

**CONFLICT OF INTEREST  
IN LEGISLATIVE PROCESS IN  
SLOVAKIA**

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# **INTRODUCTION**

The adoption of laws must be a systematic process and the capacities for its preparation should correspond to its societal impact. The result of such a procedure should be conceptual and rational as good laws lead to a stable regulatory environment. However, the rules for legislative process in the parliament may be very benevolent and may create space for corrupt practices that affect the quality and cohesion of the adopted legislation. There are risks that the legislation proposed is in favor of group interests rather than public interest, conflict of interest can play a crucial role. The scrutiny of personal interest announcements is at stake as well as transparency or rules for lobbying.

# 1. LEGISLATIVE PROCESS IN SLOVAKIA

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## Slovak Authorities with the power to adopt legal provisions (statutory bodies)

**National Council of the Slovak Republic** – constitution, constitutional acts, acts, international treaties higher than acts, international treaties with the force of an act

**Government of the Slovak Republic** – government regulations

**Ministries and other central government bodies** - decrees, declarations and measures

**Municipal and city authorities** – generally binding regulations

**Citizens (voters) of the Slovak Republic** – results of a referendum with the force of a constitutional act, results of a referendum with the force of an act

**Residents of a municipality or city** – results of a local referendum with the force of a generally binding regulation

## The stages of the legislative process in Slovakia are following:

1. Tabling of a bill – initiation of legislation
2. Discussion of the bill
3. Voting (decision on the bill)
4. Signing of the adopted bill
5. Promulgation (publication) of the normative legal instrument

### 1. Initiation of legislation

Under Section 87(1) of Act No 460/1992 (the Slovak Constitution), bills may be tabled by:

- a. committees of the National Council of the Slovak Republic
- b. members of Parliament
- c. the Government of the Slovak Republic

Bills submitted are set out paragraph by paragraph with an explanatory memorandum. While only one MEP can initiate legislative process and submit a bill, as it is possible to observe from the table below, the government dominates the legislative initiative. The government starts the legislative process and amends laws according to the [plan of legislative tasks of the government](#). It is the legislative council of the government prepares the plan of legislative tasks of the government for each year. **For year 2015 the government plans 92 legislative tasks, for year 2014 it was 77 and for year 2013 it was 123.**<sup>1</sup> The governmental plan of legislative tasks should reflect the social need for new legislation or stipulate the amendment of ineffective rule of law.

Under the right of legislative initiative, the entity that proposed the bill can withdraw it at any stage of legislative process, unless the bill had reached the stage of being voted for as a whole.

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<sup>1</sup> Legislative Council of the Government. *Plan of Legislative Tasks of the Government*. available at: <http://www.vlada.gov.sk/legislativna-rada-vlady-sr/>

	2014	2013	2012
<b>Passed laws</b>	88	140	100
<b>Governmental proposals</b>	73	112	76
<b>Proposals of MEP</b>	15	27	23
<b>Proposals of Committees</b>	0	1	1
<b>Returned by President</b>	4	10	4
<b>Passed in shortened legislative process</b>	5	4	9
<b>The total number of legislative proposals</b>	410	381	228*

\*The data available just from December 2012 till April 18, 2012.

Source: National Council of the Slovak Republic<sup>2</sup>

## Legislative intent

In some cases, the legislative intent, which has to be prepared and approved, precedes the drafting of a bill or potential legislative amendment. The legislative intent analyses the impact of the legislative change in cases of bills or laws with expected strong economic and financial impact (for example it takes into consideration the impact on the state budget). It can be also drawn down based on the governmental decision. The legislative intent eventually becomes the binding basis for the drafting of the bill or legislative amendment itself.

