



British Chamber of Commerce  
in the Slovak Republic



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CAMERA DI COMMERCIO ITALO - SLOVACCA  
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# Competitive Slovakia

## THE TEN COMMANDMENTS FOR A FAIR AND PREDICTABLE BUSINESS

Stability and predictability are key preconditions for the functioning of the business environment in every country. Entrepreneurs need to have rules that are fair and well known in advance. For their adjustment and subsequent adherence, the credibility of public institutions is important at national as well as local level.

In fact, Slovakia lags behind the world's most advanced countries in terms of the quality of public institutions and the law enforcement ensuing. According to the World Competitiveness Index, we are on the 61st position in this aspect. In recent years, the European Commission has been increasingly pointing to poor quality and predictability of legislation, high levels of perceived corruption, and insufficient improvements in the functioning of the judiciary. Since 2015, these three thematic areas have been actively highlighted, while proposals for improvement are being offered by the Rule of Law Initiative - a broad coalition of employers' associations and chambers of commerce.

A stable and predictable business environment in a country with functioning and trustworthy institutions is a prerequisite for the success of entrepreneurs and ordinary people in Slovakia. If we want to make full use of the potential of this country and provide space for the development of human talent (more in the document "The Ten Commandments for the Country of Talent"), fundamental improvements in all three areas mentioned above need to be adopted in the near future.

Laws should only be changed or amended in the National Council only when it is necessary and, in particular, after wider professional debate and careful consideration of all their effects. It is our duty to try to eliminate any space for non-transparent or even corrupt behaviour in every area. At the same time, we expect that honest entrepreneurs, who are unable to claim their rights, will not be intimidated by courts due to the length of court proceedings. We are rather convinced that courts would become a stable pillar of law enforcement due to their predictable and impartial decision making.

As representatives of a broad business community representing Slovak or international companies - from micro-companies in the regions to the largest employers in the country - therefore during the election period we ask representatives of political parties across the spectrum to strive for such improvements as far as possible.



## ENACTMENT OF LEGISLATION IN THE NATIONAL COUNCIL OF THE SLOVAK REPUBLIC AFTER DISCUSSIONS

/ PREDICTABLE LEGISLATION

*In a modern country, laws are considered a form of social contract that everyone must respect. It is therefore inadmissible if serious changes with an impact on the whole society are made without discussion with professionals and the general public. Unlike government bills, there is no obligation to discuss the possibility of commenting by the general public or experts in case of parliamentary bills (including their amendments).*

### SOLUTION

Introduction of mandatory commenting of parliamentary proposals (including amendments) of laws.

Applying the same principles as in government bills.



## END OF NON-TRANSPARENT CHANGES / AMENDMENTS TO THE DRAFT LAWS

/ PREDICTABLE LEGISLATION

*Increasingly, we are seeing changes that have a major impact on the economy and the business environment through parliamentary amendments during the second reading debate. In addition to the so-called gold-plating (transposition of European legislation), it is another way of adding non-transparent regulatory burdens. In fact, this is done by the MPs voting and, usually by political agreement, approving the changes that were introduced just minutes before the vote. This procedure is highly non-transparent and undermines the stability of the rule of law. At the same time, it undermines the work of all public and private professionals.*

### SOLUTION

Introduction of a reasonable period between the second and third reading in the National Council of the Slovak Republic. The 2<sup>nd</sup> and 3<sup>rd</sup> readings could not take place during the same session of the National Council of the Slovak Republic - this would also give room for commenting on the "amendments".



## FAIR IMPACT ASSESSMENTS OF PARLIAMENTARY DRAFTS OF LAW

/ PREDICTABLE LEGISLATION

*Unlike government bills for parliamentary bills, including amendments, the same requirements are not applied in terms of assessing the anticipated impacts, or these figures are only very superficially presented by deputies. Government bills must include a calculation of expected impacts on the budget, business environment, environment, family, informatisation, social impacts, or impact on public administration services. As parliamentary proposals do not need to include these elements, other MPs, both in the vote and in the public, lack essential information on the possible consequences of their vote.*

### SOLUTION

MPs' proposals, including amendments, must include a detailed impact assessment (as well as government bills under the Uniform Methodology for Impact Assessment. There is no reason to require a lower standard than government bills).



## LOW FREQUENCY OF LAW CHANGES

/ PREDICTABLE LEGISLATION

*It is extremely difficult for an ordinary citizen or especially a SME to be able to navigate in such frequent changes of laws. These are changing today without first assessing objectively whether and how the objectives for which regulation has been adopted have been achieved and whether regulation is still justified in the current version. The introduction of an ex-post evaluation would have two significant benefits - a reassessment of the justification for change / new regulation and a significant slowdown in the frequency of change.*

### SOLUTION

- Introduction of ex post regulatory impact assessments.
- Introduction of a rule on the effectiveness of legislation always on 1 January of the calendar year.

Before the introduction of the new regulation, or the commencement of the amendment of the Act, the effectiveness of the last such change will have to be evaluated first.



