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Group of States against corruption

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Evaluation Report on the Slovak Republic

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I. INTRODUCTION

1. The Slovak Republic was the second GRECO Member to be examined in the second Evaluation round. The GRECO evaluation team (hereafter referred to as the "GET") was composed of Mr Hans ABMA, Ministry of Justice, International Criminal Affairs and Drugs Policy Department, (Netherlands), Mrs Olga VIDLAKOVA, Head of Public Administration Section, Institute of Legal Education and Information, (Czech Republic) and Mr William A. KEEFER, Assistant Commissioner, Office of Internal Affairs, United States Customs Service, (United States). This GET, accompanied by two members of the Council of Europe Secretariat, visited Bratislava from 16 to 19 September 2003. Prior to the visit, the GET experts were provided with a comprehensive reply to the Evaluation questionnaire [Greco Eval II (2003) 4E], as well as with copies of the relevant legislation [Greco Eval II (2003) 4E Appendices].

2. The GET met with representatives of the following Slovak authorities: Vice-Prime Minister for Legislation and Minister of Justice, Office of the Government (Department on the Fight against corruption), Ministry of Justice (Criminal Law Department, Civil Law Department, International and European Law Department), Ministry of Interior (Public Administration Department), Police (Organised Crime Bureau and Financial Police), Prosecutor General's Office, Courts (the Vice-Chairman of the Council of Judges, Regional Court Bratislava and District Court Bratislava, Register Court of Bratislava), Ombudsman's Office, Ministry of Finance (tax and customs internal inspectorate, accountancy), Ministry of Economy (state infrastructures), Ministry of Health, Ministry of Buildings and Regional Development, the City Manager of Trnava, National Bank of Slovakia, Financial Market Authority, Supreme Audit Office, Civil Service Office. Moreover, the GET met with members of the following non-governmental institutions: Chamber of Auditors, Chamber of Notaries, Chamber of Executors, and Chamber of Attorneys and the National Chapter of Transparency International. It had also a fruitful meeting with representatives from the Slovak media (TA3 Television and Radio Twist).

3. It is recalled that GRECO agreed, at its 10th Plenary meeting (July 2002), that the 2nd Evaluation Round would run from 1st January 2003 to 30 June 2005 and that, in accordance with Article 10.3 of its Statute, the evaluation procedure would deal with the following themes:

   - **Theme I - Proceeds of corruption:** Guiding Principles 4 (seizure and confiscation of proceeds of corruption) and 19 (connections between corruption and money laundering/organised crime), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173), by Articles 19 paragraph 3, 13 and 23 of the Convention;
   - **Theme II - Public administration and corruption:** Guiding Principles 9 (public administration) and 10 (public officials);
   - **Theme III - Legal persons and corruption:** Guiding Principles 5 (legal persons) and 8 (fiscal legislation), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173), by Articles 14, 18 and 19, paragraph 2 of the Convention.

4. The present report was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the present report is to evaluate the effectiveness of the measures adopted by the Slovak authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 3. The report contains first a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to the Slovak Republic in order to improve its level of compliance with the provisions under consideration.

5. The Slovak Republic ratified the Criminal Law Convention on Corruption (ETS No 173) on 9 June 2000 and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No 141) on 7 May 2001. It made a reservation according to which, Article 6 paragraph 1 of Convention ETS No 141 shall apply only to predicate offences according to the Slovak Penal Law (Articles 17 - 20a of the Penal Code (PC). See Appendix I).[1]

II. THEME I – PROCEEDS OF CORRUPTION

a. Description of the situation

Interim measures

6. In the Slovak legal system, there are judicial and administrative interim measures aiming at seizing and freezing proceeds of crime. Judicial interim measures are defined in Articles 78 to 81 of the Code of Criminal Procedure (CCP. Appendix II). By virtue of these provisions, "whoever"[2] is in possession of a "thing relevant for criminal proceedings"[3] shall have the duty to hand it over in accordance with the Law[4] to a court, a prosecutor, an investigator or a police authority, when requested to do so, in pre-trial or court proceedings. The interim measures aim either at "securing the claim of a victim" with a view to compensation, by issuing an attachment order on the corresponding part of the offender's property (Articles 47 to 49 CCP) or, at seizing or freezing "property" with a view to enforcing a possible sentence on forfeiture (Article 347 CCP). The operational Police can seize a thing for 90 days and a judge can maintain such measure for 9 additional months. With regard to administrative interim measures, the Financial Police (the Slovak FIU) has the power to postpone suspicious transactions[5]. Finally, a "reporting entity" obliged to report "unusual business activities" can decide to postpone a transaction initially for 24 hours. Overall postponement cannot exceed 72 hours. The aforementioned interim measures can be applied in relation to proceeds of any corruption offence defined in the Penal Code.

7. The Slovak authorities provided figures related to the number of corruption cases that had been investigated, prosecuted and sentenced from 2000 to 2002 (Appendix III), but there were no figures collected and processed systematically with regard to the number of corruption cases in which interim measures were taken and on the value of the property frozen or seized. Interim measures are allegedly taken in few cases of bribery of some domestic public officials (most often involving traffic wardens). They are used in the prosecution of other forms of corruption to a lesser extent, as corruption remains often a secret offence and both parties have an interest to maintain secret the nature and amount of the proceeds.[6]

8. The situation regarding the management of seized proceeds was in the process of being regulated by a new amendment to the CCP[7]. It is in the competence of the regional state

[1] Reservation withdrawn by a *Note verbale* on 21st October 2003

[2] Any natural or legal person (user, owner or any third person) who disposes of a thing relevant for criminal proceedings.

[3] Anything that on the basis of the circumstances of a concrete case seems to be important for criminal proceedings. This implies not only such things as e.g. weapons, clothes or subjects of another kind, but also money "*in natura*" or on an account, proceeds of crime and also property of all various forms.

[4] This duty shall not apply to a written document whose content deals with questions barred from interrogation unless the confidentiality or non-disclosure obligation has been lifted.

[5] See Article 9 of Law No 367/2000 on protection against legalisation of proceeds from criminal acts

[6] However, in cases of active corruption, where the person who has been asked to give a bribe informs the law enforcement authorities immediately, the former is often used as an agent. He is provided with the requested amount of money and with appropriate technical equipment to record his discussion with the person asking for the bribe, thus allowing law enforcement authorities to confound and arrest the offender.

[7] The new Articles 345 and 350/c of the CCP entered into force on December 1st, 2003.

administration. In case of mismanagement of the seized or frozen proceeds of crime, the manager (only a natural person) shall be prosecuted according to the Penal Code (PC)[8], which provides for penalties of imprisonment of up to 15 years.

9. There is no systematic anti-money laundering investigation going simultaneously with a criminal investigation of a corruption offence with a view to searching, detecting, tracing and freezing proceeds of this offence. However, by virtue of the Act No 367/2000 as modified by Act No 445/2002, whenever the law enforcement agencies are provided with information on possible proceeds of crime, they shall take steps to proceed, as the case may be, to the identification, tracing and freezing of such proceeds. All entities subject to the requirements of the anti-money laundering Act have to report to the Financial Police any "unusual business activity". The FIU is obliged to verify every suspicion of unusual business transactions and to take appropriate measures including asking a financial institution or a bank to delay business or a financial transaction.

10. As mentioned above, by virtue of Articles 78 to 81 of the CCP, law enforcement agencies (police, investigators and prosecutors) are obliged, during investigation, to search, detect, trace and, after prior authorisation by a court - unless the matter is urgent or it is impossible to obtain such prior authorisation[9] - freeze the income from all kinds of criminal activities. During a preliminary investigation carried out by the criminal police it is also possible to freeze the income deriving from all kind of criminal activities. The Police are authorised to ask a natural person to render a "thing", including money or any other benefit deriving from corruption.

11. Freezing and seizure of bank, financial or commercial records - including information covered by bank secrecy regulations - as well as communication of such records to bodies acting in criminal proceedings, are performed occasionally in corruption cases by virtue of Articles 78-82 or Article 8 of the CCP[10]. These data shall be requested by a prosecutor within or outside the framework of pre-trial proceedings. An investigator or a police authority may request such data only with a prior authorisation by a prosecutor. In judicial proceedings, such data may be requested by the presiding judge of a panel. Bank secrecy is not opposable to the Financial Police by virtue of Article 29.a of the Act No. 171/1993 on Police Corps and Article 91 (4) g of the Banking Act. No. 483/2001.

Forfeiture and confiscation

12. The legislation generally avoids mentioning "confiscation", as provided in Article 1.d of the Convention ETS No 141 mainly for historical reasons. However, the Penal Code provides for the possibility to impose a penalty of "forfeiture of property" (Articles 51-52)[11] or "forfeiture of a thing" (Articles 55-56). Moreover, Article 73 of the PC deals with "attachment (confiscation) of a thing" in the absence of forfeiture of a thing. The PC does not define the words "proceeds" (any economic advantage…), "property" and "instrumentalities" as mentioned in Article 1 of Convention ETS No 141. A new draft law on confiscation had been prepared during the evaluation visit, but this text was not available in one of the Council of Europe's official language. In corruption offences, the imposition of forfeiture is discretionary. It can be imposed, in principle, only in conjunction with

[8] Such as for the offence of embezzlement (§ 248 of the PC); unauthorized use of a thing belonging to others (§ 249 of the PC); unlawful enrichment (§ 250d/ of the PC); and dishonest administration of another person's property (§ 255 of the PC).
[9] In that case, the authorisation shall be given within 3 days.
[10] Possibilities given by Article 8 of the CCP and, in particular, disclosure of information covered by banking secrecy regulations were used in 99 cases in 2000, in 457 cases in 2001 and in 325 cases in 2002, but it could not be specified how many of these cases were linked to possible corruption.
[11] This concept replaced the former concept of confiscation under the Socialist Regime.

another sanction.[12] Nevertheless, it is also imposed, under certain circumstances provided for by law (Art. 23.1 of the PC), as the single sentence of a corruption offence. In such case, the offender shall be regarded as never having been convicted (See Art. 55.7 of the PC, Appendix I).

