

## THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY SLOVAKIA

### ARTICLE 7, PARAGRAPH 4 UNCAC CONFLICT OF INTEREST

Slovakia is pleased to submit this reply to the United Nations Office on Drugs and Crime on note verbale CU 2018/65/DTA/CEB and to provide information on its national efforts in relation to the topics for discussion at the ninth intersessional Working Group on Prevention.

The Constitutional Act 357/2004 Coll. on the Protection of Public Interest in the Performance of Offices by Public Officials (hereinafter referred to as “Constitutional Act”) regulates also conflict of interest of certain categories of public officials<sup>1</sup>. Under Section 3(4) of the Constitutional Act “Personal interest”

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<sup>1</sup> Article 2 of the Constitutional Act 357/2004 Coll. on the Protection of Public Interest in the Performance of Offices by Public Officials regulates also conflict of interest of certain categories of public officials reads as follows:

Scope of the constitutional act

(1) This constitutional act is applicable to the following officials:

- a) The President of the Slovak Republic,
- b) Members of the National Council of the Slovak Republic,
- c) Members of the Government of the Slovak Republic,
- d) Heads of Central Bodies of State Administration who are not members of the Government of the Slovak Republic,
- e) Justices of the Constitutional Court of the Slovak Republic,
- f) The Chief Justice and Deputy Chief Justice of the Supreme Court of the Slovak Republic,
- g) members of the Judicial Council of the Slovak Republic,
- h) Prosecutor General of the Slovak Republic,
- i) The Public Defender of Rights,
- j) The Head and Deputy Head of the Supreme Audit Office of the Slovak Republic,
- k) State secretaries,
- l) The Chief of Staff of the Armed Forces of the Slovak Republic,
- m) The Director of the Slovak Intelligence Service,
- n) Members of the Bank Board of the National Bank of Slovakia,
- o) Mayors of municipalities,
- p) Deputies of local councils and deputies of city district assemblies in Bratislava and Košice,
- q) Chairmen of higher territorial units,
- r) Deputies of assemblies of higher territorial units,
- s) Rectors of public universities,
- t) The Head and Deputy Head of the Office for Personal Data Protection,
- u) the statutory body or members of the statutory body of a public television channel and public radio channel,
- v) the statutory body or members of the statutory body of Social Insurance Agency and General Health Insurance Company,
- w) the Director General of the News Agency of the Slovak Republic,
- x) Members of the Council for Broadcasting and Retransmission and the Head of the Chancellery thereof,
- y) Members of the Regulatory Board,
- z) The Head of the Telecommunications Office of the Slovak Republic,
- za) The Head of the Postal Regulatory Office,
- zb) Statutory body or members of the statutory body of companies which are entirely owned by the state,
- zc) General managers of state companies and members of supervisory boards of state companies appointed by the state; and
- zd) Members of the Slovak Television Council and members of the Slovak Radio Council.
- ze) The Director General of the Tax Directorate of the Slovak Republic,
- zf) The Chairman of the Board of Directors of the Nation’s Heritage Institute,
- zg) The Director General of the Railways of the Slovak Republic,

is defined as the one bringing material profit or other benefit to the public official or his/her close relatives, and “public interest” is understood as bringing the same to all citizens or a large number thereof. The Constitutional Act obliges public officials to seek and protect the public interest and not use his/her office, powers appertaining or information acquired in relation therewith to his/her benefit, or that of his/her close relatives or other natural or legal person.

When discussing a matter in which a public official has a vested interest, public official is to declare it prior to making a statement including if it may bring material profit to a political party or movement of which s/he is a member, provided that this fact is known to him/her. Supervision over compliance with the Constitutional Act is entrusted to the Committee on the Incompatibility of Functions of the National Council. Its competence is also to impose penalties. Penalty may amount to up to 12 - month salaries. Moreover, in certain situations anticipated by the Constitutional Act, the loss of mandate or public office may be pronounced by the Committee on the Incompatibility of Functions of the National Council.

More specifically, the incompatibility of certain offices, jobs and activities with the public officials who are MPs is regulated at first by the Slovak Constitution, which stipulates that the post of a member of Parliament is incompatible with that of a judge, prosecutor, public defender of rights, member of the Armed Forces, Armed Corps and European Parliament.

