

Lendvorský, Michal; Mališová, Daniela; Pekár, Bernard; Mikušová Meričková, Beáta; Štrangfeldová, Jana

Article

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Legal Responsibility for Corrupt Practices with an Impact on the Enforcement of Political Accountability: Case Study of Slovakia

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Michal Lendvorský

Matej Bel University in Banská Bystrica, Department of Public Economics and Regional Development, Slovakia

Daniela Mališová 

Matej Bel University in Banská Bystrica, Department of Public Economics and Regional Development, Slovakia

Bernard Pekár

Matej Bel University in Banská Bystrica, Department of Financial and Administrative Law, Slovakia

Beáta Mikušová Meričková 

Matej Bel University in Banská Bystrica, Department of Public Economics and Regional Development, Slovakia

Jana Štrangfeldová 

Matej Bel University in Banská Bystrica, Department of Public Economics and Regional Development, Slovakia

Abstract

Tackling corruption regularly appears on the agendas of almost all governments. Anti-corruption public policies aim to prevent corrupt behaviour both at the highest levels of government and in everyday social life. On the one hand, corruption seriously undermines the democratic principles of the rule of law; on the other hand, the enforceability of political accountability linked to the rule of law determines the level of corruption. The aim of the study is to identify the enforceability of legal responsibility for corrupt acts against public officials in the Slovak political arena during the electoral periods from 1994 to 2020. This objective is fulfilled by answering research questions focused on the incidence rate and definition of corrupt conduct in the Slovak Republic environment. The main method of the paper is a collective case study conducted on 219 cases. The results showed that the societal pressure for accountability of political accountability is increasing over time. Hence, the importance of anti-corruption public policy is growing, but its effectiveness remains questionable. The results of the research point to low levels of accountability, especially under left-wing governments.

Keywords

Corruption, Rule of Law, Political Accountability, Anti-corruption policy

JEL Classification

D73, K49

Introduction

In a historical context, corruption in the sense of negative social behaviour appears already in ancient Greece. Long-term observations indicate that corruption is not constrained by any boundaries and manifests itself in all types of political regimes or in different historical periods (Goel and Nelson, 2010). However, corruption has taken on an economic dimension since the mid-20th century when economists began to see it as a problem causing economic losses. Nowadays, corruption has become a serious societal problem that is becoming interdisciplinary (Husted, 1999; Francis, 2020) and is manifested in everyday life, in business or in political governance (Ibodullaevich and Kizi, 2021). In recent years, however, the societal, economic, moral, legal and other implications of corruption have been increasingly highlighted. Corruption finds room for its proliferation precisely where there is extensive, opaque and little controllable regulation by the state (Dincer and Johnston, 2020). In this context, it is the role of the rule of law to apply the principles of legal (enforceability) accountability in the context of corrupt behaviour and the drawing of consequences.

Corresponding author:

Daniela Mališová, Faculty of Economics, Matej Bel University in Banská Bystrica, Tajovského 10, 975 90 Banská Bystrica, Slovakia
Email: daniela.malisova@umb.sk

Puteri, Muluk and Riyanto (2018) argue that the term legal enforceability generally refers to the efficiency of a right-holder's efforts to obtain compliance with a legal obligation from the duty-bearer. We can also speak of legal accountability in the context of general respect for legal obligations or compliance with them in light of the potential threat of legal consequences. The legal definition of corruption in Slovakia is regulated by Act. No. 300/2005 Coll. (further as the Criminal Code). Corrupt conduct in the Criminal Code is defined through the forms of corruption, whereby the offence of corruption is constituted by accepting a bribe, bribery, indirect corruption, electoral corruption, etc. This approach to the definition of corruption is based on a purely legalistic view, where corruption is perceived as a criminal offence that violates the relevant legal norms. In the case of violation of legal norms by persons in public office, we speak of deviant behaviour. The approach of defining corruption in terms of deviant behaviour is based on the definition of Nye (1967), who characterises it as behaviour that is not in accordance with the norms laid down for holding public office because of a preference for private gain (relating to an individual person, family or kinship, group, political or other organisation) in the form of financial (material) gain or status.

In this context, politics (Philp, 2002) can be understood as publicly sanctioned procedures, institutions and rules that cause the orderly resolution of conflicting individual or public interests. Corruption in politics undermines this process in favour of the interests of an individual or group. The fight against corruption perpetrated by those in public office is a public interest fight because corruption of public officials harms the interests of the public (Gardiner, 2002; Suleiman and Othoman, 2017). It is a pathological behaviour in which the natural state of affairs is disturbed and harms not only the actors involved but also those who are not in any way involved in the corrupt transaction. In this context, the aim of the study is to identify the accountability of legal liability for corrupt acts against public officials in the Slovak political arena during the electoral periods from 1994 to 2020.

Theoretical Framework of Corruption

As Vogl (2016) states, a uniform definition of corruption is not possible because each country has a different level of democracy, maturity, level of education, social values or diverse culture, opinions, and thus a different level of acceptance of corruption. In general (Šoltés, et al., 2016; Toleikienė, Balčiūnas and Juknevičienė, 2020), we state that the aim of corrupt behaviour is to obtain personal benefits that can be fulfilled immediately or in the indefinite future in a direct or indirect way. The indirect form refers to actions in terms of reciprocity or informal commitment between actors. The direct form is the fulfilment of benefits to the close persons of the corrupt in an indefinite time frame after the corrupt act (Jaggers and Gurr, 1995). Whereby, such an act results in direct or indirect harm to third parties who are not involved in the corrupt act. Based on the above, we can define corruption as a transaction between two parties, in which one party demands a reward for the benefits provided to the other party. This gives the specificity of the relationship in question in the form of mutual benefit. Infiltration between the parties to a corrupt relationship is very demanding and usually only succeeds in cases where one of the parties ceases to satisfy the relationship and reports the crime. According to Kraffová (2019) the crime is classified as anthropogenic and sociogenic threat.

