

**ECONOMIC AND SOCIAL REFORMS IN  
SLOVAKIA:  
ON SOME ASPECTS OF PUBLIC POLICY  
PROCESS AND INTERESTS ADVOCACY**

*Miroslav Beblavý*  
*Emília Sičáková*

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AND INTERESTS ADVOCACY

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*The Slovak Republic faces the task to secure conditions for a long-term economic growth. A crucial precondition for an efficient implementation of economic measures is the knowledge of the status quo and of the impacts on the economy and the society as a whole to be expected from the relevant measures. Foreign experience with economic policies can only be adopted when adjusted to the conditions of Slovakia's economy, and attention has to be paid to both short-term and long-term prospects of the economic and social development. To be implemented, many economic measures require acceptance on the part of the public, and this requires, among other things, direct involvement of the citizens in economic processes. The Institute for Economic and Social Reforms (INEKO) shall therefore spend efforts to make the public familiar with the nature of economic and social processes in Slovakia and abroad, and to eliminate, through economic research and educational activities, hindrances to long-term economic growth of Slovakia.*

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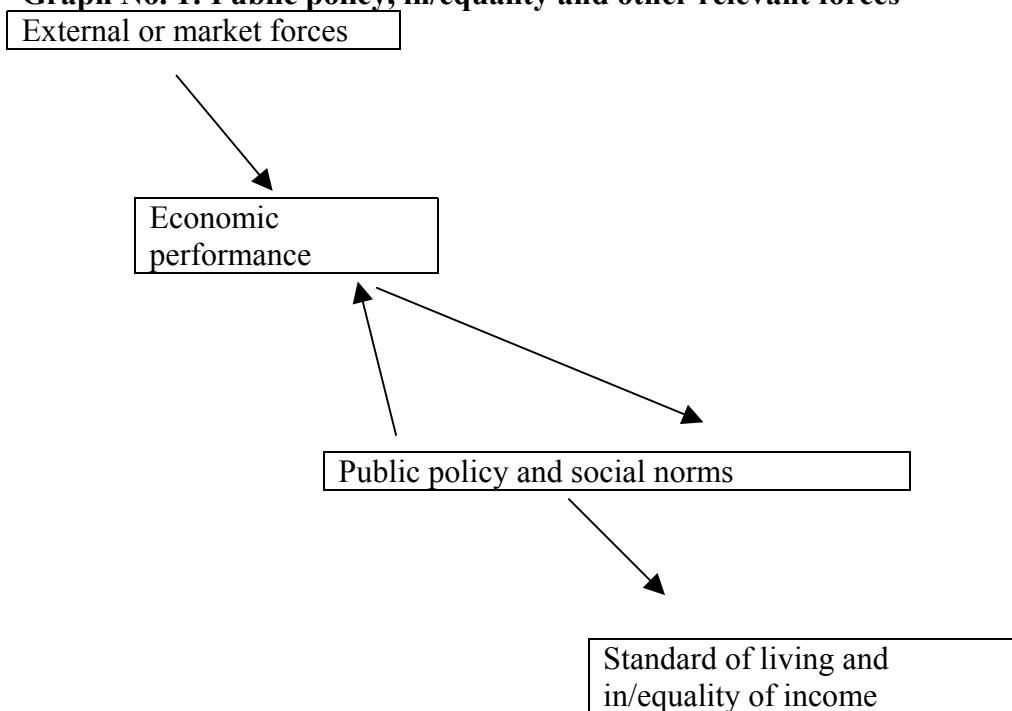
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## FOREWORD

Since the political turnaround in 1989, Slovakia has been undergoing continuous changes resulting from both internal and external impacts. These changes cover political institutions, a gradual reengineering of the economic policy and the establishment of the independent state, as well as the adaptation to the requirements for membership in elite clubs (especially the European Union). In such a situation, it is of particular importance to investigate not only concrete reforms but also certain general features of the process of their adoption and implementation. A similar analysis contributes to our understanding of the hitherto development and enables to anticipate the future course of events in a more competent way and to formulate recommendations for a better public policy-making. The implemented public policy and reforms also affect the quality of our lives; hence, their condition is the key factor in improving the socio-economic situation in Slovakia. They, too, affect economic performance and the fashion in which the assets generated in the economy are allocated among the individual parts of the society (see Graph No. 1).

**Graph No. 1: Public policy, in/equality and other relevant forces**



Source: Tanzi (2000)

Our study focuses on the formal mechanism of the public policy-making process in Slovakia, as well as its actual course, whereby emphasis has been laid on how these factors affect the implementation and contents of socio-economic reforms. Although this study, in examining the process of the adoption of public policy and reforms in Slovakia, has been largely based on a positive analysis (the current state of affair is being examined), part of it has been dedicated to the analysis of normative aspects (desired state).

Chapter I provides a general analysis of the existing literature, especially in the fields of economics, political economy, and political science, which we consider important for the analysis of the public policy and reforms environment in Slovakia. In Chapter II, an empirical examination of the public policy-making framework in Slovakia is carried out, particularly of the process of policy-making and its adoption with regard to formal and informal rules. Chapter III is dedicated to the role of groups of key players in pursuing their interests and their impact upon existing reforms. The closing Chapter IV is normative by nature and focuses on selected issues presented in the light of our assessment of problems and possible recommendations.

Empirical research of the public policy-making process in Slovakia, seeking to be as rigorous as possible, struggles with a lack of data, particularly quantitative data, which could be analysed using mathematical methods. On the other hand, however, it should be noted that in the analyses of public policy in general and its procedural and interest-based aspects in particular, quantitative analysis is not a prevalent component. The shortage of “soft” empirical data, which may be derived from published sources, poses a more serious problem.

Having these factors in mind, we have decided to present this study only as an initial step towards examining the public policy-making process in Slovakia, whereby emphasis has been laid on the adoption and implementation of economic and social reforms. The study seeks to cast light upon possible ways of future research and is to serve as a study material for students interested in the field in question.

The study is largely based on the relevant theoretical and empirical literature, case studies, legislative framework analysis, publicly available statistical data, information disclosed by the media, as well as original data collected for this publication.

By way of introduction, it should also be emphasised which topics are outside the scope of this study. We will not deal with the adoption of public policy at the local level, especially because until January 1, 2002, systemic decisions vital to public policy had been taken only at the central level, due to a weaker position of municipalities and non-existence of self-governing regions. Nor will the study examine the role of courts and that of the Constitutional Court in particular with respect to public policy.<sup>1</sup> Administrative decisions that constitute public policy, such as, for instance, the decisions of the Antimonopoly Office of the SR, will be paid only a minor attention. All the above areas are yet to be examined in the future. Within the limited scope of the publication, the authors have decided to focus on what they consider to be the key factors of the current public policy and reforms in Slovakia.

Since the terms below are the keywords of this study, this introduction aims to provide their more accurate definitions.

### **Public policy**

There are several definitions of public policy. For the purpose of this study, the most accurate and practical is the definition according to which public policy refers to

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<sup>1</sup> This is not for the insignificance of this component of public authority – the decisions of the Constitutional Court of the SR have been of profound importance to many areas.

generally “accepted political strategies and solutions“, and also particular strategies and solutions adopted in a concrete area (UNDP (2001), p. 14). It is, in fact, a summing-up of what public bodies intend to do, or are actually doing in a concrete area. There is a certain shift in the meaning in the Slovak language, due to the fact that the English language makes a distinction between *politics* in the conventional meaning of the word and *policy* in the meaning of adopted strategies and solutions. Given the fact that the Slovak language does not allow for such a distinction, to denote the concept of „policy“, the phrase *public policy* is used.

In order to formulate public policy, policy documents are used which determine and give a concrete form to the trends of public policy in a given area. This formulation is further materialised by means of tools detailed in Table 1 below.

**Table 1: Public Policy Tools**

<b>1. Information</b>	by means of:
- Advice	- Mass dissemination
- Directions	- Selective distribution
- Data and information	- Advertisement and public relations instruments
- Threats and persuasion	- Targeting on key players
- Agreements	- Responding to requests
<b>2. Economic Measures</b>	by means of:
- Bargains	- Public procurement
- Incentive and disincentives	- Tax relief
- Agreed benefits	- Grants, loans and subsidies
<b>3. Administrative Measures</b>	
- Provision of specialised services	
- Use of qualified labour force	
- Administration through existing government agencies	
- Monitoring and inspection	
- Supervision and corrective intervention	
<b>4. Lack of Action</b>	
- Reliance on market forces	
- Reliance on public supervision	
- Self-regulation	

Source: OECD (1997), p. 16

## **Reform**

The word *reform* shows even a greater variety of definitions than public policy. For the purpose of this publication, a very simple definition is used – according to which, reform is a “deliberate implementation of changes” (Kolarska-Bobinska (2000), p. 7). In the context of our study, reform is to be understood as a specific type of public policy aimed at a substantial and rapid change of public policy in a certain area, which pursues the attainment of a qualitatively new state.



In transitional economies, reform is understood, first and foremost, as a process of the transformation of the economy and society from command economies to a market economy. According to Zemanovičová (2000), one may speak of two transformation stages:

- **revolutionary** – the implementation of sweeping and rapid changes (privatisation, price and foreign trade liberalisation, macroeconomic stabilisation). There is a general agreement of economists on the need to implement these steps. These measures raise political rather than economic problems;
- **evolutionary** – the setting-up of functioning market economy institutions and providing for a long-term and sustainable growth.

Changes and reforms required in the first transformation stage may be implemented quite rapidly and there is, more or less, an agreement on the urgency of these steps, which is also evidenced by foreign experience.

The second stage is related to several factors limiting the potential and pace of changing formal and informal rules. This involves a continuous, long-term process of changes, which may be referred to as a permanent reform. According to Jurzyca<sup>2</sup>, this stage is more exacting in terms of time, funds, knowledge, political consensus and citizens' participation in public affairs. It is a stage of evolution, a gradual, continuous reform. This reform is not entirely under the control of the state, as it is often reluctant or unable to carry out profound changes in the society. Hardly can civil servants be expected to willingly change the functioning of offices they hold in favour of society, i.e. often to their disadvantage. The ground for reform implementation will not be univocal either. The author states that presently it is questionable whether emphasis should be laid on the creation of conditions for an accelerated development of underdeveloped regions or rather on the promotion of migration to regions with a stronger economy. The question to what age citizens ought to be guaranteed equal opportunities in education does not invite a clear answer either.

In terms of their pace, reforms may be divided into **radical** and **partial**. The reform pace is affected by several factors, among which there are also the impacts of reform. As regards the impacts of reform implementation, one is faced with a phenomenon that is referred to as the “*winner-loser*” problem in literature, i.e. a problem connected with the emergence of “privileged and non-privileged population groups”, which bears implications concerning the course of reform. Tóth (2000) states that the majority of traditional economic theories on political implications of economic reform are based on the assumption of the “J” curve development, which illustrates consumption development after economic reforms are launched. In its initial stages, the reform will cause a decline in total consumption, only to exceed its initial level later on. According to the above theory, groups (**losers**) that are the most disadvantaged by the reform in the short-run (i.e. the unemployed, pensioners, and civil servants facing job cuts) will oppose reforms at the first opportune moment, thus enabling populist parties to ascend to power and thwart the reforms as a result. If radical reforms are to be realised, the government ought to remain “isolated”, in a way, from the influence of the temporarily disadvantaged groups until consumption hits the level perceived by the majority of citizens as a benefit of the reform

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<sup>2</sup> E. Jurzyca: Permanentná reforma. Domino Fórum, June 8, 2000

implemented. The opinion that authoritarian regimes have an advantage in implementing radical reforms is based on the above theory.

Tóth also argues that the recent experience of the Central and Eastern Europe contradicts this conventional view. The progress of reforms is also affected by **privileged** population groups (**winners**), which significantly benefited from the reforms particularly in their initial stages. This, for instance, applies to new owners of privatised companies or managers of state banks and state enterprises. Hellmann (1998) points out that the initial reform stages created plenty of opportunities for economic arbitrage, which enabled economically privileged groups to gain concentrated economic benefits. It was in the economic interest of these groups to obstruct certain steps of the reform process, because their implementation would have resulted in the loss of these extraordinary benefits and elimination of market inequalities on which their initial profits from reforms had been based. Therefore, these privileged groups do their utmost to sustain the state of partial reforms for as long as possible. According to the analysis of the World Bank Institute (Hellmann, Jones, Kaufmann (2000)), partial political and economic reforms generate a more sophisticated level of state capture. “State capture” is to be understood as efforts of companies to influence the contents of legislation, laws, decrees, and other regulations by means of unofficial payments to public officials. Through state capture, companies try to gain benefit from the state by applying distorted rules of the game. The World Bank has devised a so-called State Capture Index, which expresses the extent of the sale of deputies’ votes in support of private interests, court rulings, and so forth. The imperfect nature of the legislative, regulatory, and control systems allows private companies to turn politicians and civil servants into their vassals in the sense that the latter adopt “à la carte” legislation and regulations that meet the needs of individual companies. Based on the above index, there are some countries with a high level and some with a low level of state capture,<sup>3</sup> with a significant gap between them. If the state is exposed to a certain level of capture, the pace of capture growth accelerates. A high level of state capture by private interests results in economic stagnation and decline.

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<sup>3</sup> According to this survey, Slovakia has been ranked among countries with a high state capture index.

## CHAPTER I: Public Policy-Making Environment

Public policy-making in different countries varies depending on the specificities of the environment in a given country shaped by formal and informal rules.

Interests are the key factor affecting the making and advocacy of individual changes and reforms in society. Reforms and public policy are largely about the advocacy of interests, which may be generally referred to as individual, group, and public interests.

Speaking of **individual interests**, they concern individuals, be it natural or legal persons. A number of individual needs and interests of citizens and legal persons may be satisfied by the private sector that generates private assets.

Individual interests are grouped into common **group interests**.<sup>4</sup> These interests may be professional, national, racial, cultural, regional or given by age, gender and the like. Various interest associations of natural or legal persons advocate **commonly shared goals and interests**.

There are also interests the satisfaction of which concerns everyone or a large majority of the society and which cannot be assured in more complex social systems on an individual basis (such as security, including foreign security, setting rules and their enforcement).<sup>5</sup>

There are also economic reasons (market failure) due to which interventions are made in the economy for the sake of the public interest.<sup>6</sup>

**Public interest**<sup>7</sup> is a delegated individual interest that ought to reflect the consensus of the majority. In this context, the public interest may be defined as an interest that is viewed by those who duly enforce authority as the most appropriate for public welfare. Sičáková and Zemanovičová (2000) state that since there is no unanimity on whether a public policy or measure can enhance public welfare, the public interest is perceived as a flexible concept accommodating a wide range of opinions. The content of the notion of *public interest* is also determined by culture differences. On the other hand, there are limits set for the concept of public interest. In democratic societies, it is the public sector that is tasked with decision-making and enforcement of the public interest. This, for instance, concerns deputies at a central or decentralised level, who are installed in the positions of the representatives of public interest by free elections, as well as state and public administration or judges.

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<sup>4</sup> Interest groups are detailed in Chapter III

<sup>5</sup> For instance, A. Smith refers to three basic functions of the state:

- protection against an act of aggression (security issue)
- protection of each member against injustice
- preservation of some public work and public institutions which could not be built and maintained in the interests of an individual or a group

<sup>6</sup> For details refer to Zemanovičová et. al. (1998)

<sup>7</sup> For details refer to Sičáková and Zemanovičová (2000)

Selecting “the very best” or “the most appropriate” of the existing desires and needs to be provided for, especially if the resources of the society are limited, is a most complex task.<sup>8</sup> Taking decisions on the benefits of privately owned assets is easy for consumers – the only decision they have to make is whether or not to make a purchase. However, this simple method is not available if a decision is to be taken on the benefits of one asset in comparison with other publicly funded assets. Decision-making on the allocation of funds in the public sector follows different rules. In the public sector, many material and financial decisions are subject to political decisions. In such a case, the role of the market as an allocation mechanism is eliminated or limited.<sup>9</sup>

According to Stiglitz (1997), economic theory has so far been unable to introduce a theory that would express an optimal distribution of resources while taking account of the influence of interest groups. Generally speaking, the supply of the public sector is dictated by a political mechanism. Hence, political mechanisms serve as a means for the resolution of disputes on the role of the government in the public sector supply.

Citizens vote for their elected representatives, who in turn vote on public budgets. Expenditure is reviewed by numerous bodies of the public sector. In fact, there is a considerable difference in the way individual consumers decide on their expenditure and the way the parliament or public administration decides on public expenditure. This is one of the reasons behind conflicts and tension between various interests. Legitimate questions are: what the basis of the decisions should be and how various opinions of the electorate pursuing different interests ought to be weighted. Our approach to addressing the above perplexities depends on several factors, namely, on the nature of the state and possible failures of the state. It is also important to take account of the “power” factor of individual interest groups in advocating their interests and tools used. Also, it is worthwhile to consider the possible negative impacts of the activities of interest groups. Among other vital factors are, for instance, social attitude, which may be influenced by the cultural heritage or religion, the level of economic development, the openness of the economy or technological advancement, and so forth.

Decision-making and subsequent implementation of adopted measures are affected by systemic characteristics such as the nature of the state, internal characteristics of the public sector, state failures, interest groups organisation, and some other factors affecting public policy.

The above factors are described in more detail below.

### **I.1. State types**

Decision-making in the public sector is affected by the state type. Several theories seek to explain the way governments behave.

The basic categorisation of states according to their political systems can be found in Andrain (1994), who applies the following criteria:

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<sup>8</sup> The above deliberation is inevitable in view of the fact that our resources are limited.

<sup>9</sup> Strecková, Malý et. al. (1998)

- cultural values that create public policy goals
- power exercised by structures over the public policy-making process
- conduct of public policy-makers and individuals who are less involved in this process (p. 7).

Based on the above criteria, the author recognises:

- folk systems
- bureaucratic-autocratic systems
- reconciliation systems
- mobilisation systems

Formal government institutions responsible for decision-making are alien to folk systems. These systems are segmented, decentralised, and egalitarian, based on the relations in both nuclear and extended families (ibid p. 15). The power of structures vis-à-vis the general public is limited and the gap between the leaders and their adherents is also small (ibid, p. 8). Material and spiritual values are homogenous; hunting or primitive agriculture is connected with religion. These pre-modern societies have almost vanished by now.

Bureaucratic-autocratic systems are based on the dominant position of the state vis-à-vis social groups. Strong administration subdues an open conflict in the society. Coercion prevails over consensus (ibid, p. 24 – 26). Dominant political opinions stress collectivism, the predominance of material interests over spiritual and ethical ones, and elitist and detached relationship between those who govern and those who are governed (ibid, p. 27).

In reconciliation systems, civil liberties are guaranteed and the loyalty of leaders to political freedom is ensured by pluralism in the society and state structures. Public policy-makers advocate various interests and the overriding principle is the seeking of compromise and reconciliation between these interests (ibid, p. 43). Political belief in the reconciliation system requires separation of material values from ethical and spiritual ones. The relationship between those who govern and those who are governed is based on a representative relationship. Various social groups maintain their distinct autonomy from the state (ibid, p. 46).

The last type of a political system is referred to as a mobilisation system. Its leaders seek to achieve a speedy and sweeping transformation of the state and society (ibid, p. 69). Under their leadership, material goals are united with ideological values and the gap between those who govern and those who are governed shrinks. Mobilisation systems can be populist or elitist. France after the revolution in 1789 is an example of the former, Russia and Stalin an example of the latter (ibid, p. 70 – 71). Presently, there is no significant mobilisation system in the world.

In the late 20<sup>th</sup> century, Slovakia transitioned from what used to be a combination of mobilisation and bureaucratic-autocratic systems (before 1989) to a reconciliation system (after 1989). However, common behavioural patterns in political and social life will take more time to change. Viewing public policy from the economic point of view, Tanzi (2000) distinguishes the following state types: monopolistic, individualistic, and paternalistic.

## **Monopolistic state**

In a monopolistic state, the ruling class, group, or political party is in control of the government apparatus and makes use of it to maximise the welfare of its members. Hence, there is a concern about the role of the public interest. The majority of government activities are aimed at maximising the welfare of that segment of the population that is in control of the government apparatus. In simplified terms, this entails the creation of jobs in the public sector for those supporting the ruling party, or support for public investments or public education and training which bring benefits to groups or regions belonging to the ruling group.

In order to ensure these goals, financial instruments are required. Such a process may result in such taxation and public expenditure levels and structures that are different from those based on modern public finance theories. It is the ruling stratum of the society that benefits most from public finance.

These government types were very frequent in the past and have not quite disappeared by now.