Furthermore, pursuant to Section 5 of the Constitutional Act, MPs may not form the statutory body or be a member of the statutory body, a member of a steering, control or supervisory body of a legal person established to conduct business activities. This requirement does not apply to:

- (a) membership in a body of a legal person which results from the law or discharge of public office;
- (b) representation of the state or National Property Fund in a legal person/its body, when the former participates in the latter's capital;
- (c) the representation of a municipality or a higher territorial unit in bodies of legal persons under the same conditions as above; and
- (d) situations where legal persons conduct business activities but no remuneration is paid for membership thereof. Moreover, there is a ban on carrying out business activities, except for professions which may only be exercised by a natural person under conditions stipulated by law. Within 30 days of assuming office, a deputy is to terminate such office, profession or activity or to perform a legal act leading to its termination specified by law.

Regarding the request to prevent conflicts of interest, the Act No. 32/2015 Coll. amending the Act of the National Council of the Slovak Republic No. 120/1993 Coll. on Salaries of Some Constitutional Officials of the Slovak Republic as amended was adopted on 4 February 2015. The Act entered into force on the day of the next general elections to the National Council, it means on 5 March 2016.

The limitation of accumulation of income is governed by the Act No. 120/1993 Coll. on Salaries of Some Constitutional Officials of the Slovak Republic as amended and supplementing certain acts. The Act No. 32/2015 Coll. amended new paragraphs 4 and 5 into the Section 2 regulating a limitation of the accumulation of income from public funds as follows:

Paragraph 4: “If a Member of the Parliament exercises, in addition to the functions specified in Art. 3, another function, from which he/she is entitled to receive a salary from public funds, the income from other functions shall not exceed the minimum wage.

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- zh) Members of the statutory body of the Export-Import Bank of the Slovak Republic,
  - zi) The Head of the Bureau for Supervision of Health Services,
  - zj) Members of the Executive Committee of the National Property Fund of the Slovak Republic,
  - zk) The Head and the Deputy Head of the Postal Regulation Office

Paragraph 5: The income according to the paragraph 4 for the purpose of this Act of the National Council of the Slovak Republic no. 120/1993 Coll. on the salaries of some constitutional officials of the Slovak Republic as amended and supplementing certain acts is:

- A remuneration or a salary of the mayor of a self-governing region and his/her deputy, and the mayors of municipalities and deputies,
- A salary of an employee, who is a statutory body or a member of a statutory body, or who is in a directing position of a statutory body,
- Remuneration for the exercise of a representative in self-governing regions,
- A salary or a remuneration of the Director General of the Social Insurance Agency,
- A salary, income or a remuneration from public funds for the exercise of a function in a statutory body or a member of a statutory body of a
- Legal entity established by law or under law by state authorities, self-governing regions or municipalities,
- A public institution or
- Any similar income from public funds. ”

It should be also noted that in October 2017 a working commission for reviewing and preparing an amendment to Constitutional Act no. 357/2004 Coll. on the protection of the public interest in the performance of functions of public officials was set up. Its goals are to review and amend Constitutional Act thereby strengthening existing framework.

#### **Article 8, paragraph 5 UNCAC ASSET AND INTEREST DISCLOSURE**

The Constitutional Act 357/2004 Coll. on the Protection of Public Interest in the Performance of Offices by Public Officials obliges public officials to declare their assets.

More specifically, public official shall declare his personal interest and he/she also submits declaration of offices, employment positions, activities and economic standing. Declaration of personal interest was described under point one.

The Constitutional Act 357/2004 Coll. on the Protection of Public Interest in the Performance of Offices by Public Officials governs declaration of offices, employment positions, activities and economic standing and reads as follows:

#### Article 7

Declaration of offices, employment positions, activities and economic standing

(1) Within 30 days of the assumption of the office and subsequently by 31 March of every year for the preceding calendar year public officials shall submit a declaration in writing stating:

a) whether they comply with the conditions of incompatibility of performance of a public office with the performance of other offices or the performance of other professions or activities under Article 5 (1) and (2)<sup>2</sup>,

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<sup>2</sup> (1) a Public official may not hold offices or perform jobs and activities incompatible with the office of a public official under the Constitution of the Slovak Republic and laws. (2) A Public official may not be the statutory body or a member of the statutory body, a member of a steering, control or supervisory body of a legal person, which was established for the conduct of business activity, with the exception of a general meeting and members' meeting. Public officials may not conduct business; this shall not apply to the conduct of a profession which may only be performed by a natural person under conditions stipulated by law.

b) what profession they are performing in the employment relation, a similar labour relation or in civil service and what business activities they conduct concurrently with the performance of public office,

c) what offices they hold in other state authorities, local and regional self-government bodies, bodies of legal persons conducting business and bodies of other legal persons; they shall also declare whether they receive income, fringe benefits or other benefits from the stated positions,

d) their income in the preceding calendar year from the performance of the public office and other offices, professions or activities, in which they continue after the assumption of the public office,

e) their economic standing and economic standing of their spouse and minors living in their household, including their personal data in the following way: first name, surname and address of their permanent residence.

