

Overall Score:

73 - Moderate

Legal Framework Score:

83 - Strong

Actual Implementation Score:

62 - Weak

Category I. Civil Society, Public Information and Media

I-1. ⁸⁸Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

67

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

References:

Act No. 213/1997 Coll. on Non-profit Organizations Providing Generally Beneficial Services as amended, go to jaspi.justice.gov.sk, choose Predpisy", enter "213/1997" in the box "Predpis", klik "Vyhľadaj" § 5.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

References:

Act No. 213/1997 Coll. on Non-profit Organizations Providing Generally Beneficial Services go to jaspi.justice.gov.sk, choose Predpisy", enter "213/1997" in the box "Predpis c.", klik "Vyhľadaj" § 29

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | **NO**

Comments:

Many CSOs do so in their annual report in order to be transparent. For example, Fair-play Alliance http://fair-play.sk/2percenta/2009/doc/vyrocná_správa_AFP_2008.pdf or Slovak Governance Institute <http://www.governance.sk/assets/files/vyrocná-správa2008c.pdf>, page 21, or Milan Simecka Foundation <http://www.nadaciamilanasecku.sk/index.php?id=4>, click on Vyrocná správa 2007

References:

By law, CSOs are not required to disclose their sources of funding.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

83

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

Comments:

CSOs promoting good governance and anti-corruption can freely organize with little interactions with the government. However, they work in hostile environment as government representatives have accused them of being supported from foreign sources", which to say is to delegitimized their work and outcomes mainly in line with corruption cases in the government.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava

Mr. Ivan Kuhn, expert, Konzervatívny Inštitút, Feb. 10, 2010, Bratislava

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb. 10, 2010, Bratislava
Newspaper article, SME Daily, TASR, SITA, Feb 8, 2008, <http://www.sme.sk/c/3739800/fico-opat-zautocil-na-meseznikova-butoru-a-butorovu.html>

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

Comments:

Government is not willing to listen to CSOs that deal with good governance and/or anti-corruption issues. There are several reasons for that. Firstly, CSOs have criticized government on several occasions and even have brought up some serious corruption cases of the executive. Secondly, some CSOs have different ideological background (e.g. Conservative Institute has very few common views with centre-left socialist government). Thirdly, many people in the executive power do not see CSOs as real partners for policy making process. Fourthly, CSOs are lacking know-how and capacities for influencing policy makers.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
 Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava
 Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
 Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava
 Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava
Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava
Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava
Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

100

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:

Citizens may establish unions, societies, unions, movements, clubs and other civic associations and trade unions.

References:

Act No. 83/1990 Coll. on Association of Citizens as amended, go to jaspi.justice.gov.sk, choose "Predpisy", enter "83/1990" in the box "Predpis c.:", click "Vyhľadat" § 2

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

References:

SME daily, CTK, Aug.13, 2008, Tripartita sa na mzde nedohodla, <http://www.sme.sk/c/4018654/tripartita-sa-na-mzde-nedohodla.html>

SME Daily, SITA, May, 11, 2009, Odbory odmietajú návrhy na nezvyšovanie minimálnej mzdy <http://ekonomika.sme.sk/c/4836850/odbory-odmietaju-navrhy-na-nezvysovanie-minimalnej-mzdy.html>

Zurnal Weekly, Klaudia Lászlóová, Nov.4, 2008, Odbory a podniky sa pripravujú na krízu spoločne http://www.izurnal.sk/index.php?option=com_content&task=view&id=2704

Robert Kicina, Executive Director, The Business Alliance of Slovakia (PAS), March 15, 2010, Bratislava

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments:

Freedom of press is guaranteed pursuant to Article 26 of the Constitution, freedom of media broadcast is guaranteed by law, article 15 of Act. No. 308/2000 Coll. on Broadcasting and Retransmission.

References:

Act No. 460/1992 Coll., Constitution of the Slovak Republic (Constitution") Article 26
Act No. 308/2000 Coll. on Broadcasting and Retransmission as amended, Article 15

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

"Predpisy" 308/2000

"Vyhľadat"

YES: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

Freedom of expression in general is guaranteed in Article 26 of the Constitution.

References:

Act No. 460/1992 Coll., Constitution of the Slovak Republic, Article 26.

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

"Predpis" 460/1992

"Vyhľadat"

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

100

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

It requires only to register. To obtain the license does not depend on any approval.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

YES | NO

Comments:

No print media license is necessary. Owner or publisher of print media has an obligation to register at the Ministry of Culture of the Slovak Republic.

References:

No print media license is necessary.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required. Registration must be done, at the latest to the beginning day of publishing.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required, 9.50 EUR worth of stamp is needed for registration

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

Ministry of Culture website <http://www.culture.gov.sk/pertlac>

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

69

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

In 2009 two main barriers were identified. The first, access to broadcast bandwidth was project based, thus could lead to relegation of media from the process. The second, digitalization which was supposed to expand the broadcast bandwidth was influenced by politics (see newspaper article) and ended up in preferring the existing media groups.

References:

Trend Weekly, SITA, Nov. 27, 2008, Séf Telekomunikacného úradu rozpráva na Fica, <http://ekonomika.etrend.sk/ekonomika-slovensko/sef-telekomunikacneho-uradu-rozprava-na-fica.html>

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

Mr. Miro Kollar, IVO, CVEK, media expert, former member and chair of Public Slovak TV Board, March 16, Bratislava.

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

YES | NO

Comments:

When a license is denied in accordance with the Act 308/2000 Coll., pursuant to Article 49, par. 8 applicant may file an appeal within 15 days of a receipt of the decision. When a license is revoked a broadcaster may file an appeal within 15 days of receipt of the decision according to Article 54, par. 4 of above Act.

References:

There is no legal claim to license, however, right to appeal against a negative decision or revocation of a license is guaranteed by Act No. No. 308/2000 Coll. on Broadcasting and Retransmission as amended, Article 49, par. 8 and Article 54, par. 4. A negative decision may be appealed to the Supreme Court of the Slovak Republic as well as appeal against a decision to revoke the license. Appeal mechanism is regulated by Articles 250l – 250s of Act. No. 99/1963 Coll., the Civil Procedure Code.

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis" 308/2000
"Vyhladat"

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
"Predpis" 99/1963
"Vyhladat"

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

NO: A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The Council for broadcasting and retransmission supervises the decisions on licences for broadcasting. The council has the duty to end up requesting process within 90 days, 180 days in the case of terrestrial broadcast. In the case of nationwide broadcasting, National council of the Slovak Republic supervises the licences, so the time period may be prolonged. At the moment, there are no conditions for other nationwide broadcaster.

References:

Mr.Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Licenses can be obtained at minimal cost to the organization.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

8a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

There are no legal tools for preventing citizens from accessing online content.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
Mr. Valer Kot, ePublishing Director, Petit Press, Feb. 26, 2010, Bratislava

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb. 10, 2010, Bratislava
 Mr. Valer Kot, ePublishing Director, Petit Press, Feb. 26, 2010, Bratislava

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

83

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

It is legal to report accurate information on public figures regardless of damage to their reputations. This freedom is guaranteed in Article 26 of the Constitution. On the other hand, public figures have right to protect themselves, if they think, the information is inaccurate and damages their reputations. Their right to personality protection is guaranteed by Act No. 40/1964 Coll., the Civil Code, as amended, Articles 11-15.

References:

Constitution and European Convention on Human Rights define cases where it is possible to limit freedom of expression: (a) if restriction is defined by law, for example Criminal Code, (b) if purpose is legitimate, and (c) if the restriction is necessary in a democratic society).

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

Predpis" 460/1992

"Vyhľadat"

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

Comments:

Self-censorship of journalists exists in state-owned media, especially in public Slovak Television. Private media are under threat of lawsuits from politicians for damaging their reputation. Due to these threats media are more careful in publishing corruption related stories. Journalists are afraid to cover corruption issues related to judges as judiciary power decides on cases related to aforementioned lawsuits.

Some private media do not cover certain activities due to their advertisement strategy. Big advertisers are approached differently. Cases when politicians have sued media for their articles and won large sums of money are affecting independence of media, especially in regard to corruption cases.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

Mr. Tom Nicholson, Journalist, SME Daily, Feb.26, 2010, Bratislava

Press release, IPI Slovakia, May 2, 2009, Slovensko k svetovému dnu slobody tlace, <http://medialne.etrend.sk/tlac-tlacove-spravvy/vyhlasenie-ipi-slovensko-k-svetovemu-dnu-slobody-tlace.html>

Hospodarske noviny Daily, TASR, March 24, 2009, Harabin vyhral spor s dennikom SME <http://marketer.hnonline.sk/c1-36221430-harabin-vyhral-spor-s-dennikom-sme>

SME Daily, Veronika Prusova, 7.9.2009, Fico zaluje za karikaturu, <http://www.sme.sk/c/5006096/fico-zaluje-za-karikaturu.html>

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

75

10a. In law, print media companies are required to publicly disclose their ownership.

YES | NO

Comments:

Publisher of a periodical press, which is a legal person, must in the first issue of the periodical press published in the calendar year, insert a notice about the ownership structure of periodical press publisher as at 31 December of the preceding calendar year. Extent of a notice is stipulated in the Article 11 par. 4 point. j). of Act.
Print media companies are required by law to publicly disclose the structure of ownership relations of the publisher of the periodical, if they are a legal entity and any shareholder or participant in the publisher of the periodical whose share of voting rights is at least 20%, or whose ownership interest is at least 20%.ownership records are available to anyone on the Ministry of Culture website and in the first issue of the periodical issued in each calendar year.

References:

Act No. 167/2008 Coll. on the Periodicals and News Agency Service and on the amendment to certain acts (the Press Act) Article 6 par. 3. and Article 11 par. 4 point. j). of Act.

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis " 167/2008
"Vyhľadat"

YES: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

YES | NO

Comments:

Broadcast media are required by law to record in the Business register, which is publicly available and includes owners of the company.

References:

Pursuant to Act No. 513/1991 Coll. the Commercial Code as amended Article 27 broadcast media are required by law to record in the Business register.

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis " 513/1991
"Vyhľadat"

YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

Journalists do not possess all necessary skills and are covering various issues thus are not specializing on limited number of problems. This affects quality of their work. Ethical issues in regard to invitations to parties, receiving of gifts and money, are not sufficiently enforced in internal codes of conduct in some newsrooms. Lines between journalists and private companies are narrow, leading to situations when journalists in their articles make PR to business companies.

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
 Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava
 Mr. Tom Nicholson, Journalist, SME Daily, Feb.26, 2010, Bratislava

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

During the most recent Elections to the European Parliament, non-parliamentary parties were excluded from media coverage. Some major media were biased regarding some parties. For example, political party SNS was portrayed more negatively by TV Markiza and TV TA3 (both private) due to party's connection to corruption scandals, whereas TV JOJ (private) and STV (public national TV) were less critical of SNS. In Presidential Election 2009 that took place in March and April 2009 two candidates have received major part of media coverage. However this was based on the interests of electorate.

References:

Report, MEMO98, June 5, 2009, Prezentácia politických subjektov a kandidátov vo vo>bách do Európskeho parlamentu, http://www.memo98.sk/data/ media/2009_05-vsetky_media.pdf

Report, MEMO98, March 18, 2009, Prezentácia kandidátov na prezidenta v celoploaných televíziách http://www.memo98.sk/data/ media/2009_03-vsetky_media.pdf

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

In two recent elections (March and June 2009), public media (state-owned) were bias in covering some political parties. They also portrayed government political parties less negatively in comparison with other media. In the political discussion o 5 minút 12" on

the national public Slovak TV, prime minister has had regularly no political opponent. On the other hand, Slovak TV had series of discussion programs with candidates, each having the same time for answers. This led to very boring and formal outcomes of public TV program.

References:

Hospodarske noviny Daily, Beata Skyvova, Sept. 23, 2009, Fico diskutoval sám, STV dostala trest, <http://hnonline.sk/slovensko/c1-38396550-fico-diskutoval-sam-stv-dostala-trest>

Report, MEMO98, June 5, 2009, Prezentácia politických predstaviteľov a subjektov. http://www.memo98.sk/data/_media/2009_05-stv.pdf

Report, MEMO98, March 18, 2009, Prezentácia kandidátov na post prezidenta SR http://www.memo98.sk/data/_media/2009_03-stv.pdf

Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava

Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava

Mr. Tom Nicholson, Journalist, SME Daily, Feb.26, 2010, Bratislava

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
 Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava
 Mr. Tom Nicholson, Journalist, SME Daily, Feb.26, 2010, Bratislava

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

References:

Mr. Gabriel Sipos, Media Expert, at the same time Director of Transparency International Slovakia, Feb.10, 2010, Bratislava
 Mr. Konstantin Cikovsky, Deputy Editor In-Chief, SME Daily, March 8, 2010, Bratislava
 Mr. Tom Nicholson, Journalist, SME Daily, Feb.26, 2010, Bratislava

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

90
 I-3. Public Access to Information

12. Do citizens have a legal right of access to information?

100

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

There is a formal right to access government documents.

References:

Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act, FOIA")
 Source: jaspi.justice.gov.sk
 choose "Predpis", enter "211/2000" in the box "Predpis c.", click "Vyhľadat" § 5 (4)

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

Both types of appeal mechanisms exist. Formal process starts with an administrative appeal, follow by appeal to courts in case of rejection at the first stage of appeal.

