



CPC

REPUBLIC OF SLOVENIA
COMMISSION FOR THE PREVENTION OF CORRUPTION
RULE OF LAW | INTEGRITY | TRANSPARENCY

ANNUAL REPORT

2019

ANNUAL REPORT 2019 – Commission for the Prevention of Corruption – Issued, published and funded by the Commission for the Prevention of Corruption (Editor-in-Chief: Boris Štefanec) in Ljubljana, March 2020 – Edited by: Maša Jesenšek – Design and layout: Deja Škoporc (Commission for the Prevention of Corruption)

Summary	4
Commission for the Prevention of Corruption	6
Secretariat of the Commission.....	9
The Commission's international activity	9
Organisation for Economic Co-operation and Development (OECD)	9
The OECD Network for Public Sector Integrity and SPIO.....	9
The OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN).....	10
United Nations Office on Drugs and Crime (UNODC)	10
UNODC Working Group on the Prevention of Corruption.....	10
Conference of the States Parties to the UNCAC	10
Council of Europe – Group of States against Corruption (GRECO)	10
Cooperation with the European Union and its Member States	13
Commission's other international activities	14
The Investigation and Oversight Bureau.....	16
Investigation and Oversight.....	16
Oversight.....	16
Specific procedures regarding violations of ethics and integrity of the public sector	19
Principled opinion regarding recruitment procedures in the public sector.....	20
The preventive activities of SNAP and adopted recommendations	21
Recommendations relating to health care	25
Determining the conditions and criteria for appointing candidates for the Governor and Vice-Governors of the Bank of Slovenia.....	27
Recommendations to the Government of the Republic of Slovenia and the Slovenian Sovereign Holding regarding recruitment procedures for members of supervisory boards	28
Supervising noise pollution of the environment and compliance with limit and critical values for noise indicators in the environment.....	29
Expert commission experts delivering opinions in accordance with the Personal Assistance Act.....	31
Corruption risks in recruitment and selection procedures at the Agency for Communication Networks and Services of the Republic of Slovenia	31
Cooperation with other authorities	32
Minor offence proceedings.....	33
Conflict of interest	35
Highlights	36
Interesting practical examples	37
Prohibition and restrictions with regard to the acceptance of gifts	37
Incompatibility of office.....	38
Restrictions on business activities	38

Assets	38
Supervising the assets of officials.....	40
Highlights from the previous period	41
Examples of frequently asked questions	42
Lobbying	42
Supervising lobbying.....	42
Lobbying contacts.....	43
Integrity and Prevention Centre	46
Strengthening the integrity of public sector authorities and organisations	46
Upgrading the concept for strengthening the integrity of the public sector	46
Reviewing legislation with regard to corruption risks and the risks of breach of integrity.....	47
The Foundation for Funding Sports Organisations in the Republic of Slovenia and the Foundation for Funding Disability and Humanitarian Organisations in the Republic of Slovenia Act	47
The Council for Persons with Disabilities Act.....	48
Joint inspection activities of the Commission and the Labour Inspectorate: Activities following the Assessment of corruption risks and the risks of breach of integrity in Slovenian basic and secondary schools	50
Recalling directly elected public office holders.....	52
Activities related to the anti-corruption clause and the statement on the ownership structure of the provider	54
Prevention – projects, events, conferences, collaborations, training	54
Learning about integrity in kindergartens through pictures and play.....	55
Training public employees on ethics and integrity and the fight against corruption	55
Extraordinary inspection of the implementation of integrity plans	56
Supervising the implementation of the integrity plan of the FDHO	57
Supervising the implementation of the integrity plan of the Ministry of Finance	57

Summary

After two years of decline in the number of reports received, the trend shifted in 2019 and the Commission for the Prevention of Corruption (hereinafter: the Commission) received a total of 687 reports of suspected corruption and other violations of the Integrity and Prevention of Corruption Act (hereinafter: the ZIntPK), which is 27% more than the previous year. Most reports of suspected corruption were in the fields of the environment and spatial planning, public procurement, public tenders, employment in the public sector, construction, education and sport, health care, labour law, judicial proceedings, and finance.

The Commission finds that the rise in numbers of received reports could be connected with certain measures adopted by the Government of the Republic of Slovenia and by certain ministries that, having become aware of the violations, took decisive action against public office holders and officials in managerial positions, which informed the public that public office holders and officials in managerial positions are expected to adhere to higher standards as regards their suitability to perform public duties, which in turn contributed to an increased sensibility towards detected deviations. The higher number of received reports may also be due to the fact that several years ago, when the case law of the Supreme Court of the Republic of Slovenia was amended, the Commission adjusted the procedure before the Commission so that it respects fundamental procedural guarantees conferred by the law regulating the administrative procedure. Last year, the Administrative Court of the Republic of Slovenia and the Supreme Court of the Republic of Slovenia, in their respective decisions on an administrative dispute and on the appeal on points of law, both upheld the decisions of the Commission and established that the Commission complies with all procedural provisions of the ZIntPK that constitute the implementation of the principle of the protection of the rights of parties and protection of public benefits and the principle of hearing the party in accordance with the General Administrative Procedure Act (hereinafter: the ZUP).

On the other hand, the Commission still finds that the Slovenian legal system does not envisage an effective mechanism for sanctioning certain elected public office holders, namely members of the National Assembly, members of the National Council, municipal councillors and mayors, in the case of illegal or dishonest practices. That is why the Commission proposed an initiative to the National Assembly of the Republic of Slovenia, the Ministry of Public Administration and the Ministry of Justice to introduce suitable sanctioning mechanisms for members of representative bodies at the national and local levels, as well as for mayors.

The Commission's staff mainly handled more complex reports, which were concluded with either findings of no violation (33 cases) or findings of specific violations (six cases). The Commission also addressed the remedy of systemic deficiencies in the legislative procedure and the control over allocation of funds of the Foundation for Funding Disability and Humanitarian Organizations (FDHO) and it is actively participating in the drafting of a new act that will govern the FDHO.

The Commission was partially successful in its efforts to realise GRECO recommendations regarding the adoption of a code of ethics for deputies of the National Assembly and members of the National Council (that GRECO already proposed in 2012). In 2019, the National Council of the Republic of Slovenia finally adopted amendments to the code of ethics that define conflict of interest in more detail and introduce training and confidential advisory services as a mechanism for raising awareness of the members of the National Council, while at the end of the year the National Assembly prepared a draft of the code of ethics, which is yet to be approved by the deputies.

Acting jointly with the Ministry of Public Administration, the Commission successfully modernised the asset declaration system. A declaration of assets can be submitted via the eUprava (e-Government) portal as of 1 January 2020. This is an important modernisation of the declaration system, which removes the administrative barriers that the Commission noticed in the old system.