Chayes (2016) argues that the systematic corrupt actions of actors are influenced by weak legislation and low probability of detection. However, in this context, Rothstein and Varraich (2017) point out that the perception of corrupt behaviour and the difficulty of enforcing accountability is also perceived by the public, who in the long run may begin to overlook or accept such behaviour. The deeper and longer corruption is embedded in society, the more difficult it is to eliminate it later on (Rotberg, 2017). The exercise of public office also underpins another of the many definitions of corruption (Nye, 1967; Bardhan 1997; Gardiner, 2002), which speaks of the abuse of public power for one's own benefit or the benefit of those close to one's self, whereby a particular group of people is harmed.

In economic terms (Vörös, 2011), corrupt behaviour can serve as a profit-maximising device. These are cases where a public official considers their office as a business and their profit is sought to be maximised. This office becomes a profit-maximising entity. The level of their income no longer depends on the ethical evaluation of their usefulness in achieving the public interest, but on the market situation and their talent for finding the profit-maximising point on the public demand curve. Náhlovská (2019) speaks of the market definition of corruption as the clash of supply and demand for corrupt acts. In line with the previous opinion, Vörös (2011) sees corrupt acts as economic activities that can be described according to the basic rules of a market economy. On the supply side there are officials with various decision-making competences and on the demand side there are private sector actors who are willing to buy a particular outcome.

Literature Review

Rose-Ackerman (1999) observes corruption in terms of the type of motivation that can initiate corrupt actions. Corruption for the purpose of balancing supply and demand replicates the rule already stated in economics that the greater the demand than the supply, the higher the price. However, the public sector has tariffs that may not be directly proportional to the market price. This can be an incentive for benefit claimants to engage in corrupt

behaviour and to break the law. This may be in the form of certain subsidies, government loans at lower interest rates, and the number of such benefits is usually limited by a certain threshold, which creates room for corrupt behaviour by claimants.

Another type is corruption itself as an incentive (Torsello and Venard, 2015). Corrupt actors may perceive corruption as an improvement in financial valuation. However, officials are sensitive to accepting bribes if they fear for their jobs. However, corrupt actors may also act corruptly based on low internal control (Miller, et al., 2001). Such illegal surcharges may therefore motivate them to act without fear of incurring punishment.

A comprehensive comparison of corruption in the European Union has been made by Mungiu-Pippidi (2013). The author examines the connection between corruption control and the areas of projects spending, health spending, government budget, tax collection and vulnerable employment. An interesting part of the work is also devoted to the connection between corruption control and women in parliament, or the connection between corruption control and brain-drain. Romania recorded the worst position in all monitored comparisons (in the case of corruption and health spending and corruption and project spending even the position was outlier). On the contrary, the leading countries with the best results were the Scandinavian countries. Slovakia and the Czech Republic recorded the position in the third quarter from the bottom. Thus, the control of corruption in these countries is still problematic and insufficient.

The authors Ata and Arvas (2011) address the impact of corruption on the economy of the 25 countries of the European Union. They state that economic development, inflation, economic freedom and income distribution have proven to be statistically significant determinants of corruption. They also find that the economic transition from poor to rich countries reduces corruption. In a period of high economic freedom, corruption is also declining. But in times of high inflation and income distribution distortions, corruption increases.

Corruption can also occur with the motivation of cost reduction. It is an act in which the corrupt actor reduces their overall costs by virtue of the corrupt act. In petty corruption, the bribe may be a bribe to a police officer for speeding, where the sum of the total costs is less than the total costs of an official fine issued by a public authority. By the term petty corruption (Osipov, Glotov and Karepova, 2018), we mean mainly administrative corruption that does not have society-wide consequences. Petty corruption arises when the public wants to use bribes to obtain the provision of services to which they are not entitled or to speed up the performance of bureaucrats. Petty corruption is also used to make services available to the public that are not available or planned.

The opposite of petty corruption is grand corruption (Suleiman and Othman, 2017), which refers to conduct in which power is abused for policymaking. Grand corruption can be responsible for changing national policy or implementing it to benefit the interests of politicians or groups and to the detriment of society. In this type of corruption, public spending is directed to areas where the expected gains from corruption are highest, with little attention paid to other sectors. It is with grand corruption that corruption for the purpose of criminal activity is associated. Bardhan (1997) argues that organised crime groups and the mafia, with their strong position and the weak position of the state at the same time, have bribed the police, prosecutors, judiciary and politicians. This helps them to carry out criminal acts without fear of detection and subsequent punishment. By doing so, they secure long-term illegal activity, a so-called defensive bribe to the public authorities and the powerful. As part of the offensive bribe, they become monopolies in certain industries where the entry of competition into the market is regulated by the state (Rose-Ackerman, 1999; David-Barrett and Fazekas, 2019).

The above is confirmed by Klitgaard (1998), who considers the existence of a monopoly with discretionary power in the absence of transparency as the basis of corruption. However, several authors (Sičáková-Beblavá and Beblavý, 2008; Džambazovič, 2011) replace transparency in this concept with the notion of accountability. In doing so, they talk about two approaches to accountability in public organisations. The first approach focuses on increasing accountability in the public sector by influencing the personality of officials (socialisation, training, emphasising ethical values). The second approach focuses on strict rules, control and institutional environment. It can be stated that while the first approach is based on informal rules, the second approach prefers to build accountability on the basis of formal rules. While, the basic long-term tools (Hough, 2013) to fight corruption are increasing the level of justice through applicable legal and social norms, deepening ethical behaviour in the society, optimising democracy, increasing the economic and social level in the country through pro-social reforms and actions that are in the public interest. These characteristics (Káčer, 2019) are the content of the pillars of a functional rule of law.

Political Responsibility in the Context of Rule of Law

The degree of sanctions and penalties for illegal or unfair practices and the degree of communication of the responsible actors define a certain level of enforceability of political accountability. An important factor is also the degree of authority and competence of the supervising actors to impose sanctions on the responsible actors for their unfair practices or offenses. In general, political responsibility without possible punishment or sanctions

against unfair actors is considered to be very low. The core of the enforcement of political responsibility are sanctions and punishments (loss of office, imprisonment), which we can understand in a broader form. These can be codes of ethics, codes of conduct and do not necessarily have a legal status, he said (Lysý, Malík, Švaral, 2002).

