovate your grant programs.

General awareness and publicity. Inform the public on the availability of grants and subsidies widely via municipal websites and local media. Encourage public attendance of both citizens and CSOs in all municipal meetings where decisions on public transfers are being made.

Soliciting bids. Issue Requests for Proposals (RFPs) with all relevant information including bid structure, amount of support provided, budget structure, requested activities, expected outcomes, and reporting requirements. Pro-actively inform all stakeholders on upcoming RFPs and deadlines providing sufficient time to apply (social services should be evaluated on a rolling basis). Prevent mistakes by listing Frequently Asked Questions and application check-lists. Failure to meet minor application requirements should not be used as a reason to disqualify bids.

Selecting the best bids. Evaluate bids according to the specific criteria published in RFPs, and ensure the process is as open as possible by holding public sessions. Distribute all relevant documentation widely.

Evaluation. Require implementation reports that demonstrate how the declared public objectives were met and how. Require measurable indicators, and visual illustration to share with the public. Publish evaluation reports online so that anyone interested can inspect them.

Evaluate and innovate regularly. Did the project realize the intended public good? Are there any other activities that should be given higher priority in the upcoming period?

Be accountable. Publish all regulations, RFPs and notices of meetings in one place. Publish full lists of applicants, both successful and unsuccessful, including name applicant, project description, evaluation in individual categories, amount requested, and amount provided. An example from Slovakia can be seen at <http://www.region-bsk.sk/clanok/rok-2011-218809.aspx>, however please note the missing information such as project description, requested amount, and unsuccessful bidders. Publish waiting lists for welfare services, and list members of the selection committee together with their affiliation (see example at <http://www.vrable.sk/poradovnik-ziadatelov-o-najomne-byty.phtml?id3=15692>). Publish project implementation reports online.

Public Procurement Reform --

Advertise widely. Electronic auctions work best when involving multiple bidders. Therefore, it is crucial to attract the attention of as many companies as possible using nation-wide media and web portals to advertise tenders where possible.

Be careful about services and construction work. It is extremely important to prepare for e-auctions carefully. The criteria for tendered items should be thought through well in advance. If there is a reasonable danger that the lowest offers will not satisfy the quality requirement, it might be better to use other methods of procurement.

Use open ended auctions. E-auctions with set time limits appear to deliver less advantageous results than do open-ended auctions. There is also a higher risk of manipulation through last second bids when using set time limits.

Show the public that e-auctions work. Unlike many reforms, such as recruitment, it is not difficult to demonstrate that e-auctions save money. It is important to communicate these savings to the public in order to develop support for the administration and its reforms.

Recruitment Policy --

Start early. New mayors usually focus on bringing in a few key advisors with the belief that the rest of the employees will adjust. However, public mistrust of low level officials who receive their positions through friends or political contracts will undermine the overall efforts. We recommend that municipalities carry out open contest recruitment for all key non-political posts soon after taking office, especially for positions which were occupied by political nominees.

Use open contests for every position, including low level officials. Mayors often believe it is not worth their time to organize open contests. Yet winning the trust of the public, especially in high unemployment areas where municipal jobs are aggressively sought after, could come in handy when Mayors appeal to public to decrease tax evasion.

Demonstrate how ethical you are. Publish all documents detailing staff hiring procedures, including specific hiring criteria, who won and why, and demonstrate that the people making hiring decisions are objective and above reproach. Transparency limits accusations of bias and unfair treatment, and encourages your employees to be more honest.

Enforce your Code of Ethics. Many organizations have a Code of Ethics, yet they often remain on paper. To work, they need an enforcement mechanism. Establishing the position of Ethics Commissioner will demonstrate to the public and municipal employees not only how important ethical

behaviour is to the municipal leadership, but will also establish an organizational capacity devoted to ethics oversight.

Encourage feedback. It is better to deal with problems early on rather than to let them simmer and appear unexpectedly. Both employees and city clients should know that their complaints are welcome and will be dealt with in a responsive manner. City web page visitors should find it easy to learn how to express a concern or register a problem with any service online. Again, this helps keep potential errant or unethical employees in check.

1. FREEDOM OF INFORMATION

Mária Bulková, Slovak Governance Institute

Free access to public information is one of the essential features of democracy and human rights, and its implementation impacts citizens' opinions of national and local government and politics. It establishes an underpinning for a number of other human rights, such as freedom of expression. It is also linked to other transparency mechanisms, e.g. in public procurement and recruitment policy, as it enables citizens to scrutinize freely how national and local politicians exercise their power, how they use public funds, and how they fill top positions in the public administration. .

In Slovakia, access to information has been guaranteed since 2001 by the Act on Free Access to Information. However, despite eleven years since the enactment of the law, public authorities in Slovakia, as is the case in many other new EU member states, still have difficulties fully complying with its requirements. This chapter will identify the most serious deficiencies in complying with FOIA, and suggest recommendations on how to eliminate these.

1.1. Description of FOIA

The Freedom of information act (FOIA) is most often defined as a tool that “*provides citizens with an ability and avenue to access documents in the possession of government departments and agencies, with minimum exceptions relating to national security and privacy*” (Stubbs 2008, 667). The public's right to know is crucial for the healthy functioning of any democratic society.

However, not only does FOIA bring indisputable benefits to citizens, civil society, and the media, but also to governments. For citizens, the benefits from FOIA are clear. It provides citizens an opportunity to evaluate the government's performance and hold it accountable for its actions. However, by demonstrating an open attitude and complying with FOIA, national and local administrations benefit as well. By building an image of transparent, reliable, controllable, responsive, and responsible political government, they are more likely to be re-elected than unresponsive governments. However, public information disclosure alone does not necessarily represent an open public authority. Although some public authorities disclose a significant amount of public information, they do so in an unsystematic manner which makes it difficult for citizens to obtain relevant information. If public authorities want to gain public trust, not only do they need to demonstrate a clear willingness to release public information, but they must also fulfil other conditions, such as organizing public information in specific categories (e.g. information related to financing, recruiting, public subsidies, etc.), avoiding the use of overly legalistic language, and by establishing user friendly technologies to facilitate the FOIA process.

1.2. How FOIA was introduced to Slovakia

In Slovakia, the right to access public information was included in the 1992 Constitution. Article 26 provides citizens with a right “*to express their views in word, writing, print, picture, or other means as well as the right to freely seek out, receive, and spread ideas and information without regard for state borders*” (1992). This article also defines circumstances under which these rights might be restricted, such as the protection of individual rights and liberties, state security, public order, public health, and morality. Access to information has the status of a common constitutional tradition in many EU countries. This constitutional provision is important since it recognizes and acknowledges the right to access public information as a fundamental human right. However, access to government information is a complex issue, and rights and obligations ensuing from it for both applicants and public authorities need to be specifically defined through FOIA legislation.

The first years of the Slovak Republic were characterized by the autocratic rule of Vladimír Mečiar’s Movement for a Democratic Slovakia, and accompanied by the misuse of public media, corruption, opaque privatization, and little respect for democratic values. During Mečiar’s rule, which put Slovakia into isolation with the West, there was little chance for the adoption of legislation enhancing government transparency such as FOIA. The window of opportunity opened in 1998 when Mikuláš Dzurinda replaced Vladimír Mečiar as Slovakia’s Prime Minister. Dzurinda’s government was pro-reform and supported increased cooperation with civil society. In 1999 a group of civil society organizations (CSOs) created the “Civic Initiative on the Law on Access to Information.” Shortly thereafter, the initiative won the support of many other CSOs, media establishments, and politicians. In 2000, the Act on Free Access to Information no. 211/2000 Coll. was adopted and entered into force on January 1, 2001. Nine amendments were subsequently adopted. It is important to emphasize the crucial role CSOs and the media played in advocating for FOIA in Slovakia as well as in many other new EU member states.

1.3. Results of FOIA use

To demonstrate how FOIA has been implemented by local administration authorities we reviewed how several selected municipalities in Slovakia have complied with FOIA, and describe the most serious shortcomings and challenges experienced.

1.3.1. Monitoring municipalities’ compliance with FOIA

In order to discover to what extent municipalities have complied with FOIA we developed a monitoring methodology which we applied in selected municipalities. Our methodology included a set of instruments designed to capture information about a city or town’s practice and conduct regarding FOIA compliance.

First, as a part of monitoring process, FOIA requests were submitted in targeted municipalities. Since it is a proven fact that public authorities are more willing to respond to requests from media and CSO representatives who identify themselves as such rather than from individuals, we submitted requests as individuals using personal e-mail addresses. The requests consisted of the following questions, most of which were related to the basic statistical data on FOIA implementation:

Q1: How many requests for information were submitted to the municipality from January 1, 2001 until the submission of our request for information?

Q2: How many requests for information did the municipality refuse, and did not disclose the requested information, from January 1, 2001 until the submission of our request for information?

Q3: What was the subject of the requests for information which were refused from January 1, 2001 until the submission of our request for information?

Q4: How many public protests were organized in your municipality in 2011?

The questions were limited to the types of information that municipalities do or should have. With respect to FOIA provision §20, which states that any public authority under §2, section 3 “*shall keep a registry of requests in order to provide data necessary to review the procedure of compliance with requests and data on the most frequently requested information. The registry shall contain the following data: the date of filing of the request, information requested and the requested method of disclosure, the result of compliance with request (provision of information, issuance of resolution, or transfer of the request), and filing of appeals.*” The statistical data on FOIA implementation requested in Q1, Q2 and Q3 should normally be held by public authorities and be made available to potential claimants proactively. Regarding Q4, in accordance with Act No. 84/1990 Coll. on the Right of Public Assembly, any public assembly is subject to five day advance written notification to the local authority. Therefore, the requested information on the number of assemblies organized in a municipality should be held by a public administration.

The primary objective of our questions, particularly Q1, Q2, and Q3, was to discover how each municipality reacted to the requests in general, if they responded within required periods of time, to what extent they disclosed requested information, how they justified non-disclosure, to what extent they adhered to personal data protection stipulations, and if refusals were delivered in the prescribed written form including a clear explanation of the grounds for refusal based on legally prescribed FOIA exemptions. Another goal of Q1, Q2, and Q3 was to discover how active or passive citizens of selected municipalities are relative to FOIA, the number of requests submitted annually, and if this form of civil participation has an increasing or decreasing tendency.

If a municipality did not respond to a request or refused to disclose the requested information, SGI researchers filed an appeal. Finally, responses were tracked, collected and evaluated.

Second, as a part of the monitoring process, interviews were conducted with public servants in targeted municipalities responsible for implementing the FOIA agenda in order to identify the context and environment in which these public servants worked. Our interviews provided municipal employees with an opportunity to explain how they carry out their freedom on information tasks and responsibilities, describe their working conditions, and indicate whether or not they had received adequate FOIA compliance training. The aim of these interviews was not only to develop a broader picture of freedom of information practices, but also to identify the needs of public servants and to better understand their challenges.

Finally, it is important to mention that targeted municipalities were selected within the context of Transparency International Slovakia’s (TIS) ranking of “Open Local Government” conducted in 2010. During the 2010 study, TIS assessed and ranked the one hundred largest Slovak municipalities in eleven functional areas, including public access to information or FOIA policy. In our current study, we monitored FOIA compliance in a total of fourteen municipalities which received an average score in the 2010 ranking. In order to learn how average municipalities differentiated from the best performing municipalities, we also monitored twelve municipalities which were the best performers in the 2010 study on a scale of one to ten. In total, twenty-six requests were submitted.

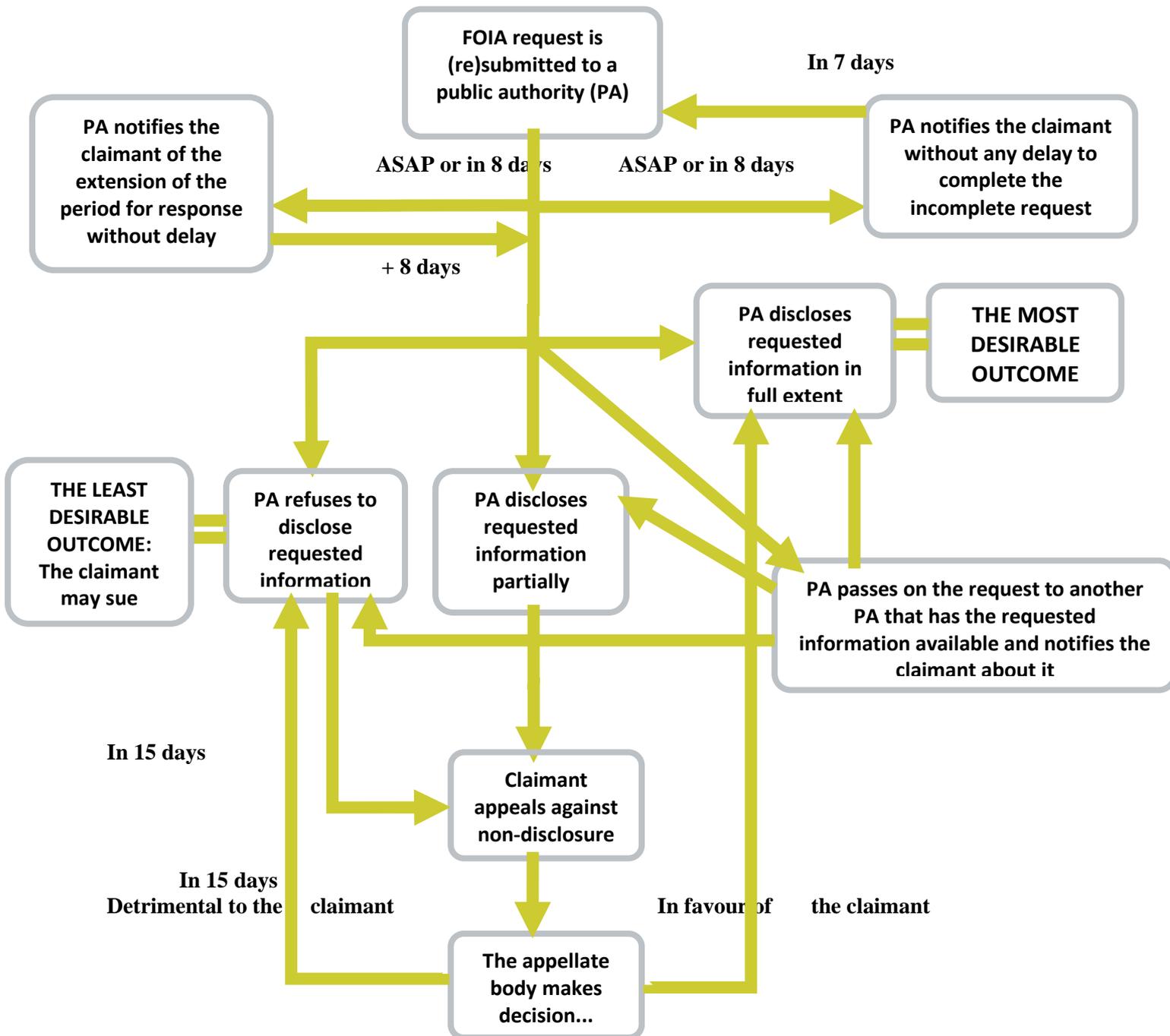
1.3.2. Monitoring findings

To understand the results of our study, we must first review how public authorities responded to our information requests in the best, worst, and average case scenarios, and also consider the options applicants had to appeal administration decisions. The diagram bellow presents a quick, visual run-

through of FOIA processes in Slovakia. Although FOIA has its own country-specific particularities, its main principles and processes are similar in many countries.

