

SLOVAKIA

KEY FACTS AND FIGURES

| Key Facts and Figures in Slovakia | | | | | | | |
|--|---|------------------|---|--|--|----------------------------------|-------------|
| Overview | Total procurement 8,480,000,000€ | | Procurement % GDP 12% | | 2013 GDP 73,593,200,000€ | Contracting authorities 2,919 | |
| Procedures applied | Open 77% | Restricted 6% | Negotiated procedure with call 1%no call 16% | | Competitive dialogue 0% | Direct award 0% | Other 0% |
| Share of contract notices by buyer | National 23% | | Regional/local 10% | | Body governed by public law 37% | Other 31% | |
| Contract type | Services 49% | | Works 4% | | Supplies 46% | Framework agreement 42% | |
| Ex ante conditionality criteria as of 2014 | EU rules Not met | | Transparency Not met | | Training Not met | Admin. capacity Not met | |
| E-procurement adoption | E-notification Mandatory | | E-access Mandatory | | E-submission Voluntary | Uptake rate N/A | |
| Perceived corruption | Corruption widespread in society Businesses 92% | | Individuals 90% | | Corruption widespread in procurement At national level 66% | At local/regional level 70% | |
| TED indicators | Value of tenders 4,836,983,562€ | | Of total procurement 57% | | # contract notices 1,565 | # contract awards 1,303 | |
| Other indicators | Received single bid 34% | | # days for decision 122.0 | | Price only criteria 88% | MEAT criteria 12% | |
| | Won by foreign firms 5% | | Related to EU funds 28% | | Joint purchase 6% | Central purchasing Yes, EKS | |

For more detailed descriptions and links to sources for the above data, please see Section 4 of the report

Summary of public procurement system

Slovakia was one of the first Central European countries to adopt an act on public procurement with its 2006 law establishing a regulatory framework in line with EU guidelines. Slovakia is further characterised by its relatively centralised procurement system. Specific contracts are handled by contracting authorities at central, regional, and local levels, whilst some contracting authorities are required to purchase commonly available goods, services or works from the Ministry of the Interior (MoI), which acts as the central purchasing body. The Office for Public Procurement (UVO) acts as the central State administration authority for public procurement, and controls whether public procurement procedures are in compliance with the law.

The Slovak economy is strongly dependent on SMEsⁱ, and they are quite active in the procurement system. However, despite the large share of smaller firms participating in tenders, the share of contracts won by them is just 25%, below the EU average of 29%, indicating that SMEs struggle to compete with larger, more established firms.

DESCRIPTION OF FEATURES

Legal features of public procurement system

The EU's public procurement legislation is transposed into the Public Procurement Act (PPA) and its amendments (Act No. 25/2006 Coll. of Laws). In addition, Slovakia adopted Act No. 546/2010, which came into force in 2011, to supplement the PPA and increase transparency and remedies by making online publication of most contracts mandatory, allowing bidders to be present during the opening of, obliging contracting authorities to notify unsuccessful bidders of the winning bid, and permitting parties to appeal both the process and the results of an award.

The legislation defines specific procurement methods and procedures that have to be used, depending on the value and type of contract. The thresholds in Slovakia are

subject to frequent changes through law amendments, decrees or administrative decisions.

Slovakia applies different rules to public procurement above and below EU thresholds. For supplies, services, and works contracts of less than EUR 1,000, contracting authorities are permitted to purchase directly, without publication. Above EUR 1,000, but below EUR 20,000 for supplies and services, and EUR 30,000 for public works, simplified procedures may be applied. For goods and services contracts of EUR 20,000 up to EUR 207,000, and public works contracts of EUR 30,000 up to EUR 5,186,000, national rules apply.

For all supplies, services and works above EUR 1,000 that are widely available on the market, contracting authorities are required to use the MoI's dynamic purchasing system, the Electronic Contracting System (*EKS*).

Groceries are treated as a separate class of supplies. They are not offered via *EKS*, so use of this system is never required. Furthermore, the threshold for the use of simplified procedures is somewhat higher than for other supplies at EUR 40,000.

Institutional system

The *UVO* is the central State administration institution for Slovak public procurement. Its responsibilities include: legislative and regulatory authority; drafting and monitoring implementation of the PPA and accompanying legislation; providing *ex ante* review of public procurement documents; conducting oversight and publishing statistical information; training and publication of guidance for contracting authorities and suppliers; managing the online portal; and acting as the first-instance review body and imposing financial penalties in case of a violation of the PPAⁱⁱ.