References:

Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act, FOIA) Article 19.

go to jaspi.justice.gov.sk, choose "Predpisy", enter "211/2000" in the box "Predpis c.:", click "Vyhľadat" § 19 (1) – (3)

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

Comments:

All ministries and government agencies have an established institutional mechanism for request of government records. There are some examples listed in Sources" to show possibilities that people have. FOIA provides a legal framework of this mechanism.

On the other hand if the information has been classified by Act No. 215/2004 Coll. on protection of classified materials and on amendment to certain laws, it shall not be disclosed pursuant to FOIA.

References:

Mechanism of disclosure upon request is established in Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act, FOIA), Articles 14 – 21a.

go to http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

choose "Predpisy", enter "211/2000" in the box "Predpis c.:", click "Vyhľadat" § 14 21a

Examples of established mechanisms:

Ministry of Interior <http://www.minv.sk/?infoservis>

Ministry of Health [http://www.health.gov.sk/redsyst/rsi.nsf/vdb_Sections?](http://www.health.gov.sk/redsyst/rsi.nsf/vdb_Sections?OpenView&ID=PAR062650529521&TYPE=S&LANGUAGE=S&LENGTH=S&MNU=MNU493538951905)

[OpenView&ID=PAR062650529521&TYPE=S&LANGUAGE=S&LENGTH=S&MNU=MNU493538951905](http://www.health.gov.sk/redsyst/rsi.nsf/vdb_Sections?OpenView&ID=PAR062650529521&TYPE=S&LANGUAGE=S&LENGTH=S&MNU=MNU493538951905)

Ministry of Defense <http://www.mosr.sk/10/verejne-informacie-v-rezorte.php?mnu=9>

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

75

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are cases which we call ping-pong cases. Ministries are by-passing the law which leads to lawsuits. Many absurd interpretations of law have also occurred.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Different ministries and institutions produce responses of different quality. For example, Ministry of Environment and Ministry of Construction and Regional Development have, on many occasions, responded inefficiently and used various excuses for not providing complete information. On the contrary, Ministry of Finance provides better quality responses.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

As soon as so called ping-pong starts, there is no real chance to get relevant information in reasonable time period.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

Sometimes the reasons for denial given by government officials are not sufficiently prepared and are lacking professional quality .

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava
Mr. Ivan Kuhn, expert, Konzervativny Institut, Feb. 10, 2010, Bratislava

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

Category II. Elections

II-1. ~~66~~ Voting & Citizen Participation

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

Various laws on different elections exist. Every law defines group which can vote in election, however in each law there is universal and equal right to vote for all citizens.

References:

Universal, equal and direct suffrage is guaranteed pursuant to Article 30 of the Constitution.

Separate laws:

Act No. 333/2004 Coll.; General Election to National Parliament Act – Article 1 and 2
www.infovolby.sk/data/_media/Zakon%20o%20volbach%20do%20NR%20SR.pdf
Act No. 46/1999 Coll.; Presidential Election Act – Article 1 and 2
www.infovolby.sk/index.php?base=data/legislativa/1078780043.txt
Act No. 303/2001 Coll. Regional Government Election Act – Article 1 and 2
www.infovolby.sk/data/_media/Zakon%20o%20volbach%20do%20VUC.pdf
Act No. 346/1990 Coll.; Local Government Election Act – Article 1 and 2
www.infovolby.sk/index.php?base=data/legislativa/1163337716.txt

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

Pursuant to Article 30 par. 2 of the Constitution elections shall be held within periods of time not exceeding the regular electoral term provided by a law. A four year period is stipulated by the Article 73 of the Constitution for the National Council of the Slovak Republic.

Article 69 par. 2 of the Constitution stipulates that municipality inhabitants permanently residing therein elect their representatives for a four-year term.

Article 69 par. 5 and 6 of the Constitution stipulate that the inhabitants of the territorial district of the higher territorial unit permanently residing therein shall elect the representatives and head of a higher territorial unit for a four-year term.

References:

Act No. 460/1992 Coll., Constitution of the Slovak Republic (The Constitution"), Article 30 par. 2

The Constitution, Article 73.

The Constitution Article 69 par. 2

The Constitution Article 69 par. 5 and 6

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

"Predpis" 460/1992

"Vyhľadat"

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

92

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava

Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

In the recent election to Regional parliament and for Regional Governor there were attempts to buy votes of citizens in some towns. Even though it didn't occur on a large scale it effects ballots secrecy.

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

Newspaper Article, TASR, Nov.14, 2009, Volby prebiehaju pokojne, kupovanie hlasov preveruje policia. <http://hnonline.sk/slovensko/c1-39077780-volby-prebiehaju-pokojne-kupovanie-hlasov-preveruje-policia>

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

Election are held according to regular schedule with the exception of elections to National Parliament. Election to National Parliament are held at least every four years, however this period can be shorten by Constitutional law passed by the National Parliament. It has occurred couple of times, mainly due to a shift of political power in Parliament which has led to agreement among political parties to call for new election. However, all rules on this call have to be in accordance with the law, which has been the case.

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

90

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

According to both, the Constitution and Act on Political Parties, citizens have the right to establish a political party an associate in it.

References:

Act No. 460/1992 Coll., Constitution of the Slovak Republic (Constitution") Pursuant to the Article 29 par. 2 Citizens may establish political parties and political movements and associate therein. Details are regulated by the separate act, Act No. 85/2005 Coll. on Political Parties and Political Movements as amended.

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
"Predpis" 460/1992
"Vyhladat" §

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
"Predpis" 85/2005
"Vyhladat"

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

Under Article 30 of Act No. 460/1992 Coll., Constitution of the Slovak Republic (Constitution"). citizens shall have the right to participate in the administration of public affairs directly or through freely elected representatives. Citizens shall have access to the elected and public offices under equal conditions. Pursuant to Act on Political Parties the right to vote and to be elected to state bodies is granted the citizen of the Slovak Republic with permanent residence in the Slovak Republic, who (on election day to the bodies of a political party) has reached 18 years of age and have full legal capacity.

References:

Article 30 of Act No. 460/1992 Coll., Constitution of the Slovak Republic (Constitution").
Separate Act No. 85/2005 Coll. on Political Parties and Political Movements as amended.

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
"Predpis" 460/1992
"Vyhladat"

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
"Predpis" 85/2005
"Vyhladat"

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have to fulfill registration requirements in order to form political party. These requirements include obligation to present 10.000 names of citizens with signatures who agree with forming of new party. Such obligations can be perceived as burden to the process.

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

With the exception of Regional and Local Elections, the costs of running a campaign can deter candidates from entering a race. System of party lists which is used in Parliamentary Elections in Slovakia may prevent individual candidates from running for office.

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Opposition parties are part of the political system in Slovakia. Opposition Members of Parliament (MPs) can propose legislation..

The website of National Parliament shows the current structure of MPs. All parties are present based on the election results, including opposition.
<http://www.nrsr.sk/default.aspx?sid=poslanci/kluby/zoznam>
The opposition party introduces legislation as you can see on the same website. It shows MPs proposing legislation. Among them many from the opposition.
http://www.nrsr.sk/Default.aspx?sid=zakony/prehľad_detail&SummaryType=1

References:

Ms. Livia Skultetyova, Director of the Elections and Referendum Department, Ministry of Interior, Feb. 26, 2010, Bratislava
Mr. Rasto Kuzel, election expert, election observer, MEMO 98, Feb.4, 2010, Bratislava

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

18. Is the election monitoring agency effective?

35

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

Election Monitoring Agency Members are appointed by political parties in order to provide cross-checking. Ministry of Interior provides technical assistance while Election Committee is responsible for overseeing the fairness of elections. Even though members are appointed by political parties, there are no legal ties to executive power.

References:

Act No. 333/2004 Coll.; General Election to National Parliament Act – Article 13
Act No. 46/1999 Coll.; Presidential Election Act – Article 7
Act No. 303/2001 Coll. Regional Government Election Act – Article 8
Act No. 346/1990 Coll.; Local Government Election Act – Article 11

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis" (add number)
"Vyhľadat"

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Election Monitoring Agency Members are appointed by political parties in order to provide cross-checking. Ministry of Interior provides technical assistance while Election Committee is responsible for overseeing the fairness of elections.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Election Monitoring Committees are created ad hoc. Members are appointed by political parties in order to provide cross-checking. Ministry of Interior provides technical assistance while Election Monitoring Committee is responsible for overseeing the fairness of elections. The assistance staff has sufficient qualifications to help Election Monitoring Committees to fulfill their basic mandate. The assistance staff on all levels undergoes expert trainings. Many political parties appoint people who have had previous experience with election process and often have already participated in election committees on various levels. Most of the staff is able to fulfill Committee basic mandate.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Election Monitoring Committees do not publish any kind of report on elections. Their main task is to confirm that the results of elections are valid.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Election Monitoring Committee does not have the power to penalize offenders. This is left upon decision of courts.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

92

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

There is no need to register for election in Slovakia. It is a responsibility of municipalities to keep permanent list of voters. Everyone can check whether he/she is on the list of voters. If not, he/she can ask for additional enrollment.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

Jurisdiction of the Constitutional Court of the Slovak Republic to cancel the election results or declare the elections results annulled according to Article 63 par. 1 of Act No. 38/1993 Coll. on the Organization of the Constitutional Court of the Slovak Republic, on the Proceedings Before Him and on the Status of its Judges as amended.

References:

Act No. 38/1993 Coll. on the Organization of the Constitutional Court of the Slovak Republic, on the Proceedings Before Him and on the Status of its Judges as amended, Article 63 par. 1

source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpisy" 38/1993, § 63
"Vyhľadat"

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Constitutional Court decides on the cases of complains on flaws in the electoral process. It took more than two years to close all cases from 2006 Local Government Election. Appeals mechanism seems to be working but with exceptions that need to be solved in order to have a fully functioning mechanism.

References:

Newspaper article, SME Daily, pm, sen, CTK, Nov. 11, 2008, Primator Dunajskej stredy konci, <http://www.sme.sk/c/4183890/primator-dunajskej-stredy-konci.html>

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26,2010.

Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

No cases of abuse were reported. Policy patrolled in areas with reported vote-buying but did not influence the election process.

References:

Tyzden Weekly, Jozef Majchrak and Andrej Ban, Dec. 6, 2009, Obchodníci s hlasmi, <http://www.tyzden.sk/casopis/2009/49/obchodnici-s-hlasmi.html>

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Bratislava, Feb.26.2010.

Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

References:

Separate laws:

Act No. 333/2004 Coll.; General Election to National Parliament Act – Article 31 par 3
Act No. 303/2001 Coll. Regional Government Election Act – Article 31 and 34

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis" (add number)
"Vyhľadat"

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits or restrictions on election observers access to polling sites.

References:

Ms. Livia Skultetyova, Head of Elections and Referendum Dept. at Ministry of Interior, Feb.26,2010 Bratislava
Mr. Rasto Kuzel, election and media expert, MEMO 98, Feb. 4, 2010, Bratislava

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

Central Election Commission is the Electoral Commission, which is the ultimate authority responsible for every type of elections in Slovakia, created according to separate laws.

References:

Act No. 333/2004 Coll.; General Election to National Parliament Act – Article 15
Act No. 46/1999 Coll.; Presidential Election Act – Article 7
Act No. 303/2001 Coll. Regional Government Election Act – Article 10
Act No. 346/1990 Coll.; Local Government Election Act – Article 11

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis" (add number of law)
"Vyhľadat"

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

20. Are there regulations governing the financing of political parties?

50

20a. In law, there are limits on individual donations to political parties.

YES | NO

Comments:

Limits on individual donations to political parties are regulated by Article 24 par. 2 of Act No. 85/2005 Coll. on Political Parties and Political Movements as amended. According to Article 24 par. 2 of Act No. 85/2005 Coll. on Political Parties and Political Movements as amended a political party may accept a donation from one donor only once for each calendar year in amount not exceeding EUR 5,000 (in cash). However, there are no limits on other kind of individual donations except of cash.

References:

Act No. 85/2005 Coll. on Political Parties and Political Movements as amended, Article 24 par. 2

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.: 85/2005, click on the green button "vyhladat" and then click on the number of law – green version)"
." 85/2005
"Vyhladat"

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

YES | NO

Comments:

Limits on donations of legal entity to political parties are regulated by Article 24 par. 2 of Act No. 85/2005 Coll. on Political Parties and Political Movements as amended. According to Act on Political Parties and Political Movements a political party may accept a donation in cash from one donor (legal entity) only once for each calendar year in amount not exceeding EUR 5,000. However, there are no limits on other kind of corporate donations except of cash.

References:

Act No. 85/2005 Coll. on Political Parties and Political Movements as amended, Article 24 par. 2

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.: 85/2005, click on the green button "vyhladat" and then click on the number of law – green version)"

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

YES | NO

Comments:

There are no limits on political party expenditures during an election. Exception is for presidential election, where a limit is EUR 132 775 incl. VAT.

References:

Act No. 46/1999 Coll. on Procedure of the Election of the President of the Slovak Republic, on Plebiscite and Removal of the President and on Supplementation of several other Laws, Article 16

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 46/1999, click on the green button "vyhladat" and then click on the number of law – green version)"

YES: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

NO: A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

YES | NO

Comments:

Political party is obliged to disclose on the website the financial contributions to political parties. It is required to publish name, address and amount of donation.

References:

Act No. 85/2005 Coll. on Political Movements and Political Parties Article 23

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 85/2005, click on the green button "vyhladat" and then click on the number of law – green version)"

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

YES | NO

Comments:

There are no requirements for the independent auditing of the finances and expenditures of political parties in law.