13. The court may impose a penalty of "forfeiture of property" if it sentences the offender (to exceptional punishment or unconditional imprisonment) for a serious and intentional offence through which he acquired or tried to acquire property. Forfeiture of property covers the whole or part of the property of the convicted person according to the ruling of the court. The sanction of forfeiture of property cannot be imposed on offenders under the age of 18. The court may impose a sentence of "forfeiture of a thing" used to commit a crime; determined to commit a crime; obtained by a crime or as remuneration for committing it; or obtained by the offender in exchange for the aforesaid thing. Forfeiture, as a penalty, can only be imposed on the offender.

14. Forfeiture of things or property is possible for primary or secondary proceeds. By virtue of Article 89 para. 15 of the PC, a thing is also: a) a controlled natural power; and b) a security paper regardless of its form. Expenditures for gaining the proceeds are not deducted. Where the case may be, exact "economic advantage" is assessed by an expert-witness who is especially appointed to provide expertise on the value of property or thing to be confiscated.

15. Proceeds of crime cannot be confiscated (forfeiture) as a punishment without first obtaining the conviction of the perpetrator. It is not possible to impose the sanction of forfeiture of property of the bribe giver or a thing if the bribe giver has disappeared or is dead or incapable. Nevertheless, the Slovak authorities reported that by virtue of Article 73 of the PC, it is possible to "attach a thing" (confiscate a thing) as a protective measure in case forfeiture of a thing mentioned in Article 55 of the PC was not imposed, if it belongs to the offender who cannot be prosecuted or sentenced, or to whom the sanction was not imposed, or to whom the prosecution was suspended or conditionally suspended, or for having accepted an agreed judgment. It is also possible to confiscate a thing if it is presumed that it may serve as a source to finance terrorism or if it is necessary with regard to the security of the people or property or other similar general interest, in particular if the circumstances of the case give rise to suppose that the thing was obtained by the offence. The forfeited or confiscated thing becomes the property of the state. Article 73, paragraph 1.c. of the Penal Code can be interpreted as meaning that the legislation allows deprivation of a thing acquired by a third party.

16. There is no general obligation on corruption offenders (or those suspected for corruption offences) to prove the origin of their property, neither for possibilities to reverse the burden of proof in order to confiscate suspected proceeds of corruption after conviction. The National programme on the Fight against Corruption adopted by the Slovak Government in June 2000 addresses the issue of transparency of financial transactions. It indicates that "the transparency of the transfers of assets among family members, designed to obstruct investigation of a suspicion or confiscation of property, are also suitable means for punishing acts of corruption (based on the premise that a family member "should and could have been aware" of the real purpose behind manipulation with property or of the origin of property)".

17. The legislation provides for the possibility to use the forfeited property in satisfaction of the claim for damages of victims of corruption too, as a result of the provisional measures described before, following the adoption of an attachment order and final conviction of the offenders

[12] Within the meaning of the PC it is possible to impose the sanction of imprisonment, a monetary sanction and the sanction of ban on proffesional activity for the so called corruption offences; each sanction can be imposed separately or cumulatively. It is not possible to impose both a monetary sanction and the sanction of forfeiture of property.

(Articles 47 – 49 CCP). The victim shall always be notified that his claim has been secured and of the grounds on which the attachment order may be lifted.

18. The Slovak authorities provided to the GET, in writing, after the evaluation visit, figures regarding the number of cases where forfeiture was adjudicated during the last three years. [13]

International co-operation

19. Legal assistance with foreign countries is based on multi-lateral and bi-lateral international treaties and customary international law, including Strasbourg Conventions on Corruption, on Laundering of the Proceeds from Crime and on mutual assistance in criminal matters. Chapter 23 of the CCP establishes the basic conditions for the performance of mutual legal assistance in criminal matters, including provisions on seizure and confiscation of property upon request from a foreign country and exchange of information on criminal records (Appendix IV). It also contains provisions on the legal conditions for extradition, recognition and enforcement of foreign decisions, transfer of sentenced persons and requests of enforcement of suspended sentences. The mutual assistance is provided by the International Department of the Office of Prosecutor General in pre-trial proceedings and the Ministry of Justice in co-operation with the Supreme Court in cases where the indictment has been brought before a court. The Section 373 of the CCP guarantees the possibility of granting reciprocity to a requested State for the purposes of execution of a comparable request where required to do so. Incoming or outgoing requests can also be transmitted through INTERPOL, in particular, in urgent cases. Information on the dates and other conditions of surrender or transit of persons or things may also be exchanged through INTERPOL. The Slovak authorities may carry out the legal assistance requested by foreign authorities even if the requesting State is not bound by an international treaty and/or on the basis of the legal provisions of another State. Witnesses, experts and parties may also be examined under oath. The CCP allows execution of legal assistance acts on the territory of the Slovak Republic by foreign consular offices only upon prior permission given by the Prosecutor General. Finally, at the administrative level, the Financial Police also co-operates with foreign FIUs with a view to identify unusual business activities and to trace proceeds of crime. It is a Member of Egmont Group.

20. By virtue of a last amendment to the CCP, the seizure of a "thing" and its subsequent surrender abroad can be effected, upon a request, on the basis of a decision made by a foreign authority. The requested authority may postpone the surrender of the seized thing if the Slovak authorities need it in their criminal proceedings. When surrendering the seized thing the requested authority shall request its return from the foreign authority. It may, however, expressly waive this right or may agree that the thing shall be returned directly to its rightful owner. These provisions shall be applicable *mutatis mutandis* to the surrender of a thing seized with the person whose extradition is sought. Such thing shall be surrendered to the foreign authorities, whenever possible, together with the extradited person. The legal condition of seizure of "property" on the basis of foreign court judgment has also been included in the CCP. Under the conditions specified in an international treaty the court may, on the basis of a request by the foreign authority, and upon a

[13] In 2000 the sanction of forfeiture of a thing was imposed 18 times; from this number 3 times in addition to a monetary sanction and 15 times in addition to the sanction of imprisonment. The overall value of forfeited things was 54.300,- SKK (i.e. around 1.357 EUR). In 2001 the same sanction was imposed 9 times, from this number 2 times in addition to the monetary sanction and hence 7 times in addition to the sanction of imprisonment. The overall value of forfeited things was 21.120,- SKK (i.e. around 528 EUR). In 2002 the same sanction was imposed 18 times, from this number 5 times in addition to the monetary sanction and hence 14 times in addition to the sanction of imprisonment. The overall value of forfeited things was 17.560,50 SKK (i.e. around 439 EUR). See also Appendix V on financial punishments, forfeiture of a thing and attachment orders in corruption cases.

motion by the prosecutor, order the provisional seizure of the property located in the territory of the Slovak Republic of a person who is being prosecuted abroad.

21. Although the Slovak Republic has not so far been requested to provide international legal assistance concerning provisional measures in relation to corruption offences, it is allegedly able to provide it without delay. The Slovak authorities reported no case of application of Article 26 of the Criminal Law Convention on Corruption (ETS No 173). Finally, Art 52 para 3 of the Penal Code states: "The State becomes the owner of the forfeited property". The sharing of confiscated assets with other states is no further regulated.

Money Laundering

22. All corruption offences are predicate offences to the money laundering offence by virtue of Article 252 of the Penal Code even if they are committed outside the Slovak jurisdiction, under certain conditions provided for by law. Failure to report an unusual business activity and tipping off may result in criminal sanctions. However, no information was provided about any case of failure to report or tipping off as a result of corruption.

23. With regard to possible links between corruption, organised crime and money laundering, the GET was informed during the visit that, in practice, the bodies acting in criminal proceedings had faced some cases of organised criminals involved in human trafficking activities in neighbouring countries crossing the Slovak territory and offenders who transport stolen cars from Western Europe through the territory of the Slovak Republic to Eastern Europe countries. In these cases there could be elements of possible corruption of police or customs officers in connection with organised crime activities and money laundering.

b. Analysis

24. Several bodies, either administrative or acting in criminal proceedings, as mentioned above, are in charge of the identification, tracing, seizure, freezing and confiscation of proceeds of corruption. An efficient system of detection, investigation, prosecution and trial coupled with deterrent provisional measures and confiscation of proceeds, is the guaranty to prevent corruption in the government and the social and economic system and safeguard their integrity. It also aims at demonstrating, by depriving offenders from any advantage in committing crimes, that crime does not pay, and at identifying possible links between corruption, organised crime and money laundering. This is the meaning of Article 19 para 3 of Convention ETS No 173, as explained in the Explanatory Report: "The Convention is based on the idea that confiscation of the proceeds is one of the effective methods in combating crime".

25. As of September 2003, 18 cases of corruption involving public officials - including judges, prosecutors, police and customs officers – have so far been or are under investigation. There was no money laundering accusation included. According to the information provided after the evaluation visit, almost all corruption cases brought to trial during the years 2000-2002 concerned relatively minor offences involving minor financial values. Forfeiture of a 'thing' was imposed in only half of the cases and involved small overall values (no more than a total of 2500 € within a period of 3 years). There has been no statistical information on cases of "attachment (confiscation) of a thing" or forfeiture of property.