The Supreme Audit Office (*NKU*) is the primary external control body, reviewing procurement procedures for compliance with the law and issuing recommendations to the *UVO*. This independent body carried out just 46 audits of compliance and efficiency in 2013.

The MoI acts as the central purchasing body for commonly available goods, services and works. The MoI operates an online platform, the *EKS*, which includes an e-market, dynamic purchasing system and statistical data tracking system.

The Antimonopoly Office, an independent central body within the State administration, is the main oversight institution for the competitive element of the procurement system. Its main responsibilities include investigating bid rigging and cartels.

Slovakia has a multi-stage process for aggrieved bidders to seek remedies. First, any issues with a procedure must be brought to the attention of the relevant contracting authority. If not resolved to the satisfaction of the complainant, they can bring the matter to the *UVO*, which acts as a first instance appeal body. The second instance is exercised by the Council of the *UVO* established within the *UVO*. Ultimately, administrative claims are lodged before the Regional Appeal Courts and the Supreme Court, which is the last recourse instance.

Key issues that have a bearing on administrative capacity

Human resources: The *UVO* has a dedicated staff of 186 individuals, the majority of whom are civil servantsⁱⁱⁱ, and plans to hire 20 more in the course of the year 2015. Given the broad range of responsibilities the *UVO* covers, and the need to improve administrative capacity in the management of public contracts, the Slovak government is currently working to expand the office's staffing levels. High staff fluctuation remains a challenge, and may be an indication of more fundamental issues in human resource management^{iv}.

Structures: At this time, the Slovak higher education system does not offer degree programs specifically tailored to procurement practitioners, but does include procurement topics in their economic and business law coursework. As such, the responsibility falls primarily on the *UVO* to provide future procurement practitioners, as well as external procurement advisors, with procurement-related vocational trainings. The *UVO* is also responsible for examining the professional aptitudes of procurement practitioners and re-training whoever it deems professionally suitable.

Training: The primary body for offering training in Slovakia is the *UVO*. In 2014, in cooperation with the Institute for Public Administration of the MoI, it organised 44 training sessions, which were attended by 964 participants from contracting authorities and other target groups^v. The training sessions cover a variety of topics, such as the supervision of public procurement procedures, interpreting the law on public procurement, and electronic storage of public procurement files.

The Slovak Environment Agency (*SAŽP*) organises educational activities on green public procurement for public authorities. Its training focuses on how to implement GPP criteria in tender procedures. It is free of charge, and organised in all self-governing Slovak regions in cooperation with the Ministry of Environment (*MZP*).

The anti-corruption agency, the Bureau of the Fight Against Corruption of the Presidium of the Police Force, also organises trainings related to irregularities and potential abuses in procurement processes. In 2014, two training sessions were held on common irregularities, best practices and audit procedures. Further trainings were scheduled throughout 2015.

Furthermore, the Central Coordination Authority (*CCA*) for structural and cohesion funds in Slovakia organises specialised training for personnel involved in ESI funds management^{vi}. This training includes seminars on the procedures of administrative control of public procurement in the context of the management system, presentation of the most common deficiencies identified in public procurement controls, and interpretation of the central coordinating authority's methodology concerning public procurement. As part of the 2014-2020 programming period, these types of training will be made mandatory to all staff involved in the implementation of the funds.

Systems/tools: Procurement related data such as pre-contract informational notices, calls for tenders, status of contracting processes updates, and contract award notices are made available by the *UVO* through the national electronic public procurement system, *EVO*¹. The *UVO* also offers sample tender documents and written guidance for contracting authorities, publishes past legal opinions, and operates a helpdesk to support users of the online platform.

Moreover, the *UVO* set up a Register of References² in 2014, which consists of a data collection system contracting authorities and other entities concerned with the supply of goods, performance of construction works or the provision of services by suppliers^{vii}.

Furthermore, Transparency International Slovakia manages a single-stop online portal for public procurement analysis called 'Open Public Procurement', which publishes daily automatic downloads of tender notices from the *UVO*, and provides easy-to-use tools allowing browsing and visualisation of procurement expenditures by procurers, suppliers, sectors and regions^{viii}.