## REAL INDEPENDENCE OF REGULATORY INSTITUTIONS

/ FIGHTING OF CORRUPTION

*Independent supervisors (Public Procurement Office, Council for Budget Responsibility, National Bank of Slovakia, etc.) are key to maintaining fair competition, which are involved not only in setting up a fair legislative framework, but also in supervising. The same applies to sectors subject to stricter regulation (energy, telecommunications, etc.). The credibility of such institutions depends on the ability of impartial decision-making on the basis of facts and data, the avoidance of conflicts of interest, but also the method of selection of top representatives of these institutions, which until now often is subject to political or interest influence.*

### SOLUTION

**Increasing the independence of regulatory institutions.** The way is, for example, the introduction of obligatory public hearings of the candidates for the executive functions of these offices, or the involvement of the widest possible range of relevant institutions in the selection process (e.g. the selection of the head of the Whistleblower Protection Office).



## MORE EXPERTISE AND LESS POLITICAL NOMINATIONS IN PUBLIC ADMINISTRATION

/ FIGHTING OF CORRUPTION

*Quality and expertise in public administration are key to the stability of the business environment. The problem is frequent changes in key professional positions, which are often unjustifiably subject to political nominations. This has a negative impact on the quality of the activities of central state administration bodies or public administration and thus expands the scope for non-transparent conduct, which more than the public interest pursues particular objectives of certain political or interest groups.*

### SOLUTION

**Increase of independence and expertise in state administration.** Consistent application of the principle of expertise would limit traditional post-election political nominations to the minimum necessary and would also significantly limit the recruitment of politicians to independent regulatory institutions.



## FAIR ACCESS TO PUBLIC TENDERS FOR CANDIDATES (ENTREPRENEURS) AND PUBLIC (CONTROL)

/ FIGHTING OF CORRUPTION

*Public procurement makes sense when tender information is publicly available. Following the significant increase in low-value contracts limits in 2018 and 2019, there was a significant decrease in announced public tenders. In practice, this means for local authorities that goods and services (up to EUR 84 000 with VAT) or construction works (up to EUR 216 000 with VAT) can be awarded directly without publication, competition and without adequate public control.*

### SOLUTION

**Mandatory publication of tender calls also for low-value contracts.**

This will preserve the necessary degree of flexibility and freedom for contracting authorities, fair competition among bidders and we also we would support SMEs in Slovakia.



## SHORTENING THE LENGTH OF COURT PROCEEDINGS

/ FUNCTIONAL AND TRUSTWORTHY JUDICIARY

*Commercial disputes in Slovakia last on average 21 months, and this trend has an increasing character. In this category, Slovakia scores very low amongst other EU countries. This situation has a negative impact on the business environment and acts as a negative factor in the decision-making of potential investors. The length of proceedings is proportional to the costs or resources that could have been invested in the further development of companies and which the Slovak economy is unnecessarily losing.*

### SOLUTION

**Implement measures to reduce the length of court proceedings more actively.**

- Thematic specification of concrete courts.
- Increase of investment into training of judges and court clerks.



## AVOIDANCE OF DAMAGE IN CASE OF DISCORD OF LAWS FROM THE CONSTITUTION

/ FUNCTIONAL AND TRUSTWORTHY JUDICIARY

*It has been shown several times that the National Council of the Slovak Republic passed a law which later proved to be in discord from the Constitution. This is assessed by the Constitutional Court. However, the average duration of such proceedings is more than 2 years, during which both citizens and entrepreneurs must comply with the approved law. Although the Constitutional Court later decides on unconstitutionality, it is not possible to claim retroactive compensation for damage or damage that occurred during the duration of the law. To prevent harm for citizens and businesses, we propose the adoption of a set of procedural measures to ensure the protection of public rights. This can be solved by a fixed decision period or by postponing the effectiveness of the legislation.*

### SOLUTION

**Admission of procedural measures to ensure the protection of the rights of individuals and legal persons when assessing the compliance of generally binding legal regulations with the Constitution of the Slovak Republic.**

The possibility is to set a fixed time limit for the decision (270-360 days from the filing of the petition for non-compliance) or a compulsory postponement of the law if no decision on the matter is made within the fixed time limit.



## UNLOADING OF COURTS AND STRENGTHENING THE CREDIBILITY

/ FUNCTIONAL AND TRUSTWORTHY JUDICIARY

*Unlike more advanced European jurisdictions, Slovak public authorities do not sufficiently accept “commercial arbitration institute” as a more time and cost-efficient instrument for resolving commercial disputes. Nowadays, these last on average 21 months in Slovakia. However, if companies agree to resolve the dispute through an arbitration court, it can be settled in simpler cases within 3-4 months. In Western European countries, the “commercial arbitration institute” is a commonly used, effective and predictable alternative.*

### SOLUTION

**Supporting the credibility of commercial arbitration.**

State courts should accept and support the settlement of commercial disputes in arbitration and accept arbitration judgments. This would contribute to relieving the judicial system.