## **Individualistic state**

This type of state is based on a proposition that “individuals not only have a say in determining the role of the state, but the state is in fact here to serve them”. In other words, there are no collective “desires”, there are only “desires” of individuals. Hence, public welfare is a sum of the welfare of individuals in a given society and at a given moment in time. With regard to taxation and public expenditure levels and structures, there should not be a difference between the goals of taxpayers and the goals of those who manage the given fields and make decisions. According to this concept, an individualistic state should not create opportunities for the government to abuse fiscal illusion.<sup>10</sup> Moreover, the government is even expected to educate the electorate so that citizens would avoid making mistakes related to fiscal illusion concerning income and expenditure. All decisions concerning taxation and public expenditure should be free from fiscal illusions and based on an objective evaluation of costs and benefits. Governments support such taxation that clearly identifies the taxpayer (for instance, income taxpayer). The budgeting process seeks to cover all expenditure and is transparent by nature.

## **Paternalistic state**

In this type of state, the public interest is not a sum of the interests of all citizens. In a paternalistic society, the government may, on behalf of the state, advocate interests that are more than just a sum of the interests of citizens, and it pursues such public

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<sup>10</sup> According to Puviani (1973), governments do not aspire after the maximisation of the difference between **objective** benefits gained from public expenditures and **objective** costs relating to the allocation of these expenditures. According to the author, governments are focused on the maximisation of the difference between **subjective**, and often faulty, evaluations of benefits associated with public expenditures and their costs. He claims that this process is dynamic rather than static – governments not only passively accept and use these subjective and faulty evaluations of costs and benefits, but they even actively support them. Hence, fiscal illusion is not a random error on the part of taxpayers, but often a systemic error introduced by the government.

policies that may not necessarily be consistent with the policies in an individualistic state. If compared with the public interest as a sum of the welfare of all individuals in a given society, on condition that such summation is feasible, an interest advocated in a paternalistic state would be considerably different. The creation and use of fiscal illusions help the state advocate these public policies. However, the basic difference is that rather than being coupled with the selfish goals of individuals or groups which are in control of the government - which is the case of a monopolistic state - these activities are pursued in the interest of “the society/country/people/proletariat” or other abstract concepts.

## **I.2. State failures**

There is a difference between what the public sector should do and what it actually does. The reasons why this happens in the real world cover potential differences in the interests of those who govern and those who are governed, through those who implement adopted measures, down to the mistakes and fallacies of policy-makers, inadequate control of strategic instruments on the part of policy-makers, etc.<sup>11</sup>

Hence, there may be differences between the expectations and actual outcomes of various measures adopted by the public sector due to state failures. As stated by Zemanovičová (2000), the problem of state failures is, as opposed to market failures, a less scrutinised area of theoretical research. State failures are numerous. Their causes are to be sought in the following:

### **- *Political leadership educational background***

Even if political leaders (policy-makers, MPs and Cabinet members) do their utmost to adopt the best solution, their education and training may not necessarily be sufficient for such a task.

### **- *Indirect implementation of adopted measures***

In public administration, entities bearing the costs of regulation are separated from entities benefiting from it. Moreover, there is usually no direct link between an adopted regulatory measure and the responsibility for its application. Policy-makers (such as MPs or Cabinet members) take decisions on strategic measures. Decisions taken at the “top“ level must be implemented in a top-down fashion. A quite common problem is that those who are tasked with the implementation of these measures have their own plans or feel that these strategies and decisions could be harmful to them or groups they belong to. Therefore, during implementation, measures may be changed or distorted and the result will differ from the original expectation. Identical problems are encountered when public administration is either incompetent or corrupt. Government control over the bureaucratic machinery that enforces the law and influences its efficiency is therefore limited.

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<sup>11</sup> For details refer to Tanzi (2000)

- ***Limited scope of information***

The impacts of many decisions are complex and difficult to predict and not all information may be available to the government. Because of that, its intervention is inadequate. Numerous state interventions in the economy desensitise the system, which finds it difficult to disclose the actual purpose of these regulatory interventions. Frequent interventions also make the environment less transparent, and it is difficult to say whether particular forms of regulation have been effective or not. The economic system is therefore difficult both to manage and predict.<sup>12</sup>

- ***Limitations relating to the political process***

Even if the government were perfectly informed of potential impacts of its decisions, these decisions are also motivated by the need to influence the electorate or advocate the interests of certain groups. Politicians may favour personal interests. According to Stigler, the inability of the government to represent the interests of the public at large is not only an outcome of its dishonesty, but also, to a large extent, it results from the mechanism of functioning of political institutions in democratic societies. Political myopia is manifested in an effort to solve market failures for the sake of political motives. Short electoral terms lead to a clash between political short-term interests and a longer period required for analysing and understanding whether a regulatory intervention is needed and for its preparation. The outcome may be that the measures adopted, politically efficient as they are, may turn out to be economically inefficient.<sup>13</sup>

- ***Public administration quality, human resources, and the interests of bureaucracy***

A low standard of public administration may impose limitations on an efficient state intervention in the individual fields of the public policy implementation. It seems that the less developed a country is, the more it can benefit from a more solid position of the state, which promotes the market and remedies its flaws. According to Tanzi (2000), it holds that the less developed the country, the more incompetent its public administration is. Among the unpleasant facts of the economic development is that the countries in which a more solid position of the public sector is needed most are the countries in which the public sector is least prepared to carry out this function efficiently. Zemanovičová (2000) states that the problem of transitional economies is that the state (or public administration) is faced with its own reform, and although it has assumed new functions, it has not quite got rid of its old ones. Often, this results in such economic interventions that are referred to as regulatory barriers. In a number of countries, licences or authorisations are required in order to perform many economic activities. Such a situation gives power to bureaucrats to abort economic decisions of natural persons and companies, so granting a licence can often be conditioned by giving bribes to people in charge of such decisions.

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<sup>12</sup> Zemanovičová (2000)

<sup>13</sup> Zemanovičová (2000)



- *Linkage with previous measures and a strong organised interest in the status quo*

Given the fact that a number of measures have long-term effects, public policy implementation in a relevant field and at a given moment in time is markedly influenced by past measures. The decisions of previous governments continue to profoundly affect the present economic function of the state and impose limitations on the current actions of the government. Decisions having long-term effects create legal or implicit claims or demands that may be changed by the present government in the short-run only with great difficulties, if ever. Actually, there is no government that could start with a clean slate, unburdened of past commitments. The current economic policy is, to some extent, a slave of decisions made by previous governments. Those groups that benefit from the past decisions will oppose reforms, even if these are in the public interest. This is in part why some economists claim that authoritarian governments enjoy greater freedom in the implementation of growth-promoting strategies. Often, present governments are held responsible for economic problems largely caused by the decisions of past governments.

- *Historical influence*

The present function of the state and concrete measures in public policy are also shaped by historical development. In a number of industrial countries they were influenced by the experience from the Great Depression in the 1930s, wars and the threat of communism – all of which compelled previous governments to adopt extraordinary measures. In a number of developing countries, the function of the state was affected by their experience of the colonial period. For instance, nationalisation in some newly independent states was partly due to the fact that a lot of their leading companies were controlled by individuals who came from colonial powers.<sup>14</sup>

### **I.3. Interest groups and the political system**

According to Zeigler (1992), interest groups can be generally understood as formal organisations aimed to influence public policy in democratic societies.

Interest groups rank among open societies. The manner in which they are organised, the criterion of the loyalty of its members and techniques applied to attain their goals vary depending on the political culture in which they operate.

Generally speaking, there are two models of political culture which we find useful for understanding the substance of interest groups - **pluralism** and **corporatism**.

Companies that need solid banks are able to coordinate their action and lobby more effectively than individuals who are dissatisfied with the bad health-care system.

**Domino Fórum, 25. 1. 2001**

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<sup>14</sup> For instance, Slovakia is influenced by the history of Austro-Hungarian bureaucracy and 40 years of the socialist governance of public affairs

### **I.3.1. Pluralism**

Pluralism is to be understood as a system of several competing interest groups taking part in public policy-making. This assumes the existence of a system in which interest groups are set up, organised, make efforts to lobby, continue to operate or cease to exist, practically without the involvement or support of government bureaucracy. Pluralism may be characterised as a structured free-market system with groups coming and going without positive or negative sanctions on the part of the government. Measures adopted in the public sector are an outcome of negotiations and a compromise of elite groups.

The pluralistic theory is based on a belief that individuals may address their wishes and needs to the state by means of group activities. In large and complex communities, the chance of individuals to be heard is limited, not to speak of their chance to influence the decision-making process in the public sector. However, if more individuals sharing the same interest unite, the weight of their shared opinion is greater than the sum of individual opinions. Pluralists approach interest groups as channels that are instrumental in pursuing a democratic ideal of a legitimate and gratifying interaction with the public sector. They believe in a more or less even distribution of opportunities to win political support. According to pluralists, individual groups enjoy equal opportunities in the setting-up of their organisations and winning of political support.

In addition, pluralism assumes that humans strive for a rational maximisation of welfare and they associate in expectation of political benefits. By setting up and running an organisation, conditions are created for the establishment of another organisation - its counterbalance. However, setting up an organisation is neither easy nor cheap. It requires money, time, or courage. Therefore, what matters is the conditions under which the interest groups market can be entered.

The critics of pluralism challenge the “undemocratic” nature of interest groups and the motives behind the setting-up of such groups. The areas criticised are elucidated in the text below.

#### ***Masses versus elites***

The critics of pluralism argue that organisations which are expected to establish a link between the public sector and the general public are undemocratic by their nature. However, pluralists do not assert that mass participation is required and feasible. Often, debates on the issue of undemocratic organisations carrying out a representative function are concluded by a phrase about “competing elites”. According to pluralists, this is a more appropriate variant, in contrast to corporatism, which is perceived as a kind of monopoly, because the interest group market is occupied by more entities advocating alternative opinions and attitudes, which are mutually competitive.

### *Political or personal benefits?*

Another issue raised by the critics of pluralism concerns the reason why people decide to participate. Are they driven by political or personal benefits? The critics of pluralism often argue that individuals do not join a group for political motives. They claim that for rationally thinking individuals a shared attitude is not an argument strong enough for becoming organised in groups, and nor is it for an individual to join a group, unless it is very small. An individual realises that as long as other individuals are organised in groups, value added from his or her individual membership is rather insignificant. And, since "the common good" is collective by nature, individuals may enjoy the benefits of the activities performed by organised groups regardless of their personal participation in them. Figuratively speaking, this is a "free-rider problem" - an individual will not contribute to reaching a specific goal, however, once the goal is reached, he or she reaps personal benefits from it.

Generally speaking, a decision to participate is also contingent on the availability of benefits. Do individuals participate in an interest group in pursuit of collective or selective good? The collective good cannot be distributed selectively, i.e. some individuals are eligible for it and some not. The selective good means that a certain group benefits from its membership of an organisation, whereby non-members are deprived of these benefits. A good example can be the case of Pensioners' Association, which cannot bar non-members' access to public health insurance for which it lobbied. However, what it can do is to bar access to low-priced pharmaceuticals, which are available to its members due to quantity discounts. If a rational pensioner enters the system, he or she will benefit from it. Hence, the motives for membership offered by the Pensioners' Association are selective by their nature. However, selective motives have nothing in common with the organisation's goals and there is no guarantee that the members of the organisation would support them.

According to several public opinion polls,<sup>15</sup> the motive behind joining many organisations is a selective benefit gained. However, the underlying motive for a membership in many other organisations is the collective good (political commitment and interest). Physicians join their association to gain a selective benefit, while women become members of a women's association because they wish to support its programme.

Zeigler (1992) assumes that as regards the economic maximisation of their benefits, members of numerous interest groups behave irrationally. Their motives vary depending on the nature of particular organisations and type of decision. A decision to continue with membership may be motivated differently from a decision to join an organisation, because in the former case, an individual has more information on the organisation. Generally speaking, a selective benefit is more relevant in the case of membership continuation. This gives more freedom to lobbyists, because compared with "veterans", new members are less knowledgeable about the aspirations of an organisation.

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<sup>15</sup> For details refer to Zeigler (1992)

### I.3.2. Corporatism

The vital aspects of public policy are often implemented after discussions between the government and monopolistic interest groups, which enjoy an exclusive right to represent employers and employees, for instance.

The position of corporatism as a form of relationship between the state and the society is that between liberal pluralism and totalitarian systems (Wiarda (1997), p. 6) Corporatism means: (ibid, p.7)

- a strong but not totalitarian state,
- structured interest groups whose number and functions are usually limited,
- interest groups as part of the state.

In the current practice of political science, corporatism is mostly used to describe tripartite structures functioning in certain forms in several European countries. This is referred to as neo-corporatism or democratic corporatism (refer to Wiarda (1997) and Katzenstein (1984)).

In general, corporatist governments “recognise” such umbrella organisations that represent a large number of smaller organisations (for instance, Trade Unions Confederation). Given the fact that corporatist decision-making is largely driven by economic incentives – salaries or income policy, trade balance, deficits, etc. – the government will approach only those interest groups that are directly linked to such policies. Hence, corporatism may be defined as an alliance between economic interest groups. By granting a quasi-formal status, for instance in the form of mandatory tripartite negotiations, the relation between leading associations and the government creates powerful incentives for economic interest groups. Under such a system, other entities resort to conventional lobbying techniques within the pluralistic political system.

Neither the pluralistic nor the corporatist system of relationship between the state and the society is ideal for representing the opinions of the members of voluntary organisations. While the incentive of selective benefits is less problematic in the case when the membership in a relevant association is almost compulsory and access is granted for potential applicants to the benefits gained, nothing suggests that the functional representation of corporatism is more appropriate than “laissez-faire” pluralistic representation. While in a pluralistic system the response of elites to members’ demand is imperfect, a corporatist system of elites may allow for isolation.

If teachers’ trade union openly supports a political party, because it promises more finance for education, it is an interest group. However, if Peter and George pull together, because Peter knows a minister and George is a friend of a state secretary and they get a government contract using their contacts, they are a group of crooks.

**Sme, 13. 11. 1999**

#### **I.4. Some other factors affecting public policy**

There are several factors affecting the course of reforms and their substance, which could be classified as informal rules. Culture, traditions and social norms in a given society are also powerful factors. **Social capital** and the so-called **arm's length relationship** will serve us as good examples.

##### **I.4.1. Social capital**

According to Putnam (1993), the state and the market are commonly viewed as two alternative mechanisms for solving social problems; however, history has shown that both the state and the market function more efficiently if ingrained in a civil society. Coleman (1990) criticised the economic theory of perfect competition on the market, as it is based on a proposition that the society is composed of individuals whose actions are target-driven, and the functioning of the social system is composed of a combination of the actions of individuals. Coleman claims that individuals do not act independently. Goals are not reached independently and interests are not always egoistic. In his opinion, interpersonal relations and networks are vital for reaching personal goals. He regards these relations and networks as assets - the capital of individuals, a kind of social capital. Sičáková (2000) states that success in coping with dilemmas between the collective approach and individual opportunism is contingent on a broader social context in which the life of a given society takes place. Voluntary co-operation is easier in a society that has inherited a sufficient amount of social capital in the form of reciprocity norms and networks, which have a potential to enhance efficiency of the society by support for and developing mutually co-ordinated activities.

There are several definitions of social capital, which give prominence to its manifestations rather than social capital per se. Social capital is a materialised informal norm promoting co-operation between two and more individuals. Putnam<sup>16</sup> interprets social capital as a network of social relationships and connections within a local community. A peculiar feature of social capital, in addition to trust, reciprocity norms and networks, is its nature of a public asset. As an attribute of a social structure in which an individual functions, social capital is not privately owned by any individual who benefits from it.

Several authors have attempted to elucidate the effects and relationships of social capital. In terms of its significance for political stability, state administration efficiency, and economic growth, Putnam (1993) places social capital before physical or human capital. Thus, social capital, like other forms of capital, is found productive and it allows to reach certain goals which in its absence<sup>17</sup> would not be feasible, or their implementation would be much more exacting. Social capital is vital for the functioning of the modern economy and constitutes the cultural component of the modern society. Fukuyama (1995) points out the impact of social capital on the forms of the organisation of businesses, which prevail in a concrete society.

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<sup>16</sup> Domino Fórum, July 19, 2001

<sup>17</sup> A group which enjoys credibility and internal trust has a chance to achieve much more than a comparable group which has no credibility or internal trust. This also relates to transaction costs.

Putnam<sup>18</sup> distinguishes two types of social capital. The first type is based on a specific reciprocity – I’ll help you and you’ll help me. However, a generalised reciprocity is more intriguing – I’ll help you and you’ll help him/her. The difference between specific and generalised reciprocity is that between trust in a close circle and trust in an open community. The author states that there is a difference between social relations that function as a bond between you and individuals of your kind, and between relations that establish ties between you and individuals that are different from you. The former is referred to as bonding, the latter as bridging social capital. Both forms are important. However, if the bonding social capital is the only form of social capital in the society, the outcome is Bosnia. Politically, the bridging social capital is of particular importance. Interpersonal relations with individuals that are different are vital for creating a climate of trust in a wider society.

Also, the negative forms of social capital and its potential consequences should be mentioned. For instance, mafia or corruption may emerge as a consequence of favouring one’s friends or relatives. In Denmark, corruption, if any, would be perceived as an isolated action of certain individuals who attempt to make use of their positions for personal benefit. In other words, it would reflect an anti-social conduct, which is not caused by social pressure or prevalent social norms. In such a case, identifying the agent of corruption would be easier, since the victim of corruption would be more likely to report it to the authorities. His or her punishment would be easier, as it would be in compliance with the generally accepted social norms. However, in communities with tighter social or interpersonal bonds, corruption would be more frequent, its identification more difficult and punishment more problematic.

#### **I.4.2. Arm’s length relationship**

The application of this principle to economic decision-making requires that interpersonal relations be excluded from economic decision-making that involves more than one party. Equal treatment of all actors is vital for a good functioning of the market economy. From the economic point of view, one ought to treat his or her relatives and friends as one would treat a stranger.

Cultural factors play an important role in analysing the arm’s length relationship. For instance, to Indians, certain type of behaviour widely accepted in Denmark would appear as immoral. In India, relatives would expect preferential treatment in dealings with individuals in the private sector as well as public administration.

In a country dominated by the arm’s length relationship, bureaucratic behaviour according to Weber’s bureaucratic model is likely to acclimatise faster. In some countries, establishing impartial bureaucracy, which would observe clearly set formal rules providing no room for nepotism or clientelism, could be in conflict with accepted **social**

If one comes to power,  
even his pig will go to  
Heaven.  
Chinese proverb

**norms**, which dictate that the family and friends come first. In communities expecting a public employee, like any other individual, to give preferential treatment to his or her relatives or friends, such behaviour would ultimately require violation of laws, administrative rules and divergence from “universal principles”. An individual who is

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<sup>18</sup> Domino Fórum, July 19, 2001

reluctant to render this kind of assistance is regarded as breaking the prevalent code of ethics and faces ostracism. India and Denmark are two extreme examples of the interaction of individuals within a community. The majority of communities can probably be placed between the two extremes.

Generally accepted social norms with a long-term effect are often more powerful than new and imported rules based on the arm's length relationship. This is another reason why some reforms that implicitly assume or require the application of the arm's length relationship are doomed to failure, or their implementation takes longer. The creation of social capital is considered to be a task for the "second generation" of economic reforms; however, as distinct from economic policy or economic institutions, social capital can be neither easily created nor shaped on the basis of public policy.

### **I.5. Other theoretical frameworks of deliberations on the public policy environment**

In addition to the above analytical frameworks, some other interdisciplinary approaches especially from the area of economics, law, and politology should be mentioned in conjunction with the public policy-making. Our aim is to draw attention to their existence, as some of these frameworks will be used for further deliberations in our study.

First and foremost, the analysis of the public policy-making process must take account of the overall modern microeconomic analysis and focus on the following questions:

- information asymmetry and related conclusions – the principal-agent theory (see Milgrom and Roberts (1992))<sup>19</sup>
- strategic interactions with emphasis on the game theory (Baird, Gertner and Picker (1998))<sup>20</sup>

Another important area is the so-called rational political economy, which tries to analyse the political process and public policy-making based on a framework which assumes rationality and the maximisation of utility for all parties to the process (i.e. behaviour based on a rational analysis of the maximum benefit for an individual). Its application to public policy and public administration is presented by Horn (1995).

New institutional economics (for instance, refer to Coase (1960), Miller, Benjamin and North (200), North (1190)) pursues the same direction only to some extent. It puts emphasis on the motivations of the individual parties to the process, however, it

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<sup>19</sup> These are questions about how transactions may be influenced by the fact that one party has access to relevant information while the other does not. This question is relevant from our point of view especially in the context of the principal-agent theory, whereby the principal hires an agent to carry out certain activities to the benefit of the former. This theory gives rise to interesting questions concerning the manner in which the principal ought to structure the contract with the agent, especially if the principle cannot control the agent's work or all its results directly. This theory is relevant for the electorate vs. politician relationship.

<sup>20</sup> The game theory and the analysis of strategic interactions deal with situations when an individual's decision and optimum results from his/her point of view depend on the decisions of another individual; hence, it is inevitable to take account of a mutual interaction of decisions and strategies.

underscores that these motivations can be co-determined not only by rational factors but also informal norms (customs, unwritten rules), which may – but need not always - bring results identical with those of the rational maximisation of utility.