Another option is incentives, which also work on the principle of good behaviour and progressive performance. Performance can be measured, for example, in healthcare on the number of successfully cured patients, not based on the number of procedures or number of treatments. In education, the level of a school can be measured by the number of successful graduates. In government, this may be the number of restrictions that have improved the living standards of the population, the state of the public budget, GDP, or in a negative sense of government the number of corruption cases, CPI index, bureaucracy, weakened transparency and the number of public officials against whom it was, either voluntarily or under enforced political responsibility. Non-enforcement sanctions significantly reduce the political responsibility of actors and increase the risk of the spread of corruption in the state, (Bardhan, 1997).

Weak enforcement, or selective enforcement against only some actors, weakens confidence in the country. If the government contributes to a culture of impunity, it can motivate lawmakers as well as other political or public entities to act corruptly. Complications in the application of the law and thus in the enforcement of liability arise in cases where the judiciary and the police are under political influence or control. Therefore, sanctions and the enforcement of liability for corrupt practices are directly linked to the democratic governance of the state. The reason is that in their application of liability, supervisory authorities can rely on the rule of law (Coase, 1960; Ackerman, 1978). Enforceability of liability may mean that a corrupt actor must resign from public office, return public affairs, pay sanctions, or be legally convicted of corrupt practices such as the promotion of private benefits at the expense of public goods or finances.

The rule of law is one of the fundamental values of a democratic society. The rule of law has a direct impact on the life of every citizen (Scalia, 1989; Lenaerts, 2020). It means that all members of society - including the government and members of parliament - are subject to the law equally and are under the control of independent and impartial courts (Klimovský and Nemeč, 2021). Tursunmuratovich and Abdurashidovich (2021) state that the supremacy of the constitution and the law means that the state and its organs, officials, all NGOs and citizens act in accordance with normative legal acts. In doing so, reducing corruption and highlighting the role of the rule of law can be both a technical and political challenge (Frye, 2010). The principle lies in creating the right bureaucratic incentives to promote the public interest. The standard tool is legal reform, which includes improving the judiciary, funding judges and bailiffs, or digitising cases, leading to increased technical efficiency. However, strengthening the rule of law (Polinsky and Schavell, 2000; Tahir, et al., 2020) also includes strengthening support for institutions such as the media and free press, empowering autonomous social organisations, and supporting the development of NGOs to monitor human rights violations or bureaucratic misconduct or fraud.

In this context, Besley et al. (2002) emphasises the role of the media in monitoring political accountability through the dissemination of information that allows citizens to control their elected representatives. Freedom of the press is important for the dissemination of truthful information. If the media does not report any corruption cases, it does not automatically mean that corruption does not occur, but it may signal a suppression of press freedom. The transparency of the system depends on press freedom and, together with other factors, determines political accountability. Kalenborn and Lessman (2012) confirm that restrictions on press freedom lead to higher levels of corruption. A free and independent press plays an important role in informing society and especially in a situation where society is active and can create pressure for accountable behaviour of political institutions.

In the rule of law, the judiciary is the area in which corruption is addressed (Akib and Ichlas, 2020). The freedom and independence of the judiciary is therefore a major determinant. However, the degree of independence may vary in relation to the country. While judicial independence threatens elites' corrupt transactions in one country, in another, politics can have a strong influence on the courts, creating room for elites to avoid prosecution (Lambsdorff and Cornelius 2000; Pérez, 2019). The relevance of the degree of dependence of courts is also highlighted by Rose-Ackerman (1999), but she also cautions that independence is necessary but may not be sufficient. An independent judiciary can be as problematic as one that is affected by corruption. This means that the state should insulate all judicial institutions from any possible undue influence, with each country having to find its own balance between the degree of independence and the degree of competence.

Lederman, Loayza, and Soares (2001) present an empirical analysis that confirms the extreme importance of political institutions in influencing the prevalence of corruption: democracy, parliamentary systems, political stability, and press freedom are closely associated with lower corruption rates. Political institutions influence corruption in two ways - through political accountability and the structure of public service delivery. Meanwhile, the degree of political accountability (Lee, et al., 2020) depends on the citizens of the country. The main argument is that it is accountability that should lead to the punishment of those politicians who are guilty of corrupt practices and to a reduction in their preferences among voters. An active civil society and public opinion creates pressure for politicians to act responsibly.

Rose-Ackerman (1999) sees increasing political accountability in the cooperation of political institutions with civil society through its representatives who should participate in key decisions. On the other hand, political populism as an attempt to get closer to citizens can be disruptive to the rule of law. Lacey (2019) argues that the current populist discourse in the political arena challenges the rule of law through a variety of mechanisms, ranging from political agenda-setting and policy execution to discretionary decisions. The essence of political accountability thus remains the extent to which political actors explain their actions (Tholen, 2018).

Being politically and publicly accountable implies an obligation to explain questions about political decisions and actions. Specifically, two types of questions can be asked (Goeree, et al., 2005). The first type of question is informational. This may relate to questions about the public budget, descriptions of certain activities or outcomes that the government has achieved. This type is characterised as basic monitoring and is a one-way transfer of information, with the question going from the supervising actor towards the public actor being queried. When applied in a democratic regime, it is information that relates to transparency in, for example, reducing the incidence of corruption (Johnston, 2014). By how the addressed actor responds and communicates, a certain level of political accountability can be established.

The second type of question (Goeree, et al., 2005) relies on reporting facts, concrete figures and also requires justifications. That is, the supervising actors are not only asking for information about the act, but their justifications. In this type of communication, it is not only a transmission of information to the queried question from the supervising actor, but a dialogue is conducted where further questions and arguments are added after the response of the responsible actor. Questions are put to the responsible actors by the media, investigative journalists, the public, oversight bodies, other political actors or the governmental opposition in democratically governed states. Depending on speech and the ability to communicate (Goliáš, et. al., 2017), the electoral preferences of political parties may evolve.

