

WHO GUARDS THE GUARDIANS



From the societal and economic perspective, Slovakia has recorded a steady decline in all relevant global indicators and indexes over the past few years, including reports from the European Commission, OECD statistics, the Global Competitiveness Index by the World Economic Forum, and the Rule of Law Index. We are a country caught in the trap of middle income countries with an insufficient economic model and weak growth to continue in economic convergence towards at least the average of the European Union.

Dynamic technological and societal changes present our country with major challenges that demand responses from the private as well as the public sector. High levels of digitalization and automatization of processes, applied AI, or the impacts of climate change will exert great pressure on systems of education, healthcare, or transport, but also on doing business or on public services. The quality of human capital and stability and predictability of the business environment will be of key importance if Slovakia is to manage this transformation, and ideally use it to increase its competitiveness. Economies of the near future, thriving in the global competition for talent and investments, will be fueled by innovations that will reshape traditional economic models to become more intelligent, sustainable and greener. Slovakia is part of global changes propelled by technological developments erasing existing barriers, and changing environmental conditions defining the quality of life of future generations.

That is why, as representatives of a broad coalition of domestic and foreign employers in Slovakia - ranging from regional micro companies to the largest employers in the country - we call on representatives of political parties to put the essential needs of the Slovak Republic as a country with a high quality of life and a stable business environment above the particular interests of individuals or interest groups. We urge them to recognize that restoring Slovakia's position in global competition requires a dramatic change in economic policy and the overall management of the country - responsible governments invest in research and development, the skills of future generations, work positions of higher quality, thus defining an ambitious vision of the state supported by social consensus, and apply innovative regulations based on the principles of simplicity, comprehensibility, transparency and flexibility. As representatives of the business sphere, committed to the creation of fundamental economic values and resources for the state budget, we are ready to contribute to this process to the fullest extent possible and thus become partners of public institutions in transforming Slovakia into a modern, efficient and competitive country. This is why we present the following seven steps for a positive change in the areas of rule of law and human capital to the representatives of political parties, the media as well as the general public.

THE 7 DEADLY SINS OF THE RULE OF LAW

Stability and predictability are key prerequisites for the functioning of the business environment in every democratic country. Entrepreneurs need clear rules that are fair and sufficiently known to everyone in advance. The credibility of public institutions at both the national and local levels is crucial for establishing and subsequently adhering to these rules. A stable, open, and transparent legislative environment helps businesses and individuals navigate laws, as well as reduce bureaucracy and confusion caused by frequent amendments or ambiguous wording. A transparent business environment in a country with functioning and credible institutions that uphold their own rules are essential conditions for both entrepreneurs and ordinary people to thrive in Slovakia.

The broad business community of employer associations, associations, business organizations, and chambers of commerce, united under the Initiative for the Rule of Law (Rule of Law Initiative, pravnystat.sk), has been consistently proposing specific steps in the field of innovative regulation with the aim of systematically eliminating excessive and harmful regulation, professionalizing state administration, and reducing the perceived level of corruption. The lost trust in the state, the alarming and unsustainable level of abuse and circumvention of the legislative process in Slovakia, as well as the values upon which laws are passed in the National Council of the Slovak Republic (NR SR), limit the country's efforts to continue its economic and social convergence. In this context, we consider it important for the legislative process to be transparent, participatory, and predictable in accordance with the proposals of the Rule of Law Initiative from 2021. It is for these reasons that we have once again decided to, through this document, highlight the most crucial areas related to the rule of law that require increased attention.