¹ <http://www.uvo.gov.sk/portal-evo>

² <http://www.uvo.gov.sk/zoznam-podnikatelov/-/RegisterPodnikatelov/sreferenciami>

E-procurement

Slovakia is in the process of developing a variety of e-procurement tools, but so far adoption levels are comparatively limited^{ix}. E-notification of contract notices is mandatory for all contracts above EUR 1,000 on the national electronic public procurement system, *EVO*^x, and in the national Journal of Public Procurement^{xi}. *EVO* is equipped to handle e-submission of tenders, however, use by contracting authorities is voluntary, and is not widespread.

The MoI has also developed a separate e-marketplace system, the *EKS*, which can be used to purchase commonly available goods and services of below EU-threshold values.

Slovakia does not have a comprehensive plan in place to reach full adoption of e-procurement by the deadlines set by EU Directive. For example, the Strategic Document for Digital Growth and Next Generation Access Infrastructure 2014-2020, the MoF's central e-government strategy document, contains no information on making e-submission mandatory, or providing increased incentives for its voluntary use. Moreover, no targets have been set thus far in terms of e-procurement take-up^{xii}.

The use of e-procurement by contracting authorities is monitored annually by the Government on the basis of data provided by the *UVO*. But comprehensive data on e-procurement transactions is not currently available^{xiii}.

Corruption

Slovakia suffers from comparatively high rates of corruption compared to EU averages, as well as to other countries in the region, and procurement is frequently identified as a key challenge. The Slovak Information Service (SIS), whose responsibilities include overseeing organised crime and fraud, regularly identifies cases of corruption in entities with State participation involved in public procurement. Also, the Anti-Monopoly Office has uncovered cartels in the procurement of energy, heating, transport infrastructure, and water management services^{xiv}.

The latest anti-corruption plan adopted in 2011 calls for a number of measures, including publication of State contracts, clearer provisions for public procurement, reform of the judiciary to increase the transparency of court decisions, competitive selection of judges and presidents of courts, as well as stricter rules for judicial governance^{xv}. Concrete legislation implementing these provisions has been slow to materialise^{xvi}. In the meantime, an interdepartmental expert group on combating corruption made up of representatives of the ministries, the General Prosecutor's Office and the municipalities has been assembled to evaluate tasks based on the anti-corruption plan.

The Slovak Office of the Special Prosecutor is the leading entity for combating corruption and carrying out investigations in alleged corruption. It acts in close cooperation with the Bureau of the Fight Against Corruption^{xvii}, a specialised anti-corruption unit within the Slovak Police Organised Crime Section, which investigates corruption cases.

Europe 2020 Agenda

In terms of introducing strategic goals in public procurement, Slovakia is active in green public procurement according to the revised National Action Plan for Green Public Procurement (NAPGPP) adopted in 2012. The plan aims to increase Slovakia's share of GPP use by central state bodies from 42% to 65% by the end of 2015, and to 50% at the local level^{xviii}. To that end, the government has made it mandatory for both central and local contracting authorities to apply GPP rules. In support of this

objective, the *MZP*, the *UVO* and the *SAŽP* provide training and tender information on the use of GPP, and publish model tenders for use by contracting authorities.

As regards the improvement of SME access to public procurement, Slovakia has not yet adopted any compulsory measures into legislation. Several measures have been taken in recent years to encourage innovative entrepreneurship, including the 'Boosting the Innovation of Slovak SMEs' initiative, or BISMES, which provides analyses and information on funding available for SMEs, and the 'Innovative Deed of the Year' award, a competition organised by the Ministry of Economy (*MH*) with the objective of ensuring promotion of innovation in firms and awarding innovative entities^{xxix}.

Among the strategies being followed is the recommended splitting of contracts into lots for which SMEs are better able to compete, and the further development of online tools to lower the costs of tendering. Already in 2013, Slovakia performed above average in the number of enterprises submitting tenders online, with a participation rate of 22.4% compared to an EU average of 12.9%^{xx}.

Irregularities and findings of national audit authorities

The *NKU* carries out audits of the economy, efficiency and effectiveness of Government activities and verifies compliance with the regulations. Procurement is mostly examined as a part of financial, efficiency or compliance audits. The most recent report is based on 48 audits across a range of sectors including health, transportation and public administration. Recurrent irregularities included: failure to adequately document the procurement process; thwarting efforts to audit; division of contracts so as to avoid procurement rules or to make use of preferred procedures; excessive delays in preparing and awarding contracts; and establishing the conditions for the participation in public procurement in contradiction with the PPA^{xxi}.