Political accountability of public officials (Slijepcevic, et al., 2020), or its enforceability, is one of the basic parameters of a democratic state governed by the rule of law. Political accountability determines the limits of power. In the absence of these limits, it can be assumed that there are limitations to freedom. We observe such violations of the limits of power in countries where socialist or authoritarian regimes of governance prevail. Empirical results (Rose - Ackerman, 1999) confirm the above, parliamentarism coexists with lower levels of corruption, while political systems with a very influential president are perceived as more corrupt. The general rule (Treisman, 2000) that the level of corruption varies inversely proportional to the level of democracy is confirmed. On the other hand, we see the difficult application of political accountability in several countries around the world that exhibit strong economic maturity (Treisman 2000; León and Orriols, 2019). Therefore, for the application of political accountability in relation to corruption, it is indispensable that legal accountability for corrupt acts is present in a democratic state, with implications for the accountability of political responsibility.

Methodology of Research

The research questions we answer in the empirical part of the article are as follows:

RQ1: Is anti-corruption legislation sufficiently defined in Slovakia?

RQ2: Is there an impact of legal responsibility for corrupt behaviour towards public officials on the Slovak political scene?

The methodological procedure of the research is presented in Figure 1. The answer to the first research question is descriptive in nature and focuses on identifying the legal framework that regulates corrupt conduct. The legal framework is defined in Slovakia in the Criminal Code and serves as a basis for legal accountability for corrupt conduct with implications for the enforceability of political accountability. It is the main legislative document legally superior to decrees. For this reason, we will analyse its content. To answer the second research question, we use the collective case study method. The collective case study method (Zainal, 2007; Hendl, 2008) allows us to study in detail the individual anti-corruption strategies and their derivability, which were applied in the timeframe of 1994-2021 in the Slovak political arena. The choice of a case study method in the social sciences is specific by focusing on one phenomenon or entity. It can be a person, a group, an organization, an action, an event, or a specific situation (Tellis, 1997). This is a professional focus in research, where the case is chosen for specific reasons, not accidentally (this is usually done in empirical research). When applying the case study method, scientists focus on a case / event that is exceptional in some way (Hendl, 2005).

When analysing a phenomenon that deviates from standardized standards, for example, social relationships and social forces in a given environment are identified. Based on the identified factors of corruption associated with the enforcement of political responsibility, we recorded in the political environment of the Slovak Republic in the current publicly publicized information. These are public institutions that should enforce law and justice - political responsibility, which were seized by the Slovak police due to serious suspicions of corruption (committing crimes). In terms of influencing proceedings for personal gain based on law enforcement agencies and other

entities with power, were the motive for focusing and selecting a qualitative analysis using a case study in the given events. It was a repeated and systematic violation of Slovak laws by actors with public power. These factors also affected the level of democracy in the Slovak environment. The activities of detained entities were also to relate to the use of information asymmetry in illegal ways (reducing transparency). Organized illegal activity of public actors reduced the credibility and quality of public institutions in the Slovak Republic.

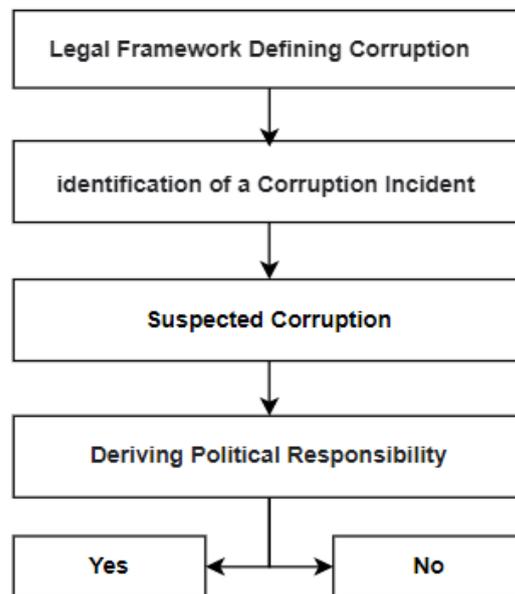


Fig. 1. Methodological procedure.
Source: authors development

In the study, we follow 219 cases described in the Reports on the activities of the General Prosecutor's Office of the Slovak Republic, in partial domestic and foreign studies devoted to the issue. The sources used to analyse the incidence of corruption come from standardized public legal media and analysed documents of non-governmental organizations. The monitored cases concerned political actors in the following positions: government plenipotentiaries, prime ministers, deputy prime ministers, chairmen, deputy chairmen and members of parliament of the National Council of the Slovak Republic, ministers, state secretaries, chairmen and mayors of local governments, directors of state-owned enterprises and other top public officials. The monitored cases and the incidence rate are defined by electoral periods. The cases consist of politicians leaving political office following allegations of corrupt activity. The focus is on holding politicians accountable for illegal actions or related allegations.

We identify typologies and approaches to corruption based on a foreign breakdown of anti-corruption strategies (Krno, 2006; Khan, Adreoni, and Roy, 2016; Chiari, Portolese, and Ruzzeddu, 2018; Amundsen, 2019; Villeneuve, Mugellini, and Heide, 2020). The identification of measures is divided into preventive measures, such as strengthening transparency, structural reforms, or the degree of constraints on decisions, or punitive measures, which refer to, for example, the empowerment of prosecutors, the judiciary, or law enforcement agencies (Drgonec, 2000). Consequently, the findings indicate the maturity of political culture, the extent and direction of political accountability in Slovakia, and the public's sensitivity to corruption. The observed cases could have ended in two variants.

The first option is to enforce political accountability in the form of resignation from office, indictment, prosecution, etc. Or not to enforce political accountability in the form of remaining in office and clarification. As a major pitfall in data processing in this analysis, the assessment of identification of incidence rates can be a major challenge. Resignations from public office also occurred during the periods under review as a result of social pressure, opposition pressure, or pressure from coalition partners. There were also situations of individual choice of incident classification based on the occurrence of an incident linked to corrupt behaviour. Therefore, in part, such treatment of cases can be assessed as truncated. However, the identification of the incidence was always based on the substance, i.e. the case in connection with corrupt conduct in a political environment. Moreover, political actors and their sensitivity to the seriousness of corruption may have increased over time and thus the number of incidents may have increased over time (without necessarily increasing in seriousness). These may have been perceived in the past as merely unethical behaviour. The evidence and data processed show the volume of incidents captured and the number in the form of political accountability.