PASSING LEGISLATION IN EXPEDITED PROCEDURE WITHOUT MEETING LEGAL REQUIREMENTS

PREDICTABLE LEGISLATION

Legislative activity in a constitutional state is regulated with the aim of eliminating any elements of arbitrariness in the process of law making. Quality legislation cannot arise from a compromised legislative process. If the legislator violates or circumvents the legislative rules, the resulting product is also constitutionally non-conforming. The legal framework and the process of enacting legislation reflect the state of constitutionality and democracy, and also directly influence the state's market economy. A state that tolerates or proactively creates an unstable legal environment, or fails to abide by its own rules, simultaneously discourages healthy entrepreneurial activities. Therefore, it is necessary to ensure that legislative rules are not violated or circumvented by adopting materials in an expedited legislative procedure when the legal conditions for its use are not fulfilled. This approach eliminates any expert discussion, which is a tool for enhancing the quality of the resulting legislation.

SOLUTION

We consider it important that a stricter amendment to the Act on Rules of Procedure is proposed, which adjusts the reasons for the application of expedited legislative proceedings, and for the government to be obliged to clearly specify and sufficiently justify these circumstances in the proposal for expedited legislative proceedings. We propose an amendment to expedited legislative proceedings in the National Council of the Slovak Republic in § 89 para. 1 of Act No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic, in the following wording: "Under extraordinary and unforeseeable circumstances threatening the security of the state, fundamental human rights and freedoms, or potentially causing significant economic damages to the state, the National Council, upon the government's proposal, may decide on expedited legislative proceedings for a proposed law by resolution. The circumstances mentioned in the first sentence must be clearly identified and justified in the government's proposal. To adopt a proposal for the application of expedited legislative proceedings, a majority of more than half of all members of the National Council is required."

2

PASSING LEGISLATION IN THE NATIONAL COUNCIL OF THE SLOVAK REPUBLIC THROUGH PARLIAMEN-TARY PROPOSALS WITHOUT CONSULTATIONS WITH THE EXPERT PUBLIC

PREDICTABLE LEGISLATION

In a modern state, a law is considered a form of a social contract that everyone must respect. In Slovakia, the level of parliamentary legislative initiative is significantly higher than in developed countries and democracies in Europe, where it is considerably limited. It is unacceptable for significant changes with an impact on the entire society to be made without discussion with both experts and the general public. Unlike for government law proposals, there is no obligation for discussion or the possibility to comment from both the broader public and experts for parliamentary law proposals (including amendments).

SOLUTION

We propose that parliamentary law proposals (including amendments) after their approval in the first reading of the National Council of the Slovak Republic be submitted for mandatory interdepartmental comment procedure within the competence of the relevant public authority. We expect a reduction in the quantity of proposed laws submitted and approved by legislators, along with an associated increase in their quality.

3

INSUFFICIENT EVALUATION OF THE IMPACT OF PARLIAMEN-TARY LAW PROPOSALS

PREDICTABLE LEGISLATION

Unlike government law proposals, parliamentary proposals (including amendments) are not subjected to the same requirements for evaluating anticipated impacts, and these data are only superficially presented by the members of parliament. Government law proposals must include calculations of the expected effects on the budget, business environment, environment, family, informatization, social impacts, and impact on public services. As these aspects are not required as a part of parliamentary proposals, other members of parliament and also the general public lack important information about potential consequences of their votes.

SOLUTION

We propose that parliamentary law proposals, including all amendments, are required to contain detailed impact assessments just like government law proposals, following the Unified Methodology for Impact Assessment. We see no reason for a lower standard in this case than for government law proposals, as their legal force is the same after approval and publication in the Collection of Laws.

4

NON-TRANSPARENT CHANGES THROUGH AMENDMENTS OR ADDENDUMS

PREDICTABLE LEGISLATION

More and more often, we are witnessing changes with significant impact on the economy and business environment being adopted through parliamentary amendments during the debate in the second reading. This represents another way of non-transparent increase of the regulatory burden. In reality, this process involves MPs voting on and usually approving changes, often based on a political agreement, that were introduced just a few minutes before the vote - it can be any submission labeled as an amendment, which is meant to alter, add, or omit something in the proposed bill. While fully respecting the legislative authority of the members of the National Council of the Slovak Republic, we are convinced that this procedure is highly non-transparent and endangers the stability of the rule of law. At the same time, it undermines the work of all experts in both the public and private sphere.

