OPEN DATA TO FIGHT CORRUPTION

CASE STUDY: SLOVAKIA'S HEALTH SECTOR

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

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INTRODUCTION

Open data is a key requirement for achieving progress in the fight against corruption. This is one of the reasons that the Group of 20 (G20) – which includes the most economically and politically powerful countries in the world – has opted to adopt open-data principles to help promote public integrity and reduce corruption.[1]

This move reflects a growing trend toward the increased publication and availability of open data – data that is freely shareable, comparable, released and usable (both legally and technically).[2] The international Open Data Charter and specific national initiatives have attempted to create a common foundation to accelerate this process. Yet much important and useful government data remains locked up. According to the Worldwide Web Foundation, 90 per cent of the 86 countries surveyed provide scant information on data related to government budgets, public contracts and public services (such as health and education).[3] This shows a continued trend, first found in a survey by the Open Knowledge Foundation in 2013.

The coming years will be critical to ensure that policies and practices are in place to maximise the use of open data to fight corruption. For this to happen, data must be:

- accessible: it must be free to use and reuse, published in a timely manner and easily found
- accurate: it must be complete and reflective of reality
- intelligible: it must be structured in a way that can be analysed (e.g. clear and consistent columns, values and formats)
- meaningful: it must be useful for the user[4]

This case study – one of three produced – aims to provide guidance to policy-makers and activists in a diverse range of countries for how specific data sets can used to prevent, detect and investigate corruption. All three case studies look at national chapter or regional initiatives carried out by the Transparency International movement. These initiatives have been designed to leverage open data sets as part of addressing corruption. As such, the studies do not assess the broader landscape of open data or how it has been used in other areas to promote change.

The findings from all three case studies show that often many aspects of open data – that it is accessible, accurate, intelligible and meaningful – are not being met or are only partly fulfilled when it comes to data sets useful for reducing corruption.

Recognising and correcting these shortfalls is a critical step to ensuring that open data promotes positive changes for society and in people's lives. It is in this spirit that the case studies should be used.

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[1] These principles were approved during the G20 meeting hosted by the Turkish government in November 2015.
[2] Open Knowledge Foundation, "Open Data Handbook", http://opendatahandbook.org/glossary/en/terms/open-data [accessed 27 January 2016].
[3] World Wide Web Foundation, "Open Data Barometer", January 2015, http://barometer.opendataresearch.org.
[4] Criteria developed by Transparency International UK.

THE CONTEXT

CORRUPTION IN SLOVAKIA

Slovakia, which is a member of the Organisation for Economic Co-operation and Development and the European Union, ranks the fifth worst in the EU on corruption and is found in the 50th slot globally, according to Transparency International's Corruption Perceptions Index.[5] Due to heavy political interference, police and prosecutors have rarely been able to uncover serious corruption in Slovakia. As many as a half of all the corruption verdicts in the last four years in Slovakia have concerned bribes of not more than €20 to doctors or the police.[6] Unlike in neighbouring countries, no high-ranking politician has ended up in jail, though there have been continued allegations in the media of abuses of power among the political and economic elite.

Public procurement has been a consistent hotbed of corruption in the country. Three out of four Slovaks believe that public procurement processes are almost always fixed in advance.[7] The *Global Competitiveness Report*, published by the World Economic Forum, has consistently put Slovakia among the bottom five countries (out of 139) regarding the use of favouritism by government officials in decisions such as allocating contracts.[8] A poll by the Business Alliance of Slovakia, a business lobby, found that the average size of a bribe paid by companies participating in Slovakia's public procurement process was equivalent to 13 per cent of a tender's value.[9] Many of the biggest scandals in national politics in the past 10 years have concerned public tenders.

Changes to procurement legislation have not successfully cleaned up the process.[10] Broader changes to increase the openness of government, including public procurement, have produced advances in other ways, however. Public tenders have become more competitive. While an average of only two companies took part in a tender in 2011, almost four companies now send bids. The share of single bidders being granted public contracts has been cut in half in the last five years.[11]

In spite of these positive advances in public procurement, opinion polls show that corruption remains perceived as the third biggest problem that Slovakian society faces.[12] Healthcare regularly comes out on top as the sector most affected by corruption. In the last three years 12 top-ranking officials, including the minister of health, were forced to resign because of corruption scandals.[13] It is believed

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[5] See www.transparency.org/cpi2014.