(2) Confirmation of submission of a natural person income tax return or other document issued for tax purposes that confirm the amount of income received by the public official in the course of the preceding calendar year shall be attached to the declaration in writing under paragraph (1) by 30 April.

(3) If a public official is elected or appointed to another public office or is re-elected or re-appointed to the same public office and has already submitted a declaration under paragraph (1) in that calendar year, he is not obliged to submit it again.

(4) Economic standing under paragraph (1) (e) shall mean all of the following:

a) ownership of immovable property, including ownership of flats and non-residential premises,

b) ownership of movable property, the customary price of which is more than 35-fold higher than the minimum wage,

c) ownership of proprietary right or other proprietary value, the nominal value of which is more than 35-fold higher than the minimum wage; or

d) existence of an obligation the object of which is pecuniary delivery in a nominal value more than 35-fold higher than the minimum wage.

(5) Declaration under paragraph (1) shall be submitted

a) By a mayor to the commission of a municipal council. This commission may only be made up of deputies of municipal council. If there are any representatives of political parties and political movements or non-affiliated deputies in the municipal council, the commission shall be made up of one representative of each political party or political movement and one representative of non-affiliated council deputies. The commission shall consist of at least three members; if such number cannot be reached as described above, the necessary number of commission members shall be filled up by inviting another representative of the political party or political movement with the greatest number of seats in the municipal council;

b) by a deputy of town council and member of city district council in Bratislava and Košice to the commission of town council or city district council, This commission may only be made up of deputies of town council and city district council, respectively. If there are any representatives of political parties and political movements or non-affiliated deputies in the town (city district) council, the commission shall be made up of one representative of each political party or political movement and one representative of non-affiliated council deputies. The commission shall consist of at least three members; if such number cannot be reached as described above, the necessary number of commission

members shall be filled up by inviting another representative of the political party or political movement with the greatest number of seats in the municipal council;

c) by a chairman of higher territorial unit and member of the assembly of higher territorial unit to the commission of the assembly of higher territorial unit. This commission may only be made up of members of the assembly of higher territorial unit. If there are any representatives of political parties and political movements in the assembly of higher territorial unit, the commission shall be made up of one representative of each political party or political movement and one representative of non-affiliated assembly deputies. The commission shall consist of at least three members; if such a number cannot be reached as described above, the necessary number of commission members shall be made up by inviting another member of the political party or political movement with the greatest number of seats in the assembly;

d) rectors of public universities to the academic senate of that public university,

e) another public official to the assigned committee of the National Council of the Slovak Republic (hereinafter referred to as the "Committee").

(6) The body which receives declarations under paragraph (5) may request an explanation from the public official if there are any doubts concerning their completeness or veracity. If this body deems the provided explanation insufficient, it may request the initiation of proceedings under a special regulation. The authority conducting the proceedings under a special regulation shall without delay notify the body receiving declarations under paragraph (5) of the result of such proceedings following their completion.

(7) the body receiving declarations under paragraph (5) shall provide information on the declarations to each person in the manner and scope laid down in the Freedom of Information Act. A declaration submitted under paragraph (5) (c), (d) and (e) shall be published by the commission of the assembly of higher territorial unit on the website of the higher territorial unit, by the academic senate on the university website and by the Committee on the website of the National Council of the Slovak Republic. The personal data of public officials shall be provided or published in the following extent: first name, surname and public office that they hold.

(8) The provision under paragraph (7) shall not apply to data on the economic standing and personal data of spouse and minors living in the public official's household.

(9) Publication, as laid down in paragraph (7), shall not apply to data on economic standing of public officials, which would enable the identification of movable property owned by a public official or the identification of other parties in legal relations under paragraph (4) (c) and (d).

(10) A public official is entitled to provide the personal data of his spouse and minors who live in his household without their approval