## 2. Legislative process

Most of the bills are drafted and prepared by ministries – a particular department of ministry drafts a bill and then subjects the draft to intra-ministerial commenting procedure of other departments within the ministry. A working group of representatives from various ministries, other public institutions (as for example the Supreme Audit Office or the National Bank of Slovakia, the Institute for approximation of law, the Supreme Audit Office, the Supreme Court, Attorney General Office), trade unions, professional chambers or representatives of NGO sector might be established. The entity that drafts the new regulation decides who is going to participate in penning down the bill. This is not very transparent and does not provide quality of access; there is a need of setting down rules or principles about who should be, which actors, taking part in the working groups or to whom should the entity that drafts the bill or legislative amendment consult or sent it for commenting at this stage of legislative process. In general, it is possible to state that majority of the bills are drafted without any prior consultations with actors or sectors that would be primarily influenced by the bill.

Furthermore, while the plan of legislative tasks of government provides an outline when government is going to discuss which legislation, it does not provide information of when did the drafting of the bill or legislative amendment started and by whom. The information about this process, whether a working group has been established and who are its participants, are scarce. Public usually learns about the intention of legislative amendment or new legislation when it is published online for the Interdepartmental Comments Procedures on legislation portal.

## Interdepartmental Comments Procedure

One of the **procedural regulations** that have a direct connection to lobbying is the Interdepartmental Comments Procedure. The **Slovak Interdepartmental Comments Procedure** takes place at the designated [legislation portal](#)<sup>3</sup> administered by the Ministry of Justice of the Slovak Republic. The rules and procedures of the Interdepartmental Comments Procedure and the government sessions are set in the

<sup>2</sup> National Council of the Slovak Republic. Data available at: <http://www.nrsr.sk/web/default.aspx?sid=zakony%2fprehlad%2fpredlozene>

<sup>3</sup> In Slovak: portál právnych predpisov

Legislative Directive of the Government of the Slovak Republic ([Legislatívne pravidlá vlády Slovenskej republiky](#)). The Slovak Interdepartmental Comments Procedure and its accompanying Directive require that all official documents designated for government sessions have to be first published online for consultation. These materials are: bills proposed by government or Ministries; government regulations; decrees; edicts and measures (implementing rules); statements of government on proposed bills, which are in the legislative process in the Parliament; amendment of governmental bills, which did not pass the Parliament; international treaties or incorporations of EU directives.

The compulsory commentators to the bills are the following bodies:

- a) deputy Prime Ministers, Ministries, and other central bodies of state administration,
- b) the Government Office of the Slovak Republic, section of government legislation - a field approximation,
- c) the National Bank of Slovakia,
- d) the Supreme Audit Office of the Slovak Republic,
- e) the Supreme Court of the Slovak Republic,
- f) General Prosecutor of the Slovak Republic,
- g) other bodies and institutions, if it is set in a special regulation, or if it is designated by the Government or Prime Minister (eg § 3 paragraph. 2 point. b) of the Act no. 106/1999 Coll. Economic and Social Partnership (Tripartite Act), section B.3. Government Resolution no. 60 of 20 January 1999).

Furthermore, other interested parties are allowed to comment including nongovernmental institutions, civic organizations or public at large. The comments themselves can be provided through the legislative portal after compulsory registration, or via email at a designated address.

The standard period for consultation depends on the materials subjected for comments and the type of commenting process they are subjected to.

	Regular commenting process	Simplified commenting process	Shortened commenting process
Legislative materials	15 days	-	7 days
Non-legislative materials	10 days	5 days	5 days

**The rules enabling the shortened commenting process** are set in the Constitution of the Slovak Republic. According to the Article 2 section 2 of the Constitution, "state authorities may act only on the basis of the Constitution, within its limits and to the extent and in the manner provided by law."

In compliance with the principle of legality, the prerequisites for the hearing of the bill or legislative proposal in a shortened legislative procedure are:

- 1. formal prerequisite: a) a government proposal for such a procedure and  
b) the approval resolution of the National Council,

AND

- 2. material prerequisite: a) the existence of exceptional circumstances that threaten the fundamental human rights and freedoms or the safety of citizens, or  
b) threat of significant financial damage to state.

