



TRANSPARENCY
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Mapping the Lobbying Landscape in Slovakia

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EXECUTIVE SUMMARY

This report analyses lobbying in Slovakia and observes that most attempts to influence public decision-making in the country remain shrouded in secrecy. Furthermore, given that almost two thirds of people believe the government is run by a few big entities acting in their own self-interest,¹ it is not surprising that lobbying has a bad reputation. In large part this reputation is tarnished because of attempts to influence policy and governance occur behind closed doors and away from public scrutiny.

The report examines and scores lobbying practices in Slovakia through three essential dimensions – transparency (21%), integrity (23%) and equality of access (34%). Measured against 65 indicators of international best practice standards, Slovakia comes out with an overall score of just 26%, representing a poor overall record. The report sheds the light on areas within the general political culture in Slovakia, which are most vulnerable to risky lobbying practices, including: hidden party financing; non-transparent practices in some stages of consultation and law-making; or intertwined relations between business and the public sector.

Over the years there have been several attempts to adopt legislation on lobbying and yet Slovakia currently remains without any specific law to regulate lobbying activities, and Slovak political parties do not appear to be eager to adopt lobbying legislation any time soon. As a result, there are no legal definitions of a lobbyist, lobbying activities or lobbying targets, and there are no effective sanctions for undue lobbying.

Lobbying organisations do not have a members' association to encourage proactive publication of information on lobbying activities or promote self-regulation. All this contributes to lobbying's bad reputation and considerable public suspicion towards lobbying activities.

While there is no standalone lobbying regulation, there is some related legislation and tools have been developed by the state to contribute to the overall public integrity of the system. These include the strong Freedom of Information Act, Legislative Rules of Government of the Slovak Republic, the constitutional Law on Conflict of Interests², and the Interdepartmental Comments Procedure,³ which enables public and private interest groups and individuals to comment on proposed legislation, track the comments made by different stakeholders, and determine which comments were used to develop legislation. Although it has some shortcomings, with improvements the Comments Procedure has the potential to lower corruption risks and strengthen transparency by involving citizens in the legislative process: the more actors present in the legislative process the lower the opportunities for corruption.

¹Transparency International, Global Corruption Barometer 2013, Berlin: Transparency International, 2013. www.transparency.org/gcb2013/in_detail.

² Constitutional Act on Conflict of Interests No. 357/2004 Coll.

³ Slovak: Medzirezortné pripomienkové konanie.

MAIN FINDINGS

Lobbying practice is regarded with great suspicion in Slovakia. Lobbying agencies are considered to be for the purpose of corrupting public officials to such an extent that the terms lobbying and corruption are used synonymously. This mistrust stems from Slovakia's historical and sociological development and its current political situation, which is marked by corruption scandals, a decline in satisfaction with democracy and extremely low trust in institutions such as government, parliament, and political parties.

This report details some promising practice on the control of lobbying, including opportunities to formally participate in decision-making. As of May 2014, there were 1,134 organisations and 58,053 individual users registered on the portal of the Interdepartmental Comments Procedure. However, although this mechanism is a great tool to promote public participation in the legislative process, there are no specific legal provisions granting equal access, and there are insufficient notice mechanisms. As a result, the public often only learns about the planned legislative changes from the media after the Interdepartmental Comments Procedure has already closed. Suspicions were voiced by some interviewees that mandatory periods for sending comments are sometimes not respected and that Collective Comments are often not appropriately considered.⁴

Despite the high number registrations on the Interdepartmental Comments Procedure, most lobbying is informal and happens behind closed doors. There are only a few companies in Slovakia that engage in lobbying activities professionally, and lobbying experts estimate that there are only about five companies that publicly identify their official business activities as lobbying and that the total number of professional lobbyists is a few dozen.

Lobbying tends to intensify in sectors where there are upcoming government regulations and/or legislative changes, and also in the areas of regulation that come from the European Union. Lobbying is more common in sectors subject to greater regulation by the state and sectors that are highly profitable. These include healthcare/ pharmaceuticals, energy, alcohol, tobacco, and sectors highly subsidised and financed by the state.

This report assesses the degree to which Slovakia is insulated against the risks of undue influence in the policy process and finds major gaps in the regulation and self-regulation of lobbying activities. It details cases of lobbying from the energy and finance sectors that highlight what is at stake when lobbying goes unchecked and operates in secret. However, it also details good practice and the case of the lobbying campaign to save Slovak Beer, which demonstrates that lobbying does not have to be secretive and exclusive and can work for the benefit of society.

Based on the findings of the research, below are a number of key recommendations for reform to mitigate risks associated with lobbying and ensure public decision-making reflects the public interest.

⁴ Collective Comment stipulates a situation during Interdepartmental Comments Procedure, when a particular view is 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.

RECOMMENDATIONS

1. 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. There is great potential for lowering corruption risks and strengthening transparency by involving citizens in the legislative process.
2. The government should make the **public oversight of parliamentary procedures more transparent**. 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.
3. 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).
4. The government should **develop legislation to include a comprehensive definition of lobbying, lobbyists and lobbying targets** to be applicable in other laws, so the already existing regulations (such as revolving door provisions and cooling-off periods) would also apply to lobbyists and lobbying activities.

INTRODUCTION

TI's European NIS regional report *Money, Power and Politics* (2012) found that in most European countries, the influence of lobbyists is shrouded in secrecy and a major cause for concern. When undertaken with integrity and transparency, lobbying is a legitimate avenue for interest groups to be involved in the decisions that may affect them. Problems arise when lobbying is non-transparent and unregulated and where privileged access is granted to a select few while others are excluded from decision-making processes. Corporate lobbying in particular raises concerns because it often involves companies with vast sums at their disposal developing close relationships with lawmakers and thus gaining undue and unfair influence in a country's politics and policies.⁵

A recent *Eurobarometer* report revealed that 81% of Europeans agree that overly close links between business and politics in their country has led to corruption and more than half believe that the only way to succeed in business in their country is through political connections.⁶ This corroborates the data from Transparency International's *Global Corruption Barometer 2013*, which found that in many European countries more than 50% of people believe their country's government is to a large extent or entirely run by a few big interests.⁷ This report is part of a regional project involving the assessment of lobbying regulations and practices in 19 European countries.⁸

This report begins by mapping the lobbying landscape in Slovakia, giving a contextual analysis of the national historical, socio-political and legal situation with regard to lobbying. Chapter II (Mapping Lobbying Landscape) also discusses the intensity and scale of lobbying efforts and the various cultural understandings of the term "lobbying" and perceptions of lobbying practices in the country. Other relevant issues such as self-regulation of lobbying activities and the role of the media and civil society as watchdogs in monitoring and reporting on lobbying activities are also discussed.

Following on from this, Chapter III (Assessment of the Regulation of Lobbying in Slovakia) of the report assesses the degree to which national regulation (public law and private self-regulation) adequately provides for transparency of lobbying activities and public decision-making, ethical lobbying and conduct by public officials and equality of access to public decision-making processes, using a series of 65 assessment questions.⁹

⁵ Transparency International. *Money, Politics, Power: Corruption Risks in Europe*. 2012. available at: <http://www.transparency.org/enis/report>.

⁶ European Commission. *Eurobarometer Special Report on Corruption*. February 2014. available at: http://ec.europa.eu/dgs/home-affairs/what-wedo/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm.

⁷ Transparency International. *Global Corruption Barometer 2013 Report*. 2013. available at: <http://www.transparency.org/gcb2013/report>.

⁸ The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom

⁹ See Annex 1 for more details on the methodology and research approach used in this study.

MAPPING LOBBYING LANDSCAPE

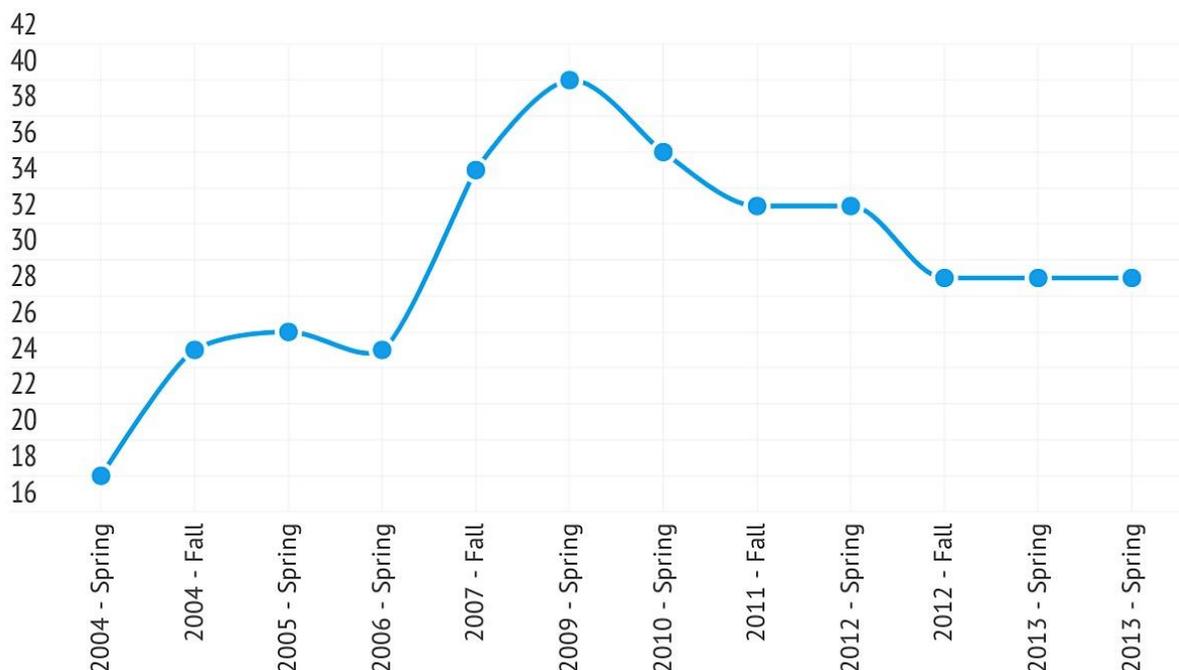
POLITICAL, SOCIAL AND LEGAL CONTEXT

The Slovak Republic is a parliamentary democracy, and was established as an independent state on 1 January 1993. The president is the head of state, but most executive power lies with the prime minister, who is usually the leader of the party that wins the parliamentary elections or leader of the party that is able to form a coalition in parliament in a multi party system of proportional representation.

Slovakia's parliament, the National Council of the Slovak Republic (National Council), is unicameral with 150 members and is the highest legislative body. Following the March 2012 elections six parties are represented in the National Council. The SMER-SD won the election and has 83 members in the National Council, constituting a parliamentary majority. As it formed a government without any coalition partners and with strong party discipline, it is able to pass any legislation proposed by the government or party members.