26. In the current system, the Criminal Police starts a criminal investigation aiming at identifying and freezing proceeds of corruption on the basis of the Police Act without the supervision of a prosecutor and subsequently hands it over to the Judicial Police in order for them to prepare the

case on the basis of the Criminal Procedure Code[14]. The GET was concerned that this procedure might result in unnecessary delays and loss of (sustaining) information but also in allegations that the criminal police fabricated (initial) evidence in the absence of a supervising prosecutor, or dismissed a case in return for a bribe. The GET considered that criminal investigations in corruption cases should be, as a rule, conducted from the very beginning by the same investigation team, supervised by a prosecutor. The GET was informed that the Financial Police is a part of the Criminal Police so that it does not consist of or comprise investigators. Usually, it is not ordered to search for evidence in order to facilitate imposing forfeiture; it confines itself to establishing whether a crime has been committed. Therefore, the GET considered that the Slovak Republic could create specialised teams for financial criminal investigations, including money laundering, closely cooperating with or integrated in the Judicial Police. As a rule, these special teams should be ordered to conduct financial investigations when a case involves organised crime and/or grand corruption. The GET also noted that investigators in charge of criminal investigations may not have a police background although they receive a short training as criminal investigators. Financial crimes however are usually very complicated and require specialised expertise in order for the prosecution to be able to prosecute successfully. There are countless ways of transferring assets and investing them in the country or abroad. Examination of bank records, insurance policies and trade, company, property, motor vehicle and other registers is one of the tools used by investigators concerned with the confiscation of assets. Further tools include the examination of tax documents, contracts of sale, companies' articles of association, stock exchange transactions, administration of assets, casinos and travel documents. Guidelines, training and co-ordination for tracking down offenders' assets would be of particular relevance for police officers, investigators and prosecutors. In addition, full use of provisional seizure at the earliest stage of an investigation, including where appropriate, the preliminary stage and appropriate training on the application of the relevant legal provisions would contribute to further ameliorate the record of the law enforcement authorities in seizing corruption assets. Therefore, **the GET recommended to develop guidelines and to provide appropriate training for the police, the investigators and the prosecutors on how to go about tracking down offenders' assets, as well as with a view to make full use of all means available aiming at identifying, seizing and freezing proceeds of corruption.**

27. While deprivation of the instrumentalities and proceeds of corruption exists in law, it is rarely used in practice, partly because it is discretionary but also because of its complex and lengthy procedure. The GET considered that confiscation should be mandatory. It noted also that the prosecutor may order additional financial criminal investigation of a suspect in order to forfeit proceeds of crime, but there is often a problem of the burden of proof, i.e. the prosecutor has to prove that certain assets are of illicit origin. Judges, in turn, complain that they do not possess the instruments (e.g. to identify the assets, to prove their illicit origin) to impose forfeiture. Finally, when a conviction has been obtained, the GET advises that it would assist the repressive regime if consideration is given to reversing the burden of proof in appropriate cases in order for the defendant to show that proceeds in his possession did not come from criminal offences. **The GET recommended to draft guidelines and provide training for prosecutors in order for them to require as a standard measure or punishment, in case of indictment for corruption, where applicable, the forfeiture of illicitly acquired assets (or its corresponding value) or to seek attachment of these assets in connection with a conviction or, in appropriate cases, without conviction. The Slovak authorities could also consider the reversal of the burden of proof in connection with a conviction, to assist the court in identifying criminal proceeds liable to confiscation in appropriate cases.**

[14] This system was changed following an amendment to the CCP.

28. The GET recalled that the law makes a distinction between forfeiture of property and forfeiture of a thing (Articles 51/52 and 55/56 of the PC) and attachment (confiscation) of a thing (Art. 73 of the PC) and only forfeiture of a thing was sometimes applied. It noted that 'a thing' only relates to instrumentalities of crime (e.g. the bribe itself) and not to proceeds of crime (i.e. the advantage of corruption).[15] At the same time, "a bribe" is defined only in the explanatory notes to Article 160 of the Criminal Code, as "undue advantage" being a direct property fulfilment (pecuniary or natural performance) or other advantage (mutual service, mutual assistance).[16] The authorities also reported that when the bribe has disappeared or where corruption is in the form of an undue advantage, this and its value have to be identified. In such cases, the courts may impose to the perpetrator the monetary sanction in addition. The exact proportion between the amount of the monetary sanction and the undue advantage does not exist in the case law. But if the bribe giver has disappeared or is dead or incapable it is not possible to impose the sanction of forfeiture of a property or of a thing. It is only possible to confiscate it if it is in the form of a "thing" according to Article 73 of the PC. Confining deprivation of the proceeds of crime to the sanction of forfeiture impedes, in practice, the possibility of confiscating proceeds of crime when the perpetrator has disappeared or deceased. The GET understood that attachment (confiscation) of a "thing" could serve this purpose but questioned whether the current drafting of Article 73 of the Penal Code and its strict conditions could achieve that purpose (the thing should belong to the offender; it may serve as a source for financing terrorism; it is necessary for the security of the people or property or similar general interest, in particular if the circumstances of the case give rise to suppose that the thing was obtained by the offence). In any case, **the GET recommended to provide training for judges in order to improve their expertise to impose confiscation (forfeiture and attachment of a thing), where applicable, when it is proved that instrumentalities or proceeds were obtained by virtue of corruption.**

29. It was not clear whether a perpetrator could be punished only by taking from him what he did not legally possess in the first place (i.e. proceeds of crime), without any additional sanction (Articles 51 para 2, 55 para 4 and 56 of the Penal Code). If forfeiture is the single sanction, a convicted person - who shall be considered as never having been convicted - will not have a criminal record on that basis alone, while sanctions in addition to forfeiture of property cannot consist of fines. In such case, conviction of forfeiture should automatically result in a criminal record. In addition, if the Slovak authorities introduce criminal liability of legal persons, it should be possible to combine the sanction of forfeiture and monetary sanctions of a substantial nature. **The GET recommended to adapt the criminal law so that forfeiture of property could be combined with a monetary sanction of a substantial nature and that, if the Slovak Republic should decide that forfeiture remains a sanction, a conviction for forfeiture should automatically result in a criminal record**.

30. The GET was informed during the visit that a new draft law had been prepared aiming at clarifying and strengthening the regime of interim measures and confiscation and wished to encourage a smooth adoption of the new provisions in line with the corresponding provisions of Conventions ETS No 173 and 141. It was not made clear whether the Slovak authorities were considering or not making their confiscation regime mandatory. **The GET recommended that**

[15] Nevertheless, the Slovak authorities reported that according to the recent legislation "things" are considered to be a/ instrumentalities of crime (e.g. the bribe itself, - § 55 para 1a,b, of the PC and see definition under § 9 para. 15 of the PC)) and b/ proceeds of crime (see section 55 para.1 c,d, para.4 of the PC).

[16] According to the authorities a bribe means any advantage. Advantages shall always be provided in relation to the performance of duties of common interest, i.e every act relating to the performance of community significant tasks, e.g. the state body's and municipality's decision making, satiation of interest of natural and legal persons in the area of health, social, cultural and other needs. The term of "undue advantage" is not defined in the Slovak legal system. It is being understood as an advantage, which the recipient is not entitled by law to accept or receive besides the advantages permitted by the law or administrative rules as well as minimum gifts, the gifts of very small value or the socially acceptable gifts.

the Slovak authorities review their provisional measures and confiscation regime to ensure that there is a comprehensive set of provisions as widely defined in the Strasbourg Conventions and which clearly allow for confiscation orders at the end of criminal proceedings in respect of instrumentalities and proceeds, or property, the value of which corresponds to such proceeds.

31. No specific statistics are kept on investigations, prosecutions or convictions in relation to money laundering where corruption is the predicate offence nor could the authorities provide samples of such actions. *The GET observed that proper statistics should be kept of relevant aspects of the incidence of corruption, e.g. the number of investigations, prosecutions and convictions of corruption, or money laundering in relation to it, including failure to report corruption or money laundering by bodies that have a legal duty to do so, the number of provisional measures and deprivation and the values involved. Such statistics are pertinent for the Slovak authorities to base its investigative and anti-corruption policy, including prevention, priorities upon.*

32. The Financial Police are responsible for imposing penalties for failing to report unusual business activities (Article 13 of Act No. 367/2000). The penalties consist of administrative fines (up to two million Slovak crowns for a first offence) which "may" be imposed within three years of the failure to report. Under the statute, the amount of fine depends upon "the seriousness of the illegal action" and the "loss" caused, rather than upon the knowledge and intent of the reporting entity. No records were available regarding the imposition of these fines by the Financial Police, and the Financial Police appear to be given wide discretion to impose fines in this area. The GET also noticed that the National Bank does not provide guidelines as to what defines 'unusual' in unusual business transactions in general and in corruption matters in particular. Instead, financial institutions and the Financial Police themselves have to assess what unusual is. This may amount to different or even subjective standards, non-disclosure, vulnerability to corruption and failure in court. The Financial Police, however, reported one case of failure to report an unusual business transaction, which is a case for prosecution. In addition to these administrative penalties, the Criminal Code has been amended to criminalize the non-reporting of "unusual business activities." Article 252a of the Criminal Code punishes a failure by "any person" to report such activity by a term of imprisonment of two to eight years, a fine or a ban on professional activity. **The GET recommended that the Slovak authorities establish an objective definition of "unusual business activities" for banks and other reporting entities to ensure that all questionable financial transactions come to the attention of the Financial Police.**

III. PUBLIC ADMINISTRATION AND CORRUPTION

a. Description of the situation

Public administration

33. By virtue of the Constitution of the Slovak Republic, Article 2 provides that: "State bodies may act solely in conformity with the Constitution. Their actions shall be subject to its limits, within its scope and governed by procedures determined by law." There is no legal definition of "public administration". Nevertheless, authoritative commentaries indicate that public administration is the administration of public matters (by persons and bodies in charge of this administration), which is realised by virtue of executive authority. Public Administration is subordinated to the executive power and is composed of the Central State, the territorial administration (local and regional authorities) and other public bodies established by law (see later in this report the typology of legal persons).