Furthermore, the National Council has the competence to agree upon the shortened legislative procedure only if both of the formal prerequisites are fulfilled and at least one of the material conditions. If the conditions for the shortened legislative procedure were fulfilled, in that case, the **principle of legality** as well as the principle of **legal certainty** were breached.

**Depending on the commentators** the comments during the Interdepartmental Comments Procedure are distinguished as:

- Comments of Ministries
  - Essential (relevant)
    - Dispute settling procedure
      - Expert – with the participation of managers and technical staff
    - Ministerial – at the level of the members of government or the heads of other state administration bodies, respectively another statutory body
  - Ordinary
- Comments of other subjects (public)
  - Collective comment
  - Dispute settling procedure with the representative of public

**Depending on the objective**, there are six types comments that could be submitted: general; particular; material; legal; legislative-technical; technical and linguistic.

Furthermore, **depending on the relevance**, the commentator identifies the comment as **essential or ordinary during** the submission process. The proposer has to consider all essential comments, but does not have take into consideration those identified as ordinary. The comment is identified as essential when the commentator states for example that: "(ministry) insists on this comment or considers it to be essential". By identifying the comment as essential, the commentator proclaims categorical disagreement and indicates refusal to vote for the particular bill.

Comments that were identified as 'essential' by the commenting entities and are a subject of conflict have to be discussed between the ministries, the Government Office, and the Deputy Prime Minister, and also the public bodies with the material scope in the matter.

The category of Collective Comment stipulates a situation when there was a particular view expressed by at least 500 natural and/or legal persons who via petition (either electronic or paper) have delegated and authorized their representative to stand in on their behalf and defend their objectives during the dispute settling procedure.

The entity that drafts the new regulation is also responsible for the evaluation procedure of comments. After the evaluation procedure and eventual resolution of comments that are subjects of conflict, the legislation is sent to the government. If the proposer, the entity that drafts the new regulation, refuses to apply the essential comment classified and the negotiations at the ministerial or expert level have failed the bill is proposed with a dispute for government session.

In addition, the bills or legislative change can be proposed by any member of Parliament or Committee of the National Council of the Slovak Republic. In that case, a bill is not submitted to interdepartmental commenting process, but to the Legislative Council and later on the session of the government.

## Governmental Session

At first, it is the Legislative Council of the governments that analyzes the "legislative purity" of the bill or legislative proposal. It has 75 days to provide its statement on a particular bill. It can send the bill back to the drafting entity for bill's finalization and amendments, before it recommends the bill to be presented and discussed at the session of the government.

The government settles the comments in disputes and adopts a resolution.<sup>4</sup> After the bill is approved by the government, it is signed by the Prime Minister and the relevant minister and is sent to the Parliament. The bill is submitted to the Parliament in an articulated written and electronic format together with its explanatory memorandum.

## Legislative process in the Parliament

In accordance with the rules of procedure of the National Council of the Slovak Republic (Act No 350/1996 as amended by Act No. 1146/2008), bills go through three readings.

The first reading involves a general debate on the substance or what is known as the “philosophy” of the proposed act. At this stage no amendments or additions may be tabled.

On the second reading the bill is discussed by the National Council committees to which it has been assigned. Every bill must pass through the Constitutional Committee, in particularly as regards its compatibility with the Slovak Constitution, constitutional acts, international treaties binding on the Slovak Republic, acts and European Union law. On the second reading amendments and additions may be tabled and these are voted on after the committee discussions are completed. This is why the various positions have to be brought together before discussion of the bill in the National Council; this is the job of the Coordination Committee, which then approves the committees’ joint report by special resolution. The report forms the basis for the National Council’s debate and vote on the second reading bill.