In 2019, the Commission

- received 687 reports of suspected corrupt practices and other violations of the ZIntPK, of which 125 were dismissed in accordance with Article 40 of the Commission's Rules of Procedure and 562 were addressed in a preliminary assessment;
- resolved 696 reports of suspected corrupt practices and other violations of the ZIntPK (of which 676 were resolved for the first time and 20 were reactivated cases).
- issued a total of 818 requests to the competent authorities for the submission of materials and/or explanations in connection with the preliminary assessment of the received reports;
- published a final document in 381 cases of suspected corruption;
- initiated 95 minor offence proceedings for the established violations of the ZIntPK;
- filed 40 reports and criminal complaints with law enforcement authorities for suspected criminal offences;
- submitted 133 motions to the supervisory authorities to initiate procedures within their respective competences (to the inspection bodies, the Court of Audit of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia and other competent supervisory institutions);
- held 47 panel sessions;
- decided on 71 requests for access to public information;
- received 13,911 declarations of assets;
- received 4,968 reports of lobbying contact;
- conducted 43 training courses, lectures and consultation sessions attended by 1,653 participants (all training services provided by the Commission are free of charge);
- held a creative competition for kindergartens with a view to teach them about the values of honesty and integrity, in which 28 kindergartens participated;
- celebrated International Anti-Corruption Day with an Anti-Corruption Week, during which the Commission organised a roundtable under the title *Political influence on recruitment procedures in state-owned companies* and put on an exhibition of artwork made by kindergartners as part of the project *Teaching integrity in kindergartens through pictures and play* at the House of the European Union, and also held a press conference;
- drew up a Code of Conduct for members of supervisory boards in cases of political influence and other forms of pressure and unethical influence on independent decision-making in collaboration with the Slovenian Directors' Association (SDA);
- took one measure to protect a reporting person, in which case the Commission assisted the reporting person, who acted in good faith and was subject to retaliatory measures due to reporting suspected corrupt practices, in determining the existence of a causal link between the filing of the report and the retaliatory measures;
- legally represented the Republic of Slovenia in activities of international organisations, such as the United Nations (UN), the Organization for Economic Cooperation and Development (OECD), the Group of States against Corruption (GRECO) at the Council of Europe, and the European Union.

In 2019:

- the established budget of the Commission was EUR 1,674,360;
- the Commission had (on 31 December 2019) 35 permanent public employees and three public office holders;
- the Commission hired five public employees and the employment relationship of five employees was terminated.

Commission for the Prevention of Corruption

The Commission for the Prevention of Corruption (hereinafter: the Commission) is an autonomous and independent state authority, much like the Human Rights Ombudsman, the Information Commissioner and the Court of Auditors. Despite being part of the public sector, the Commission is not subordinate to and does not receive work instructions or directions from the Government or the National Assembly. It is bound only by the Constitution and laws. The Commission is not a law enforcement authority in pre-trial or criminal proceedings; however, it does have certain executive, supervisory and investigatory powers.

The Commission's autonomy and independence as a state authority is reflected in the fact that the Commission is only bound by the Constitution and laws both in its work and decision-making. Its independence and impartiality are supported by its position of an autonomous authority in the organisation of the state, as the Commission is not subordinate, either in its work or decision-making, to any of the three branches of power, but is in a relationship of checks and balances with them when exercising its competences. The Commission's independency is additionally guaranteed through the selection of its management, which is appointed by the President of the Republic of Slovenia on the basis of the opinion of the special five-member selection committee consisting of the representatives of all three branches of power and civil society. The Government of the Republic of Slovenia, the National Assembly of the Republic of Slovenia, non-profit private sector organisations engaged in the prevention of corruption, the Judicial Council, and the Council of Officials each appoint one member of the Commission. The Commission is managed and represented by the Chief Commissioner, who organises the work. However, it is a collegial body consisting of three members (the Chief Commissioner and two Deputy Commissioners) who consider the cases and decide on them in panel sessions.

With the Integrity and Prevention of Corruption Act (hereinafter: the ZIntPK), the legislature updated the model for preventing corruption established by the Prevention of Corruption Act (ZPKor) and devoted more attention to strengthening integrity in the public sector and ensuring it operates transparently. In doing so, it aims to ensure and enhance trust in institutions, the legal system and the rule of law. The ZIntPK clearly defined the preventive and supervisory tasks of the Commission and extended its competences; however, it has proven to be inadequate in certain areas in the past years, which was also pointed out to Slovenia by international organisations. As part of its extended competences, the Commission, among others, became a minor offence authority and is responsible for protecting reporting persons, supervising lobbying activities, as well as drawing up and supervising the implementation of integrity plans. The Commission's main purpose in exercising its competences is enhancing the rule of law (cf. Article 1 of the ZIntPK).

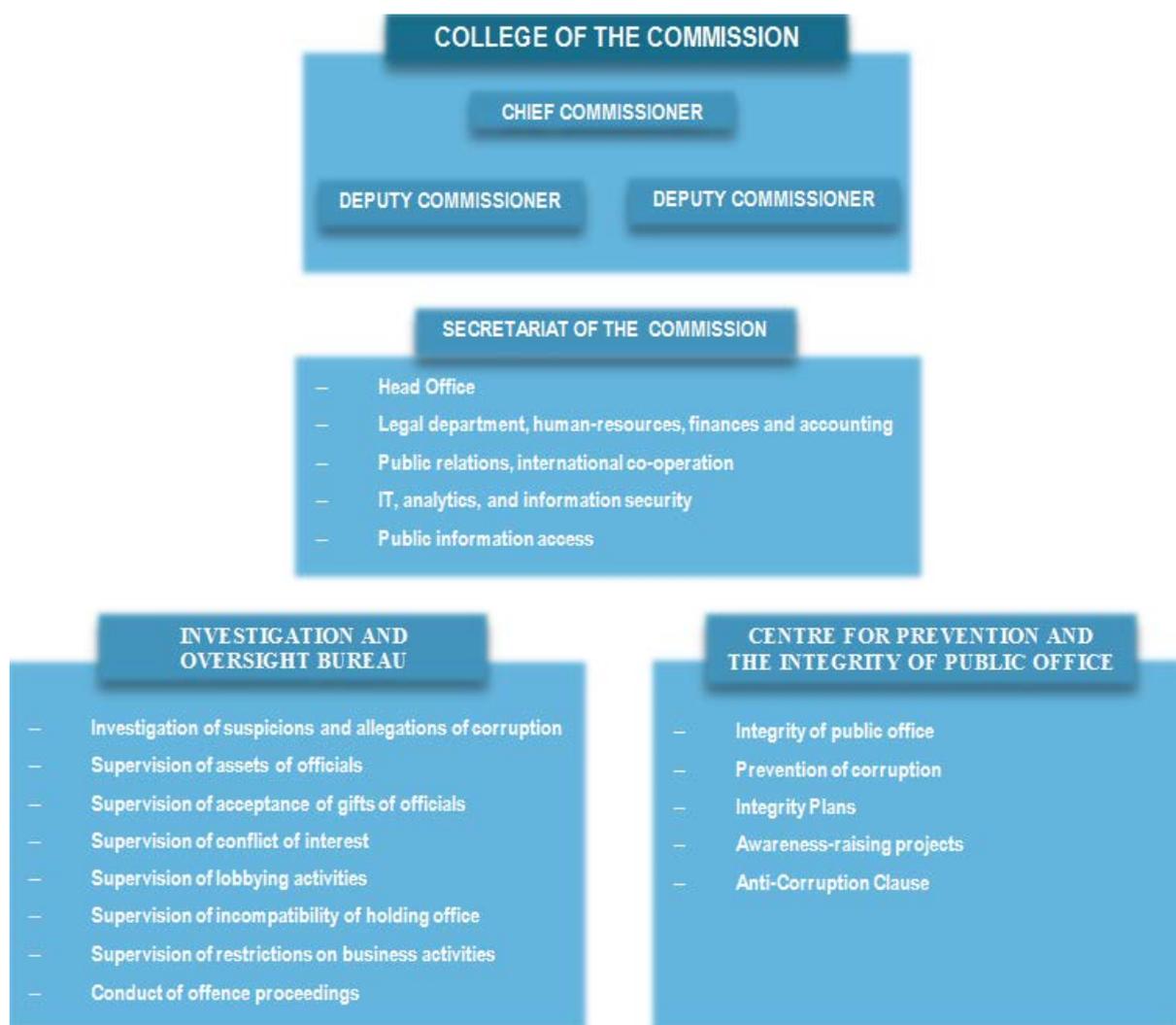
The Commission has a wide range of competences, however, it does not – contrary to popular belief – have police powers. It therefore investigates offences where there is a suspicion of corruption or other irregularities, for the consideration of which it is competent. Nevertheless, the Commission cooperates with the police and the prosecution service, provides them with updated information on suspected criminal offences and participates in detecting these criminal offences where necessary.