References:

Act No. 85/2005 Coll. on Political Movements and Political Parties

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 85/2005, click on the green button "vyhladat" and then click on the number of law – green version)"

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

YES | **NO**

Comments:

There is no independent agency or entity monitoring the financing of political parties. Only the Parliamentary Committee for finances, budget and currency is required to check on financing of political parties, but it mostly consist of members of these political parties. Investigation is inefficient, as aforementioned Parliamentary Commission cannot initiate investigation in this matter.

References:

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis "350/1996
"Vyhľadat"

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

21. Are there regulations governing the financing of individual political candidates?

0

21a. In law, there are limits on individual donations to political candidates.

YES | **NO**

Comments:

No there are no limits on contributions from individuals.

References:

No source.

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

YES | **NO**

Comments:

NO there are no limits on corporate contributions.

References:

No source.

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | **NO**

Comments:

No there are no requirements for the mandatory disclosure of contributions to individual political candidates. Ministry of finance of the Slovak Republic discloses campaign expenditures without a donor's name or amount given.

References:

No requirements.

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

YES | **NO**

Comments:

NO there is no law, requiring the independent auditing of the campaign finances of individual political candidates.

References:

No source.

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | **NO**

Comments:

There is no agency or entity that monitors financing of individual political candidates. Only expenditures of presidential candidates on campaigns are audited by Ministry of Finance.

References:

Act No. 46/1999 Coll. on Procedure of the Election of the President of the Slovak Republic, on Plebiscite and Removal of the President and on Supplementation of several other Laws § 16

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 46/1999, click on the green button "vyhladat" and then click on the number of law – green version)"

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

22. Are the regulations governing the political financing of parties effective?

4

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Existing limits are covering only cash contributions, therefore are very ineffective on any regulation.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Existing limits are covering only cash contributions, therefore are very ineffective on any regulation.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

There are no real limits on total party expenditures.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb. 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There is no independent agency or entity monitoring the financing of political parties. Only the Parliamentary Committee for finances, budget and currency is required to check on financing of political parties, but it mostly consist of members of these political parties. Investigation is inefficient, as aforementioned Parliamentary Commission cannot initiate investigation in this matter.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

Press Release, Aliancia Fair-play, 31.7.2008, Aliancia Fair-play ziada parlament o preskúmanie nezákonného daru =S-HZDS, <http://www.fair-play.sk/clanok.php?u=3&u1=6&u2=24&u3=335>

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, thought limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The parliamentary committee for finances, budget and currency imposes penalties on offenders. There was no imposition in 2009. In 2008 impositions of penalties for illegal donations were inadequate.

References:

Blog, Peter Kunder, Aliancia fair-Play, Sept. 3, 2008, Ako Burian zozral detinské výhovorky HZDS <http://kunder.blog.sme.sk/c/162895/Ako-Burian-zozral-detinske-vyhovorky-HZDS.html>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

Annual reports are audited by independent auditor selected by parliamentary Committee for Finances, Budget and Currency. Auditors are not performing their job properly. It is more of a formal audit with no added value for transparency of contributions.

References:

Blog, Zuzana Wienk, Aliancia Fair-play, Aug. 18, 2008, Poucenia z vyrocných sprav politických stran, <http://blog.aktualne.centrum.sk/blogy/zuzana-wienk.php?itemid=325>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits on individual donations to individual candidates.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits on corporate donations to individual candidates.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There is no agency or entity monitoring the financing of individual candidates's campaigns.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

There is no agency or entity monitoring the financing of individual candidates's campaigns.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

Ministry of Finance audits presidential candidates' campaigns. This audit is insufficient. Individual candidates for regional parliament and governors or political party candidates are not audited.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

69

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Political parties disclose their annual reports once per year. They are requested to disclose the lists of donors every quarter, but not all political parties have been following this rule. For example Slovak National Party http://www.sns.sk/modules.php?name=Downloads&d_op=viewdownload&cid=1 (seen on March 16, 2010)

References:

Blog, Pavel Nechala, Transparency International Slovakia, Feb. 5, 2010, Kto s nami tuneluje dalej dojde. <http://blog.etrend.sk/transparency/blog/2010/02/05/kto-s-nami-tuneluje-dojde-dalej/>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line on the website of National Parliament or websites of the particular political parties. Some records of particular political parties is hard to find.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

National Parliament website – http://www.nrsr.sk/Default.aspx?sid=financne_spravy_stran/financne_spravy_2008 (seen on March 15, 2010)

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are accessible to all citizens for no charge.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

National Parliament website – http://www.nrsr.sk/Default.aspx?sid=financne_spravy_stran/financne_spravy_2008 (seen on March 15, 2010)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Annual reports are of good quality, reports about financing campaigns are often incomplete.

References:

Press release, Aliancia Fair-play, June 6, 2006 (focuses on the last Parliamentary Election in 2006), Tlačová správa Aliancie Fair-play k predvolebným výdavkom politických strán, <http://www.fair-play.sk/clanok.php?u=3&u1=6&u2=24&u3=236>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

50

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Political party candidates do not publish sources of individual campaign neither individually, nor in the reports of the political parties. Presidential candidates disclose their sources of funding and expenditures in the period of 30 days from the election. Some presidential candidates and candidates for regional governors disclose sources of campaign freely through the media or non-profit organizations.

References:

Hospodarske noviny Daily, SITA, March 18, 2009, Najotvorenejšia je Radicová, najmenej transparentný Gasparovic, <http://hnonline.sk/c1-35857730-najotvorenejšia-je-radicova-najmenej-transparentny-gasparovic>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records of presidential candidates are available online on the website of the Ministry of finance in the period of 30 days after the election. Records about political party candidates and candidates for regional governors are not available. Some presidential candidates and candidates for regional governors disclose sources of campaign freely through media or non-profit organizations during the campaign.

References:

Rating, Aliancia Fair-play, startovací rating otvorenosti prezidentských kandidátov, <http://politikaopen.sk/index.php?sub=page&action=details&psid=34>

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, Bratislava, March 5, 2010

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Those records that are available are free. Records about presidential candidates are free. Records about political party candidates and candidates for regional governors are not available.

References:

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Records on presidential candidates on the website of Ministry of finance show only expenditures without informations about particular donations. Records about political party candidates and candidates for regional governors are not available.

References:

Report, Ministry of Finance, July 7, 2009, <http://www.finance.gov.sk/Default.aspx?CatID=7300> , click on rtf document.

Mr. Peter Kunder, expert, Aliancia Fair-Play, Feb 22, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category III. Government Accountability

III-1. ⁵⁸Executive Accountability

27. Can the chief executive be held accountable for his/her actions?

63

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

Press conferences are inconsistent and they are rather marketing than policy tool. Sometimes they are organized just formally, many things are discussed only on populist level.

References:

Hospodarske noviny Daily, Slavka Habrmanova, Jan. 21, 2010, Z demokracie na Slovensku opäe ubudlo, tvrdia analytici, <http://hnonline.sk/slovensko/c1-40088420-z-demokracie-na-slovensku-opat-ubudlo-tvrdia-analytici>

Novy Cas website, SITA, Feb. 2, 2009, Fico Wants To Ignore Opposition, It Has Caused The Crisis

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance (Bratislava, February 26, 2010)

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

YES | NO

References:

Act No. 460/1992 Coll., Constitution of the Slovak Republic Art. 125

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

They are being reviewed, the question is how effectively. The court often sends the decision back to the institution which had issued it because it is either not reviewable or has some formal drawbacks. Delays in proceedings are also quite often.

References:

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis, Feb. 23, 2010, Bratislava

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

Comments:

Directives of government do not regulate matters which should be in competence of the parliament. What is being misused by government is the shortened legislative procedure. The law explicitly says in which cases the shortened legislative procedure can be applied. However, this is not being abided.

References:

Trend Weekly, Jan Zaborsky, Oct. 22, 2008, Government Evades Commentary Stage, <http://ekonomika.etrend.sk/ekonomika-slovensko/vlada-dekretni-namiesto-zakonov.html>

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis, Feb. 23, 2010, Bratislava

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:

The President can be prosecuted only for intentional breach of constitution or for treason with the approval of parliament. Government does not have prosecutorial immunity.

References:

Act No. 460/1992 Coll., The Constitution of The Slovak Republic Art. 78 and 107

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

Ministerial-level officials do not have prosecutorial immunity.

References:

From the public law perspective one can only act within the borders of law (constitution, legal statutes etc.), one can only do what the law stipulates. The Constitution gives immunity only to the president, to the parliamentary deputies and to the judges. It does not say anything about the immunity of ministerial-level officials.

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

50

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 2 Sec. 1 Subs. a) and c)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 2 Sec. 1 Subs. c) and k)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 4 Sec. 2 Subs. b) http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm (click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

Comments:

The auditing is performed by parliamentary committee. Party affiliations may occur.

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 9 Sec. 1 Subs. a) http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm (click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:

The restrictions are valid for two years.

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 8 Sec. 1 http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm (click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that

directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulations are not enforced. There is no control and they are often being evaded. The members of executive branch are active in private sector even during their terms. They are active in the background of the business while hiding beside family or friends.

The most recent case is from January 2010 <http://www.sme.sk/c/5204477/vitaz-tendra-zamestnal-cloveka-od-kalinaka.html>
Former employee of the Ministry of Interior has been employed by a private company with which he had business relations as civil servant.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

SME Daily, Marek Vagovic, Jan.22, 2010, Vitaz tendra zamestnal cloveka od Kalinaka.

<http://www.sme.sk/c/5204477/vitaz-tendra-zamestnal-cloveka-od-kalinaka.html>

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

The law only prohibits acceptance of gifts if they are linked to the performance on the post. The members of executive branch usually find an excuse for such behavior or they additionally produce documents in order to prove the origin of the gift.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

Pravda Daily, dia, July 9, 2008. Pociatek musi ukazat ucty za Monako. http://spravy.pravda.sk/pociatek-musi-ukazat-ucty-za-monako-db2-/sk_domace.asp?c=A080708_194050_sk_domace_p23

Pravda Daily, Lukas Milan, Dec 19, 2009. Major hodoval vo firme s armádnymi zákazkami http://spravy.pravda.sk/major-hodoval-vo-firme-s-armadnymi-zakazkami-f32-/sk_domace.asp?c=A091219_181032_sk_domace_p29

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

The control is executed by one of the parliamentary committees, by members of parliament and it is purely formal. Real control is not happening.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

75

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

References:

Constitutional Act No. 357/2004 Law on Protection of Public Interest by The Execution of Public Functions Art. 7 Sec. 7 in compliance with Act No. 211/2000 Coll., Freedom of Information Act

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line on the parliamentary website.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line, free of charge.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

They are very general, lack any details and do not provide an objective picture of one's asset. Lot of information is anonymous although the law does not stipulate that the particular information could not be made public.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

26. In law, can citizens sue the government for infringement of their civil rights?

100

26. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

References:

Act No. 514/2003 Coll. on the Responsibility for Damage Caused by the Execution of Public Power Article 1

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 514/2003, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

50

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:

This is very difficult to control as these prohibitions are governed by different statutes. In 2007 there were cases when the members of executive branch had been using cars uneffectively or for private use. Recently, no scandals have been mentioned in media. This however does not mean that the government equipment is not being used for private matter or to support the party.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, February 25, 2010, Pezinok

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

32. Can members of the legislature be held accountable for their actions?

50

32a. In law, the judiciary can review laws passed by the legislature.

YES | NO

References:

Act No. 460/1992 Coll., Constitution of The Slovak Republic Art. 125
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The system is set up and works relatively reliably. However, the Constitutional Court used to work better and used to react swifter in the past. In one of the most recent cases about expropriation the court considered whether to act or not act for more than six months.

References:

website, Mikulas Jesensky, Oct. 12, 2009, Ústavný súd u~ sedem mesiacov skúma, i sa bude zaoberať výstavbou diaľnic na cudzom, <http://www.vyvlastnenie.sk/clanok/a/ustavny-sud-uz-sedem-mesiacov-skuma-ci-sa-bude-zaoberat-vystavbou-dialnic-na-cudzom/>

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | **NO**

Comments:

Within their terms they can not be prosecuted unless the parliament's committee grants its approval.

References:

Act No. 460/1992 Coll.; The Constitution of The Slovak Republic Art. 78 par. 3

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

29

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions as amended, Art. 2 Par. 1 Subs. b)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

Comments:

These restrictions apply to other public officials but not to the members of the parliament.

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 8 Sec. 1
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions as amended; Art. 4 Sec. 2 Subs. b)
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

Comments:

The auditing is not independent. It is executed by parliamentary committee.

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions as amended; Art. 9 Par. 1 Subs. a)
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulations are not enforced. There is no control and they are often being evaded. The members of legislative branch are active in private sector even during their terms. They are active in the background of the business while hiding beside family or friends.

IZurnal, Patricia Uriaková, Ingrid Drozdiková, May 20, 2009, Rich http://www.izurnal.sk/index.php?option=com_content&task=view&id=3161&Itemid=89

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

The law only prohibits acceptance of gifts if they are linked to performance of the functions. The members of legislative branch usually find an excuse about this or they additionally produce documents which are supposed to prove the origin of the gift.