The second reading is rather problematic in terms of transparency of legislative process and public oversight. It is common that second reading amendments and additions are submitted 5 minutes before the voting, thus it often occurs that the members of the parliament do not even know the precise wording of the bill they are voting on. These last minute second reading amendments and additions undermine the transparency of the legislative process, because they make it impossible for other MEPs to fully analyze the additions and amendments and thus do not provide the full spectrum of information for MEPs to decide on.

Furthermore, in the second reading additions to the bills can also be **indirect amendments** to other completely unrelated laws. Since any MEP can submit addition or amendment to the bill, which needs to be supported by total 15 MEPs, no limitations are implied. This process is not open to public discussion and bypasses the previous interdepartmental commenting procedure or the idea of legislative plan. The indirect amendments undermine the transparency and predictability of the rule of law. While indirect amendments to laws are constitutionally forbidden in the Czech republic, they are common in Slovakia. For example, the newly passed Act on nuclear damage includes two indirect legislative amendments added in the second reading. One add-on amends the new Act on political parties and political movements, and the other amends the Act on tobacco exercise tax.<sup>5</sup>

The third reading is restricted to those provisions of the bill for which amendments or additions were approved on the second reading. On the third reading the only changes members of parliament can put forward are corrections of legislative drafting errors and grammar and spelling mistakes. Amendments and additions intended to eliminate any other errors must be put forward by at least 30 members of parliament. Once these have been debated, the bill is voted on as a whole.

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<sup>4</sup> Resolutions of the government are published online at: <http://www.rokovanie.sk/Rokovanie.aspx/UzneseniaDatumy>

<sup>5</sup> Dostal, Ondrej. “OKS Vyzýva Prezidenta A. Kisku na Vetovanie Glendovho Prílepku”. *Civic Conservative Party*. 25 March 2015. available at: <http://oks.sk/oks-vyzyva-prezidenta-a-kisku-na-vetovanie-glendovho-prilepku/>

### 3. Voting on a bill

- The Constitution may be adopted or amended and individual articles repealed only if passed by a qualified majority, which means three-fifths of all the members of the National Council.
- For a law to be passed, it must be voted for by at least half the members present.
- The National Council is quorate if at least half its members are present.

### 4. Signing

- The adopted bill is signed by:
  - a. the President of the Slovak Republic;
  - b. the Speaker of the National Council;
  - c. the Prime-Minister.
- This step in the procedure serves the function of checking the content, procedural correctness and final form of the adopted bill. By signing, these highest-ranking constitutional officers endorse the act as it is worded.
- The President has the right to exercise what is called a suspensive veto and refuse to sign an adopted act on the grounds of faulty content. Together with his comments, he sends the adopted act back to the National Council to be debated again. The returned act goes through the second and third reading stages, as it concerns only the President's comments. At this point the National Council may – but does not have to – take the President's comments into account. The National Council may overturn the suspensive veto by voting again; in that case the act must be promulgated, although the President does not have to sign it.

### 5. Promulgation

- Is the final stage in the legislative process;
- Legal provisions of nationwide territorial application are formally published in the Collection of Laws (Codex) the Slovak Republic; this publication falls within the remit of the Slovak Ministry of Justice. The Collection of Laws is published in a printed version by the Ministry of Justice. They are also fully accessible online in a "PDF" format [here](#) (access free of charge). Moreover, the Ministry of Justice runs an online free of charge system, where consolidated versions of legislation are available ([JASPI](#)).

## 2. PUBLIC OVERVIEW OF THE PARLIAMENT

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The system of interdepartmental comments procedure has made the creation of legislation more open to public, fostering participation and understanding of government decision-making and creating some safeguards against undue influence. It also improved the communication between the ministries and other involved bodies. However, the comments portal is not very intuitive, the notifications are sometimes not well communicated and the submission periods are not always respected. Also, the proposals and amendments by members of parliament do not have to go through this process, which creates a big window of opportunity for opaque influence.