In the 2014 Corruption Perceptions Index Slovakia ranked 54 out of 174 countries, which is the sixth worst ranking among the EU countries.¹⁰ According to the autumn 2013 Eurobarometer, 69 per cent of Slovak citizens are not satisfied with the state of democracy in their country. While satisfaction rose between 2004 and 2009 (41 per cent to 61 per cent of citizens said they were satisfied with the state of democracy), since 2009 the satisfaction rate has dropped steadily.¹¹

EUROBAROMETER – SATISFACTION WITH DEMOCRACY IN SLOVAKIA



¹⁰ Transparency International, *Corruption Perceptions Index 2014*, Berlin: Transparency International, 2014. available at: www.transparency.org/cpi2014/results.

¹¹ European Commission, *Standard Eurobarometer 80: Public Opinion in the European Union in Autumn 2013, National Report of the Slovak Republic*. Brussels: European Commission, November 2013. http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_sk_sk_nat.pdf.

There are also low levels of trust in democratic institutions: only 29 per cent of citizens trust the national government and 28 per cent trust the parliament. A decline in trust in these institutions was observed between autumn 2010 and spring 2013, when trust in the national government dropped by 8 per cent and trust in the parliament by 9 per cent.¹²

8 Slovakian political parties signed a public pledge initiated by Transparency International Slovakia before the elections in 2012.¹³ It aimed to improve transparency in political party and campaign financing, but the promises have not yet been implemented.

The former legislation on political financing was inadequate and did not provide for an independent oversight body. As a result, political campaign financing for all elections – parliamentary, presidential, and municipal – was hidden from the public scrutiny. There have been a number of scandals related to party financing: in 2008, political party of Vladimir Meciar, former prime minister, allegedly accepted a donation of 11 million Slovak crowns (approximately 365 133 Euros) in plastic bags from two men on retirement pensions, who according to news portal Pravda.sk had trouble paying off their own debts.¹⁴ While one senior citizen openly denied his donation of millions to the political party and the political party had problems to support the acceptance of the supposed donation in its records, Peter Kunder, analyst of the Fair Play Alliance, in his blog¹⁵ also noted that the amount of money received was almost identical to the loan that the HZDS¹⁶ party received from a private company interested in a suspicious multi-million tender. Therefore, it is possible to assume that the donations from two pensioners were fictive and were supposed to cover up the loan from a private company, which wanted to win the multi-million tender.¹⁷

In June 2014, parliament passed a new package of laws on political party and campaign financing. The new regulations are stricter and ensure greater transparency and control over the finances in politics, but they are still far from ideal and it is still difficult to estimate their realistic future impact. Still, formal transparent donations from private companies to political parties are not common, and it is rare that companies are publicly connected with a particular party (or vice versa).

¹² Ibid.

¹³ Transparency International Slovakia, *Osem politických strán sa zaviazalo do roka sprísniť pravidlá financovania politikov*, Bratislava: Transparency International Slovakia, Press release 15 February 2012. http://www.transparency.sk/wp-content/uploads/2012/02/TS_Financovanie_stran_1502121.pdf.

¹⁴ dia, Pravda. "HZDS si nevie rady s pochybnými 11 miliónmi", *Pravda.sk*. 30 August 2008. <http://spravy.pravda.sk/domace/clanok/158792-hzds-si-nevie-rady-s-pochybnymi-11-milionmi/>.

¹⁵ Kuder, Peter. "Na čo HZDS potrebuje milióny od darcov (ďalšie info o financovaní)". *kunder.blog.sme.sk*. August 6, 2008. available at: <http://kunder.blog.sme.sk/c/159201/Na-co-HZDS-potrebuje-miliony-od-darcov-dalsie-info-o-financovani.html>

¹⁶ HZDS- Hnutie za demokraticke Slovensko [Movement for a Democratic Slovakia] former leader was Vladimir Meciar, Prime Minister in years 1993-1998.

¹⁷ dia, Pravda. "HZDS si nevie rady s pochybnými 11 miliónmi".

The Gorilla scandal

In December 2011, transcripts of alleged conversations and meetings between the Penta Financial Group, public officials, and politicians were anonymously leaked on the Internet. These conversations, which dated 2005 and 2006 were transcripts of the Slovak Information Service's¹ wiretap code-named Gorilla, pointed to corrupt ties, cronyism and parallel financing of political parties.² The political corruption scandal that erupted after the leak of transcripts was named after the wiretap.

The Gorilla affair revealed that Anna Bubenikova – who at the time was head of the National Property Fund's executive committee, which is state's privatization agency – had allegedly influenced the privatisation of several companies and in return had received approximately 200 million SKK (6.7 million euro) from the Penta Financial Group between 2002 and 2006.

Bubenikova's services were allegedly provided in the privatisation of the following companies:

- *Slovenské elektrárne*: Slovak power plants where the Gorilla file shows a massive SKK 1 billion pay-off for ensuring Enel's success in the tender for Slovenské elektrárne. Enel's advisor in acquiring Slovenské elektrárne was Penta.
- *Paroplynový cyklus (PPC)*: Paroplynový cyklus Energy Group combined cycle heating plant.
- *Slovenská plavba a prístavy a.s.*: Slovak shipping and ports company in Bratislava.
- *Podtatranská vodárenská prevádzková spoločnosť, a.s.*: a water house company in the High Tatras region.
- *Stredoslovenská vodárenská spoločnosť, a.s.*: water house company in Central Slovakia.³

Bubenikova allegedly also oversaw privatisations processes that profited companies her husband was tied to, in violation of conflict of interest legislation.⁴ Such cases should be reported to the Committee on Conflict of Interests, which is supposed to make a decision in such matters, which they were not.

The leak of the Gorilla file led to public uproar and protest marches. The protest organisers used the legal means at their disposal and filed a criminal complaint against former head of the Anti-Corruption Office, Tibor Gaspar, who gave the order in 2008 to shred materials linked to the Gorilla affair.⁵

The Gorilla transcripts also implicated Prime Minister Fico and undermined his pre-election commitment to prosecute corruption and cronyism. Fico appointed health minister Zuzana Zvolenska and economy minister Tomas Malatinsky both worked in companies under the wing of Penta Financial Group.⁶ The Gorilla transcripts also outlined in detail also how Fico's personal advisor Frantisek Hatar reportedly had regular communication with the co-owner of Penta Financial Group on various issues, including how Penta would finance the Smer-SD party with SKK 5 million (170 thousand euro). Prime Minister Fico declared that the Gorilla files contained just rumours and his personal advisor mentioned in file cannot comment because he had died.⁷ The Penta Financial Group declared the allegations outrageous and pointed out that it is common practice for large financial groups to meet with politicians.⁸

The Gorilla transcripts⁹ have been subject to investigation. A special investigation team was set up by the Office of the Special Attorney General. In addition, on the side of police and the Ministry of Interior, the investigation was led by the Office for the Fight Against Corruption and the Office for the Fight Against Organised Crime. The scandal has not been resolved due to the difficulty entailed in verifying the authenticity of Gorilla transcripts. However, shortly after the leak, journalist Tom Nicholson¹⁰ revealed that he had been working on the Gorilla case for the past two years, after being contacted by a scared officer of the Slovak Information Service (SIS), whose nearby flat had been used to record the conversations. The officer was threatened, thrown out of the SIS and kept under house arrest for six months on possible charges of treason.¹¹

While these investigations are still in progress, four years later the chances of resolution grow dim as they are increasingly drowned out by the background noise of legal threats, excuses and denials.¹² Nevertheless, there is some hope with international interest in the case; a report by the OECD Anti-Bribery Convention in 2012 mentioned the affair and called for the urgent introduction of effective legislation to hold companies accountable for bribery.¹³

The Slovak Information Service (SIS) is a state authority established as a civil intelligence and security agency. SIS collects and provides the legally defined recipients with the information on the most critical threats to the constitutional system, internal order and security, as well as the information focused on the protection of foreign political and economic interests of the state. More information on the SIS available at: <http://www.sis.gov.sk/about-us/introduction.html>.

- ² Boyd, John. "Gorilla in the Mist of Slovak Politics". *thedaily.sk*. 4 January 2012. available at: <http://www.thedaily.sk/gorilla-in-the-mist-of-slovak-politics/>.
- ³ Hospodarske noviny. "Čo obsahuje spis Gorila uverejnený na webe". 11 January 2012. available at: <http://hn.hnonline.sk/slovensko-119/co-obsahuje-spis-gorila-uverejneny-na-webe-481985>.
- ⁴ Boyd, John. "Gorilla Corruption Affair Starts To Unravel". *thedaily.sk*. 13 January 2012. available at: <http://www.thedaily.sk/gorilla-corruption-affair-starts-to-unravel/>.
- ⁵ Boyd, John. "Gorilla Hunt Heads to SMER and SDKU Party Headquarters". *thedaily.sk*. 21 February 2012. available at: <http://www.thedaily.sk/gorilla-hunt-heads-to-smer-and-sdku-party-headquarters/>.
- ⁶ Pluska.sk. "Ľudia Zvolenskú a Malatinského vo vláde nechcú, prišli protestovať", *plusjedenden.sk*. April 24, 2012. available at: <http://www.plusjedenden.sk/spravy/z-domova/ludia-zvolensku-malatinskeho-vo-vlade-nehcu-prisli-protestovat.html>.
- ⁷ Burcik, Matus. "Premiér spochybnil Gorilu, označil ju za klebety". *sme.sk*. 18 December 2013. available at: <http://www.sme.sk/c/7044728/premier-spochybnil-gorilu-oznacil-ju-za-klebety.html>.
- ⁸ TASR. "Šéf Penty o Gorile: Sú to veľké peniaze, sex a politika!". *pluska.sk*. 14 February 2012. available at: <http://www.pluska.sk/spravy/z-domova/sef-penty-gorile-su-velke-peniaze-sex-politika.html>.
- ⁹ Unofficial transcript of Gorilla File is available at: <http://skgorila.tumblr.com/>. English summary of the wiretap "Gorila" available at: <https://gorilafile.wordpress.com/2014/03/15/english-summary-of-the-wiretap-gorila/>.
- ¹⁰ Petkova, Zuzana. "Nicholson: Nukali mi milióny, ak na Gorilu zabudnem". *sme.sk*. 1 January 2012. available at: <http://www.sme.sk/c/6200787/nicholson-nukali-mi-miliony-ak-na-gorilu-zabudnem.html>.
- ¹¹ Balogova, Beata. "Slovak politics gripped by Gorilla file". *spectator.sme.sk*. January 6, 2012. available at: <http://spectator.sme.sk/c/20042075/slovak-politics-gripped-by-gorilla-file.html>.
- ² SITA Slovak News Agency. "Stav vyšetrovania Gorily je neznámy, spis poznáme tri roky". *webnoviny.sk*. 20 December 2014. available at: <http://www.webnoviny.sk/slovensko/clanok/904046-stav-vysetrovania-gorily-je-neznamy-spis-pozname-tri-roky/>.
- ³ OECD. *Phase 3 Report on Implementing the OECD Anti-Bribery Convention in the Slovak Republic*. June 2012. available at: <http://www.oecd.org/daf/anti-bribery/SlovakRepublicphase3reportEN.pdf>.