Pravda, Zuzana Petkova, August 10, 2009, Aviator Slota does not land at Matica's celebration
http://spravy.pravda.sk/sk_domace.asp?r=sk_domace&c=A090810_112226_sk_domace_p12

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

The control is executed by one of the parliamentary committees, by members of parliament and it is purely formal. Real control is not happening.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

34. Can citizens access the asset disclosure records of members of the national legislature?

75

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 7 Par. 7

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line on the parliamentary website.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line, free of charge.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

They are very general, lack any details and do not provide an objective picture of one's asset. Lot of information is anonymous although the law does not stipulate that the particular information could not be made public.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

According to Article 5 par. 2 FOIA National Council of Slovak Republic is obliged to disclose terms of its sessions and committee meetings and draft agenda; minutes of public meetings; texts of draft laws submitted within three days after their submission to the Office of the Slovak National Council; adopted laws approved within three days after their approval at third reading; data on attendance of MPs; voting records.

References:

Directions on Preparing and Submitting Government's Materials

www.government.gov.sk/7506/smernica-na-pripravu-a-predkladanie-materialov-na-rokovanie-vlady-sr.php?menu=1255

www.government.gov.sk/6330/metodicky-pokyn-na-pripravu-a-predkladanie-materialov-na-rokovanie-vlady-sr.php?menu=1244

According to Act No. 211/2000 Coll. Freedom of Information Act (FOIA) Article 5 par. 2 National Council of the Slovak Republic obligatory disclose information stipulated by the Law. Source: <http://www.nrsr.sk/Default.aspx?sid=schodze/zoznam>

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records of legislative process are in general available on time.

References:

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis, Feb. 23, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records of legislative procedure are available online for free.

References:

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis, Feb. 23, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

63
III-3. Judicial Accountability

36. Are judges appointed fairly?

83

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

Constitutional judges are appointed by the President according to the proposals of parliament.

The President and the Vice-President of the Supreme Court are appointed by the President based on Judicial Council's proposals.

Regular judges of the Supreme Court are being chosen through selection procedure considering the statement of judicial self-governing council.

References:

Act No. 460/1992 Coll., The Constitution of The Slovak Republic Art. 134

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

n. 460/1992 Constitution of The Slovak Republic Art. 141a Sec. 4 Sub. c)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

n. 385/2000 Law on Judges § 15 Sec. 1

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

Constitutional Court

Judges are also selected in accordance with professional criteria. However the direct involvement of politicians in their nomination and appointment (parliamentary deputies and president) means that other criteria are being taken into account. This causes that some judges are politically loyal to those who nominated them.

Supreme Court

Preferred are those who completed internship at Supreme Court. Professional criteria have some but not main influence on their selection. Also it is a closed system. Only judges can become Supreme Court judges. If other professions (lawyers, prosecutors) could join the court the decision making would be of a higher quality.

References:

Mr. Tomas Kamencik, Lawyer cooperating with NGOs, DEDÁK & Partners, Ltd., Feb. 18, 2010, Bratislava

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Ms. Maria Kolkova, former Chief Executive Centers of Legal Aid, Lawyer, Law Firm Kolkova, March 4, 2010, Bratislava

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

The constitutional judges and the President and the Vice-President of the Supreme Court are appointed by the President. Constitutional judges are selected in parliament and the President and the Vice-President of the Supreme Court are selected in Judicial Council. The regular Supreme Court judges are being chosen in selection procedure and are appointed by the President of the Supreme Court, however the President is part of the selection committee.

References:

Act No. 460/1992 Coll.; the Constitution of The Slovak Republic, Art. 134

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

Act No. 460/1992 Coll.; the Constitution of The Slovak Republic Art. 141a Sec. 4 Sub. c)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

Act No. 385/2000 Coll. on Judges and Lay judges as amended ("Law on Judges") Article 15 Par. 1

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

63

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

References:

Act No. 38/1993 Coll. on Constitutional Court as amended, Article 33 Par. 3

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 38/1993, click on the green button "vyhladat" and then click on the number of law – green version)

Act No. 99/1963 Coll. on Civil Proceeding as amended, Article 157

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 99/1963, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

It varies and depends on the senate which decides the case. Some decisions are not of a good quality, they are not convincing enough and there is a big deficiency in reasoning.

References:

Mr. Tomas Kamenec, Lawyer cooperating with NGOs, DEDÁK & Partners, Ltd., Feb. 18, 2010, Bratislava

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University, Feb. 18, 2010, Bratislava

Ms. Maria Kolkova, former Chief Executive Centers of Legal Aid, Lawyer, Law Firm Kolkova, March 4, 2010, Bratislava

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

The disciplinary agencies for the Constitutional Court and for the Supreme Court are all of the judges of the courts (constitutional and supreme) themselves.

References:

Act No. 38/1993 Coll. on Constitutional Court Article 16 Par. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 38/1993, click on the green button "vyhladat" and then click on the number of law – green version)

n. 385/2000 Law on Courts § 119 Sec. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 385/2000, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

Comments:

The disciplinary agencies for the Constitutional Court and for the Supreme Court are all of the judges of the courts (constitutional and supreme) themselves. In law neither the ministry of justice nor the parliament has influence over it.

References:

Act No. 38/1993 Coll. on Constitutional Court Article 16 Par. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 38/1993, click on the green button "vyhladat" and then click on the number of law – green version)

n. 385/2000 Law on Courts § 119 Sec. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 385/2000, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried

out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The disciplinary senates do not act from their own initiatives, they always act on proposal.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

There is a group of misconducts and a group of penalties. It is not clear what penalty can be imposed for what misconduct. That creates space for abuse. One of the Supreme Court Judge's function has been suspended (this can take up to two years) because he reported to the police that the President of Supreme Court had abused his power and because he publicly claimed that the President of Supreme Court had changed the schedule of court in order to influence some court's decisions. There were several other unfair disciplinary proceedings at district courts and at regional courts.

References:

website, administrator, march 2, 2010, Súhrn udalostí v prípade disciplinárneho konania proti P. Paludovi, http://www.sudcovia.sk/index.php?option=com_content&view=article&id=182:posledne-udalosti-paluda&catid=40:konkretne-prijady&Itemid=56

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

36

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 2 Par. 1 Subs. e) and f)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 4 Sec. 2 Subs. b)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

Comments:

The asset disclosures of constitutional judges are audited by the parliamentary committee, thus by members of parliament who selected them.

The asset disclosures of Supreme Court judges are audited by Judicial Council.

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 9 Sec. 1 Subs. a)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

n. 385/2000 Law on Judges § 32 Sec. 6

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 385/2000, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

References:

Constitutional Act No. 357/2004 Coll. on Protection of Public Interest by The Execution of Public Functions Art. 8 Sec. 1

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | **0**

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

Comments:

No scandals relating to the acceptance of gifts by national-level judges have been mentioned in media. This is probably not being controlled.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

The control is executed by one of the parliamentary committees, by the members of parliament and it is purely formal. Real control is not happening.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

75

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

References:

Constitutional Act No. 357/2004 Law on Protection of Public Interest by The Execution of Public Functions Art. 7 Sec. 7
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line on Ministry of Justice website.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line, free of charge.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

They are very general, lack any details and do not provide an objective picture of one's asset. Lot of information is anonymous although the law does not stipulate that the particular information could not be made public.

References:

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance, Feb. 26, 2010, Bratislava
Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

III-4. Budget Processes

40. Can the legislature provide input to the national budget?

50

40a. In law, the legislature can amend the budget.

YES | NO

Comments:

Legislature can amend the budget, which has a power of law, and according the Slovak constitution has the parliament an exclusive right to adopt and amend the law.

References:

Act No. 460/1992 Coll. The Constitution of the Slovak Republic, Chapter 5, art. 86 and 87.
<http://www.government.gov.sk/8576/ustava-slovenskej-republiky.php?menu=1280>

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Expenditures over 3,3 million → must be approved by the government, not by the legislature. But parliament has to approve public expenditures at all for each ministry / program and separately their capital expenditure part.

References:

Ján Marušinec, economist of M.E.S.A. 10, former chief of Budgetary Dept. of Ministry of Finance, Feb. 27, 2010, Bratislava
Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

All the capacity is concentrated in executive power, legislature can control budget process only by Survey of the public finances two times during the year. Indirectly legislature can control executive power through the National Audit Office (NKU), which is reporting to the parliament.

References:

Ján Marušinec, economist, M.E.S.A. 10, former chief of Budgetary Dept. of Ministry of Finance, Feb. 27, 2010, Bratislava
Robert Zitnansky, economist, SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

50

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Although the Slovak national budget must be adopted as a law, citizens can participate on the annotation using an institute called mass annotation. When the annotation is signed by at least 500 people or institutions, the government is obliged to take it into consideration. However individuals do not have a right to annotate legislation on their own.

References:

Ján Marušinec, economist, M.E.S.A. 10, former chief of Budgetary Dept. of Ministry of Finance, Feb. 27, 2010, Bratislava
Robert Zitnansky, economist, SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

Budget hearings are open to public as late as legislature start to handle with the proposal of the budget, but suggestions of public are not able to change the budget in most cases. Citizens do not provide any input at budget hearings, because they do not take part in the process.

References:

Ján Marušinec, economist, M.E.S.A. 10, Feb. 27, 2010, Bratislava
Radovan Durana, economist, INESS Institute, March 2, 2010, Bratislava

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

The budget is publicly downloadable from the ministry of finances webpage. There is no list of itemized budget allocations, but webpage with this kind of information is at work. Only access to itemized budget allocations is in the Final Account of the State, which is passing by the parliament after each fiscal year.

References:

Ján Marušinec, economist, M.E.S.A. 10, former chief of Budgetary Dept. of Ministry of Finance, Feb. 27, 2010, Bratislava
Juraj Karpis, economist, INESS Institute, March 5, 2010, Bratislava

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

33

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

Department heads have to regularly submit reports to this committee, but just twice a year (draft of the budget, Final Account of the State).

References:

Ján Marušinec, economist, M.E.S.A. 10, former chief of Budgetary Dept. of Ministry of Finance, Feb. 27, 2010, Bratislava
Robert Zitnansky, economist, SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

Ruling political parties have had a majority in the committee and have always rejected every application, suggestion or memorandum submitted by the opposition members of the committee.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, March 1, 2010, Bratislava
Robert Zitnansky, economist, SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

Only opposition members of the committee have initiated investigations, but on the other hand, coalition members of the committee have not opposed it.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, March 1, 2010, Bratislava
Robert Zitnansky, economist, SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

42. In law, is there a separate legislative committee which provides oversight of public funds?

0

42. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

Comments:

No, there is no separate parliamentary committee, but Committee on Finance, Budget and Currency has some control power. Public Procurement Office (Úrad pre verejné obstarávanie pursuant to Act No. 25/2006 Coll.) and National Audit Office (Najvyšší kontrolný úrad, Act No. 39/1993 Coll. Zb.) have also certain control power.

References:

http://www.uvo.gov.sk/download/legislativa/z25_2006.pdf,
<http://www.nku.gov.sk/index.cfm?module=ActiveWeb&page=WebPage&s=kompetencie>
Act No. 25/2006 Coll., Part 1, Article 1-3, and Act No. 39/1993 Coll., Article 4.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

Category IV. Administration and Civil Service

IV-1. ⁵⁷ Civil Service Regulations

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

75

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws – go to jaspi.justice.gov.sk, choose Predpisy”, enter “400/2009” to the box “Predpis c.:”, klick “Vyhľadat”

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws. go to jaspi.justice.gov.sk, choose Predpisy”, enter “400/2009” to the box “Predpis ..:”, klick “Vyhľadat”, Article 19

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

Civil Servants can complain in matters of implementation of civil service to the head of Civil Service Office at each institution.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws, go to jaspi.justice.gov.sk, choose "Predpisy", enter "400/2009" to the box "Predpis .:", klikk "Vyhladat", § 65

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:

Law does not require to present clear criminal record for all civil servants. There is a possibility to erase crime of corruption from criminal record, thus making government employment accessible for people convicted of corruption in the past.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws; go to jaspi.justice.gov.sk, choose "Predpisy", enter "400/2009" to the box "Predpis.:", klikk "Vyhladat", § 19 section 3

Act No. 300/2005 Coll. Criminal Code; go to jaspi.justice.gov.sk, choose "Predpisy", enter "300/2005" to the box "Predpis.:", klikk "Vyhladat", § 92

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

47

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Even though the law sets a framework for independent civil service, in practice, civil servants are sometimes influenced by political incentives.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:
There are no standard criteria in the selection process which leads to appointments based on party loyalties . Evaluations previously employed in the civil service have been revoked and are not used anymore. Both interviewers mentioned that evaluations were revoked mainly due to very formal process of evaluation. The evaluations did not bring the outcomes that were anticipated. We can assume that it was because of the lack of historical experience with evaluations and with differentiating among civil servants based on their performance. This phenomenon is called chart salaries.”

References:
Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

SME Daily, Miroslav Kern, Nov. 9, 2009, Z Tomanovej sofera je riaditel. <http://www.sme.sk/c/5092247/z-tomanovej-sofera-je-riaditel.html>

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

References:
Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

Miroslav Kern, SME Daily, Nov.9, 2009, Z Tomanovej sofera je riaditel, <http://www.sme.sk/c/5092247/z-tomanovej-sofera-je-riaditel.html>

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

Each civil servant has formal job description establishing his/her level of seniority, assigned functions and compensation. This however does not solve the problem of their quality as duplicity of job descriptions might be present. Job descriptions are not publicly available and would require request based on Free Access to Information Act.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

In previous periods total pay was based on two elements – stable guaranteed pay and bonuses based on the performance. As the new law passed in 2009 revokes evaluations, major element of take-home pay is not bonus based. However, there is a legal possibility for the head of civil service department at each ministry to use special rules for rewarding civil servants. According to interviewers, this rule has been used in some cases.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

There is no such a list being published by the government. In order to find out what the civil servant positions are we would have to use Free Access to Information Act and ask for such information each relevant institution.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

Redress mechanism was voided by the new law passed in 2009. The only existing mechanism is through the court and its use is very limited due to slow judiciary processes in Slovakia (for more see chapter on judiciary).