From the perspective of EU funds management, Slovakia has experienced substantial issues at audit. During the 2007-2013 programming period, deficiencies impacted all nine of Slovakia's ERDF and CF funded OPs, leading to the implementation of corrective measures and requiring the audit authority to implement an action plan addressing these concerns^{xxii}. The action plan was satisfactorily implemented by the audit authority in 2014.

Irregularities in procurement have helped to hold Slovakia's 2007-2013 programming period ERDF and CF funds absorption rate among the lowest in the EU.

Outlook

In Slovakia, the near-term outlook is focused on two priorities: further strengthening the public administration and the institutional capacity at all levels, and enhancing administrative capacities.

First, with its ongoing public administration reform '*ESO*', which was commenced in 2012, Slovakia is embarking on a major shift towards centralisation of public procurement. Over the long term, the goal will be to increase capacity rather than creating space to reduce total staff numbers.

Furthermore, Slovak authorities are looking forward to improve the performance of the administrative capacities, notably by involving the *UVO* more intensely in the control of the public procurement and by implementing actions to enable correct public procurement^{xxiii}. Measures to give effect to this notably include intensifying cooperation between the managing authorities and the *UVO*, and ensuring more efficient division and delegation of tasks and powers at the level of managing authorities.

ANALYSIS

Strengths

Since joining the EU in 2004, Slovakia has implemented significant reforms in the area of public procurement, including the transposition of the EU public procurement directives into national legislation. This has resulted in substantial improvements in efficiency and transparency from the status quo *ex ante*.

Moreover, Slovakia's efforts in recent years have been geared towards the full implementation of a centralised purchasing system embodied by the *UVO*, which is now recognised as an effective and independent institution.

Furthermore, Slovakia has been moving forward in developing its e-procurement infrastructure, which is a substantial step towards a modernised system. Finally, Slovakia has developed a well-functioning contract repository, which further increases transparency.

Weaknesses

The greatest challenge facing the Slovak public procurement system is corruption. The problem is not unique to procurement, although procurement is one of the largest risk areas. A major issue here is the fact that prosecutions are infrequent, slow moving, and often dogged by the perception of political motivation, contributing to the perception that corruption is tolerated by law enforcement. Furthermore, in those cases that are prosecuted, sanctions are insufficiently harsh to have a real deterrent effect.

Another key weakness, and a contributing factor to the corruption issue, is the low level of administrative capacity which is endemic to the system. From contracting authorities through oversight bodies, Slovak procurement practitioners lack the manpower, training and resources to conduct more rigorous procedures, providing substantial opportunities for abuse.

Recommendations

- **Corruption:** Corruption is a serious issue affecting the procurement system in Slovakia, resulting in substantial efficiency losses, and harming both trust and participation in the competition for public contracts.
 - Ramp up enforcement of procurement violations and suspected corruption to deter abuse in the system; it may be necessary to move investigation and/or prosecution responsibilities to an independent agency to reduce political influence on the process.
 - Increase coordination among existing anti-corruption bodies, including the SIS, the Anti-Monopoly Office, the General Prosecutor's Office, the Bureau of the Fight Against Corruption and the Slovak Police Organised Crime Section, to reduce redundancies and overlaps of responsibilities.
 - Impose strict limitations on the cancellation of procedures pre-award to reduce the ability of contracting authorities to manipulate tenders in order to steer contracts to favoured bidders.
 - Incentivise citizens to report fraudulent practices by putting in place anonymous reporting channels as regards suspicious corruption practices.
- **Preventative measures:** The PPO's experience with voluntary *ex ante* controls has been positive, but its impact remains limited by self-selection of participants.
 - Expand the use of *ex ante* controls to catch irregularities and violations of the PPA prior to publication.

- **Strengthen administrative capacity:** Procurement bodies in general, and the UVO in particular, struggle to hire and retain higher skilled staff, or to provide training to new hires.
 - Reform the UVO's human resources policy to make compensation and working conditions more competitive with other government agencies and private sector alternatives.
 - Introduce more comprehensive training program for newer hires; training should be both geographically convenient and free of charge for participants.
 - Publish a comprehensive methodology as laid out in the Partnership Agreement with the EC.
 - Develop more standardised tender documents at national level to support contracting authorities and help harmonise tender procedures in general.
- **Clarify jurisdictions:** There is overlap and ambiguity between the procurement responsibilities of several institutions in that contributes to redundancies and confusion. For example, both the UVO and MoI operate distinct e-procurement platforms, and while UVO has sole responsibility for hearing claims involving both systems, it does not have direct access the EKS platform.
 - Clarify competencies, or consider further consolidations, between procurement policy and administrative bodies to eliminate gaps and overlaps and reduce uncertainty.
 - Enhance interoperability of the two e-procurement platforms to reduce the burden of tendering for bidders, and for contracting authorities.
- **E-procurement:** Slovakia lacks a clear strategy for achieving full e-procurement implementation within the deadlines specified by the EU directives.
 - Develop and implement a comprehensive transition strategy towards adoption of full end-to-end e-procurement.
 - Implement an awareness-raising campaign to get the word out to contracting authorities on the benefits of e-procurement.