34. There are two basic types of control of public administration: the inner (hierarchical) control within the system of public administration itself and the outer control (judicial or other). An important type of control of public administration in general is the judicial control, performed by specialized administrative judiciary. Another independent organ of public administration control enshrined in the Constitution is the Public Defender of Rights – Ombudsman (Art. 151a). Pursuant to the Act No.564/2001 Coll., on the Public Defender of Rights, his competence applies to the organs of state administration, the organs of territorial self-government and to legal persons and natural persons who – according to the law – decide on the rights and duties of natural and legal persons in the field of public administration. Constitutionally, the Supreme Audit Office of the Slovak Republic (SAO) is also an independent body for the control of the management of financial means of the state budget and public property defined in some detail directly in the Constitution, which is accountable to the National Council (the Parliament). SAO carries out this control competence towards the government, ministries and other organs of central state administration and their deconcentrated authorities, state organs and legal persons the founders or establishers of which are the organs of the central state administration or other state organs; and towards municipalities and higher territorial units and legal persons established by them. SAO cannot itself detect corruption but it can point out corruption-sensitive fields, inform the Minister of Interior thereof and submit their suspicions of corruption to criminal authorities. The Office has 250 employees, most of them civil servants, out of which 180 controllers all of whom are civil servants. They have reporting obligation towards the Financial Police. From the total number of 90 - 110 controls per year some 10 reports concern a suspicion of corruption.

35. The Act No.211/2000, on Free Access to Public Information, in force since 1 January 2001, regulates the conditions, the procedure and the scope of the access to information. The bodies obliged to make information accessible include state bodies, municipalities and higher territorial units and all other legal and natural persons who are entrusted by the law to decide on rights and duties of natural persons or legal persons in the field of public administration within the limits of their decision-making authority. Except for information protected by the law as secret and information touching the personality and privacy of natural persons pursuant to the Act No 52/1998 on the protection of personal data in information systems, as amended, all public information is available to the public and the public authorities are obligated to provide it on request. Service charges are minimal to cover costs only; information management is free of charge. Sharing of information between the different administrations as well as with foreign counterparts is possible in accordance with specific legislation and data protection rules by virtue of Act No 52/1998. The GET was told that co-operation between the Department combating corruption and the tax authorities was strengthened, and tax information can be used to detect and substantiate corruption charges.

36. The Slovak Republic adopted a National Programme on the Fight against Corruption (NPFC) by virtue of Governmental Decree No 461/2000. In addition, a Report on the fight against corruption was made by the Coordinating Unit of the Office of the Government in 2000 and has been regularly updated. The Report indicated that the Action Plan ensuring practical implementation of the NPFC set out 1,684 concrete tasks for all public administration bodies. Every executive body had its own anti-corruption strategy. In 2003, a Department of the fight against corruption was established within the Office of the Government and in May 2003 its Director submitted to the Government a "Report on Prepared Draft Acts, Prepared Legislative Intentions and Other Measures Aimed at Fight against Corruption Based on the Declaration of Programme of the Slovak Government". This Report indicated the laws required to be adopted or to be amended as well as appropriate deadlines. Nevertheless, despite the efforts carried out by the authorities in order to fight corruption in the public sector, there were still concerns expressed during the

evaluation visit with respect to certain bodies, in particular, courts, the healthcare sector, customs, planning and local authorities.

Public officials

37. Two main relevant Acts in the context of this report concerning public officials are: the Act on Public Service No.313/2001 and the Act on Civil Service No.312/2001, both in force since 1st April 2002. The Civil Service Act applies to employees performing state administration service in ministries and other state administration bodies at both central and territorial levels, whose legal relations are public law relations to the State. The Act gives an accurate definition of state administration service (civil service). The Act on Public Service regulates the labour relations of public service employees - performing public service, not state administration tasks - with their employers (not with the State) in ministries, state administration bodies, bodies or authorities dealing with state matters, other budget organisations, subsidised organisations, or employees of municipalities and higher territorial units, teachers, etc. as defined in the Act. In addition to these Acts there are other employees in public administration who are under the jurisdiction of some special acts, e.g. members of the Police Force, Slovak Intelligence Service, Prison Wardens and Justice Guards Corps, Railway Police and Customs Officers. In general, a citizen who applies for public service must meet certain requirements, including: have integrity (not have been legally sentenced for a deliberate crime; an extract from the Criminal Register not older than three months must be provided); meet qualification requirements; have been successful in a selection procedure. In accordance with by-laws, public officials are informed about fundamental principles of ethics at each level of public administration. Cardinal rules on public ethics are in basic acts in each area of public administrations.

38. The Code of Ethics for the Civil Servant was adopted in 2002 as a service regulation by the Civil Service Office and entered into force on 31 July 2002. It is mandatory. The Code applies only to the civil servants under the jurisdiction of the Civil Service Act (not to all public officials). The Code will be changed after the adoption of an amendment to the Civil Service Act and will have more specific provisions. Furthermore, there are some Codes of Ethics for special servants, e.g. policemen, judges or bank employees of the National Bank of Slovakia, Supreme Auditor's Office employees, etc. While there is no obligation to do so, some territorial self-government units (municipalities and higher territorial units) adopted codes of ethics. The sanctions to the Act and the Codes are comprised in the Civil Service Act in the articles on the Disciplinary Liability in the State service (Art.60-66, including the appeal of civil servants). Breach of the Code may be punished by the following sanctions: a) written reproof, b) reduction of service salary, c) recall of superior officer, d) dismissal from civil service. Civil servants may appeal against the imposition of sanctions to the Disciplinary Committee of appeal established within the Civil Service Office. The Slovak Republic does not process any data concerning breaches of the Code or of the Civil Service Act.

39. In April 2003 a draft bill on conflicts of interests was introduced to Parliament The Bill should supersede the Constitutional Act No.119/1995 with regard to conflicts of interest and incompatibilities of officials with constitutional functions: e.g. the President of the Republic, leading politicians as enumerated in the Bill (such as Members of Parliament), judges of the Constitutional Court and highest positions in the judiciary, ministers, State secretaries, the General Prosecutor, the Ombudsman, the chairman and vice-chairmen of the SAO and to the elected functionaries of municipalities and higher territorial units. It contains provisions on post employment restrictions, property declarations of close relatives and new deterrent sanctions. In the meantime, problems of civil servants, other than those carrying out constitutional functions, were solved through restrictions on entrepreneurship and other profitable activities. Similar

provisions are included in the laws on judges, prosecutors, police and custom officers. Article 59 of Act No 312/2001 on Civil Service states that: *"… (2) A civil servant may not be a member of managing, control or supervisory bodies of legal entities. This does not apply in cases where the civil servant is appointed into such a body by the Government or by the Service Office pursuant to a special regulation. A civil servant, in connection with such membership, may not be remunerated by such legal entities. (3) Restriction pursuant to paragraph (1) shall not apply to providing health care in state or non-state health-care facilities established by a municipality, to scientific activity, pedagogic activity, teaching activity, lecturing activity, publishing activity, literary activity or artistic activity, activity of the children and youth camp leaders, his/her deputy for management affairs and deputy for medical matters, a group leader, educator, instructor or health worker in a camp for children and youth, to activities as intermediary or arbitrator in collective bargaining, and to administration of his/her own assets or the assets of his/her dependent children, to activity of civil servant in governmental advisory body or to activity of a member of a dissolution commission. Appraiser opinion and interpreting activities can only be performed by a civil servant in cases where such activities are performed for a court, other state body or a municipality. (4) Breach of restrictions pursuant to paragraphs (1) and (2) shall be regarded as a serious service offence…."*

40. There are some rules applicable to the receiving of gifts in special laws which relate to civil servants. By virtue of Article IV on "Gifts and other Advantages" of the Code of Ethics, in accordance with Art. 53 para. 1 lit. h) of the Act on Civil service, civil servants are obliged in connection with the performance of public services, not to accept gifts or other advantages, other than those authorised by the employer in accordance with these rules.

41. There were no special systems of regular, periodical rotation of staff employed within public administrations considered vulnerable to corruption but such regular rotation of employees and job positions is under consideration.

42. There are no measures in place to limit the phenomenon of public officials who move to the private sector where they can abuse their contact networks and knowledge of administrative mechanisms and decision-making processes.[17]

43. Civil servants are subject to an obligation to report misconduct/suspected corruption/breaches of duties or codes of ethics. By virtue of Article VI § 2 of the Code of Ethics "a state official shall draw the attention of his/her superior on the infringement of the general binding norms, official standards or of this Code made by other state official without delay after he/she became aware of such infringement". In addition, state authorities are bound by the obligation to notify such infringements according to Article 8 of the CCP. But during the visit the GET noticed that the opinions diverged on whether they should report to their superior or to bodies dealing with criminal proceedings and to the Supreme Audit Office or even whether there was an obligation to report at all. The GET was confronted with different cases where apparently attempts of corruption, even to members of the judiciary, had not been reported to the law enforcement authorities. Finally, there is no special procedure to regulate such reports and no special protection of public officials making such reports. Nevertheless, the Slovak authorities reported that public officials were protected under the Labour Code (protection of "whistleblowers" against discrimination) or through the provisions on the protection of witnesses. Neither public administrations nor administrative courts have the obligation to notify to the prosecutor cases of corruption they may be aware of. However, within the meaning of Code of Criminal Procedure (Act no. 141/1961 as amended) there is in its Article 7 the obligation to co-operate, i.e. the obligation for the authorities to assist each other in fulfilment of tasks resulting

[17] See Article 26 of CoE's Recommendation No. R (2000) 10 on Codes of conduct for public officials.

from the Code of Criminal Procedure. The obligation of courts to report is not especially and expressly regulated both in criminal or civil norms.[18]

44. The Code of Ethics (Article V § 5) also provides that "a state official being convinced that he/she is required to act in an illegal, incorrect or non-ethical way, resulting to bad economic results or otherwise incompatible with this Code, shall notify this matter to the head of the office concerned. If he/she is of the opinion that the answer is not adequate, he/she can notify the matter in writing to the Civil Service Office".