On the whole, our findings are positive and demonstrate that great progress has been made by public authorities in Slovakia since FOIA was introduced in 2000. The results of the first study of FOIA compliance in Slovakia published in 2001 and 2002 by “Citizen and Democracy,” a Bratislava based CSO, revealed many cases of inappropriate non-disclosure based on misapplied exemptions.

Diagram 1: FOIA Processes in a Nutshell



- Most information requests were responded to on time, only three were met with silence

As demonstrated in the diagram, and as FOIA provision §17, section 1 states, the public authority under §2, section 3 “*shall comply with the request for information without undue delay, but not later than eight working days after filing of the request or after any missing requirements in the request are completed.*” FOIA also enables public authorities to extend the time limit to respond for an additional eight days if there are serious reasons for such an extension. In this case, public authorities must notify the applicant of the extension without delay. FOIA provision §18, section 3, explains that “*if the public authority fails to provide information within the period set for compliance with the request, or to issue a resolution or provide access to the information, it shall be deemed that the public authority issued a resolution refusing to release or provide the requested information.*” This inaction is also referred to as a “fictitious resolution.” Appeal options are governed by FOIA provision §19, which states that the applicant “*may file an appeal against the public authority’s resolution rejecting to disclose requested information within fifteen days from the delivery of such a resolution...*” The appellate body equally has fifteen days to decide whether or not it confirms or refutes the previous resolution.

Only six out of twenty-six monitored municipalities failed to comply with the time limits stipulated by FOIA. Only two municipalities from the best performers in TIS’s 2010 “Open Local Government” ranking failed to comply with time limits. The municipality of Spišská Nová Ves replied late, but disclosed the requested information partially, while the municipality of Bratislava – Nové mesto failed to reply at all. Four municipalities from the average “Open Local Government” performance ranking failed to comply with time limits. Stará Turá and Nová Dubnica did not respond at all, while Trnava replied a day late, but disclosed the requested information in full. Košice – Dargovskýchhrdinov responded with some delay, for which a responsible public servant apologized and provided the requested information.

In general, the municipalities performed satisfactorily in regard to the time limits. While conformity with time limits is a rather formal measure of FOIA compliance, since even a timely response might refuse to disclose appropriate information, it nevertheless demonstrates public recognition of the rights of citizens to seek information freely.

- **Most requested information disclosed in full extent**

As previously mentioned when introducing our monitoring methodology, our questions were limited to the types of information that municipalities do or should have.

Out of twenty-six municipalities, seventeen disclosed the requested information in full, six disclosed the information partially, and only three refused to disclose the requested information at all. These municipalities, which were previously mentioned in the section on compliance with time limits, failed to respond to our requests and thus issued “fictitious resolutions.”

It is important to re-emphasize that the FOIA applications submitted for the purposes of this study did not request sensitive information, such as the allocation of public funds or public recruitment processes, but rather focused primarily on harmless information relating to administrative FOIA compliance statistics. However, as Q3 requested information about applications that had been refused within the validity of FOIA, we obtained several interesting responses outlining the grounds for refusals which are described below.

- **Dubious grounds given for refusals of information requests**

Integrated into each new EU member state FOIA is a standard set of grounds for exempting information from disclosure. The most commonly found exemptions are national security, public order, the prevention and investigation of crimes and other violations of law, trade secrets, due process rights of parties to judicial proceedings, protection of personal data and private life, and violation of intellectual property rights. The Act on Access to Information in Slovakia includes similar

exemptions. The limitations of access to information are set and described in detail in provisions §8 to §12. With respect to these limitations provision §12 states that a public authority “*shall exercise any limitation of the right to information by making the requested information, including accompanying information, available, after excluding the information stipulated by law.*” This means that the limited presence of information which represents a legitimate exemption from disclosure does not enable a public authority to refuse a request in its entirety. Moreover, with respect to the exemption of trade secrets it is important to cite provision §10, section 2, which clearly states that “*disclosure of information related to... information obtained through public funds or relating to the use of public funds, or to the disposal of state property, the property of self-governing regions, the property of municipality, the property of legal persons established by law or the use of EU funds,... shall not be deemed as a violation of or danger to a trade secret.*”

A deeper review of the information provided by the municipalities in our study, particularly the responses which were ostensibly refused within the validity of FOIA, indicates that the public officials responsible for FOIA were not familiar with exemption provisions. The grounds for the refusal of several requests were based on dubious grounds. Below are several examples:

- In 2002, Trnava refused to disclose information on the price of services charged for maintaining the municipality’s green areas and vegetation reasoning that it was subject to a trade secret.
- In 2010, Petržalka refused to disclose the price of services charged by the private firm KOSEC, which maintained roads and green areas and collected garbage for the municipality, with the explanation that the firm did not provide consent to disclose the price.
- In 2010, Senica declined to disclose the agreement governing the transfer of 51% of the shares in TS Senica (JSC), where the municipality was the sole shareholder, to the private firm Nutran (LLC).

Each example represents a misapplied exemption since they are in response to a request relating to the use of public funds, or to the disposal of municipal property, and therefore cannot be denied on the grounds that the public release of this information would compromise or violate a trade secret as several municipalities indicated. Neither could the lack of consent by a private firm be used as justification for non-disclosure. Although provision §11, section 1 states that a public authority under §2, section 3 “*shall limit the disclosure of information or not disclose information, if it was obtained from a person who is not obliged to provide information and who notified the obliged person in writing that it disapproves of the disclosure of information,...*” again this exemption does not apply if the application relates to the use of public funds or to the disposal of municipal property of municipality (§ 11, section 2).

Despite these examples of misapplied exemptions, the municipalities generally performed well and disclosed the requested information to a significant degree. Responses from the municipalities which refused to release information based on legitimate exemption criteria demonstrate that Slovak municipalities are tending to release information on sensitive issues, such as salaries and bonuses of public servants, to a greater degree.

- **Public interest information not held**

As mentioned earlier, the twenty-six municipalities generally performed well when it came to releasing requested information. Only in very few cases did municipalities leave the requests unanswered. However, the municipalities of Košice and Zilina issued written responses but did not provide the requested information indicating that the municipalities did not hold the information and would first need to develop it in order to disclose it. This is not a responsibility under FOIA (if the information is not held there is no burden on a municipality to create it for the singular purpose of responding to a FOIA request.

While there is a clear public interest in collecting information such as the statistics on FOIA implementation, and FOIA provision §20 on registration of requests prescribes collecting these statistics, missing standards for the format in which these statistics should be collected and made available enabled municipalities to circumvent this provision. Moreover, the controversial judgement of the Supreme Court stating that “*FOIA does not create an obligation to the public authorities to create information that does not exist at the moment a FOIA request is submitted,*” further encourages municipalities to refuse FOIA applications requesting these statistics. The judgment further specifies that “*in such case a public authority shall reject the information request on the grounds that the requested information is not held,*” and further, “*A public authority has no legal obligation to further process the information or to create statistics, reports, and tables using the information it already holds.*” This judgement, and corresponding FOIA responses indicating that requested information is not held or is not available, is concerning. Unless indexes of the information held by public authorities are publicly available, it is extremely difficult for private citizens to determine when a public authority truly does not hold the information, or in fact holds it, but does not want to release it.

Our 2010 study demonstrated that this flaw in FOIA enabling legislation in Slovakia indeed contributed to less than rigorous responses. For instance, the Municipality of Petržalka refused to disclose a list of construction permits issued in 2010 reasoning that it did not hold such information, although this information could have easily been obtained from the local building and construction authority.

Although this form of justification of non-disclosure was not extremely common in our current study, several cases were observed.

- **Poorly secured personal data protection when disclosing requested information**

As mentioned earlier, privacy and personal data protection are standard exemptions from disclosure in most new EU member states. In Slovakia, personal data protection is governed by provision §9, section 2 of the Public Information Act which states that “*personal data on a natural person that is processed by an information system under the conditions stipulated by a special law shall be disclosed by the public authority under §2, section 3 only if it is stipulated by the law or upon the prior written consent of the person concerned.*” Sections 3 and 4 go on to describe public administration responsibilities to protect personal data of specific categories of individuals who do not enjoy the same degree of personal data protection with regard to their positions, e.g. high-ranking public officials.

During our study, several municipalities inappropriately applied privacy protection and refused to release information that should have been provided under FOIA. While personal data protection is a legitimate reason for non-disclosure, public authorities misapplied or applied this exemption arbitrarily, using it in circumstances when it clearly did not pose an obstacle to disclosure, such as in matters concerning high-ranking public officials. During our study, several local authorities declined to release requested information relating to salaries and bonuses of public officials. These requests were refused based on personal data protection, although it did not apply in these cases.

Moreover, it was interesting to observe that while public authorities maintained personal data protection of high-ranking public officials rather robustly and to a greater extent than is required by law, they are not so careful about protecting the privacy of regular citizens. Several municipalities in our study failed to protect the personal data of the applicants, disclosing information including applicant’s names and addresses.

- **Inconsistency in refusal notification**

Most FOIA’s in the region require public authorities to provide written notification, otherwise referred to as a “letter of resolution,” whether information was disclosed in the full extent or partially, or not at

all. The Slovak Act on Access to Information governs the procedures for handling information requests in its provision §18, sections 1 to 4. Inter alia, the provision states that “*if the public authority under §2, section 3 fails to satisfy the request, even partially, it shall issue a decision to that effect within the statutory period.*” The Administrative Code, particularly provision §47, further specifies the requirements of the written decision, which “*shall contain the verdict, its motivation and instructions regarding an appeal.*” While compliance with these requirements may appear to be a purely administrative or marginal in terms of a public authority’s overall FOIA responsibly, a written resolution is extremely important to help claimants understand why and on what grounds their application was refused, and what recourse an applicant might have to appeal. If public authorities do not issue a written decision, it is more difficult for an applicant to appeal the municipal authority’s decision.

During the project, six out of twenty-six targeted municipalities disclosed the requested information only partially. Only one of them, Poprad, issued a written decision explaining partial non-disclosure. Three out of twenty six municipalities did not disclose the requested information at all, with none issuing a “letter of resolution.”

- **More information requests are submitted, still many citizens are not aware of FOIA**

The benefits of FOIA as an anti-corruption tool and to open up more responsive Government to Citizens (G2C) communication can only be fully maximized when it is employed widely by citizens, media, CSOs, and the private sector.

Based on our review of FOIA implementation in Slovakia, the average number of requests submitted each year is three hundred and fifty one, many of which are appropriately responded to by public authorities. However, these statistics are not completely reliable, particularly those concerning the number of refused requests as we observed some inconsistencies in the responses we received from municipalities. For instance, several municipalities indicated that they did not refuse any requests, but also disclosed “subjects” of refused requests. What is important is that in most of the municipalities we observed an increasing tendency in the number of FOIA requests filed between 2001 and 2011. We also observed that a greater number of requests were filed in the municipalities with higher populations. However, the overall awareness of FOIA and its use to obtain public information among citizens remains low. According to the results of a survey conducted by the Open Society Foundation and the Focus agency in 2008, 30% of the adult population in Slovakia had not heard about FOIA. The results of the latest survey conducted by TIS and Focus in 2012 indicate that only 4% of the adult population in Slovakia, or 200,000 people, had submitted FOIA requests during the eleven year period that FOIA had been enacted in the country. Therefore, in terms of public awareness, there is still a lot of work left to be done.

- **Lessons learned from interviews with public servants**

During our interviews with public officials responsible for administering FOIA we discovered that most of them have a university degree, and that their job tasks differ significantly from municipality to municipality. Whereas in some municipalities FOIA compliance represents their primary responsibility, in others they may work concurrently work in the filing room, secretariat, or at the client desk, maintain the city website, maintain and publish contracts, orders, and invoices, verify documents, or work as public spokespersons. A majority of public servants (62.5%) indicated that they didn’t have adequate time to focus on the FOIA agenda due to their conflicting responsibilities. However, another 37.5% expressed satisfaction with their workload. Most respondents (87.5%) indicated that had completed a training course on FOIA compliance led by a qualified attorney, while 37.5% expressed that they would be interested in further training. Respondents listed misuse of FOIA by students requesting detailed information to support academic papers, citizens failure to comply with formal application requirements, misuse of FOIA in neighbourhood disputes, ambiguous requests, and duplicate requests as major shortcomings in the FOIA process.