For over three decades, law and economics has been in existence as an interdisciplinary science that examines the possibilities of the application of economic thinking to legal issues. Comparative law and economics is a unique component within this discipline, which focuses on the comparison and economic analysis of selected aspects of law in various countries (Cooter and Ulen (1997), Mattei (1998)). In conjunction with this, the authors wish to draw the reader's attention to the following relevant pieces of information:

- a concrete legal solution to a certain issue in a certain country often is, but need not be, the most efficient solution in the light of the economic analysis;
- given the fact that legal systems change gradually and slowly, it supports the assertions of new institutional economics, but rather in the field of formal norms;
- due to various processes in law-making, there is competition within and between countries;
- in spite of that, the basis of a legal system (especially continental vs. Anglo-Saxon law and also within these law systems) is largely determined historically; hence, it is not feasible to a priori postulate a gradual dominance of economically more efficient solutions;
- in addition, concrete law transplants tend to acquire a new meaning under new conditions.



## CHAPTER II: Basic Framework of Public Policy Process in Slovakia

### II.1. Introduction

In the previous chapter we dealt in general with the theoretical framework for the analysis of the public policy-making process. This chapter studies the empirical framework of public policy-making in Slovakia and primarily the process of formulation and adoption of the policy in terms of both formal and informal rules.

The public policy-making process in Slovakia is regulated by formal norms (Constitution of the SR, laws, secondary legislation, government resolutions, guidelines), as well as by non-formal norms (customs that have developed since the creation of the Slovak government on 1 January 1969, but mainly since the change of the political system in November 1989 and after the establishment of the independent Slovak Republic (SR) on 1 January 1993). In this part of the study, we will focus on the long-term stable formal rules laid down in the Constitution and in a number of other laws, as well as on the actual form of the public policy-making process based on the interoperation of the formal and non-formal rules.

The primary formal norm that regulates public policy-making at present is the Constitution of the SR adopted in 1992 and significantly amended in 2001. The parts related to public policy-making, however, have practically not changed since 1992, therefore we can do with a single description and analysis. The Constitution of the SR does not recognise the concept of public policy, but it speaks to the tools that are *de facto* used for its implementation, as well as to the mutual relations of the bodies responsible for the development and utilisation of these tools. Within the framework of strongly legalistic approach, characteristic not only of Slovakia, but also of neighbouring countries, the major tools of public policy implementation are laws and related secondary legislation. Apart from these, the Constitution also recognises documents such as the government manifesto, the principal measures aimed at ensuring the economic and social policy of the SR, and the principal issues of internal and foreign policy.

The most important bodies responsible for the development and utilisation of the abovementioned tools are the National Council of the Slovak Republic (the NC SR, the parliament) and the Government of the Slovak Republic. The NC SR, on the basis of its democratic mandate originating from the parliamentary election, has both direct and indirect effect on public policy tools. The direct effect is realised through initiating and enacting laws as the fundamental norms that set „the rules of the game“<sup>21</sup>. Only MPs and parliament committees have – apart from the government – the right to initiate legislation.<sup>22</sup> The indirect influence is exercised by the National Council through influencing the composition of the government, the contents of its mandate and through the oversight of its work.<sup>23</sup> Based on the government manifesto, the National Council has to pass a vote of confidence in the government, and it can remove individual government members from office. The parliament sets – through laws – the boundaries for the work of the executive by defining mutual relations between the segments of the executive and by limiting the room for the public policy

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<sup>21</sup> Art. 86, the Constitution of the SR

<sup>22</sup> Art. 87, *ibid.*

<sup>23</sup> Art. 86, 113, 114, *ibid.*

performed through the decisions of the government, ministries or other bodies of state administration.

The government, as a collective body of the executive, takes decisions not only on government-sponsored bills and government ordinances, but also on all principal measures aimed at ensuring the economic and social policy of the SR and on the principal issues of internal and foreign policy of the SR.<sup>24</sup> As a result, on the basis of the Constitution, the government concentrates in its hands the chief responsibility for the implementation of public policy that has already been adopted, as well as an important share of responsibility for the formulation of public policy proposals.

The process of public policy-making is further developed by a number of laws. Among the most important ones are the Act on the Division of Tasks and Responsibilities (the so-called “Competences” Act) and the Parliament’s Rules of Procedure.

The Act on the Division of Tasks and Responsibilities allocates responsibility for particular areas of policy to ministries and other central government agencies. The Act vests in the bodies the responsibility for the formulation of a single State policy in the allocated areas, as well as for the implementation of the policy.<sup>25</sup> The Act further tasks them to study „the issues in matters that fall under their jurisdiction and to analyse the results achieved... to take measures aimed at solving current issues... to work out strategies for the development of the assigned areas and for dealing with major issues, to prepare drafts of proposed legislation and – after the review process – to present them to the government.“<sup>26</sup>

On the other hand, the Parliament’s Rules of Procedure<sup>27</sup> govern, *inter alia*, how draft legislation is introduced to, and enacted by, the parliament, while a number of procedural provisions can have a significant impact on the contents of laws and therefore also on public policy. These are notably the following: the procedure of three readings, in the framework of which a draft law is passed<sup>28</sup>; the incorporation of the government’s opinions on MP-sponsored bills<sup>29</sup>; and the provisions on the coordinating committee and on proposing amendments to a bill.

Another level of legal norms in this area is secondary legislation, i.e. regulations of a lesser legal power, including even guidelines. Secondary legislation includes for example the Government’s Rules of Procedure; the so-called legislative rules; and the rules of presenting materials to the government meeting. These regulations mostly regulate in detail the process of formulating, consulting, presenting and adopting policy and legislative documents by the government and parliament. Despite the fact that these norms are easier to amend – for example by a decision of the government or the head of the Government Office, their development since 1990 has only been very gradual and their main features have been maintained.

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<sup>24</sup> Art. 119 *ibid.*

<sup>25</sup> Section 35 of the Act on the Organisation of Central Government Agencies

<sup>26</sup> Sections 36 and 37 *ibid.*

<sup>27</sup> Act of the NC SR No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, as amended by later legislation

<sup>28</sup> Sections 71 – 86 *ibid.*

<sup>29</sup> Section 70 *ibid.*

It is clear from the above brief overview that in Slovakia there is a hierarchically organised detailed network of formal norms dealing with the formulation and implementation of public policy. This set of norms has been gradually developing, but it shows a higher degree of stability than other formal rules of the game within the transition, which change rather rapidly. Together with the non-formal framework, the formal norms regulate the process of the formal public policy-making.

The main purpose of the existence of the above rules is to regulate the operation of relevant entities – actors – in the process in question. Who are then the major „players“ in the process of public policy-making? In our view and experience, they can be divided into the following groups:

- members of the government
- MPs
- civil servants directly involved in policy-making
- the government’s formal corporatist counterparts
- foreign counterparts
- media
- NGOs
- local and occupation-based self-governments
- non-formal partners and interest groups (esp. members of various decision-making and advisory bodies not belonging to any of the previous groups)

These groups are either formally responsible for the preparation and implementation of the public policy in various areas, or they seek to influence it. Their role in this process – except for the MPs and members of the government, is analysed in another chapter of this study.<sup>30</sup> In the following part, we will focus on the process of the formulation and adoption of public policy itself.

## **II.2. Process of formulation and adoption of public policy – stylised generalisation**

Even though the process of preparation and adoption of public policy varies from case to case, this part of the study aims to present a stylised generalisation of the process, in which its primary features can be observed.

From the formal point of view, any significant modification of public policy<sup>31</sup> in a particular area can only be approved by the government or parliament, be it in the form of a legislative document, policy document or even in the form of a budget modification. Hence, the two institutions operate as the key points, through which any

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<sup>30</sup> The study does not deal with the government members and MPs, because in terms of public policy-making they do not represent an interest group, but are decision-making bodies that are being influenced by interest groups. Their appointment and their decision-making process are procedurally regulated in detail, and their mandate comes directly from the voters, to whom they give accounts regularly every four years. The purpose of this study is to examine the role of other participants in the process and in exercising influence over political representatives.

<sup>31</sup> Less significant modifications are frequently within the power of individual ministers or other representatives of public administration, be it on the basis of their authority to issue secondary legislation or on the basis of the structure of formal norms that gives them a room for „manoeuvring“.

important formal decisions about a modification of public policy in a particular area must pass, and which also have constitutional responsibility in this field.<sup>32</sup>

With regard to a modification of public policy in a particular area, we have to distinguish between three key notions: **impetus, sponsor and decision-making body.**

An impetus for a modification of public policy is an event or a factor, which led to presenting the proposal for the modification. This can in principle be anything: the government manifesto, the effort to meet election promises, emergency situation due to external events, media pressure caused by a particular case or scandal in a particular area, pressure exerted by an interest group, or an initiative originating in the belief in the benefits of the proposed modification or in the belief in the popularity of the proposal.

A sponsor is a person or a group of persons that has the right of the so-called agenda-setting, i.e. the right to formally present a proposal for deliberations of the relevant decision-making body – the government or the parliament. Legislation stipulates who can be a sponsor. For government deliberations, a proposal can be put forward by its members, heads of other central government agencies, the NBS Governor, the Prosecutor General, the head of NKÚ SR (the Supreme Audit Office of the Slovak Republic) and a number of other public officials. For parliament deliberations, proposals can only be put forward by MPs (individually, as a group, or as a parliamentary committee) and by the government.

For this purpose, a decision-making body is the government or the parliament. In the case of the government, for a proposal to be passed, the simple majority of **all** members of the government have to be in its favour (at present it is 11 out of 20). In the case of the parliament, the simple majority of MPs present at the session is required<sup>33</sup>, with the exception of constitutional laws where the three-fifths majority of all parliament deputies is needed.

The process of preparation and approval of a change in public policy in Slovakia recognises two primary trajectories – governmental and parliamentary. They are described in detail in the section below.

In our country, similar to most systems with the parliamentary system of government<sup>34</sup>, the government dominates in the process of public policy-making. This general dominance is in Slovakia further strengthened by a number of factors:

- parliament is overburdened due to the need to re-design the legislative and institutional framework while building market democracy, therefore it is not

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<sup>32</sup> To be more correct: the statement does not apply to cases when an independent body of public authority decides to significantly modify an area of public policy under its control, such as the National Bank of Slovakia and monetary policy, but mainly the judiciary, where decisions of individual courts as well as of the Constitutional Court can have an important impact on public policy.

<sup>33</sup> for parliament to be quorate, simple majority of MPs has to be present, i.e. minimum 76 deputies.

<sup>34</sup> in this system, the Government, as the supreme body of the executive, is the reflection of the power situation in the parliament, to which it reports, and on whose vote of confidence it depends (for maintaining the parliamentary majority). Contrary to that, for example in the USA the executive is separated from the legislature thanks to the direct election of the supreme representative of the executive – the President, and therefore the parliament itself (Congress) and individual deputies in it, make much more use of their right to initiate legislation.

possible to have any more significant political and time scope for the initiative of MPs;

- the overburden has amplified, especially since 1999, due to the need to adopt legislation necessary for the accession to the European Union;
- poor technical and intellectual support for parliament deputies in the preparation of legislative and policy documents. Until the introduction of assistant posts in January 2001, MPs only had minimum possibilities to build technical support for their work (with the exception of the Parliamentary Institute);
- partial existence of a vicious circle in that due to all above factors the political leaders with the biggest zeal for public policy are mostly interested in the posts in the executive, because it is there where they can better realise their ambitions.

The existence of this phenomenon can be quantitatively evidenced on the basis of the statistics on the adoption of laws in the period of 1994 – 2001.

**Table II.1: Adoption of laws in the National Council of the SR, 1994 – 2001**

	Number of laws adopted	Number of adopted government bills	Number of adopted MP-sponsored bills
1994 – II. part	8	2	6
1995	84	68	16
1996	79	64	15
1997	73	67	6
1998 – I. part	69	57	12
1998 – II. part	17	10	7
1999	100	84	16
2000	126	96	30
2001 (until the 50 <sup>th</sup> session)	60	51	9

Source: Office of the NC SR

We can notice almost absolute dominance of the government bills as well as a gradual increase in the number of laws adopted that is mainly due to the EU accession process and that illustrates the growing overburden on the political and administrative capacity of the executive, which we revisit in Chapter IV.

## **II.2. Trajectories of public policy-making**

### **II.2.1. Governmental trajectory**

The primary document outlining the orientation of the government and its objectives in the individual areas of public policy is the government manifesto, which every government must present to the National Council within 30 days of its appointment. On the basis of the manifesto, parliament passes a vote of confidence in, and gives mandate to, the government.

The government manifesto can therefore be viewed as the mandate of parliamentary majority for the government to prepare and implement steps proposed in the manifesto. This mandate has two aspects. First of all, it is a general expression of confidence in the government by the majority of deputies representing – based on the

outcome of general election – citizens. At the more practical level, however, the expression of confidence based on the manifesto, can also be perceived as a non-formal commitment of the parliamentary majority to support bills introduced by the government in accordance with the manifesto.

Under the conditions of a coalition government – not only in Slovakia – a government manifesto also fulfils another non-formal, albeit a crucial, role: the role of an agreement between the individual political parties participating in the formation of the government, on its objectives and tools in the individual areas of public policy. The period of preparation for the formation of the government and its manifesto should then be a period, during which the future participants in the government agree on the principal limits and ambitions of governing, which – when complied with – will make it possible for the government, its members and for parliament to relatively peacefully and productively work within the agreed confines.

If a government manifesto is to successfully meet the above objectives, the following two conditions must be met:

- the manifesto must be credible. In other words, all participating parties must believe that non-compliance with it on the part of individual members of the Government or deputies – unless previously agreed with other members of the coalition – will have significant negative implications for them. If this is not the case, the “rules of the game” are not being enforced;
- the manifesto must be clear and concrete under the circumstances given by environment. The more vague and general political declarations or provisions, open to different interpretations, prevail in the manifesto, the smaller is its value as a binding agreement between the government and the parliament as well as between individual parties forming the government.<sup>35</sup>

When comparing government manifestos since 1993, it can be concluded that there is a gradual improvement in both above areas. Despite that, upon comparison with government manifestos in other smaller West European countries with a similar political system, it can be concluded that there is a considerable room for increasing clarity and concreteness of government manifestos in Slovakia. The problem in Slovakia, however, is a high proportion of uncertainty in both external and internal environment, which makes it difficult to achieve clear and detailed *ex ante* political agreements.

For the sake of comparison, in Finland „in the 19th century the government manifesto was of a very general nature and its development did not take a long time. From the end of the Second World War, and especially during the last thirty years, the development of government manifesto became an important and frequently time-consuming process, which includes detailed examination of options faced by the new government in the areas of economic and social policy, and which also includes a discussion with a number of experts and representatives of ministerial apparatuses... In that way, the government manifesto became in the 1980s - 90s a rather extensive document creating a public policy framework for the government during its term of office.“ (Selovuori (1999), p. 51)

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<sup>35</sup> For example in Finland the term used for government manifesto also is „the action plan of the government“.

We can equally speak about a very detailed procedure in Sweden, too. Egardt (1998) concludes, on the basis of the experience from the country: „If there is no joint political agenda that can be relied on, bigger and smaller political differences can easily lead to a paralysis of the government and its eventual fall.“ (p. 16) That is also why he illustrates, using the example of the formation of government in 1991 with four coalition partners, the importance of building a detailed consensus right at the outset. Representatives of parties together identified 147 issues, which they considered relevant, and in which there was no previous agreement. It was possible to solve 140 of them in the discussions of the parties’ representatives at lower and middle level. Only the remaining 7 issues were dealt with directly by the leaders of the parties and after agreeing on those, they could form a coalition with clearly agreed objectives (ibid., pp. 20–21).

**Table II.2: Comparison of government manifestos of the Slovak and Finnish governments in the years 1998 and 1999 in the field of education**

<b>Slovak government</b>	<b>Finnish government</b>
<b>Intended policy</b>	<b>Intended policy</b>
Education development policy	Free pre-school education for 6-year-olds
New law on schools	Consider lowering the age for the commencement of mandatory school attendance
Law on financing	Development of education for "adults" (life-long learning)
Reconsideration of the system of financing private schools	Polytechnics’ orientation toward improving the quality of education
Audit of funds utilisation by school self-governance	Support for structural development of education
Strengthening school self-governance	Public financing of Finnish innovation programmes
Tax relieves for schools	Support for free-of-charge cultural activities
Law on civil and public service	
Services for teachers provided through methodology centres	
Devolution of pre-school facilities and primary schools to local government	
Placing more emphasis on extra-curricular education	
Analysis of the network of secondary schools + optimisation	
Standardisation of education	
Elimination of corruption in entry examinations	
Increase level of education in national minorities	
Transfer financial and personnel powers back to district and regional authorities	
Policy of the development of higher	

education for the 21 <sup>st</sup> century	
Support to the economics of higher education institutions (HEIs) as non-profit organisations	
Higher Education Act	
Strengthening integrity of HEIs	
Differentiation of HEIs and their internal diversification	
Development of post-graduate study	
Consider founding a catholic university	
<b>Concrete measures:</b>	<b>Concrete measures:</b>
Enabling HEI students to have access to affordable boarding, accommodation, transport and effective assistance in the form of stipends	Examine results of experimental classes in higher secondary schools
Re-introduce independent school inspection	Improve students' knowledge in mathematics and natural sciences
Introduce a principle, based on which payments from parents and students stay at the school	Carry out a high-quality analysis of teaching at polytechnics
Assistance to the socially disadvantaged	Develop skill tests for apprentice schools
Change in the contents of education in primary schools	Implementation of practical training
Improve quality of final exams at HEI and secondary schools	Evaluation of teachers and education on a nation-wide basis
Bilingual school certificates and bilingual teacher records	Reduce time needed to complete higher and postgraduate education
Improve teaching of Slovak language in schools with Hungarian as language of instruction	Establish Virtual University
Increase the number of students in HEI	Develop student grants
Internationalisation of the current system of evaluation and accreditation	Increase the baseline for grants that cover students' cost of living
Completion of student hostels	Continue establishing "Centres of Excellence"

Source: Government Manifesto of the Government of the Slovak Republic, November 1998, Government Manifesto of the Government of the Republic of Finland, April 1999

The government manifesto in Slovakia is reflected in two basic planning documents of the government in the area of public policy – the Government's Work Plan and the Plan of the Government's Legislative Tasks. These annual documents are approved by the government at the beginning of each year and therefore they can be regarded not only as the implementation plan for the government manifesto, but also as the opportunity to complement key government priorities, set beforehand, by other tasks that are the result of ministers' initiative or the result of requirements not covered in the manifesto.



On the basis of the Government's Work Plan and the Plan of the Government's Legislative Tasks, individual sponsors are tasked to present their proposal for the government deliberations in the scheduled month.

The manner, in which a member of the government or another sponsor prepares the proposal, is fully in their authority. As a rule, the sponsor assigns the responsibility to an organisation unit within his/her agency. Especially in politically important or complex tasks, use is frequently made of joint expert groups of staff from central government agencies and other sponsors, or of ad hoc committees or groups working fully outside the central bodies.<sup>36</sup> The draft then frequently goes through the so-called intra-agency review process, in which other units within the sponsor's agency comment on the working version of the draft. The final version is approved at the meeting of top representatives of the particular central agency.

Such a draft proposal could theoretically be presented by the sponsor directly to the government meeting that would pass it without or with modifications, or reject it. However, due to the fact that the government is overburdened and due to its political nature, such a system would not be efficient nor would it serve its purpose. Therefore there are several intermediate steps between the development of the so-called ministerial version and the introduction of the draft to the government meeting.

*The first such step is the so-called inter-agency review process. In the framework of this process, the sponsor sends the draft to all central bodies that are in any way concerned with the proposal and possibly to other relevant institutions as well. In practice almost every draft is sent for commenting to all central government agencies, deputy prime ministers and relevant non-governmental institutions (trade unions, employers, local and occupation-based self-government, etc.) Persons, entities and institutions addressed in this way, can present their comments on the draft. New rules for the inter-agency review process have been in effect since 1 November 2001. Their main objective is to make the process electronic and democratic by moving a large part of it to the web, in order to make it freely accessible to the public.*

The purpose of the inter-agency review process is to elaborate the draft in its technical and political aspects so that the burden to the government meeting is minimised and conflicts are prevented. Its objective then is not to solve all differences and disputes between the involved institutions and members of the government, but to eliminate those, which can be eliminated. The differences that cannot be eliminated through discussions, must be decided on by the government.