45. The disciplinary liability of civil servants for disciplinary misconduct (including the obligations of civil servants´ behaviour as defined in the Code of Ethics) is provided for in the Civil Service Act (Articles 60 – 66). Specifically, civil servants may face, as public officials (Article 89 para. 9 of the PC), criminal proceedings for any individual act or attempt that may amount to a corruption offence, and disciplinary procedures by virtue of Article 53 of the Civil Service Act (Act No.312/2001) as well as with the provisions of the Civil servant Code of Ethics. Generally, there are no special bodies within public administration carrying out disciplinary investigations. Disciplinary procedures are carried out by hierarchical superior bodies. Pursuant to article 65 and 66 of the Civil Service Act a civil servant may appeal against the imposition of a sanction to the Disciplinary Committee of his/her office. The Disciplinary Committee of Appeal within the Civil Service Office is the second instance for appeals. Disciplinary procedures are independent from criminal procedures.

b. Analysis

46. The Slovak Republic became an independent state on 1st January 1993, after the dissolution of the former Czech and Slovak Federal Republic. It started building new state/public bodies while at the same time reforming the administrative structures inherited from the former communist regime. Many new laws have been passed in the last few years regarding public administration, local self-government and entities with public authority as well as public officials. Even if, in the GET's view, the main challenges today are more in the enforcement side and the maintenance of an adequate and transparent information management system in order to take the right measures at the right time at the right place, still some gaps have to be fulfilled at the legislative level.

47. The GET was informed that several laws, relevant for this evaluation, were still under preparation. An important amendment of the Civil Service Act has been drafted which should enter into force on 1 January 2004 and subsequently also a new Code of Ethics for Civil Servants will be issued, more specific than its current version. The Governmental Bill on the Conflict of Interest, intended to enter into force on 1st October 2003, should be discussed in second reading by the end of September 2003[19]. It should introduce greater transparency into the actions of higher public officials and inflict stricter sanctions for their activities which might be contrary to public interest. Another draft bill aims at reorganising the Police force by merging together the operational and investigative police. A draft amendment had also been prepared to the Cadastral Law, introducing a legal extra fee for early processing which should limit bribery. Experience had shown that the settlement of an application for the entry of property rights to real estate in the Cadastre (Land Register) takes several months to one year on average (sometimes even longer), although the statutory term is 30 days. The revenues from such extra fees will have to be transferred to the state budget and will not vanish in the corruption tangle. However, on the other hand, the application must be processed within the stipulated time limit even if no extra fee is

[18] Finally, the amendment of the Criminal Code which entered into force on 1 December 2003, introduced criminal liability for "non-announcement of corruption" which concerns every natural person.

[19] This law had not yet entered into force when this report was considered by GRECO.

paid for the service. An amendment of the Constitution has been prepared in order to extend the competence of the Supreme Audit Office to cover also the management of funds of local self-government entities. Several other draft laws had been submitted to the Parliament by the Ministry of Construction and Regional Development: the draft Law on state administration for land use planning, building order and dwelling and on amending of Building Act, which establishes a specialized state administration at second level; the draft Law amending Act No 90/1998 on building products; the draft Law amending Act No 124/1996 on State Fund of dwelling development, which aims at ensuring the equality of persons complying with conditions laid down to obtain a loan for building or reconstruction of flat or house; the draft Law amending the Building Act (Act No 50/1976), which transmits the competences from the Ministry of Environment to the Ministry of Construction and Regional Development and amends provisions concerning expropriation. In addition, the Ministry submitted to the Government: a draft Decree on the content and extent of professional training and on procedure of verification and certification of special qualification precondition to ensure the activity of Building Office; a draft Programme of state aid for renovation of houses realised in the form of providing of subsidies to remove the systematic defects/malfunctions; a draft Program of state aid of development of construction of flats realised in the form of providing the bank guarantees; and a draft Programme of aid de *minimis* for the development of districts with high unemployment rate and Criteria for realisation of the Program of aid de *minimis* for the development of districts with high unemployment rate[20]. Therefore, **the GET recommended to pursue the legislative programme with regard to the organisation, functioning and decision-making processes in all branches of the public administration in a manner consistent with the relevant international instruments on corruption, that takes into account the need to prevent and combat corruption and subsequently to develop a system of assessment of its effectiveness.**

48. Following the adoption and through the implementation of the National Programme of the Fight against Corruption, the GET noticed that some ministries (e.g. the Ministry of Health) continue to implement some permanent tasks included in the Programme while others (e.g. the Ministry of Economy) considered their tasks entirely fulfilled. The GET was concerned with the information it gathered from several representatives of the judiciary concerning their difficult conditions of work, employment, training and their vulnerability to corruption. The GET was also told that every executive body had its own anti-corruption strategy and action plan to be implemented in a specified period of time. However, it could not always identify which entity was carrying out the tasks of co-ordinating and assessing the way these strategies are being implemented. In the GET's view, the Anti-corruption Department could possibly carry out these tasks. *The GET observed that the capacity of the Anti-Corruption Department should be strengthened in order to eliminate the gaps in legislation, draft new legislation, adapt the Slovak Republic's anti-corruption strategies in the public sector and finally co-ordinate and assess their implementation.* Given the fact that corruption is considered to be still important in some sectors of the public administration and of the self-government entities and that the fight against corruption requires perseverance in the State's objectives, public administration and officials should continue to remain vigilant against any corrupt activities or attempts. **The GET recommended that the Slovak Republic periodically assess the implementation of existing anti-corruption strategies and ensure that these assessments are widely publicized, in order to gauge the effectiveness of the strategies and to make the public more aware of the Republic's progress toward its anti-corruption objectives.**

[20] The draft law on State Administration for Land Use Planning, Building Order and Dwelling was adopted by Act. no. 608/2003. The draft law amending Act number 124/1996 on State Fund of Dwelling Development was adopted by Act no. 607/2003. The draft law amending the Building Act (Act no. 50/1976) was adopted by Act no. 417/2003. Decree no. 547/2003 on the Building Office came into effect on 1 January 2004.

49. The Anti-Corruption Department within the Office of the Government reported that the possibility has been created for the public to comment on draft laws; that competent state authorities are obliged to examine the public's comments. The GET considered this could be a good practice but in the absence of concrete data, it could not assess how and how often this possibility had been used. The GET did not have enough documents for an analysis on how the Act on Free Access to Public Information has been implemented in practice, especially in public administration authorities vulnerable to corruption (such as cadastral offices) and if information in such areas has been made available on Internet. The only information obtained concerned the e-system of the State Housing Fund, which had published a list of settled applications on the internet for the past 3 years and which contributed to increase transparency over the Funds´ activity. Therefore, **the GET recommended to strengthen and extend the already existing e-government methods especially in the sectors of public administration and local self-government entities considered corruptive or vulnerable to corruption.**

50. With regard to the controls performed over the public administration, the GET was of the impression and was told that the judicial control of public administration was, in practice, a weak point of the whole control system. In addition, courts specialised in administrative matters have no obligation to notify to the prosecutor cases of corruption they may be aware of. *The GET observed that court decisions in administrative matters should lead to a criminal procedure when an element of corruption has been detected.* The representatives from the Ombudsman Office told the GET that so far, the Office had not submitted any suspicion of corruption to the Office of Public Prosecutor, neither any recommendations in relation to Codes of Ethics in the public service. With regard to the Supreme Audit Office, the GET noticed that it controlled only the management of state budget funds; its competence towards self-government was limited, although in their opinion it was the field of public procurement that was the most exposed to corruption. The GET was also told an amendment of the Constitution had been prepared which should limit the immunity of members of the parliament and judges and extend the competence of the SAO to cover also the self-government management of their own funds and their use in accordance with the laws and in the interest of the community of citizens represented by the self-government. In the GET's view, this amendment can only be welcomed, as the territorial self-government (both municipal and regional) is an important public administration component with fields vulnerable to corruption within its competence (such as award of public contracts, issue of construction permits, etc.). Therefore, **the GET recommended to strengthen the roles of the Supreme Audit Office and of the Public Defender of Rights in the prevention and combating of corruption. Subsequently, they should increase the awareness among the general public on this.**

51. The term public officials covers a number of employees under different jurisdictions: the Act on Public Service (No. 313/2001 Coll.); the Act on Civil Service (No. 312/2001); special Acts regulating the conditions and status of the members of Police Force, Slovak Intelligence Service, Prison Wardens and Justice Guard Corps, Railway Police and Customs Officers. While there are 28 000 civil servants, the number of public officials is much higher. All civil servants covered by the Civil Service Act are recruited through a selection procedure, while the public officials under the jurisdiction of the Public Service Act are recruited through a selection procedure only to senior positions. Only the Civil Service Act has provisions on regular service assessment of civil servants and on Disciplinary Liability in civil service. Also the duties of civil servants are defined in greater detail than those of public officials. The Civil Service Act provides that the civil service is built upon the principles of professionalism, political independence, efficiency, flexibility, impartiality and ethics. Finally, the Code of Ethics and the Civil Service Office only deal with civil servants. In the GET's view, the Slovak authorities could take advantage in further take

inspiration from the Council of Europe's Recommendation No. R (2000) 10 on Codes of conduct for public officials and the future Handbook of good practice on *Public ethics at local level – Model Initiatives Package.* Therefore, **the GET recommended to provide all Codes of Ethics with more specific provisions (especially with regard to gifts and revolving doors) and extend their application to cover also public officials in general. Local and regional authorities should also establish Codes of Ethics for all public officials of municipalities and higher territorial units as well as for elected public officials of local self-governments. Subsequently, the Slovak authorities should provide training on ethics and anti-corruption conducts for all public officials.**