[6] Corruption is rarely punished in Slovakia: Transparency International Slovakia report, 14 August 2014.

[7] Representative poll by Focus for TI Slovakia, November 2009: http://transparency.sk/wp-content/uploads/2010/03/FOCUS_Sprava-pre-TIS_november-2009.pdf.

[8] See http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2010-11.pdf.

[9] Data based on research done in 2012. PAS, "Corruption Deprives the State of Half a Billion Euros per Year", 11 April 2013, http://alianciapas.sk/en/corruption-deprives-the-state-of-half-a-billion-euros-per-year.

[10] Fifteen changes were adopted over five years. See the visualisation of procurement law changes by TI Slovakia: http://zmenyzakonov.transparency.sk/law/zakon-o-verejnom-obstaravani.

[11] See G. Sipos, S. Spac and M. Kollárik, *Not in Force until Published Online: What the Radical Transparency Regime of Public Contracts Achieved in Slovakia* (Bratislava: TI Slovakia, 2015).

[12] Focus for TI Slovakia, February 2015.

[13] J. Krempaský, "Smer cannot afford to keep its own nominees", *SME*, 25 September 2015, www.sme.sk/c/8014229/smer-uz-svojich-nemoze-setrit.html.

that as many as 3,000 Slovaks may die unnecessarily every year due to corruption in the healthcare system.[14]

OPEN DATA IN SLOVAKIA

Slovakia was one of the first signatories of the Open Government Partnership, founded in 2011. Over the last five years the Slovak government has introduced transparency reforms, hoping that greater openness might both prevent corrupt behaviour and encourage citizens to monitor public procurement processes.

This shift has produced clear results in terms of public procurement. As many as 8 per cent of Slovaks check at least one public contract or invoice online every year. The number of visitors to the two main contracts websites[15] has gone up by a third since 2012, with over 50,000 visits a month.

A key element of these changes has been a move toward open data, allowing greater accessibility and comparability by citizens. Since 2011 government contracts have had to be published online, with metadata provided in an open, machine-readable format. Even bidders' offers are made public. Moreover, no contract is considered valid by the government unless its full version is put online within three months of its signing.[16] As of November 2015 all information on the beneficial owner of companies winning public contracts has been kept in a public register.

While Slovakia collects and publishes more procurement data than most countries in the world, there is still a problem with data quality. More information does not mean better information when there are no open data standards in place in Slovakia. Documents such as tender specifications, bidders' offers and selection committees' notes are not published in an open format, making it extremely challenging to search the websites. The rest of the procurement process documentation is in better shape but the data is not always published in an open-data format (see Table 1). Finally, the procurement data cannot be triangulated with other data provided through the country's business registry, cadastral data or business financial registry.

THE PROJECT

OVERVIEW

The national Transparency International chapter, TI Slovakia, has created a portal that draws on the various sources of procurement data published by the government, allowing for a closer investigation of the data to flag possible cases of corruption.

The Open Public Procurement portal (http://tender.sme.sk) captures contracts dating back to 2009. The site is maintained by the chapter and covers over 36,000 contracts worth more than €47 billion