An important role in the process of reaching technical and political consensus on a presented proposal is played by the government's advisory bodies and those of individual ministries. They mostly discuss the drafts before or after they go through the inter-agency review process, and are authorised to present recommendations to the ministers and the government. Their real purpose is that they represent forums, on which the government members, other politicians, but also interest groups and experts with a particular interest in the relevant field, can discuss, test reactions, but primarily they can seek consensus or at least a majority stance of all involved parties. Table II.3. illustrates the composition of ministries' advisory bodies. As we can see, there is a

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<sup>36</sup> For the preparation of higher education reform strategy, the minister of education appointed a committee, in which the representatives of his ministry were a minority. For the preparation of central government audit, the Deputy Prime Minister for Economy set up a working group, in which local and foreign experts from outside of government dominated.

strong dominance of representatives of ministries and state administration. Except for a couple of ministries, the involvement of people from outside the government agencies is relatively low.

**Table II.3: Composition of advisory bodies of most ministries<sup>37</sup>**

Ministry of	Ministry's political representatives *	Ministry representatives	Subordinated organisations	Other government agency	Public administration total	External **
justice	11.6%	60.5%	0.0%	14.0%	<b>86.0%</b>	14.0%
privatisation	36.4%	63.6%	0.0%	0.0%	<b>100.0%</b>	0.0%
transport, post and telecom.	25.0%	75.0%	0.0%	0.0%	<b>100.0%</b>	0.0%
interior	15.6%	34.4%	18.8%	0.0%	<b>68.8%</b>	31.3%
health	19.6%	29.4%	2.0%	7.8%	<b>58.8%</b>	41.2%
economy	7.8%	38.3%	6.3%	26.6%	<b>78.9%</b>	21.1%
construction and regional development	13.1%	80.3%	3.3%	1.6%	<b>98.4%</b>	1.6%
foreign affairs	5.6%	94.4%	0.0%	0.0%	<b>100.0%</b>	0.0%
finance	6.7%	57.8%	22.2%	6.7%	<b>93.3%</b>	6.7%
education	4.8%	25.3%	6.0%	20.5%	<b>56.6%</b>	43.4%
labour, social affairs and family	4.0%	19.6%	6.0%	30.4%	<b>60.0%</b>	40.0%
culture	1.2%	16.5%	11.9%	2.7%	<b>32.3%</b>	67.7%

Source: central government agencies, December 2001

\* minister, deputy ministers

\*\* about a half of the external experts come from academic setting and the other half from non-governmental organisations

After going through the steps described above, the proposal is presented to the government meeting to decide on it. With the exception of draft legislation, this is the final step in the process due to the role of the government as the supreme body of the executive. However, proposals related to key strategic documents, for which the sponsor or the government want to win over a broader and explicit support, are presented to the parliament that adopts resolutions on them (e.g. Military Strategy of the SR, Defence Strategy of the SR, Policy for Development of Science and Technology).

If the proposal is a draft law, after approving it the government presents it to the National Council.

## II.2.2. Parliamentary trajectory

<sup>37</sup> All ministries were asked for the data, but some have not provided the data in a suitable form

Parliament deputies can start an initiative to influence public policy-making mainly in two ways: by presenting MP-sponsored bills and proposals for resolutions of the National Council.

MP-sponsored bills can be introduced by an MP, a group of MPs, and by committees of the National Council. An MP-sponsored bill is first presented to the government and only after the government has taken a position on it, it is discussed in the National Council.<sup>38</sup> This further underlines the key role that the government plays in the process of public policy-making in Slovakia. On the basis of the previous experience we can identify primarily four basic objectives of MP-sponsored bills in Slovakia:

- „supplementary“ legislative activity – these are bills or proposals of law amendments, which are not politically too controversial or relevant for legislative work of the government, and are either of a technical nature, or are relevant only for interest groups pertaining to a particular field. There is no significant opposition against these proposals. In this case, a deputy, or a group of them, propose an amendment to a law, or a new law, with the purpose of dealing with the particular field, and there is a high likelihood of the proposal being passed. For example: the proposal of a group of MPs, providing for transparency in public procurement, which the National Council adopted in December 2001;
- „warning“ legislative activity – these are bills or proposals for law amendments, which are related to a particular politically significant topic. They represent a very important change in public policy in a particular area, and are mainly introduced by deputies who support the government, without any higher likelihood that the whole proposal or a bulk of it will be passed. Their purpose is to exert political pressure on the government to act on the issue or to subscribe to it, or the purpose can be to outwardly demonstrate the action power of the government-supporting deputies. For example: the initiative “Big Bang” presented by the political party KDH in 2001 (even though a number of measures were passed, all the key ones were either not passed, or were significantly modified);
- „tactical“ activity – these are bills or proposals for law amendments, which are related to a particular politically significant topic. They represent a very important change in public policy in a particular area, and are introduced by opposition deputies, without any higher likelihood that the whole proposal or a bulk of it will be passed. Their purpose is to build an agenda on the part of the opposition politicians and to demonstrate their being different from the government. For example: the bill on proving the origins of one’s assets, introduced by the deputy R. Fico in 2001;
- „non-partisan“ legislative activity – these are bills or proposals for law amendments, which are related to a particular politically significant topic. They represent a very important change in public policy in a particular area, and are introduced or supported by deputies who support the government as well as by the opposition deputies. Their purpose is to push forward the proposal, support for which is not divided along the government – opposition division line. For example: the Freedom of Information Act adopted in 2000.

The above classification is of course significantly simplified. Moreover, due to the *ex ante* uncertainty about the destiny of the initiative, in a single MP-sponsored proposal there can be several objectives and strategies combined.

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<sup>38</sup> Section 70 of the Parliament’s Rules of Procedure

Another way to influence public policy through the so-called parliamentary trajectory are the resolutions of the National Council. In its resolution, the National Council can put the government under the obligation to take a particular action in public policy. For example, in 1994 the parliament succeeded through its resolution on water management policy to bind the government to incorporate the alternative water management strategy "Water for the Third Millennium", which was developed by three Slovak non-governmental organisations (Slovak Rivers Network, Slovak Association for Sustainable Life and Slovak Association for Nature and Landscape Protection (SZOPK)).

The National Council of the SR in deliberating on the Report on Tourism Development and the National Programme for Tourism Development in the SR, in its Resolution No 1336 of 5th April 2001, asked the Government of the SR to present in October 2001 a proposal for the establishment of the National Tourism Bureau, as a central government agency, with the effect from 1st January 2002 (Ministry of Economy of the SR (2001)).

The purpose of parliament resolutions is not to create a legally binding framework for the work of the government or other bodies of public authority, but to express, in the particular issue, the will of the body, on which the government, as well as other bodies of public authority, eventually depend, directly and indirectly.

### **II.2.3. The procedure of the enactment of laws in the National Council of the SR**

The procedure of legislating in the National Council is equal for both government-sponsored and MP-sponsored bills, with the only exception that a government's position has to be requested on MP-sponsored bills.

Bills go through three readings.

The first reading serves the purpose of checking whether there is any will in the parliament to deal with the bill. This is a rather simple voting, in which the majority of deputies present must agree with „letting“ the bill to proceed to the second reading. The purpose of this provision is to enable the National Council to work efficiently – there is no point in the committees or the plenary dealing in detail with bills, for which there is no fundamental will to support them.

The second reading is designed to deliberate on the bill in the parliament committees and to vote in the National Council plenary on the proposed amendments to the bill that were raised during committee deliberations. First, the National Council decides about allocating the bill to committees and designating the co-ordinating committee.<sup>39</sup> Then the committees discuss the draft, while the co-ordinating committee is the last one to do so. The committees' deliberations are *de facto* discussions between the committee members and the bill sponsor.<sup>40</sup>

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<sup>39</sup> Section 74, para 1 *ibid.*

<sup>40</sup> Section 76 *ibid.*

The outcome of committee discussions is a report for the plenary of the National Council.<sup>41</sup> The report first of all contains the committee's recommendation to the National Council on whether to pass the bill, and secondly it contains proposed amendments or additions to the bill, agreed by the majority of the committee. If the bill was discussed in several committees, the report for the plenary is a joint one, and is developed by the co-ordinating committee.<sup>42</sup> For the joint report of several committees, the co-ordinating committee has to also adopt its opinion on the proposals of other committees.<sup>43</sup>

The second reading therefore is a technical mechanism, which is to increase the efficiency of the parliament's work. It is not necessary for the bills to be discussed in all committees, especially if it is a rather specialised norm. The role of the co-ordinating committee can be regarded as the key one. There is a double logic in it. Individual deputies cannot, and should not for that matter, assume their own position on all bills and all proposed modifications. The stance of the co-ordinating committee therefore plays a signalling role for the other deputies (namely for the deputies of the governing majority), according to which they can – but do not have to – decide when voting on the bill. And this, in turn, motivates the deputies in the co-ordinating committee to deal more in detail, and more profoundly, with the bill and its possible improvement.

The third reading is there to correct technical errors; to push through proposed amendments to the bill, which are supported by at least 30 deputies; and to take a final decision of the majority in the National Council of the SR on whether the bill is enacted or not.

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<sup>41</sup> Section 78 *ibid.*

<sup>42</sup> Section 79, para 1 *ibid.*

<sup>43</sup> Section 79, para 4 *ibid.*

## **CHAPTER III: KEY PUBLIC POLICY PLAYERS IN TERMS OF INTERESTS ADVOCACY**

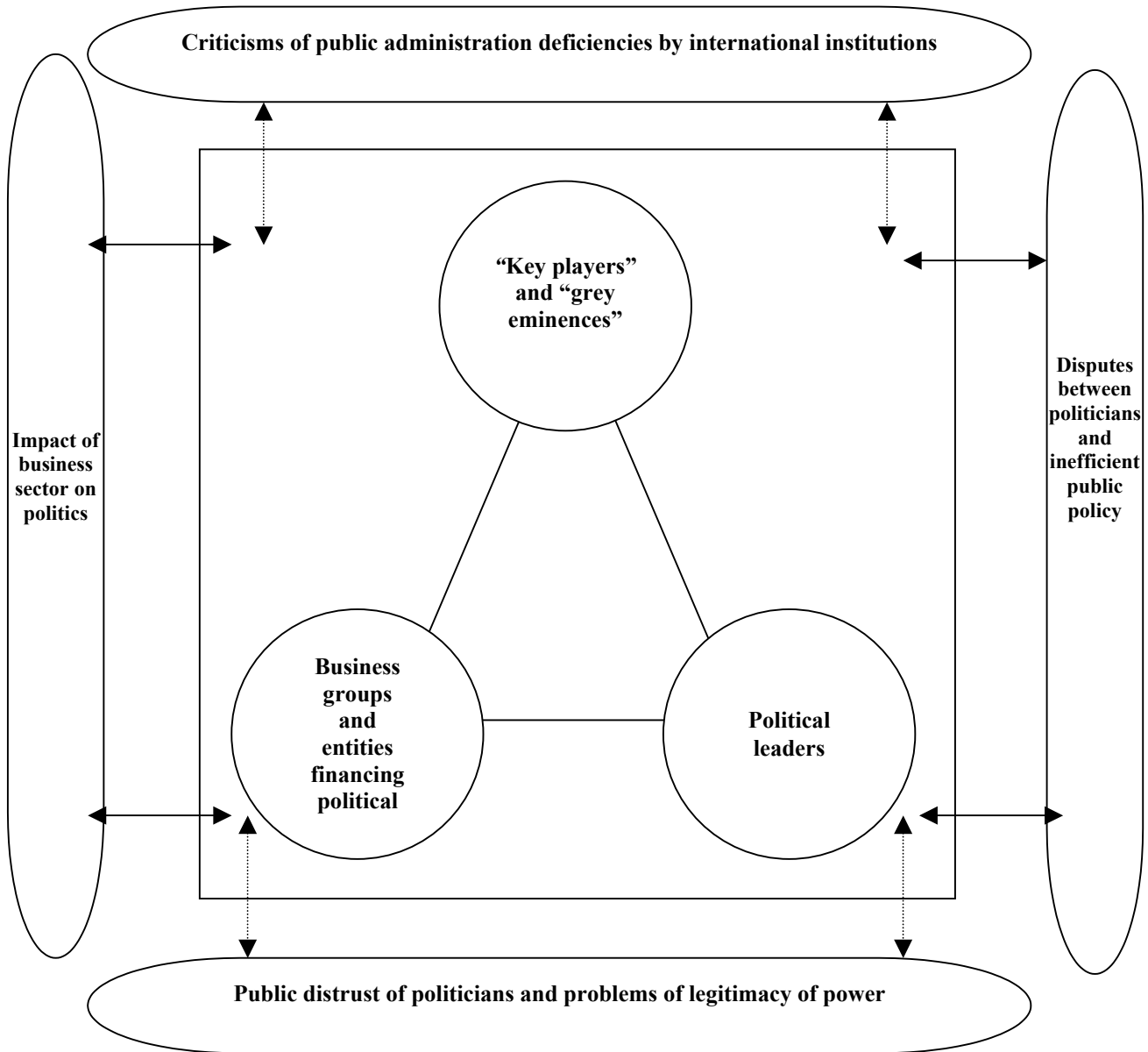
### **III.1 Introduction**

In Chapter II we concluded that Slovakia has an elaborate hierarchical network of formal norms that deal with public policy formulation and implementation. The main purpose of the existence of these rules is to regulate the acting of the relevant entities – key players – within the process in question. We have identified the following groups on which we would like to focus in this section:

- the government's formal corporatist counterparts;
- civil servants directly involved in policy-making;
- foreign counterparts;
- media;
- the third sector (NGOs);
- local and professional self-governments

It is our intention to identify each group in more detail and to analyse its role and vested interests in public policy-making. To facilitate a better insight into public policy-making, we attach two charts describing an open and closed public policy-making process. In Slovakia, the public policy-making process can to a large extent be described as open, which explains our choice of the key players to be analysed.

**CHART III.1: Closed public policy-making model**

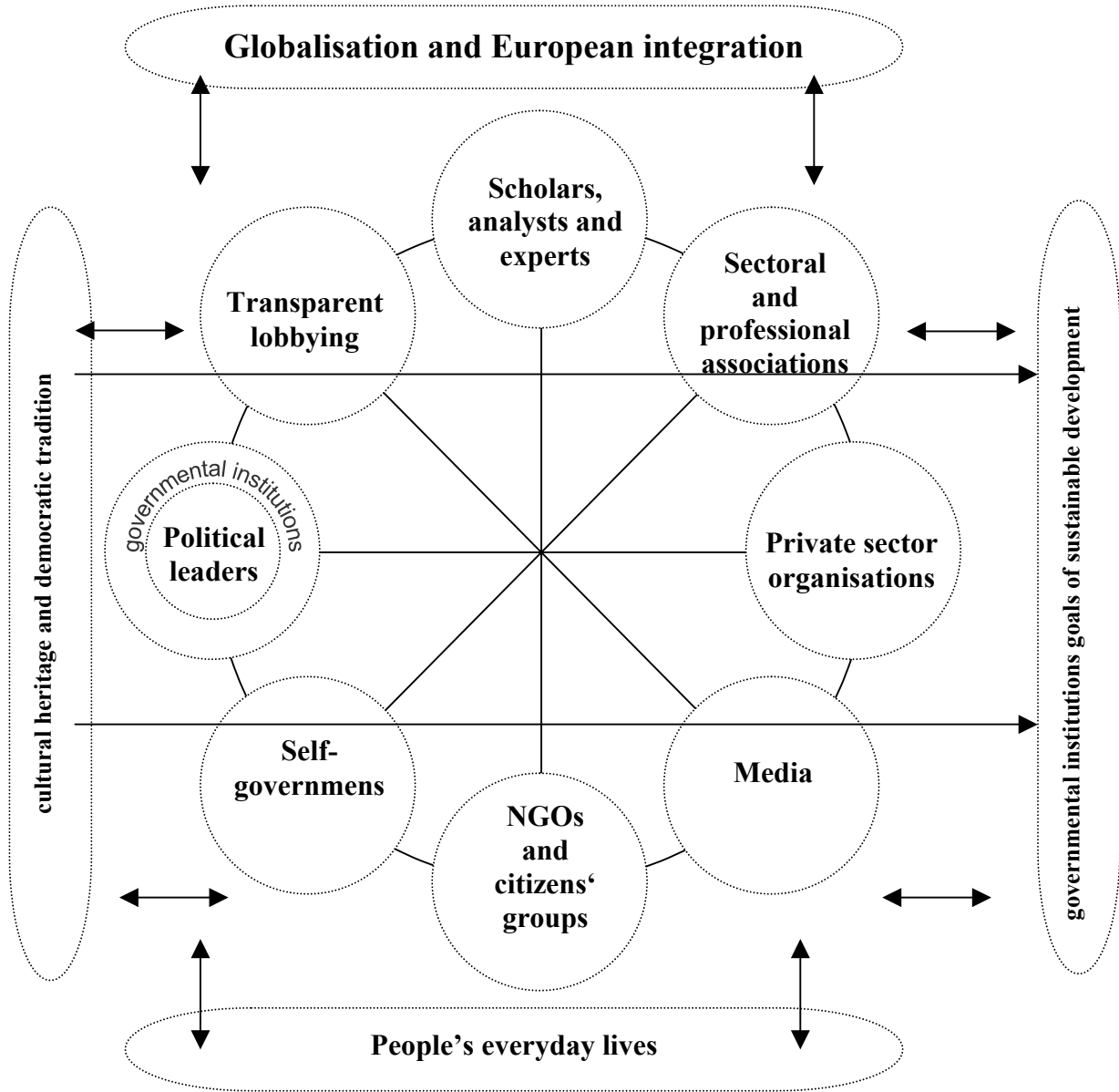


----- Weak links and influences

\_\_\_\_\_ Strong links and influences

Source: UNDP (2001)

**CHART III.2.: Open public policy-making model**



----- Weak links and influences

\_\_\_\_\_ Strong links and influences

Source: UNDP (2001)



In this chapter we also refer to a case study describing the enactment of Civil Service Act in order to illustrate and demonstrate the impacts different groups have on a particular significant change in public policy.

### **III.2 Government's formal corporatist counterparts<sup>44</sup>**

When we refer to the government's formal corporatist counterparts, we imply those representatives of employers and employees who, together with government and state administration officials, form what is known as tripartite bodies. Corporatism in general is, admittedly, a much broader notion (cf. Chapter I).

Even though the Slovak model is mostly underpinned by the German and Austrian models, one can nevertheless identify certain important differences. The Austrian model is based on the compulsory participation of employees and employers in professional chambers. Chamber members elect their management who thus have a direct democratic mandate to represent them. Despite the fact that the turnout rate in such elections has been gradually decreasing from 65% in the 1950s-1970s, it still remained at more than 30% in the 1990s (Crepaz (1995), p. 76). In Slovakia, on the other hand, there is no such formal democratic mandate for the representatives of trade unions and employers to rely on. Employers are represented by the Federation of Employers' Unions and Associations (AZZZ) and employees by the Trade Unions Confederation (KOZ), both acting as voluntary associations. In practice, however, this difference is far less dramatic, as even in Austria during tripartite bargaining both chambers are to a large extent dominated by representatives of employers' and unions' voluntary associations, resulting in a situation very similar to that in Slovakia.

Hence, AZZZ and KOZ are voluntary umbrella organisations uniting only some of the relevant groups and their internal arrangements and processes are no more regulated by laws or other regulations than those of any other non-governmental organisation. The only requirement under the Social and Economic Partnership Act (No. 106/1999 Coll.) is that of representation. Under the law, the representation requirement is complied with by those organisations of employers and employees that<sup>45</sup>

- associate employees/employers from most sectors of the economy;
- associate employees/employers who employ employees jointly accounting for at least 10% of all employees;
- operate in at least five administrative regions.

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<sup>44</sup> A significant body of factual material used in this section comes directly from AZZZ and KOZ.

<sup>45</sup> See § 2, sections 2 and 3

### **BOX III.1: Federation of Employers' Unions and Associations (AZZZ)**

The Federation of Employers' Unions and Associations (AZZZ) is the uppermost organisation of employers in the Slovak Republic (SR). AZZZ was established on 20 March 1991 as an interest association of legal entities. Its membership base comprises employers' and entrepreneurs' unions and associations. AZZZ goals include, but are not limited to, "creating conditions for a dynamic growth of business in the Slovak Republic and for the protection and pursuit of the joint occupational, business and commercial interests of its members, especially during tripartite negotiations pursued under the reconciliation system known by the name of the Council for Economic and Social Accord (RHSD) with central state authorities and trade union bodies on issues of economic and social policies and problems addressed as part of collective bargaining agreements, including the General Accord."

The AZZZ membership base includes 37 unions and associations grouped into 7 sections:

- Slovak Board of Industrial Unions
- Transport Section
- Agriculture and Food Section
- Co-operatives' Unions
- Small and Medium Business Unions
- Finance and Commerce Unions
- Municipal, Health Care and Education Unions

The AZZZ supreme body is the general meeting of all member organisations. The AZZZ presidium is an operative management body made up of the following members:

Ing. Michal EÁCH, AZZZ president (Chemosvit, a.s.)