52. Neither the Act on Public Service (No. 313/2001), nor the Act on Civil Service (No. 312/2001) or several special Acts regulating the conditions and status of the employees (such as members of the Police Force, Slovak Intelligence Service, Prison Wardens and Justice Guard Corps, Railway Police and Customs Officers) stipulate the principle of rotation. The GET was told that in some ministries rotation of employees already exists and in others the idea was under consideration. Moreover, cases were brought to the attention of the GET where rotation would have acted as a deterrent with regard to some sectors particularly vulnerable to corruption. In the GET's view, rotation contributes to the transparency of public administration and provides a barrier to corruption. **The GET recommended to consider the possibility of introducing the principle of rotation of public officials and civil servants working in sectors vulnerable to corruption.**

53. During the evaluation visit, the GET was told that the public sector performance and efficiency was often negatively evaluated. It was also reported that 95 % of the corruption cases, involved persons giving a bribe to public officials only in order to obtain a service of quality, i.e. a normal service, because they felt they had to do so. Registering a company, introducing an application for the entry of property rights to real estate in the Cadastre, obtaining a building permit or a date for a medical consultation could allegedly take several months but only a few days or weeks when it was accompanied by a bribe. *The GET observed it was urgent to develop a stronger prevention policy within the public administration, the local self-government authorities as well as within public companies or companies with public participation, to provide better information on corruptive behaviours and penalties, more active transparency and efficient controls and, finally, more training in general for all public officials and specifically for the different categories of public officials in sectors considered vulnerable to corruption.*

IV. LEGAL PERSONS AND CORRUPTION

a. Description of the situation

Legal persons

54. The notion of the legal persons is not explicitly defined. Nevertheless, Article 18 of the Civil Code (Law No. 40/1964 as amended, further referred to as „CiC") contains a typology of legal persons. The fundamental features (i.e. its name and place of business) are included in the Code. Within the meaning of Article 18 para. 2 of the CiC the legal persons are: Legal persons and other associations of natural or legal persons; special property associations, regional local government units; and other subjects prescribed by Law. Legal persons or other associations of natural or legal persons are in particular:

- commercial companies within the meaning of the Commercial Code (Article 56 CoC), i.e.
  - general commercial partnership (Article 76 CoC and following)

  - limited partnership (Article 93 CoC and following)
  - limited liability company (Article 105 and following CoC)
  - joint stock company (Article 154 and following CoC)
- co-operatives (Article 221 and following CoC)
- associations of legal persons (§ 20f consq. CiC)
- civic associations (Law no. 83/1990 on Association of Citizens as amended)
- political parties and political movements (Law no. 424/1991 on Association in Political Parties and Movements as amended)
- church and religious associations (Law no. 308/1991 on Freedom of Religion and on the Status of Churches and Religious Associations)
- community of owners of the agricultural lands
- land community (Law no. 181/1995 on Land Communities)
- professional chambers (e.g. Bar Association, Slovak Medical Association, Associations of Auditors, Public Notaries, Executors, etc.)

55. Special property associations are in particular: foundations (funds) according to the Law No. 34/2002 on Foundations; non-profit organisations according to Law No. 213/1997 on Non-profit organisations Providing Generally Purposeful Services; and non-investment funds according to the Law No. 147/1997 on the Non-investment funds.

56. Regional local government units are the self-government territorial units composed of citizens of these territories prescribed by the law, which are: higher territorial units (self-governmental regions) within the meaning of the Law No. 302/2001 on the Self-government of the Higher Territorial Units as amended; and municipalities – within the meaning of the Law No. 369/1990 on Municipalities as amended. The other subjects prescribed by the law are for example: state enterprises; state banks; budgetary and contribution organisations established by the central bodies of the state administration; stock exchange; municipal enterprises established by municipalities; other legal persons established directly by the law (e.g. Slovak Television, Slovak Broadcasting, Social insurance company, Slovak National Centre for Human Rights, as well as the community of the owners of the flat in the block of flats.

57. Definitions of the legal persons mentioned above are detailed in Appendix VI. There are different civil professional organisations but no civil professional companies. The principle of "zero-tolerance" in terms of corruption has been adopted for the notaries and executors[21]. The Commercial Code provides for the existence of so called factual company according to Article 10 para. 4 of the Commercial Code. Such "company" does not have the legal capacity; it represents only doing business of several persons under joint name without the establishment of legal person. The status of foreign legal persons is regulated by virtue of Articles 21 to 26 of the Commercial Code. While subsidiary companies are vested with full legal capacity, branches are registered in the Commercial Register but have no legal capacity. Branch offices of foreign banks, subsidiaries, parent companies, groups of entities with closes links, stock brokerage firms are submitted to special regulations.

58. The Slovak legal system distinguishes between founding and incorporation (registration) of legal persons. To found a legal person it is necessary to fulfil all conditions required by law. The legal person is then incorporated as from the date of entry into the respective register. As from this date, the legal person has the legal capacity to acquire rights and obligations (Article 18 Civil Code). By virtue of Article 19a of the Civil Code: "*the capacity of legal persons to acquire rights and obligations can be limited by the law*". Law No. 424/1991 on Association in the Political

[21] According to this principle, a person convicted of corruption can not be appointed or continue to perform his functions. Since the on-site visit, this principle has been extended to judges, attorneys and law enforcement officials.

Parties and Political Movements as amended, stating that parties and movements are prohibited from carrying out business activity on their behalf, illustrates such limitation. Similar limitations exist also, for instance, with regard to the legal capacity of budgetary organisations. Some legal persons are exempt from the obligation to being entered into a register, e.g. budgetary and contribution organisations. These organisations usually acquire their rights and obligations directly on the basis of their founding. There is no restriction on the basis of nationality to found/incorporate a legal person of private law. The conditions to found a legal person are laid down in great detail in Appendix VII. Article 58 Commercial Code defines the notion of "registered capital" and Art. 59 CoC of "participants' investment" (Appendix VIII). The Commercial Code details the data to be inserted in the partnership agreement or other foundation document applicable for the respective types of companies (Appendix IX). Legal persons shall be incorporated by their entry into the respective register: either the Commercial Register or the Registers kept by the Ministry of Interior (Register of Foundations, Register of Civic Associations, Register of Political Parties, Register of Non-investment funds and Register of Non-Profit Organisations). Apart from these registers there are also lists kept by the National Bank of Slovakia and by the Office for the Financial Market established with a view to issuing licenses (authorisations for the activity), records and supervision.

59. Companies, co-operatives, foreign companies, other legal persons having this obligation according to the law, as well as branches of enterprises or enterprises of foreign entities are registered (incorporated) into the Commercial Register. A natural person who is an entrepreneur under the Commercial Code domiciled in the territory of the Slovak Republic shall be registered in the Commercial Register at his own request, or where a special Act provides so. The Commercial Register is a public register kept by the register court established by a special law. The legal regulation of the Commercial Register and its proceedings are provided for by the Commercial Code (Appendix X).

60. With regard to the registers kept by the Ministry of Interior, the registration procedure of foundations, civic associations, non-investment funds, non-profit organisations and political parties and movements is regulated by special laws. The common feature of all these registration procedures is that they all commence with an application filed with the Ministry of Interior. Each special law regulates the requirements for the application for registration, as well as the conditions for such registration. The Ministry of Interior examines whether the legal conditions for the registration are met. If this is not the case, the registration is rejected. A decision refusing registration can be appealed in the court. The court proceeds according to the provisions of the Code of Civil Procedure regulating remedies against decisions by administration bodies.

61. With regard to other "lists", the National Bank of Slovakia issues the bank license authorising a bank, a branch of a foreign bank or the representation of a foreign bank to carry out their activities on the territory of the Slovak Republic (Law No. 566/1992 on the National Bank of Slovakia). At the same time it performs supervision over the activity of banks. It keeps the list of banks, branches of foreign banks and representations of foreign banks established in Slovakia containing also the records of the respective bank license. By virtue of Law No. 329/2000 on the Office for the Financial Market, the Office also keeps lists, issues licenses and carries out supervision over the capital market and insurance, i.e. over the insurance companies, central depositary, managership companies and stock exchange and over the traders with bonds.

62. Specific legislative measures aim at ensuring transparency over the functioning of legal persons with regard to, among others, the conditions for: their participation in other legal persons; changes of the legal form of a company or other legal persons; consolidation, merger and division of a company; change of the participation of a partner (Appendix XI). Specific provisions

provide restrictions on founding new/other companies; on the use of financial means; in relation to the possibility of establishing and keeping accounts in banks for some legal persons and on the number of accounts. The Law No. 431/2002 on Accounting regulates the duty to keep accounting records. The duty to submit financial statements, final reports and audits is regulated by special laws. The right for free access to this information and the duty to disclose mainly derives from the Law No 211/2000 on the Free Access to Information.

63. Supreme and Statutory bodies of legal persons are mentioned in Appendix XIV. Nevertheless, it seems the Register Courts do not perform any proactive checks of the beneficial owners and the source of capital of companies. Persons found guilty of criminal offences are generally disqualified from acting in a leading position in legal persons.[22] However, this general statement only relies on the basis of the Act No. 455/1991 on Self Employment in order to deliver authorisation to do business (concession). According to Article 6 they should not be found guilty of the economic crime, crime against property or other crime committed intentionally related to the scope of business or activity. In case of a legal person these general conditions have to be met by the natural person or persons being the statutory body. In case of an organisational unit (branch) of a foreign person these conditions have to be met by the head of unit.