Several other scandals were also recently uncovered, which suggest that places on party lists of candidates in the parliamentary elections were for sale, the existence of parallel budgets, and the presence of a significant amount of money provided for party financing "using politician's own head" (cunningness). A notorious scandal surfaced in 2010 when Bohumil Hanzel, former MP for SMER-SD party, stated that the party and the Prime Minister Robert Fico were looking for big donors to create a parallel model of party financing, so only a small part of donations would go through the official accounts. In an interview, Hanzel confirmed that several times he was supposed to organise the meetings with potential sponsors and made notes. The contract between five sponsors and the party was signed, which was supposed to guarantee specific places on party's list of candidates for the upcoming elections.¹⁸ Fico refuted the accusations based on "some notes" and said there was absolutely no problem with the party's financing and accounting.¹⁹

Transparency measures: General legislation in place but lobbying risks left unchecked

Slovakia does not have specific legislation regulating lobbying activities. 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.

In 2000, Slovakia passed a Freedom of Information Act that enables the public to obtain information about decision-making and spending in the public sector, including the online publication of all of the contracts and invoices of public bodies; a unique measure towards higher transparency. Under this law, public bodies are required to actively publish information about their

¹⁸ Vagovic, Marek. "Hanzel: Fico sam vybavoval sponzorov", *sme.sk*. 19 May 2010. www.sme.sk/c/5382025/hanzel-fico-sam-vybavoval-sponzorov.html.

¹⁹ Onufer, Andrej. "Fico vraj predaval miesta na kandidatke sponzorom", *aktualne.sk*, 20 May 2010. <http://aktualne.atlas.sk/fico-vraj-predaval-miesta-na-kandidatke-sponzorom/slovensko/politika/>.

decisions or citizens can file information requests in the manner prescribed by the Act. It has effectively changed the relationship between citizens and the public sector. There are also other laws, which do not specifically regulate access to information but establish what kind of information has to be published and under what conditions in different fields.²⁰

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 categorised as of “extraordinary importance”, were supposed to actively publish lists of meetings with individuals and organisations affected by their decision-making activities.²¹ This provision would have made it possible to track the influence of the public officials’ meetings on their decisions.

In order to test the effectiveness of the legislation, TI Slovakia conducted research on the Law on Civil Service (nr. 312/2001 Coll.), in force between 2002 and 2006, to see whether it had been enforced and whether information about the meetings still existed. A request for the list of meetings for the period 1 March to 30 June 2003 was made to three randomly chosen ministries in May 2014. All submitted requests to the ministries (the Ministry of Interior, Ministry of Health and Ministry of Environment) were met with the same response; none of the ministries had a record of the information.

According to Jan Vanin, the Department of Communication of the Ministry of Environment, the obligatory time period of storing such information would have been five years. Since the law was abolished in 2006, the Ministry does not possess such information. Mr Vanin, in an informal telephone conversation, informed TI Slovakia 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 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. Any interested parties are allowed to comment including government ministries, public bodies, organised interests and the public at large. The standard period for consultation is 10-15 days, and in exceptional situations this may be shortened to five days.

The comments can be submitted by email, or through a dedicated online portal following compulsory registration. This portal is open to view, and compiles a range of information per item, as well as tracking the overall process of the initiative.

The comments themselves are divided into the following categories: general, particular, material, legal, legislative-technical and technical-linguistic. There is an opportunity to designate certain parts of the feedback as ‘essential’, requiring it to be considered by the proposer of the bill. There is also a category of Collective Comment (CC) where a particular view is expressed jointly by at least 500 natural and/or legal persons. ‘Essential’ comments that are subject of conflict and have

²⁰ 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.

²¹ Ibid.

been submitted through CC or by a government entity are subject to a special consultation/dispute resolution process. All comments are responded to by the proposer of the legislative change, noting whether they are accepted, partially accepted, or declined, and why. Following the consultation procedure, the proposals are tabled for government discussion and from then on, if applicable, move to Parliament.

This system has made the creation of legislation more open to the public, fostering participation and understanding of government decision-making and creating some safeguards against undue influence. It has 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. Moreover, 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.

Lobbying legislation: A series of failed attempts

Slovak political parties do not appear eager to adopt lobbying legislation. Transparency International Slovakia looked at the manifestos of the seven largest political parties from the past two parliamentary elections and found only four mentions of lobbying: three of these talked about lobbying negatively, with regards to the elimination of lobbying groups. Only one party, the Christian-Democratic Movement, promised the adoption of lobbying legislation. There was no mention of a systematic lobbying regulation in the government programme in the same timeframe. Nonetheless there have been several attempts to pass lobbying legislation in the past. Initiatives include the preparation of legislation on the inclusion of the public in the legislative process (public consultation) in 2001, the 2005 bill on lobbying, and the 2013 proposal of the Christian-Democratic Movement.

The initiative from 2001 originated as a task set in the National Programme for the Fight against Corruption and was coordinated by the Central Coordination Unit under the leadership of Deputy Prime Minister for Economy Ivan Miklos. The main goal was to bring more transparency into the legislative process by placing the onus for transparency on the public sector, not to regulate lobbyists and their activities. The initiative included publishing the bills online at least 15 days before they are discussed or passed. Within the 15 days period anyone could send in the comment and the entity that proposed the bill had to evaluate the comments and explain if the comments were dismissed. This bill was not passed.²²

The second and probably most well-known initiative was proposed in 2005 by the deputy prime minister and Minister of Justice Daniel Lipsic. The government made a commitment to regulate lobbying in the Government Programme from 2002.²³ The 2005 bill was meant to regulate lobbying as a professional business activity in the area of influencing legislation. The proposed bill would create a registration model similar to the one found in the United States.

The bill also included important definitions of lobbying, lobbying target and lobbyist. The definition of lobbyist primarily covered 'professional lobbyists', those for whom the lobbying was a business

²² Sicakova-Beblava, Emilia and Miroslav Beblavy, "Zaujmy a Ich Presadenie", 37-39.

²³ Ibid.

activity and had a trade license for this type of activity. Although some legal persons who would only lobby on their own behalf or would not make any profits lobbying for other persons wouldn't have to have this trade licence and the extent of information about their lobbying contacts would be different. Lobbyists with a trade license would have to be registered in the list of lobbyists administered by the Office of the National Council (central registry) and the self-governing regions in Slovakia would administer the regional lists of lobbying professionals.

An obligation under this law would be for lobbyists to publish reports of their lobbying contacts online every three months, and report on their income and expenditures for lobbying activities once a year. Several areas were identified in which lobbying would be forbidden, i.e. issuing of licenses and permits, certain legal acts in public procurement or state administered aid. The bill also set the sanction mechanisms for breaking the law (fine of approximately 16,500 euro).

However, the bill had several significant deficiencies. It created different categories of lobbyists and other legal persons such as civil society groups and non-governmental organisations were not considered professional lobbyists. This category could be easily misused by professional lobbyists registering as these kinds of organisation, which had less extensive reporting obligations and significantly lower sanctions for violations (as low as 166 euro). In addition, some information that was supposed to be reported under this law could only be published with the client's agreement. The lobbyists were also supposed to only report the meetings that took place in the National Council, creating a big loophole if the meeting happened outside of the parliament.²⁴

Its main goal was to bring more transparency into the communication between public bodies and the representatives of private interests. It was submitted into the Interdepartmental Comment Procedure where 24 public bodies and non-governmental organisations submitted their comments, including Transparency International Slovakia. After the Interdepartmental Comments Procedure the bill was successfully passed in the government.²⁵

The National Council discussed the bill in the first reading in July 2005 and passed it into the second reading. Some members of parliament argued that the bill would establish too much bureaucracy and it was withdrawn from the parliament in autumn 2005, due to too many proposed amendments from MPs.²⁶

The most recent attempt to pass a lobbying regulation came from Christian-Democratic Movement (one of the current opposition parties) before the summer in 2013. The bill defined lobbying activity as the organisation and coordination of lobbying contacts with the purpose of introducing, passing or amending the legislation or other documents, or with the purpose of obtaining certain results from decision-making activities.

According to this bill, a lobbyist was a person who conducts lobbying activities systematically (more than once a year) and communicates with public officials with a goal of influencing the legislation. The Ministry of Interior was supposed to maintain the list of registered lobbyists. The lobbyists would have to register within 10 days of their first lobbying contact. They would have a right to enter the National Council premises and premises of other public bodies according to the

²⁴ Tvardzik, Jozef, "Utajeny Svet Lobingu: Ako Funguje v Skutocnosti?" *Trend.sk*, 30 December 2013. <http://ekonomika.etrend.sk/ekonomika-slovensko/utajeny-svet-lobingu-ako-funguje-v-skutocnosti.html>; Sicakova-Beblava, Emilia and Miroslav Beblavy, "Zaujmy a Ich Presadenie", 35-36.

²⁵ Ibid.

²⁶ Ibid.

special directives. Lobbyists would have to report their lobbying activities every six months to the Ministry of Interior, or to the Committee on Conflict of Interests if the lobbied person was an MP. The information to be reported included, the date and manner in which the lobbying activity was performed, the public body that employs the lobbied target, the name of the lobbied target, the legislation or document concerned, and the name of the client on behalf of whom the lobbying activity was performed.

The lobbied public officials would also have to report their activities to the same responsible bodies. Every six months they would have to submit their work programme, including the meetings with lobbyists. They would have to provide the name of the lobbyist, the name of the client, the date and the place of the meeting, and the subject of the meeting or the legislation concerned.

The 2013 bill has several advantages over the 2005 bill, especially with regards to reporting lobbied persons and reporting the meetings that take place outside of the public bodies' premises. The information provided by lobbyists can also be compared to the information provided by public officials, which makes it easier to identify potential violations of the law. However, the reporting periods for the meetings seem too long, so the interests may only be identified after the regulation has been discussed and it does not specify how and where the reports of lobbyists should be published.

The bill was delivered to the National Council in May 2013 and did not pass the first reading in the parliament in September 2013. The chairman of the Christian Democrats suggested that not passing this law was a good signal for those that are corrupt to continue their illegal activities.²⁷ SMER-SD, the party that has a parliamentary majority, said that the proposed legislation did not offer a comprehensive solution to the lobbying issue.²⁸

Intensity and scale of lobbying in Slovakia

The majority of lobbying activities carried out in Slovakia are of an informal character and there are only a few professional lobbying organisations, with no legislation that would formalise the conduct related to lobbying. According to Patrik Zoltvany, a professional lobbyist, foreign and Slovak companies have different 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.²⁹

Money spent on lobbying in Slovakia

It is difficult to assess the scale and intensity of lobbying in Slovakia mainly because most lobbying organisations do not recognise their activities as lobbying and there are no definitions set by legislation. It is therefore difficult to assess how many lobbyists exist, their budgets for lobbying activities, or their expenses for in-house or external consultants, whether they only have one department that focuses on lobbying or whether the whole company should be considered.