In spite of mentioned problems with the system of comments procedure, the portal of Interdepartmental Comments Procedure can still be considered a great tool for tracking the influence different organizations have on the creation of legislation. All the comments and the institutions that filed them (with the indication whether they were accepted) are published online. However, this tool is not a substitute for a more holistic lobbying regulation, because the system only allows citizens to monitor which comments were submitted and accepted- not the activities, which might have led to their acceptance.

When the bill is in Parliament, the information on bill can be found in Parliamentary press – Draft Laws, positions and reports of committees including the sponsor committee are published on the Internet site of the Slovak Parliament under the heading “Laws – Legislative tracking system”. Apart from committee resolutions the decisions of the Speaker and other accessory documents relating to the law are included. Transcripts of the debate and the Question Hour are located on the website of the Parliament. Voting records of respective MPs or information on which committees are dealing with a particular bill are published on the parliamentary website. Using the “Legislative tracking system” tool it is possible to see at what stage of the legislative process is a particular bill.<sup>6</sup> The legislation drafted by the members of parliament or their amendments do not have to through the standard interdepartmental comments procedure, which creates a big window of opportunity for lobbyists. The portal of Interdepartmental Comments Procedure can still be considered a great tool for tracking the influence different organizations have on the creation of legislation. All the comments and the institutions that filed them (with the indication whether they were accepted) are published online.

Furthermore, the National Council of the Slovak Republic offers live stream from its general assembly sessions. However, while this function provides an option of the public oversight, it is very hard to know what bill is being voted on at particular moment.

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<sup>6</sup> For more information please see: <http://www.nrsr.sk/web/default.aspx?sid=faq>

### 3. LOBBYING IN SLOVAKIA

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Slovakia does not have specific legislation regulating lobbying activities. There have been several attempts to pass the lobbying legislation in Slovakia in the past. The initiatives include the preparation of the legislation about the entrance of public into the legislative process in 2001, the bill on lobbying from 2005, and the recent initiative of the Christian-Democratic Movement from 2013. However, none of the bills was ever passed. Slovak political parties do not seem to be eager to adopt a lobbying legislation. Analyzing the manifestos of the 7 biggest Slovak political parties from the past two parliamentary elections, Transparency found only four references of lobbying, three of them

Legislation or tools that are partially related to lobbying include the Freedom of Information Act, Legislative Rules of Government of the Slovak Republic, and the Interdepartmental Comments Procedure. Until 2006, when it was cancelled, the Law on Conflicts of Interest regulated the publication of information about decision-makers and their activities. Public officials, whose positions were categorized as of “extraordinary importance”, were supposed to actively publish lists of meetings with individuals and organizations affected by their decision-making activities.<sup>7</sup>

This provision of the law on conflict of interests could have made it possible to track the influence of the public officials’ meetings on their decision-making. Therefore, Transparency International Slovakia conducted research on the law on civil service (No. 312/2001 Coll.), enforced from 2002 till 2006 to see whether the law had been enforced and whether the information about the meetings still existed. The replies to our requests to access information were all the same: “Ministry does not possess such record of information”.

Mr Vanin, from the Department of Communication of the Ministry of Environment, in an informal telephone conversation, informed Transparency that their database of filed records did not mention records of meetings of public servants in positions of “extraordinary importance”, nor was it possible to find any documentation about shredding such files. Furthermore, he was not able to specify who were the employees of Ministry of Environment that held positions of “extraordinary importance” in 2003. The findings indicate that even when the constitutional Law on Conflicts of Interest had such provisions is likely they were not adequately enforced.