ⁱ European Commission (2014), Small Business Act Fact Sheet 2014, Slovakia, available at:

http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2014/slovakia_en.pdf

ⁱⁱ School of Economics and Management in Public Administration, The Analysis of Public Procurement Functioning in the Slovak Republic, available at: [http://irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&image_file_name=PDF/ecchado_2013_7-8\(1\)_10.pdf](http://irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&image_file_name=PDF/ecchado_2013_7-8(1)_10.pdf).

ⁱⁱⁱ UVO (2014), Annual Activity Report, available at: <http://www.uvo.gov.sk/spravy-o-cinnosti>

^{iv} European Commission (2014), Assessment of the 2014 national reform programme and stability programme for Slovakia, available at:

http://ec.europa.eu/europe2020/pdf/csr2014/swd2014_slovakia_en.pdf

^v UVO (2014), Annual Activity Report, available at: <http://www.uvo.gov.sk/en/web/opp/31>

^{vi} Partnership Agreement (2014) for Slovakia, in accordance with Articles 14 and 15 of Regulation (EU) N.1303/2013 of the European Parliament and of the Council of 17th December 2013:

http://www.partnerskadohoda.gov.sk/data/files/4898_pa-sr-2014-2020_en.docx

^{vii} Partnership Agreement (2014) for Slovakia, in accordance with Articles 14 and 15 of Regulation (EU) N.1303/2013 of the European Parliament and of the Council of 17th December 2013:

http://www.partnerskadohoda.gov.sk/data/files/4898_pa-sr-2014-2020_en.docx

^{viii} SME SK open data, Open Public Procurement, available at: tenders.sme.sk

^{ix} OECD (2014), Economic Surveys: Slovak Republic 2014, OECD publications, available at:

<http://www.oecd.org/eco/surveys/economic-survey-slovak-republic.htm>

^x EVO, Ethics Tenders, available at: <http://www.evo.gov.sk>

^{xi} Office for Public Procurement, available at: <https://www.uvo.gov.sk/evestnik>

^{xii} Ministry of Finance website, available at : <http://www.informatizacia.sk/strategicky-dokument/16604s>

^{xiii} European Commission (2013), DG MARKT , Study on e-Procurement Measurement and Benchmarking – EU country-profiles, available at:

http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/studies/130601_e-procurement-state-of-play_en.pdf

^{xiv} Antimonopoly Office of the Slovak Republic: Press releases, available at:

<http://www.antimon.gov.sk/press-releases/>

^{xv} European Commission (2014), DG HOME, EU anti-corruption report, Annex Slovakia

^{xvi} Link: <https://www.crz.gov.sk/>

^{xvii} Anti-Corruption Authorities, Profiles : Slovak Republic, available at:

<http://www.acauthorities.org/country/sk>

^{xviii} Green Public Procurement in Action, Slovakia, available at: <http://gpp-proca.eu/green-procurement/the-initial-situation-in-the-target-countries/slovakia/>

^{xix} OECD (2014), Science and Technology Outlook, available at: <http://www.oecd.org/sti/oecd-science-technology-and-industry-outlook-19991428.htm>

^{xxxx} European Commission (2014), Small Business Act Fact Sheet 2014, Slovakia, available at:

http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2014/slovakia_en.pdf

^{xxi} Supreme Audit Office of the Slovak Republic (2013) Annual Report, available at :

<https://www.nku.gov.sk/en/web/NKU/annual-report>

^{xxii} DG REGIO 2013 Annual Activity Report Link : http://ec.europa.eu/atwork/synthesis/aar/index_en.htm

^{xxiii} Partnership Agreement (2014) for Slovakia, in accordance with Articles 14 and 15 of Regulation (EU) N.1303/2013 of the European Parliament and of the Council of 17th December 2013, available at:

http://www.partnerskadohoda.gov.sk/data/files/4898_pa-sr-2014-2020_en.docx