Ing. Silvester ADAMĀA, president of Slovak Consumer Co-operatives Union

Ing. František BRUCKMAYER, AZZZ general manager

Ing. Ladislav VAŠKOVIĀ, CSc., president of ZBP (VUB, a.s.)

Ing. Karol PAVLŪ, president of ZPS

RNDr. Jozef KOLLÁR, president of ZCHFP SR (Duslo ŠaĀa, a.s.)

Ing. Václav FABRICI, president of ZPD SR

Ing. František SLÁVIK, president of ZSPS (Priemstav, a.s.)

Ing. Jozef PITTNER, president of ZHĀPG SR (ZSNP, a.s.)

Michal SÝKORA, president of ZMOS [Association of Towns and Communities of Slovakia]

Ing. Andrej EGYED, president of ZZDPT SR (ŽSR, a.s.)

Ing. Jozef UHRÍK, CSc. vice-president of ZSP SR (Volkswagen Slovakia, a.s.)

In addition to the presidium, AZZZ also has a supervisory board that oversees its management and operations.

Source: Federation of Employers' Unions and Associations

## **BOX III.2: Trade Unions Confederation**

The Trade Unions Confederation of the Slovak Republic (KOZ SR) is a voluntary association of trade unions and union associations with a similar or the same status. The KOZ mission is to “associate trade unions and union associations in order to protect unionists’ rights, advocate their economic, social, cultural and other interests and needs that arise from, or are connected with their employment and occupations.” It has 42 member unions. The number of members has been declining gradually and, for a number of reasons, the data disclosed by KOZ cannot be regarded as entirely reliable. However, KOZ reports that at present its member unions have 700,504 members, i.e. approximately 33.3% of all employees. (In 1990 the trade unions had 2,443,977 members.)

The Trade Unions Confederation has a relatively complex decision-making structure made up, among other things, of

- The Convention (the KOZ supreme body convened by the KOZ Congress at least once in four years upon the request of at least two thirds of the Confederation members. It elects the KOZ president, vice-presidents, Executive Board members and auditors)
- The Congress (the KOZ supreme body in between conventions; it usually meets once a year to discuss all Confederation activities over the past year and set principal objectives for the following year; the Congress is comprised of KOZ Board members and standing members elected by the relevant bodies of member trade unions using an approved formula)
- The Board of Chairpersons (a co-ordination body of the Confederation members serving as a forum to exchange information between trade unions and as a platform to formulate strategic decisions by KOZ; it is made up of trade union presidents or vice-presidents empowered by their respective unions; the KOZ president and vice-presidents are deemed ex officio members; the meetings of the Board of Chairpersons are convened by the KOZ Board as necessary but at least three times a year)
- the Executive Board (the Confederation’s executive body that runs KOZ in the period between Congress meetings) is responsible for compliance with the KOZ manifesto and objectives set for a given calendar year; the Executive Board has 19 members including the KOZ president and vice-presidents and members representing manufacturing and non-manufacturing trade unions; the Executive Board is convened by the KOZ Management Board as necessary but at least once a month)
- the Management Board (a body responsible for the operational management of the Confederation; it consists of the KOZ president and vice-presidents and is convened by the KOZ president as necessary but at least once in a fortnight)

The KOZ Management Board is currently made up of the following persons:

- Ivan Saktor, KOZ president (comes from the SPOJE [Telecom] union)
- Eugen Škultéty, KOZ vice-president responsible for trade union policies (comes from the KOVO [metalworkers’] union)
- Peter Gajdoš, KOZ vice-president responsible for economic policies and social partnership (has a state administration background and had not been a trade union official before)

- Juraj Blahák, KOZ vice-president in charge of manufacturing unions (comes from the CHÉMIA [chemistry] trade union)
- Igor Lenský, KOZ vice-president in charge of non-manufacturing unions (comes from the public administration trade union - SLOVES)

Source: Trade Unions Confederation

As a result, these top organisations are in reality controlled only by a handful of persons with a very low level of real and enforceable accountability towards the groups they are supposed to represent, i.e. employees and employers.<sup>46</sup> This statement appears more pertinent in respect of employers than trade unionists. In the latter group, their participation in the process is often understood as a tool to promote one's political career. Some of the better-known KOZ representatives are Ladislav Polka and František Kurej in RHSD and the late Ján Ducký in AZZZ.

Under the previously described arrangement, accountability appears to be spread over several tiers, i.e. the part of a relevant group that is associated in a trade/employers union elects the management of that union, who then becomes part of an umbrella organisation whose management they in turn elect. The internal structure that has historically evolved favours groups that

- have been organised since the 1990s (e.g. large, formerly state-owned enterprises in case of employers)
- groups with a significant level of unionisation (e.g. trade unions acting in the public sector).

It can be observed that the governing bodies of AZZZ are largely represented by the managers of large industrial and financial companies who also participate in the social partnership bodies. In the case of KOZ, one can observe that more effort is being made to ensure representation of all employee groups in the governing bodies by explicitly allocating the responsibilities of vice-presidents over different sectors and by the structure of other bodies.

In addition to the mandate, another major feature of the corporatist system is formal and informal powers.

In Austria there is no legislation defining the well-known Parity Commission for Wages and Prices that has been operating since 1957 with the aim of ensuring accord among social partners. The organisation is voluntary and informal.

The Parity Commission is made up of representatives of the above-mentioned professional chambers together with the Trade Unions Confederation and government officials. All decisions have to be unanimous, yet there is no legal basis for enforcing such decisions; these are rather agreements voluntarily performed by long-term partners. (Katzenstein (1984), p. 61). The commission has “no address or fixed seat, statute, law or procedural rules, nor a list of members, written agreements, nor is it a legal entity” (Crepaz (1995), p. 75).

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<sup>46</sup> Before 1999, there had not even been any formal regulation of social partnership, which had therefore been based only on the mutual agreement of all parties involved as of 30 October 1990.

By contrast, since 1999 the social partnership in Slovakia has been regulated by the law mentioned above (Act 106/1999), which explicitly governs the partnership process. Under that law, social partners are required to negotiate with the government their standpoints concerning drafts of generally valid directives that apply to substantial interests of employees and employers, especially those affecting economic, social and working conditions as well as wages.<sup>47</sup> Furthermore, discussions typically include the stances and recommendations of the interested parties concerning economic and social developments and the state budget.<sup>48</sup> In other words, virtually any significant decision made by the government, especially one of a conceptual nature, is subject to negotiations with the social partners.

All such issues are discussed at plenary meetings of the Council for Economic and Social Accord, with the participation of all the three parties. The purpose of these meetings is to seek agreement.

Thus, the Slovak model features a combination of a weak democratic mandate, a lower degree of accountability of the representatives to the represented and a significantly higher level of formal powers.

Real political power, however, cannot be secured by a place at the negotiation table provided by legislation. Under the law, the failure to reach agreement leads to yet another round of negotiations. Should the parties continue to disagree, the public policy-making process would proceed following standardised procedures.<sup>49</sup> The actual formal power of the social partners merely consists in the ability to obstruct and protest against proposed measures. In 2001, an attempt at changing this situation failed when the government tried to increase the price of natural gas. The social partners would not as much as discuss the government's motion arguing that, under the tripartite legislation, the government was not allowed to approve the proposal without tripartite negotiations. The government rejected this interpretation contending that it would have set a precedent permitting the social partners to obstruct any proposal that would not suit them.

A question therefore arises as to what real influence on the adoption of social policy the social partners have under the tripartite system. What are the instruments for exercising their influence?

In simple terms, that influence and associated instruments can be divided into three groups:

- the General Accord
- Negotiations over draft legislation and other proposed measures within RHSD.
- Participation in decision-making bodies and expert review groups.

General Accords are concluded by all social partners for the next calendar year, in which the commitments of the government, trade unions and employers are stipulated with regard to the economy, employment, social policies and employees' and employers' rights. General Accords were signed for each year during the period of

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<sup>47</sup> § 3 sec. 2 of Act No. 106/1999 Coll.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid, § 6, sec. 7

1991 to 1996, followed by a respite until 2000. No General Accord was concluded for 2001 either.

General Accords should be viewed in light of the fact that, unlike collective agreements, they are political rather than legal documents. Compliance with them could be enforced through political rather than legal means. Therefore, the significance of, and compliance with General Accords have varied dramatically, starting with the introduction of the minimum wage and associated systems in 1991 to largely declarative commitments in the following years.

A somewhat smaller, albeit more concrete, influence is accorded to social partners by their “seats at the RHSD table” where most legislative and other proposals relevant to the interests of employers and employees are to be discussed. As noted previously, this arrangement by no means guarantees that views of the social partners will be asserted, nor does it give them the right of veto. Yet, because of the effort of most governments to meet social partners’ requirements whenever possible and the possibilities for personal lobbying, the RHSD meetings are a useful instrument for the social partners, providing them with opportunities to advocate their interests (or those of their representatives) in a number of areas.

The participation of the social partners in decision-making and expert review bodies is perhaps the least conspicuous but, ultimately, the most concrete means of exercising their influence. In Chapter II, we discuss the composition of consultative bodies operating under the auspices of central administration authorities, where the social partners are significantly represented. Furthermore, the tripartite approach has been used in establishing the management bodies of public agencies (Social Insurance Company, National Labour Office, General Health Insurance Company), due to which the social partners hold two thirds of seats in the governing bodies of the institutions managing more than one third of public expenditures. Another case in point is the fact that KOZ has been represented in 16 working groups of Slovakia’s team engaged in the negotiations for EU accession.<sup>50</sup>

### **III.3. Civil servants directly involved in policy-making**

The role of civil servants directly involved in public policy-making and reforms is primarily influenced by the following factors:<sup>51</sup>

- Before the Civil Service Act was passed in July 2001<sup>52</sup>, there had been no framework conducive to the establishment of a professional, unbiased and efficient civil service. Even with the relevant law enacted, the establishment of the civil service consistent with the above criteria is going to be a long-term process requiring the commitment of the political elite to its principles.
- During the transition process, the supply of many aptitudes and educational prowess needed for public policy-making in a new democratic environment (e.g. high quality and up-to-date education in economics/law/political science, highly developed analytical and conceptual skills, the awareness of sectoral policies pursued by other countries, language competence, etc.) has been generally low,

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<sup>50</sup> The authors’ estimates based on data made available by KOZ.

<sup>51</sup> See Beblavý (2001) and Beblavý, Verheijen, Staroňová (2001)

<sup>52</sup> The Act will come into force on 1 April 2002

while demand for these faculties on the part of the private and public sector has been definitely high. Given the level of pay the public sector can afford, it has in many instances failed to be competitive.

- The politicisation of the civil service has resulted in frequent reshuffles with regard to higher-level civil servants (general and other managers of state-owned organisations, general directors of sections and department directors at ministries and other central state authorities).
- For these reasons, responsibility for public policy-making was gradually assigned to positions where **politicians believed at least general prerequisites were complied with for proper performance, i.e. to organisations subordinated to central state authorities and to top civil servants at such authorities (general directors of sections and department directors)**. Compared to lower official or junior management jobs at central state authorities, such top positions can, thanks to the combination of better pay and prestige as well as greater autonomy or other non-pecuniary incentives, attract higher quality specialists.

With regard to civil servants directly involved in policy-making, it would be difficult to speak of their group interests except for policies that immediately affect them such as the Civil Service Act and similar legislation. It would perhaps be more appropriate to point out three factors relevant to the influence of civil servants on public policy-making:

- **Civil servants as representatives of their respective organisation/sector.** As public sector employment limits the financial income of an individual, public institutions and their staff tend to maximise non-financial benefits, particularly those relating to the importance of a given institution, its overall budget and status. These benefits may be tangible (a larger budget is generally reflected in higher expenditure on office furniture and equipment, business trips, company cars etc.) and, especially, intangible (prestige, reputation, esteem). Therefore, and because of the natural tendency of individuals to identify with their environment and organisation, state officials tend to think and act so as to maximise the budget, influence and prestige of their respective organisation/sector.
- **Civil servants as representatives of interest groups in their respective fields.** For a variety of reasons, civil servants often tend to represent and advocate vested interests in their respective fields. In particular, this is a result of frequent exposure to interest groups operating in the sector, own occupational background, and business and personal relations with their representatives. By way of an example, civil servants in the education sector may tie public education policies with upholding teachers' group interests etc. This trend becomes ever more pronounced when politicians are not able or willing to present to civil servants a clear philosophy/vision of public policies in a given sector. This is then supplanted by inputs from interest groups that nearly always have a vision of their own.
- **Civil servants' personal beliefs are important for public policies formulation but impossible to predict in a systematic manner.**

Civil servants can exercise the greatest influence during the preparatory stages of public policy-making at their respective ministries or central state authorities and during the inter-ministerial process of comments. As the public policy-making process progresses to subsequent stages, civil servants' influence diminishes or remains small.

### III.4. Foreign counterparts

Foreign counterparts in reform may include countries (for Slovakia, the relevant ones being the US, Germany, the UK, Austria, Canada and The Netherlands) and multilateral organisations and their bodies (the European Union with its bodies – the European Commission, the European Parliament, the European Council; the North Atlantic Treaty Organisation, the World Bank, International Monetary Fund, the Council of Europe, Organisation for Security and Co-operation in Europe etc.).

In contemplating the influence of foreign counterparts on reform in transition economies in general and in Slovakia in particular, one should conceptually distinguish between two notions:

- reforms that mimic, either in part or fully, systems operating in other countries
- reforms implemented as a result of influence/pressure from foreign counterparts.

These two notions do not necessarily overlap. One can conceive of reform that mimics a foreign model but is elicited by purely domestic pressures. Similarly, one can conceive of reform prompted by pressure from foreign counterparts but representing an autonomous system not inspired by foreign models.<sup>53</sup> However, these two types of reform are fairly rare; moreover, we are unaware of a major example of the latter type in Slovakia. Therefore, the two notions mostly overlap and one can refer to reform **supported** and **inspired** by foreign counterparts at the same time.

In this regard Jakoby (2001) writes of “tutors” and “pupils”, implying not only that a pupil learns facts and opinions from the tutor but also suggesting a certain power that the tutor exercises when dealing with the pupil. In the same context, Jakoby points out two types of such (not entirely voluntary) reform that he describes as “thresholds” and “fine-tuning”. A threshold is a “qualitative and subjective view of the minimum standards that new formal structures should meet” to ensure the country’s membership of an international organisation (p. 181). The most common and extensive process of threshold creation is the preparation for European Union accession in respect of which the EU has identified a list of political and economic criteria that new members should meet. There is a less explicit, albeit just as real, threshold for membership in NATO, OECD and some other “elite” clubs. Fine-tuning, on the other hand, means the use of “western models in order to apply ... relatively minor adjustments as part of major institutional changes” (ibid).

Concerning the interests and role of foreign counterparts in Slovakia’s reforms, the following factors should be highlighted.

The first one is the varied and competitive nature of views held by foreign counterparts, which is offset by their partial specialisation. In addition to a number of countries, the foremost foreign counterparts of Slovakia’s reform have been the European Union and NATO followed by the IMF and the World Bank and, to a somewhat lesser degree, the Council of Europe and OSCE. This amounts to more than a dozen counterparts that naturally tend to advocate diverse solutions, mostly based on

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<sup>53</sup> Even where the substance of reform is initially based on largely home-grown ideas, foreign involvement will ultimately be reflected in pressure concerning the substance of the reform (see the case study of the Civil Service Act)



their own experience or codified “best practices”. In reality, this may lead, and has led, to a clash between recommendations made by different counterparts. The fact that such cases have not become a rule is a result of counterparts’ specialisation and their usual attempts at co-ordination. Having said this, competition in reform is an important element where it has enabled domestic reformers to make comparisons and choices between diverse views on a particular area.

The other factor concerns incentives behind involvement in reform. In simple terms, the main incentive for bilateral and multilateral involvement is the transfer of own values through implementing changes to formal and informal institutions, i.e. to the rules of the game. Admittedly, the extent and specific nature of incentives vary on a case-by-case basis and depend on the counterparts’ concrete goals. For the purpose of this publication and with regard to Slovak realities, one can distinguish between two primary incentives – open-ended aid and aid to help obtain membership. The former instance is typical for some multilateral institutions (such as the IMF, World Bank, UNDP) that have a general mandate to monitor the situation in a group of countries and to assist them in improving it. The latter type of partnership is, by contrast, about meeting requirements for both formal and functional membership of a club. Therefore, assistance pertaining to the latter type tends to be more detailed, rigid and utilitarian. The most evident example would be the harmonisation, especially through amendments to legislation, of formal institutions during the EU accession process. For instance, the harmonisation goal in the banking sector is not only to put in place a high-quality institutional infrastructure for the sector but also to ensure that the infrastructure is consistent with the European Union’s internal market.

With regard to foreign influences, it is essential to note a differentiated typology of instruments used to exercise such influence. Counterparts differ, among other things, in the instruments they can employ to encourage a country and its leaders to pursue recommended reforms. The three most common instruments are membership, funding and “praise”. We have already referred to the offer of membership as an instrument of eliciting change in public policies in connection with the “threshold” that should be reached to warrant an invitation to join. This incentive is primarily used by the EU and NATO and, to a lesser degree, by the OECD and the Council of Europe. Funding represents another instrument provided in the form of grants, gifts or loans made available under terms and conditions that are more convenient than those of commercial loans. This instrument is primarily used by the European Union, International Monetary Fund and World Bank. With regard to the EU, this instrument is used in the varied form of dozens, perhaps even hundreds, of projects under programmes such as PHARE, ISPA or SAPARD. In respect of the IMF or World Bank, it would be more appropriate to speak of large one-off projects. The use of “praise” or “endorsement” as an instrument is perhaps the subtlest of all. Here a foreign counterpart would typically praise a particular aspect of domestic public policy or the overall course the country is following. “Praise” and “endorsement” are often used in combination with other instruments, e.g. in the long-term process of EU accession the annual reports of the European Commission on progress made by candidate countries can be construed as short-term and flexible encouragement signals. However, this instrument also exists in its pure form, especially if applied by financial institutions. For instance, participants of international capital markets find it extremely difficult and inefficient to furnish and evaluate their own data about economic and political developments in small and underdeveloped countries. “The

endorsement” of policies, be it explicit in the form of an IMF report or implicit in the form of a World Bank loan, may send a signal or serve as a seal of approval suggesting to investors that certain standards have been met. This was to a large extent the reason for having taken the EFSAL loan to restructure the banking sector (Slovakia could borrow the money also from capital markets; however, this would have been more expensive and would not have reassured investors buying the remainder of treasury bonds that the country was following a sound economic course).

The last important factor that should be taken into account is the use of foreign counterparts by domestic elites to impose unpopular measures or implement some painful change. Especially where the domestic media and the public in general support membership of an organisation and/or think highly of it, foreign counterparts prove to be a useful instrument for domestic elites. They serve not only as “scapegoats” but also as “battering rams”. Using them as a battering ram makes it possible to exert pressure upon politicians, political parties as well as institutions and civil servants and to break through complicated networks of inhibitions and vested interests that would otherwise reliably prevent the implementation of such changes. The European Union accession process is admittedly the most common example (see Box III.3). Another, not so well-known, example of using foreign inputs by domestic elites is the IMF Staff-monitored Program (SMP) for 2001-2002 under which Slovakia made commitments with respect to the Fund to implement a series of reforms. The program was advocated by those members of the ruling elite who wanted to exert external pressures to help accomplish reform or maintain a tight fiscal policy in the run-up to elections.<sup>54</sup>

**Box III.3: Commentary on the use of foreign counterparts to advocate unpopular changes**

There appears to be a deepening rift between politicians and voters in both parts of Europe. While elites are increasingly in favour of the unification of the entire continent, ordinary folks on either side of what used to be the Iron Curtain are viewing the project with much less enthusiasm. Political analysts warn that unless the enlargement of western Europe eastwards is not managed properly, the process may be easily undermined by a lack of support from rank-and-file voters. This would have disastrous implications for Slovakia, which is still unshielded by either of the West’s protective umbrellas – NATO or the EU – and we should learn our lesson from such a possibility. Western politicians have to persuade the population in their countries that the course they are proposing would bring benefits for them as well. In the East, politicians must learn not to use the threat of losing EU or NATO membership to bludgeon their population into taking a particular course of action. Before the previous elections, Slovakia’s present rulers were selling themselves to their constituencies as Brussels’ favourites. Their message was – if you want to join Europe, we are the vehicle to get you there, unlike HZDS or SNS. Given the gradual change in the attitudes of many voters, the politicians must stop using the popular theme of association with Europe to boost their popularity and to advocate otherwise unpopular changes. On the contrary, they should learn to sell EU and NATO membership to the general public. Barring that, European integration may become just one more of those good things that Slovak people do not want.