The Commission exercises its competences by:

- seeking to ensure the independent and impartial fulfilment of the constitutionally and statutorily defined functions by reducing and preventing corruption and by supervising the incompatibility of an office with other offices and activities;
- promoting and strengthening the capacity of individuals and institutions to assume responsibility for the development of integrity and, in so doing, the prevention and detection of corruption by implementing the resolution governing the prevention of corruption, providing expert opinions and standards of good practice, providing training assistance, raising awareness, and planning for and assessing integrity at all levels;

- promoting and strengthening transparency within the processes and procedures of the exercising of public authority in the performance of public functions and management of public affairs by supervising the assets of and acceptance of gifts by public office holders, by preventing and eliminating conflicts of interest and corrupt practices, and by supervising lobbying activities;
- ensuring the transparency of lobbying so as to promote good practices by defining the conditions for carrying out lobbying activities within public sector operations;
- promoting and strengthening the detection, prevention and elimination of corrupt practices by protecting persons reporting them;
- promoting, supporting and strengthening cooperation and professional assistance in preventing and combating corruption at the international level by meeting the international obligations of Slovenia; and
- promoting cooperation among stakeholders (state authorities and self-governing local community bodies, public sector organisations, persons holding public authority, civil society institutions, the media, and legal and natural persons) in raising the level of integrity and preventing corruption in Slovenia and assisting the State in dealing effectively with all types of corrupt practices.

The Commission actively participates in international cooperation and represents Slovenia in the following international organisations: the OECD (Organisation for Economic Cooperation and Development), the UN (United Nations Organisation), the Council of Europe and GRECO (Group of States against Corruption of the Council of Europe), EPAC/EACN (European Partners against Corruption), and IACA (International Anti-Corruption Academy).



Po posvetu s terminologinjo smo se odločili, da za senat komisije uporabimo prevod "Commission panel".

Lektorica za angleščino predlaga še naslednje spremembe organigramov:

human-resources → human resources

co-operation → cooperation

IT, analytics and information security (brez vejice pred and)

Secretariat of the Commission

The Commission's international activity

International cooperation plays an important role in the fight against corruption, as globalisation has also led to a rise in international corruption, whereby the forms of corruption are similar in the wider regions of Europe and the world, whereas the tools for preventing and combating corruption are mainly still in development. The exchange of experience and good practices among different actors at the international and intergovernmental levels can therefore significantly contribute to the swifter development of effective tools for preventing and combating corruption and thus to an overall curb of corruption in Europe and the world. Because of the limited budgetary resources, in 2019, similarly to previous years, the Commission mostly had to restrict its business travels abroad related to international cooperation to cases when the organiser of the event covered the participation costs. In 2019, the Commission hosted, at minimal cost, several foreign delegations, which requested training, study visits, presentation of Commission's tools, etc. Below is an overview of the Commission's international activity:

Organisation for Economic Co-operation and Development (OECD)

The Commission represents the Republic of Slovenia in the OECD Working Group on Bribery in International Business Transactions (Working Group on Bribery, WGB), which meets quarterly. The Working Group monitors the implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter: the OECD Convention) and the Recommendations of the Working Group on the subject.

Slovenia as an examiner

Within the framework of the Working Group, Slovenia, same as other parties, acts as an examiner of other countries when it comes to implementing the provisions of the aforementioned OECD Convention and its Recommendations. In 2019, Slovenia and the United States continued with the evaluation of Russia. The representative of the Commission attended a high-level mission in Moscow as part of the evaluation and participated in the drawing up of recommendations on the implementation of the OECD Convention for Russia.

Evaluating Slovenia

In 2019, the Phase 3 Evaluation on the implementation of the provisions of the OECD Convention for Slovenia continued, led by the Netherlands and Luxembourg. The Commission's role in the evaluation is that of a national coordinator of Slovenia's activities. Phase 3 Evaluation focuses on the response of law enforcement authorities to the reports of bribery of foreign public officials, the implementation of the recommendations on combating bribery from 2009 and the implementation of OECD recommendations from previous evaluations. In 2019, Slovenia presented an oral report on the progress regarding the implementation of those recommendations, especially regarding developments in the adoption of amendments to the ZIntPK and initiation of parliamentary inquiry to determine the political responsibility of public office holders in specific criminal proceedings. Slovenia will also present oral reports on the matter in meetings in 2020. The evaluation of Slovenia will continue in Phase 4, which is planned for 2023.

The OECD Network for Public Sector Integrity and SPIO

The Commission represents Slovenia in the OECD Network for Public Sector Integrity (Working Party of Senior Public Integrity Officials, SPIO). In 2019, the Commission attended one meeting of the Working Party, which continued activities regarding the implementation of the Recommendation on Public Integrity, adopted in early 2017. The Working Party is developing several tools – including a self-assessment questionnaire – to facilitate the understanding of the Recommendation for member countries and provide ideas and examples for its implementation. In addition to the listed activities, the Working Party offers the delegates a good insight into the actions of other countries in ensuring integrity and the fight against corruption through a wide range of educational content.

The OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN)

The Commission also represents Slovenia within the OECD Anti-Corruption Network for Eastern Europe and Central Asia (ACN). In 2019, the Commission did not carry out any activities related to this network.

United Nations Office on Drugs and Crime (UNODC)

In order to effectively implement the United Nations Convention against Corruption (UNCAC), the States parties established the Implementation Review Mechanism for self-assessment of the states regarding their implementation of the UNCAC (Implementation Review Mechanism). The Implementation Review Group (IRG) oversees the Implementation Review Mechanism and chooses the country pairings that review individual State party.

Slovenia as a reviewer

Slovenia and Costa Rica were selected by a drawing of lots to review the Bahamas, in particular to review its implementation of the second and fifth chapters of the UNCAC. In accordance with the adopted implementation review mechanism, the review is carried out in several cycles. In 2019, a country visit took place, in which a representative of the Commission also took part.

Reviewing Slovenia

Slovenia has already been reviewed in the first review cycle of the implementation of the UNCAC that ended in 2015 and the subject of which were the provisions of Chapters III and IV of the UNCAC. In June 2017, the second review cycle began for Slovenia regarding Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. In the second review cycle, Slovenia was reviewed by Mongolia and Georgia. The Commission had the role of coordinator and collected the documentation and additional clarifications from other state authorities for the purposes of the review, which was concluded with a final report in December 2019.

UNODC Working Group on the Prevention of Corruption

The Commission is also a member of the Working Group on the Prevention of Corruption, which held a meeting in September 2019 in Vienna. This meeting focused on the presentation of good practices and preventive measures used by the States parties.

Conference of the States Parties to the UNCAC

In December 2019, a Conference of the States Parties to the UNCAC was held in Abu Dhabi (UAE). The representative of the Commission attended the conference as part of the Slovenian delegation and participated in the alignment of resolutions at meetings of the EU Member States, the aim of which was to develop common positions and present a united front at the Conference. Apart from the main conference, i.e. the plenary session, numerous side events took place, such as the meeting of the representatives of the institutions for the prevention of corruption, a conference on sport and working-level meetings aimed at preparing the upcoming UNODC events.

Council of Europe – Group of States against Corruption (GRECO)¹

The Commission also represents Slovenia in GRECO, which operates within the Council of Europe, where the evaluation of countries is conducted on the basis of a mutual evaluation and peer pressure from other GRECO members. The countries are evaluated with regard to compliance with anti-corruption standards, laid down by the anti-corruption documents of the Council of Europe, such as the Civil Law Convention on Corruption, the Criminal Law Convention on Corruption and the Twenty Guiding Principles for the Fight Against Corruption. In 2019, the fifth evaluation round continued. However, GRECO had to reduce the number of plenary meetings from four to three for the third consecutive year, partly because of reduced contribution from Turkey, which until 2017 had been one of the countries that contributed more to the GRECO budget than they were due, but mostly because of cessation of contributions from Russia to the Council of Europe, which also impacted the GRECO budget. Even though Russia

¹ Group of States against Corruption (GRECO), <https://www.coe.int/en/web/greco>

settled its debt to the Council of Europe in June 2019, this was not enough to increase the number of plenary meetings. Consequently, GRECO still faces an overabundance of reports it has to consider and a lack of plenary meetings, which do not allow it to follow the timeline that was designed on the basis of previous evaluation rounds. This is why the consideration of reports regarding certain member states occasionally needs to be postponed.

Evaluation of Slovenia in the fourth round

Although GRECO concluded the evaluation procedure of the fourth round for Slovenia at the plenary meeting in March 2018 in accordance with its own rules due to the high rate of compliance with the recommendations,² Slovenia was invited to nevertheless continue its efforts for the implementation of other recommendations.

In the light of this, the Commission held meetings with all deputy groups (with the exception of the deputies of the Italian and Hungarian national communities), where it introduced the request to implement three GRECO recommendations concerning deputies of the National Assembly. Among these GRECO recommendations, the recommendation that deputies should finally adopt their own code of ethics particularly stood out. Many deputy groups support this recommendation in principle but at the same time reject the need to actually do so. The Commission also had several meetings with representatives of the Slovenian National Council and with members of the National Council about amending their code of ethics that GRECO evaluated as unsatisfactory as regards provisions on the obligation to avoid conflict of interests. More information on the progress made in this area can be found in the Commission's Assessment of the Situation under the chapter "Codes of Ethics of the National Assembly of the Republic of Slovenia and the National Council of the Republic of Slovenia".

Evaluation of Slovenia in the fifth round

In January 2017, GRECO started the fifth evaluation round, the theme of which is "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies". As usual in chronological order, Slovenia was (together with the United Kingdom) among the first evaluated countries at the GRECO plenary meeting at the beginning of December 2017³. With the adoption of the report, GRECO addressed 15 recommendations to Slovenia, nine of which to the Government i.e. to the most senior holders of the executive power, and six to the police.

Slovenia was supposed to send the report on the implementation of recommendations by the end of June 2019. Due to the already mentioned problems that GRECO had with following the timeline because of the lack of funds, the deadline for Slovenia was extended to the end of September 2019.

The Commission met with various stakeholders (the Ministry of Public Administration, the Ministry of Justice, the police) in 2019 regarding the implementation of recommendations. Thus the Commission was actively involved in the drafting of the amendment to the Integrity and Prevention of Corruption Act, as several GRECO recommendations require legislative amendments. It actively cooperated with the Ministry of Public Administration in the implementation of several recommendations that address the most senior public office holders of the executive power (e.g. it provided training for members of different ministers' offices and members of the Office of the Prime Minister).

In compliance with GRECO's request, the Commission submitted a Situation Report on the implementations of GRECO recommendations at the end of September 2019. The report will be examined in the first half of 2020.

Initiation of GRECO ad hoc procedure against Slovenia (Rule 34 of the Rules of Procedure)

At the plenary meeting on 18 June 2019, GRECO initiated an *ad hoc* procedure against Slovenia because of alleged interference by the legislative branch in the judiciary. At the initiative of the Commission for State Organisation, a member of which is Franc Kangler, who is also a member of the National Council, on 12 June 2019 the National Council accepted the request to order a parliamentary inquiry to determine the political responsibility of public office holders who

² GRECO's report that concludes the evaluation of the Republic of Slovenia in the fourth evaluation round is available at: <https://rm.coe.int/cetrti-krog-ocenjevanja-preprecevanje-korupcije-pri-poslancih-sodnikih/16808c1a9e>.

³ GRECO's report for Slovenia in the fifth evaluation round is available at: <https://rm.coe.int/peti-ocenjevalni-krog-preprecevanje-korupcije-in-spodbujanje-integrite/16807912aa>.

allegedly participated in the preparation and implementation of the political and criminal prosecution against Franc Kangler and others (hereinafter: the request). The request was submitted to the National Assembly pursuant to indent five of paragraph one of Article 97 of the Constitution of the Republic of Slovenia on 13 June 2019. Under Article 93 of the Constitution of the Republic of Slovenia, the National Assembly must order a parliamentary inquiry when required to do so by the National Council.