1.4. Key recommendations

Based on the Slovak experience with FOIA implementation and the aforementioned results of monitoring municipalities' compliance with FOIA, we suggest the following recommendations for Mayors:

Ensure public servants responsible for responding to Freedom of Information Act (FOIA) applications receive adequate training. CSO monitoring of FOIA implementation by municipalities discovered serious inaccuracies on the part of public servants, such as non-compliance with time limits, misapplication of exemptions from disclosure, violation of personal data protection, and inconsistencies in notifying applicants when information requests are denied. To avoid or at least mitigate these inaccuracies we recommend that Mayors ensure that each public servant responsible for handling FOIA requests completes a training course led by a qualified lawyer to become familiarized with the duties and responsibilities associated with FOIA, and to make sure they understand and respect the fundamental FOIA assumptions of government openness and transparency.

Set internal mechanisms for tracking and rules for registering information requests. CSO monitoring demonstrated that if information requests are registered only in paper form, they may easily be lost. Therefore, we recommend that Mayors develop rules for registering FOIA requests in the municipality, and that municipalities register FOIA requests electronically, ideally in a spread sheet or another similar form that enables basic mathematical and statistical operation. We also recommend that municipalities register information beyond that which is formally required under FOIA, particularly the basic statistics on FOIA implementation.

Publish statistics on FOIA implementation on the municipality's website. We recommend that municipal governments publish basic statistics on FOIA implementation on a municipality's website to inform citizens about FOIA performance and compliance.

Publish information pro-actively, and publish all information that has been disclosed. Interviews with public servants responsible for FOIA compliance expressed concern about administrative burden resulting from duplicate requests submitted to the municipality. This shortcoming is easily eliminated by publishing all FOIA responses on an on-going basis. Therefore, we recommend that municipalities publish all disclosed information on municipal websites in a well-organized and searchable database. Such a public archive will prevent the submission of identical requests and reduce administrative burden. Municipalities should publish public interest information proactively, without being asked for it formally through FOIA requests.

Establish indexes of the information held by your municipality. Municipalities sometimes refuse to release information stating that the requested information is not held by or was not available to the municipality. This is a dubious explanation for refusal since it is impossible for an applicant to evaluate when a public authority does indeed not hold the information, or in fact holds it, but does not wish to disclose it. Therefore, we recommend that municipal administration establish indexes of information held by the municipality as a helpful tool for citizens to assess what information they have an opportunity to secure, and for public servants to retrieve the information quickly, or to identify requested data as "not held."

Instruct public servants not to use overly legalistic language. Taking into consideration that FOIA is a tool available to all citizens, whose age, educational, and occupational background may vary enormously, Mayors should instruct public servants responsible for FOIA compliance not to use overly legalistic language, and in the case of refusals to use clearly formulated justifications, as opposed to quoting relevant but complex legislation.

Respond with a clear written decision complying with all legal requirements in the event a FOIA request is refused even partially. Municipalities frequently do not issue written decisions in instances when a FOIA request was refused partially. Therefore, we recommend that Mayors strictly instruct public officials to issue written decisions in any case of non-disclosure, as these decisions (if they adhere to legal requirements) provide applicants with a clear explanation of why their request was refused and instructions on how to proceed with an appeal.

Make it easy for applicants to submit FOIA requests by utilizing ICTs. To demonstrate openness and transparency it is important to remove technical obstacles to the FOIA application process and to make it as easy as possible for citizens to submit requests utilizing ICTs. Therefore, we recommend that municipalities utilize user friendly interactive forms on municipal websites that applicants can easily use to submit FOIA requests.

Enable CSOs to monitor FOIA implementation in your municipality. Mayors should cooperate with CSOs and local media interested in monitoring FOIA implementation in their city or town. CSO oversight will encourage public officials to improve their performance and provide higher quality services for citizens.

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2. CIVIL SOCIETY ENGAGEMENT

Mária Bulková, Slovak Governance Institute

Although there is an enormous range of civic society definitions, more or less they all convey the same message of local stakeholders mutually cooperating to enhance the common good. These definitions differ mostly in the understanding of who the fundamental actors are. Some scholars agree that civil society includes registered non-profit and non-governmental organizations (NGOs), other formally and informally organized citizens groups, foundations, charitable organizations, coalitions, and movements, while others understand civil society more as more broadly defined including the media, colleges and universities, and religious institutions. These different actors use their ideas and skills to articulate and achieve collective interests of the social group with which they represent. The interactions among these actors facilitates better communication, management, and oversight in society, increases social capital, and reduces motivation for opportunism in society. It also serves as a control mechanism to prevent corruption. Ultimately, the active engagement of civil society leads to better governance. Using concrete examples from Slovakia, this chapter will demonstrate how civil society and committed civic engagement can serve as a government watchdog at the national and local levels of government.

2.1. *Description of tools for civil society engagement*

Citizens have different tools available to them to engage in public life. With the rise of the Internet traditional tools for civic engagement have been complemented or substituted by new technology based instruments.

Traditional tools for civil society engagement

- **Elections**

The election of representatives at the national and local levels of government will always remain an essential aspect in ensuring the integrity of representative democracy. With high voter turnout newly elected governments enjoy broader legitimacy and stronger mandates to govern. In Slovakia the right to vote has been guaranteed by the Constitution since 1992.

- **Protests and petitions**

Attendance in public protests and demonstrations, and petition signing represent traditional tools for civic engagement. In Slovakia, the law on the Right of Assembly and the on Petition Rights were adopted in 1990. However, Slovak citizens go to the streets to protest and voice their discontent with government only rarely. Ordinarily, only large high profile cases of corruption or adverse local development impacting the environment and the everyday lives of citizens, motivates citizens to exercise their right of public assembly. In comparison, petitions are much more commonly used by Slovak citizens.

- **Other**

In addition to voting, attending a protest, or signing a petition, citizens have many other traditional tools for civic activism at their disposal, such as volunteering, becoming a CSO member, making a charitable contribution, writing letters to elected officials, writing blogs and letters to the editor, or participating in town hall meetings. As will be demonstrated below most of these traditional tools of civic engagement have been decreasing as they are gradually replaced by new internet based instruments.

New tools for civic engagement

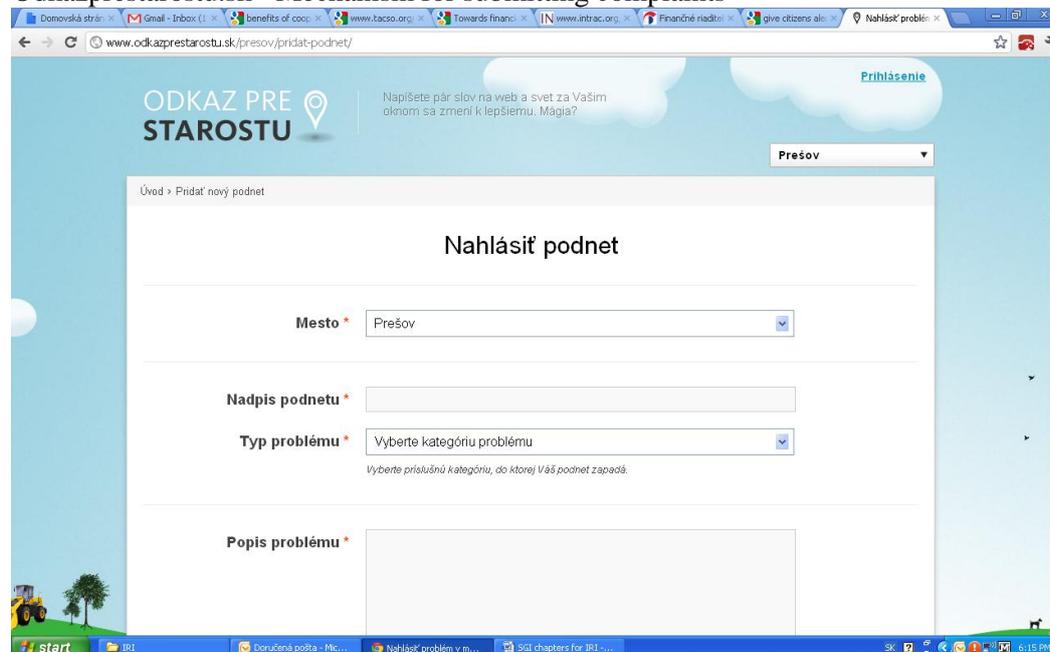
With the decline of face to face civic engagement and decreasing voter turnout in national elections in new EU member states new tools for civic engagement have emerged. The rise of the internet and other Information and Computer Technologies (ICTs) has made everyday communication among citizens, public authorities, and political representatives much easier than it has been in the past. E-mail and discussion forums available on public websites have enabled citizens to interact with public authorities or political representation instantaneously and at almost no cost. However, although these new tools have brought many new benefits, concerns about how they will lead to stronger civic engagement have been expressed. Some scholars fear that ICTs will move civic engagement away from the public sphere and into private lives and households (Dahlgren, 2008, Putnam, 2000). Others express concern that with the help of new ICTs important messages will reach a wider audience of citizens, a citizen's true interest in the message may be disputable if the only action required is a simple "click" (Fenton, 2008, 52).

Moreover, in most cases it is difficult to track if citizens in fact did more than simply "click" or if they matched online activism with offline activism. Although these concerns are legitimate, we will provide several examples demonstrating how civic engagement in cyberspace can be a catchy starting point and can also help to move online engagement to real actions in the offline environment. One example is the Slovak Governance Institute's "Message for the Mayor."

- **Odkazprestarostu.sk - an e-tool for submitting complaints to municipalities**

The Slovak Governance Institute developed and introduced a web portal called Odkazprestarostu.sk (Message for the Mayor) in January, 2010. The portal, which is visualized below, provides citizens with an online platform to raise their voices about problems in their neighbourhood in nine cities where the portal is operational. The portal proved to be a great tool for achieving greater responsiveness in participating municipalities. The different functionalities of the portal and specific results of its use are described in more detail later in this chapter.

Odkazprestarostu.sk - Mechanism for submitting complaints



The screenshot shows a web browser window displaying the Odkazprestarostu.sk portal. The page title is "ODKAZ PRE STAROSTU" and the location is set to "Prešov". The main heading is "Nahlásiť podnet". The form includes a "Mesto" dropdown menu with "Prešov" selected, a "Nadpis podnetu" text input field, a "Typ problému" dropdown menu with "Vyberte kategóriu problému" selected, and a "Popis problému" text area. A "Príhlasenie" button is visible in the top right corner. The browser's address bar shows "www.odkazprestarostu.sk/presov/pridat-podnet/".

- **Napisteim.sk – an e-tool for communication with MPs**

The Napisteim.sk web portal provides an opportunity for constituents to send questions or messages directly to a Member of Parliament. The portal was launched in December 2011 by the NGO Kohovolit.eu. The website allows citizens to easily identify and write letter to their Members of Parliament, regional and municipal councilors, by providing their home address in “Google-like” fashion.

2.2. Results of civic engagement tools

Civic engagement has positive internal and external spill over effects. Within their communities active individuals and organizations increase social capital by learning self-respect, enhancing group identity, and developing public interaction skills (Stolle, Morjé Howard 2008). It has been proven that even outside of their communities, in everyday life, civil society members tend to promote values such as mutual cooperation, trust, and openness, and demand governments to affirm these values more than people who are not civically engaged.

2.2.1. Best practice examples of using traditional tools of civic engagement (examples of mutual cooperation between active citizens and municipalities in high profile cases)

- **“The landfill does not belong to the city” initiative**

“The landfill does not belong to the city” campaign, a civic initiative opposed to the construction of a new solid waste disposal site in the small wine town of Pezinok, serves as a best practice example of civic engagement and mutual cooperation between active citizens and municipalities in Slovakia. The initiative started as an informal group of local active citizens and turned into a much broader movement supported by key public figures. Despite local land-use plans in Pezinok which prohibited construction of a landfill site, the developer, *Ekologická skládka*, aggressively pursued their interest to build the proposed landfill through political connections and allegedly illegal means. The Regional Construction Department, whose management at the time was close to the executive officer of *Ekologická skládka*, issued a zoning decision conflicting with the local land-use plan’s prohibition of a landfill. However, this decision was not disclosed to the municipality of Pezinok. Soon thereafter, local activists in cooperation with the municipality turned to the Slovak Environmental Inspectorate, which alike did not disclose its decision publically and issued a permit allowing *Ekologická skládka* to proceed with construction of the landfill. Gradually, other public authorities became involved in the case including the Ministry of Environment, the Parliamentary Committee on Agriculture, and the Parliamentary Committee on Environment and Conservation. The case went to court, and although the Supreme Court ruled that construction of the landfill had been permitted illegally, the Constitutional Court suspended the Supreme Court’s decision (Via Juris, 2012). The case has subsequently been brought to EU Court of Justice.

Although the decision of the EU Court of Justice, which will have final and binding say over this matter, is not yet known, the case serves as a valuable example of how persistent civic engagement (the described events happened within six year period) and fruitful cooperation among activists, citizens, and a municipality can have a positive impact. Although “The landfill does not belong to the city” campaign evolved as an informal grass roots initiative with no paid staff, it was successful. There are several reasons for this:

1. The initiative was strictly non-partisan, politicians were not allowed to speak at demonstrations or at other public events organized by the initiative;
2. The organizers used all available legal means to express their discontent; they organized several public demonstrations in Pezinok and in front of the Government in Bratislava citizen marches to the landfill site, sponsored concerts where famous Slovak artists and public figures voiced support for the initiative, and conducted petition drives;
3. Activists and the municipality acted together, and included CSO experts;
4. The initiative caught the attention of the national media and maintained public visibility with frequent news updates and headlines over a six year period which helped to increase public awareness and establish national support for the initiative;
5. The organizers took legal action; and
6. Activists and the municipality successfully created a sense that they were fighting together with citizens for “the common good.”