Source: *SME* daily, 14 October 1999

<sup>54</sup> They were keen to impose even tougher terms and conditions for so-called stand-by loans

### III.5. The third sector

By April 2001, Slovakia's Ministry of Interior had registered 16,849 non-governmental organisations, i.e. citizens' associations, foundations, non-investment funds and non-profit organisations. This group includes sport, cultural, leisure time and professional organisations, which are often not identified as the third sector organisations. It should also be pointed out that not all organisations that have been registered are indeed active. The table below offers a more detailed breakdown of NGOs:

**Table III.1: Summary of NGOs registered in Slovakia**

Legal form	Number	%
Foundation	479	2,8
Citizens' association	15,984	94,9
Non-investment fund	281	1,7
Non-profit organisation	105	0,6
Total	16,849	100

Source: Slovak Ministry of Interior, spring 2001

For the purpose of this study, non-governmental organisations (NGOs) can be divided into those providing services<sup>55</sup>, those engaged in civil advocacy<sup>56</sup> and those best described as think-tanks. This study will not deal with the first group. It should also be pointed out that drawing a clear line between civil advocacy and direct involvement in policy-making would be a daunting and imprecise exercise.

According to Demeš (2000), civil advocacy consists in organised efforts and activities by individuals and their organisations that use democratic instruments to draft and implement norms and laws aiming to foster a fair and equitable society. Advocacy instruments include a variety of civil activities (public awareness and education activities for individuals, petitions, campaigns, civil unrest etc.), elections, mass civil mobilisation, lobbying, bargaining and judicial action.

Think-tanks are research and analytical institutions with the potential to conduct public policy research and to advocate and implement particular proposals. They thus contribute to shaping public policies. In Slovakia,<sup>57</sup> think-tanks began to emerge after 1989, with the aim of upholding the development of democratic and market-oriented institutions and promoting reform. In the early days of the transition, they were perceived as "independent" research institutions. Think-tanks were established as an alternative to former research centres influenced by the old regime where the chances of their reform were too slim and a reform drive was lacking. Another factor that had influenced the emergence of think-tanks was lack of confidence of the reformist government in the civil service (administration) it had inherited from the old regime. The education attainments of most civil servants were inadequate to make them proponents of reform. There was also a personal aspect posing a problem, as many "old-regime" civil servants felt threatened in their positions, which in turn

<sup>55</sup> According to SAIA-SCTS data (Demeš, 2000), the first group of NGOs is Slovakia's largest as many third sector organisations focus on working with young people; this is followed by education and research, with humanitarian activities and charities being number three.

<sup>56</sup> The Slovak name has been derived from civil advocacy groups in English

<sup>57</sup> The emergence of pro-reform think tanks is not a purely Slovak phenomenon. Krastev (2001) reports that words such as "free market", "liberal", "democratic", "civil" and "reform" are to be found in 31 out of 101 names of institutions in central and eastern Europe.

strengthened their “anti-reform” attitudes. A weak public policy-making capacity within political parties and the undersized academic potential of universities also made room for the growth of think-tanks. In the early nineties, the factors that influence consistent decision-making, public policy-making and formulation – research, recommendations, and advice – were virtually non-existent.

Ever since their inception, Slovakia’s NGOs have focused on direct public policy-making and/or, indirectly, on influencing public policies. Depending on the specific needs in a given area of research, many NGOs have proved active as policy-makers. They have been proposing various systemic measures and advocating their implementation through a variety of activities. Especially in the early days of the transition, many think-tanks were involved in exploring specific public policy areas and introducing new topics into public life. The topics they raised required special expertise and were difficult to promote politically because of their short-term implications. In that period think-tanks were genuine innovators. Many founders of think-tanks in Slovakia had been educated abroad and later became catalysts and advocates of change needed to reform society. The human capacity of think-tanks was strengthened by those politicians who, after 1992, moved away from active politics and into the third sector. A case in point was MESA 10, a citizens’ association founded and, for a period of time, headed by such active politicians as Ivan Mikloš and Gabriel Palacka. Paradoxically though it may seem, think-tanks were able to reap the benefits of political instability and political upheavals in Slovakia in the nineteen-nineties that were greater than in the other V4 countries, namely in the form of first-rate staff they thus managed to attract. Working with the media facilitated the exploration of new topics and was conducive to public discussion. Like society as a whole, the media were lacking an expertise base and capacity needed for analytical journalism. This translated into their greater openness to cooperation with think-tanks. The activities of think-tanks were aimed at writing articles, studies and organizing workshops. Enhancing general awareness through expert reviews conducted by think-tanks contributed to the realisation that change was essential. This type of activities focusing on the advocacy of change was a reflection of the political scene during the Mečiar government, which was not particularly inclined to cooperate with think-tanks.

However, the position, responsibilities and focus of Slovakia’s NGOs have gradually been changing. Changes in the role of NGOs are associated, among other things, with the growth of the private sector that has assumed many of the responsibilities and become another actor in setting and enforcing the rules of the game. The critical mass has been growing of entrepreneurs who are beginning to realise their concern for clearly defined rules and are participating in their formulation. The new development is that, unlike in the past dominated by one-off games (e.g. privatisation), recurring games are prevailing now. A recurring game is the case when it is more appealing to entrepreneurs to have clear rules that apply to recurring situations, thus influencing costs, including transaction costs, and hence profit (e.g. ensuring a minimum number of business regulations). At the same time, the private sector is becoming involved in the activities previously pursued by think-tanks. This has been prompted by growing demand for many services earlier provided by think-tanks - as many of their activities have gradually become commercially attractive and migrated from a non-profit to a for-profit basis. Examples include economic analyses, journals, campaigns run by private PR agencies or sociological surveys.

Another shift can be observed in the substantive focus of research. This is reflected, on the one hand, in the emergence of politically affiliated NGOs and issue-oriented NGOs. Other important features include a shift towards local needs, the globalisation phenomenon and a greater focus on networking, i.e. more intensive co-operation with more domestic and foreign NGOs. As regards the emergence of politically affiliated NGOs<sup>58</sup>, this shift has been from “independent” institutions towards ones with a party-politics component in their activities. Examples include the Democracy Foundation, the Institute for Solidarity Society and the Conservative Institute.<sup>59</sup> Party-affiliated NGOs specialise in drafting public policy proposals and preparing analytical studies.<sup>60</sup> Issue-oriented NGOs deal with clearly defined issues such as protection of human rights, environmental protection, tax cuts, promoting transparency or fighting corruption.

NGO activities are also undergoing changes. Recently, NGOs have been showing more interest in, and ability for, participation in the formulation and implementation of systemic changes, either through co-operation with the government or on their own.

During the Dzurinda government, there have been several attempts at so-called partnership, i.e. the government co-operation with NGOs. This could be done in several forms, both formal and informal. At the Cabinet level, the Government Council for NGOs was created, being presently chaired by deputy prime minister Pál Csáky. Its members include representatives of some NGO groups, e.g. Donors’ Forum or Ekofórum. Council members include 15 state administration officials and 20 NGO representatives<sup>61</sup>. The Council is an institute for the government to engage the third sector in official talks. It is a platform to discuss issues pertaining to the third sector’s internal activities. In addition to co-operation aiming to influence the internal environment of the third sector, it offers opportunities for NGO experts to become formally involved in the deliberations of consultative bodies that deal with public policy-making in a given institution. As a result, many think-tank representatives are members of consultative bodies in public administration institutions. Such institutions have yielded diverse results. Some of them meet regularly, some others may have been convened just a couple of times since their inception and their involvement is purely formal. Co-operation may also take the form of drafting policy documents that serve as the basis for the government action in a given area. For example, a draft of the National Program for Fighting Corruption was prepared by Transparency International Slovakia. Co-operation with INEKO (Institute for Economic and Social Reform) in the government-sponsored audit of state administration resulted not only in performing the audit itself and drafting a policy material on the issue but also included the involvement of INEKO experts in proposing corrective measures ensuing from the audit.

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<sup>58</sup> They are also known in other countries, e.g. in Germany (Friedrich Ebert or Nauman Stiftung) or the US (the Heritage Foundation or National Democratic Institute).

<sup>59</sup> NGOs affiliated with political parties have also emerged in other fields, e.g. the *SMER* Foundation or *Markíza* Foundation.

<sup>60</sup> Demeš (2001) reports, however, that the sector is increasingly concerned about the need for a broader discussion on ethical standards and transparency, especially with regard to NGO funding. Discussions about NGO transparency and the ethics of their relations with political parties should attract more attention as there is increasing co-operation between foundations and political parties or parties themselves set up foundations (e.g. Nadácia Smer, Nadácia Markíza, Nadácia Demokracia etc.)

<sup>61</sup> Demeš (2001)

NGOs are also carrying on civil advocacy activities attempting to launch public discourse and are aiming to implement proposals in the form of laws without working directly with the government. As an example, one can quote the advocacy campaign to promote the Freedom of Information Act. Coercive campaigns have been staged by environmental NGOs. Another phenomenon has been the emergence of so-called GONGOs,<sup>62</sup> i.e. NGOs working in different forms with the aim of supporting the government or providing services for it. Sometimes this may even lead to a lesser degree of criticism.

One should also take into account how Slovak NGOs are seen from abroad and how they are linked with their foreign counterparts. NGO representatives regularly participate in international conferences, co-operate and hold discussions with international organisations, thus adding yet another dimension to the overall image of Slovakia. Slovak think-tanks often co-operate with the World Bank and OECD. In 2000, the Institute for Public Affairs and SFPA initiated the setting up of the Visegrad Forum of Think-tanks.

#### **BOX III.4: Freedom of Information Act – Origins and Advocacy**

Since 1989, the idea of ensuring free access to information has been filtering to Slovakia through a variety of channels. For example, in 1997, the Centre for Economic Development organised a workshop where David P. Frankel made a detailed presentation to the general public describing the US Freedom of Information Act. The need for legislation governing access to information was also reiterated by the Mečiar government in its “Clean Hands” programme (1994-1998). Lacking political will, though, the commitments remained on paper only.

After 1998, four initiatives were launched aiming to draft a Freedom of Information Bill and ensure its enactment. The four initiatives were drawing on similar sources. This fact notwithstanding, they varied in content and represented diverse views on how extensive the freedom of information should be. Compared to the previous periods, which had lacked commitment to such legislation, the focus of discussion on the issue shifted to a stage aiming to decide on what the contents of such legislation should be.

In 1999, a group of non-governmental non-profit organisations concerned with freedom of information issues initiated the emergence of the Civil Initiative (CI) for a Sound Freedom of Information Act. They chose several instruments to advocate the enactment of the proposed law. Nine Civil Principles of a Sound Freedom of Information Act supported by more than 120 civil organisations representing over 100 thousand members became the basis of their effort. The initiative was also backed by several dozen media and journalists. The main principle became the motto of the entire campaign: “What Is Not Secret Should Be Public!” The principles were based on civil organisations’ experience and needs, on the principles and standards used in the legislation of other democracies or in international treaties as well as on the experience of neighbouring countries in implementing similar legislation. They passed through two rounds of public review and comments, with each new draft made available on the web.

At nearly the same time, the freedom of information issues came to the attention of

<sup>62</sup> From the English term *governmental non-governmental organisations*

several MPs, namely Ján Langoš and, independently from him, Ján Budaj and Ivan Šimko. Even though Langoš as well as Budaj and Šimko had been drawing on the Czech Freedom of Information Act of May 2000, they each drafted their own bill. The Ministry of Justice, too, set out to draft their own bill.

The CI initially sought to bring about agreement on a joint draft of the bill. The CI was adamant that MPs fully reflect the Nine Civil Principles. Contrary to public statements made by both parties, the MPs were not able to cooperate properly and eventually both Ivan Šimko and Ján Budaj expressed serious reservations against some of the Civil Principles. Ultimately, the CI stopped cooperating with those MPs.

The CI was monitoring the drafting of the government-sponsored Freedom of Information bill and attempted to incorporate amendments within the inter-ministerial process of comments. The ministry, however, did not respond to fundamental criticisms by the CI.

After its failing attempts to cooperate with several actors involved in drafting and advocating the enactment of several freedom of information bills, at the end of October the CI decided to draft a civil Freedom of Information bill using available incomplete drafts. They were able to win over MP Ján Langoš who pledged to submit to Parliament the civil draft bill prepared by CI lawyers. Ivan Šimko had first intended to submit his own version of the draft bill as well but later gave up the idea.

After the civil bill was submitted to Parliament, it was subjected to the inter-ministerial process of comments. Comments made by different ministries were deliberated by the Government's Legislative Board, which proposed changes that would erode the underlying principles of the bill. The Cabinet eventually adopted this negative stance. In January, the civil draft bill went through the first reading. MPs assigned the bill to all parliamentary committees and, given its specific nature, postponed deliberations of the bill within the committees until April 2000.

To advocate the enactment of the bill, the CI decided to stage a media campaign. In the meantime, the Civil Initiative prepared, in collaboration with Hlava 98 [Chapter 98], a civil association, theme postcards that the general public were encouraged to send to the chairman of Parliament in support of the sound law. Through a network of participating organisations, the postcards were made available in many towns and communities and Jozef Migaš [the chairman of Parliament] received several thousand of them. Some two thousand more cards were sent in through the Internet. Radio and television advertisements were also used to promote the Freedom of Information bill. Activists participated in public discussions and cooperated with media in preparing relevant articles.

Activists presented the standpoint of civil organisations and CI legal experts to all parliamentary committees at all their sessions concerning this draft bill. They monitored proposed amendments and prepared supporting arguments. Before the bill was submitted to the second reading, activists prepared for MPs a summary of proposed amendments highlighting those that could be accepted and those that might undermine the bill. At the entrance to the Parliament building, MPs were hailed by several dozen demonstrators wearing T-shirts with assorted letters reading together "What Is Not Secret Should Be Public!" and a group of activists was monitoring deliberations inside Parliament. The

MPs eventually accepted most amendments consistent with the proposals of the Civil Initiative.

The last step was to ensure that the bill is signed by the President to become law. Although the Legislative Department of the President's Office had several reservations concerning the approved bill, after consultations with CI experts and a personal meeting with CI representatives Rudolf Schuster ultimately signed off on the bill.

The final wording of the Freedom of Information Act incorporated virtually all of the civil principles. All versions of the proposed principles and the text of the bill were available on the web. The initiative saw to it that the bill was widely reviewed and that suggested improvements were incorporated.

Many NGOs have taken up the task of implementing the Freedom of Information Act. They monitor the conduct of public administration authorities when processing both active and passive information requests, train public and civil servants, other NGOs and media. Some NGOs provide legal assistance in dealing with specific cases and during court proceedings.

### **III.6. Media**

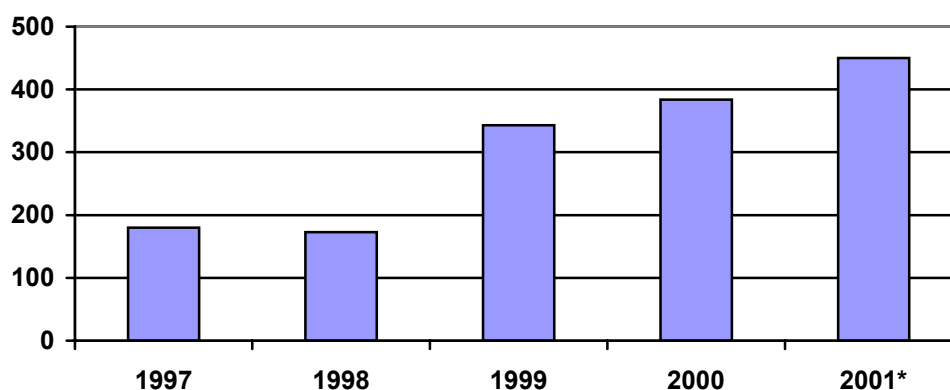
In a democracy, media are expected to perform several functions. It is through the media that citizens' constitutional right to information is exercised, thus enabling them to indirectly participate in the governance of public affairs.<sup>63</sup> The media provide a daily summary of domestic and international news. They are often regarded as citizens' "extended hand" supervising the governance of public affairs and are perceived as democracy's watchdogs warning against any abuse of power. Many scandals publicly debated in Slovakia have been initially disclosed by media. On the basis of the Freedom of Information Act, many media regularly turn to government agencies for data and monitor their activities such as the granting of subsidies by the Ministry of Economy or Ministry of Agriculture. The number of pieces on corruption published by Slovak printed media is an indicator of their interest in "supervising" the governance of public affairs. As shown by the following graph, the media have shown an increasing interest in corruption issues.

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<sup>63</sup> The Slovak Freedom of Information Act has been in effect since 2001. For details, see Section III.5.



**Graph III.3: Articles on corruption published by Slovak printed media**



**Note:** \*estimate on the basis of data for the first six months of 2001.

**Source:** *Information on the Evaluation of Compliance with Plans for Fighting Corruption*. The Government of the SR, 2001.

Media thus influence the **substance and focus of the political agenda**, open public discussions on various topics and highlight many politically significant areas. In connection with the above, it can be noted that media influence the shaping of public interests and participate in the advocacy of individual or group interests of political parties, financial and economic groups. They enable the opening of a particular topic and serve as an instrument that makes it possible to influence policy-makers and advocate new rules pertaining to the administration of public affairs. At the very least, they create positive or negative PR stimuli for any change or reform. At the same time, opinion-making media participate in shaping the image and role of public figures. In simplified terms, this contributes to forming individuals' perception of a given public figure in a particular way, which affects their attitudes more than concrete actions of such a person. This public figure may be labelled a "human rights advocate", "reformer", "independent expert", "good Christian", "nationalist" etc. A change instilled by the media in the perception of a public figure by individuals shows little flexibility for a certain period of time.

Many media position themselves in a way that makes them appealing to a particular segment of society in terms of their political opinions. As an example, one can refer to *SME*, "just the right paper", *Nový deň*, a HZDS daily, or the weekly *Slovo*, which presents views of left-wing parties.

There are several factors, however, which determine whose agenda the media present and in what manner. In the following text we will deal with some of them in more detail.

**The failure of the state to ensure the enforceability of law** is just one such factor. A specific feature of the transition period is that society operates in an institutional framework that lacks adequate regulation and functionalities. Previous formal rules and organisations that used to formally enforce those rules in everyday life either do not apply or are no longer operational, while new ones are either non-existent or yet to become fully operational and functional. At the same time, many institutions (e.g.

the repressive chain starting with supervision and ending with the police action, the prosecutor's office and the judiciary) are yet to adapt to the requirements of a modern democracy and, moreover, are perceived as corrupt. This situation translates into poor enforceability of law and the associated risks of behaviour that is at variance with good morals.<sup>64</sup> Confidence in the ability of the official system to function properly remains low, which is why many scandals end up on journalists' desks rather than with police investigators. On many occasions, the ability of journalists to advance the investigation of scandals is exaggerated; however, the very fact that substantial pressure exerted by media contributed to the resignation of four ministers in the Dzurinda Cabinet is a sufficient evidence of the available potential.

Another implication of the state's failure manifested in the poor enforceability of law is that we operate in an environment where the odds are fairly high of a defamation campaign targeted against any person.

The content of presented information is also influenced by **media owners**. Electronic media operate within what is known as a dual system. The dual system should ideally offer to the public two independent sources of information presented by public service electronic media on the one hand and privately owned radio and television stations on the other. With the 58% share of the television broadcasters market, the private television channel *Markíza* holds a unique position. The situation is expected to change after the launch of a new television channel *Global*. In addition to the number of electronic or print media, the ownership structure of private media is another relevant factor that secures diversity of opinion. Mistríková and Žitný (2001) report that nowadays the ownership of media is virtually impossible to trace and the public has practically no way of determining who actually owns a particular medium from which it receives information shaping one's views (or how that medium is positioned in terms of ownership). Significantly, the transparency of ownership in the private media sector is fairly important as it enables, in case of a crisis, to correlate the media's attitudes with the interests of media owners.

In addition to the ownership transparency, another remarkable phenomenon is the direct connection of politics and the media if the media owners become politically active. In a report covering the period from 22 April to 21 September 2001, the non-governmental organisation MEMO 98, which regularly publishes its findings of monitoring news coverage, unveiled that the news coverage of the TV channel *Markíza* is slanted towards *ANO*, the political party of Pavel Rusko [the owner of a major stake in the channel – *Translator's note*]. It further noted that the political party *ANO* was presented in the *Markíza* news almost exclusively in a positive light. Out of 15 references to that party, 13 were positive and only two were negative. *Markíza* was by far less favourably disposed to the remaining fourteen parties. Of all references to the 14 parties, there were only 20 positive and 187 negative ones.<sup>65</sup>

The economic independence of private media funded by advertising is another important parameter. Slovakia has seen attempts at politically motivated reallocation of advertising money by companies affiliated with the government to politically "loyal" media as well as corporate pressure by "big-time" players. To retain

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<sup>64</sup> Since many rules are yet to be codified in the form of laws, the subset "illegal" would not capture the substance of the problem.