Due to the notification on the situation by the Slovenian delegation, GRECO requested Slovenia to submit documentation on the separation of legislative and judicial powers by the end of June. In the fourth evaluation round, GRECO closely examined the prevention of corruption in respect of members of representative bodies (deputies of the National Assembly and members of the National Council), judges and prosecutors. An important element that GRECO evaluated in its assessment of the legislative and institutional framework in Slovenia was compliance with the individual principles of Resolution (97) 24 on the twenty guiding principles for the fight against corruption, which was adopted by the Committee of Ministers of the Council of Europe in 1997. GRECO primarily evaluated the implementation of the principle ensuring that the authorities in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations (Guiding principle No. 3).

The request in question, which singles out procedural conduct of individual judges and prosecutors in criminal proceedings against the member of the National Council Franc Kangler, argues with certain decisions made in these criminal proceedings and aims to determine the political responsibility of judges and prosecutors, could represent a form of interference of the legislative branch of power in independent judiciary and prosecution service. It is therefore unclear what the political responsibility of the representatives of the judiciary should be, given that only political actors can be politically responsible for their actions, which judges and prosecutors are not and may not be. There is also a need to examine whether the request is even a matter of public importance, as required for the order of a parliamentary inquiry under Article 93 of the Constitution of the Republic of Slovenia, or rather a possible misuse of this instrument of social control, guaranteed by the Constitution. A question also arises about the potential obligation to avoid a conflict of interest, if a member of the National Council uses a public function, in which they should only pursue the public interest, in order to pursue personal interest that could and should be pursued through procedural acts in the aforementioned criminal proceedings. Members of the National Council are also bound to only pursue the public interest through their public function by the ZIntPK, the implementation of which is monitored by the Commission.

The documentation for the purposes of the GRECO *ad hoc* procedure was submitted by the Office of the State Prosecutor General, the Supreme Court, the Ministry of Justice, the National Assembly and the National Council.

The *ad hoc* procedure that GRECO introduced into its Rules of Procedure in June 2017 allows GRECO to swiftly respond in cases of an institutional reform, legislative initiative or procedural change in a GRECO member state that could constitute a serious violation of anti-corruption standards of the Council of Europe. The aforementioned Rule 34 allows GRECO to use the *ad hoc* procedure in urgent cases to alert a certain member state and the wider international community about the violations of the international anti-corruption standards in that member state. In this particular case, the fight against corruption could have been at risk because of the threat to establish the political responsibility of judges and prosecutors in a parliamentary inquiry.

Representative of the Commission for the Prevention of Corruption in the GRECO Bureau

The representative of the Commission is a member of the GRECO Bureau, which is the organisation's management authority. She was elected to the Bureau as early as 2013. One of the Bureau's key activities is the drafting of the proposal to the Statutory Committee of the Council of Europe on GRECO's advisory role, as it would not only allow GRECO to monitor the compliance with international anti-corruption standards, which is GRECO's current objective, but would also allow it to apply its wide range of knowledge as part of its advisory role, since member states as well as third countries and international organisations often request GRECO to carry out studies, analyses, comparative legal

assessments, etc. The Bureau also proposed the initiation of several *ad hoc* procedures (also against Slovenia) to the GRECO plenary, participated in the planning of a high-level event under the title "GRECO: past, present & future", successfully requested the Statutory Committee of the Council of Europe to raise GRECO's budget under the French presidency of the Committee of Ministers of the Council of Europe, etc.

Representative of the Commission for the Prevention of Corruption as GRECO Gender Equality Rapporteur

The representative of the Commission also participates in the discussions on GRECO reports as GRECO Gender Equality Rapporteur with a view to emphasising gender equality in these reports. In particular, statistical data on the representation of women and men in certain positions (ministers, in the police force) is highlighted in the reports, as are any efforts for gender equality (e.g. in employment, promotion, filling the highest positions in organisations). These efforts are in response to the call of the Secretary-General of the Council of Europe, who said that one of the fundamental principles of the Council of Europe is promotion of gender equality, which should also be reflected in all activities of the individual bodies and in the framework agreements, which includes GRECO.

Coordination meetings of the representatives of the Republic of Slovenia in the bodies of the Council of Europe

Because of Slovenia's GRECO membership, the representative of the Commission in GRECO also attends coordination meetings of the representatives of Slovenia in the bodies of the Council of Europe, which are held at the Ministry of Foreign Affairs. In 2019, two such meetings were held (the representative attended one of them). The representative prepared a report for the Ministry of Foreign Affairs on the activities of the Commission as a Slovenian representative in GRECO and a schedule of the activities planned for 2019.

Network of Corruption Prevention Authorities – NCPA (Šibenik Network)

The Conference of the Council of Europe and the Republic of Croatia under the title "Strengthening transparency and accountability to ensure integrity: united against corruption", which was held in Šibenik in October 2018, concluded with the signing of the Declaration for a Network of Corruption Prevention Authorities, which was signed by the Deputy Commissioner Uroš Novak on behalf of the Commission, along with thirteen other representatives of corruption prevention authorities. On the basis of the declaration, the Šibenik Network was established as a network of corruption prevention authorities.

In 2019, the meetings of the network, which was later officially renamed the Network of Corruption Prevention Authorities (NCPA), were held as part of GRECO plenary meetings, while the GRECO Secretariat temporarily acts as a support to a part of the network. In 2018 and 2019, four meetings were held, which the representative of the Commission and Slovenia in GRECO also attended. The representative thus actively participated in the drawing up of the network's Charter and Rules of Procedure. She also took over the preparation of the material covering the code of ethics, the supervision of compliance management (in collaboration with the Serbian and Croatian representatives), and the preparation of material on the subject of leadership by values. The materials are intended as technical documentation for all states and organisations that would like to examine the subjects in more detail and use them in their work.

Cooperation with the European Union and its Member States

European Network of Integrity Practitioners (ENIP)

The Commission is one of the original members of the European Network of Integrity Practitioners (ENIP), which also includes experts from Austria, Belgium, Estonia, Germany, the Netherlands, Poland and Switzerland. The network was designed for the mutual exchange of knowledge and experience among people who, on a daily basis, deal with strengthening the integrity of the public sector in practice. At meetings, the participants present the developments in their own countries and make observations regarding the current challenges in other countries. At each meeting, the organiser also provides lectures, which are carried out by its employees or visiting lecturers. In 2019, a meeting was held in Belgium with the aim of addressing the negative consequences of introducing supervision over the work of public

employees — in this regard, the experiences of the Flemish Government, whose basic principle is that public employees should be trusted, were especially interesting — the permissibility of interference with the freedoms of public employees, and, in the light of the new European directive, the issue of persons reporting violations.