“Podpol’anie nad zlato” initiative (Podpol’anie is better than gold)

Another example of effective local engagement is the “Podpol’anie nad zlato” initiative opposing gold mining in the Podpol’anie Region. According to the Slovak Mining Act private companies may only be issued a national mining permit after receiving approval from the impacted municipalities and regional authorities. In this case from the municipalities immediately adjacent to the mining site, which would be impacted by a cyanide leaching process, and the higher territorial unit. In 2007, the Eastern Mediterranean Resource Company submitted an application to the Regional Mining Office to initiate mining activity in Detva. In response the impacted municipalities refused to approve gold mining in their territory, local activists established a CSO called “Podpol’anie nad zlato” and proceeded to coordinate activities to prevent gold mining in their region. The Regional Mining Authority ruled that the municipalities and “Podpol’anie nad zlato” were to be excluded from the legal proceedings, forcing the municipalities to retain the services of a legal expert affiliated with the CSO Via Iuris. “Podpol’anie nad zlato” then filed a legal appeal with the Regional Court to review the Regional Mining Authority’s decision excluding local municipalities from the proceedings. Although the Regional Court’s decision is not yet known, this case offers another strong example of cooperation among municipalities and CSOs to mobilize citizens and attract national media attention towards the common good.

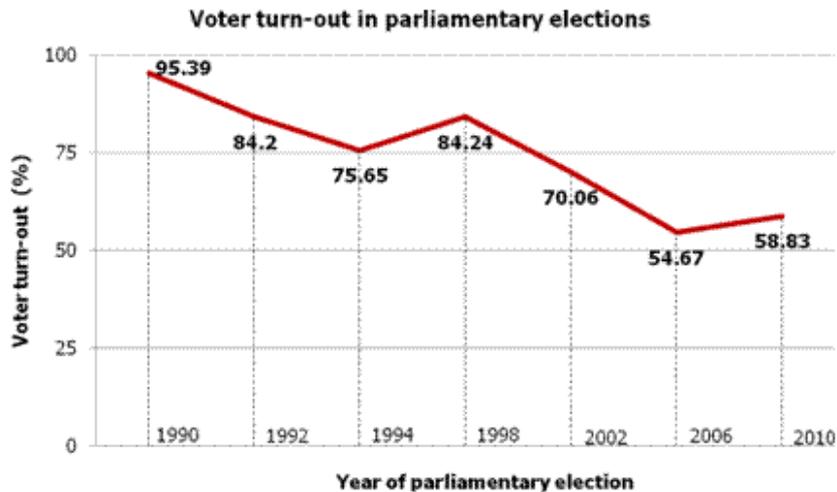
2.2.2. Examples of the use of new tools for civic engagement

Although both initiatives mentioned above did not support their actions through the use of new tools of civic engagement, but rather relied heavily on the power of traditional tools, other examples which mentioned further below demonstrate how new tools have the potential to make civic engagement easier and accessible to a broader number of people, and act as an effective support for traditional tools. New tools are particularly effective in increasing public visibility of civic engagement initiatives.

- **Voter turn-out**

Since the first democratic parliamentary election in Slovakia in 1990, voter turn-out has decreased dramatically. The percentage values for each parliamentary election are summarized in the table below:

Graph 1: Voter turn-out in parliamentary elections



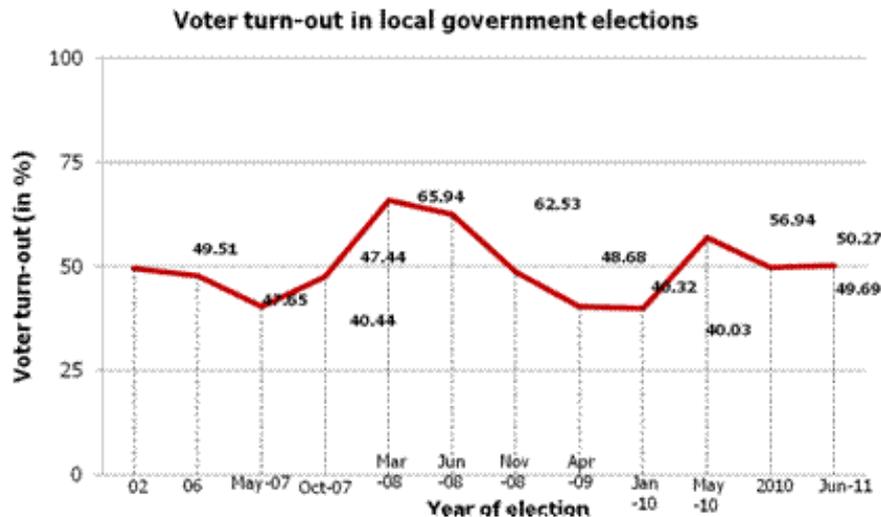
Source: Data from the Statistical Office of the Slovak republic

However, it would be an over-simplification to conclude that this trend is decreasing voter turnout is the result of weakening civic engagement in Slovakia. Although voter turnout has indisputably decreased over the years, the graph demonstrates that the drop has not been linear. For instance, during the 1998 parliamentary election there was an increase in voter turnout of almost ten percent in comparison with the 1994 election. This increase was achieved primarily due to the activism of a CSO called “Civil Eye” which mobilized citizens to vote and conducted an independent election observation. Civil Eye’s campaign, which utilized traditional offline tools of civic engagement, was successful in increasing voter participation by conducting hundreds of discussions with first time voters in schools throughout Slovakia. It also established a network of seventeen hundred volunteers who received election observation training. Civil Eye repeated its successful campaign in advance of the 2002 parliamentary elections; however it did not lead to an increase in voter turnout.

The pre-election months in 2010 were also accompanied by various manifestations of civic engagement. For instance, the famous political cartoonist “Shooty” announced an appeal for donations by placing caricatures of then political leaders on billboards across the country. While national media was notified about the campaign, it was primarily spread on social networking sites. Within three weeks “Shooty” was able to collect 72,217€ (\$95,165) from 3528 contributors. The primary aim of the billboard campaign was to encourage citizens to vote. Although it remains subject to research to prove that a correlation exists between an increase in voter turnout and this kind of campaign, such a correlation can be intuitively assumed.

Similar civic campaigns encouraging citizens to vote have not been conducted at the local level but would clearly be useful. As summarized in the graph below, municipal elections have been characterized by steady voter turnout, albeit very low, rarely exceeding the 50% threshold.

Graph 3: Voter turn-out in municipal elections



Source: Data from the Statistical Office of the Slovak republic

- **Protests and petitions**

Based on the information obtained through FOIA requests, there were three hundred and nine protests in Bratislava's Old City District (Bratislava – Staré mesto) in 2011. Although this number contradicts previous statements about the unpopularity of public assemblies, the number of protests organized in other Slovak cities is significantly lower. In Košice, the second largest City in Slovakia, there were only twenty eight protests in 2011. The number of assemblies in the other twenty cities which responded to our FOIA requests varied from zero to a maximum of twenty-five.

Therefore, a series of public assemblies organized in different Slovak cities reacting to a publicized government spy file named "*Gorila*" came as a surprise. "*Gorilla*" described in detail the corrupt behaviour of high-ranking officials from across the political spectrum. Four protests were organized in Bratislava, and several others in different cities across Slovakia. Organizational information about the protests was widely spread online, particularly through Facebook. The movement gained the attention of traditional media immediately after the first heavily attended protest in Bratislava. Initially, the protests gained support from famous activists, journalists, artists and other public figures. However, due to conflicts among organizers and no clear requirements or guidelines for participation the frequency of protesters significantly decreased. However, additional protests are sure to come in the following weeks. Regardless of their ultimate impact, these protests serve as a primary example of how the use of ICTs and new media, particularly social networking, can mobilize citizens and move online engagement into the offline environment.

Online petitions have also proven to be an effective tool in Slovakia. Online petitions were effectively used in both "*The landfill does not belong to the city*" and the "*Podpoľanie nad zlato*" initiatives described above. In the first initiative, activists collected more than eight thousand signatures opposed to the proposed Pezinok landfill in a single day which were sent to the European Parliament. In the second initiative, activists collected ten thousand three hundred and fifty signatures against gold mining in the region of Podpoľanie within the first three months of the campaign.

- **Odkazprestarostu.sk – more responsive municipalities**

This web portal enables citizens to submit their complaints directly to the municipality by briefly describing the issue or problem, attaching a photo, and identifying its location on a map. Subsequently, the complaint is reviewed and confirmed by the local administrator, and sent to a municipal official responsible for resolving the complaint. Because the complaint is publicly visible, as is the municipality's response, there is public oversight and thus an increased incentive for the

municipality to appropriately respond. Municipalities are given ten days to respond to the complaint. If they do not respond within ten days, the complaint is labelled as unsettled. If a municipality responds ambiguously and a resolution is unclear, citizens then have an opportunity to vote on line as to whether the response was satisfactory or unsatisfactory resolved.

The portal proved to be a helpful tool for achieving greater responsiveness from municipal governments. Because the complaints are publicly visible, an inadequate response, no response, or having a complaint labelled “unsettled” creates negative PR for a municipality. Therefore, municipalities make a stronger effort to respond and to resolve complaints to the greatest extent possible, certainly more so than if they were submitted by e-mail. Statistics demonstrate that since the existence of the Odkazprestarostu.sk website, citizens have submitted seven hundred and sixty-four complaints, of which two hundred and eight-six were settled, two hundred and eighteen were left unsettled, and the status of two hundred and sixty have either not been decided or the time limit for a response has not yet expired. Participating municipalities satisfactorily resolved 60% of the complaints on average.

However, it is citizen participation which remains the biggest challenge. User participation reflects the classic Pareto distribution leaving the portal with a small number of very active and dedicated users and a large group of barely active users. Engagement of most users falls below average and therefore an average user is not representative. There is nothing wrong with this imbalance in participation, which is generally common for web portals and social networking sites, however the overall number of active users (three hundred and twenty-nine) is low. Even in Bratislava and BanskáBystrica, where the service has already been available for two years, the number of active users (three hundred and two) remains low. It is difficult to identify the reason for the low participation rates since SGI did not conduct a survey on citizen awareness of the service.

Table 2: Odkazprestarostu.sk in numbers (February 26, 2012)

Municipality	Number of inhabitants (2001 census)	Number of active users	Submitted complaints	Settled complaints	Unsettled complaints
Bratislava	428672	284	606	216	181
Prešov	92786	7	37	24	2
Nitra	87285	1	7	1	3
BanskáBystrica	83056	18	47	29	10
Trnava	70286	4	11	1	7
Šaľa	24564	9	39	8	5
Dobšiná	4896	1	2	0	2
Vinodol	1851	4	13	5	8
Babín	1368	1	2	2	0
		329	764	286	218

- **Napisteim.sk – MPs do not respond often**

Since the launch of this site, which allows citizens to send electronic messages directly to MPs, one hundred and twenty nine messages have been submitted, which is impressive given that the service had only been available for three months at the time of our study. A launch campaign supported by famous actors and covered by the national media most likely contributed to the initial success of service. However, this portal faces a major problem; a very low response rate. Out of the one hundred and twenty nine submitted messages, only twenty-eight were responded to.

2.3. How civic engagement tools were introduced in Slovakia

The roots of modern civil society in Slovakia can be traced back to the fall of communism in 1989, which enabled the adoption of democratic legislation. For instance, the following pro-democracy acts were adopted gradually after 1989: the Act on the Right of Assembly, the Act on Petition Rights, the Act on the Procedure for Holding a Referendum, the Act on Free Access to Information, and the Act on Broadcasting and Re-transmission (which governed the concentration of media ownership), and the Act on Periodicals and Mass Media (amended in 1990). These and several other laws provided a legislative and institutional framework for civic engagement.

Since 1989 civil society has undergone many changes and improvements in Slovakia. According to a recent study on the trends in civil society, numerous community-based organizations have been established, both formal and informal, and volunteering has increased. Public consultation on draft laws has become more common, especially in the areas of social, environmental, and cultural policy, and online civic engagement has emerged and included otherwise passive citizens (Bútorá et al., 2011, 2-3).

As the initiatives *“The landfill does not belong to the city”* and *“Podpoľanienadzlató”* have demonstrated, traditional tools for civic engagement, such as protests or petitions, are generally not used by citizens as a common expression of discontent, but rather only when “the common good” is jeopardized. This is true in Slovakia as well as in other new EU member states. In regard to new tools for civic engagement, such as the web portal *Odkazprestarostu.sk*, their introduction in cities very much depends on the attitude of the municipal government. In municipalities where the management tends to be open for cooperation with citizens and CSOs, such as Bratislava – Staré mesto, Bratislava – Nové mesto, Bratislava – Vajnory, Šaľa or Banská Bystrica, the launch of the portal was easy.

Only two municipalities were not been cooperative; Dobšiná and Prešov. Dobšiná has not responded to either of the two submitted complaints, while Prešov refused to cooperate with the portal initiative reasoning that the municipality has its own system for addressing citizen issues. However, nothing that would resemble such system was traceable. Moreover, the municipality argued that the portal used its e-mail address for forwarding complaints without having its consent, which is absolute nonsense. Following this logic, citizens would be required to ask the municipality for consent to use its e-mail address before contacting the municipality in any case. Prešov blocked the portal’s email address and to this moment refuses to cooperate. Therefore, citizen complaints are sent by local civic activists by traditional post mail. When they receive a response from the municipality, it is re-posted to the portal. Interestingly, the municipality resolves most of the complaints regularly, which makes its attitude about non-participation somewhat confusing.

It is also important to mention that responding to a complaint does not necessarily constitute a resolution. Some municipalities, which understand that good cooperation with the portal contributes to their good reputation, respond to the complaints in a time sensitive manner to avoid an unfavourable response rate and image, however, their response are not always satisfactory. They often argue that solving the complaint is not in their competence or simply note that due to a lack of funding that they are unable to solve the complaint, or provide a vague response such as “they will address the complaint at the next council meeting.”

2.4. Key recommendations

Based on the experiences and examples described above we suggest the following recommendations for Mayors and CSOs.