<sup>65</sup> *SME*, 29.9.2001

advertising income generated by a “strong” corporate customer, media would refrain from speaking negatively about the company’s activities. Large corporate customers are seeking to influence public opinion through professional public relations agencies. Attempts to influence the substance of presented information are not confined to advertising. Corporate customers are influencing the substance of information not only through media owners but also by way of journalists. The Code of Public Relations Ethics adopted on 14 October 1997 by the general meeting of the PR Association in the Slovak Republic states that the *use of modern communications media and methods that enable influential contact with millions of people provides public relation professionals with power that should be regulated by compliance with a strict code of ethics*. As Mistríková and Žitný (2001) report, however, the meaning that these notions have in the professional PR language is quite different from Slovakia’s present realities.

Political parties also exploit possibilities offered by the use of advertising to comment on developments in society. This is not confined to promoting personalities affiliated with political parties. After the findings were unveiled of the Supreme Audit Office (SAO) inquiry into a scandal suggesting mismanagement of EU funds at the Government Office, which had caused the resignation of deputy prime minister Hamžík, several dailies featured a paid-for notice reading “The SAO has disproved embezzlement of EU funds at the Government Office.”<sup>66</sup> However, those who took the effort to read through the official SAO report did not find any such statement there.

The political independence of public service media is shaped by the regulator. Under Slovak law, members of the regulatory authority are elected by Parliament. Parliament has the right to elect and replace general managers of public service institutions. This arrangement makes any such manager politically dependent. For instance, the present general manager of STV is the eleventh since the institution was established in 1991.

Another link in the chain that shapes the substance of news presented by the media is embodied in the **journalist** and his or her professionalism, training, attitudes and views. The period after 1989 has seen the emergence of new media and “new faces” who, as was thought, would not be burdened by the legacy of the previous regime. Media were also employing journalists with longer track records in the industry.

In principle, there is a difference between news coverage, commentaries, analyses or findings of investigative journalists. As far as the news coverage is concerned, media deal with many developments only superficially, either because of the lack of interest in the given area or lack of specific journalistic expertise. With regard to commentaries and analyses, the media have gradually accumulated a critical mass of pro-reform columnists, who contribute to a pro-reform environment, also thanks to their co-operation with think-tanks.

As in other areas, the media also experience an increasing pluralism of attitudes to reform steps, which is reflected in commentaries and analyses presented by those media. In addition to internal stances and educational background, the presented attitudes are also influenced by pressures from the media, i.e. media owners. At the

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<sup>66</sup> *SME*, 3.11.2001

same time, journalists are often influenced by various economic and political interest groups. According to Mistríková and Žitný (2001), in certain instances a journalist may also own a PR agency and thus help advocate the interests of his or her clients. Reasons for such behaviour include financial incentives where a journalist would like to earn a little extra money and would not mind being hired by a private business. As the authors further note, one can see a journalist becoming, either because of money or as a matter of prestige, an unofficial adviser of a politician or entrepreneur. That journalist would then comment in the media on steps that he or she originally proposed to the entrepreneur or politician.

A congress of the Slovak Syndicate of Journalists approved, as early as on 19 October 1990, a Code of Ethics, thus subscribing to the democratic tradition of European journalism. However, ethics remain to be a matter of a journalist's personal attitude as there is no public pressure, or a sense of professional journalistic reputation, that would safeguard or advocate journalistic ethics. The need for an "ethics committee" that would enforce compliance with the code of ethics in everyday journalism and would, in the eyes of the general public, be a credible institute for dealing with a lack of ethics in the work of journalists remains, 12 years since the transition began, just another moot point.

### **III.7. Professional and local self-government**

The substance of activities pursued by professional interest groups in a particular public policy area is in the attempts at shaping and influencing public opinion, public policies and the political decision-making process by decision-makers such as ministries or the National Council [Parliament]. Representatives of particular professions/occupations get together to advocate the interests of their respective groups. For example, this includes a whole range of professions and occupations employed in the health sector, lawyers, teachers and farmers. Group interests that they represent vary. As Malová and Rybář (2001) point out, no goal advocated by particular interests is attained in a linear and smooth manner, especially during economic transition with obvious conflicts between long-term and short-term priorities of different interest groups.

In the public health sector, such organisations include the Slovak Physicians' Chamber, Slovak Hospitals' Association, Physicians' Unions Association, Private Physicians' Association, Association of Medicine Suppliers and Slovak Pharmacists' Association. The forms they employ of advocating their respective interests are multiple. They typically include pressure actions such as strikes of different types (from those held in front of the Parliament building to closing private physicians' surgeries), drafting decision-making rules in a particular interest area, lobbying in support of specific rules all the way to direct participation in the decision-making process by appointing members to participate in various committees, the minister's consultative board or transformation board). Communication through media is just another tool used by such interest groups. For instance, the Physicians' Unions Association has sent a letter to Romano Prodi, President of the European Commission, and Thomas Cox, chairman of the Committee for social affairs, health and family, outlining problems facing Slovakia's health sector.<sup>67</sup> They even assume

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<sup>67</sup> *Práca*, 4.5.2000

some regulatory responsibilities in the relevant area. As an example, one can point out attempts at regulating the free conduct of the medical and pharmacist professions based on compulsory membership and membership dues paid by physicians, dentists and pharmacists to the Slovak Chamber of Physicians, Slovak Chamber of Dentists and Slovak Chamber of Pharmacists respectively. Under the proposal, these chambers are to oversee compliance with professional standards by health care service providers and to maintain complete membership registers.<sup>68</sup>

These interest groups are yet to propose a plan for a complex reform in the health care sector. Instead, they have been focusing on particular areas and changes directly related to the vested interests of respective professions. In the following text we offer several such examples.

It is one of the vested interests of private physicians that the flat payments they get for their work should increase. This example of group interests advocacy is also interesting in that different groups within the health care sector have come to observe a clash between their respective vested interests, which has led to a gradual divergence of their activities.

Most private physicians are members of the Association of Private Physicians (ASL) that brings together formerly precinct physicians (now referred to as general practitioners), gynaecologists, paediatricians and dentists. These four groups of physicians constitute the primary health care category. They are paid a monthly rate for each health care provision contract concluded with a patient that corroborates that the patient fall within the physician's purview. For instance, general practitioners are paid SKK 33-38 a month per each such contract. Another ASL group includes physicians such as surgeons, otolaryngologists, ophthalmologists and other specialists. Health insurance companies monthly order from them a certain volume of services assigned specific points and pay specialists only as many points as they have commissioned. If a specialist gives care to more patients and renders a greater volume of services, he or she will gain more points. On exceeding the ordered threshold, however, the specialist will not be paid for the excess. In autumn 2001, the Ministry of Health decided to implement a new pricing regulation. Primary care physicians were not content with the proposed rate of payments per contract, while specialist physicians objected to the fact that the range of point valuation would be dramatically reduced. Under the proposal, a single point was to be valued between SKK 0.20 to 0.50 compared to the then applicable value of SKK 0.30. In practice, this would most likely mean the value of the point to be fixed at the level of SKK 0.20.

ASL resorted to several instruments. For example, it withdrew its support for the implementation of an out-patient drug prescription form promoted by the Ministry of Health aiming to cut drugs consumption. This move was induced by drug manufacturers, among others. ASL also tried to start talks with the minister. After a breakdown of those talks, the association decided to stage a protest by closing out-patient surgeries under the formal pretext of attending courses in safety at work and civil protection exercises. The association also announced that its members would, in protest, be prescribing the most expensive drugs. The participating organisations, however, did not see eye to eye with regard to further actions to be taken. The

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<sup>68</sup> *Hospodárske noviny*, 5.9.2001

president of the Slovak Physicians' Union said: "We considered the 19 September protest an expression of moral support for ASL. Most Union members, however, disagreed with the other forms of follow-up protests." ASL described them as strike-breakers.<sup>69</sup> Minister Kováč later adjusted the moot point, i.e. the range of the value of one point awarded for the provision of health care services originally proposed at SKK 0.20-0.50, to SKK 0.34-0.80<sup>70</sup>.

The Slovak Pharmacists' Association and the Slovak Chamber of Pharmacists (SLeK) have also been fairly active.<sup>71</sup> The two organisations spurned a government-sponsored bill that would limit claims on bankrupt health insurance companies to collectible debt. They demanded that the disputed provisions be deleted from the proposed amendment. At its meeting of 16 May 2001, the SLeK board decided to resort to direct pressure. On Monday, 21 May 2001, all public pharmacies in Slovakia closed their doors, officially as a result of insufficient funds to pay for basic drugs. Pharmacists did not specify how long their strike would last. SLeK made the reopening of pharmacies conditional on the full settlement of arrears to pharmacies and the deletion of the moot provisions from the proposed amendment. According to publicly available information, 80-90% of pharmacies were closed during the strike. Views, however, differed within SLeK with regard to further action to be taken. The representatives of the radical wing were arguing that the protest closures of pharmacies had failed because of the avarice of some pharmacists. "It was a narrow result, the greed just prevailed among those who thought that the closure would deprive their pharmacies of profit."<sup>72</sup>

With a membership base comprising 23 multinational pharmaceutical companies, the Slovak Association of Pharmaceutical Companies (SAFS) chose a different path. Since more than SKK 15 billion is reallocated annually to finance drugs policy, the relevant process naturally draws the attention of pharmaceutical companies and of this association. Ever since its establishment in 1997, SAFS has been aiming to ensure that clear rules be implemented in drugs categorisation and drugs policy. For instance, in 2000 the association proposed an amendment to the Health Care Rules Act.<sup>73</sup> A private public relations firm is also advocating interests of this group.

Another professional group with vested interests includes **teachers or education sector employees**. Teachers' interests generally differ depending on the type of schools in which they work, e.g. primary, secondary schools and HEIs. Trade unions are particularly active among organisations advocating group interests in the primary and secondary education. They are primarily involved in promoting better pay, smaller workloads, longer holidays and protection against dismissal for teachers and non-teaching staff. They seek to achieve their goals by public, mass and pressure actions (demonstrations, threats of strike and strikes proper, petitions etc.). On the other hand, they take only a marginal interest in the substance of education reforms, such as those concerning school curricula. In the higher education domain, there are far more representative organisations, the most prominent being the Slovak Rectors' Conference, Council of Higher Educational Institutions or the Student Council of

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<sup>69</sup> *Práca*, 13.10.2001

<sup>70</sup> *Národná obroda*, 11.12.2001

<sup>71</sup> Malová and Rybář (2001)

<sup>72</sup> *SME*, 29. 5. 2001

<sup>73</sup> *Pravda*, 25.5.2001

Higher Educational Institutions. Each of them represents interests of a somewhat different segment of higher education staff or students. Representatives of this particular platform primarily participate in public discussions in connection with the legislative framework – the Higher Education Act or the Research and Development Act – and budget-related decisions. With regard to tools to exercise their influence, universities and their officials give preference to discussions and interests advocacy based on bilateral relations. They also use the media and, in extreme situations, public pressure activities (such as closure of universities and similar actions). Pressure actions, however, are rather exceptional.

A similar pattern can be observed in the **attorneys'** profession regulated by the Ministry of Justice. By way of an example, one can refer to the activities pursued by the Slovak Chamber of Attorneys (SAK). Admission to the Bar is conditional on completing three years' practical experience and passing an attorney qualifications examination. As an amendment was drafted to the Attorneys Act, this professional interest group attempted to introduce yet another internal regulatory arrangement under which an attorney will, before suing another attorney in a matter related to the conduct of professional responsibilities, be required to subject such a case to a reconciliation procedure before SAK bodies, with details of the reconciliation procedure to be stipulated by SAK internal regulations.

Self-regulation mechanisms are also invoked by notaries associated in the Notaries' Chamber of the Slovak Republic based in Bratislava. The Chamber receives revenues in the form of membership dues, gifts and other income. Membership dues are compulsory for all notaries. The number of notaries and the locations of work are explicitly regulated and generally coincide with the seats of first instance courts, i.e. district courts. A notary is appointed by the Minister of Justice based on the outcome of a formal selection process. The process of selecting a notary to fill a vacancy is not governed by law but rather by an internal regulation of the Notaries' Chamber. Under that regulation, a public competition is announced by the Chamber Board, which appoints 3 representatives to the selection committee and the minister may, but is not required to, appoint another 2 members of the committee. A simple majority vote is taken to rank candidates. A list of candidates is then referred to the minister. In the past, it happened that a public competition had been announced to fill a vacancy in Bratislava and a notary with a track record elsewhere had not "passed" through the selection procedure organised by the Notaries' Chambers. As a result, the position in Bratislava remained vacant although notaries from other locations would have liked to fill it. The Notaries' Chamber charges fees for qualifications examinations

**Judges** are associated in several professional organisations. The Slovak Judges' Association based in Banská Bystrica is the oldest one. Female judges have their own Association of Female Judges of Slovakia.

Officials of the Slovak Judges' Association have been preparing a discussion on the need for judicial reform and its substance. They have been working on proposals for systemic measures and submitting them to the Minister of Justice. However, views on the substance of the reform often differ. As the president of the district court in Banská Bystrica J. Dubovcová said, "the Slovak Judges' Association was established here (in Banská Bystrica) ten years ago. A group was working here around Ľudovít Bradáč and Ján Hrubala, who were the first to raise the topic of independence of the

judiciary. The other regions will either join in or remain silent. For example, as demands for higher pay were formulated, the whole of Slovakia was united; however, when we address issues of self-governance and greater accountability, a big hush prevails over Slovakia.”<sup>74</sup> Diverging attitudes to the Association’s agenda have, among other things, resulted in the situation that P. Rohárik, the Association’s president, who had begun to alert fellow members to the problem of corruption within the profession, was not elected to this position again.

Local governments are mainly represented by the Association of Towns and Communities of Slovakia (ZMOS). As of 30 June 2000, Slovakia had 2,742 communities and 136 towns (with Bratislava and Košice divided into boroughs). At the time, ZMOS members included 2,760 out of 2,917 local governments, communities and towns as well as Bratislava and Košice boroughs.

ZMOS has used, and continues to use, several avenues of communication with central authorities. On the one hand, ZMOS has been active in organising conferences and seminars attended, among others, by government officials and MPs. Advocacy of the public administration reform has become a core agenda for ZMOS. On the other hand, it should be noted that, given the nature of ZMOS membership, existing political connections do influence the forms of advocacy the organisation uses. As it happens, ZMOS is largely comprised of political parties’ regional officials. Therefore, ZMOS officials actually represent respective political parties at the decentralised level. Many politicians active nation-wide (e.g. president Rudolf Schuster, parliament deputy chairman Ivan Presperín and many MPs) are, or used to be, active at the local level as local councillors or mayors. As a result, pressure for the public administration reform was also exerted by the regional structures of political parties. The public administration reform has also been advocated by opinion-shaping media. ZMOS has held numerous press conferences and actively communicated with media. The public administration reform has been supported by non-governmental organisations and ZMOS has closely co-operated with the government’s commissioner for public administration reform.

However, ZMOS has chosen to keep clear of many topics related to the public administration reform or to address them without any substantial communication with the media. The position of ZMOS and its links with political parties were visible during attempts to amend the Constitution in February 2001 as ZMOS objected to proposals to expand the authority of the Supreme Audit Office so as to enable oversight over local governments. The situation repeated itself in November-December 2001 as the SAO Act was amended. The President yielded to ZMOS pleas and returned the proposed amendment to Parliament, which subsequently ruled against expanding SAO authority to this area.

### **III.8. Case Study: Enacting the Civil Service Act<sup>75</sup>**

The process leading to the enactment of the Civil Service Act in the period of 1999 - 2001 is an interesting case study inasmuch as it illustrates the interests and approaches of many key players: foreign counterparts (more specifically, the European

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<sup>74</sup> *Domino Fórum*, 11.10.2001

<sup>75</sup> The chapter is primarily based on data presented by Beblavý (2000) and Beblavý (2001) and on sources quoted next to specific statements.



Commission), trade unions, media and civil servants participating in public policy-making. Because of the significance of this new norm and the internal conflict within the ruling coalition, we have for almost two years been witnesses of a very open and enlightening game.

The Civil Service Act should govern the terms and conditions of employment of approximately 36,000 civil servants at the “core” of the state machinery, i.e. most employees working at ministries and other central state authorities, at the local authorities of state administration and tax authorities. Career military servicemen, customs officials and police officers are subject to their own laws. Other public sector employees are subject to the Public Service Act.

The enactment of the Civil Service Act has been the ambition of all governments since the early 1990s.<sup>76</sup> The law was finally enacted in July 2001 following two years of discussions within the ruling coalition of Mikuláš Dzurinda, with active participation of trade unions and NGO experts.

This law was intended to provide for legislative conditions for establishing a core group of non-partisan professional civil servants within the state machinery, using systems applied by most west European countries as a model. As it turned out, however, the parties involved did not see eye to eye with regard to approaches to be used in achieving this goal.

The following description should suffice for the purpose of this case study:

1. Together with trade unions operating in the public administration sector, a group around the Ministry of Labour, Social Affairs and Family as the bill sponsor emphasised the need for social and other safeguards for civil servants and their protection against a subjective approach (additional salaries, bonuses and other financial incentives, a virtually fail-safe lifelong tenure of office, rigid remuneration and promotion schemes).
2. Together with some non-government experts (including one of the authors of this publication), a group around Ivan Mikloš, deputy prime minister responsible for the economy, underlined flexibility, differentiation and ethical systems (greater emphasis on base pay with performance-linked special benefits, performance review, greater emphasis on avoiding conflicts of interest and ethics, greater pay differentiation and flexibility, especially in respect of junior staff).

An official version of the bill was drafted in 1999 drawing on previous working versions. After discussions with the government’s consultative bodies, in April 2000 the bill was ready to be reviewed by the Cabinet. However, given the political conflict between Ivan Mikloš and the Minister of Labour, Social Affairs and Family, Peter Magvaši, the Cabinet decided to defer formal deliberations until July when it again postponed the deadline to enable broader preliminary discussions of the bill. The discussions dragged on until January 2001. During that period, several adjustments were applied to the bill, though largely minor by nature. Following talks between the prime minister, Mikuláš Dzurinda, the deputy prime minister responsible for European integration, Pavol Hamžík, Ivan Mikloš and Peter Magvaši, it became clear that no agreement was possible and a decision was taken in January 2001 to discuss

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<sup>76</sup> See the Explanatory Report to the Civil Service Act

the bill at a special Cabinet meeting on 4 March 2001. Together with external experts, Ivan Mikloš formulated amendments to the bill which the Cabinet discussed and accepted several of them. On 5 March 2001 the bill was submitted to parliament. Parliament approved the bill on 2 July 2001, having incorporated amendments proposed by several MPs (in particular Peter Tatár) for which Ivan Mikloš had failed to win the support of Cabinet. Trade union protests notwithstanding, the President signed the bill into law, part of which entered into force on 1 October 2001 (the remaining provisions of the law will become effective on 1 April 2002).<sup>77</sup>

Legislating for the law has actively involved virtually all groups analysed in this study, for which reason we make use of this process as a case study. In the following text we will take a closer look at their interests, instruments and approaches.

Among trade unions, the dominating position was that of the public administration union SLOVES. Both officially and informally, the Trade Unions Confederation has invariably and resolutely advocated the interests of public sector employees as presented by SLOVES. It was noted earlier that their approach emphasised social and other safeguards for civil servants as the main tool of improving the quality of civil servants and enhancing civil service performance. In the Czech Republic, by contrast, trade unions as a whole did not support steps perceived as granting unjustified benefits to a certain segment of employees.

Therefore, both KOZ and SLOVES resorted to all available instruments (such as an official place at the negotiating table under the Economic and Social Partnership Act, close political and opinion associations with the bill sponsor, i.e. the Ministry of Labour, Social Affairs and Family, and with the Party of Democratic Left, press conferences, articles, interviews, the ownership of the *Práca* daily and other media policy instruments, the membership of the SLOVES president and KOZ vice-president, Igor Lenský, in the Government's Legislative Board) to ensure that their approach to the bill prevails. Given a considerable closeness of views and political stances between the trade unions and the bill sponsor, their opinions were in large measure incorporated into the official version proposed and advocated by the Ministry of Labour, Social Affairs and Family.

When, following discussions within the Cabinet and, in particular, in Parliament, the bill was significantly revised in areas that KOZ and SLOVES regarded as crucial, they no longer considered the law meaningful and demanded that it be rescinded and that the scope of the Public Service Act be expanded to include civil servants as well. Compared to the Public Service Act, the civil service counterpart had a number of provisions envisaging tighter recruitment and performance review requirements, anticorruption measures and protection against politically motivated dismissal. On the other hand, it no longer provided for end-of-career severance pay, additional pension and some other benefits.<sup>78</sup>

The European Union represented by the European Commission, SIGMA and the Delegation of the European Commission in Bratislava had, and still have, a vested interest in seeing in the country a qualified high-quality administrative apparatus

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<sup>77</sup> see *SITA*, 2.7.2001, 4.7.2001, *Profit*, 6.7.2001, *Pravda*, 13.7.2001, *TREND*, 15.8.2001

<sup>78</sup> see *PRAVDA*, 24.7.2001, *TREND*, 15.8.2001

capable of implementing enacted legislation and other obligations and of administering financial flows from the EU to Slovakia.<sup>79</sup> Furthermore, under the Vladimír Mečiar government, it had been generally held that the civil service was subjected to massive politically motivated reshuffles, which not only weakened its capacity but also jeopardised democracy. Therefore, the European Commission regarded the enactment of the Civil Service Act as a priority, one that after 1998 became an official short-term priority under Slovakia's accession process. Obligations of that status can be numbered on the fingers of one hand in a given year, which only served to highlight the significance of enacting civil service legislation for the accession process and, by the same token, for Slovak politics.