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants consistently receive their salaries on time.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

The only existing tool is requirement of clean criminal records when entering the civil service. However, crime of corruption is erased from criminal records after certain time. This leads to possibility of employing civil servant who have been convicted of corruption in the past. For more see Criminal Code, § 92 <http://rastos.org/laws/trestnyzakon.html>

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

39

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | NO

Comments:

Civil servants file asset disclosures annually.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws;
go to jaspi.justice.gov.sk, choose Predpisy", enter "400/2009" to the box "Predpis C..", klik "Vyhladat", § 63

YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

Law includes general definition preventing civil servants from actions that could be in conflict with his/her personal interest.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws;
go to jaspi.justice.gov.sk, choose Predpisy", enter "400/2009" to the box "Predpis ..", klik "Vyhladat", § 60 art. 1d

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:

There are no such restrictions in the current law.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws;
go to jaspi.justice.gov.sk, choose Predpisy", enter "400/2009" to the box "Predpis ..", klik "Vyhladat"

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

Civil Servants cannot accept gifts or other benefits except for gifts (to certain value) or other benefits provided by his/her

employer.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws;
go to jaspi.justice.gov.sk, choose "Predpis", enter "400/2009" to the box "Predpis .."; klick "Vyhľadat", § 61 sections (1b)

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | **NO**

Comments:

Auditing of asset disclosures is conducted internally.

References:

Act No. 400/2009 Coll. on Civil Service and amendment of certain laws;
go to jaspi.justice.gov.sk, choose "Predpis", enter "400/2009" to the box "Predpis .."; klick "Vyhľadat", § 64

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | **0**

Comments:

Regulations are not controlled and/or enforced.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

There is no general code of conduct for civil servants in Slovakia. Some regulations of the Civil Service Act, however, cover some activities, such as receiving gifts and hospitality. On the contrary, these regulations are often not enforced leaving space for accepting gifts and hospitality.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb. 18, 2009, Bratislava

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

Comments:

Regulations governing civil servant's recusal from policy decisions affecting his/her personal interests were part of the previous Civil Service Law. However they were not controlled and enforced. There is no such regulation in the current Civil Service Law.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb. 18, 2009, Bratislava
Tyzden Weekly, SITA, 27 January 2009, Skladka v Pezinku: je to vobec mozne? <http://www.tyzden.sk/nazivo-doma/skladka-v-pezinku-je-to-vobec-mozne.html>

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Asset disclosures of civil servants are not audited by an independent auditor. Head of Civil Service Unit at each institution reviews asset disclosures of civil servants and evaluates potential increase.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

81

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

Comments:

Senior civil servants asset disclosures are accessible for public by using Freedom of Information Act.

References:

Act No. 211/2000 Coll. Freedom of Information Act (FOIA) go to jaspi.justice.gov.sk, choose Predpisy", enter "211/2000" to the box "Predpis c.:", klick "Vyhľadat", § 9 section 3

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens should be able to access the asset disclosure records of senior staff by using Free Access to Information Act. It should take no more than eight days.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens should be able to access the asset disclosure records of senior staff by using Free Access to Information Act. It should be free of charge or with little costs for photocopying.

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

References:

Mr. Frantisek Michvocik, Head of Human Resources Dept. at the Ministry of Finance, Feb. 25, 2009, Bratislava
Mr. Lubomir Plai, Former Head of Civil Service Office of the Slovak Republic, Feb.18, 2009, Bratislava

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

IV-2. Whistle-blowing Measures

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

Comments:

There are two main laws that could be perceived as containing whistleblowing measures, but they do not meet all requirements for protection of civil servants from recrimination. The Civil Service Act grants a civil servant the right to submit to his/her service office complaints concerning the matters of execution of the civil service, and in certain cases also imposes on the civil servant the obligation to notify the supervisor or a law-enforcement authority of a loss of, damage to the property owned or administered by the service office. The legal regulation declares the right to submit a complaint; however, on the other hand, it fails to guarantee protection of the civil servant against possible recourse." (TIS 2009, 44-45)
"The Act on Complaints enables to address a public body with a notification, and at the same time, it imposes on the public body the obligation to handle such notification." and "The introductory provision of the Act on Complaints brings uncertainty to the interpretation in the context of whistleblowing, since it states that a complaint pursuant to this Act shall not be regarded as a filing the handling of which is governed by a special regulation." (TIS 2009, 45-46)

References:

Assessment Report, Transparency International Slovakia, Whistleblower Protection Assessment – Slovakia 2009.
<http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Act No. 9/2010 Coll. on Complaints; <http://zbierka.sk/zz/predpisy/default.aspx?PredpisID=209453&FileName=zz2010-00009-0209453&Rocnik=2010>

Act No. 400/2009 Coll. on Civil Service http://www.minedu.sk/data/USERDATA/ATEMY/2009/400_st_sl_09_11_01.pdf

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | **0**

Comments:

Public sector whistleblowers often face harassment, lost of a job or relocation to a less prominent position.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

There are two main laws that could be perceived as containing whistleblowing measures, but they do not meet all requirements for protection of private sector employees from recrimination and are also contradictory. Labour Act No one can be persecuted or otherwise sanctioned at the workplace in connection with the exercise of labour relationships for filing a complaint, action or petition for the commencement of prosecution against another employee." (TIS 2009, 46). Contrary to this "The provision of Section 81 (f) of the Labour Code is problematic and also conflicting to certain extent. According to this provision the employee shall be obliged to keep confidential the facts he/she has learnt during the execution of employment and which may not be, in the interest of the employer, disclosed to other persons. Of course, there is no legal definition of the fact which may not be disclosed to other persons in the interest of the employer.(TIS 2009, 46). Criminal Code "Also Section 340 of the Criminal Code is interesting from the perspective of the issue of whistleblowing. Within its meaning a person who learns, in a trustworthy manner, that other person has committed e.g. one of the crimes of corruption, and fails to immediately notify the law-enforcement authority or police forces of such offence or crime, shall be sentenced to imprisonment of up to three years." (TIS 2009, 46). "However, the provision in question is double-edged, since it might also function as a threat against the whistleblower, in the case she/he only makes the notification within the organization and fails to notify the law- enforcement authorities." (TIS 2009, 47)

References:

Assessment Report, Transparency International Slovakia, Whistleblower Protection Assessment – Slovakia 2009. <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Act No. 311/2001 Coll., Labour Code; <http://www.employment.gov.sk/index.php?SMC=1&id=1152> click on Zakonnik prace", for English version click on "Labour Code"

Act No. 300/2005 Coll. Criminal Code; go to jaspi.justice.gov.sk, choose "Predpisy", enter "300/2005" to the box "Predpis.:", klick "Vyhladat"

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Lack of evidence and rather negative experience from some cases show that private sector in Slovakia has limited capacity and know-how to protect whistleblowers.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

0

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

There are no full-time professionals in public sector dealing with whistleblowing.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

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Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

There are no full-time professionals and efficient internal reporting mechanisms in public sector dealing with whistleblowing.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no efficient mechanisms for whistleblowing in public sector. Experience show that people were harassed for speaking out on issues of corruption or misuse of power.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezinok

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There are no internal reporting mechanisms in public sector focused on whistleblowing.

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava
Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, Feb. 25, 2010, Pezi

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

0

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

There is an internal mechanism (Law on Complaints) for posting complaints in general, including corruption. However, it is very general and does not require civil service institutions to introduce particular tools such as hotlines, e-mail addresses etc. Existing internal mechanisms are insufficient. The state administration strictly follows the legal obligations and individual organizations do not bring innovative approaches to the protection of whistleblowers. On the one hand, the rights to submit notifications for illegitimate practices are guaranteed as mentioned in the preceding chapter but on the other hand, the possibility of trustworthy impartial investigation of the notification is absent. Even such a simple communication channel as a mailbox for notifications is only located in two of 27 examined institutions: at the Ministry of Finance of the SR and at the Antimonopoly Office of the SR. However, the existence of the mailbox at the Antimonopoly Office of the SR does not automatically mean that the received complaints are handled impartially and the whistleblower is protected. The Ministry of Finance of the SR has even no special personnel for the handling of notifications. These are handled by the employees and organizational units of the Ministry of Finance of the SR responsible for the area being the subject of complaints." (TIS 2009, 49-50)

References:

Assessment Report, Transparency International Slovakia, Feb. 16, 2010, Právna ochrana whistleblowerov na Slovensku, <http://transparency.sk/wp-content/uploads/2010/02/PravnaochranawhistleblowerovnaSlovensku.pdf>

Act No.152/1998 on Complaints

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 152/1998, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

IV-3.² Procurement

51. Is the public procurement process effective?

70

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

Act No. 25/2006 Coll. on Public Procurement, Article 9

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 25/2006, click on the green button "vyhladat" and then click on the number of law – green version

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

NO: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

References:

Act No. 25/2006 Coll. on Public Procurement as amended; Article 116-127.

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 25/2006, click on the green button "vyhladat" and then click on the number of law – green version

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

It is not possible to track it down, therefore it is not being enforced.

References:

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

References:

There is no mechanism that monitors assets, incomes and spending habits of public procurement officials.

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

YES | NO

References:

Act No. 25/2006 Coll. on Public Procurement as amended; Article 22-90.

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm
click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 25/2006, click on the green button "vyhladat" and then click on the number of law – green

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

Various forms of competition are required based on the financial limits of procurements. Formal requirements are limiting the extent of sole sourcing.

References:

Act. 25/2006 go to jaspi.justice.gov.sk, choose "Predpisy", enter "25/2006" to the box "Predpis.:", click "Vyhladat",

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

References:

Act No. 25/2006 Coll. on Public Procurement, go to jaspi.justice.gov.sk, choose Predpisy", enter "25/2006" to the box "Predpis..", klick "Vyhladat", § 135-150

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

Decision of the Public Procurement Office on complaints can be challenged in a court of law.

References:

Act No. 25/006 Coll, on Public Procurement;
go to jaspi.justice.gov.sk, choose Predpisy", enter "25/2006" to the box "Predpis..", klick "Vyhladat", § 140

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

Law allows Public Procurement Office to collaborate with Anti-monopoly Office which has the legal power to blacklist convicted companies, thus preventing them from taking part in public procurement.

References:

Act No. 25/2006 Coll. on Public Procurement,
go to jaspi.justice.gov.sk, choose Predpisy", enter "25/2006" to the box "Predpis ..", klick "Vyhladat" § 112 o

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Even though the possibility of putting companies on so called black list exists in the law, it has not been used lately. Big case of cartel agreement among main construction companies has been disallowed by court.

References:

Trend weekly, SITA, Dec. 10, 2008, Sud zrusil dohodu za stavebny kartel <http://ekonomika.etrend.sk/ekonomika-slovensko/sud-zrusil-pokutu-za-stavebny-kartel.html>

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

96

52a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

Regulations are open to the public in official publication i.e <http://www.e-vestnik.sk/>

References:

Act No. 25/2006 Coll. on Public Procurement, go to jaspi.justice.gov.sk, choose "Predpisy", enter "25/2006" to the box "Predpis .:", klick "Vyhľadat"

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

All procurement decisions are available on-line

References:

Act No. 25/2006 Coll. on Public Procurement, go to jaspi.justice.gov.sk, choose "Predpisy", enter "25/2006" to the box "Predpis .:", klick "Vyhľadat" §154, sec.1

Public Procurement Office Ordinance No. 35/2006 http://www.uvo.gov.sk/download/2006/vyhlasaka35_2006/vyhlasaka35_2006.pdf§1

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records are available on-line.

References:

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records are free to all citizens.

References:

Peter Kunder, expert, Aliancia Fair-Play, Bratislava, Feb 22, 2010

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

Formal process of advertising includes government website. However, major public procurements are not advertised in newspapers or via other communication channels.

References:

Peter Kunder, expert, Aliancia Fair-Play, Bratislava, Feb 22, 2010

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access the results of public procurements, but some concerns on the quality of the website and its ability to provide user friendly information to people were raised.

References:

Peter Kunder, expert, Aliancia Fair-Play, Bratislava, Feb 22, 2010

Mr. Pavel Nechala, Lawyer, Law Firm Pavel Nechala & Co., Transparency International Slovakia, March 5, 2010, Bratislava

Helena Fialova, spokeswoman for Public Procurement Office, Bratislava, March 26, 2010.

Katarina Brtanova, Director of Legislative and Methodical Dept. at Public Procurement Office, Bratislava, March 26, 2010.

e-vestnik <http://www.e-vestnik.sk/EVestnik/Aktualne>

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

All businesses are equally eligible to compete for privatized assets and restricting of competition is prohibited according to the law.

References:

Act No. 136/2001 Coll. on Protection of Economic Competition, part 4, § 22.

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on "predpisy" in the upper left corner, then enter into the third line,

window "predpis c.:" 136/2001, click on the green button "vyhladat" and then click on the number of law – green version

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

Comments:

There are specific formal regulations (Constitutional Act No. 357/2004 Coll. on the Protection of Public Interest in the Exercise of Office by Public Officials as amended, § 4 and 5) defining and regulating conflicts of interest between official public duty and private interests for privatization officials.