²⁷ KDH. "Ján Figel: Odmietnutie návrhov KDH je dobrá správa pre korupčníkov". *ipolitika.sk*. September 20, 2013. available at: <http://ipolitika.sk/2013/09/jan-figel-odmietnutie-navrhov-kdh-je-dobra-sprava-pre-korupcnikov/>

²⁸ Tvardzik, Jozef, "Utajeny Svet Lobingu: Ako Funguje v Skutocnosti?".

²⁹ Zoltvany, Patrik. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

The expenses of the official lobbying companies are usually connected to the preparation of reports and analyses. The lobbying professionals from Slovakia estimate that expenditure on lobbying is smaller than sums spent on marketing.³⁰

Who are the lobbyists in Slovakia?

As of May 2014, there were 1,134 organisations (organisations of state and public administration, civil society organisations, legal entities, system organisations³¹) 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 organisation 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.³² 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 organisations 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.³³

Where does lobbying take place?

Engagement of different sectors in lobbying is highly dependent on upcoming government regulations and legislative changes, and also on the areas of regulation that come from the European Union. Lobbying is 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 subsidised 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

³⁰ Papanek, Peter and Peter Marcan. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

³¹ System organizations are subjects created by system for the purposes of the portal of the Interdepartmental Comments Procedure.

³² Zoltvany, Patrik. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

³³ Jurzyca, Eugen. Interview with Luba Riaposova. Personal Interview. Bratislava, 16 May 2014.

more lobbying activities are usually present.³⁴ 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 SPP affair

In September 2013, the parliamentary opposition alleged that a government contract for the purchase of a 49 per cent stake in gas utility SPP (*Slovenský plynárenský priemysel parent company*)¹ from *Energetický and Prumyslový Holding* (EPH) had been drawn up by the financial giant J&T instead of the Ministry of Economy.² EPH is owned by the PPF Group, Czech billionaire Daniel Kretinsky and J&T Financial Group.

The contract of sale's electronic file contained data that suggested J&T had applied changes to the document; indeed that 17 changes had been applied by J&T within an hour.³ Minister of Economy Tomas Malatinsky stated that the document had been sent to SPP for review and that SPP's board of directors' advisor Miroslav Hasko had previously worked for J&T and was still using a J&T computer. J&T denied the accusations outright, stating it had nothing to do with the elaboration of the contract documents.⁴

However, the circumstances of the sale also led to suspicions. EPH had taken over the 49 per cent stake from the previous shareholders, Gaz de France and Ruhrgas in January 2013. At this time, it had also acquired a loan from the Ministry of Economy for 384 million euro, which was not secured by collateral and was subject to deferred payments starting in 2020.⁵

While Prime Minister Fico argued that by becoming a single shareholder of SPP parent company the state would be able to protect citizens against rising gas prices, the contract of sale enabled EPH to retain managerial control of SPP's most lucrative subsidiaries, Eustream and SPP-Distribucie, and meant that the 384 million euro loan would be repaid by the government through the state-run SPP, rather than a private company.⁶

SPP consists of a number of companies including SPP shell parent company (the business entity dealing with Gazprom and providing gas to households), SPP Distribution and Eurostream. While SPP Distribution and Eurostream are both profitable companies, which provisions are going to EPH, SPP shell parent company has been in loss.⁴ In the sale contract from September 2013 EPH sold its 49 per cent of the unprofitable parent company back to the Slovak state, which already had 51 per cent. Thus, financial group via EPH not only managed to sell the unprofitable shares of parent company back to the state and the implications of the sale are that state will bear the loss of approximately 40 million euro, which otherwise would have been borne by the private company. Source: SITA. "Stali sme sa jediným akcionárom SPP. Fico sľubuje stabilitu cien". *pluska.sk*. 4 June 2014. available at: <http://www.pluska.sk/spravvy/z-domova/stali-sme-jediny-akcionarom-spp-fico-slubuje-stabilitu-cien.html>.

² Kajanova, Daniela. "Opozícia chce pre SPP odvolať Fica". *sme.sk*. 12 September 2013. available at: <http://ekonomika.sme.sk/c/6931682/opozicia-chce-pre-spp-odvolavat-fica.html>.

³ Kajanova, Daniela and Adam Valcek. "Vládny materiál o SPP má v záhlaví značku J&T". *sme.sk*. 11 September 2013. available at: <http://ekonomika.sme.sk/c/6931081/vladny-material-o-spp-ma-v-zahlavi-znacku-jt.html>.

⁴ Ibid.

⁵ Kostelansky, Lubos. "Malatinský odobril stámiliónovú požičku". *hn.online.sk*. 24 September 2013. available at: <http://hn.hnonline.sk/malatinsky-odobril-stamilionovu-pozicku-583214>.

⁶ SITA. "Stali sme sa jediným akcionárom SPP. Fico sľubuje stabilitu cien". *pluska.sk*. 4 June 2014. available at: <http://www.pluska.sk/spravvy/z-domova/stali-sme-jediny-akcionarom-spp-fico-slubuje-stabilitu-cien.html>.

Most project lobbying takes place at the local level, and it is generally perceived that the regional and local levels of administration are more exposed to corruption risks. The same applies to corruption risks related to lobbying, as local lobbyists usually have better access to regional/local decision-makers and the local levels are usually subject to less oversight, while still managing extensive assets.³⁵

³⁴ Jurzyca, Eugen. Interview with Luba Riaposova. Personal Interview. Bratislava, 16 May 2014.

³⁵ Kicina, Robert et al., "Opatrenia na Obmedzenie Korupcie v Podnikateľskom Prostredí", *Podnikateľska Aliancia Slovenska*. March 2013. available at: http://alianciapas.sk/wp-content/uploads/2013/04/01-Opatrenia-na-obmedzenie-korupcie-v-podnikate%C4%BESkom-prostred%C3%AD_FINAL-WEB.pdf.

Types of lobbying activities

Lobbying activities in Slovakia are mainly carried out by direct communication with public officials and decision-makers behind the closed doors. Robert Kicina from the Business Alliance of Slovakia reported that entrepreneurs in Slovakia lost hope in lobbying by influencing public opinion and are more and more prone to using informal means/shadow lobbying.³⁶

The most common formal tool for lobbying is the Interdepartmental Comments Procedure described in the previous section. Papanek and Marcan also add that the type of chosen lobbying activity is dependent on the state of legislative process; if the bill is already in the parliament it is impossible to use the Interdepartmental Comments Procedure and lobbyists have to use different means.³⁷

Public campaigns are only rarely used as means of lobbying and when they are used it is mostly by foreign companies or NGOs. Some interviewees indicated that the type lobbying activity used also depends on the government in power. In 2010–2012 when the government put a lot of emphasis into promoting transparency measures, lobbyists were more likely to carry out publicly visible activities. Now the lobbying contacts are retreating back behind closed doors.³⁸

CULTURAL UNDERSTANDING OF LOBBYING

All the interviewees understood lobbying as a legitimate and necessary activity for a well functioning legislative process by bringing in more information from specific fields. However, while the research found some examples of such lobbying even in Slovakia, public opinion remains rather sceptical. According to Kuzmova,³⁹ the public is generally very suspicious of lobbying agencies and believes them to be corrupting public officials. This mistrust stems from the historical and sociological development of Slovakia mainly during the era of socialism, but also from recent corruption scandals:⁴⁰

“Communist era has the greatest negative influence during which civil society was rather being undermined due to efforts strengthening the role of state. Presently, the civic society struggles with low public participation in the political process, lack of experience and little knowledge on lobbying which obstructs understanding.”⁴¹

Perhaps not surprisingly, NGOs and lobbying agencies perceive lobbying as beneficial for the legislative process and a functioning democratic system.⁴² Private interests are perceived to be directly represented in the government, parliament, and also in the media, and the secret deals are part of the Slovak everyday normality.

³⁶ Kicina, Robert. Interview with Luba Riaposova. Personal Interview. Bratislava, 19 May 2014.

³⁷ Papanek, Peter and Peter Marcan. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

³⁸ Zoltvany, Patrik. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

³⁹ Kuzmova, Jana. *Perceptions of Political Lobbying In Slovakia as a Controversial Issue: Contrast Between the Public, Lobbyists, and Public Officials. The Roots, Implications for Present, and Challenges for Future* (MA thesis, Central European University, 2011). www.etd.ceu.hu/2011/kuzmova_jana.pdf.

⁴⁰ Ibid.

⁴¹ Ibid., 16.

⁴² Ibid.

The terms lobbying and corruption are very often use synonymously and public officials and MPs are afraid of lobbying contacts.⁴³ Many of these negative perceptions are a result of lack of information about lobbying activities available to public.

Initiative to save Slovak beer

In September 2010, the Ministry of Finance proposed a 50 per cent rise in the sales consumption tax on beer in order to generate 14.9 million euro for the state budget. The rise in tax came as a surprise to the Slovak Association of Beer and Malt Producers (*Slovenské združenie výrobcov piva a sladu*),¹ as no public consultation had taken place.

Furthermore, the action was considered discriminatory, given no similar tax was imposed on other alcoholic drinks such as wine, and that the increased burden was likely to put many small beer producers out of business.² Led by the Association, the largest beer producers in Slovakia, Heineken Slovakia and SAB Miller, mobilised fellow members and launched an initiative to save beer production in Slovakia.³

They took an innovative approach to lobbying, which emphasised not only the unjust tax rise, but also effectively demanded greater consultation rights for the beer industry on decisions that affect them. When initial closed-door meetings with representatives of the Ministry of Finance were unsuccessful, the Association brought the issue to the Slovak parliament and launched an open campaign engaging every party and MP.⁴

Using the services of the PR agency First Class,⁵ the campaign provided clear arguments, using comparisons with taxes in other countries in the region, and outlining the implications for beer and malt producers and their employees, as well as beer consumers.⁶

The Association cooperated with the media, which helped to increase public pressure on MPs. It organised a public burial of beer in front of the Slovak parliament⁷ and each MP received the campaign message in a beer bottle. In total 150,000 supporters signed a petition and employees working in the industry as well as ordinary citizens joined the protest.

Ultimately the campaign was successful. The proposal to raise the tax was abolished and the campaign led to closer cooperation between the Ministry of Industry and the Association, as well as the creation of a joint working group that meets on a regular basis.⁸

Where the traditional guarantees for consultation on legislative change failed, active and open participation led not only to a successful outcome for the campaign, but may also have contributed to a changing attitude towards lobbying in the public by demonstrating that political decisions can be affected and changed through public participation and debate.