Legal Framework Defining Corruption

As we argue in the theoretical framework of the paper, corruption is a threat to the rule of law. The seriousness of corruption in Slovakia is defined by the criminal law and its possible forms of spreading in society. To understand the legislation aimed at defining corruption, we decided to analyse it. The Criminal Code lists the facts of corrupt conduct - a criminal offence. This law defines 14 constituent elements of criminal offences (Figure 2), which are associated with types of corruption. As the second (opposition) object we can identify the interest in "cleanliness" in public life. Thus, the proper and honest performance of duties that arise from employment, office and responsibilities. For this reason, all crimes associated with corruption involve intentional culpability.

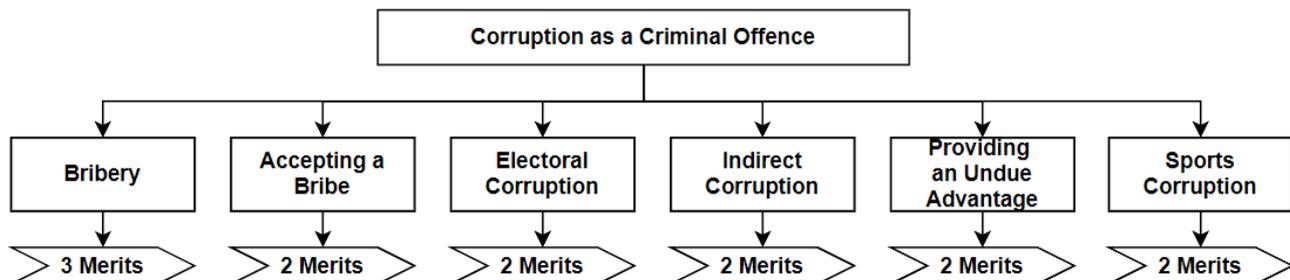


Fig. 2. Types of Corruption as a Criminal Offence.
Source: authors development according to Criminal Code

Bribery and acceptance of bribes are covered by 5 constituent elements in the Criminal Code. An offender commits the offence of accepting a bribe if they accept directly, asks for or are promised a bribe to act or refrain from acting in a way that violates their duties arising from their employment, profession, position or office (§ 329). Such conduct is, by legal definition, a thing or other consideration of a non-pecuniary or pecuniary nature not covered by a legal claim. The objective aspect of the violation of the law is fulfilled in the case of a direct act (dealing directly with the person who provides the bribe) or indirectly. The corrupt actor (perpetrator) may demand the bribe implicitly (without explicit words) or by explicit speech. The process can also work the same way for the corruptible actor.

For example, the corruptor puts a sum of money on the table, which the corrupt actor accepts wordlessly. Moreover, the Criminal Code does not define a minimum amount of bribe. Based on this, the offender commits a criminal offence when accepting a bribe (of any amount). Acceptance of a bribe is fulfilled if the corruptible person does not explicitly refuse the bribe, but implicitly agrees, whereby it is a binding promise (Burda, et al., 2011). The corruptible offender may demand a bribe - both for themselves and for third parties.

Advantages, the acceptance of which is permitted by law or are granted in the case of the existence of a public or legitimate interest, do not fall under the definition of the aforementioned undue advantage. An undue advantage (§ 336) is defined in the Criminal Code as an undue advantage (of an immaterial or material nature) which the offender intends to retain or obtain and which they would not otherwise have obtained by complying with the rules. Undue advantages of a pecuniary nature are, for example, cash payments, valuables, services, various travel vouchers, airline tickets, concert or theatre tickets, various large discounts or waivers of outstanding debts. Non-pecuniary advantages of a non-proprietary nature which cannot be realistically valued in monetary terms include various social and professional benefits, such as help in obtaining a particular job for oneself or a close person, an invitation to go hunting or support in elections.

The second constituent element of the offence of accepting a bribe relates to the procurement of things of public interest (§ 131). An example of such an act is the acceptance of a bribe by a public official to permit a development in a "green" district. However, in order to satisfy this offence, it is necessary to prove a relationship between the bribe and the activity which falls within the public interest. The third constituent element (§ 330) refers to the conduct of an offender who, as a public official, directly or through an intermediary, requests, accepts or promises a bribe for themselves or for another person on the basis of the performance of their official duties or on the basis of their office, with the intention of obtaining or retaining an undue advantage.

Electoral corruption (§ 336a) applies to an offender who promises a bribe to a person who has the right to vote, to participate in a referendum or a popular vote on the recall of the President of the Slovak Republic, to vote in a certain way, not to vote or not to participate in the election. The object of the offence of electoral corruption is the protection of the so-called social interest in the purity and bribe-free (without influence) free exercise of the referendum, the right to vote, or the exercise of the democratic vote on the recall of the President of the Slovak Republic (Burda, et al., 2011).

Indirect corruption (§ 336) as a criminal offence is regulated in two constituent elements. The first punishes the person bribed and the second the person bribing. The above also applies to the offence of electoral corruption as well as the offence of giving and receiving an undue advantage. The meaning of (indirect) corruption, according to the Criminal Code, is the act of the perpetrator who requests, accepts, or promises a bribe for the reward of

acting on a third person (example - a public official) to violate his or her established duties arising from his or her profession, occupation, office or position (Srholec, 2019). The perpetrator announces "good" connections – they will secure the issuance of, for example, a building permit. However, they do not ask for a bribe for the mayor, but for themselves.

Accepting and granting an undue advantage (§ 336c) is a criminal offence added to the Criminal Code in 2021. It is an act of corruption, defined as the acceptance of an undue advantage in connection with one's position or office as a public official, and is punishable by imprisonment for a term of 3 years. The term undue advantage means a benefit of a pecuniary or non-pecuniary nature capable of influencing a public official, to which there is no legal entitlement and the value of which exceeds EUR 200 or where it is an undue advantage for a public official or a person close to them that is not measurable in monetary terms.