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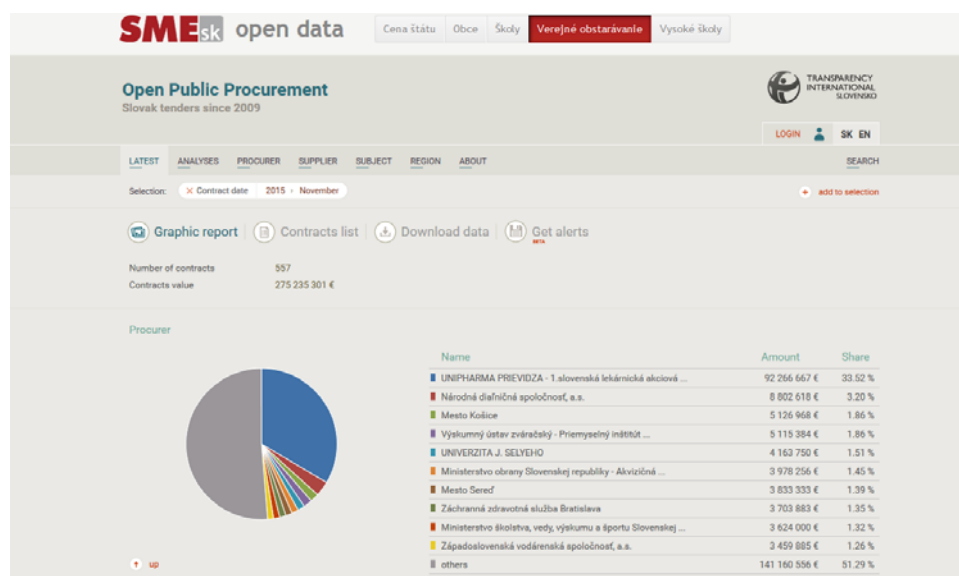[14] L. Odor, "If We Had the Czech Healthcare, 3000 People Could Be Saved Annually", *Denník N*, 14 October 2015, https://dennikn.sk/267297/keby-sme-mali-ceske-zdravotnictvo-zachranili-by-sme-rocne-tritisic-ludi.
[15] The official CRZ register (www.crz.gov.sk/index.php?ID=114372) and the NGO site (http://otvorenezmluvy.sk).
[16] This has been done through an amendment to the country's freedom of information law. There are a few exceptions, such as on matters of national security.

(some US$52 billion at the current exchange rate), nearly 40 per cent of which have gone to construction projects.[17] The user can search by the government entity awarding the contracts as well as the companies winning the contracts. Figures are set by selecting the desired year range. The portal, which is available in English and Slovak, cost some €30,000 (approximately US$40,000) and took 18 months to build.[18] The site is hosted by SME.sk, a leading news website in Slovakia. All the coding is open source, including all the technical specifications to construct the portal.[19]

Figure 1: Screenshot of tender.sme.sk

In 2012 TI Slovakia started focusing its investigations of public contracts on the health sector.[20] As one of its first activities, the chapter analysed dozens of purchases of CT scanners bought by Slovak hospitals over the previous five years.[21] Prices were found to have varied by up to 100 per cent even for the same machines. Upon further analysis, it was found that two-thirds of the procurements had been contracted out through single-bid contests – despite the fact that there are four global producers represented in the country and all had previously won several contracts. Most of the purchases that were awarded were given to intermediaries, not to the in-country affiliates of the official producers. These initial findings prompted TI Slovakia to get involved more deeply in analysing the data.

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[17] As of 26 November 2015; see: http://tender.sme.sk/en/reports?cut=contract_date:2015,11.
[18] Funding was provided by the Open Society Institute, the US Embassy in Slovakia and Siemens. Annual maintenance for the site is estimated at €5,000 (about US$5,500).
[19] The site is published via GitHub.
[20] Managers of multinational pharmaceutical companies that were operating in Slovakia, such as GSK and Bayer, showed interest in supporting transparency reforms in Slovakia but there was no civil society organisation that was then currently focusing on corruption in healthcare. This provided an opportunity for the chapter to take up this work.
[21] Z. Dancikova, "Thank You, No Need for Competition", TREND.sk, 2 November 2015, http://blog.etrend.sk/transparencyblog/dakujeme-konkurenciu-neberieme-2-4.html.

One focus was to study in greater depth the beneficial owners of companies winning public contracts, drawing on the business registry data. In the past, shell companies linked to party officials were found to have won public contracts.[22] The government decided to present a law, which parliament passed, to limit bidders with unknown owners from participating in public procurements.[23] Lawmakers focused on so-called tax havens, making any company based in one of them ineligible to take part in public tenders in Slovakia. However, a Transparency International study, using a combination of data on the winners of tenders and the business registry data, showed that only 1.5 per cent of the volume of tenders goes to such companies. Moreover, at least half these companies are in fact globally known companies such as KPMG or Amgen, which conduct their Europe-related business from Cyprus. The availability of this detailed contracting data allowed TI Slovakia to show that opaque ownership structures required a government approach that was more than simply banning companies based abroad in tax havens from bidding for government contracts.

