


Quo vadis – Rule of Law Initiative?

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When the Rule of Law Initiative started back in 2014, we knew any substantial improvements will require time. Looking back at the previous six years and four different governments offers us an interesting perspective.

What has been achieved? Which recommendations made it from paper to reality? What can the business community expect in the near future? To understand the expectations for the future, it is important to look at the past.

2014 and rule of law in Slovakia

Back in 2013-2014, major foreign investors as well as numerous Slovak companies were increasingly concerned about the state of rule of law in Slovakia. Growing number of last-minute legislative changes with significant effect on the business environment, perception of corruption at high levels as well as frustratingly slow court proceedings were a common experience for a vast majority of companies. Surveys from business associations and reports from reputable international institutions both showed a growing concern about the state of rule of law in Slovakia among businesses regardless of the sector, size, or country of origin.

In early 2014 AmCham – representing circa 340 companies from 27 countries including some of the major investors in Slovakia - proposed to join forces and do something about it. Fellow foreign chambers of commerce as well as major employers organizations responded positively and quickly formed a wide coalition. Three major areas were identified with the need of systematic and urgent improvements – legislative process, corruption, and judiciary. While then-prime minister Fico was officially notified of the nascent business coalition in June 2014, the rest of the year was dedicated to the preparation of a white paper – joint position of the coalition along with proper analysis and policy recommendations.

First results – preliminary information & public consultations

The Rule of Law Initiative, a joint coalition of 14 major business associations and chambers of commerce, officially presented its recommendations in three major areas to the Slovak Government in January 2014. Surprisingly, the response was relatively quick as the government immediately passed a resolution to prepare an Action plan on strengthening the rule of law in Slovakia within the space of several months. Fast forward six months later and after numerous negotiations and consultations at both expert and political level, the result was an approved Action plan – an 80+ pages long document. Despite being announced at a press conference by the prime minister, it had two essential flaws – it lacked real political will and enough time for implementation. While the first was the impression shared by many, the second was a fact – most of the measures expected 18-30 months for implementation, yet the Action plan was approved barely eight months before the 2016 parliamentary elections.

Yet, the Rule of Law Initiative still managed to push through important, albeit technical improvements. We successfully pushed for the introduction of "preliminary information" and "public consultations" as mandatory parts of the legislative process and the Ministry of Justice prepared a completely new Law on Lawmaking. It meant that ministries and governmental agencies were obliged to inform the general public of preparation of any legislative change with a written notice at the beginning of the process. This enabled virtually any relevant stakeholder to be properly informed and address any

suggestions, if applicable and present them at consultations with the specific ministry. While being a small change on paper, it provided more predictability and transparency for thousands of companies and citizens.

Part of the 2016 Government manifesto + fight for independent regulatory institutions

To maximize the pressure on all relevant political parties ahead of the 2016 parliamentary elections, the Rule of Law Initiative organized a pre-election debate with political leaders. When then Justice Minister T. Borec, somehow surprisingly, said that he "felt ashamed by many scandals of this government", he echoed the feelings of most of the business leaders in the conference room. Few weeks later, once the new coalition government was formed, the Rule of Law Initiative found itself explicitly mentioned in the 2016-2020 Government Manifesto and fight against corruption became one of the governmental priorities. However, after numerous meetings with government and police corps officials, we started to fear what apparently became a reality later. While the government was willing to proclaim its willingness to improve the rule of law, most of it remained in the declaratory dimension. With the exception of few individuals, such as Deputy PM and Minister of Justice L. Žitňanská, governmental declarations failed to translate into efficient measures during the next 2+2 years.

When dialogue with the government did not bring sufficient improvements, the Rule of Law Initiative had to resort, in certain cases, to a different form of public pressure. Considering the real independence of regulatory authorities as a

necessary precondition for eliminating possible corruption or market distortion, the Initiative became an active voice of the wider business community calling for transparent selection processes of leaders of such institutions. It was largely thanks to the very first public debate of candidates for the Chairman of the Public Procurement Office in 2017, organized by The Rule of Law Initiative, that a clearly fraudulent selection process was halted. The Initiative, later being invited by the government to participate at other selections, also played an important role in voicing the business community concerns over nominations for Public Procurement Council or Telecommunications Regulatory Authority.

2020+ - finally focus on rule of law?

The last almost six years taught us not to be overly confident of governmental declarations and promises. The wider business community still remains united in the need for major improvements in rule of law in Slovakia, which was clearly demonstrated by a joint declaration "Ten Commandments for fair and stable business environment", addressed to major political parties before the 2020 parliamentary elections. On one hand, we were glad to see all the current coalition parties agree on a vast majority of our recommendations and subsequently approve a rather ambitious four-year government program. However, our experience with different governments over the last six years has taught us not to be overly excited by declarations but judge only the real changes.

We remain committed to be a strong voice of the wider business community in the area of rule of law and we continue to be a platform for expert dialogue between business and government leaders. We are ready to help but want to see real and sincere efforts on the other side.