The strength of the lobby groups was for example possible to observe in the failed amendment of the Telecommunication Act in 2003, which supported the illiberal monopoly in telecommunication business in Slovakia. Another example of the influential lobby occurred during reforms of the Acts on road traffic, when former Minister of Economy, Jiri Malcharek, who was a former race car driver and owner of a number of car services, introduced mandatory winter tires from November 15 till March 15. While it was suspected that the amendment favored tire dealers, the reform of the road traffic Act would have ruined most of the bus companies. Therefore, the amended road traffic Act was within a few months once again amended. In addition, it is assumed that the laws connected to the reform of health industry usually favor financial sharks that been spreading their influence in this sphere of business.<sup>8</sup>

The majority of lobbying activities carried out in Slovakia are of an informal character and there are only a few professional lobbying organizations, with no legislation that would formalize the conduct related to lobbying. According to Patrik Zoltvany, a professional lobbyist, foreign and Slovak companies have different

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<sup>7</sup> Sicakova-Beblava, Emilia and Miroslav Beblavy. “Zaujmy a Ich Presadenie” Chap. 1 in *Zaujmy, Ich Presadzovanie a Korupciavo Verejnej Politike*.(Presov: ADIN, 2009). 34-35.

<sup>8</sup> Pirošik, Vladimír. “Vybrané problémy legislatívneho procesu v Slovenskej republike”. *Konferencia “Transparentní procesy v politickém rozhodování”*, April 2006. Available at: <http://goo.gl/OIMZaK>.

approaches to lobbying: while Slovak companies rely more on informal lobbying activities and contacts, foreign companies use more formal means, i.e. campaigns or analyses.<sup>9</sup>

As of May 2014, there were 1,134 organizations (organizations of state and public administration, civil society organizations, legal entities, system organizations<sup>10</sup>) registered on the portal of the Interdepartmental Comments Procedure and an additional 58,053 individual users (some of whom are the public administration employees and some users might have multiple registrations).

Each organization and individual can participate in commenting on draft legislation and therefore can be considered an actor of lobbying (except for the public bodies and state institutions themselves). For the purposes of this report the definition of lobbying does not include individual citizens.

Patrik Zoltvany estimates that there are around five companies that publicly identify their business activities as lobbying. When it comes to big corporations' in-house lobbyists, usually called "government affairs", these have become less common in recent years and are being replaced by regional "government affairs" representatives that usually cover several countries in the region.<sup>11</sup> PR agencies and law firms also conduct lobbying activities. Both Zoltvany and other professional lobbyists, Peter Papanek and Peter Marcan, estimated the total number of somewhat professional lobbying actors to be a few dozen, not including many civil society organizations and professional associations.

The former MP and minister of education, currently working as an analyst at the Institute for Economic and Social Reforms, Eugen Jurzyca, added that using a very broad definition of lobbying would mean almost everyone could be considered a lobbyist, including school directors and NGOs etc.<sup>12</sup>

In Slovakia lobbying and with it connected potential conflicts of interests are more common in areas that are subject to greater state regulation and areas that are highly profitable. Prominent sectors include healthcare/ pharmaceuticals, energy, alcohol, tobacco, and sectors that are highly subsidized and financed from the state.

Another risk area is so-called project lobbying, which includes lobbying in public procurement, and the issuing the permits and licenses, etc. The more complex is the subject of the procurement, the more lobbying activities are usually present.<sup>13</sup> Given the huge amounts of public money at stake in large procurement deals, it is all the more important that lobbying on procurement contracts is strictly regulated and completely transparent.

The ethical framework for lobbyists is very limited- there are no associations or other institutions that would require lobbyists and lobbying firms to adopt ethical codes and standards and therefore the companies only adopt such measures on a voluntary basis. The ethical measures in the public sphere are also not satisfactory especially when it comes to cooling-off periods. Even though the transition between public and private sectors is common, the law on conflict of interests does not take it into account in a sufficient manner.

In a small country like Slovakia, it is almost impossible to avoid the phenomenon of the "revolving door" completely. It is understandable that where there are only a few experts in a particular area or sector, they will move between public and private sphere positions. However, uncontrolled revolving doors provide an environment where politicians and public officials build extensive networks and useful connections in fields over which they hold power or influence. Exerting their influence in favor of a private sector player or

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<sup>9</sup> Zoltvany, Patrik. Interview with Transparency International Slovakia. Personal Interview. Bratislava, 20 May 2014.