References:

Constitutional Act No. 357/2004 Coll. on the Protection of Public Interest in the Exercise of Office by Public Officials as amended, § 4 and 5,

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on "predpisy" in the upper left corner, then enter into the third line,

window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

There are rules for government official how to prevent the conflict of interest, but in reality these were often ignored and not enforced.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, Bratislava, March 1, 2010.
Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyza a trendy" March 3, 2010.

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

90

54a. In law, citizens can access privatization regulations.

YES | NO

Comments:

Although there were no privatization bids in 2009, privatization rules are set by Privatization Law 92/1991 Zb, and are open to the public. However, detail conditions of specific privatization could be accessible only for subjects involved in process of privatization.

References:

Privatization Law: Act No. 92/1991 Zb. on the Conditions of Transfer of State Property to Other Persons, as amended, Article 8, par. 3,

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 92/1991, click on the green button "vyhladat" and then click on the number of law – green version

<http://portal.gov.sk/Portal/sk/Default.aspx?CatID=42&NewsID=1319>

www.economy.gov.sk/ext_dok-zakon92-10311/121734c

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

There was no privatization case in 2009. Privatizations (during previous period) were advertised effectively, but some exceptions occurred. They formally fulfilled criteria, but in reality advertisements were not effective.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, Bratislava, March 1, 2010.
Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyza a trendy" March 3, 2010.

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

Privatization rules are, pursuant to Act No. 92/1991 Coll. on the Conditions of Transfer of State Property to Other Persons, open to the public. However, detail conditions of specific privatization could be accessible only for subjects involved in process of privatization. Government is required to publicly announce the results of the privatization process. This can be done through the Act No. 92/1991 Coll., § 10 ods. 8, or through the Public Access to Information Law 211/2000 Z.z., § 5-6.

References:

Privatization Law: Act No. 92/1991 Coll. on the Conditions of Transfer of State Property to Other Persons, as amended, Article 10 par. 8,
www.economy.gov.sk/ext_dok-zakon92-10311/121734c

Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act, FOIA) § 5-6

Source: jaspi.justice.gov.sk
choose "Predpisy", enter "211/2000" in the box "Predpis c.:", click "Vyhľadat"

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The general rules governing the competitive privatization process are available on-line, which proves accessibility in reasonable time.

References:

Interview w. Marek Kalavsky, law advisor, 15.3.2010,

Government website www.economy.gov.sk/ext_dok-zakon92-10311/121734c (visited on March 15, 2010)

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records (defined here as the rules governing the competitive privatization process) are free to all citizens via internet, or available for the cost of photocopying.

References:

Government website – www.economy.gov.sk/ext_dok-zakon92-10311/121734c

Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010.

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. National Ombudsman

56. Is the national ombudsman effective?

80

56a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

The agency has formal organizational independency, e.g. National Ombudsman (Public Defender of Rights) is elected by the National Council of the Slovak Republic. However, the current head of the agency is a former member of one of the coalition's political parties.

References:

Act No. 564/2001 Coll. on the Public Defender of Rights as amended;
http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
(click on predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 564/2001, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The National Ombudsman does not feel such pressure and scandals of this kind have not been mentioned in media. However, as he is a nominant of one of the coalition's parties, he could be influenced by some political incentives.

References:

website, SITA, January 10, 2007, Kandrac from HZDS-LS Candidate for Ombudsman, <http://www.24hod.sk/clanok-24159-kandrac-kandidatom-ls-hzds-na-ombudsmana.html>

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The National Ombudsman is protected from removal, unless he was sentenced for a criminal act or works on another function which is incompatible with his function or due to medical reasons.

References:

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, March 25, 2010)

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The planned amount of employees is 40. At the moment the agency has 36 employees. Ideal would be to have 6 more lawyers and 3 more administrative workers. The lack of people is about 25%. This is a specific problem to the office, it is difficult to employ good lawyers.

References:

Annual Report, Ombudsman Agency, April 6, 2009, Annual Report, <http://www.vop.gov.sk/files/sprava2008.pdf>

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The Head of the Office is convinced that he acts independently and that he always seeks staff in accordance with professional criteria. However, as he is a nominant of one of the coalition's parties he could be influenced by the political incentives. Media do not report on family connections or other biases.

References:

website, SITA, January 10, 2007, Kandrac from HZDS-LS Candidate for Ombudsman, <http://www.24hod.sk/clanok-24159-kandrac-kandidatom-ls-hzds-na-ombudsmana.html>

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman Agency receives regular and standard funding.

References:

Annual Report, Ombudsman Agency, April 6, 2009, Annual Report, <http://www.vop.gov.sk/files/sprava2008.pdf>

Mr. Pavel Kandrak, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman Agency regularly makes publicly available reports. Reports are available online and also available upon request free of charge in the form of a printed document in the Ombudsman Agency office. Reports outline the scope of its work.

References:

Annual Reports, Ombudsman Agency, <http://www.vop.gov.sk/spravy-o-cinnosti>

Mr. Pavel Kandrak, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman Agency is quite successful when acting on proposal. With regards to its own initiative, there are some competences the agency does not take advantage of – e. g. the possibility to initiate proceeding at Constitutional Court.

References:

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University (Bratislava, February 18, 2010)

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The national ombudsman does not have competence to impose penalties himself but he can turn to relevant institutions or government and advise them to do so.

References:

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

Laco Oravec, Program Director, Milan Simecka Foundation (Bratislava, February 17, 2010)

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

National ombudsman finds the cooperation with other agencies effective. Problems are being solved although the agencies are sometimes slow to act. The annual report shows that over 95% of reported issues were resolved in 2008. Civil society representatives do not think government's politics are influenced sufficiently.

References:

Annual Report, Ombudsman Agency, April 6, 2009, Annual Report, <http://www.vop.gov.sk/files/sprava2008.pdf>

Mr. Pavel Kandrak, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Laco Oravec, Program Director, Milan Simecka Foundation (Bratislava, February 17, 2010)

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

This often depends on the swift reaction of other agencies. There are cases which take longer than one month to solve. There are not any statistics on timely solution of complaints.

References:

Mr. Pavel Kandrak, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

References:

Act No. 564/2001 Coll. on the Public Defender of Rights as amended; Article 23

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:564/2001, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Reports are available online and also upon request free of charge in the form of a printed document in the Ombudsman Agency office. They are issued yearly within four months after the end of a year.

References:

Annual Reports, Ombudsman Agency, <http://www.vop.gov.sk/spravny-o-cinnosti>

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Ombudsman Agency reports are available online and in a printed form. Both are free of charge.

References:

Annual Reports, Ombudsman Agency, <http://www.vop.gov.sk/spravny-o-cinnosti>

Mr. Pavel Kandrac, National Ombudsman, Office of National Ombudsman (Bratislava, March 9, 2010)

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

The name of the national ombudsman agency is: Public Defender of Rights.

References:

Act No. 564/2001 Coll. on Public Defender of Rights

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis) in the upper left corner, then enter into the third line, window "predpis c.:" 564/2001, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

88

59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

The Supreme Audit Office of the Slovak Republic (NKU) is an independent authority, bound only by law.

References:

Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic as amended, Article 1 par. 1.

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

Predpis" add 39/1993

"Vyhlatat"

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, February 25, 2010, Pezinok.
Ms. Lenka Nosalova, spokeswoman, Supreme Audit Office, March 19, 2010, Bratislava

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Annual Report, Supreme Audit Office, <http://www.nku.gov.sk/downloads/Správa%202008%20II.pdf>, go to page 33 Chapter Human resources (seen on March 16, 2010)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, February 25, 2010, Pezinok.
Ms. Lenka Nosalova, spokeswoman, Supreme Audit Office, March 19, 2010, Bratislava

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Supreme Audit Office receives regular funding with no extreme ups and downs in recent years.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Supreme Audit Office website <http://www.nku.gov.sk/index.cfm?module=ActiveWeb&page=WebPage&s=budget2009> (seen on March 16, 2010)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Regular public report is available on-line.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Annual Report 2008, Supreme Audit Office, <http://www.nku.gov.sk/downloads/Správa%202008%20II.pdf> (seen on March 16).

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

There is no legal penalty for not following Supreme Audit Office's findings. In most cases the government officials follow the findings. However, there have been some cases when government officials questioned the findings (i.e. Minister of Construction Regional Development – see the link in sources)

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, February 25, 2010, Pezinok.

Ms. Lenka Nosalova, spokeswoman, Supreme Audit Office, March 19, 2010, Bratislava.

SME Daily, CTK, NKU: Nastenkovy tender porusil zakon. May 6, 2009. <http://www.sme.sk/c/4831706/nku-nastenkovy-tender-porusil-zakon.html>

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

Based on available information we can conclude that Supreme Audit Office may have control over investigation and uses various tools to investigate but in some cases reacts on demands from government, which weakens perception of its independence by public.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Report, NKU, title: Správa o výsledku kontroly atrukturálnych fondov 2004-2006 Európskeho fondu regionálneho rozvoja a účelnosti vynaloženia finančných prostriedkov atátneho rozpočtu na realizáciu zmluvy uzatvorenej Ministerstvom výstavby a regionálneho rozvoja SR s konzorciom spoločností uvedených v uznesení vlády SR č. 721/2009" March 3, 2010 (Report refers to year 2009 activities) http://www.nku.gov.sk/downloads/Sprava%20MVRR_03_2010.pdf (visited on March 16, 2010)

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

60a. In law, citizens can access reports of the audit agency.

YES | NO

References:

Only pursuant to Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act) (FOIA) and Act No. 39/1993 Coll. on the Supreme Audit Office of Slovakia as amended, article 16.

Source: jaspi.justice.gov.sk
choose "Predpisy", enter "211/2000" in the box "Predpis c.:", click "Vyhľadat"

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
choose "Predpisy", enter "39/1993"
in the box "Predpis c.:", click "Vyhľadat" add § 16.

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

All audit reports are to be found on the website of the Office. Citizens might have to use FOIA to receive requested information.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy, February 25, 2010, Pezinok
Ms. Lenka Nosalova, spokeswoman, Supreme Audit Office, March 19, 2010, Bratislava

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Price list of Supreme Audit Office http://www.nku.gov.sk/downloads/Sadzobnik_uhrad.pdf

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

References:

Act. No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic as amended.

Source: http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis" add 39/1993
"Vyhľadat"

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

96
V-3. Taxes and Customs

62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency, which is called Danove riaditeľstvo", has staff sufficient to fulfill its basic mandate.

References:

Marek Kalavsky, Law Advisor, partner Prochazka and Partners Law Office, 15.3.2010,

Tax Office website

statistics http://www.drsr.sk/wps/portal/lut/p/kcxml/04_Sj9SPyKssy0xPLMnMz0vM0Y_QjzKLN4gPc3P1BcmB2I76kehCQLYXkqivR35uqr63foB-QW5oRLmjoilA36pw7w!!/delta/base64xml/L3dJdyEvUUd3QndNQSEvNEIVRS82XzBfVkJZFSw!!.

www.finance.gov

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Tax Directorate of the Slovak Republic (tax agency) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

References:

Richard Durana, director of INESS Institute, 2.3.2010, Bratislava.

Tax Directorate website <http://www.drsr.sk/wps/portal>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency (Colná správa) has staff sufficient to fulfill its basic mandate.

References:

<http://www.colnasprava.sk/wps/portal>.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency (Colná správa) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

References:

Radovan Durana, economist, INESS Inst., 27.2.2010,

<http://www.colnasprava.sk/wps/portal>, http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. In law, is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

Comments:

National tax agency is The Tax Directorate of the Slovak Republic (Danove riaditeľstvo SR) formally mandated to collect taxes.

References:

Act No. 150/2001 Coll. on Tax Authorities and amending and supplementing the Act No. 440/2000 Coll. on Financial Controlling Authorities; Article 3

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm

click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 150/2001, click on the green button "vyhladat" and then click on the number of law – green version

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

63. In practice, are tax laws enforced uniformly and without discrimination?

75

63. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

There is certain tendency to treat big international entities more strictly, i.e. during tax audits.

References:

Renata Blahova, tax advisor, partner BMB Leitner, 3.3.2010, Bratislava
Richard Durana, economic expert, INESS Institute, 2.3.2010, Bratislava

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. In law, is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

Comments:

There is an agency formally mandated to collect excises and inspect customs, called Customs Directorate of the Slovak Republic.

References:

Act No. 199/2004 Coll. the Customs Act, and on amendments to certain acts and
Act No. 652/2004 Coll. on State Administration Authorities in Customs Management and on the amendment and supplement of some Acts, § 2 art. 1, § 8, § 9, 10, 10a, 10b, § 11, 11a.

Source: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm
click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 199/2004 and 652/2004, click on the green button "vyhladat" and then click on the number of law – green version

<http://www.colnasprava.sk/wps/portal>.

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_maxi_zak_fr0.htm, http://www.colnasprava.sk/wps/portal/lut/pl/cmd/cs/7_0_A/s/7_0_R4/th/J_0_9D/

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

75

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Rules as such are applied in an uniform way. However, there are still cases (only a few of them reported though) of fraud, usually covered to some extent by the authority.

References:

Renata Blahova, tax advisor, partner BMB Leitner, 3.3.2010, Bratislava

Radovan Durana, economist, INESS Inst., 2.3.2010, Bratislava

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. State-Owned Enterprises

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

40

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

Chairman and his/her deputies are elected by the parliament. In the state-owned companies, created according the Law 111/1990 Zb. (o štátnom podniku) there are rules (paragraph 19/a), which makes that companies subordinated to political influence.