For Mayors:

Ensure that each public servant responsible for external communication completes a training course on citizen outreach. We recommend introducing constituent relations training for public servants who are responsible for external communication on how to pro-actively engage citizens in the life of the municipality; how to encourage and increase public awareness of policy issues impacting the municipality, how to increase citizen participation in governmental processes, and how to create, develop, and promote a constructive public dialogue on local policy issues. Such training will improve the overall communication and cooperation between the municipality and its citizens and strengthen their relationship.

Cooperate with local CSOs. Mutual cooperation between municipalities and local CSOs increases strengthens the social and political fabric of a community as it leads to more transparent governance. Therefore, we recommend that Mayors proactively participate in CSO projects, such as Odkazprestarostu.sk, which enables more effective and transparent communication with citizens. While participating in CSO projects Mayors should communicate in an open and friendly manner, be clear and concrete, and address citizen complaints and comments in an expeditious and responsive manner. We also recommend that Mayors establish a CSO forum, providing an opportunity for local CSOs to present their positions on local issues and provide suggestions directly to the Mayor and other locally elected officials.

Appreciate and reward good examples of civic engagement. To encourage civic engagement it is imperative to acknowledge that citizen participation is desired and appreciated. In instances where individuals have demonstrated exemplary civic leadership, do not hesitate to reward them and to publically acknowledge their achievements. Organize an independent jury consisting of respected public figures to nominate and select winners. It is also important to promote local volunteerism.

Publicize examples of exemplary cooperation among CSOs and citizens, but do not forget to apologize for failures. If you want citizens to engage in community projects such as Odkazprestarostu.sk, Mayors should demonstrate that public engagement has the potential to bring positive change. Citizens need to know that if they speak out, their voices will be heard. Therefore, publicize examples of good cooperation with citizens and CSOs. Conversely, if a municipality should fail in fulfilling some of its duties, never try to cover it up, but rather take responsibility, admit the shortcoming, and describe what steps will be taken to remedy the situation.

Use ICTs and new media to engage with your constituents. ICTs and new media are great tools for reaching a wider range of citizens. We recommend that Mayors interact with citizens on available social networking sites depending on which sites have the largest number of users in a municipality, and to use these sites as official information channels informing citizens about news happening in the municipality, and posting videos of public events.

For CSOs:

Suggest specific opportunities for mutual cooperation with municipalities. Demand opportunities for engagement from the municipality, and encourage citizens to approach their municipalities as well.

Collect and analyse data on civic engagement. If there is no data on civic engagement available or partial data only, it is very difficult to evaluate why a particular trend in civil society occurs at a particular point in time, and it is impossible to identify the reasons why some CSOs campaigns are successful and others not. Therefore, to establish best practice examples, it is important to collect and analyse data on civic engagement in its different forms.

Serve as a government and fiscal watchdog. Provide watchdog activities – monitor local government actions to ensure that policies reflect public concerns, are implemented appropriately, and have the desired public outcome. Encourage regular attendance of citizens at town hall meetings.

Encourage citizens to interact with elected officials and raise public awareness of important local issues using traditional tools, such as local print and broadcast media, and non-traditional tools, such as social networking sites and web portals.

Establish a code of ethics. To avoid unethical behaviour among CSOs, ethical codes of conduct should be developed and committed to in order to ensure transparency and accountability. These codes should describe fundamental ethical standards and procedures in relation to a CSOs operation, particularly in regard to financial and human resource management.

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3. E-GOVERNMENT SERVICES

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The use of ICTs for the delivery of public services is becoming more and more popular due to the many benefits they bring. However, in Slovakia, as in other new EU member states, the full potential of ICTs has not yet been fully exploited in the public sector. This chapter will briefly describe developments in e-government in Slovakia at both the national and local levels, and explain how and under what circumstances governments can profit from the adoption of e-government services.

3.1. Description of e-government services

E-government is defined as online delivery of public services (Lazer and Mayer-Schönberger 2007, 2). E-government services began to appear in the 1990s after the first successes of online private business services, such as Amazon.com. Municipal governments have begun to adopt e-government services and use ICTs to enhance the delivery of public services for different reasons. First, there are

indisputable benefits associated with the use of ICTs over their brick-and-mortar counterparts, which will be described in detail further below. Second, increasing e-literacy of citizens, expanding internet penetration, and better access to ICTs has allowed ICTs to reach a broader audience in society.

National and local governments provide an array of e-government services, and their relative importance and utility to citizens varies with a communities evolving needs and priorities. However, according to e-government scholars and practitioners, in an effort to promote transparency, governments should provide the following services and information; publication of online information describing city charters, statements of policies, budgets, city grant programs, selection criteria for public administration positions, and urban planning and development priorities (Piotrowski, Borry 2010). Local governments should also provide e-auctions for local contracting, interactive FOIA request platforms, and participatory online services such as discussion forums and online surveys.

3.2. Results of use of e-government services

E-government services have several advantages over their brick-and-mortar counterparts. They have the potential to enhance effectiveness and transparency, increase internal productivity, and reduce administrative costs. They are “user-centric” and imitate professional customer-oriented attitudes towards citizens increasing the professionalism of municipal government services. By embracing participatory features, e-government services have the potential to increase the level of responsiveness of public authorities, and they reach more citizens in comparison to traditional communication channels (if the precondition of digital literacy among citizens and wide internet penetration is fulfilled).

3.3. How e-government services were introduced in Slovakia: many strategies, few services

In Slovakia, as in other new EU member states, the development of e-government services has continuously lagged behind the trends in other regions of the developed world. Given that Slovakia underwent dramatic political, economic, and social transition when the concept of e-government appeared, the initial gap was logical. However, over the past decade this gap has neither been closed nor narrowed. Despite some improvements made over the past two years, primarily in the area of e-procurement, Slovakia still ranks among the weakest performers in the EU27+ group¹(Capgemini, 2010, 7-8). In regard to online sophistication² and full online availability³ of e-government services, which are both standard indicators used for the assessment of e-government services within the EU, Slovakia remains below the average levels of the EU27+ group. While the graphs below illustrate that some progress has been made, Slovakia has not yet realized average levels of e-governance and the gap between Slovakia and other countries has not narrowed. Other new EU member states have progressed at comparable, or in some cases, greater rates

Although Slovakia has adopted several national e-government strategies, e.g. the Concept of the Development of Information Systems in Public Administration (2006), the Concept of the Use of Software Products in Public Administration (2008), E-government Strategy of the Slovak Republic (2008), the National Concept of E-government (2008), and many others, implementation has moved at an extremely slow rate. The obstacle can partially be explained by frequent changes in government responsibility for implementation of national e-government agendas. For example, from 2004 through

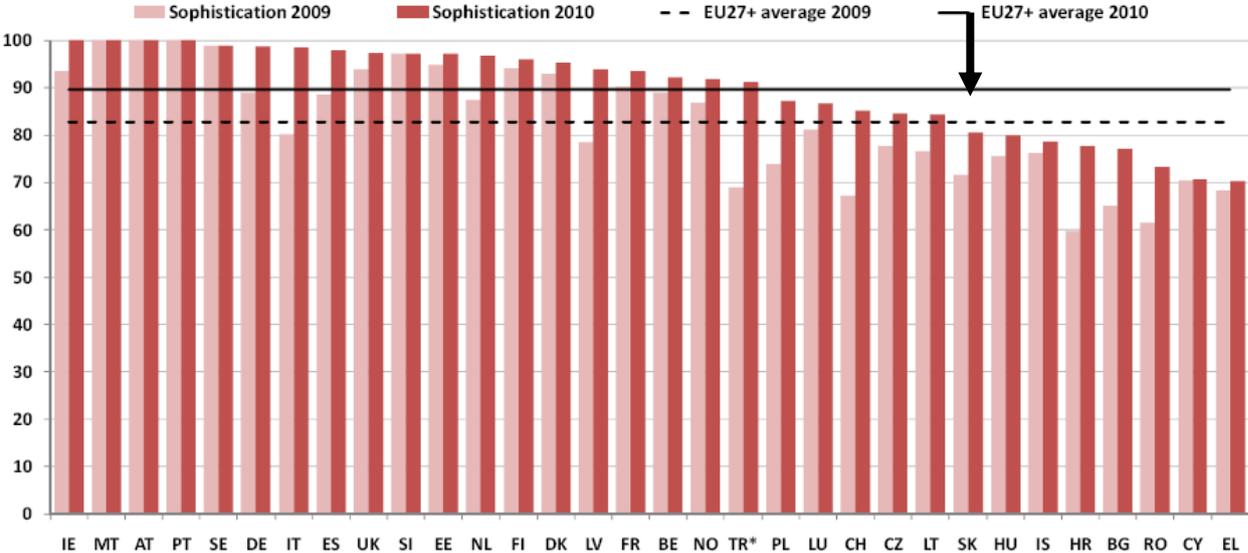
¹A group consisting of the EU member states and Croatia, Iceland, Norway, Switzerland and Turkey

²Online sophistication reflects the degree of service online availability, from basic information provision to a possibility of completing transactions with the public authorities online without using any additional channels (Capgemini 2007, 10).

³Full online availability represents only the most advanced degrees of online sophistication, transactional and personalized services, which enable citizens to realize transactions fully online without using any additional channels. It measures whether the service is fully available online or not (Capgemini 2007, 10).

2007 the Ministry of Transport, Post and Telecommunications were in charge of the e-government agenda, while in 2007, the Ministry of Finance and the Government Cabinet assumed responsibility for this agenda.

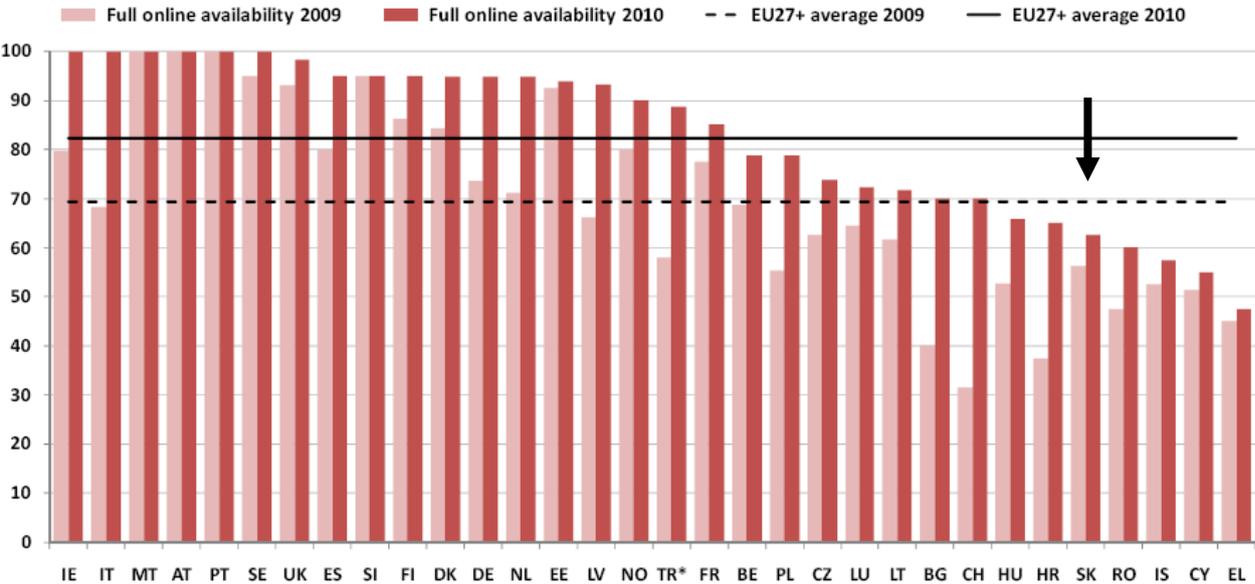
Table 1: E-government services sophistication ranking in 2009 and 2010 (in %)



* Survey not implemented in 2009. The score of 2007 is used in the graph.

Source: Capgemini, 2010. The x axis represents the position of EU27+ countries – Slovakia is marked as SK, the y axis represents online sophistication in 2009 and 2010 in %.

Table 2: E-government services full online availability ranking in 2009 and 2010 (in %)



* Survey not implemented in 2009. The score of 2007 is used in the graph.

Source: Capgemini, 2010. The x axis represents the position of EU27+ countries – Slovakia is marked as SK, the y axis represents full online availability of selected central e-government services in 2009 and 2010 in %.

3.3.1. E-government services provided by municipalities

The Capgemini data illustrated in the graph above reflects the level of online sophistication and full online availability of central e-government services. The data on implementation of e-government services in the municipalities is missing. Therefore, we focused on local government and looked for the best practice examples in selected municipalities. Similarly, as in the FOIA monitoring study, we chose seven best and seven average access to information performers from TIS's Open Local Government Ranking, as an information-rich, interactive website is a fundamental element of a comprehensive information policy, and assessed whether thirty-eight selected information services⁴ were available on their websites, and to what level of online sophistication they reached. Each level was awarded a corresponding number of points:

- 0 – if information/service was not present online,
- 1 – if information/service was present online, but not providing any interaction,
- 2 – if information/service provided one-way interaction (downloadable forms),
- 3 – if service provided two-way interaction (forums, processing of forms),
- 4 – if services were transactional/individualized (full electronic case handling).

The score for each municipality was calculated as an index of the number of available information services and their level of online sophistication. As the same score could represent two disparate cases – either a municipality provided a high degree of important information, but no interactive services, or a municipality that provided highly sophisticated personalized services, but only limited public information. Therefore, in the table below summarizing the results of our study and review of municipal websites, the number of information services reaching a level of online sophistication is indicated.

