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ADRESS BY AMBASSADOR DR. STANISLAV RASCAN, DIRECTOR GENERAL FOR ECONOMIC DIPLOMACY AT THE MINISTRY FOR FOREIGN AFFAIRS OF THE REPUBLIC OF SLOVENIA AT THE 20 ECONOMIC AND ENVIORMENTAL FORUM OSCE, PRAGUE SEPTEMBER 12, 2012 IN THE REVIEW OF THE IMPLEMENTATION OF OSCE COMMITMENTS IN THE AREA OF GOOD GOVERNANCE SESSION

GOOD GOVERNANCE PRACTICE IN SLOVENIA IN THE FIELD OF ANTICORUPTION AN MONEY LOUNDERING

In Slovenia, the main challenges in the field of anti-corruption are diminishing/curbing systemic corruption and enhancing the integrity of the public sector including reducing the occurrence of the conflict of interest (in state administration).

The Commission for the Prevention of Corruption developed (launched in August 2011) an **online tool ‘Supervizor’**, which provides **public access to information on expenditures** (relating to material costs) of **all Slovenian public institutions**. A public exposure of financial flows between the public and the private sector increases the responsibility of public office holders in using public funds and enables informed public discussions on the implemented and planned investments. It thus reduces the risks for mismanagement, abuse of authority and, in particular, it limits the systemic corruption, unfair competition and clientelism. Currently the Commission is undertaking steps to achieve a high level of transparency of financial transactions also for the **state-owned enterprises**.

In order to **enhance the integrity** of the public sector (institutions, public servants as well as public office holders), achieve **greater transparency** of the operation of public institutions and better **manage risks** of inefficient operation, integrity plans were introduced (with the Integrity and Prevention of Corruption Act (IPCA)) as an **obligatory mechanism** to be created by most of the **public sector institutions**. An integrity plan is a risk management tool as it provides **risk assessment** within a public institution by identifying and categorizing risks (low -medium - high risk) with regard to the institution's **organization, people and processes**. Integrity plans are a constantly changing mechanism as they should mirror all changes within an organization and its environment. The body designated to monitor and assist public bodies in creating integrity plans is the Commission for the Prevention of Corruption. Currently all the public institutions (with few exceptions) have their integrity plans created and have to diminish the identified risks and upgrade their integrity plans by mid 2013.

With regard to the small size of the Slovene society (2 mil. people), conflict of interest in public administration can occur easily. Avoiding conflict of interest in the public sector is thus high on the agenda of **enhancing the integrity of public sector**. There are several **safeguards** introduced in the Slovene legislation aiming to minimize the occurrence of the conflict of interest. These safeguards entail strict regulations and countermeasures with regard to:

- 1.) **Incompatibility of office**. With few exceptions public officials may not engage in any professional or other activity aimed at generating income or proceeds; in case of non-compliance the public organization is asked to remove the person from his/her duties.
- 2.) **Prohibition and restrictions with regard to acceptance of gifts**. Public office holder can accept only occasional small value gifts or benefits in value of 75 EUR and 150 EUR of total value on an annual level, as well as protocol gifts.
- 3.) **Restrictions in business activities due to conflict of interest**. There should be no business relations between a public organization and a company where the public office holder or his family members are holding a managerial position or are performing legal representation or where the public office holder or his family members have more than a 5% level of participation in the founders' rights, management or capital; non-compliance may result in annulment of the business contract.
- 4.) **Obligation of avoiding conflict of interest**. IPCA defines 'conflict of interest' as circumstances in which the private interest of an official person influences or appears to influence the impartial and objective performance of his public duties. From this it is evident, that in Slovenia the mere appearance of influence on the impartial and objective performance already translates to conflict of interest, while this appearance has to be grounded on firm, tangible suppositions/evidence, related to the person's duties in a concrete case. Public officials are obliged to avoid and report any conflict of interest that they experience or of which they receive information. In case they fail to do so, measures are undertaken in line with the applicable legislation and company's internal regulations.

Furthermore, the law sets out a wide array of persons who are **obliged to declare their assets** to the Commission for the Prevention of Corruption. Asset declaration reports are submitted **online**. Data on the income and assets from these asset reports are **publicly available** in the part relating to income and assets obtained during the period of holding a public office or performing an activity. Asset declaration reports are scrutinized by the Commission and if the latter establishes that a person's assets increased disproportionately compared to the income generated on account of the person's official duties, or that the value of the person's actual assets, which is the basis for the assessment of tax liabilities, considerably exceeds the declared value of the person's assets, that person is invited to explain the discrepancy, first to the Commission and, in case of an insufficient explanation, also to other competent authorities (e.g. law-enforcement bodies), while the immediate result of an incomprehensive explanation can also be the person's removal from duties.