Political Development in Slovakia and Accountability of Political Responsibility

In the first part of the research, we analysed the legal laws and the legislative treatment of the constituent elements of criminal offences in connection with corrupt conduct. In the second part of the work, we focus on corruption in terms of the incidence rate in the different electoral periods of governments among public officials, identifying the types of anti-corruption policies and the typology of attitudes towards corruption in the given period. This involves quantifying the evolution of the enforceability of political accountability towards public officials in the political and legal environment of the Slovak Republic. On the basis of the historical excursus of the development of Slovakia, we can conclude that since 1993 Slovakia has gone through various dynamic periods, while in the process of the country's development the economic and political system has been transformed. During the country's development, as in other transition countries of Central and Eastern Europe (Douarin and Mickiewicz, 2017; Amini and Douarin, 2020), a number of reforms oriented towards improving the quality of life, mitigating corruption, and gradually implementing elements promoting the quality of public institutions and transparency in the political system have been applied. Prior to 1994, no significant corruption mitigation activities were recorded (Filo, 2019). For this reason, we analysed a number of data and documents, the result of which we present in Table 1.

The processed table shows us some relevant data on corruption and inference of political responsibility. Attitudes towards corruption show a political approach in different periods of government. The number of incidents shows the number of corruption cases in public administration (actors with power). Data on the enforceability of political accountability shows the degree of accountability in the political environment (especially the loss of office of politicians or their hierarchically subordinate officials). A positive change in the derivation of political responsibility speaks to the difference between the number of all incidents recorded and the number of cases of liability actually inferred. The data we further focused on in the analysis consist of the departure of politicians from political positions based on suspected corruption. It is about focusing on political responsibility for illegal actions, or suspicions related to it. These findings indicate the maturity of the political culture, the peace and direction of the derivation of political responsibility in Slovakia and the public's sensitivity to corruption. Our database consists of corruption incidents - 219 cases in the period 1994 - 2021. These concerned political actors in the following functions: Government Plenipotentiaries, Prime Minister, Deputy Prime Minister, Prime Minister of the Slovak Republic, Ministers, State Secretaries, Deputy Prime Minister of the Slovak Republic, Members of the National Council of the Slovak Republic, as well as top public officials. For example: Special and General Prosecutors, SIS Director.

The incidents could result in two options: deriving political responsibility in the form of resignation, or failure to derive political responsibility in the form of remaining in office. The evidence of corruption incidents took place in the form of collection of mediated information and analyses of various non-governmental organizations, while each case was mediated separately. An evaluation of the identification of the incidence rate may be a problem in the data processing in this analysis. This concerned such events that were voted on in the National Council of the Slovak Republic or members of the Government of the Slovak Republic. Resignations from public office also took place because of public or media pressure, initiation of criminal proceedings or police investigations, opposition pressure, or pressure from coalition partners. There were also situations of individual choice of incident classification based on the event (associated with corruption). Therefore, in part, such data processing can be assessed as subjective. However, the identification of incidence was always based on the nature of cases in connection with corrupt practices in the political environment. In addition, political actors, and their sensitivity to the severity of corruption may have increased over time, and the number of incidents may have gradually increased (without the need to increase their severity). In the past, these could only be perceived as unethical conduct. The processed data show the volume of incidents seized and the number in the form of political responsibility. Therefore, the data show the relevant trend / direction in Slovak society, their sensitivity to corruption and moral behaviour.

In the period from 1994 to 1998, the Government of the Slovak Republic developed an anti-corruption programme known as Clean Hands. This programme contained 58 goals, which, however, lacked specific

assignments, deadlines, as well as an invitation for experts to address the issues in more depth. As a result, laws were passed that encouraged corruption. For example, the crime of bribery was abolished. Positive changes were made to the laws on the police force, on enforcement and bailiffs, and on the law on complaints. Negative changes concerned large-scale privatisation activities, clientelism and the absence of enforcement of political accountability. At the same time, government officials did not implement systemic changes and political accountability to their colleagues was not enforced. We call such an approach the personal approach (the godfather approach). It is the involvement of the ruling elite in corrupt practices to preserve their power. The consequence was an increase in clientelism and more suspected links with groups carrying out organised crime groups, i.e. grand corruption (Amundsen, 2019). The largest corrupt act in this period was privatisation. 11 members of the then coalition were accused of deviant behaviour and were suspected of the offence of indirect corruption through the brokering of state-owned companies to private entrepreneurs, according to the Stop the Corruption Foundation (2018). Political accountability in the form of fines and imprisonment was brought against 4 public officials. The actions of the other members were resolved.

In the period from 1998 to 2002, the Government adopted a number of specific anti-corruption measures in the Programme Declaration. The National Anti-Corruption Programme was adopted in 2000 and included specific assignments and deadlines. The government intervened more significantly in the implementation of the changes, but non-profit organisations, such as Transparency International, were also involved. During this period of government, systemic anti-corruption measures were applied which supported the mitigation of corruption in the public sector. At the same time, political accountability was exercised towards some politicians where corruption was suspected. However, there has been a lack of a stronger focus on the integrity of political actors in office. In general, positive government measures, which we identify as a pro-reform approach, prevailed. For this reason, corruption continues to have a high degree of latency and its detection is directly dependent on the willingness of citizens to report and for the perpetrators of this type of crime to be convicted. Thirteen public officials were indicted for the offence of accepting bribes and other undue advantage, and three for the offence of bribery. Statistical indicators indicate that 50% of the number of persons prosecuted and indicted for corruption offences was carried out in the Bratislava, Nitra and Košice regions (Bárdy, 2020).

Between 2002 and 2006, the government continued to implement changes aimed at mitigating corruption in Slovakia. The planned measures were set out in the Government's Parliamentary Declaration and the Anti-Corruption Programme, which makes this Government typologically associated with a pro-reform approach. It also created the Special Prosecutor's Office and the Specialised Criminal Court, reforms of the Commercial Register, and systemic reforms in the areas of the social system, healthcare, the judiciary, and public finances. In addition, the government has drawn political accountability on the basis of information about corruption allegations by political actors.