Municipality	E-score	Number of services with a score of					Mean	No. of inhabitants	No. of unique visitors	Average time spent on the website
		0	1	2	3	4				
Bratislava – Staré mesto	66	6	11	13	3	5	1.74	40828	97626	0:06:04
Senica	60	10	7	12	3	5	1.58	20742	did not provide	did not provide
Liptovský Mikuláš	56	6	10	17	4	0	1.47	32566	71463	0:02:16
Rožňava	53	7	11	18	2	0	1.39	18883	30663	0:03:07
Bardejov	51	8	11	17	2	0	1.34	33418	did not provide	did not provide
Banská Bystrica	49	7	15	14	2	0	1.29	79990	did not provide	did not provide
Bratislava – Petržalka	44	13	9	13	3	0	1.16	112545	did not provide	did not provide
Košice – Dargovských hrdinov	42	13	13	9	1	2	1.11	27077	25240	not registered
Nová Dubnica	41	15	8	12	3	0	1.45	11781	did not provide	did not provide
Bratislava –	38	17	7	12	1	1	1	21207	did not provide	did not provide

⁴Availability of following information and the level of online sophistication of following services was assessed: Information about the location of offices, Contact information, Listing of external links, News/newsletter, City charter and policy priority, Calendar of events, Budget information, Demographic information, Documents, reports or books, On-line city library, Cultural Heritage information, Education services information, City grant scheme, Emergency management of alert mechanism, Live traffic/web cams, Lost and found, Transportation information, Human resources information, City plans and maps, Environmental information, Discussion forums, City's blog space, On-line complaints system, On-line surveys/polls, Zoning lookup, Urban planning, Search engine, On-line tracking system, Information request, FAQs, Meetings, Access private information, Pay utilities, Pay taxes, Pay fines, E-procurement, Business license application, Permit application. Both the information/services assessed as well as the methodology copy the MeGAP3 tool for e-government assessment.

Podunajské Biskupice										
Košice Západ	38	14	11	12	1	0	1	39442	13822	0:04:08
Tvrdošín	34	17	8	13	0	0	0.89	9419	37969	0:04:45
Bratislava – Nové mesto	32	20	10	11	0	0	0.84	37778	207647	not registered
Košice - Nad jazerom	31	16	13	9	0	0	0.82	24426	21806	0:05:03

The study demonstrates that the era when a municipality does not publish the Mayor's or municipal employees contact information is definitely over. Each of the monitored municipalities included basic contact information and news on municipal events on their websites. In fact, the municipalities published much more. In the important area of municipal contracting, each of the municipalities published contracts, including orders and invoices, which is obligatory under Slovak law. However, frequently the format utilized was far from user-friendly or easily accessible.

The Municipality of Bratislava-Staré mesto, which published almost all of the information assessed as well as several participatory and transactional services, achieved the highest ranking in our study. The worst performer was the Municipality of Nad jazerom in Košice, whose website was information-poor and lacked any interactive features. Our study also indicates that the relative size of a municipality does not determine the quality of its e-government services, and that smaller municipalities are often innovative and capable of providing high quality e-government services. For example, Senica, which has about half the population of Bratislava – Staré mesto, developed a specialized website for transactional services for citizens only. Another good practice example is the website of Bardejov, which embraces several interesting features. Bardejov is apparently aware that a significant amount of its income comes from tourism, and has therefore developed an interactive website with maps and information describing cultural heritage sites which interestingly allows tourists to send e-postcards directly from the website if they wish. The website is also information-rich and user-friendly towards its citizens. Alerts, such as changes in the schedule of public transportation or in pharmacies providing emergency services are published and updated regularly. However, the website does not provide any feedback or participatory mechanisms for citizens. Bratislava-Starémesto, Bratislava-Petržalka, Rožňava, and Liptovský Mikuláš belong to the municipalities which have discussion forums or complaint mechanisms. Judging from their archives these features are becoming quite popular among local residents. Citizens regularly post their comments and complaints in municipalities where they can expect to receive a response from a responsive public servant. This indicates that the diffusion of innovation theory also applies to e-government. Therefore, if it is easy to participate, and services are compatible with past user experiences and community needs, there is a reasonable chance that citizens will increasingly use e-government services (Rogers 1995, 15-16).

To observe if there was any relation between the number of users and the quality of the service, we asked municipalities for statistics on their web traffic, particularly the number of unique visitors over a one year period, the average time spent on the website by users, the number of documents that had been downloaded over a one year period, and the number of completed transactions in the event transactional services were available. However, only eight of fourteen municipalities provided this information and some of it was rather ambiguous. Moreover, transactional services have been available for such a short period of time that they have only attracted a few early users.

3.4. Key recommendations - how to avoid providing e-government services that nobody uses

To attract citizens to use e-government services municipalities should adhere to the following principles:

Provide quality information and 24/7 convenience. If the information provided by municipalities is out dated or the service breaks up frequently, citizens may be reluctant to adopt e-government services, and may abandon them if they are already users after experiencing such hurdles.

Keep minimum accessibility standards. Ensure that the quality of the information provided meets user needs, and that citizens with disabilities and non-native speakers are not left behind.

Make use of e-government services as easy as possible. If citizens spend more time searching for information than benefitting from it, or if they are required to fill out and provide duplicate personal or identification data forms, or use electronic signatures for each transaction, they will most likely abandon the use of such e-government services.

Engage Citizens. Develop participatory features such as discussion forums, city blog space, on-line complaint systems, on-line surveys/polls, and online petitions that will provide citizens an interesting opportunity to remain engaged in municipal life.

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4. BUDGETING

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This chapter provides a brief overview of transparency tools related to municipal budgeting processes, emphasizing spending accountability, with a special focus on online contract publishing.

4.1. Making municipal budgets understandable

Municipalities and other public institutions in Slovakia are required by law to produce their budgets in “program budget” form, and municipalities generally conform to this law in the off line environment. In a nutshell, a program budget is plan of activities covering a three year period which includes anticipated costs and expected outcomes. General themes such as “transportation” are broken down into specific programs, such as “public transportation for elderly,” and planned activities such as “procurement of low-platform buses.” Activities must have measurable outputs, which are evaluated in a year-end accounting, and anticipated costs.

It is extremely important that budget proposals, and final year-end accounts and amendments, are discussed and voted upon only after the proposals have been made available to public review. The proposals should be published online, with hard copy editions available in town halls, and sufficient time should be allowed for an open public review and comment period. To the greatest extent possible, budgets and accompanying documentation should be written in a clear, non-specialist language to ensure accessibility. Data presented should be presented in an appropriate perspective, ideally through longer runs of year over year time comparisons.

In the absence of any legal requirements to publish budgets, and final year-end accounts and amendments online, TIS recommends that they should be stored online for a minimum of three years. In Slovakia, only one third of the largest municipalities publish budgets on line according to our Open Local Government 2010 survey⁵.

In our experience, one of the most effective ways to communicate financial matters to the public is to present budgets in an interactive and user-friendly manner. As an illustration, we encourage you to explore the three most recent budgets developed by the City of Bratislava at <http://www.openspending.org/bratislava-city>. This visualization is part of a project where TIS is presenting the budgets of thirty cities. While no other major city in Slovakia is participating to the extent of Bratislava, the application used is free, and any municipality wanting to present their budgets can easily upload their data to the website.

4.2. Open Sesame – Publishing Contracts Online (Idea)

While responsible budget development measures may lead to a perfectly clear budget that has undergone public review and is understood and accepted, they cannot assure that budgets will be appropriately implemented. The Slovak experience is characterized by a great deal of creativity when it comes to illegal or inappropriate expenditure of municipal finances, ranging from overpriced deals with "friendly" companies to unfavourable, often irrevocable contracts, signed shortly before elections, and placed in filing cabinets waiting for the next municipal administration to pay. While municipal contracts are technically accessible through FOIA, constant surveillance and oversight would require permanent or on-going fillings. Usually, by the time the public has discovered an "unfavourable" contract, it's already too late.

TIS has advocated for online contract publication to address these issues for several years. We argued that citizens should be granted online access to all contracts, incoming invoices, and outgoing orders, to provide oversight and to assess the efficacy and integrity of local government spending. While thirteen out of one hundred municipalities published their contracts online in 2010 (according to a TIS survey⁶) it was a national law adopted in late 2010 that turned the recommendation into a general practice. In short, the law requires that contracts⁷ funded by public resources, including those of municipalities and their organizations, and businesses owned by a municipality, publish contracts online before they become legally binding. Contracts must be stored online for five years, and lists of orders and invoices must be published within ten days.⁸

There is no hard data on how many people have reviewed published municipal contracts on line. However, according to a survey conducted by TIS in early 2012, one in eleven citizens indicated that they had used the tool in the past year. We suspect that concerns relative to local government spending constitute a great part of recorded on-line public interest.

4.3. Results: Bratislava - Staré mesto, Levice⁹

We interviewed two municipalities for this chapter – a city district in the capital, Bratislava -Staré

⁵ <http://samosprava.transparency.sk/en/>

⁶ <http://samosprava.transparency.sk/en/csv/answers/1309>

⁷ The Major categories of excluded contracts are employment contracts, contracts of security and intelligence forces.

⁸ When not clearly stated otherwise the text discusses provision in force in February 2012. The provision had been amended twice already, mostly

⁹ Interview with Mr Jaroslav Jezek, Bratislava - Staré mesto, IT department, on Feb 2, 2012. Interview with Mrs Daniela Sussova, Levice, Property Department on Feb 14, 2012.

mesto, and the Town of Levice. Both municipalities roughly have a population of forty thousand and are ranked in the top ten in our contracts publishing survey¹⁰, Bratislava - Staré mesto being the winner.

While Bratislava - Staré mesto published contractual documents online voluntarily since 2010 as a transparency measure, Levice started publishing budgets on line in 2011 once it became a legal obligation. As you can see on their websites, Bratislava - Staré mesto (<http://bit.ly/staremesto>) published roughly five hundred contracts, while Levice (<http://bit.ly/levice>) published nine-hundred contracts online in 2011. Both municipalities had software solutions especially developed for accounting and document management in place when they started on line publishing. Experiences of municipalities without such infrastructure in place might be considerably different.

Both of the municipalities agree that:

- **On line contract publications tidied up internal processes**

On line publishing streamlined the circulation of documents and “tidied up the office,” establishing transparency within the municipal organization as well. Employees enjoy access to contracts they previously did not, and can easily work with them on line. In addition, for those municipalities that did not have a digital documents repository or archive, on line contract publication forced them to create one.

- **On line contract publication saves money**

While there are no precise numbers, municipalities interviewed felt that on line contract publishing saves money. The explanation provided was that “if public officials know that contracts and invoices are to be made public,” they would be disinclined to sign “unfavourable” contracts. On line publication thus has a preventive effect, increasing opportunities to detect possible fraud, corruption, or inappropriate contracting, thus leading to better governance.

- **On line contract publication is not expensive** (technology and human resources)

In refutation to a major criticism that on line publishing is expensive, each municipality claimed that their on line publication systems did not represent a great burden to either their people or their budgets. Levice estimated that the capital costs for its e-government webpage was €3,000 with roughly € 500 per year spent on operating cost (contracts only), while Bratislava cites a €10,000 one time expenditure for its entire e-government portal, of which contracts are only a small part, and approximately €5,000 annually for site maintenance. Several companies offer on line publication software and solutions for as little as €500 a year. Neither municipality required additional workforce to implement their on line publication systems.

4.4. Key recommendations

All of the proposed tools and recommendations deliver results only when used by citizens and civil society. Design for both formal and informal consultation, and use during open public meetings.

Budgets – Circulate budget proposals, final year-end accounts and amendments widely, especially on the internet, before they are voted upon, and create mechanisms for citizens to submit comments.

¹⁰ Transparency Slovakia carried out 2 surveys ranking quality of contracts publication in 100 largest municipalities in Slovakia.

Write budget proposals, final year-end accounts and amendments in clear, non-specialized language. Visualize budgets online to provide citizens a better understanding of their structure.

Contracts – Design for online contract publication in internal processes and directives, and publish contracts, incoming invoices and outgoing orders online. Publish old contracts as well. Do not underestimate the importance of technical details, collect and publish all relevant metadata, using searchable files. Utilize an accessible web design, a user friendly internet contracting portal; provide interactive tools for questions and feedback, and use collected and publicly available data as a benchmark to optimize procurement. Provide training for staff as needed.

Quick Guide to Tools, their anti-corruption potential and ease of implementation	<ul style="list-style-type: none"> • Impact Potential 	<ul style="list-style-type: none"> • Cost 	<ul style="list-style-type: none"> • Implementation Difficulty
<ul style="list-style-type: none"> • Plain speak budget 	<ul style="list-style-type: none"> • Medium 	<ul style="list-style-type: none"> • Low 	<ul style="list-style-type: none"> • Low
<ul style="list-style-type: none"> • Budget visualization 	<ul style="list-style-type: none"> • Medium 	<ul style="list-style-type: none"> • Low 	<ul style="list-style-type: none"> • Low
<ul style="list-style-type: none"> • Contracts publishing 	<ul style="list-style-type: none"> • High 	<ul style="list-style-type: none"> • Medium-High 	<ul style="list-style-type: none"> • Medium-High

Bratislava City Budget 72 Entries

By Group Search About Explore

2011



Name	Amount (EUR)	Percentage	Change +/-
Doprava a komunikácie	63,537,902	33.07%	-4.17%
Vzdelávanie	38,560,137	20.07%	-3.70%
Životné prostredie	32,382,865	16.86%	-1.39%
Podporná činnosť a kontrola	17,588,750	9.16%	-3.85%
Bývanie a občianska vybavenosť	11,338,075	5.90%	3.38%
Sociálne zabezpečenie	9,761,074	5.08%	5.23%
Bezpečnosť, právo a poriadok	7,870,780	4.10%	17.98%
Kultúra	7,256,085	3.78%	-2.29%
Šport	1,666,800	0.87%	0.72%
Marketing a cestovný ruch	1,657,400	0.86%	2.90%
Plánovanie a rozvojové projekty	484,750	0.25%	43.51%

5. PUBLIC SUBSIDIES

Matej Kurian, Transparency International Slovakia

This chapter provides suggestions on designing and running public subsidy programs such as sport development grants or subsidized housing, focusing on information availability.