Regional Anti-Corruption Initiative (RAI)

The RAI is an intergovernmental regional organisation, the successor to the Stability Pact Anti-Corruption Initiative, which was signed in 2007 with a mission to extend and promote the fight against corruption in the countries of South-Eastern Europe. The RAI mostly carries out its programmes in its member states (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Moldova, Montenegro, North Macedonia, Romania, and Republic of Serbia). The basic activities of the initiative are monitoring anti-corruption strategies and laws, assistance in corruption risks assessment (a mechanism similar to Slovenian integrity plan) and mapping the anti-corruption actors in RAI member states. The RAI is an organisation that, on a daily basis, strives to raise awareness of the best practices in the field of prevention and fight against corruption and shares these practices with its member states as well as observers. The Republic of Slovenia was granted Observer status in 2017. Admission into an organisation that promotes the fight against corruption in the countries of South-Eastern Europe represents the recognition of the work of Slovenia and the Commission (the Commission will represent Slovenia in the RAI) in this field. At the end of 2018, the Commission was informed by the RAI Secretariat that they agree to the launching of the procedure for the accession of Slovenia as a full member, which will mainly depend on funds available to the Commission for membership fees and international activity. In 2019, the Commission strengthened ties with the RAI and the representative of the Commission attended a meeting in Podgorica (Montenegro), where he presented the Slovenian system for the protection of reporting persons.

Commission's other international activities

Participation in international events

Regional Anti-Corruption Conference in Belgrade

Representatives of the Commission attended the International Anti-Corruption Conference, which took place in Belgrade on 4 and 5 November 2019 and was organised by the Ministry of Justice of the Republic of Serbia with the support of the EU project "Prevention and Fight against Corruption". The Conference was an opportunity for networking and exchanging experiences and good practices among the representatives of similar institutions active in the field of prevention of corruption, predominantly from the countries of South-Eastern Europe. It addressed good practices in international cooperation mechanisms, the use of modern technologies in the fight against corruption and the role of non-governmental organisations in this field. The representatives of the Commission participated in the event as lecturers and presented risk management mechanisms and the Erar web application.

International visits at the Commission

Visit of the French Ambassador

In February 2019, the Ambassador of France to the Republic of Slovenia, Her Excellency Florence Ferrari, paid a visit to the Commission in which the Chief Commissioner presented the activities of the Commission and the issues the Commission deals with on a daily basis. Afterwards, they discussed topical issues related to the fight against corruption.

Visit of the European Investment Bank (EIB) representative

In February 2019, Mr Bernard O'Donnell, Head of the Fraud Investigations Division of the EIB, visited the Commission. He exchanged experiences with regard to investigating suspicions of corrupt practices in large national projects with the Chief Commissioner and they discussed the possibilities of further cooperation between the Commission and the EIB.

Study visit of the delegation of the Serbian Anti-Corruption Agency

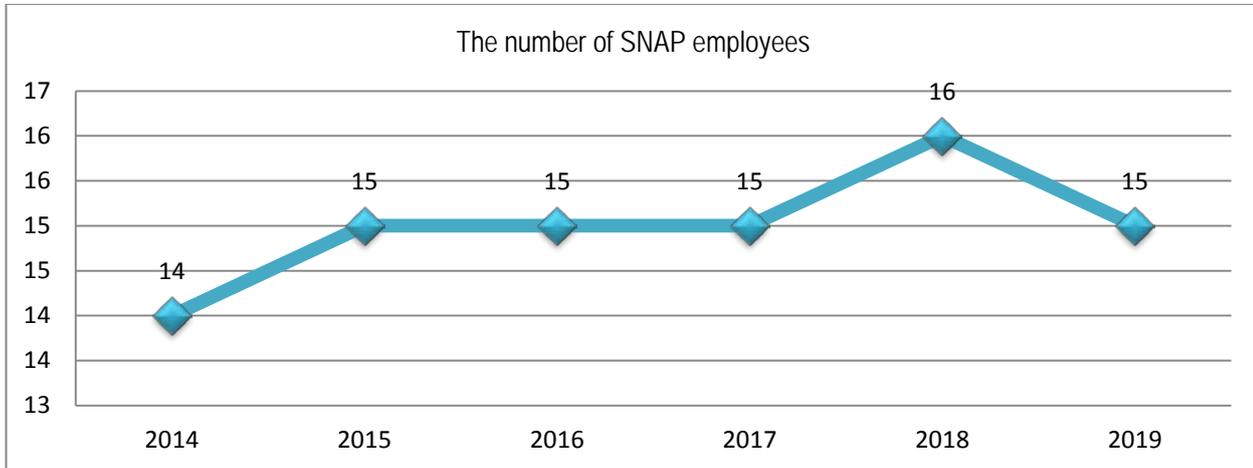
In November 2019, the delegation of the Anti-Corruption Agency of the Republic of Serbia visited the Commission. The study visit was on the subject of regulating lobbying and was held within the OSCE Mission to the Republic of Serbia.

Guests met with the Chief Commissioner and both Deputy Commissioners and were acquainted with the Slovenian lobbying regulations, the set-up of the register of lobbyists, the process of making lobbying contacts publicly available and the Commission's practical work on this front.

The Investigation and Oversight Bureau

Investigation and Oversight

On 31 December 2019, the Investigation and Oversight Bureau (hereinafter: SNAP) had 15 employees.



The responsibilities of SNAP include:

- carrying out the Commission's supervisory tasks;
- conducting procedures of investigation and oversight in connection with the suspicion of corrupt practices;
- drawing up and submitting principled opinions, positions, recommendations and explanations regarding the suspicion of corruption in specific or systemic cases;
- examining facts in connection with the suspicion of corruption in specific cases;
- carrying out tasks in connection with the protection of reporting persons, incompatibility of office, and prohibition and restrictions with regard to the acceptance of gifts;
- exercising competences with regard to establishing a conflict of interest, restrictions on business activities, supervising the assets of the persons with obligations and violations of the provisions on lobbying;
- examining the reports of official persons regarding the requests to engage in illegal or unethical conduct;
- cooperating at the operational level with law enforcement authorities and other supervisory authorities, monitoring prosecution and court cases and cases considered by other state authorities;
- deciding in offence proceedings, and other tasks.