When compared to the 1998-2002 period of governance, the government obtained a worse electoral result, which may have been reflected in stronger opposition enforcement of political accountability against coalition political parties. The government's anti-corruption policy manifested itself mainly in the form of rule of law-and-order measures, without any major structural reforms. The reduction of parliamentary immunity also failed to be enforced. Bribery was the most frequently committed crime on the political scene. Political accountability was established in 3 cases of prosecution, in 3 cases of indictment and in 2 cases of conviction.

Between 2006 and 2010, the government had some anti-corruption measures set out in its Government Programme Statement; however, there was no specific anti-corruption programme. The government was left-wing and democratic in its political orientation and declared its efforts to prosecute "big fish", strengthen independence and transparency in EU funds and subsidies. Political accountability was held against judges who were punished in disciplinary proceedings. During this period, several allegations of corruption in state contracts arose, but without indictments of senior public officials. We welcome the dismissal of ministers for allegations of clientelism. However, follow-up systemic changes such as greater transparency in the public sector, the acceptance of constructive criticism by the third sector, or a decline in the "subjective" actions by officials were absent. The approach to anti-corruption measures of the government can be described as personal, more specifically with the so-called Tsarist approach, which is characterised by the absence of systemic changes.

In the 2010-2012 electoral period, the short-lived government managed to implement several anti-corruption measures that were included its programme declaration. The anti-corruption measures concerned the judiciary, or laws on access to information, or in public procurement. Anti-corruption reform measures also focused on public administration, EU funds, grants and healthcare. Conversely, restrictions on political party funding (transparency in funding), control of political entities and local governments have been abstained from. Typologically, based on the implementation of various corruption measures (in the shortened period of government), this is a pro-reform approach. In the short period of two years, political accountability was brought against 3 public officials who were accused of indirect corruption and bribery.

Table 1. Typology of Anti-Corruption Policy and Accountability of Political Responsibility in the Monitored Election Periods.

Election period	1994 - 1998	1998 - 2002	2002 - 2006	2006 - 2010	2010 - 2012	2012 - 2016	2016 - 2020	2020 - 2021
Typology of anti-corruption policy	Detective and repressive measures	Preventive measures	A combination of measures, more repressive measures	Fewer systemic measures in the area of prevention and punishment for corruption	Repressive measures	Fewer systemic (comprehensive) measures in the area of punishing corruption	Preventive measures / partial enforcement of accountability of political responsibility	Offensive measures, a combination of several measures
Approach to Corruption	Personal / Godfather	Pro-reform approach	Pro-reform approach	Personnel / Tsarist approach	Pro-reform approach	Personal / white collar approach	Personal / white collar approach	Pro-reform approach
Number of incidents	20	19	14	26	6	76	53	5
Enforcement of political accountability	4	11	8	12	3	10	8	8
Failure to enforce political accountability	16	8	6	14	3	66	45	2
Positive change in %	25 %	58 %	57 %	46 %	50 %	13 %	15 %	160 %

Source: authors development in accordance with the Report on the Activities of the General Prosecutor's Office of the Slovak Republic

In the 2012-2016 election period, a number of allegations of corruption in the public administration or in top-level politics emerged. Areas affected by corruption cases during this period were healthcare, information technology services and e-government. On the other hand, the government also implemented anti-corruption measures such as a state-run e-marketplace for public procurement to eliminate clientelism in public institutions and local governments. The amendment of the law on public procurement and the new electoral codes oriented towards the financing of political parties or the law on the protection of whistleblowers of anti-social/corruption activities, or the ban on the participation of "shell companies" with unidentified owners in public procurement, can also be considered as anti-corruption measures. However, the government was less willing to enforce political accountability for serious corruption allegations and did not implement any comprehensive corruption measures. Out of 76 identified corrupt acts by public officials, political accountability was established in only 10 cases. In addition, allegations of grand corruption started to emerge against senior public officials. The government communicated less intensively and non-transparently with the public, the media and NGOs. In terms of typology, the government has also been referred to as a personal white-collar approach (Chiari, Portolese and Ruzzeddu, 2018). It is a crime committed by individuals who, often by virtue of their employment, use social, economic or technological power for personal or corporate gain.

The 2016-2020 government periods was the most challenging for Slovak society in terms of mapping corruption. Anti-corruption measures have included material accountability of the use of public resources, open government, measures related to the reporting of anti-social activities, or the avoidance of conflicts of personal interests in state subsidies. A number of these points have been poorly implemented or not applied. The murder of a journalist highlighted the practice of grand corruption in the Slovak political arena, revealing the intimidation of the media by the powerful, as well as the various connections of politicians to organised crime. This revelation, so seriously threatened democracy, the rule of law (suspicions at the highest political positions) and interfered with the quality of press freedom in Slovakia. Politicians were gradually and reluctantly held politically accountable. This was partly done on the basis of great social unrest. The changed government gradually began to enforce accountability, mainly in the form of pre-trial detention, indictment or conviction of political and non-political actors. Despite social pressure, the approach to corruption remains identical to that of the previous period.

We will assess the ongoing governing period from 2020 onwards on the basis of the anti-corruption activities to date. Anti-corruption measures are based on material accountability of public officials, independent and strong control institutions, and a professional and transparent public administration. However, the current government has not escaped corruption allegations, with 5 cases uncovered in one year. The hallmark of the current government is precisely anti-corruption and the effort to eliminate corrupt practices from the highest levels of governance. In this context, the law enforcement authorities have already arrested a number of political and public officials from the police, the state material reserves, the special prosecutor or judges, but no final decision has yet been taken in these cases to hold them politically accountable. However, the current government is transparent towards the media and the public. This is demonstrated, for example, by the transparency of selection procedures for public posts. In terms of the approach to corruption, this is again a pro-reform approach.