The Association, founded in 1991, is an umbrella organisation for beer and malt producers and suppliers.

² TASR. "Zvýšenie dane na pivo zvýši jeho cenu, Smer s ním nesúhlasí". *sme.sk*. 1 October 2010. <http://ekonomika.sme.sk/c/5664080/zvysenie-dane-na-pivo-zvysi-jeho-cenu-smer-s-nim-nesuhlasi.html>.

³ Simkova, Hana. Interview with Luba Riaposova. Personal Interview. Bratislava, 27 May 2014.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Slovenské združenie výrobcov piva a sladu. "Nová štúdia dokazuje, že zvyšovanie daňového zaťaženia piva môže ohroziť zotavovanie ekonomiky". *slovenskepivo.sk*. 8 October 2010. available at: <http://www.slovenskepivo.sk/novinky/50-nova-studia-dokazuje-ze-zvysovanie-danoveho-zatazenia-piva-moze-ohrozit-zotavovanie-ekonomiky>.

⁷ SITA. "Pivovarníci pred parlamentom pochovajú slovenské pivo". *aktuality.sk*. 12 October 2010. available at: <http://m.aktuality.sk/clanok/174157/pivovarnici-pred-parlamentom-pochovaju-slovenske-pivo/>. The burial of Slovak beer alluded to Slovak folk custom of burying double bass at the end of the carnival season symbolizing the burial and the prohibition of parties during the Lenten season.

⁸ Simkova, Hana. Interview with Luba Riaposova. Personal Interview. Bratislava, 27 May 2014.

⁴³ Papanek, Peter, Peter Marcan and Patrik Zoltvany. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

SELF-REGULATION OF LOBBYISTS' ACTIVITIES

Self-regulation of lobbying is almost non-existent. There is no association of lobbying agencies to promote ethical lobbying standards. There are few agencies that focus solely on lobbying and those that exist have not yet expressed the need of self-regulation. According to Zoltvany, it is possible that companies (not just lobbying agencies) do not want to draw attention to themselves by starting such initiatives.⁴⁴

There is an Association of PR agencies with 10 active members and several other members with observer status, but it does not deal with transparent lobbying initiatives even though many PR agencies are also involved in lobbying.⁴⁵

One of the few initiatives in this field was carried out by the Business Alliance of Slovakia (BAS). It published a study on lobbying within its Anti-Corruption Initiative in April 2013. The study *Measures for Reduction of Corruption in the Business Environment (Slovak: Opatrenia na Obmedzenie Korupcie v Podnikateľskom Prostredí)*⁴⁶ was supported by seven of its members and drew some media attention. The study came up with recommendations for more transparent lobbying including making the agendas of public officials' meetings with the private sector available to the public, and providing a mandatory comments procedure for MPs' amendments in the second reading in the parliament.

Other types of self-regulation activities are found in large companies and international corporations, such as Heineken Slovakia. They are usually carried out by compliance departments that deal with other similar issues. Heineken Slovakia adopted a Code of Conduct that also regulates fair competition, bribes and undue advantages, or donations for political subjects (there is a policy of no donations to political figures or political parties) and charitable organisations.⁴⁷ Similar ethical codes might be found in other, mostly international, companies.⁴⁸

According to Marcan, the American Chamber of Commerce in Slovakia has created a platform closest to lobbying self-regulation. It sometimes host events on the topic of ethics in business, such as the business breakfast on "Compliance and Corruption Prevention", which took place in May 2014. It does not specifically associate with the companies that are involved in lobbying, but it moves the discussion on ethics in business conduct in the right direction.

Some of the interviewees⁴⁹ argued that the effectiveness of lobbying self-regulation in Slovakia is limited and depends too much on the willingness of the involved people, which to date has been rather weak.

⁴⁴ Zoltvany, Patrik. Interview with Luba Riaposova. Personal Interview. Bratislava, 20 May 2014.

⁴⁵ Association of Public Relations of the Slovak Republic. More information available at: http://www.aprsr.eu/sk/o_asociacii/#3

⁴⁶ Kicina, Robert et al., "Opatrenia na Obmedzenie Korupcie v Podnikateľskom Prostredí", *Podnikateľska Aliancia Slovenska*. March 2013. available at: http://alianciapas.sk/wp-content/uploads/2013/04/01-Opatrenia-na-obmedzenie-korupcie-v-podnikate%C4%BESkom-prostred%C3%AD_FINAL-WEB.pdf.

⁴⁷ Heineken Slovakia. *The Code of Business Conduct*. available at: http://www.heinekenslovensko.sk/media/HEINEKEN_HeiCode.pdf.

⁴⁸ Sipos, Gabriel, Luba Riaposova a Pavel Nechala. *Slovenské Štátne Firmy: Netransparentné a Spolitizované*. Bratislava: Transparency International Slovensko. 2012. available at: http://www.transparency.sk/wp-content/uploads/2010/01/PUBLIKACIA_statne-a-mestske-firmy-2012.pdf.

⁴⁹ Kicina, Robert, Eugen Jurzyca and Patrik Zoltvany. Interviewed by Luba Riaposova. Personal Interviews. Bratislava, 16-20 May 2014.

WATCHDOGS: THE ROLE OF MEDIA AND CIVIL SOCIETY IN MONITORING LOBBYING

Media

The media do not report systematically on lobbying, but rather focus on lobbying scandals and thus contribute to negative perceptions of lobbying. They often choose issues when they are at their most sensational, but do not follow stories through to their conclusion. This is especially valid for commercial media that has the largest audience. According to the deputy editor in chief of the Slovak daily *SME*, Konstantin Cikovsky, the media and journalists choose to report on lobbying depending on the decision it leads to and are not primarily interested in the process itself.⁵⁰

Journalists are often under great pressure to deliver a story. In situations, such as in Slovakia, where there is no lobbying regulation in place, the role of media becomes even more important in ensuring transparency and accountability. Unfortunately, this role of media as a watchdog is not fulfilled appropriately. Some journalists are lobbyists' targets themselves, according to Adam Valcek, a journalist from *SME*. He added that some journalists are ashamed to be seen with lobbyists. After being lobbied, they might write or cover the issues with a bias or bring up an issue they would not usually cover.⁵¹

The problems facing the media are unfortunately even more complicated. Owners of the media represent private interests too, and sometimes they set the themes for their employees according to their preferences or push for covering topics from a certain viewpoint.

There is also a suspicion that some of the Slovak media may be bought or "captured" due to their reliance on state advertising. Transparency International Slovakia's May 2013 study shows that the amounts of money paid for the state advertising changed quite dramatically after the change of government. Media that were known to be pro-government increased their advertising revenues in the first year after the government change from 32 per cent to incredible 271 per cent compared to the revenues from state advertising from the last year of the previous government. Media that traditionally report more critically on the current government lost their advertising revenues from state in the same timeframe.⁵²

Similar tendencies were found during the government change in 2010, but the effect of politicisation of advertising looked to be a little smaller. State advertising is largely financed by the EU.⁵³

Civil society

There are several NGOs whose main goal is to promote transparency and openness in the government and judiciary. These include TI Slovakia, the Fair Play Alliance, VIA IURIS, INEKO, BAS, and OZ *Proti korupcii*. In recent years the issue of transparent and ethical lobbying has not

⁵⁰ Cikovsky, Konstantin. Interviewed by Luba Riaposova. Personal Interview. Bratislava, 21 May 2014.

⁵¹ Valcek, Adam, Interviewed by Luba Riaposova. Personal Interview. Bratislava, 22 May 2014.

⁵² Sipos, Gabriel. "Viva, TA3 a Pravda Zarobili na Prichode Fica II", *The Blog of Transparency International Slovakia*, 10 May 2013. www.transparency.sk/sk/viva-ta3-a-pravda-zarobili-na-prichode-fica-ii/.

⁵³ Sipos, Gabriel. "Viva, TA3 a Pravda Zarobili na Prichode Fica II", *The Blog of Transparency International Slovakia*, 10 May 2013. www.transparency.sk/sk/viva-ta3-a-pravda-zarobili-na-prichode-fica-ii/.

been extensively or systematically engaged in by these organisations, and there is a lack of engagement generally in matters of governance and the legislative process. Public participation is also critically low.

Kuzmova summed this up quite clearly:

“As for lobbying, the weaker experience society has with participation in the legislative process in all its forms (polls, proposals delivery, public discussions, working groups), the higher is its tendency to be suspicious, to create myths and stereotypes in the perception of or opinion on the subjects or individuals who actually participate or co-operate in the legislative process, and the greater the gap is between active individuals, such as lobbyists and lobbying or interest groups, and the rest of the society.”⁵⁴

NGOs and civil society organisations are also active lobbyists. They usually carry out their lobbying activities by running information campaigns, holding conferences and seminars and writing blog entries, etc. There is no known initiative for transparent lobbying among these institutions, apart from this current project on promoting transparency and integrity in lobbying by TI Slovakia.

The phenomenon of **“astro-turfing”**, or using civil society organisations or professional associations as covers for private company interests, is also seen in Slovakia. Many civil society organisations are reactive or purpose build of a particular issue.

⁵⁴ Kuzmova, Jana, *Perceptions of Political Lobbying*, 19.

ASSESSMENT OF THE REGULATION OF LOBBYING IN SLOVAKIA

In this section, we provide a more detailed assessment of the regulation of lobbying and related activities in Slovakia, with a focus on *transparency*, *integrity measures* and *equality of access* to decision-makers.

TRANSPARENCY: 21%

The citizens of Slovakia have limited information on lobbyists and lobbying activities. This is likely one of the main reasons why they perceive lobbying negatively and as something to be avoided. If more information were made available, the increased transparency and accountability would help instil public trust in the system and in turn improve the function of democracy.

Slovakia scored very poorly on transparency – particularly in the areas of registration and disclosure by lobbyists; oversight, verification and sanctions; and legislative footprint. This was mainly due to the lack of legal definitions and regulation. It scored slightly better in the area of access to information due to its comprehensive Freedom of Information Act.

In terms of public sector transparency, the Freedom of Information Act was considered progressive when it was passed in 2000 and there were several amendments that made it unique in the European context, i.e. by publishing all of the contracts of public bodies online and the proactive publication of extensive information on the judiciary (the vast majority of courts decisions, asset declarations of judges including their family ties and recordings from Judicial Council are available online). It still is one of the most important lobbying regulations, even if there is only limited amount of data on lobbying to access.

Enforcement of this Act is often problematic, however. There is no single oversight body to check whether deadlines for disclosure are followed or whether all the required information is disclosed. It does not require the disclosure of information specifically related to lobbying and only partial information related to lobbying is available to public. This is mainly through the Interdepartmental Comments Procedure, where the public can track comments submitted by different stakeholders and which of these comments were accepted in the end.