5.1. Public Goods, Subsidies and Corruption

Municipalities often provide public support and subsidies for municipal goods and services in what's sometimes referred to as "welfare economics" for the benefit of local citizens. While theoretically anyone who qualifies should be eligible to benefit from these services, such as kindergarten or elderly housing, in practice demand is often higher than available capacity forcing municipalities to address the issue of scarcity and resource allocation.

Similarly, municipalities often run subsidy or grant programs to support local civic associations such as sports clubs, art collectives, or to promote local tourism. In this way, municipalities are outsourcing or contracting for private goods and services which contribute to the "public good." Decisions governing who will be provided a subsidized flat or which, if any, sports club will be supported in a given year are prone to mismanagement and corruption. Both decision-makers and public contractors, or grants-seekers, may have a personal preference, or bias, which supports their own cause over a preference which may better serve the public good. This chapter provides information on how to reduce the risk of mismanagement or corruption in the allocation of public subsidies. While no Slovak municipality complies fully with the TIS recommendations described below, the City of Zilina performs comparatively well. A brief overview and assessment of Zilina's innovative practices will be presented.

5.2. Designing a good program for public subsidies

The first step for a municipality is to decide whether there is a need for public welfare or grants program. A municipality might decide that it does not need or want to operate a kindergarten or support civic associations. However, if a decision is made to subsidize public services, a municipality should clearly describe the intended public interest it is attempting to achieve.

The public interest is generally defined by the local legislators. They should decide, for example, whether new public housing should be given priority over grants to organize sporting events for children or other public services. However, the public can be provided with a direct voice in this decision making process. It is conceivable to create polls in which citizens voice their preference for areas that they would like to support in any given year. For example, a municipality could ask whether citizens prefer to support sporting events over cultural events, or whether they would prefer to support amateur sports over a local professional team.

It is an absolute requirement that the aims and essential rules governing the issuance of public subsidies and grants are clearly defined in legally binding form through local acts which are made public. These regulations should be outlined in high-level public documents which clearly articulate the specific requirements to be outlined in Requests for Proposals (RFPs). At a minimum, these regulations should stipulate:

- The structure of grant programs and their general aims;
- The method of resource allocation (Is there a fixed amount the municipality intends to spend each year?);
- The structure and minimum requirements of RFPs (see below);
- Membership in the evaluation committee, ideally inclusive and open to specialists, and grounds for disqualification to prevent conflicts of interest;
- The final decision-maker (Mayor only, municipal council, clerks?);
- The evaluation process, especially the need for weighted criteria;

- Transparency and accountability measures, especially public access to documents and mechanisms for public oversight and involvement.

5.3. Running a good subsidies program: City of Zilina¹¹ Case Study

Ensuring and communicating transparency and integrity are two fundamental requirements to implementing a good public subsidies program. Essentially, this often means being able to clearly answer questions such as “who got what and why, why didn’t someone else receive a grant, and how was the money spent?”

Zilina is the fourth largest city in Slovakia with the population of roughly eighty thousand inhabitants. The city ranked eighth overall in our 2010 Open Local Government Survey, earning 50% of the total points available in assessing public subsidies program, with 20% being the national average.¹² Zilina distributed more than two hundred and twenty thousand euros of its 2010 annual budget of forty-five million euros, or 5% of the total budget, through its grant programs. The administration of the program requires one full-time position according to Peter Janicky who manages Zilina’s grants system.

The City’s framework for managing public subsidies was developed in 2005 under Mayor Jan Slota. Slota was the Chairman of the Slovak National Party (SNS), a party often perceived as a symbol of corruption and cronyism in national politics, primarily due to the scandals associated with Vladimir Meciar’s 1994-1998 and FICO’s 2006-2010 governments.¹³ Yet, it was under Slota when the grant program was reformed. Two opposition legislators, Peter Jancik and Peter Fiabane, proposed a rather sophisticated public subsidy system which called for RFPs and selection committees composed of a mixture of legislators and technical experts. The proposal also called for transparency safeguards such as allowing applicants to be present when bids were opened and reviewed for conformity with technical requirements.

According to Jancik, opposition legislators were surprised that the legislature where Slota’s party held a majority accepted their proposal. Jancik could not quite pinpoint why the legislature decided to accept it. Nevertheless, in 2005, the new grants system was successfully implemented and worked freely without inappropriate political interference. Mixed selection committees evaluated grants and proposed distributions, and the Mayor approved committee recommendations. However, the entire system came to halt in 2006 with activists hinting that Mayor Slota thought that it had become too independent. The program was restored later in the year when Mayor Ivan Harman (2006-2010), supported by the Coalition of Christian Democrats (SDKU) and local activists such as Jancik and Fiabane, came to power. In 2006 through 2010, the assembly basically followed the Jancik-Fiabane model. In 2011, under current Mayor Igor Choma, committee recommendations were overturned in more than two thirds of the cases causing public uproar among local activists.¹⁴

In 2009 and 2010 Zilina’s public grants program performed remarkably well. Members of the selection committees were voted upon in the legislature and their names were published on the City’s webpage¹⁵. A website provided¹⁶ basic information for potential applicants or grantees, including RFPs and corresponding evaluation criteria. Lists of submitted applications as well as a list of

¹¹ Based on interviews with Mr Peter Zanicky, Sports, Tourism and Regional Development Dept. (Feb 27, 2012) Mr Peter Jancik, legislator and granting system co-author (Feb 27, 2012) and Mr Peter Fiabane (Feb 28, 2012).

¹² <http://samosprava.transparency.sk/en/city/graph/11188>

¹⁴ <http://zilina.sme.sk/c/5877082/choma-o-grantoch-odporucania-som-neignoroval.html>

¹⁵ http://www.zilina.sk/userfiles/2010/Grantovy%20system/2010%20grantov%C3%A1%20komisia-27_01_10.rtf.

¹⁶ <http://www.zilina.sk/111/grantovy-system---archiv-2010/>

supported projects were also available online.¹⁷ However, applicants were not notified of their application score on line, nor could they attend meetings where proposals were discussed and evaluated. Jancik indicated that they had tried to create a public grants system where professional evaluation of the proposed project was of the highest importance. He cited examples of supported projects that had no political backing as prime evidence of system's efficiency.

However, Jancik recognized through Zilina's experience that Mayors should have some influence in the distribution of municipal funds. Therefore, Zilina established a dual tracked program where the Mayor has discretionary oversight of 10% of the program, with the technical committee controlling the remaining 90%. Only time will tell if this hybrid formula proves to be a workable solution.

5.4. Key recommendations

Be specific about the desired public objectives of welfare and grant programs. Include public and civil society organizations when designing and monitoring programs. Conduct public consultations in defining both long-term and short-term objectives, and encourage public participation in meetings where grant or subsidy programs are discussed. Issue Requests for Proposals and encourage competition. Develop solid evaluation criteria, including an explanation of their weight in the decision making formula. Assure that the process is as accessible as possible through open public sessions, and consider expert participation. Prevent potential conflicts of interest, and assure the process is as accountable as possible by publishing all documents in one place, including lists of funded and non-funded proposals and their scores. Publicize lists of selection committee membership, and implementation reports and accounts, and periodically assess, evaluate and innovate your grant programs.

General awareness and publicity. Inform the public on the availability of grants and subsidies widely via municipal websites and local media. Encourage public attendance of both citizens and CSOs in all municipal meetings where decisions on public transfers are being made.

Soliciting bids. Issue Requests for Proposals (RFPs) with all relevant information including bid structure, amount of support provided, budget structure, requested activities, expected outcomes, and reporting requirements. Pro-actively inform all stakeholders on upcoming RFPs and deadlines providing sufficient time to apply (social services should be evaluated on a rolling basis). Prevent mistakes by listing Frequently Asked Questions and application check-lists. Failure to meet minor application requirements should not be used as a reason to disqualify bids.

Selecting the best bids. Evaluate bids according to the specific criteria published in RFPs, and ensure the process is as open as possible by holding public sessions. Distribute all relevant documentation widely.

Evaluation. Require implementation reports that demonstrate how the declared public objectives were met and how. Require measurable indicators, and visual illustration to share with the public. Publish evaluation reports online so that anyone interested can inspect them.

Evaluate and innovate regularly. Did the project realize the intended public good? Are there any other activities that should be given higher priority in the upcoming period?

Be accountable. Publish all regulations, RFPs and notices of meetings in one place. Publish full lists of applicants, both successful and unsuccessful, including name applicant, project description, evaluation in individual categories, amount requested, and amount provided. An example from Slovakia can be seen at <http://www.region-bsk.sk/clanok/rok-2011-218809.aspx>, however please note

¹⁷ http://www.zilina.sk/111/_3/.

the missing information such as project description, requested amount, and unsuccessful bidders. Publish waiting lists for welfare services, and list members of the selection committee together with their affiliation (see example at <http://www.vrable.sk/poradovnik-ziadatelov-o-najomne-byty.phtml?id3=15692>). Publish project implementation reports online.

6. PUBLIC PROCUREMENT REFORM

Gabriel Šípoš, Transparency International Slovakia

Procurement contracts make up to a fifth of local government expenditures. Regular procurement scandals covered by the media and negative public perceptions (75% believe procurement is often affected by corruption) suggest that reforming the process of government contracting would boost public trust in politicians.

The process of public procurement is heavily regulated at the national level. Moreover, EU countries must comply with additional regulations imposed by the European Commission. Nevertheless, despite these levels of regulatory oversight, much more needs to be done by local governments to ensure that their procurement processes are transparent and efficient. This chapter describes how electronic auctions increase the competitiveness of municipal procurement which leads to savings by securing the integrity of the process.

When TIS analysed competitiveness of municipalities in 2010, it found a wide variety of results. While some cities managed to attract almost five suppliers, or bidders, to every tender, others struggled to have on average two companies participating.

Table 6.1 Slovakia's local government procurement in 2010

Municipality (selected larger cities)	Volume in €	Number of contracts	Average number of bidders
Snina	6 148 883,25	8	4,9
Trenčín	3 694 103,36	5	4,5
Zvolen	1 659 014,47	6	4,4
Trnava	2 024 908,70	4	4,4
Topoľčany	5 463 846,34	5	1,8
Levice	23 948 611,77	4	1,8
Dubnica nad Váhom	8 938 914	7	1,8
Humenné	4 371 954,49	4	1,6

Source: TI Slovakia, tender.sme.sk

Some of these differences are due to the nature of items being procured. Nevertheless, our evaluation of the quality of procurement processes in one hundred of the largest municipalities in Slovakia suggest that differences in performance can also be explained by the degree to which cities used innovative tools such as electronic auctions.

6.1. Description of the tool

The classical method of public procurement is in effect a single bid process. Companies which comply with tender qualification criteria, both technical and ethical competences, send their offers in. The contracting authority then chooses the best offer, usually by price, and signs the contract with the winner. The electronic auction introduces multiple bidding. After sending in their initial offers, all

bidders are invited to login to an online session from their offices. During this session bidders are able to see the best offer, but not the name associated with it to limit possible collusion, and sometimes the ranking of their offer. After the session begins competitors are offered the opportunity to undercut the best offer.

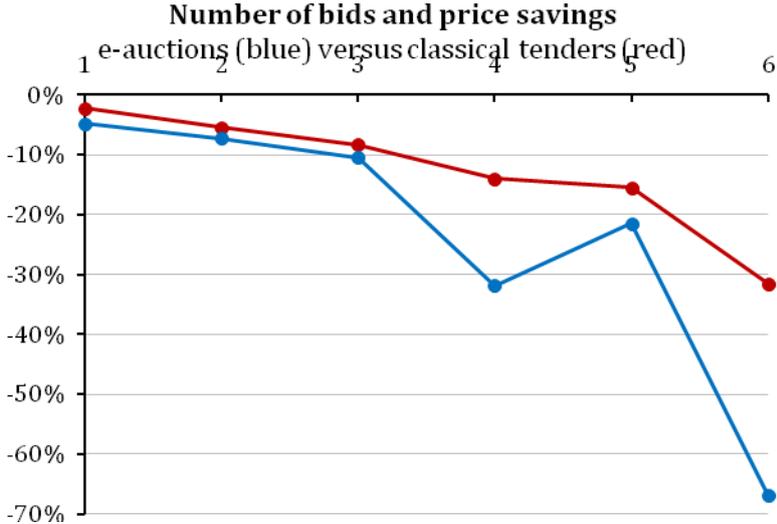
These so-called reverse e-auctions add transparency and boost competition because everyone can see the best offer. Also, they mitigate the risks associated with manipulation with single-bid envelopes such as opening bids before the official deadline, or including another offer after the official deadline has expired through “friends” in the contracting institution. Auctions can be set up with a fixed deadline for bids, or they can be open-ended. In the latter case the final deadline shifts by an agreed set of time, often two minutes, after a new highest or winning bid arrives.

If the municipality plans to use e-auctions widely, the best strategy might be to purchase software and train its employees in its use, but it is also possible to rent auction services and pay for each auction separately. Some auction houses charge a flat fee, while others ask for a share of savings earned against the original price. The experience in Slovakia suggests that the level of training and experience of the auction moderator is very important in assuring an effective auction.

There is an important limitation to e-auctions. Some tendered items may not be easily quantifiable (some services, such as consulting, legal advice for example) and hence should not be auctioned. It is relatively simple goods with little variation in quality that are most easily auctioned.

6.2. Results of its use

In Slovakia, electronic auctions were introduced on a massive scale in 2011 as a result of the new law mandating their use on purchases of goods with an expected value of over one hundred and twenty five thousand euros. By the end of that year every fourth tender was conducted through an e-auction. The Czech Republic made the use of e-auctions mandatory in April 2012. These two countries are now leaders in the use of this method among new EU member states. The results of its use are positive. They indicate that on average more companies take part in tenders solicited through e-auctions, and that this leads to lower prices for procurers and taxpayers.



Source: Transparency International Slovakia

An analysis covering the period of 2009-11 in Slovakia shows that price savings against the expected price were double in e-auctions than that of "classical" tenders, where only one round of bids is

conducted. While in e-auctions most often three bidders took part, in classical tenders contracting authorities could usually select the winner from only two offers.