<sup>10</sup> System organizations are subjects created by system for the purposes of the portal of the Interdepartmental Comments Procedure.

<sup>11</sup> Zoltvany, Patrik. Interview with Transparency International Slovakia. Personal Interview. Bratislava, 20 May 2014.

<sup>12</sup> Jurzyca, Eugen. Interview with Transparency International Slovakia. Personal Interview. Bratislava, 16 May 2014.

<sup>13</sup> Jurzyca, Eugen. Interview with Transparency International Slovakia. Personal Interview. Bratislava, 16 May 2014.

lobbyist can later be traded in for favors or positions in the private sector once they leave public office. Furthermore, networks nurtured while in office can be used to exert power in the future as a lobbyist. The interviews with professional lobbyists and journalists confirmed that it is common for former MPs to become lobbyists thanks to networks they built during their terms of office; making use of knowledge of the processes and having the connections in the right places. They are usually self-employed and not associated with lobbying or PR agencies.

The law on Conflict of Interests does not recognize lobbying as an activity that would require the application of a “cooling off period”,<sup>14</sup> and cooling-off periods only relate to decision-makers that during the two years prior to the end of their service made or took part in decisions about granting a state subsidy and any other form of state aid, or about granting special advantages to the concerned subjects.

A cooling-off period is one year long and does not apply to MPs (at any level: national, regional, or local). It applies to the former members of the executive, senior public servants, and senior staff of regulatory bodies, other state institutions, or state-owned enterprises. It would be very beneficial for the integrity of the public sector to extend cooling-off periods and apply them to a wider sphere of activities including lobbying. It is also important that MPs are not exempt.

The law also sets the limitations for public officials in performing their duties. Among others, they should not use their position or any information acquired during the performance of their duties for their personal benefit or the benefit of other close parties. Public officials cannot accept gifts or ask for gifts or other benefits, except under specific conditions. All violations of these provisions have to be reported to the Committee on Conflict of Interests, which makes a decision on such matters. The decisions of the Committee are not published on the website of the National Council.<sup>15</sup>

Self-regulation of lobbying activities is almost non-existent. Some private companies have codes of conduct prescribing the nature of meetings with public officials, but there is no Association for lobbyists that oversees whether codes of conduct are implemented, and more importantly, whether they are followed. There is no private sector institution to enforce rules of ethical lobbying.

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<sup>14</sup> Constitutional act on conflict of interest No. 357/2004 Coll.

<sup>15</sup> Sicakova-Beblava, Emilia and Pavel Nechala, “Aby nevladol len sukromny zaujem” (Bratislava: ADIN, s.r.o. 2008).

## 4. CRITIQUE AND RESERVES BY NGOs AND BUSINESS SECTOR

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Slovak NGOs along with Transparency International Slovakia<sup>16</sup> as well as the representatives of business sector, which established the Rule of Law Initiative,<sup>17</sup> have been pointing out that it is very common for MEPs and government to circumvent the regular legislative process. Strive for quick adoption of bills and legislative amendment advances the quality of the passed laws or the stability of legal system. The indirect amendments serve particular purposes and bypass the normal legislation process. These actions do not provide opportunity for public debate and active participation of in commenting process. Furthermore, ministries tend to propose bills in a shortened legislative process claiming the economic importance for state. Furthermore, such actions lack systematic approach and in-depth analyses of the impacts of the proposed statutory and secondary legislation, the lack of which leads to several subsequent amendments and thereby not only compromises the stability and predictability of the regulatory environment, but also undermines the "respect for the law" as a key precondition for the enforcement.