SOLUTION

The Rules of Procedure of the National Council of the Slovak Republic do not include a definition of an amendment. Defining and specifying it precisely should serve the purpose of assessing amendments based on their content rather than just formally. We also recommend implementing a reasonable interval between the second and third reading in the National Council of the Slovak Republic, where the 2nd and 3rd readings could not take place during the same session - this will create room for commenting on so-called 'amendment proposals'.

5

INCREASING NON-TRANSPARENT AND EXCESSIVE REGULATORY BURDEN

PREDICTABLE LEGISLATION

Lately, we have observed a significant amount of unnecessary and excessive regulatory as well as administrative burden on businesses, citizens, and public authorities. This can be an obstacle to maximizing benefits and minimizing costs. It is necessary that the process of regulation adoption leads to simplification rather than, contrarily, to the addition of more rules that only increase the bureaucratic burden. Regulation should be simplified, coherent, and of high quality to ensure its proper implementation. The same applies to the issue of protection against unjustified gold-plating, which occurs on average in every third transposition of directives and implementation of European Union regulations into Slovak legislation.

SOLUTION

We propose a significant reduction of excessive regulatory burden. In line with the implementation of Regulatory Impact Assessment, consistently apply the 'one in – two out' principle when adopting new regulations. This means that for every new regulation with an impact on the business environment introduced, a double amount of regulatory burden should be eliminated. It is also essential to eliminate exceptions to this mechanism. Additionally, it's necessary to systematically get rid of unjustified gold-plating and monitor its impact on the business environment. The evaluation of regulations should be enabled both for newly adopted legislation and through ex-post methods. Once again, all rules must be adopted transparently and through open dialogue with social partners and the expert community.

6

PREFERRING POLITICAL NOMINEES OVER EXPERTS WITHOUT PUBLIC CONSULTATIONS

REDUCING CORRUPTION

The quality and expertise in public administration are crucial for the stability of the business environment. The issue lies in frequent changes in key expert positions, which often unjustifiably become subject to political nominations. This has a negative impact on the quality of activities within central bodies of state administration, public administration, and the functioning of state-owned companies. It also creates more space for non-transparent actions that prioritize particular goals of certain political or interest groups over the public interest.

SOLUTION

Professionalization of public administration - increasing independence and expertise within public administration, in the management and in supervisory boards of state-owned companies. Consistent application of the principle of expertise would restrict the usual post-election political appointments to a necessary minimum and significantly limit political nominations to independent regulatory institutions.

7

UNDERMINING THE INDEPENDENCE AND IMPARTIALITY OF PUBLIC INSTITUTIONS

REDUCING CORRUPTION

To preserve fair economic competition, institutions of independent oversight (Public Procurement Office, The Council for Budget Responsibility, Antimonopoly Office, The Regulatory Office for Network Industries, etc.) are crucial. These institutions play a role not only in establishing a fair legislative framework but also in overseeing its execution. This applies equally to sectors subject to stricter regulation (energy, telecommunications, etc.). The credibility of such institutions relies on their ability to make impartial decisions based on facts and data, prevent conflicts of interest, and also on the method of selecting top representatives of these institutions, which has often been influenced by political parties or interest groups.

SOLUTION

Increasing the independence of regulatory institutions by introducing mandatory public hearings of candidates applying for leadership positions based on a defined format, which guarantees participation of relevant representatives from professional circles and non-governmental organizations (for example, the selection of the head of the Whistleblower Protection Office, the head of the Antimonopoly Office, the head of the Public Procurement Office, etc.). We propose the implementation of the so-called 9 recommendations to enhance transparency in selection procedures for regulatory and supervisory bodies, as proposed by the Rule of Law initiative. Additionally, we recommend that in case of relevant institutions these amendments to the selection process are also included within the corresponding legislation.