Table 1: Data Availability and Quality
Overview of Open Data Sets for the Health Sector[24]

DATA SET	LEVEL OF OPENNESS	DATA QUALITY	AREAS FOR IMPROVEMENT
Call for tender	Open-data format[25]	• Detailed • Good	• Make it more error-proof • Add application programming interface (API)
Tender documentation, including bidders' names and prices	Open-data format (partially)[26]	• Detailed • Average	• More refined search options • Add API
Tender results announcements	Open-data format	• Detailed • Good • Challenges with reporting correct pricing	• Add API • Connect to business registry data
Beneficial ownership data	Not in open format Not searchable	• Poor[27]	• Connect to public procurement calls and results announcements
Final contract and amendment	Not in open-data format[28] Searchable	• Average	• Make contracts searchable within their text fields • Add API and municipalities

[22] "Paska Knows Boss of CT Company", *SME*, 7 November 2014, http://ekonomika.sme.sk/c/7481981/paska-pozna-sefku-ct-firmy-jeho-kosicke-firmy-sa-sustredili-v-prahe.html.

[23] "The Draft Law Is Too Weak to Tackle Shell Company Tender Winners", TI Slovakia press release, 3 December 2014, www.transparency.sk/sk/na-schrankove-firmy-z-tendrov-je-novela-zakona-prikratka.

[24] The assessment of data quality (good, average, poor) is based on the chapter's determination.

[25] See https://www2.uvo.gov.sk/evestnik.

[26] See https://www2.uvo.gov.sk/evestnik.

[27] The law limits data availability only to that for owners with at least a 25 per cent stake in the company.

[28] A specific website hosts the data, www.crz.gov.sk, but another site has converted the data into an open-format structure: http://otvorenezmluvy.sk.

RESULTS

TI Slovakia linked the public procurement and business registry data sets and identified two major public procurement scandals around catering and construction in the healthcare sector. As a consequence:

- the media published the findings, in broad terms
- a series of public officials were forced to resign
- more ambitious transparency reforms were accepted into law

Each of these scandals and the results are described in more detail below.

Catering

In the autumn of 2014 TI Slovakia was searching the government's procurement portal and noticed that €80 million (some US$100 million) worth of public funds had been paid out for catering contracts recently signed by four public hospitals. The contracts obligated the hospitals to buy meals for 10 years.

According to the open procurement data,[29] each of the four tenders had three bidders, of which two appeared to be coordinating their bids. Business registry data showed that one, Hospital Catering Solutions (HCS), was owned by a Luxembourg-based shell company.[30] The other bidder, Dora Gastro, was connected to HCS through one of its managers. Between them, HCS and Dora Gastro won all the most lucrative tenders, despite being newcomers to the catering business.

Moreover, the winning prices appeared to be overpriced by up to 50 per cent. TI Slovakia compared the data on prices from other hospitals and found that, even if the cost of updating catering facilities is included, the prices in the new contracts were higher than before in three out of the four cases. Analysis showed that hospitals were ordering more food than needed, resulting in government fines.

Before TI Slovakia had finished analysing the public data, journalists from the most influential daily newspaper, *SME*, made contact with the chapter. At about the same time the newspaper received an inside tip from a doctor at one of the hospitals about the catering tender. TI Slovakia and *SME* decided to join forces, and on 7 December 2014 published a detailed exposé on the tenders.[31]

Three days later there was a major shake-up. Three of the four directors of the hospitals were fired (the fourth one was a newcomer who had inherited the contract). In addition, Miroslav Sencak, chief of staff and a right-hand man of the minister of health, resigned.[32] Even so, the hospitals did not rescind the contracts, citing legal and economic reasons. On paper, the procurement process had followed what the law stipulated. The fact that a shell company had won the contract was not a legal reason for invalidating it.