The sessions of the National Council and its committees are public with some exceptions. The National Council sessions and discussion over proposed legislation are broadcasted on the National Council's website.⁵⁵

However, as Slovakia does not have specific legislation regulating lobbying, there are no legal definitions of a lobbyist, lobbying or lobbying targets and there is no registration system. As a result, the meetings of public representatives with lobbyists often happen behind closed doors with

⁵⁵ See: <http://mmserv2.nrsr.sk/NRSRInternet/Live/>.

no requirement to disclose any details of the meetings. There is no legislative footprint foreseen in the law.

The lobbying of big pharmaceutical companies is the only area that can be partially tracked through a special piece of legislation,⁵⁶ which requires companies to publish their marketing and promotion expenditures. Representatives of the pharmaceutical companies cannot make promotion and marketing appointments during doctors' official opening hours. The reporting onus is also placed on the doctors who prescribe medication. They have to publish all transfers of value⁵⁷ they received from the pharmaceutical companies.⁵⁸ TI Slovakia [created a website](#)⁵⁹ for tracking the expenses of companies and means received by the doctors and therefore enabled the public to track the potential conflicts of interest of individual doctors. However, while creating the portal TI Slovakia found that few doctors actually report the means they receive.

INTEGRITY MECHANISM: 23%

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 favour of a private sector player or lobbyist can later be traded in for favours 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 recognise lobbying as an activity that would require the application of a “cooling off period”,⁶⁰ 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

⁵⁶ The law on medicines and medical devices No. 362/2011 Coll.

⁵⁷ All financial and non-financial assets that health practitioners have received from legal collaboration with the pharmaceutical companies.

⁵⁸ Act on healthcare providers, healthcare workers and professional organizations in healthcare No. 578/2004 Coll.

⁵⁹ Transparent Doctors Portal, more information available at: <http://lekari.transparency.sk/about.php>

⁶⁰ Constitutional act on conflict of interest No. 357/2004 Coll.

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.⁶¹

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.

LEVEL PLAYING FIELD/ EQUALITY OF ACCESS: 34%

There are some provisions to ensure equality of access when it comes to public consultation. The most important of them is the Interdepartmental Comments Procedure. Advisory groups are also common tool used in Slovakia. However, there are no provisions to ensure their balanced composition and publishing their outputs. There are different practices used in different institutions therefore it is necessary to consolidate the rules of public participation.

The most important mechanism for equality of access is the Interdepartmental Comments Procedure. It allows all members of the public, as well as representatives of private interests and public bodies, to comment on proposed legislation. It also provides information on which of the comments were accepted.

Although it is a great tool to promote public participation there are weak legal provisions for guaranteeing equal access. For example there are insufficient notice mechanisms, and the public often learns about planned legislative changes from the media after the Interdepartmental Comments Procedure has already closed. Suspicions were voiced by some of the interviews that mandatory periods for sending comments are sometimes not respected and that “Collective Comments”⁶² are often not appropriately considered.

In addition, the legislation drafted by the MPs does not have to go through the Interdepartmental Comments Procedure, which provides a large window of opportunity for undue influence. All the materials of a legislative nature, no matter which body is responsible for their creation, should go through the same process. Similarly, MPs’ amendments to proposed legislation that often comes in the second and third reading in parliament should be published for an appropriate period of time before being voted upon.

⁶¹ Sicakova-Beblava, Emilia and Pavel Nechala, “Aby nevladol len sukromny zaujem” (Bratislava: ADIN, s.r.o. 2008).

⁶² Collective Comment stipulates a situation during Interdepartmental Comments Procedure, when a particular view is 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.

Advisory groups are commonly used in the Slovak legislative process. If their composition is balanced, draft bills have a much better chance of grasping of the real situation and needs from multiple viewpoints. However, there are no legal provisions for establishing balanced advisory groups. Sometimes the public body creates a balanced advisory/expert group, but on many occasions key stakeholders are not represented. The documents for and from advisory groups are sometimes made public, but again, this is not mandatory under the current legislation.

ANNEX 1: METHODOLOGY

This report is part of the European Commission funded ‘Lifting the Lid on Lobbying’ project, which sees 19 European countries assess the situation with regard to lobbying and its regulation in their country.⁶³ The report aims to:

- Assess existing lobbying regulations, policies and practices in Slovakia
- Compile evidence about corruption risks and incidences related to lack of lobbying control
- Highlight promising practice around lobbying found in Slovakia
- Provide recommendations and solutions for decision-makers and interest representatives in the public and private sector

DEFINITIONS

The definition of **LOBBYING** for this project is:

“Any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organised group.”⁶⁴

‘**LOBBYISTS**’ can include not only professional lobbyists, but private sector representatives (in-house lobbyists), public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.⁶⁵

We believe that regulation should capture all who lobby professionally and our definition purposefully excludes individual citizens lobbying on their own behalf as this is considered part of a normal healthy democratic process and not something, which should be unduly regulated. A number of case studies are included, which highlight incidences of undue lobbying in the Energy and Finance sectors, clearly showing there are risks for society at large when lobbying is allowed to take place in the shadows or without any regulation. More positively, we also include some promising practices identified in our research.

⁶³ The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom.

⁶⁴ This definition draws heavily on the Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying (2014, forthcoming) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society.

⁶⁵ See Transparency International (2012) Regional Policy Paper ‘Lobbying in the European Union: Levelling the Playing Field’, accessible online at http://www.transparency.de/fileadmin/pdfs/Themen/Politik/ENIS_Regional_Policy_Paper_Lobbying.pdf

Assessing lobbying rules and practice – our approach

Transparency is crucial if there is any chance of public trust in politics being restored. When looking at transparency around lobbying practices, our research sought to answer the following overarching question: to what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts? We also sought to investigate whether the onus for transparency is placed on both the lobbyist and the public official/representative.

We believe that transparency of lobbying must be embedded within a broader public sector **integrity** framework which mitigates the risks of conflicts of interest when important decisions are being taken. To understand how well-insulated countries are against undue lobbying, our research sought an answer to the following overarching questions about ethical lobbying: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country and to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives?

Finally, when regulating lobbying, transparency and integrity measures are crucial but they must be accompanied by rules that allow for **equality of access** to decision makers, which is essential to fairness and pluralism in the political system. Our research asked whether there are enough spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests.

DATA COLLECTION AND VALIDATION

The research was carried out Luba Riapošová and Katarína Klingová, researchers at Transparency International Slovakia during the period from March to July 2014. When conducting the research, the researchers drew on numerous secondary sources such as:

- Kicina, Robert et al., “Opatrenia na Obmedzenie Korupcie v Podnikatelskom Prostredí”, *Podnikatelska Alianca Slovenska*. March 2013. available at: http://alianciapas.sk/wp-content/uploads/2013/04/01-Opatrenia-na-obmedzenie-korupcie-v-podnikate%C4%BESkom-prostred%C3%AD_FINAL-WEB.pdf.
- Kuzmova, Jana. *Perceptions of Political Lobbying In Slovakia as a Controversial Issue: Contrast Between the Public, Lobbyists, and Public Officials. The Roots, Implications for Present, and Challenges for Future*. MA thesis, Central European University, 2011. www.etd.ceu.hu/2011/kuzmova_jana.pdf.
- Sicakova-Beblava, Emilia and Pavel Nechala. *Aby Nevladol len Sukromny Zaujem*. Bratislava: ADIN, s.r.o. 2008.
- Sipos, Gabriel, Luba Riaposova a Pavel Nechala. *Slovenské Štátne Firmy: Netransparentné a Spolitizované*. Bratislava: Transparency International Slovensko. 2012. available at: http://www.transparency.sk/wp-content/uploads/2010/01/PUBLIKACIA_statne-a-mestske-firmy-2012.pdf.

This secondary data was complemented by primary data obtained from 8 in-depth interviews with policymakers (and/or former policymakers), lobbyists and experts in the field of lobbying. Interviews were particularly useful for finding out additional information not on the public record, and for gathering evidence on the implementation of regulations and more generally, what is happening in practice. A list of interviewees is included in Annex 3 of this report.

The research was primarily qualitative; however a quantitative element was also included in order to evaluate the robustness and efficacy of national regulations and self-regulation mechanisms around lobbying and to allow for some comparison across the countries.⁶⁶ To this end, a set of 65 indicators were scored by the researcher, based on the qualitative information gathered through the research.

A 3-point scale was used to score the indicators, with a minimum score of 0 and a maximum score of 2.⁶⁷ In order to calculate the overall scores for the country, and for the three dimensions of Transparency, Integrity and Equality of Access, a simple aggregation was performed. Specifically, a total score (as a percentage) was calculated for 10 sub-dimensions (Access to information, Lobbying registration systems, Verification and oversight mechanisms, Legislative footprint, Pre- and post-employment restrictions, Codes of conduct/ethics for policymakers, Codes of conduct/ethics for lobbyists, Self-regulation of the industry, Consultation and participation mechanisms in public-decision-making and Expert and advisory group composition). A simple average was then calculated to provide an overall score for the three key dimensions of Transparency, Integrity and Equality of Access. The overall country score was calculated by averaging these three dimensions.

The completed questionnaire and scores are included as an annex to this report (see Annex 2). This report provides a detailed look at the lobbying landscape in Slovakia and highlights key gaps and deficiencies in the approach to regulating lobbying, which are leaving society exposed to the risks of unclear and unfair decisions being taken by public officials and representatives in the name of the people. Our aim is to bring attention to the issue and promote positive change. To this end, the report puts forward a set of key recommendations and solutions suggesting how the weaknesses identified should be tackled.

⁶⁶ A regional report compiling and comparing the national results is foreseen for publication in early 2015.

⁶⁷ In a limited number of cases, where no logical intermediary position exists, only a minimum value of 0 and a maximum value of 2 are offered.

ANNEX 2: DATA COLLECTION QUESTIONNAIRE

DEFINITIONS

1. To what extent does the law clearly and unambiguously define ‘lobbyists’ to capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics?

0 – No definition/Wholly inadequate definition covering a small proportion of lobbyists

1 – Partially but inadequately/too narrowly/too broadly defined

2 – The law clearly and unambiguously defines lobbyists to include professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Check all categories covered by law:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics
- Other, please specify _____

2. To what extent does the law/regulation define ‘lobbying targets’ in a sufficiently broad manner to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions?

0 – Lobbying targets are not defined in law/ Wholly inadequate definition covering a small proportion of lobbying targets

1 – Lobbying targets are inadequately defined in law (including some but not all of the above-mentioned targets)

2 – Lobbying targets are broadly and adequately defined in law to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions

Check all categories covered by law:

- National Legislators
- Subnational Legislators
- National Executive
- Subnational Executives
- Executive Advisors
- High-level public officials
- Regulatory bodies
- Private bodies performing public functions
- Other, please specify _____

3. To what extent is the term ‘lobbying’/‘lobbying activities’ clearly and unambiguously defined in law/regulation to include any contact (written or oral communication, including electronic communication) with lobbying targets (see above) for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position?