5.) **Lobbying**. In Slovenia, lobbying is defined and regulated by legal provisions (IPCA – Integrity and Prevention of Corruption Act). Lobbying means any **non-public contact** made between a lobbyist and a lobbied party for the purpose of **influencing** the content or the procedure for adopting certain **decisions**. Lobbying can only be performed (with some exceptions) by **registered lobbyists** - persons who registered as lobbyists with the Commission for the Prevention of Corruption. For this purpose a **registry** is created which enables **public access** to information on all registered lobbyists. All registered lobbyists are issued also an **official ID card** confirming their registration. Lobbyists are obliged to report (to the

Commission) on all lobbying contacts on annual basis, while the lobbied persons have to report on all non-public contacts made by the lobbyists on regular basis and can hold meetings in this respect only with registered lobbyists. The lobbied person has to report also on all contacts that are not compliant with the provisions of the law. In case of non-compliance with the legislation, the Commission is authorized to introduce **sanctions** for lobbyists, which span from **written notifications** to the **ban of lobbying activities** for a certain period of time or on a certain topic and can result also in **removal from the register** (as a consequence the person no longer allowed to perform lobbying in Slovenia). In addition, the lobbyist and the lobbied person can also be **fined**, including for non-reporting (from 400 – 1200 EUR), attempts of lobbying without registration (400 – 1200 EUR), and similar. While in case of **interest groups** the fine can reach 100.000 EUR.

Upon the initiative of the **UN Global Compact Slovenia** and its **ETHOS** project and **Siemens Slovenia**, an **anti-corruption task force** was set up in 2010, comprising representatives of interested companies, independent experts as well as representatives of the **Commission for the Prevention of Corruption** and the **Court of Audit** of the Republic of Slovenia. The aim of the task force was to introduce **corruption prevention measures to business and trade in Slovenia**. In this respect, an anti-corruption **fair trade declaration** was prepared, binding private companies – signatories, to transparent and fair business and committing the signatories to include an **anti-corruption clause** in all their contracts exceeding 10,000 EUR. The signatories were also obliged to report any violations of the declaration performed by other signatories. The declaration was open to signatories in March 2011.

Money laundering and the forfeiture of proceeds are closely linked. By engaging in money laundering, criminals mainly seek to hide their proceeds from judicial authorities with a view to avoiding trials and the ensuing forfeiture of property. The key problem faced by many countries is that criminals, once they have served a prison sentence for a certain criminal offence and are released from prison, continue to enjoy their proceeds and finance criminal activity. This means that criminal activity still pays off. The solution would be for countries to prescribe at least an extended confiscation procedure with reverse burden of proof and to define in greater detail bodies competent for the detection and management of proceeds, or to establish a separate body for forfeiture of proceeds.

Slovenia has not established a separate body dealing with forfeiture of proceeds; however, it did **adopt in May 2012 an act on forfeiture of illegally acquired property, which regulates this area and defines conditions, the procedure and bodies competent for financial investigations**, temporary protection of proceeds, temporary seizure and safekeeping, management (which fall under the competence of the Customs Administration) and forfeiture of illegally acquired property. This act has also introduced the concept of extended confiscation, according to which the subject of confiscation is no longer limited to proceeds obtained by a criminal offence for which a sentence has been issued but extended to include criminal offences for which no sentence has been issued (i.e. civil confiscation).

Financial investigations, which are conducted independently from criminal investigations, are ordered by the public prosecutor if there are grounds for suspicion that a person has committed a criminal offence under this act. The prosecutor also leads financial investigations and works closely together with other state authorities, including the Office for Money Laundering

Prevention, which are required to submit information from their records and other information and documents in order to facilitate the detection of illegally acquired property. Under this act, the prosecutor may also appoint a group for financial investigation including representatives of the Police, the Tax Administration, the Customs Administration and the Office for Money Laundering Prevention. These provisions also provide for the participation of these bodies in the efforts to detect illegally acquired property at the national level, which is the fundamental guarantee for success.

As to the role of the Office for Money Laundering Prevention, it is noteworthy that in its reports on suspicious transactions submitted to the Police/the Prosecutor's Office based on the grounds for suspicion of committing money laundering, the Office frequently states as possible circumstantial evidence the imbalance between the reported (taxed) incomes of the person under investigation and his/her actual property, which often suggests that the property in question has been acquired illegally.

Slovenia has some cases of good practices in money laundering prevention. In the past few years, a significant increase in the number of processed cases relating to money laundering has been recorded at the Office for Money Laundering Prevention, the Police, and the Prosecutor's Office and in courts. This is the result of the increased number of reports of suspicious transactions recorded by the Office for Money Laundering Prevention, which is due to enhanced cooperation between the Office and the private sector as well as to closer cooperation among all competent bodies at the national level (the Office for Money Laundering Prevention, the Police, the Prosecutor's Office, the Tax Administration, the Customs Administration, and the Commission for the Prevention of Corruption).