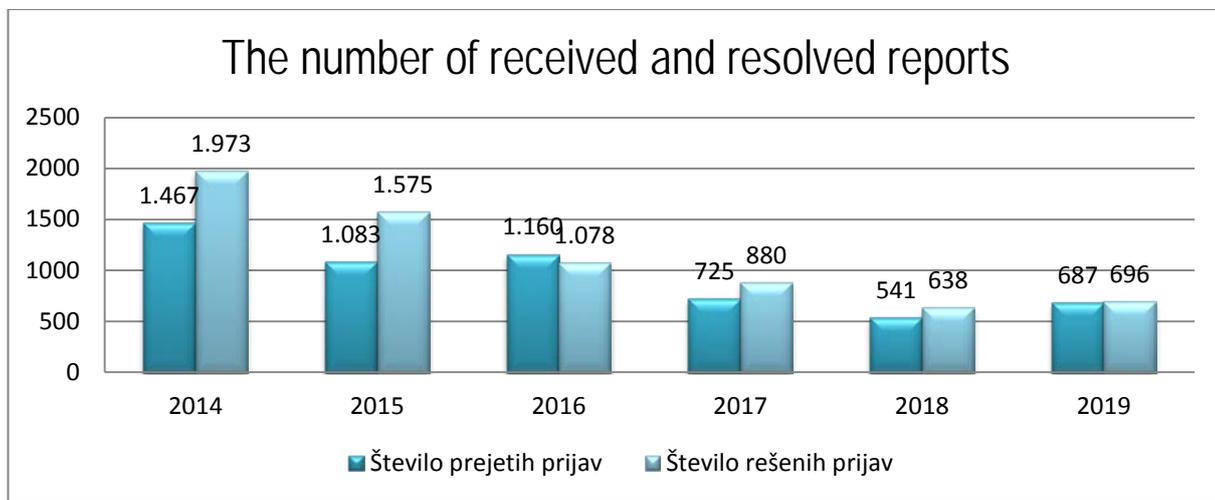
In addition to the above, SNAP also carries out tasks related to requests for access to public information and conducting procedures on accessing own personal data, the management of documents, drawing up statements of defence, the treatment of classified information, the organisation of events to mark International Anti-Corruption Day, the preparation of responses to questions from journalists, etc.

Oversight

In 2019, most reports of suspected corruption concerned business operations of public institutes and self-governing local communities. According to the measurements of the corruption phenomenon in different areas of operation of public institutions, most reports of suspected corruption examined by the Commission were in the fields of the environment and spatial planning, public procurement, public tenders, employment in the public sector, civil engineering, education and sport, health care, labour law, judicial proceedings, and finance.

In 2019, the Commission received 687 reports of suspected corrupt practices and other violations of the ZIntPK, out of which 125 were dismissed in accordance with Article 40 of the Commission's Rules of Procedure and 562 were addressed in a preliminary assessment. The preliminary assessment of the received reports includes an examination of

the received report and accompanying materials, an assessment of the report's credibility and good faith and an assessment of whether an oversight procedure to establish any ZIntPK violations should be initiated in accordance with the competences of the Commission and the provisions of the Rules of Procedure or whether circumstances exist due to which the report cannot be accepted for consideration and should be referred to another competent authority, organisation or institution. During the preliminary assessment, a Commission staff member assigned a case can, if necessary in order to decide on further steps, ask the reporting person (where known) to supplement the report, request submission of additional material and/or verify necessary facts and circumstances with other competent authorities, in publicly accessible databases and the Commission's records. In 2019, SNAP issued a total of 818 requests to the competent authorities in connection with the preliminary assessment of the received reports. Together with the reports received in previous years, the Commission considered and resolved 381 reports of suspected corruption (this is the number of reports resolved in 2019, regardless of the year they were received). In 2019, SNAP resolved 696 cases of reports of corrupt practices and other violations of the ZIntPK (by a final document, dismissal, response or referral to other competent authorities, reply to the reporting person, etc.). The 696 resolved cases include 676 cases of suspicion of corrupt practices that were resolved for the first time and 20 reactivated cases.

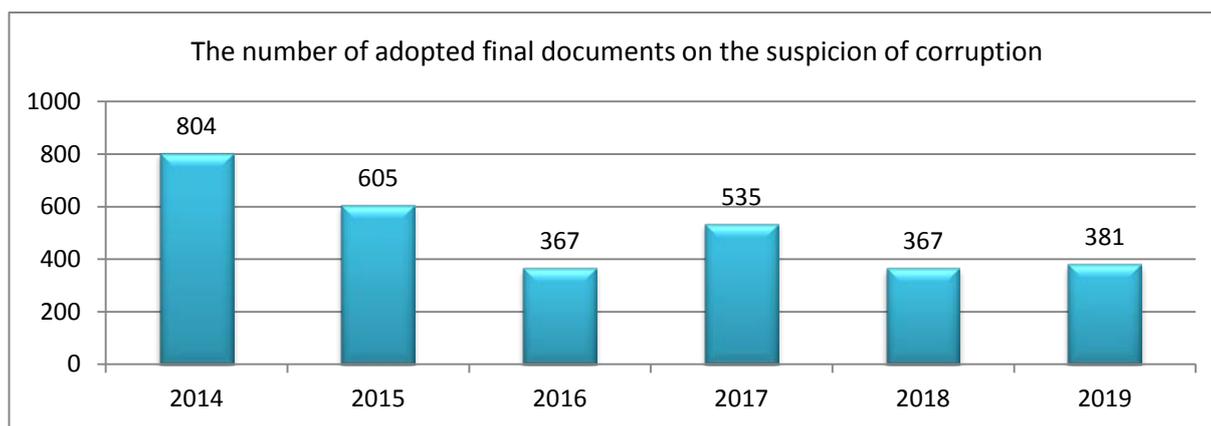


BESEDILO NA GRAFU:

IZVIRNIK	PREVOD
Število prejetih prijav	Number of received reports
Število rešenih prijav	Number of resolved reports

The majority of reports received by the Commission are still of a general suspicion of corruption ⁴ (356 such reports in 2019). In 2019, the Commission issued a final document in 381 cases of suspicion of corruption, and in 367 cases in 2018. SNAP staff mainly handled more complex reports, which were concluded either with findings of no violation (33 cases) or findings on specific violations (six cases), which were adopted by the Commission panel.

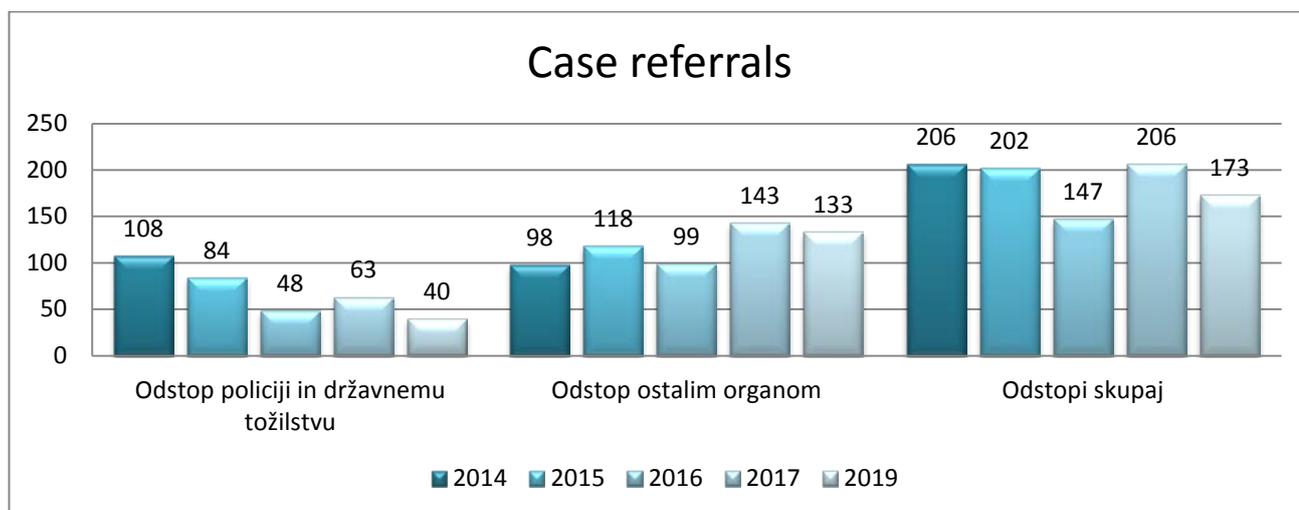
⁴ The main complaint raised in these reports does not relate to the suspicion of violation of specific principles, specifically regulated by the ZIntPK (conflict of interests, restrictions on business activities, incompatibility of office, gifts, anti-corruption clause, lobbying and assets)