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[29] See http://tender.sme.sk/en.
[30] See http://orsr.sk.
[31] M. Kern, Z. Dancikova and K. Hukelova, "In Hospitals Millions Are Devoured", *SME*, 7 December 2014, http://ekonomika.sme.sk/c/7534782/v-nemocnici-prejeme-miliony-stopy-vedu-do-luxemburgu.html.
[32] "Expensive Lunches in Hospital Led to the Fall of Three Directors and Head of Ministry Office", *SME*, 10 December 2014, http://ekonomika.sme.sk/c/7540437/pre-drahe-obedy-v-nemocniciach-padli-traja-riaditelia-aj-sef-uradu.html.

Construction

In February 2015 one of the largest construction companies in Slovakia, Vahostav, came close to bankruptcy. The company was majority-owned by Juraj Siroky, a long-rumoured donor to the ruling Slovak party, Smer – sociálna demokracia (Direction – Social Democracy). TI Slovakia's investigation into the ownership structure of Vahostav[33] showed that it was owned by three other Slovak companies, themselves owned by shell companies in Cyprus and New Zealand, and partly run by nominee lawyers from Costa Rica.[34]

Based on these findings, Marcel Klimek, an economist from the small Slovak opposition party Nová väčšina (New Majority), disclosed that Falck, a Danish health emergency operator with a large presence in Slovakia, had sold half its business in Slovakia just before receiving the government licence for further operation in 2009. The buyer was a shell company with ties to companies discovered to be behind Vahostav.[35] The findings raised the suspicion that corruption may have been involved. Both Falck and Siroky have denied any contacts with or ownership of the shell company behind the deal.

As a result of the scandals, the government passed two new amendments to create a stricter beneficial ownership clause in the public procurement law (the second, stricter amendment was passed in September 2015). The government set up a new public register of beneficial ownership in November 2015, and every public tender winner now has to disclose its beneficial ownership. The Office for Public Procurement, the oversight body, is vested with the power to investigate should anybody challenge the truthfulness of the ownership declarations.

LESSONS LEARNED

There are four main lessons from the chapter's work to push for open procurement data.

- Demonstrate the power of open data by putting it to work.
- Develop a parallel site to the government's open-data portals to amass data around specific topic areas so as to allow for more in-depth analysis.
- Utilise the government scandals to drive legal reform efforts.
- Recognise the momentum that change can generate.

First, putting open data to practical use shows the government, experts and the public that investing in open data is worthwhile. In a small country such as Slovakia, there is an opportunity cost in committing to open data. By using procurement data as part of the chapter's research, gaps and problems in that data were able to be revealed to the government and the public.

Second, it is recommended that an alternative website be set up that collects and collates official data published elsewhere, at least at the beginning. Such a website can help to monitor changes in published data, add on features such as full-text searches or publish more sophisticated metadata ranges. It can also help to bring the public closer to the data.

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[33] See www.facebook.com/transparencysk/photos/a.464749149455.259115.277077069455/10153215965209456.
[34] To find out this information, TI Slovakia used publicly available data from business registers in Slovakia and New Zealand as well as from https://opencorporates.com, which is an open-data portal collecting information about companies from registers all over the world. The chapter also used Bisnode, a consultancy firm based in the Czech Republic that has its own commercial database.
[35] V. Folentova, "Half of Falck Owned by Shell Company Related to Vahostav, the Opposition Claims", *Denník N*, 31 March 2015.

Third, advocating for open data in procurement is easier when corruption cases emerge. In TI Slovakia's experience, the government has been unable to argue against opening up more data when faced with procurement scandals. It may view transparency as an immediate panacea rather than offering greater accountability for its actions and decisions when they are being questioned.

Fourth, and perhaps most positively, it is clear that change can come about relatively quickly. Back in 2008 tender calls and results were published in a print journal in Slovakia. All the other documentation was kept by state institutions individually. Three years later all these documents, including the final contracts and their amendments, began to be published online for anybody to see. Slovakia jumped from being below average on openness to being world-class, with little cost and effort. This goes to show that much of the requisite change has to take place in the thinking of policy-makers and activists, rather than through any increases in investment and capacity levels.