Therefore, the EU stance became the main driving force behind attempts to enact civil service legislation despite conflicts within the ruling coalition and other segments of society. The relevant bill should have been passed in the summer of 2000 as part of the labour law reform so that the enactment could be positively reflected in the regular report published by the EC in November and evaluating Slovakia's progress towards accession. Because of political bickering within the Cabinet, this target was not met and enactment in 2001 became an absolute deadline to ensure that the accomplishment would be fulfilled by the deadline for the EC November 2001 report. In view of the summer recess, the bill would have to be approved at the June session of Parliament at the latest, which implied that it would have to be submitted to Parliament by 5 March 2001. This fact was the crucial factor that, following a year of discussions, forced the Cabinet to meet at a special session on 4 March 2001 and strike a deal.

The European Commission used two instruments to achieve its goals. The main instrument took the form of opinions, information and attitudes submitted **bilaterally and in confidence**, both in writing and orally, by experts and politicians throughout the entire drafting and approval process. Their purpose was to get across to Slovakia's top government officials and their subordinates the importance of enacting civil service legislation, to present specific requirements in terms of its substance and to comment on specific aspects of the proposed bill. The other instrument included **public statements** of the European Commission and its experts in the form of the regular reports on the progress of Slovakia towards EU accession, other published analyses and interviews with Slovak media.

In very simple terms, public statements could be described as instruments of generating overall political will in Slovakia and of eliciting "crude" adjustments of steps taken by the Slovak government. This view is supported by the fact that European integration is a political priority that enjoys wide public support in Slovakia. Therefore, political statements on the topic can be used as an instrument of generating political will. If the EU announces that failure to enact civil service legislation would be a major obstacle to Slovakia's accession to the EU, this would exert considerable pressure to bear on the Slovak government and parliament for passing the required law. The instrument is "crude" inasmuch as the transmission mechanism – public statements by the EU – media response in Slovakia – political pressure on the government and parliament – adoption of relevant steps – is fairly indirect and can successfully transmit but only very simple, almost binary, signals (e.g. something is

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<sup>79</sup> See EC (2000) and EC (2001)

necessary or, by contrast, unsafe). On the other hand, it cannot send signals about specific portions of a law or it can do so in most general terms only. In this regard, bilateral documents presented in confidence constitute a far subtler instrument that, although lacking the political drive of the previous one, can fall back on public statements and much more accurately communicate specific stances and requirements.

The involvement of the European Commission, however, had many ironical implications for the entire process. In terms of substance, the EC was relying on experts from SIGMA, a joint organisation of the OECD and EC for public administration reform in transition economies. From the very beginning SIGMA experts noted several problems in the “ministerial” draft bill and their criticisms in many respects overlapped with those of Slovak specialists that deputy prime minister Ivan Mikloš had accepted as valid. Therefore, the concrete version of the bill that the EC supported was significantly different from the Ministry of Labour-sponsored draft bill.<sup>80</sup> As a result, each party to Slovakia’s internal dispute chose from the EC position those aspects that it felt would strengthen its position in the conflict. The Ministry of Labour, Social Affairs and Family and other advocates of the ministerial bill would emphasise the need for enacting the law to attain the accession goals and would downplay EC criticisms. By contrast, deputy prime minister Ivan Mikloš as well as experts and politicians working with him would focus on criticisms and seek to overlook the implications of non-enactment for accession. Paradoxically, EC pressures being very strong, this stance, together with reluctance to officially interfere with Slovakia’s internal affairs, was ultimately instrumental in promoting the Ministry-sponsored bill even though the EC position was closer to the alternative proposal.

Following the initial lack of interest, most media primarily portrayed the issue as a dispute between deputy prime minister Mikloš and minister Magvaši, especially with regard to incentives and privileges for civil servants. The media projected the dispute in the framework of the EU requirement that the law be enacted. Non-political actors (SLOVES officials, non-governmental experts etc. operators) were playing a secondary role in the media. Overall, the media moderately favoured the “reformist” approach of Mikloš, even though it was natural that in such a complicated issue they were seeking to remain more neutral than with regard to other political conflicts within the Dzurinda coalition (e.g. concerning decentralisation).<sup>81</sup>

With regard to civil servants directly involved in policy-making, the bill represented one of the few instances where a system under preparation would have a direct and significant impact on their individual and groups interests. Civil servants directly participating in drafting the bill and a large proportion of other civil servants viewed the would-be law as a tool in the following two areas:<sup>82</sup>

1. As a tool for protection against political purges and for a general rise in job security and protection against dismissal or other interference in their work by politicians and superiors.
2. As a tool of making the civil service more attractive by means of amassing new and existing incentives. Since attempts at significantly increasing the pay scale in

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<sup>80</sup> This statement is based on a confidential opinion of SIGMA and the EC available to the author; also, see *PRAVDA*, 4.10.2000 and 13.10.2000

<sup>81</sup> e.g. see *Pravda*, 6.3.2001, *HN*, 5.3.2001, *SME*, 5.3.2001, *NO*, 8.3.2001

<sup>82</sup> See the Explanatory Report to the Civil Service Act

the civil service had failed, an alternative tool was to incorporate hidden incentives that would become manifest later on. This approach had its political logic. Given a short-term political outlook and the fact that public opinion was not too inclined to civil servants, it was simpler to advocate gradually accruing benefits, especially those associated with future costs and those relatively hidden from the public. This approach was also associated with similar incentives offered to armed forces personnel and police officers as there is an understandable and simple psychological need for creating an “even ground”.

Civil servants, therefore, were mostly able to shape the bill during the drafting stage and while it was deliberated by the executive branch of the government. After the bill was submitted to Parliament, they no longer organised any public events or other demonstrable pressure action. This fact only confirmed their preference for “behind the scenes” tactics.

The third sector as a whole, i.e. non-governmental organisations of different types and focus, did not have a position of its own concerning the civil service bill. Participants in the discussion were but a few NGOs of the think-tank type, in particular INEKO – Institute for Economic and Social Reform – and Transparency International Slovakia, for which the substance of the bill was highly relevant for the areas of their operation such as the efficiency and quality of public administration, transparency and corruption. These NGOs would advocate the values they had been established to promote by using corresponding methods such as opinions and proposals and by promoting them publicly. In this particular case, they represented the other side of the coin. Having political will to advance change and reform in which they believed, some politicians lacked expertise to draft and finalise them.<sup>83</sup>

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<sup>83</sup> See *SME*, 6.3.2001 and 11.6.2001, *Pravda*, 4.7.2001

## CHAPTER IV: SELECTED ISSUES AND RECOMMENDATIONS FOR PUBLIC POLICY-MAKING<sup>84</sup>

A large part of this study has so far dealt with the policy-making process from a positive standpoint by looking at how the process evolves, what forces influence it and what outcomes it generates. This chapter is a normative one; it explores certain issues associated with the process and suggests possible solutions for improvement.

To identify the issues and propose solutions, it is essential to answer, either implicitly or explicitly, the following questions: What **should** a public policy-making process **be** like? What criteria should it meet?

A functioning public policy-making process should ensure that all relevant interests are represented in the decision-making process and, by the same token, that the process remains open. The process should take into consideration the needs of diverse groups and should be transparent so that the public can gain access to information and can monitor the process (see UNDP (2001), p. 16). It should also be effective and operational in terms of generating decisions fast and without excessive costs for participants. It should also identify clear political accountability for the final decision in a particular matter.

Another – key – feature of a sound public policy-making process is to what extent it takes into account and incorporates the **principle of the inevitability of choice**. In formulating specific sectoral policies and in ensuring their co-ordination and financing, it is never possible to meet all targets and satisfy all aspirations; not even if there is no direct conflict between them since financial, human, natural and other resources are finite. Therefore, a major part of public policy-making is not so much about generating and advocating ideas but about choosing between different proposals, all of them acceptable as a matter of principle. As this choice is the basis of sound public policy-making, a sound process puts it to the forefront of attention.

### IV.1. Reform and accession overload and associated issues

A major factor determining public policy-making in Slovakia, especially in 1999-2002, has been the so-called reform and accession overload. Given the reform commitments of the Government formulated in its 1998 manifesto and associated with the need to expedite the EU accession process (in comparison with the countries that had commenced accession negotiations two years earlier and with which Slovakia wanted to catch up), politicians and their administrative apparatus were exposed to a considerable overload of the existing capacity. This does not imply that the existing capacity was inadequate in quantitative terms but rather that, in terms of quality, it was overwhelmed by the need to cope with all responsibilities ensuing from the reform and accession processes and, moreover, to cope with them in accordance with exigent standards.

One of the major problems of public policy-making and legislative instruments is a lack of human resources with appropriate skills and aptitudes. In part, this situation is

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<sup>84</sup> In many areas this section draws heavily on the study by Miroslav Beblavý, Tony Verheijen and Katarína Staroňová “Rozvoj kultúry tvorby verejnej politiky na Slovensku” [Developing the Culture of Public Policy Making in Slovakia] written for NOS – OSF in April-October 2001.

a reflection of an overall lack of this capacity in post-communist countries; it is essential, however, to take into account other factors as well. According to Beblavý, Verheijen and Staroňová (2001), ministries primarily employ young (under 30 years of age) or elderly (50 year-old plus) staff. Managers are complaining that there is a gap not filled by middle-aged officials with adequate expertise, conceptual abilities and creativity. Because of a rigid remuneration system, the ministries are generally facing the problem of recruiting, retaining and motivating skilled staff able to do conceptual work.

With regard to EU accession and the impact of that goal on public policy-making, there is the risk that areas of public policy-making in Slovakia are falling behind in attempts to fulfil EU priorities. In part, this is due to lack of domestic public policy-making capacity and, in part, lack of a clear conceptual strategy within the Government Office.

The reform and accession overload will gradually diminish; however, the risk of inadequate advocacy of own priorities and interests will remain and become even more acute after EU accession. This issue, therefore, deserves special attention and one can only recommend that experts look closely at the experience of Poland, Lithuania and Latvia that, despite similar capacity and financial restrictions, have been able to deal with the issue more effectively than Slovakia.

In general, one can talk about long-term steps to expand and enhance the human resources capacity with regard to public policy. The main steps include impeccable implementation of a new regulatory framework created by the Civil Service Act, especially in the next three areas:

- recruiting new high-quality human resources
- investment in existing human resources (education, networking and informal contacts, ...)
- using incentives to improve performance of existing human resources

A more detailed analysis of this general question would, however, be beyond the scope and ambition of the present study.

#### **IV.2. Civil society participation in public policy-making**

As pointed out previously, the participation and openness of the entire process constitute a key issue in ensuring the representation of relevant public interests in the decision-making process and in determining the extent to which the public can gain access to information and can monitor the underlying process.

One can observe that in Slovakia external organisations and individuals are involved in public policy-making in a much more intensive fashion than is generally the case in many other central and eastern European countries. It should also be pointed out, however, that there are considerable differences in that respect between different ministries and the choice concerning **who** from the external environment can participate in the process is neither regulated nor predictable nor transparent.

According to Beblavý, Verheijen, Staroňová (2001), the reasons for intensive participation of external organisations vary and include:

- the need to ensure wide support for drafted policy proposals by the groups involved
- lacking internal capacity at the ministries for the preparation for high-quality policy papers
- low confidence that politicians and top ministerial officials frequently have in the aptitudes of ministerial staff

In addition to its benefits, this approach is also associated with the risk that external participation may often supplant the internal capacity of the ministries in matters of substance. Potentially, this could result in the ministries being taken over by external interest groups, especially in areas with a limited number of actors participating in the process. It should be emphasised, however, that in most instances intensive consultations are a result of the prevailing trend within the government and state administration to seek a broad political discussion concerning important public policy concepts.

Therefore, one can recommend strengthening the participation of officials at central government authorities in formulating public policy concepts, a responsibility that is currently to a large extent borne by working groups largely comprised of external experts. A change would, however, call for the cutting of a vicious circle where a shortage of public policy-making capacity at the ministries strengthens the lack of confidence in ministerial officials on the part of top civil servants, which puts them off investment while building up that capacity, especially if such investment is only likely to bear fruit in the medium to long-term. This means that the beginning of an electoral term presents the best opportunity for change as politicians can then realistically hope to see the outcomes of such investment.

### IV.3. Corruption in public policy-making

As described in detail in Chapter III, public policy-making is associated with frequent interactions between the public sector and general public. Sičáková (2000) points out that influences exerted by interest groups on elected officials and public administration are a natural and inseparable part of democracy. It enables the interchange of individual pieces of experience, views, interests and opinions of interest groups represented in the political spectrum and, in this regard, the process is informative and useful. Proper lobbying provides the public administration with useful and relevant information alerting to existing or contingent issues. Lobbying could be described as a direct action of an individual, interest group or its representative on an elected or government official, which aims to influence the outcome of a legislative or regulatory process and does not represent a conflict of interests or corruption. An essential feature of lobbying is that it is a public activity or an activity that lends itself to public control. As long as **lobbying is conducted publicly** and as long as all interest groups are granted more or less equal access to elected officials and the public administration, lobbying contributes to information interchange on the legislative and political market and helps to enhance the quality of the legislative process.

Too frequently, however, the meaning of lobbying is interchanged with that of **corruption**. Drawing a clear line between these two phenomena is no easy job in Slovakia either. Compared to the above definition of lobbying, we believe that



corruption consists in a direct action by an individual, interest group or its representative on an elected or government official aiming to influence the outcomes of a legislative, regulatory or executive process in return for a financial or other consideration that benefits the elected or government official or the political party that they represent. As a rule, corruption is not public.

Lack of transparency in the public sector is one of the main features suggesting the existence of corruption<sup>85</sup>, including political corruption. In simplified terms, the extent of corruption, including political corruption, is a function of the qualitative and quantitative parameters of the public administration that could be described as the extent of potential benefit (quantity) and extent of potential risk (quality). This is where possible solutions should be sought. For the purpose of this study, the quantitative parameters imply the scope of public administration involvement, i.e. the extent of regulation and reallocation processes.<sup>86</sup> The qualitative parameters that should become the focus of **prevention** include, for example<sup>87</sup>

- a clear separation of politics and the economy, e.g. by determining which positions in the public sector are to be filled by political nominees and which ones are reserved for experts<sup>88</sup> and by consistently abiding by this principle.
- enhancing the transparency of processes carried out by the public sector, e.g. in public procurements
- addressing discretionary decision-making and the potential conflict of interests to which decision-makers are exposed in granting licenses, grants or subsidies
- implementing clear and controllable party-finance rules
- respecting and implementing principles such as equal opportunities or accountability.

A reform of the **repression** chain, i.e. supervision, the police, prosecutor's office and courts, would increase the risk resulting from corruption behaviour and provide for better enforceability of law.

At the same time, it is necessary to consider the introduction of clear rules to regulate the interaction of the public sector with public officials, e.g. in the form of a lobbying law.<sup>90</sup>

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<sup>85</sup> In a 1999 survey by CPHR [Centre for Economic Development], up to 84% of respondents encountered instances of corruption in public administration. 85% respondents thought that, compared to the OECD, corruption in Slovakia was more serious. On the other hand, up to 94% of entrepreneurs thought that, in the long run, a fair and uncorrupted environment was more conducive to doing business than an informal economy. Corruption in Slovakia is rampant. It is virtually impossible to determine when public office is abused to gain a direct personal benefit or to benefit a third party, e.g. a political party. For details, see Sičáková (2000).

<sup>86</sup> In that context, Slovakia can be described as an economy with a significant degree of intervention by public administration into economic processes.

<sup>87</sup> For details, see the National Program for Fighting Corruption at [www.transparency.sk](http://www.transparency.sk).

<sup>88</sup> For details, see the section on civil and public service laws.

<sup>89</sup> For details, see Zemanovičová, Sičáková and Ondrejka (2001).

<sup>90</sup> For possible approaches to the problem, see Sičáková (2000).

#### IV.4. Financial realism in public policy

Let us first consider the following two quotations:

“If we neglect the public policy- and decision-making process, we will deserve, and ultimately experience, poor public policies and decisions... The key in this regard is the method by which money is gained that the government spends to fulfil the tasks assigned to the state” (Schiavo-Campo and Tommasi (1999), p. xvii)

“A public budget should be an economic mirror of social and economic decisions by society” (Schiavo-Campo and Sundaram (2001), p. 221).

Even though public policy-making cannot be reduced to public funds reallocation and budgeting, and allocated funds are the key to implementing any decisions in public policy. It is the budgeting process and budget implementation that highlight the necessity of choice given the finite nature of public funds.

At present Slovakia does not make that choice until the annual drafting of the state budget begins. Moreover, the choice is made in a way that neither permits politicians, media and the general public to analyse public finance priorities nor otherwise subjects public finances to genuine analysis. In this regard, two topics deserve particular attention: medium-term budgeting and activity-based budgeting.

Medium-term budgeting integrates the present and future budget situation (anticipated total revenues and expenditures) with projected future spending on key government programs. Without medium-term budgeting, the ever-present conflict between the claims of sectoral policies on budget funds and funds availability is only addressed during the drafting of the **annual** budget for the **next year only**. Thus, a conflict arises between medium-term finance requirements ensuing from approved medium- and long-term policy documents and the funds that will actually be allocated in several years' time when drafting the annual budget.

In other words, there is no pressure to harmonise medium- and long-term projections of budget requirements for specific policies with the overall medium-term budget outlook, i.e. with what will be feasible under the budget in the medium term. This frequently leads to projections in policy documents being unrealistic as they are primarily intended to “clamour” for future funding. This system results in making medium-term policy planning overly complicated and, in some instances, meaningless.

Activity-based budgeting consists in linking appropriations to specific activities that they are meant to finance. It is a key instrument for creating a direct relationship between political decisions concerning public policy priorities and their actual implementation as well as for exercising public control over what public funds are spent on.

Even though the Ministry of Finance does prepare an official medium-term budget outlook and the implementation of activity-based budgeting, the results so far are not too impressive. The reasons include the fact that the process is not considered a high priority; the philosophy of the underlying processes and of other elements of the

budget process reform is not thought over sufficiently well. The entire process is only marginally connected with public administration reform and public policy-making reform.

Therefore, one can recommend that greater emphasis be placed on the relationship between the public policy-making reform and budgeting reform and on expediting reforms in both areas as one integrated entity.

#### **IV.5. Lack of a clearly defined vision and inadequate co-ordination**

In this section we take a close look at co-ordination within ministries and between different ministries within the government.

The internal situation within the ministries is characterised by a highly fragmented approach to public policy-making. There are very few arrangements in place to ensure an integrated approach to the entire ministry (or ministries), although such an approach is necessary and can be rationalised. At present, most ministry departments are considered autonomous units and relations between the departments within a ministry have the nature of relations with other ministries. Mechanisms for dispute resolution between departments are mostly functional (although this to a large extent depends on a particular minister, which is not a desirable solution from a structural point of view). Disregarding the dispute resolution mechanism, however, there appears to be little more than just a minimal structure that keeps the interests of different departments together. Even when the minister has an overall vision for the entrusted ministry, this is not per se sufficient to formulate a long-term approach/strategy.

The key issue is almost total dependence on heads of departments as principal public policy-makers accountable to the minister (and, in some measure, to the outside world) for the preparation of policy proposals in their respective areas. Unless change is introduced, the departments will carry on without incentives and pressure to make them communicate with each other or cooperate with the policy-making departments, because the main pressure and incentive is to come up with “their own” policy proposals.

In Chapter II we analysed in detail some issues relating to the lack of strategic thinking in public policy-making and the lack of co-ordination between ministries and within the government. In particular, this concerned an inadequate ex ante contract between political parties of the ruling coalition, i.e. the fact that the government manifesto was not sufficiently concrete. Similarly, we referred to a lack of closer links between politicians in the executive branch of the government, ministerial apparatus and MPs representing the ruling coalition.

Some remedial action has already been taken, but it would be premature to evaluate results at present. Based on the recommendations of the audit of central authorities, in the first six months of 2001 the Cabinet approved two documents with a major impact on the public policy-making process. The first of them dealt with the government’s consultative bodies. The other major change approved by the Cabinet addressed the inter-ministerial process of comments. Those have been but the very first steps that

represent the possible beginning of change necessary to better co-ordinate public policy-making within and between ministries.

In this regard, it can be recommended that the ruling coalition parties and their leaders pay more attention to

- formulating the government manifesto
- the process of transition between different governments
- the impact of coalitions upon public policies.

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