In addition, such actions lead to a huge amount of legislative proposals and amendments. MEPs discuss on average 300 legislative proposals or amendments per year, which is more than one legislative change per working day. While, tens of bills do not even reach Parliament, are withdrawn at the review or do not pass the government, it is not unusual that such amount of legislative proposals will lead to errors. Therefore, the first action should be the reduction to solve and address any problem by the amendment of law and at the same time it should be made more transparent to both the public and MEPs. It is especially difficult to keep up with the amount of changes in the interdepartmental process. Particularly, if the bill has **over 700 amendments** as does the legislative amendment of the access to information right. Transparency therefore recommends using **consolidated version** of a bill, which would immediately show its amendments using the "**Track changes**" and "**View Comments**" as **being edited**, instead of the three separate documents in which the information is published now.<sup>18</sup>

Furthermore, Transparency recommends **opening the drafting process of legislation**, so that it would be possible to follow the bill from the intent to change the law, its drafting and commenting process, voting and amendments within the Parliament until it is passed. The public should be able to see where the proposal originated, who commented on it prior to approval by the Government and whose comments on the draft were approved, who allocated additional amendments tabled in Parliament and ultimately who voted for it. Ideally, this information should be available in one application or legislative portal by clicking on the passed law. If this information would be available for public oversight, it would be possible to see whose amendments and comments have been accepted the most, as well as which lobby was the most successful when it came to the penning down the law. The **legislative footprint** would provide necessary transparency and openness of legislative process and would help prevent the conflict of interest.

Indeed, Slovakia is behind in the openness of discussion about bills and possibility of public to take an active part and overview the process. When Transparency approached the Ministry of Justice with the request for metadata from the interdepartmental process, the response of ministry was negative claiming that the existing legislative portal does not have such features. While the ministry is in the process of upgrading the legislative portal, Transparency had submitted its proposals and recommendations to the Ministry, including the legislative footprint and metadata.

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<sup>16</sup> For more information please the Reform of the Government: <http://www.reformnavlada.sk/pravny-system-a-spravodlivost.html#skvalitnenie-legislativneho-procesu>

<sup>17</sup> For more information on the Rule of Law Initiative please see: <http://www.vladazakona.sk/>

<sup>18</sup> Sipos, Gabriel. "Otvorme zákony verejnosti". *Blog of Transparency International Slovakia*. 26 November 2014. available at: <http://transparency.blog.sme.sk/c/369906/otvorme-zakony-verejnosti.html>

## 5. RECOMMENDATIONS

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- The legislative process needs to be more **transparent and open to public**. The rules of interdepartmental commenting procedure should also be **applied for the bills proposed by the MEPs or the Committees** of the National Council and the legislative proposals should be published on the legislative portal.
- The government should make the Interdepartmental Comments Procedure portal more open and transparent. The legislative process would improve with a clearer and more comprehensive process for commenting on draft legislation. A “**legislative footprint**” should be created for every legislative or policy proposal to ensure full transparency of decision-making processes. This would include tracking and publishing external input and contact between lobbyists and public officials. The legislative footprint would enable to see whose amendments are most successfully passed. As amendments to proposed legislation are often proposed in the second and third reading in parliament, they should be published for an appropriate period of time before being voted on, and so inform public and business about the submitted changes. Ideally, the whole path of bill through legislative process, from its intention, to interdepartmental commenting procedure to amendments in Parliament, as well as support documents, till it passed final version should be published on legislative portal. The information should be also available in **metadata** format.
- The government should establish rules of procedure for entity drafting the bill establishing mandatory participation of representatives of concerned NGO and business sector at the working groups.
- The government should establish minimum “**cooling off periods**” before former public and elected officials can work in lobbying positions that may create conflicts of interest and create a permissions process from a designated ethics office before a lobbying-related appointment can be taken up by former public officials, former members of parliament, and former members of the executive (national and subnational levels). Furthermore, public Institutions should collect and publish data on the professional careers of their employees (e.g. revolving door transparency).