64. The GET noted that the Slovak legal system does not provide the corporate liability for criminal offences of active bribery, trading in influence and money laundering in the meaning of Articles 18 and 19 of the Criminal Law Convention on Corruption. However, a draft Bill is in the legislative process which will criminalise corporate wrongdoing. The draft Bill was not available in one of the official languages of the Council of Europe for review by the GET.

65. Legal persons can be held liable for administrative offences committed as a consequence of corruption. The corporate liability does not preclude the individual liability of the offenders[23]. The Slovak legal system contains more than 120 acts and regulations with administrative offences, on the basis of which it is possible to impose administrative sanctions of an amount varying from 1.000 to 50.000.000 SKK. Thus, legal entities can be liable for money laundering only in the administrative sense (e.g. contravention of tax rules). However, it was not possible to mention the concrete number of proceedings that could be qualified as illegal acts committed as a consequence of corruption (corruptive behaviour). In cases where the administrative liability of

[22] The Slovak criminal law is based on the principle of individual criminal responsibility for culpable behaviour. This does not hinder the criminal liability of natural persons acting on behalf of the legal person. The Civil Code as *lex generalis* divides these natural persons in two groups: (i) statutory bodies entitled to act on behalf of a legal person in all matters and (ii) employees or members of a legal person who can act on behalf of the legal person only at a limited extent. If the legal acts on behalf of a legal person were made by a collective body (e.g. board of directors of the joint stock company), the individual members of this body remain liable in criminal law. In case the "employee in a leading position" was held guilty from committing the criminal offence, the court can impose the sanction of "disqualification from the activity" as a complementary sanction for one to ten years, when the offender committed this criminal offence in connection with this activity. Such a sanction may be imposed by the court within the framework of the criminal proceedings on an "employee in a leading position" who can't act on behalf of the legal person, only when provided for by the Criminal Code and when another sanction is not necessary to reach the goal of the sanction.

[23] The Commercial Code introduces its own definition of corruption in Article 49 for the purposes of sanctioning unfair competition (Art. 44 CoC). Remedies are available within the framework either of administrative or of civil procedures. A person whose rights have been impaired or endangered by unfair competition may demand that the perpetrator abstains from maintaining his conduct and remedy the objectionable state of affairs. The possibilities of remedy, as well as methods of defending one's own rights depend on the circumstances of a concrete case. The damaged person can require the competent administrative authority to act in accordance with the provisions of the Law No. 71/1967 on Administrative Proceedings or in accordance with the respective law. The elimination of the infringement and compensation in these cases can be reached within the framework of the administrative proceedings. Another possibility to seek remedy of the right of the damaged person is to initiate civil proceedings based on the Art. 53 and following of the CoC. It is possible to ask adequate satisfaction that may be granted in cash, indemnities and the return of the unjustified enrichment. In addition to these rights other rights admissible according to the Civil Procedure Code can be claimed too, based on the circumstances of the case.

legal persons is applied it is based on the principle of "objective liability". Moreover, the civil liability of natural persons can also be applied.[24]

66. The Ministry of Justice does not keep statistics and details on administrative proceedings instituted against legal persons for money laundering of corruption proceeds or other administrative offences committed as a consequence of corruption.

Tax deductibility, fiscal authorities, account offences and internal/external controls

67. By virtue of Act No 511/1992on tax administration and on amendments of the system of regional financial bodies, "facilitation" payments[25], bribes or other expenses linked to corruption offences cannot be deducted. In general - and as members of the Civil Service - tax authorities are obliged to report all offences they know or detect through their own activity including corruption and money laundering. They report suspicions by lodging a complaint to law enforcement authorities. According to Article 32 of the Act, third persons (e.g. courts, other state authorities, local self-government bodies, notaries, state control authorities, legal and natural persons having incomes from business activities, bank and other financial institutions, authorities of communications, insurance agencies, press editors, registry offices, etc.) have the duty to provide assistance to the tax authorities.

68. The Police Force is authorised to request data and information from the state bodies, municipalities, legal persons and natural persons while performing their operational duties according to the Article 76 of Act No. 171/1993 on Police Corps. As to the Financial Police, Article 23 paragraph 5 letter e) of Act No. 511/1992 on tax administration and on amendments of the system of regional financial bodies, provides for the right to request information concerning tax secrecy in a written form.

69. By virtue of Art. 42 para. 1 of Act No 483/2001 on Banks, banks and foreign banks branches are obliged to keep records, including accounting records or books for at least 10 years from the date a transaction is realised. The other reporting entities are obliged to keep records during 5 years. By virtue of Art. 35 of the Accountancy Act No 431/2002, all accounting entities are obliged to safeguard accountancy documents. If not, tax authorities can enforce financial penalties in line with Art. 38.

70. With regard to account offences, the law includes both criminal and administrative sanctions for accounting offences. Article 125 (1) of the CC prohibits the use of "false or grossly distorted data concerning important facts" in financial and commercial documents if made with the "intent to obtain unjustified benefit." The statute also proscribes the destruction or concealment of such records, all of which is punishable by imprisonment, fine or ban on the professional activity. By virtue of Article 125 (3), the penalty is substantially increased if the false statement or record destruction is committed "with the intention to facilitate or cover up another criminal offence." By virtue of Article 8 of Act No 431/2002 on accountancy, accounting entities have the obligation to keep accurate, correct and comprehensible accounting records. If not, tax authorities can enforce financial penalties of up to 3% of partnership assets.

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[24] Administrative liability requires the infringement of the duty resulting from a special law. As with civil proceedings the actual damage (*damnum emergens*) and the lost profits (*lucrum cessans*) is compensated. It follows from that, that the damage should be effectively realised. In criminal proceedings held in relation to a natural person the existence of the potential damage can be taken into account as well, as not only the completed criminal offence, but also the preparation and attempt of the criminal offence establishes the criminal liability.

[25] "Facilitation" payments do not constitute payments made to obtain or retain business or other improper advantage; such payments are made to induce public officials to perform their functions, such as issuing licenses or permits (see the OECD anti-bribery Convention, commentaries, para. 9).

71. Accountants, auditors and/or other advisory professions are obliged to report suspicions of offences to law enforcement authorities by virtue of the AML Act. These so-called "gatekeepers" are subject to an obligation to report "unusual business activities" to the FIU under Article 7 of the AML Act. According to part III of the Code of criminal procedure, Article 105, accountants, auditors or other advisory professions could perform their duties also as experts under oath. Investigators and policemen who deal with corruption and money laundering undergo regular professional training throughout their career at the Police Academy (Police Staff College).

b. Analysis

72. In the GET's view, with regard to corporate governance, the procedures for establishing and licensing business entities are complex and formalistic. Most businesses (and all for-profit corporations) must be "formed" and then "entered" into the Commercial Register before they can operate lawfully. A specialised Registry Court must approve all entries into the Commercial Register. The GET was informed that there was an ongoing effort to reduce the amount of paperwork involved in the registration process and that the assignment of cases to the judges in the Registry Court had been randomised to end the public perception that the process was unfair. The Registry Court, unless it is perceived to function fairly and efficiently, can hamper legitimate business growth and foster continued public cynicism about the courts. *The GET observed that the Slovak authorities should continue to streamline and modernise the process to form and register business entities so that limited court resources can be used for more pressing judicial duties.*

73. It is a violation of criminal law to present false information to the Commercial Register (Article 125 of the Criminal Code), and statistics provided to the GET indicate 15 to 16 violations of the statute have been prosecuted each year for the past three years. The GET was not advised, however, if the statute has been used to prosecute anyone for filing false documents in connection with the registration of legal persons.

74. It was unclear to the GET if the Slovak authorities enforce the commercial laws prohibiting the numbers and types of businesses in which natural and legal persons can participate (Appendix XI). It was also unclear whether the Criminal Code has been applied to prevent a corrupt employee in a "leading" position within a corporation from continuing to associate with the corporation, even though a ten-year ban may be imposed in certain cases by a sentencing court. The GET was advised that there is no mechanism to inform the Registry Court of orders from the criminal courts banning individuals from certain business activity. In the opinion of the GET, a system should be put in place to provide timely notice to the Registry Court of relevant criminal proceedings and sentences. **The GET recommended that the Slovak authorities establish a system to notify the Registry Court and other relevant authorities whenever a leading person in a corporation has been banned from business activity by a criminal court, and to enable them to implement the ban effectively.**

75. Auditors, accountants and others (including legal persons) with fiduciary duties must report "unusual business activities" to the Financial Police. Auditors must also report evidence of specified criminal activity[26] to a "supervisory board" or "statutory body." The term "unusual business activity" is however loosely defined in the statute and the Financial Police have not established any objective standards or reporting thresholds. Each "reporting entity" is apparently free to informally define what it should report. *The GET observed that the lack of objective and*

[26] See para.16, Act on Auditors and Slovak Chamber of Auditors, Act No. 466/2002 Coll.

uniform reporting requirements could easily contribute to actual (and perceived) under reporting of corrupt activity by financial institutions.[27]

76. While the law includes both criminal and administrative sanctions for accounting offences, in particular by virtue of Article 125 of the PC, some persons met were with the impression and told the GET that there was no special criminalisation of the use of invoices or any other accounting documents or records containing false or incomplete information or double invoices. It was unclear to the GET whether this statute has actually been utilised to pursue accounting-type crimes, since several Slovak government officials seemed unaware that it existed. In any case, the tax administration and the accountants would benefit from the development of a methodology and specialised training in order to detect fraud and corruption. The OECD Handbook for Tax Examiners could be considered. Therefore, **the GET recommended that Slovak authorities ensure that existing criminal laws (such as Article 125 of the Criminal Code) are used to the fullest extent possible in connection with false statements in accounting documents and corporate registries. A methodology / guidelines on how to identify corruption should be developed to guide accountants and tax inspectors in detecting disguised bribes and specific anti-corruption training should be provided to them.**