References:

Act no.111/1990 on State-owned Companies, §19a

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis) in the upper left corner, then enter into the third line, window "predpis c.:" 111/1990, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Mr. Radovan D urana, INESS Institute, Feb. 27, 2010, Bratislava.

Mr. Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

Mr. Marek Kalavsky, law advisor, 15.3.2010, Bratislava

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

References:

Mr. Radovan D urana, INESS Institute, Feb. 27, 2010, Bratislava.

Mr. Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010, Bratislava

Mr. Marek Kalavsky, law advisor, 15.3.2010, Bratislava

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In practice, agencies overseeing state-owned companies did not initiated investigation in 2009.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, Bratislava, March 1, 2010.
Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010.

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

There was no investigation and agencies did not impose penalties in 2009.

References:

Ivan Miklos, opposition member of the committee, former Minister of Finance, Bratislava, March 1, 2010.
Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010.

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

85

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

Pursuant to Act, No. 211/2000 Coll. Freedom of Information Act, Articles 2, 5 and 6, which give a claim to public obtain information, and every business company is required to announce balance sheet in Business Register every year, but in reality there is a category of state-owned company (with private co-owner), which is in practice very often exempt from this rule because of trade secret clause" in this Law (§ 10)

References:

Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts (Freedom of Information Act, FOIA")
Source: jaspi.justice.gov.sk
choose "Predpisy", enter "211/2000" in the box "Predpis c.:", click "Vyhľadat"

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

State-owned companies disclose financial data, but in some cases they have a tendency to hide some information.

References:

Robert Zitnansky, economist of SGI Institute, host of TA3 TV economic weekly Analyzy a trendy" March 3, 2010.

Barometer, Trend Weekly, <http://www.etrend.sk/barometer-1/baro-33.html>.

Mr. Konstantin Cikovsky, Trend Weekly, Pri zverejnovani udajov maju porusovatelia zakona zelenu <http://ekonomika.etrend.sk/ekonomika-slovensko/pri-zverejnovani-udajov-v-obchodnom-vestniku-maju-porusovatelia-zakona-zelenu.html>

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

Both international accounting and international auditing standards are applied in practice in Slovakia since many years. There are no differences in rules between private and state owned companies. However, some exceptions due to political influence cannot be excluded.

References:

Ms. Renata Blahova, tax and audit advisor, partner BMB Leitner. March 15, 2010.

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access the financial records of state-owned companies via Freedom of Information Act" 211/2000 Col., but there are some barriers and exceptions, which can make this access limited. Most frequently there is a "trade secret" excuse for denying access to the information, and then some legal action is necessary to ensure the right to information. Example from the year 2009: state-owned National Motorway Company denied access to information about new electronic toll collection system (for link see Sources).

References:

TREND weekly, 22.12.2006 Secrets in the Government, <http://www.itapa.sk/index.php?ID=2751>

Open Society Foundation, FOIA evaluation in 2009, <http://www.osf.sk/Default.aspx?CatID=81&IniciativaId=46>

Mr. Juraj Karpis, economist, INESS Institute, 2.3.2010, Bratislava.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In case that financial records are available – after publishing in Business Register – to the public, there are usually no other barriers (financial or other) to receive them.

References:

Act on Business Register 530/2003 Z.z. § 3, art. g <http://www.justice.gov.sk/kop/or/530z2003.pdf>

Mr. Juraj Karpis, economist, INESS Institute, 2.3.2010, Bratislava.

Mr. Marek Kalavsky, law advisor, 15.3.2010, Bratislava.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

Supreme Audit Office of the Slovak Republic (Najvyšší kontrolný úrad) is operating according to the Act No. 39/1993 Coll. § 4, and additionally several ministries oversee different state-owned enterprises.

References:

Act No. 39/1993 Coll. on the Supreme Audit Office of the Slovak Republic as amended; § 4;

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisý in the upper left corner, then enter into the third line, window "predpis c.:" 39/1993, click on the green button "vyhladat" and then click on the number of law – green version)

www.nku.gov.sk/index.cfm?module=ActiveWeb&page=WebPage&s=code

www.zbierka.sk/zz/predpisy/default.aspx?PredpisID=207796&FileName=zz07-00523-0207796&Rocnik=2007

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

75
V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

94

70a. In law, anyone may apply for a business license.

YES | NO

Comments:

No particular group or category of citizens is excluded from applying for a business license, when required. Basic principles are contained in the Article 35 of the Slovak Constitution.

References:

Basic principles are contained in the Article 35 of Act No. 460/1992 Coll. The Constitution of The Slovak Republic.
<http://www-8.vlada.gov.sk/index.php?ID=1013>

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

There is a formal process for appealing a rejected license and a larger number of separate laws governing this issue, but basic principles are regulated by the Act No. 530/2003 Coll., Article 8, par. 4, and Act No. 455/1991 Coll., Article 47, par. 6. Reference: Law 530/2003 Z.z. on Business Register".

References:

Act No. 530/2003 Coll. on Business Register
 jaspi.justice.gov.sk
 choose "Predpisy", enter "530/2003" in the box "Predpis c.:", click "Vyhlatat"
 Act No. 455/1991 Coll. on on Licensed Trade (the Trades Act)
 jaspi.justice.gov.sk
 choose "Predpisy", enter "455/1991" in the box "Predpis c.:", click "Vyhlatat"
 Act No. 71/1967 Coll. on Administrative Proceedings as amended
 jaspi.justice.gov.sk
 choose "Predpisy", enter "71/1967" in the box "Predpis c.:", click "Vyhlatat"

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Licenses can be obtained within roughly one week. In law (455/1991 Zb., § 47, o zivnostenskom podnikani) there is deadline for issuing the license in 5 days since authority recieved application with all the terms. The same period is applied in case of registering company in Business Register.

References:

Mr. Robert Kicina, director of Business Alliance of Slovakia, 16.3.2010.
 Mr. Robert Zitnansky, economist, SGI Inst., 15.3.2010.

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Obtaining of necessary business license required payment to the governmental authority from 3 to 99,50-€. Registering the company required payment since 332 to 893 -€.

References:

Robert Kicina, director of Business Alliance of Slovakia, 16.3.2010,
Robert Zitnansky, economist, SGI Inst., 15.3.2010.

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:

Basic regulatory requirements for meeting public health standards are publicly accessible and transparent. On many specific sort of businesses is required specific regulation, but in most cases it's maintained by the Act No. 124/2006 Coll., part. 2, paragraph 6-30.

References:

Act No 124/2006 Coll. on Occupational Safety and Health Protection and on the Amendment of Certain Acts as amended;
jaspi.justice.gov.sk
choose Predpisy", enter "124/2006" in the box "Predpis c.:", click "Vyhľadat"

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:

YES, basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent. On many specific sort of businesses is required specific regulation, but in most cases it's maintained by the Act No. 243/2003 Coll., Article 2.

References:

Act No. 245/2003 Coll. on Integrated Pollution Prevention and Control and on changes and amendments to some Laws
jaspi.justice.gov.sk
choose Predpisy", enter "245/2003" in the box "Predpis c.:", click "Vyhlatat"

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

Comments:

Basic regulatory requirements for meeting public safety standards are publicly accessible and transparent. On many specific sort of businesses is required specific regulation, but in most cases it's maintained according to Act No. 124/2006 Coll., part 2, § 6-30, and Act No. 125/2006 Coll., § 2 (on inspection of labor")

References:

Act No. 124/2006 Coll. on Occupational Safety and Health Protection and on changes and supplements to some acts:
jaspi.justice.gov.sk
choose Predpisy", enter "124/2006" in the box "Predpis c.:", click "Vyhlatat"

and Act No. 125/2006 Coll. on the Labour Inspection
jaspi.justice.gov.sk
choose "Predpisy", enter "125/2006" in the box "Predpis c.:", click "Vyhlatat"

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

83

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

References:

Report about implementation of the National Plan of controlling by Public Health Authority of the Slovak Republic (http://www.uvzsr.sk/docs/info/hv/Sprava_z_UK_2009.pdf), activities of the Slovak Trade Inspections (<http://www.soi.sk/sk/Kontrolna-cinnost.soi>)

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements. However we have experienced cases in which it has not been so (for more see weblinks in sources)

References:

Annual Reports of the Slovak Trade Inspections (<http://www.soi.sk/sk/Kontrolna-cinnost/Vyrocne-spravy.soi>),

Mr. Robert Zitnansky, economist, SGI Inst., 5.3.2010, Bratislava

<http://www.viaiuoris.sk/english/specific-pages/pezinok-landfill-case/>

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

References:

National institute for safe work (<http://www.safework.gov.sk/index.php?>)

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁹⁰Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code Article 328 and foll.

Act No. 300/2005 Coll. Criminal Code Article 14

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis” in the upper left corner, then enter into the third line, window “predpis c.:" 300/2005, click on the green button “vyhladat” and then click on the number of law – green version)

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

Comments:

extortion, rough pressure and pressure have to be connected with the use or with the threat of violence

References:

Act No. 300/2005 Coll.; Criminal Code Art. 189

Act No. 300/2005 Coll.; Criminal Code Art. 190

Act No. 300/2005 Coll.; Criminal Code Art. 192

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code Articles 332 – 335

Act No. 300/2005 Coll. Criminal Code Articles 336

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code §§ 328 – 331

Act No. 300/2005 Coll. Criminal Code § 336

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES | NO

References:

n. 300/2005 Criminal Code § 334

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code § 326

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code § 353

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO

References:

Act No. 300/2005 Criminal Code §§ 233 – 234

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

Act No. 300/2005 Coll. Criminal Code Articles 296 – 297

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

94

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

The Special prosecutor is appointed by General Prosecutor who is elected by the Parliament.

References:

Act No. 153/2001 Coll. on Prosecutors § 55d sec. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 153/2001, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Chief Executive Official has not noticed any pressure, neither from the coalition nor from the opposition. Lawyers do not have this experience neither. Media do not report this would be happening.

There are two agencies with the mandate to address corruption: The Office for Combating of Corruption (within the police) and Special Prosecution (within General Prosecution). To conduct an interview with police officer would require the approval of his/her supervisor. Due to this reason I decided to contact only the Special Prosecution representative and I also did evaluate only operation of this institution.

References:

Mr. Dusan Kovacic, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The Chief Executive Official does not feel such a pressure. It is his second term; he got votes from both, coalition and opposition.

There are two agencies with the mandate to address corruption: The Office for Combating of Corruption (within the police) and Special Prosecution (within General Prosecution). To conduct an interview with police officer would require the approval of his/her supervisor. Due to this reason I decided to contact only the Special Prosecution representative and I also did evaluate only operation of this institution.

References:

Mr. Dusan Kovacic, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

There is a strong emphasis on professional criteria and the criteria are very strict (experience, psycho tests, security verification, selection procedure with several stages). There is also control from publics and media.

References:

Mr. Dusan Kovacic, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Agency is lacking six full-time people. This is because of two reasons: strict criteria and the unpleasant pressure the office was experiencing due to the abolition of the Special Court. Selection procedures have been pending for more than two years.

References:

Mr. Dusan Kovacic, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Special prosecution does not have a separate budget as it is a part of the General Prosecution. In principal, the funding is sufficient.

References:

Report, General Prosecution, 2008, Annual Report, <http://www.genpro.gov.sk/spravy-o-cinnosti/43431s>

Mr. Dusan Kovacic, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Reports are being processed every year and they are available on General Prosecution's website.

References:

Annual Report, General Prosecution, 2008, Annual Report, <http://www.genpro.gov.sk/spravy-o-cinnosti/43431s>

Mr. Dusan Kovacik, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

Special Prosecution has the same competences as other prosecutions and it works in accordance with the same Criminal Code.

References:

Mr. Dusan Kovacik, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

To act initiatively is not a problem; cooperation with the police (Office for Combating of Corruption) is on a good level. However Special Prosecution is much busier since the abolition of the Special Court. It is responsible for more crimes and has received some semi finished cases. Special prosecutors have to travel every week across the whole country.

References:

Mr. Dusan Kovacik, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

38

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Complaints in the pre-trial stage are being resolved quickly. With regards to the complaints which require review of particular steps related to the procedure as such some backlog may occur (Dusan Kovacik). The annual report (2008) does not contain data on timely solutions of complaints however it shows that over 98% of all complaints were dismissed.

References:

Annual Report, General Prosecution, 2008, Annual Report, <http://www.genpro.gov.sk/spravy-o-cinnosti/43431s>

Mr. Dusan Kovacik, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

At the beginning (2004) people used to come every day. The institution gained their trust. The break came in 2006 when Ministry of Justice started to doubt the existence of Special Court. People said:

Why should I report corruption if the Special Court is going to be abolished? The case will be decided at the district court in the particular city where people have their contacts.

As per statistics (November 2009) only 24% of people from Slovakia would or probably would report corruption behaviour to police.

References:

Presentation, Pavol Nechala, March 9, 2010, Anti-corruption Measures for Judiciary, http://transparency.sk/wp-content/uploads/2010/03/PKM-9.3.10_sudnictvo.pdf

Mr. Dusan Kovacik, Chief Executive Official, Special Prosecution, (Pezinok, February 25, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris Center for Public Advocacy (USA, March 14, 2010)

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

There are two agencies which address corruption. Office for Combating of Corruption and Special Prosecution. Office for Combating of Corruption mainly investigates corruption crimes. Special Prosecution supervises and controls the legality of the pre-trial stage in criminal proceeding and prosecutes offenders for crimes which are within the jurisdiction of Specialized Penal Court.