0 – No definition/Wholly inadequate definition covering a small proportion of lobbying activity

1 – Partially but inadequately/too narrowly defined

2 – Definition is clear and unambiguous and is comparable to the following international standard: any contact (written or oral communication, including electronic communication) with lobbying targets for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position.

TRANSPARENCY

Framing Questions to bear in mind when constructing the narrative for this section: To what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts etc? Is the onus for transparency placed on both lobbyists and public officials/representatives?

Access to Information

4. To what extent is there a comprehensive access to information law that guarantees the public's right to information and access to government data?

- 0 - No law exists
- 1- Law exists but with inadequacies
- 2 – Comprehensive law in place

5. In practice, to what extent do citizens have reasonable access to information on public sector activities and government data?

- 0 - In practice, citizens face major problems in accessing information and/or frequent violations of the law
- 1- In practice, access is not always straightforward/citizens often face obstacles to access
- 2 – In practice, it is easy for citizens to access to information on public sector activities and government data

6. Do access to information laws apply to lobbying data?

- 0 - No law exists/Law does not apply to lobbying data
- 1- Some but not all lobbying data accessible under access to information laws
- 2 – Access to information laws cover lobbying data

Registration and Disclosure by Lobbyists

7. Is there a lobbyist register in the country?

- 0 - No register exists
- 1- Voluntary register exists/A register for a particular institution exists but does not apply to all lobbying activity
- 2 – A mandatory register exists

8. Where a register exists, to what extent does it capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics in the country?

- 0 – Wholly inadequate scope covering only a small proportion of lobbyists
- 1 – Register captures many of the categories of lobbyists mentioned above but there are still some gaps
- 2 – The register clearly captures professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.

Check all categories covered by register:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics
- Other, please specify _____

9. To what extent are lobbyists required to register in a timely (within 10 days of beginning of lobbying activity) manner?

0 - No compulsory registration

- 1 - Lobbyists required to register, but with significant time lag (more than 10 days)
- 2 - Lobbyists required to register within 10 days of beginning lobbying activity

10. To what extent are lobbyists required to report regularly on their lobbying activities and expenditures in a timely manner (max real-time - min quarterly)?

0 – No requirement to report/Reporting less often than annually

- 1 – Reporting requirement less often than quarterly but more often than annually
- 2 - Real-time - Quarterly reporting required

11. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant personal and employment information: name of the organization (if applicable); address and contact information; names of all active lobbyists working on behalf of the organization (if applicable)?

0 - No information required to be publicly disclosed by lobbyists

- 1 - Only basic information required to be publicly disclosed
- 2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name (of individual or organisation)
- Address and contact details
- Names of all active lobbyists working on behalf of organisation
- Other

12. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on lobbying objectives and clients: name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied?

0 - No information required to be publicly disclosed by lobbyists

- 1 - Only basic information required to be publicly disclosed
- 2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- Name of the persons or organizations paying for the lobbying activities
- Names of the lobbyists' clients
- Specific subject matter lobbied
- Specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts sought

13. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on who they are lobbying and what they are advocating: name and title of the public representative or public body with whom the lobbyist engaged and the date and type of such engagement as well as any information and/or supporting documentation communicated to policymakers?

0 – No requirement to report

- 1 – Only basic information required to be publicly disclosed
- 2 - Sufficient information required to be publicly disclosed

Check all categories covered by law:

- The name of the public representative or public body with whom the lobbyist engaged
- Date of engagement
- Type of engagement (personal visit, accepted invitation to event, official hearing)
- Supporting documentation communicated to policymakers

14. To what extent are lobbyists and organizations that lobby required to publicly disclose lobbying expenditures, including spending on efforts to support lobbying, loans, sponsorships, retainers, or the purchase of tickets for fundraising events?

0 - No information on expenditures required to be publicly disclosed by lobbyists

- 1 - Only basic information on expenditures required to be publicly disclosed
- 2 - Sufficient information on expenditures required to be publicly disclosed

15. To what extent are lobbyists and organizations that lobby required to publicly disclose political donations to parties and candidates?

0 - No requirement for public disclosure of political donations

- 1 - Insufficient requirements for public disclosure of political donations
- 2 - Sufficient information on political donations required to be publicly disclosed

16. To what extent are lobbyists required to publicly disclose 'in kind' contributions: In-kind contributions may include advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office?

0 - No information on 'in-kind' contributions required to be publicly disclosed by lobbyists

- 1 - Insufficient information on 'in-kind' contributions required to be publicly disclosed by lobbyists
- 2 - Sufficient information on 'in-kind' contributions required to be publicly disclosed

17. Is information disclosed by lobbyists publicly available online in a searchable machine-readable open-data format?

0 - Information not available online

- 1 - Information available online but not in a searchable machine-readable open-data format (eg. Hand-written and scanned documents used)
- 2 - Information publicly available online in a searchable machine-readable open-data format

18. To what extent do the lobbyists register and provide sufficient/timely information in line with legislative obligations?

0 - Little or no compliance with legal obligations

- 1 - Some lobbyists comply but there are many cases of non-compliance
- 2 - Broad compliance with legal obligations

Oversight, Verification and Sanctions

19. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing registration of lobbyists, offering guidance to individuals and organisations, monitoring returns, and investigating apparent breaches or anomalies (this includes powers to investigate complaints made but also to instigate investigations even where no complaint has been lodged)?

0 - No oversight entity exists

- 1 - Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight
- 2 - A fully mandated and resourced oversight entity is in place

20. To what extent is there a pro-active verification mechanism to audit disclosures and reports and detect anomalies?

0 - No verification mechanism exists

- 1 - Verification exists but is inadequate
- 2 - Adequate verification mechanism exists

21. In practice, to what extent are anomalies detected and followed up on by the oversight body?

0 - Little or no detection of anomalies

- 1 - In general, the oversight body is somewhat active in following up on anomalies detected
- 2 - In general, the oversight body is active in following up on anomalies detected

22. In practice, to what extent are anomalies detected and reported by others (e.g. investigative journalists) followed up on by the oversight body?

0 - Little or no detection of anomalies

- 1 - In general, the oversight body is somewhat active in following up on anomalies detected and reported by others
- 2 - In general, the oversight body is active in following up on anomalies detected and reported by others

23. To what extent does the law provide for penalties for knowingly filing a false lobbying registration return or failure to file a return?

0 - No penalties exists

- 1 - Penalties exist but they are inadequate
- 2 - Adequate penalties exist in law

24. To what extent are penalties for knowingly filing a false return or failure to file a lobbying registration return implemented in practice?

0 - Never

- 1 - Sometimes
- 2 - Always

25. To what extent are oversight bodies required to publicly disclose the names of all individuals or organizations found to have violated lobbying rules or regulations?

0 - No requirement to publicly disclose names of those who violate rules

- 1 - Disclosure of names of those who violate rules is at the discretion of the oversight body
- 2 - Mandatory disclosure of names of those who violate rules and details of the violation

26. To what extent are the names of all individuals or organizations found to have violated lobbying rules or regulations published in practice?

0 - Never

- 1 - Sometimes
- 2 - Always

Legislative Footprint

27. To what extent does the law require the publication of a ‘Legislative Footprint’ (document that details the time, event, person, and subject of legislators’ and senior public officials’⁶⁸ contact with a stakeholder) as an annex to all legislative records?

0 - No legislative footprint foreseen in law

- 1 - Piecemeal requirements to indicate who has sought to influence legislative or policy making processes in place
- 2 - The law requires publication of a legislative footprint as an annex to all legislative records

28. In practice, do legislators/public officials publish a legislative footprint including details of the time, person, and subject of contacts with stakeholders?

0 - No information on contacts publicly disclosed by legislators/public officials

- 1 - Some but insufficient information on contacts publicly disclosed by legislators/public officials
- 2 - Sufficient details of legislators’ contact with stakeholders published

⁶⁸Generally senior public officials are considered as those in management positions with decision-making authority.

29. To what extent are senior public officials required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

0 - No requirement to make documentation related to meetings public

1 - Piecemeal requirements to make documentation related to meetings public

2 - The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

30. To what extent are public representatives (national and subnational legislators) required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

0 - No requirement to make documentation related to meetings public

1 - Piecemeal requirements to make documentation related to meetings public

2 - The law requires publication of comprehensive documentation related to meetings: calendars, agendas, documentation received from lobbyists

INTEGRITY

Framing Questions to bear in mind when constructing the narrative for this section: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country and to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives?

Post-employment and Pre-employment Restrictions

31. To what extent does the law provide proportionate moratoria or ‘cooling off periods’ before former members of parliament, senior public servants, ministers and advisers can work as lobbyists?

0 - No cooling off period in place

1 - Less than 2 year cooling off period in place

2 - Cooling off period of at least 2 years in place

32. To what extent do ‘cooling off periods’ for those who wish to work as lobbyists apply to former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers?

0 - No cooling off period in place

1 - Cooling off period is in place but does not apply to all categories above

2 - Cooling off period applies to all categories above

Tick categories covered:

- Former members of parliament (national)?
- Former members of parliament (sub-national)?
- Former members of national Executive
- Former members of subnational Executives?
- Advisors
- Senior Public Servants
- Senior staff of regulatory bodies
- Other ?

33. In practice to what extent do former members of parliament, senior public servants, members of the executive and advisers move easily and directly into the lobbying sector?

0 - There have been a significant number of cases of former members of parliament, senior public servants, ministers, ministerial advisers moving directly into the lobbying sector

1 - There have been a number of cases of former members of parliament, senior public servants, ministers, ministerial advisers moving directly into the lobbying sector

2 - Former members of parliament, senior public servants, ministers, ministerial advisers rarely move directly into the lobbying sector, usually respecting a cooling off period

34. To what extent does the law require former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers to receive permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?

0 - No permission required

1 - [Insufficient Restrictions \(Insufficient coverage\)](#)

2 - Permission required and applies to all above-mentioned categories

35. In practice, to what extent do former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers seek permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?

0 - Never

1 - Sometimes

2 - Always

36. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing post and pre-employment restrictions, offering guidance to individuals and organisations, and investigating apparent breaches or anomalies?

0 - No oversight entity exists

1 - [Oversight agency exists but it is under-resourced and/or insufficiently mandated to provide meaningful oversight](#)

2 - A fully mandated and well-resourced oversight entity is in place

Codes of Ethics for public sector employees

37. To what extent is ethical/responsible lobbying addressed in public sector codes of conduct (e.g. do they specify standards on how public officials should conduct their communication with interest groups, specify a duty of documentation of contacts, duty to report unregistered or unlawful lobbying to superiors?)