In Šala, the city that introduced e-auctions as early as 2008, the savings are estimated at 30% of original prices or 2.3 million euros in three years. For instance, one of the first auctions conducted by the municipality was for garbage collection services. Until 2008, the city paid nine hundred thousand euros per year for garbage collection services. After an e-auction which attracted three bidders, which was won by the company which had been providing the service for years, the price came down to six hundred thousand euros per year.

6.3. How reforms were introduced in the City of Šala

Šala is the city of twenty four thousand people in south western Slovakia, seventy kilometres away from Bratislava. The movement towards e-auctions was led by Jozef Meciár and Martin Alfoldi and a small group of reformers who had been criticizing the corruption in their city for a number of years. Meciár was a politically active as a member of DS and later SDKU, both center-right parties.

Alfoldi was elected to the city assembly in 2002. Together with Meciár, who had an IT background, they set up an NGO and the alternative news web portal Lepšia Šala (Better Šala) in 2004. They used the freedom of information law to collect data about the city that municipal officials at that time would not normally publish, and they published this information on their website for the citizens' benefit. They also initiated a petition against renting the city hospital to the neighbouring City of Komárno, fearing that it might be eventually closed down. In 2005, they successfully persuaded the local assembly to adopt a resolution according to which all replies to FOIA requests would be published on the city's website.

Alfoldi won the mayoral election in 2006 beating the incumbent Mayor Tibor Baran with 60% of the vote. Meciár won an assembly seat and was elected as Šala's Deputy Mayor. They were both re-elected in 2010, even though Alfoldi was opposed by seven other candidates. He won easily with 40% of the vote.

In 2010, Šala was ranked first by TIS among the one hundred largest Slovak municipalities for its transparency and openness. Šala ranked first in several areas, including public procurement. In 2012, Meciár ran for a seat in the national parliament with SDKU.

E-Auctions at work

The city first rented the e-auction software for five hundred thousand euros annually in 2008. A year later they bought the full license for twenty thousand euros. The operating costs came to nine hundred euros per year for software updates and consulting when needed.

In the period of 2008 to 2010, Šala conducted twenty-eight electronic auctions for a total of 8.3 million euros. While in 2008 only 15% of tenders were conducted using e-auctions, two years later all of the municipality's tenders were made using e-auctions.

Šala used e-auctions successfully to procure a variety of items. It held tenders for goods (paper, a copy machine, computers, and work uniforms), services (garbage collection, landscaping, security services) and also for construction work (road construction, artificial grass surface for a football stadium, library reconstruction). On average, these e-auctions attracted four competing bidders.

6.4. Key recommendations

Advertise widely. Electronic auctions work best when involving multiple bidders. Therefore, it is crucial to attract the attention of as many companies as possible using nation-wide media and web portals to advertise tenders where possible.

Be careful about services and construction work. It is extremely important to prepare for e-auctions carefully. The criteria for tendered items should be thought through well in advance. If there is a reasonable danger that the lowest offers will not satisfy the quality requirement, it might be better to use other methods of procurement.

Use open ended auctions. E-auctions with set time limits appear to deliver less advantageous results than do open-ended auctions. There is also a higher risk of manipulation through last second bids when using set time limits.

Show the public that e-auctions work. Unlike many reforms, such as recruitment, it is not difficult to demonstrate that e-auctions save money. It is important to communicate these savings to the public in order to develop support for the administration and its reforms.

Further reading

Open Local Government - Ranking of transparency in 100 largest Slovak municipalities in 2010, <http://samosprava.transparency.sk/en/>

Single bid tenders make up 43% of procurement in 2010, Transparency International Slovakia, press release, Feb 2, 2011 <http://www.transparency.sk/o-43-velkych-verejnych-obstaravani-v-roku-2010-sutazil-len-jeden-kandidat/>

Impact of electronic auctions on the efficiency of public procurement in Slovakia, G.Sipos, P.Klatik, M.Tunega, Transparency International Slovakia, 2011 http://www.transparency.sk/wp-content/uploads/2010/12/2011_Elektronicke_aukcije_prve_vysledky.pdf

Electronic auctions in public procurement: Theory and practice in Slovakia, E.Sicakova-Beblava, S.Satnikova, P.Klatik, Transparency International Slovakia, 2011

7. RECRUITMENT POLICY

Gabriel Šípoš, Transparency International Slovakia

Hiring employees is important for the ability of cities to carry out their plans and duties professionally. However, there are two other important considerations we must keep in mind. Firstly, unlike many private companies, municipal employees frequently engage with the public during their work. Hence, their competence and conduct directly reflects upon the reputation of the city leaders and impacts the level of trust between constituents and the municipal administration. Secondly, in regions with high levels of unemployment, a municipal job is a coveted prize. Therefore, if the selection process for public servants is not perceived to be transparent and skills-based, the public will view city policy-making with suspicion.

Legislation in Slovakia and most other Eastern European countries leaves recruitment decisions largely unregulated. Mayors are usually free to select anyone they choose, as long as don't explicitly discriminate against minorities. The exception is reserved for what are referred to as "high-level" employees, which generally includes department heads in city hall. There are approximately ten high-level positions in each city.

When TIS asked in a poll which areas within a municipality's purview the public viewed as most affected by cronyism and corruption, recruitment came out on top.

Table 7.1 "Which of the following areas do you think is most affected by corruption (bribery) or clientelism (giving preference to friends) in your city/village?"

Area	Affected by corruption	Not Affected by corruption
Recruitment	51%	21%
Sale of municipal land	41%	19%
Permit- and license-giving	41%	29%
Public procurement	36%	23%
Building permits	35%	29%
Rental of offices	33%	26%
Rental of housing	28%	26%
Sale of municipal flats	26%	26%

Source: Transparency international Slovakia/Focus poll agency, 2007

Given the substantial level of decentralization in Slovakia, as well as in many other new EU member states, political parties have a strong tendency to use municipalities controlled by their party members to absorb their party staff and sympathizers after winning elections. Moreover, the problem also affects schools, health care providers, and companies owned or controlled by municipalities. In addition, political staffing is also part of the package of coalition building at the municipal level.

Trustworthy and responsible municipal hiring policy by itself naturally does not suffice to win the trust of the public. Employees must also be seen as efficient and ethical in the prosecution of their positions, and their performance must be transparent. As illustrated in the table below, the public generally prefers transparency over sanctions and official external controls as the best way to prevent corruption.

Table 7.2. "Which of the following measures, in your view, would help the most to limit corruption in your city/village?"

Anti-corruption policy	Public support
Publication of all the information about local government's decisions	45%
Adopting conflict of interest law applicable to municipalities	34%
Media paying more attention, writing about the problems	24%

Better work of police and courts	24%
More control by National Audit Office	21%

Source: Transparency international Slovakia/Focus poll agency, 2007

7.1. Description of the tools

In recruitment, the main goal should be to find the most competent and honest employees. The open contest method is the most suitable method of finding such people. This includes preparing open calls for available positions, advertising in advance, allowing at least two weeks for submitting applications, and including appropriate criteria. Overambitious criteria will lower the competition and smell of favouritism, while criteria that are too weak will make the selection of the best candidate unnecessarily time-consuming.

Advertising the position is a crucial first step. It is advisable to create a special space on a city's webpages devoted to job listings which are available at a municipality and its institutions. Media distribution relevant for the position should be used. More specialized positions should be advertised through a wider media distribution network.

The selection committee should be competent and qualified to choose a candidate, and free of personal or political bias. It is also important that the public can easily perceive the objectivity of the selection committee. Hence, its members should be required to declare any conflict of interest such as a close relationship with potential candidates, and in the case of a serious conflict, they should step aside. Whenever possible, written examinations should be used to limit the subjective nature of the selection process.

The processes of candidate selected should be clearly documented and published, preferably online, to win the public's trust. The minutes published should include the date the position was advertised, the date of hearings, names of selection committee members, criteria used, candidate rankings, and an explanation of the selection of the winning candidate. This information should remain easily accessible on a municipality's website for at least five years.

In an effort to enforce ethical values, it is crucial that a code of ethics for employees is drafted and becomes part of the employment contract, and that a position of municipal ethics commissioner is established. The code of ethics should clearly address conflict of interest situations such as the rules for accepting gifts, including non-cash benefits such as paid lunches, engagement in political activities, asset declarations for leading officials, and whistle blowing mechanisms. Employees should be regularly trained and involved in disseminating ethical values within the municipal organization.

Enforcement mechanism should be put in place. Ideally, an ethics commissioner would be the responsible point of contact for employees or citizens to submit concerns or tips about possible misconduct. The commissioner should monitor problems and be the first instance judge on ethical cases. An appeal body should be established consisting of at least three individuals such as the mayor's chief of staff and a responsible senior employee.

To make this mechanism work, the ethics commissioner should be selected carefully. He or she could be a former employee who enjoys respect within the organization, or an outsider widely trusted in the community. The commissioner should produce a report every year summarizing problems encountered and suggest ways to improve adherence to the code of ethics. These reports should be made public and be discussed at the council meetings.

7.2. How new rules were introduced in the city of Martin

The best recruitment policies can be found in Martin, a city of sixty thousand people in northwest Slovakia. Both open contest job hiring and an ethical infrastructure for employee conduct was introduced by Mayor Andrej Hrnčiar in 2009.

Hrnčiar, a first-term mayor, won election in 2006. He ran as an independent against five other candidates, including the previous Mayor Stanislav Bernat. Bernat, who was seeking election for a fourth consecutive mandate, was beset by scandals. For a period of time he was investigated by police for misappropriating municipal construction funds. He refused to sign a contract with the main comptroller elected by the council, even though he was obliged by law to do so. In 2004, when he ran for the office of Slovakia's Presidency, he had municipal police put up his campaign posters around the city.

Hrnčiar, then thirty-three years old, entered the mayoral race as the director of the local theater. He was also the youngest candidate. He promised e-government, including free low-speed internet access for any citizen. He also highlighted his ability to unite politicians and experts of all political stripes for the benefit of the city. In the election, Hrnčiar beat Bernat and other strong party candidates, winning 32% of the vote in a low-turnout election with only 35% of voters casting their ballots.

Three months into his mandate, as promised, Hrnčiar was the first mayor in Slovakia to introduce free internet access (a minimum eighty euro start-up fee was required by citizens). Soon thereafter, Martin placed a number of tax and license forms on its website that citizens could download. In 2008, Hrnčiar requested that TIS carry out a comprehensive anti-corruption audit of the city ranging from public procurement to recruitment policy and property sales.

Introduction of new recruitment and ethics policies

In its 2008 report, TIS found that both the recruitment and ethics policies in Martin were inadequate on several counts. While the city was selecting its staff through an open contest, it did not publish the results and names of selection committee members. Nor did it have a policy preventing conflict of interest, such as when a selection committee member had a close personal or family relationship with a job candidate. Professional guidelines were not available to the public, and there were no criteria for city representatives sitting on the boards of its public companies.

While the city had introduced a code of ethics for employees, the code lacked an infrastructure with which to enforce it, and it was not made public. Employees did not receive any training that would explain its importance or mechanisms for adherence to its values. Moreover, the ethics code did not define what constitutes a gift that should not be accepted, nor what types of situations might constitute a conflict of interest. Furthermore, there were no mechanisms to support whistle-blowers.

Mayor Hrnčiar adopted most of TIS's recommendations, and his Chief of Staff Katarina Katinova acted as a key enforcer of TIS reform proposals. In May 2009, a new ethics commissioner was selected from among thirteen candidates in an open contest procedure. A new code of ethics was adopted in June 2009. In 2010, Martin finished third in the country in TIS's transparency rankings. Hrnčiar was re-elected in the 2010 elections. In a race against four other candidates he won with a 51% majority in a higher turnout event (41%), winning 75% more votes than he won four years earlier.

In 2011 Martin won the United Nations Civil Service Award for its anticorruption efforts. In early 2012 Hrnčiar joined the national party Most-Hid and ran as one of its top ten candidates for national parliament. He promised to introduce the "Transparent City" project to many other cities in Slovakia once elected.

7.3. Results of its use

Within the first two year of using the new recruitment rules as many as fourteen open contests for lower lever positions were conducted in the City of Martin. Overall, Martin's ethics commissioner Miroslava Ftorkova indicated that she registered twenty-five issues in 2010-11.

A focus group survey conducted by TIS in Martin in September 2010 suggests that there is a public perception that the city's Transparent City project helped limit corruption. Overall, however, the new system has not yet been completely tested. The stability and effectiveness of the new policies will be observed in a lower level of staff turnover when a new mayor assumes leadership.

7.4. Key recommendations

Start early. New mayors usually focus on bringing in a few key advisors with the belief that the rest of the employees will adjust. However, public mistrust of low level officials who receive their positions through friends or political contracts will undermine the overall efforts. We recommend that municipalities carry out open contest recruitment for all key non-political posts soon after taking office, especially for positions which were occupied by political nominees.

Use open contests for every position, including low level officials. Mayors often believe it is not worth their time to organize open contests. Yet winning the trust of the public, especially in high unemployment areas where municipal jobs are aggressively sought after, could come in handy when Mayors appeal to public to decrease tax evasion.

Demonstrate how ethical you are. Publish all documents detailing staff hiring procedures, including specific hiring criteria, who won and why, and demonstrate that the people making hiring decisions are objective and above reproach. Transparency limits accusations of bias and unfair treatment, and encourages your employees to be more honest.

Enforce your Code of Ethics. Many organizations have a Code of Ethics, yet they often remain on paper. To work, they need an enforcement mechanism. Establishing the position of Ethics Commissioner will demonstrate to the public and municipal employees not only how important ethical behaviour is to the municipal leadership, but will also establish an organizational capacity devoted to ethics oversight.

Encourage feedback. It is better to deal with problems early on rather than to let them simmer and appear unexpectedly. Both employees and city clients should know that their complaints are welcome and will be dealt with in a responsive manner. City web page visitors should find it easy to learn how to express a concern or register a problem with any service online. Again, this helps keep potential errant or unethical employees in check.