77. New administrative sanctions for accounting violations could be powerful tools against corrupt legal persons. Act. No. 431/2002 on Accountancy, which entered into force in January 2003, sets forth detailed requirements for auditors and accountants which can be enforced by potentially ruinous fines against the "accounting unit." Lesser transgressions like failing to keep financial statements in the "State language" may be punishable by fines[28] as much as "1% of the total sum of assets of the accounting unit." More serious infractions, such as failing to keep accurate and truthful books on the accounting unit's financial position, may be punished by a fine up to 3% of the unit's total assets. The statute directs the tax office, in deciding the amount of the fine, to consider the "gravity, method and duration of the illicit handling," the "consequences…and circumstances" of the violations, and "any unjust enrichment." There is a three-year limitation period, measured from the end of the accounting period, for the imposition of fines under the Act. The representative of the Chamber of Auditors who met with the GET during the evaluation visit emphasized the potential persuasive and dissuasive force the new Act will have on potential corporate wrongdoers, since the size of available fines could literally result in the liquidation of a company. Therefore, **the GET recommended that the administrative fine provisions set forth in Act. No. 431/2002 on Accountancy are used to the fullest extent permitted by the law, in that these penalties can be effective, proportionate and dissuasive regarding corrupt behaviour by legal persons.**

78. As noted in paragraph 64, a draft bill is in the legislative process which will subject legal persons to criminal liability. This law should establish, at a minimum, effective, proportionate and dissuasive sanctions, including monetary sanctions, on legal persons for criminal offences, as required in Articles 18 and 19 of the Criminal Law Convention on Corruption. The judges and other government officials questioned by members of the GET "welcomed" a law imposing criminal liability on legal persons but doubted that it would have a significant impact on law enforcement activity. In the GET's view, as soon as the new law is enacted, judges, prosecutors, investigators and police officers should receive training on its implementation. **The GET**

[27] See also paragraph 32 of this report. The Financial Police told the GET that they opposed setting an objective threshold (for example, all cash deposits over SKK 100.000) because the transaction could be easily manipulated (for example, by making two or more smaller deposits). One common solution is to set a uniform reporting threshold and to criminalize the "structuring" of all transactions designed to circumvent that reporting threshold. Such "bright line" laws are easy to supervise and administer and reduce the potential for abuse of discretion by bank officials.

[28] The "tax office" imposes the fines.

recommended that the law providing for corporate criminal liability be adopted, in accord with Articles 18 and 19 of the Criminal Law Convention on Corruption, and to provide training on the new legislation in order to promote its effective use.

79. The Slovak authorities noted that provisions of the commercial and civil code could be used to redress corporate corruption, and that fines could also be imposed on corporations for administrative violations resulting from corrupt acts. The distinction appears to be that the commercial and civil codes also address corrupt activity by legal persons (e.g. commercial bribery) while the administrative laws sanction specific acts or omissions ("administrative misdemeanours") that may have resulted from corruption. Articles 44-52 of the Commercial Code prohibit "unfair competition," which is defined to include bribing a competitor to gain an unfair advantage. Article 451 of the Civil Code proscribes "unjustified enrichment," which includes "pecuniary profit gained from illegal sources." All of these remedies, however, require a victim or competitor to utilise the overburdened court system to bring a civil or administrative action in order to pursue a private remedy. Successful corruption, however, often yields no "victims" and can be invisible to thwarted competitors. It is often only society that is victimised by corrupt activity. *The GET observed that such private lawsuits do not constitute effective, proportionate or dissuasive measures against corporate corruption, within the meaning of the Criminal Law Convention on Corruption.*

V. CONCLUSIONS

80. Corruption may have been an inheritance of the past in the Slovak Republic. It is of paramount importance for a government that wants to move away from that inheritance to show that it adopts serious and impartial measures in law and serious and impartial measures to uphold the law, starting with its own officials. The GET observed that the Slovak law has been adjusted over the years in conformity with many requirements of the Council of Europe in the field of combating corruption.

81. At the same time, corruption is embedded in the Slovak society and the passage of comprehensive new anti-corruption laws will probably not suffice alone to resolve Slovakia's corruption problem. To a certain extent, the challenges are today more in the enforcement of the law and the maintenance of an adequate and transparent information management system in order to take the right measures at the right time at the right place. Despite the important efforts carried out by the Slovak authorities to curb corruption and to combat organised crime and money laundering, there continue to be many bribes paid by citizens as unsolicited "facilitation" payments; judges can recount scores of bribe "discussions" by litigants; members of the media casually relate bribes routinely offered for hospital procedures; and the elite Office of the Special Prosecutor cannot recruit enough lawyers because corruption prosecutions are unpopular. The Slovak Republic should undertake a comprehensive and sustained program of specialised professional training for all public officials, a powerful anti-corruption public education campaign, strong national and regional leadership on integrity. Corruption prosecutions have to be more efficient. **The GET recommended that the Slovak authorities undertake a comprehensive and sustained program of specialised professional training for judges, prosecutors and police regarding the effective and appropriate use of criminal and administrative laws relating to money laundering, accounting offences, and the use of legal persons to shield corrupt activity.**

82. In view of the above, GRECO addressed the following recommendations to the Slovak Republic:

i. **to develop guidelines and to provide appropriate training for the police, the investigators and the prosecutors on how to go about tracking down offenders' assets, as well as with a view to make full use of all means available aiming at identifying, seizing and freezing proceeds of corruption;**

ii. **to draft guidelines and provide training for prosecutors in order for them to require as a standard measure or punishment, in case of indictment for corruption, where applicable, the forfeiture of illicitly acquired assets (or its corresponding value) or to seek attachment of these assets in connection with a conviction or, in appropriate cases, without conviction. The Slovak authorities could also consider the reversal of the burden of proof in connection with a conviction, to assist the court in identifying criminal proceeds liable to confiscation in appropriate cases;**

iii. **to provide training for judges in order to improve their expertise to impose confiscation (forfeiture and attachment of a thing), where applicable, when it is proved that instrumentalities or proceeds were obtained by virtue of corruption;**

iv. **to adapt the criminal law so that forfeiture of property could be combined with a monetary sanction of a substantial nature and that, if the Slovak Republic should decide that forfeiture remains a sanction, a conviction for forfeiture should automatically result in a criminal record;**

v. **that the Slovak authorities review their provisional measures and confiscation regime to ensure that there is a comprehensive set of provisions as widely defined in the Strasbourg Conventions and which clearly allow for confiscation orders at the end of criminal proceedings in respect of instrumentalities and proceeds, or property, the value of which corresponds to such proceeds;**

vi. **that the Slovak authorities establish an objective definition of "unusual business activities" for banks and other reporting entities to ensure that all questionable financial transactions come to the attention of the Financial Police;**

vii. **to pursue the legislative programme with regard to the organisation, functioning and decision-making processes in all branches of the public administration in a manner consistent with the relevant international instruments on corruption, that takes into account the need to prevent and combat corruption and subsequently to develop a system of assessment of it effectiveness;**

viii. **that the Slovak Republic periodically assess the implementation of existing anti-corruption strategies and ensure that these assessments are widely publicized, in order to gauge the effectiveness of the strategies and to make the public more aware of the Republic's progress toward its anti-corruption objectives;**

ix. **to strengthen and extend the already existing e-government methods especially in the sectors of public administration and local self-government entities considered corruptive or vulnerable to corruption;**

x. **to strengthen the roles of the Supreme Audit Office and of the Public Defender of Rights in the prevention and combating of corruption. Subsequently, they should increase the awareness among the general public on this;**

xi. **to provide all Codes of Ethics with more specific provisions (especially with regard to gifts and revolving doors) and extend their application to cover also public officials in general. Local and regional authorities should also establish Codes of Ethics for all public officials of municipalities and higher territorial units as well as for elected public officials of local self-governments. Subsequently, the Slovak authorities should provide training on ethics and anti-corruption conducts for all public officials;**

xii. **to consider the possibility of introducing the principle of rotation of public officials and civil servants working in sectors vulnerable to corruption;**

xiii. **that the Slovak authorities establish a system to notify the Registry Court and other relevant authorities whenever a leading person in a corporation has been banned from business activity by a criminal court, and to enable them to implement the ban effectively;**

xiv. **that Slovak authorities ensure that existing criminal laws (such as Article 125 of the Criminal Code) are used to the fullest extent possible in connection with false statements in accounting documents and corporate registries. A methodology / guidelines on how to identify corruption should be developed to guide accountants and tax inspectors in detecting disguised bribes and specific anti-corruption training should be provided to them;**

xv. **that the administrative fine provisions set forth in Act. No. 431/2002 on Accountancy are used to the fullest extent permitted by the law, in that these penalties can be effective, proportionate and dissuasive regarding corrupt behaviour by legal persons;**

xvi. **that, the law providing for corporate criminal liability be adopted, in accord with Articles 18 and 19 of the Criminal Law Convention on Corruption, and to provide training on the new legislation in order to promote its effective use;**

xvii. **that the Slovak authorities undertake a comprehensive and sustained program of specialised professional training for judges, prosecutors and police regarding the effective and appropriate use of criminal and administrative laws relating to money laundering, accounting offences, and the use of legal persons to shield corrupt activity.**

83. Moreover, GRECO invites the Slovak authorities to take account of the observations made in the analytical part of this report.

84. Finally, in conformity with Rule 30.2 of the Rules of procedure, GRECO invites the Slovak authorities to present a report on the implementation of the above-mentioned recommendations by 31st October 2005.

NB: The Appendices to this report are available (in English only) separately and can be accessed on GRECO's website (www.greco.coe.int).