References:

Act No. 153/2001 Law on Prosecution § 55b Sec. 1

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 357/2004, click on the green button "vyhladat" and then click on the number of law – green version)

n. 1359/2002 Government Resolution on Establishment of Office for Combating of Corruption

[http://www.rokovania.sk/app/material.nsf/0/F650EE94763E6F85C1256C8E003F4E57/\\$FILE/Zdroj.html](http://www.rokovania.sk/app/material.nsf/0/F650EE94763E6F85C1256C8E003F4E57/$FILE/Zdroj.html)

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

77
VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

75

77a. In law, there is a general right of appeal.

YES | NO

References:

Act No. 301/2005 Coll., Code of Criminal Procedure, Article 306

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 300/2005, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Although the situation has lately improved, Slovak Republic still quite often loses due to delays in proceedings at European Court of Human Rights. There are situations when courts act too slowly even in simple cases. If we consider the amount of judges and their salaries, their performance could be better. Expectations of lawyers that their cases will be resolved within adequate time are not very high.

References:

Mr. Tomas Kamenec, Lawyer cooperating with NGOs, DEDÁK & Partners, Ltd. (Bratislava, February 18, 2010)

Mr. Radoslav Prochazka, Constitutional Lawyer, Prochazka & Partners, Ltd., Teacher at Trnava University (Bratislava, February 18, 2010)

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis (Bratislava, February 23, 2010)

Ms. Maria Kolikova, former Chief Executive, Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The fees are not high as such and do not represent barrier to appeals in criminal cases. However, there is a big gap between people who are entitled to be remitted of these fees and people who reach the average income.

References:

Ms. Maria Kolkova, former Chief Executive, Centers of Legal Aid, Lawyer, Law Firm Kolkova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

75

78. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Sometimes there is a failure in application of law but political interference is not common.

References:

Ms. Maria Kolkova, former Chief Executive, Centers of Legal Aid, Lawyer, Law Firm Kolkova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

75

79. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

Effectiveness of enforcement of law has significantly improved. This is thanks to the separation of the execution from judicial enforcement of law. Some problems occur in the administrative proceedings. Decisions against state may be executed formally but there are cases where fulfillment of duties is missing in fact.

References:

Mr. Tomas Kamenec, Lawyer cooperating with NGOs, DEDÁK & Partners, Ltd. (Bratislava, February 18, 2010)

Mr. Radoslav Prochazka, Constitutional Lawye, Prochazka & Partners, Ltd., Teacher at Trnava University (Bratislava, February 18, 2010)

Mr. Jaroslav Pilat, Executive Director – M.E.S.A 10, Centre for Economic Analysis (Bratislava, February 23, 2010)

Ms. Maria Kolikova, former Chief Executive Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

81

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

First, judges have to meet professional criteria. Second, Judicial Council suggests to the President who to appoint. The budget is created by the Ministry of Justice and managed individually by courts.

References:

Act No. 460/1992 Coll., the Constitution of the Slovak Republic, Art. 141a sec. 4 let. a)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then click on the number of law – green version)

Act No. 385/2000 Coll. on Judges and Lay Judges and on the amendment of certain acts, Article § 6

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 385/2000, click on the green button "vyhladat" and then click on the number of law – green version)

n. 757/2004 Law on Courts § 83 sec. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 757/2004, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | **25** | 0

Comments:

In general, there are connections among the constitutional judges and the President of the Supreme Court. The President of the Supreme Court is also the former Minister of Justice who represented one of the coalition's political parties. There are several other examples. One case at the Constitutional Court will be decided after elections because the court decided so. The decision about the abolition of Special Court was political and unconstitutional, the reasoning was not sufficient. Special Court was established in 2004 to decide cases on organized crime, corruption and crimes of public officials with the jurisdiction over the entire country. First attempts to abolish it started in 2006 by the former Minister of Justice Stefan Harabin. In 2009 he and other coalition deputies initiated proceeding at the Constitutional Court. They claimed the existence of the Special Court being unconstitutional due to the following reasons: establishment of the court as such, security clearances the judges had to undergo (penetration of executive power into judicial power) and extra bonuses (six times the average wage) the judges were awarded in addition to their regular salaries (discrimination of other judges). Out of 13 judges 7 judges agreed the existence of Special Court was unconstitutional, 6 judges had different opinion. Subsequently, Specialized Penal Court has been established by the Parliament. Its judges do not have to undergo the security clearances and their bonuses to salaries are lower (two times the average salary). The competence of the court has been extended to other crimes, e.g. assassination, money counterfeiting, sharp practices in procurement.

There was an attempt to poison one of the constitutional judge's wife. There were several unfair disciplinary proceedings. To inform the public, judges have even established their own website where they report and in detail describe how, why and by whom are the disciplinary proceedings initiated.

References:

Website, Nada Sindlerova, May 15, 2009, Do they intimidate the judge?, <http://plus7dni.pluska.sk/plus7dni/vsimli-sme-si/2009/05/zastrasuju-sudcu.html>

website established by judges in the middle of 2009, [www.judges.sk, http://www.sudcovia.sk/index.php?option=com_content&view=category&layout=blog&id=40&Itemid=56](http://www.sudcovia.sk/index.php?option=com_content&view=category&layout=blog&id=40&Itemid=56)

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance (Bratislava, February 26, 2010)

100: National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

Comments:

Cases at regular courts and at the Supreme Court are distributed to judges via technical means.

Although the law stipulates the same for Constitutional Court electronic registry has been not introduced there yet. I have some doubts that cases at this court are distributed to the judges by random choice. (Maria Kolkova)

References:

Constitutional Court – Act No. 38/1993 Coll, Constitutional Court Act § 29
All Courts Including Supreme Court – n. 757/2004 Courts Act § 51

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 38/1993, click on the green button "vyhladat" and then klik on the number of law – green version)

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 757/2004, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

References:

Act No. 460/1992 Coll, Constitution of the Slovak Republic Art. 147
Act No. 38/1993 Coll., Constitutional Court Act § 16 sec. 6
Act No. 385/2000 Coll. on Judges and Lay Judges and on the amendment of certain laws Art. 18

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 460/1992, click on the green button "vyhladat" and then klik on the number of law – green version)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 38/1993, click on the green button "vyhladat" and then klik on the number of law – green version)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 385/2000, click on the green button "vyhladat" and then klik on the number of law – green version)

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

The judges in Slovakia are not being assaulted because of their involvement in corruption cases.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance (Bratislava, February 26, 2010)

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

Comments:

Judges have not been killed at all.

References:

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

Ms. Zuzana Wienk, Executive Director, Fair-Play Alliance (Bratislava, February 26, 2010)

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

86

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

There are no statistics or analysis on this matter but in relation to the general atmosphere in society in which there are many biases against Romas we cannot prove that judicial decisions are not affected by racial or ethnic bias.

References:

Laco Oravec, Program Director, Milan Simecka Foundation (Bratislava, February 17, 2010)

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

The access to the judicial system is formally guaranteed. However, there are several aspects which influence the decision of a woman to access the court. This could be for example financial barrier as women do earn less than men. Mainly it is about the atmosphere in society as such. Women are not well informed about their rights and they do not think it is appropriate to report domestic violence. At the same time they do not trust institutions (police) in this kind of cases. They are usually advised to choose mediation before court proceeding.

References:

The Convention on the Elimination of all Forms of Discrimination of Women, OSN, July 2008, <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-SVK-CO-4.pdf>

Ms. Janka Debreceniová, Gender Studies Specialist, Citizen, Democracy and Responsibility (Bratislava, March 3, 2010)

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:

Act No. 301/2005 Coll. Code of Criminal Procedure Article 40 par. 2

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 301/2005, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Legal aid is financed by state.

What is missing is the control of quality. It should be under scrutiny of the Slovak Advocacy Chamber but I do not have the knowledge that this is happening in practice. From my experience, I can tell, that I overtook some cases where not all of the accessible legal possibilities had been utilized." (Maria Kolikova)

References:

Ms. Maria Kolikova, former Chief Executive, Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

People approach courts in these matters. Attorney fees do not represent a major cost to citizens. Then, it also depends on the agreement with a lawyer who can always offer payment in installments. Fees at courts are adequate. The problem is with fee remittance. Decisions about fee remittance are inconsistent, thus not foreseeable.

References:

Ms. Maria Kolikova, former Chief Executive of Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Yes, it has the option but it has to be patient. The problem are not fees. The problem is that courts act slowly and trials are not

effective. Until the business receives the final decision the debtor may be bankrupted.

References:

Ms. Maria Kolikova, former Chief Executive, Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

The distance is not a problem. We have enough courts and they are accessible. I am convinced that quality and time plays much more important role than quantity. I am sure that my clients would not mind to travel 100 km in order to have the case resolved within 1 year instead of 2 years." (Maria Kolikova)

References:

Ms. Maria Kolikova, former Chief Executive of Centers of Legal Aid, Lawyer, Law Firm Kolikova (Bratislava March 4, 2010)

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (Pezinok, February 25, 2010)

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

50

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Regular officers are selected in accordance with professional criteria. Executive officials are appointed and always changed with the change of government. There are no selection procedures for executive officials.

References:

ETrend, August 7, 2006, R. Kalinak appointed New Police Executive Officials, <http://ekonomika.etrend.sk/ekonomika-slovensko/r-kalinak-vymenoval-novych-funkcionarov-policie.html>

Mr. Jaroslav Ivor, former Police Officer, Deana t Faculty of Law, Bratislava School of Law (Bratislava, March 1, 2010)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The funding has lately improved. Specialized monitoring technology is still insufficient, however the average wage of policemen equals 180 percent of the average wage in Slovakia, which in contrary shows sufficient budget.

References:

SME, CTK, January 28, 2008, Police Bought New Cars for The Transport of Euro, <http://www.sme.sk/c/3700697/policia-kupila-nove-auta-na-ochranu-pri-prevoze-eura.html>

http://www.ineko.sk/sluby/sluby_dokazy.php?id_slub=94

Mr. Jaroslav Ivor, former Police Officer, Dean at Faculty of Law, Bratislava School of Law (Bratislava, March 1, 2010)

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

This relates to the way how the executive officials are being chosen. They are appointed and always changed with the change of government. There are no selection procedures for the executive officials. The presumption of innocence was not followed in a case of a young student of Hungarian nationality. Police acted politically not professionally during the state visit of Chinese President in Slovakia.

References:

Website, Andrej Onufer, August 24, 2009, Investigator, who stated Hedviga had lied, does not remember, <http://dnes.atlas.sk/slovensko/sudy-a-kauzy/587637/vysetrovatel-podla-ktoreho-hedviga-klamala-si-nepamata>

Website, Martina Kovacova and Jan Krempasky, Jun 18, 2009, Chinese hit Slovaks, Police did not care, <http://www.sme.sk/c/4896571/cinania-bili-slovakov-policia-stala.html>

Mr. Jaroslav Ivor, former Police Officer, Deana t Faculty of Law, Bratislava School of Law (Bratislava, March 1, 2010)

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

71

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | **NO**

Comments:

In general there are several mechanisms for citizens to complain about police action, however there is no independent one. A section of control operates within the police. Mechanism by which citizens can complain about police actions is stipulated by Act on Complaints. The National Ombudsman does not have competence over complaints against decision making of the officers. Prosecutors have competence over complaints against officers in criminal proceedings. Citizens may file a suit in the court for a damage caused by illegal decision or by incorrect process of the police.

References:

Competence for handling complaints is stipulated by Act No. 9/2010 coll. on Complaints, Article 11. Procedure of handling complaints is stipulated by Article 5 and foll.

Source http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm
Predpis
„9/2010
“Vyhľadat”

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no statistics containing these data available. The newest report is from 2007 and it does not say anything about the time within which the complaints were solved. What is problematic about complaints is not their timely solution but the quality of answers police provides.

References:

Report, Ministry of Interior, 2007, Report on Resolution of Complaints and Petitions, <http://www.minv.sk/?staznost-kontrola-inspekcia>

Ms. Zuzana Caputova, Lawyer, Via Iuris, Center for Public Advocacy (USA, March 14, 2010)

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

References:

Special Prosecution Office pursuant to Act No. 153/2001 Coll.; the Prosecution Act § 55b related to Act No. 291/2009 Coll. on Specialized Criminal Court § 14

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 153/2001, click on the green button "vyhladat" and then click on the number of law – green version)

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on "predpis" in the upper left corner, then enter into the third line, window "predpis c.:" 291/2009, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

In year 2008 officers were found guilty of corruption crimes in 20 cases. If we compare this to proved corruption of other officials (civil servants, judges) the agency works relatively effectively.

References:

Report, Ministry of Interior, 2008, Report on Crime of Police Officials

Mr. Jaroslav Ivor, former Police Officer, Dean at Faculty of Law, Bratislava School of Law (Bratislava, March 1, 2010)

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:

Act No. 73/998 Coll. on Police Civil Service Act Article 52

http://jaspi.justice.gov.sk/jaspiw1/jaspiw_maxi_fr0.htm

(click on predpisy" in the upper left corner, then enter into the third line, window "predpis c.:" 73/1998, click on the green button "vyhladat" and then click on the number of law – green version)

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

The law enforcement officers are subject to criminal investigation and this is happening in accordance with law. 158 officers were charged with different types of crimes in 2008.

References:

Report, Ministry of Interior, 2008, Report on Crimes Committed by Police Officers, <http://www.minv.sk/?staznost-kontrola-inspekcia>

Mr. Jaroslav Ivor, former Police Officer, Dean at Faculty of Law, Bratislava School of Law (Bratislava, March 1, 2010)

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.