Discussion

The main finding and answer to the first research question RQ1: Is anti-corruption legislation sufficiently defined in Slovakia? Yes, it is in the content of the Criminal Code, which defines corrupt conduct as a criminal offence in 6 categories and 13 constituent elements. This is the main legislative document. The punishment for committing the offence of corrupt conduct is imprisonment, fine, forfeiture of property, forfeiture of things or prohibition of activity. Similar anchoring of corruption is found in the legislation of most European Union countries. For example, the Czech Republic or Germany use the Criminal Code as a basic legal regulation. However, as Sandgren (2005) points out, in some jurisdictions around the world the concept of corruption is very narrowly defined and is not considered a criminal offence. The opposite is the case in Vietnam, whose jurisdiction is very open, but corruption is prosecuted with harsh sanctions, including the death penalty. In this context, Michael (2019) argues that a distinction is often made between the public and private sectors when it comes to corruption. An example is § 299 on bribes and bribery in business in the German Criminal Code. In several cases, the abuse of a private employee's position for their personal benefit is not considered corruption. On the contrary, the abuse of a public servant's position undermines faith in public institutions and is directly linked to corrupt behaviour.

The findings we answer the second research question RQ2: Is there an impact of legal responsibility for corrupt behaviour towards public officials on the Slovak political scene? During the 8 incumbent governments, governments from 1994-1998, 2012-2016 and 2016-2020 were the least likely to invoke political accountability. It is important to note that these left-leaning governments had very serious corruption incidents. So we say yes, but also we note that the millennium in Slovakia was a milestone and an increase in the demand for political accountability. A greater sensitivity to corruption in society also began to develop. In this context, we cite the findings of a study by Amini and Douarin, (2020), which finds that corruption of public officials in Central and Eastern Europe reduces the satisfaction of citizens with the quality of institutions (aggregate level of corruption). This is again confirmed in research by Mungiu-Pippidi (2013). This is probably due to the fact that in these

countries public assets are still considered more worthy of protection than private assets. Political accountability has been invoked at both state and local government levels for even minor corrupt behaviour - petty corruption. This is confirmed by Sičáková - Beblavá and Beblavý (2008), who report that the most sensitive perception of corrupt behaviour was in the judiciary and the Commercial Register.

However, the anti-corruption trend was undermined by the government in the 2006-2010 electoral period when political accountability was mainly exerted towards the opposition, while there was an absence of exerting political accountability towards sitting members of the government who were associated with corrupt conduct in the matter of state contracts. An even more significant negative difference was observed by the left-wing government in the 2012-2016 and 2016-2020 electoral periods. The volume and severity of corruption scandals and fraud (Sulík, 2017) based on allegations of misappropriation of public funds is quantified at an estimated 5.9 trillion euros. Yet, no political accountability has been brought against top public officials. We note that during this period there was a marked difference between the levels of political accountability in relation to the seriousness of the allegations. For the more serious allegations, political accountability was brought against public officials at the level of the allegations.

In all periods of government examined, the prevalence of removals from public office on the basis of more serious allegations (undue advantage, bribery, suspicion of grand corruption) outweighed that of less serious allegations (bribery). Electoral corruption was not present in the 219 cases studied. This may evoke a partial degree of fairness in the country. The current government, which describes itself as anti-corruption, is actively engaged in the fight against corruption. Under this influence, the volume of corruption crimes in public office has increased since 2020, and political accountability in the form of detention of suspected perpetrators, loss of office, monetary compensation, impeachment, etc. has increased. However, in terms of international comparisons of corruption (Eurobarometer, 2020), Slovakia currently ranks among the five lowest-ranked countries in the European Union, which are Croatia, Bulgaria, Hungary, and Romania. For 2020, Slovakia scored only 49 out of 100 points, ranking behind the Czech Republic or Greece.

Conclusion

The enforceability of legal liability reflects the effectiveness of the right-holder's efforts to obtain compliance with the obligation by the duty-bearer. We can also speak of legal enforceability in the context of a general respect for legal obligations or compliance with them in the light of the possible threat of legal consequences. Full compliance with these requirements will lead to justice, equity and the development of the country. However, corruption undermines the legitimacy of the democratic rule of law, yet corrupt behaviour is present on the Slovak social and political scene. In the Slovak rule of law, criminal law plays a fundamental role in framing corruption. The results show that a comprehensive approach to defining corruption in Slovak conditions is offered by the Criminal Code.

Corruption can be viewed through the fulfilment of four conditions. Corruption occurs when the corrupt act is connected with the exercise of public office and entrusted power, when the actors participating in the corrupt act voluntarily act, when a personal advantage is gained from the corrupt act, and when a third party is harmed or disadvantaged by the corrupt act. The first criterion is very important, as it is precisely in the case of corrupt conduct in the exercise of public office that public resources may be diverted from the public sector to private persons without justification. However, for corrupt conduct to occur, the participation of two or more actors is necessary. For this reason, a strong legal system is essential to combat corruption. The development of anti-corruption legislation and the enforceability of legal liability for corrupt conduct becomes key.

The aim of the study is to identify the enforceability of legal liability for corrupt conduct against public officials in the Slovak political arena during the electoral periods from 1994 to 2020. On the one hand, the exposure of corrupt conduct is very worrying in terms of public events in the country. On the other hand, accountability, transparency and fairness induce a positive direction for the state. Despite Slovakia's unflattering ranking in international comparisons, the higher incidence of political accountability for corrupt behaviour in recent years demonstrates better set processes in the detection of corruption, a more targeted anti-corruption strategy, the implementation of digitalisation or the development of investigative activity in Slovakia. Research findings are related to Slovak legislation defines corruption as a criminal offense. In the political environment, however, we see it as problematic to prove corruption (thus proving a crime) due to the abuse of political power for personal gain. In order to prove corruption in the political environment, the report of corruption (whistle-blower) would also have to be from the same environment. This is a problem because political actors can use the information asymmetry for personal gain, making it difficult to prove corruption. In the Slovak Republic, so far no criminal consequences have been drawn for high political entities due to corruption proceedings. We see as the main motive for deriving political responsibility, when such mediated information occurs (serious corruption suspicions), which escalate to public concerns so much, that it may affect the election result of political parties - after the revelation of corruption cases that worried the general public, political responsibility was inferred in most cases in the form of loss of function. We note that the prospects for a successful fight against corruption have improved

significantly over the last period. However, corruption is still a phenomenon that easily escapes the public at government level.

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