

Following the right road...

Topics related to the rule of law in Slovakia have been resonating among Amcham members for a long time and were addressed through several events and committee initiatives. The efforts culminated in the Rule of Law initiative which was launched in 2014. VIA IURIS has been active in this field for over two decades. We are glad that Zuzana Čaputová, who has been involved with VIA IURIS since 2001, agreed to share some of the valuable experience and knowledge gained through the years.

Companies in Slovakia complain of corruption and weak law enforcement. Why is there such a bad situation in our country?

One root of the problem is the historical context. We are a very young democracy. The quality of the exercise of power is closely connected with the people, their mental setup, the values held and, of course, it is also related to the educational level. It is this human capital that is being built gradually and slowly. I believe that new future leaders in different sectors are maturing in Slovakia. It is necessary for them to outgrow their teachers. Thus, to not forget the need to change what they do not like. To not conform. We should remember that the quality of the rule of law depends on compliance with the rules that apply equally to all. We can all start to make changes by ourselves.

At VIA IURIS you recently pointed out that up to 74 percent of the general public do not trust the judiciary and the courts. The lack of public trust has never been so high. Why has there been such a weakening of confidence in the courts?

This relates to the already mentioned weak legal enforcement, which manifests itself in the length of judicial proceedings, and the quality of judicial decisions. The judiciary suffers from a formalist approach, and inconsistencies in their decisions. This means that judges often decide on similar cases differently. Of course, in Slovakia there are

instances when justice is not blind and impartial, but bought. The distrust of the people in the judiciary is certainly due to the behaviour and statements of some of the judiciary. They often went beyond conventional propriety and their actions were totally incompatible with their status as a judge. Obviously, we all remember the celebrations at the mafia-themed bar or statements from the Supreme Court that addressed other judges, ministers, and journalists, which were often personal and vulgar and certainly not substantive criticism.

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Do you think this results in a lack of transparency and poor laws?

Partly yes. Basically, the legal framework in many areas and quality is comparable with foreign countries. Often the problem is that people are failing in the application of those laws. However, there are still areas and system errors that need to be addressed in

the legislation. The quality of the exercise of power is thus primarily about people. People are affected by the system in which they operate and its values.

More and more companies are cooperating in the promotion of measures for a healthy business environment (e.g. the Rule of Law Initiative). Does such cooperation also exist on the part of NGOs?

Yes it exists, and also on an ad hoc basis. In the past months, we linked VIA IURIS with the Pontis Foundation, SGI and the Foundation for Stopping Corruption, whose goal is to create and bring proposals for key solutions. They cover six major areas in which our country has problems – the police, prosecution, courts, the Supreme Audit Office, letterbox companies and corruption. In essence, narrowing the space for impunity for the powerful. In late November, we launched a campaign “Jingling for Change” (“Štrngám za zmenu” in Slovak), so that the political parties before the elections embrace solutions that we propose. We encourage you to join us and other organizations, as well as businesses. The draft measures are explained at Strngamzazmenu.sk.

How can companies do more to contribute and develop a healthy business environment?

As in all things, I personally believe that change can only help the team when you start with yourself. It is important to find the intersection between a simple solution and the



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BIOGRAPHY

Zuzana Čaputová was born in 1973. She graduated from the Comenius University Bratislava, Faculty of Law in 1996. During her studies she worked as an Assistant Lawyer for the City Hall in Pezinok. After the graduation she gained promotion to Civil Affairs Department Manager and from 1997 she occupied the positions of Chief Executive's Assistant and Lawyer.

From July 1998 she worked as the Project Manager of SAMO program (Local Communities Development) in civic association EQ KLUB. From 2001 she has been working as a Lawyer for the civic association VIA IURIS, since 2010 as a cooperating attorney.

Her main expertise is related to decision-making processes regarding major investment projects, mostly those which have impact on the environment. She provides legal services, including representation of citizens in front of courts in Slovakia and the Court of Justice of the European Union. Besides legal services, Zuzana also prepares analyses and participates in drafting and promotion of legislation in these areas in Slovakia. Zuzana is a member of the global network of environmental lawyers, ELAW. In her work, Zuzana also focuses on public control of public power and accountability of public officials, including judicial reforms. She has written and co-authored several publications.

right solution. It helps when a company in Slovakia and their representatives talk about their experience publicly and give feedback to those in power. In the fight for transparency and for better law enforcement, they have an important role and many of them have become part of the Fund for a Transparent Slovakia and encourage other businesses to join that do not like where our country is heading.

What is the goal of the Fund for Transparent Slovakia?

The Fund for Transparent Slovakia was initiated by member companies of the Business Leaders Forum. Participating companies are increasingly worried about the lack of the enforcement of laws in Slovakia. They have begun to perceive that this situation must be addressed and social pressure applied to improve market conditions. That is why the fund is trying to develop a healthy business environment in the country and provide analytical support to watchdog organizations. They are an essential part of a healthy democracy and deal with investigating corruption and applying pressure for systemic measures to achieve more public economic governance.

In connection with corruption the “Jingling for Change” campaign has often used the term “capturing the state”. What does it mean?

It is a phenomenon in which public power is not carried out by those entrusted – namely politicians, but the people behind them. It is an outgrowth of business into politics. It is a condition when policy works in terms of public service, but has become a business activity. And we have arrived at this point in Slovakia. Of course, this problem is not only typical for our country. The effort of certain groups to create this system and benefit as much as possible themselves is present everywhere. This is the issue we have. It is necessary to ensure the law is applied. For example, their actions must be penalized.

You will find sceptics who will say that the fight against “state capture” is a dead end. What do you consider VIA IURIS’s greatest achievement in the promotion of transparency in Slovakia?

VIA IURIS has been operating for 23 years. During that time, we have seen many events and lawsuits which changed precedent and the application of the law in this area, both on a national and European level. We have done much legislative work, mostly with successful results. In the area of transparency, for example, we have proposed major changes in the sale of government assets. Our proposals have been approved, which means that the sale of assets is only possible via tender or auction sales, information about which must be published in advance (preventing sales of the property on the same day of the decision by the committee). Over the years, we at VIA IURIS have successfully advocated a number of proposals covering public participation, access to justice and public control of power.



We are a part of the changes that have been happening in recent years and I am glad that we can be on the side that seeks to remedy injustice and unfairness, and not on the side that causes it.

From what country can we take inspiration so that Slovakia can one day become a transparent nation?

There are many sources of inspiration from many sectors which have moved towards

transparency. The neighbouring Czech Republic can give inspiration for the way their courts and police force function, and France for the functioning of its procurator, and Austria has made much progress against corruption.

As a lawyer, you have worked together with VIA IURIS for many years and solved various law cases and gaps in the legislation and laws. What pleases you in your profession?

I am pleased that I see the reason and the results of what we do. We work in an area where progress is slow; it is one of the starting points, so patience is a must. We are a part of the changes that have been happening in recent years

and I am glad that we can be on the side that seeks to remedy injustice and unfairness, and not on the side that causes it. I believe therefore that we are following the right road. That in itself is the goal.

VIA IURIS

For more than 20 years, VIA IURIS has been on the side of justice, fighting in legal cases where the powerful bend the law to their advantage. VIA IURIS is an expert organization using legal tools to defend and promote the public interest. They prepare and promote changes to legislation, elaborate analyses, provide consultations and legal representation in strategic cases.

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