0 - No code of conduct exists for public officials and/or codes of conduct do not reflect ethical lobbying guidelines

1 - [Codes of conduct address ethical lobbying in a piecemeal or insufficient manner](#)

2 - Codes of conduct comprehensively address ethical lobbying

38. To what extent do public sector codes of conduct specify standards on how public officials should deal with conflicts of interest issues?

0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect conflict of interest issues

1 - [Codes of conduct address conflict of interest issues in a piecemeal or insufficient manner](#)

2 - Codes of conduct comprehensively address conflict of interest issues

39. To what extent do public sector codes of conduct specify standards on how public officials should deal with gifts and hospitality issues?

0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect gifts and hospitality issues

1 - [Codes of conduct address reflect gifts and hospitality issues in a piecemeal or insufficient manner](#)

2 - Codes of conduct comprehensively address reflect gifts and hospitality issues

40. To what extent do public sector codes of conduct deal comprehensively with interest and asset declaration issues?

0 - No code of conduct exists for public officials and/or codes of conduct do not adequately reflect asset declaration issues

1 - [Codes of conduct address asset declaration issues in a piecemeal or insufficient manner](#)

2 - Codes of conduct comprehensively address asset declaration issues

41. To what extent is there a complaint mechanism allowing any public official or citizen to report violations of the public sector code of conduct?

- 0 - No complaints mechanism exists
- 1 - Complaints mechanism exists but is limited in scope
- 2 - Robust complaints mechanism exists

42. To what extent are there training and awareness-raising programmes for public officials on integrity issues, including lobbying rules and guidelines?

- 0 - No training/awareness-raising programmes exist on integrity issues
- 1 - Piecemeal and irregular approach to training/awareness-raising on integrity issues
- 2 - Comprehensive and regular training/awareness-raising on integrity issues

Codes of Ethics for Lobbyists

43. To what extent is there a statutory code of conduct for lobbyists including clear sanctions for failure to adhere to lobbying regulations?

- 0 - No code of conduct exists
- 1 - Code of conduct exists but it is inadequate
- 2 - Statutory code of conduct including sanctions exists

44. In practice, to what extent are sanctions applied for failure to adhere to lobbying regulations?

- 0 - Sanctions rarely/never applied
- 1 - Sanctions applied, but inconsistently
- 2 - Sanctions consistently applied

45. To what extent does the law and/or the lobbyists' code of conduct require disclosure regarding and provide restrictions on lobbyists being hired to fill a regulatory, financial decision-making or advisory post in government?

- 0 - No disclosure requirements or restrictions in place
- 1 - Insufficient Restrictions and disclosure requirements (e.g. lobbyist must deregister but no further restrictions)
- 2 - Sufficient disclosure requirements and restrictions in place (e.g. potential veto of appointment and/or restriction in types of decisions the employee would be involved in making)

46. To what extent does the law and/or codes of conduct prohibit simultaneous employment as a lobbyist and a public official?

- 0 - No mention of prohibition of simultaneous employment as a lobbyist and a public official
- 1 - Law/Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official
- 2 - Law/Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

47. To what extent is there a complaint mechanism allowing any policy-maker or citizen to report violations of the lobbying regulations?

- 0 - No complaints mechanism exists
- 1 - Complaints mechanism exists but is limited in scope
- 2 - Comprehensive complaints mechanism exists

Self-regulatory Codes of Ethics for Lobbyists

48. To what extent are there self-regulatory code(s) of ethics managed by professional association(s) for lobbyists or by companies themselves?*

- 0 - No code of ethics exists
- 1 - Code of ethics exists but it is inadequate
- 2 - Code of ethics including sanctions exists

49. To what extent do existing self-regulatory codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations?⁶⁹

0 - Codes do not provide any behavioural principles that steer lobbyists away from unethical situations

1 - Codes mention behavioural principles but are vague and/or incomplete

2 - Codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations

Check all categories covered by codes:

- Requiring honesty and accuracy of information provided to public officials
- Requiring early disclosure to public officials of the identity of client and interests being represented
- Refraining from using information obtained in violation of the law
- Refraining from encouraging public officials to violate the law
- Banning gifts above a de-minimise value, fees, employment or any other compensation from a lobbyist to a public official.
- Requiring speedy disclosure of any conflict of interest and management of such conflicts of interest or recusal
- Making ethics training a condition of membership in the association.
- Establishing a reasonably independent mechanism for monitoring and enforcing compliance to the ethics code.
- Others, please specify _____

50. To what extent do existing self-regulatory codes require lobbyists to publicly disclose the identity of who they are representing and what they are lobbying for?*

0 - No information required to be publicly disclosed by lobbyists

1 - Only basic information required to be publicly disclosed and/or the information is not public

2 - Sufficient information required to be publicly disclosed (name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied)

51. To what extent do existing self-regulatory codes prohibit simultaneous employment as a lobbyist and a public official?*

0 - No mention of prohibition of simultaneous employment as a lobbyist and a public official

1 - Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official

2 - Code of conduct explicitly prohibits simultaneous employment as a lobbyist and a public official

52. To what extent is there a complaint mechanism allowing any member or non-member of the association to report violations of the lobbying code of ethics?*

0 - No complaints mechanism exists

1 - Complaints mechanism exists but is limited in scope

2 - Robust complaints mechanism exists

53. To what extent are there reasonably independent mechanisms for the monitoring and enforcement of compliance with the ethics code(s)?*

0 - No monitoring and enforcement mechanisms exist

1 - The monitoring mechanism exists but is not independent, or is limited in scope

2 - A robust and reasonably independent monitoring and enforcement mechanism exists

EQUALITY OF ACCESS – THE LEVEL PLAYING FIELD

Framing Questions to bear in mind when constructing the narrative for this section: Are there sufficient spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests?

⁶⁹ Based on OECD (2009) Lobbyists, government and public trust: Promoting integrity by self-regulation, p.33 <http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=gov/pgc%282009%299>

Consultation and Public Participation in Decision-making

54. To what extent is the Parliament required by law to allow citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input?

0 - The legal framework does not consider the provision of input to the legislative process.

1 - The legal framework allows for citizens and the public (corporations, civic organizations) to provide input to parliament, but it does not make any provisions regarding equal access, sufficient notice and time to receive this input

2 - Parliament is required by law to allow the citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input.

55. To what extent does the legal framework lay out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies?

0 - There are no procedures and rules for participation in policy discussions and decision making processes, or they are ad hoc to each policy and decision making process.

1 - There are some provisions for making public the means of participation in policy, but they are not specific, or they are relegated to policy directives.

2 - Yes, there is a specific regulatory framework that clearly lays out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies.

56. To what extent does the legal framework explicitly require public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes?

0 - There are no provisions regarding the consultation of groups and stakeholders affected by policy.

1 - Some provisions regarding the equal participation of affected groups exist, but they are not specific, or they are relegated to policy directives.

2 - The legal framework explicitly requires public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes.

57. In practice, which of the following forms of public participation are routinely used?⁷⁰

- Informal consultation with selected groups
- Broad circulation of proposals for comment
- Public notice and calling for comment- sometimes used
- Public meeting
- Posting proposals online
- Advisory/Expert Groups- sometimes used
- Preparatory Public Commission/committee
- Others, please specify _____

58. In practice, to what extent are consultations open to participation from any member of the public?

0 - Consultations are rarely/never open to any member of the public

1 - Consultations are sometimes but not always open to any member of the public

2 - Consultations are generally open to any member of the public

⁷⁰A good source of information for indicators 56-58 is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 20. The indicator questions draw heavily on the OECD draft report.

59. In practice, to what extent are the views of participants in the consultation process made public?

- 0 - The views of participants in the consultation process are rarely/never made public
- 1 - The views of participants in the consultation process are sometimes but not always made public
- 2 - The views of participants in the consultation process are always made public

60. To what extent does the legal framework explicitly require public authorities to provide a detailed justification on why and how various submissions have or have not been taken into account in policy and decision-making processes after consultation?

- 0 - There are no provisions requiring public authorities to explain whether and how they have considered participation, or there is no participation provided for.
- 1 - There are some provisions requiring public authorities to explain whether and how they have considered submissions, but they are not specific, or they are relegated to policy directives.
- 2 - The law explicitly requires public authorities to provide a detailed justification on why and how submissions have or have not been taken into account in policy and decision-making processes after consultation.

Advisory/Expert Group Composition⁷¹

61. To what extent is there a legal obligation to have a balanced composition (between private sector and civil society representatives) of advisory/expert groups?

- 0 - No requirement to have balanced composition
- 2 - The law requires meaningful balanced composition between private sector and civil society representatives

62. In practice, to what extent is there a balanced composition (between private sector and civil society representatives) of advisory/expert groups?

- 0 - Advisory groups are generally biased towards particular interests
- 1 - Advisory groups are sometimes balanced, sometimes not
- 2 - There is a meaningful balance between private sector and civil society representatives on advisory groups

63. To what extent are lobbyists prohibited from sitting on advisory/expert groups in a personal capacity?

- 0 - Lobbyists can freely sit on advisory groups in a personal capacity
- 2 - Lobbyists are prohibited from sitting on advisory/expert groups in a personal capacity

64. To what extent are corporate executives prohibited from sitting on advisory groups in a personal capacity?

- 0 - Corporate executives can freely sit on advisory groups in a personal capacity
- 2 - Corporate executives are prohibited from sitting on advisory/expert groups in a personal capacity

65. With regard to advisory/expert groups, to what extent is membership information, agendas, minutes and participants' submissions required to be made public?

- 0 - Information not publicly available
- 1 - Information available, but only on request
- 2 - Information publicly available online or in print form

⁷¹ Following the OECD definition, here an advisory or expert group refers to any committee, board, commission, council, conference, panel, task force or any subcommittee set up by government (executive, legislative or judicial branch) or any of its subgroups to provide it with advice, expertise or recommendations. In some countries, advisory groups will be regulated differently depending on which sector/institution is concerned. If this is the case, we suggest the focus should be on *parliamentary* advisory group involved in the process of legislating. A good source of information for this set of indicators is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 66-68. The indicator questions draw heavily on the OECD draft report.

ANNEX 3: LIST OF INTERVIEWS

Name	Function	Institution
Konštantín Čikovský	Journalist	SME, Denník N
Eugen Jurzyca	MP	National Council of the Slovak Republic
Róbert Kičina	Director	Business Alliance of Slovakia
Peter Marčan	Lobbyist	Neuropea
Peter Papánek	Lobbyist	Neuropea
Hana Šimková	Public Relations Manager	Heineken Slovakia
Adam Valček	Journalist	Trend
Patrik Zoltvány	Lobbyist	Fipra Slovakia