The reports submitted in 2019 that were not dismissed and on the basis of which a preliminary assessment and an oversight were carried out, were submitted by known reporting persons in 346 cases, while 182 reporting persons remained anonymous. The Commission initiated, of its own motion, 35 cases in matters within its competence.

The majority of reporting persons was willing to provide additional explanations or submit additional documentation relating to the contents of the report for the purpose of further procedures.

In 2019, SNAP initiated 95 minor offence proceedings, filed 40 reports and complaints to the police and the State Prosecutor's Office (in 2018, SNAP filed 61 complaints and reports), 133 cases were referred to inspection authorities and other competent supervisory institutions (in 2018, SNAP referred 160 cases to these authorities and institutions). In 2019, SNAP referred the majority of cases to inspection services and police, followed by supervisory authorities, including the supervisory boards of municipalities and public corporations.



BESEDILO NA GRAFU:

IZVIRNIK	PREVOD
Odstop policiji in državnemu tožilstvu	Referrals to the police and the State Prosecutor's Office
Odstop ostalim organom	Referrals to other authorities
Odstopi skupaj	Total referrals

After two years of decline in the number of received reports, the trend shifted in 2019. In 2019, the number of received reports of suspected corruption and other violations of the ZIntPK increased by 27% from the previous year. SNAP finds

that the rise in numbers of received reports could be connected with certain measures adopted by the Government of the Republic of Slovenia and by certain ministries that, having become aware of the violations, took decisive action against public office holders and officials in managerial positions, which informed the public that public office holders and officials in managerial positions are expected to adhere to higher standards as regards their suitability to perform public duties, which in turn contributed to an increased sensibility towards detected deviations.

The higher number of received reports may also be due to the fact that several years ago, when the case law of the Supreme Court of the Republic of Slovenia was amended, the Commission adjusted the procedure before the Commission so that it respects fundamental procedural guarantees conferred by the law regulating the administrative procedure. The Administrative Court of the Republic of Slovenia and the Supreme Court of the Republic of Slovenia, in their respective decisions on an administrative dispute and on the appeal on points of law, both upheld the decisions of the Commission and established that the Commission complies with all procedural provisions of the ZIntPK that constitute the implementation of the principle of the protection of the rights of parties and protection of public benefits, as provided by Article 7 of the General Administrative Procedure Act (hereinafter: the ZUP), and the principle of hearing the party, as provided by Article 9 of the ZUP in conjunction with Article 22 of the Constitution of the Republic of Slovenia (equal protection of rights).

Specific procedures regarding violations of ethics and integrity of the public sector

In 2019, SNAP prepared and the Commission panel adopted definitive findings in connection with suspicion of violation of ethics and integrity of the public sector for six cases. For comparison: in 2018, SNAP prepared one such finding. With regard to engaging legal services the Commission determined that, at the end of 2016, the mayor of a particular municipality in his private capacity as a natural person authorised a certain law firm to represent him in a case of suspicion of violation of the ZIntPK considered before the Commission, while at the same time this law firm provided services for the municipality where he was mayor. The Commission established that the abovementioned conduct poses a real corruption risk and risk of conflict of interest and is therefore contrary to the expected integrity of office as defined in point 3 of Article 4 of the ZIntPK.

In the second case, the Commission determined that the mayor of a particular municipality failed to comply with the provisions of the Public Procurement Act when selecting a contractor for the replacement of the sports floor in a sports centre, the renovation of changing rooms and the construction of a new kindergarten. The mayor placed individual orders to the contractor via purchase orders, even though the total amount of orders exceeded the limit laid down by the Public Procurement Act and the mayor should have applied one of the prescribed public procurement procedures laid down by the Public Procurement Act for the service contract and the selection of the contractor. The Commission established that the abovementioned conduct is a breach of integrity as defined in point 3 of Article 4 of the ZIntPK.

The Commission also adopted findings on specific violations determining that the conduct of a certain public office holder was contrary to the expected integrity of public office holders as defined in point 3 of Article 4 of the ZIntPK. In the case concerned, the public office holder, upon submitting clarifications and documentation to the employer, refused to disclose individual documents and thus allow verification of the documents' originality, as well as provide a full explanation and information that would allow the allegations of violations related to the timeliness of the tax return for the assessment of income from renting out property and consequently tax payment, which fall within the competence of the tax authority, to be rejected indisputably and beyond reasonable doubt.

The Commission also considered the conduct of an official in a managerial position who, with his active involvement in the drafting of the proposal for a certain regulation, violated the provisions of the Resolution on Legislative Regulation and Article 9a of the Rules of Procedure of the Government of the Republic of Slovenia and, at the same time, as responsible person, by omission of due conduct failed to ensure the transparency of the procedure and the fulfilment of minimum standards regarding the release of implementing regulations so that the addressees of the regulation could have become familiar with the regulation and effectively participated in adopting the regulation, failed to inform the public objectively, comprehensively and transparently and knowingly provided the information on the regulation in a misleading manner, did not act in accordance with due diligence and socially responsible so that all interest could be treated

equally, with which he enabled undue favouritism of certain partial interests and thus violated the Code of Ethics for Public Employees, which is contrary to the expected integrity as defined in point 3 of Article 4 of the ZIntPK.

The Commission also adopted two final documents with findings related to exerting political pressure. The first case concerns the report on a request to engage in unethical or illegal conduct when appointing the director of a company 100% owned by the Republic of Slovenia. During the procedure, the Commission obtained documentation from the Slovenian Sovereign Holding and the company concerned, examined the publicly available data and interviewed the person concerned and two witnesses. The Commission panel adopted a draft of findings on specific violations in a panel session and submitted them to the person concerned for clarification in accordance with paragraph seven of Article 13 of the ZIntPK. The person concerned did not provide any clarification. The Commission established that the actions of the then secretary-general of a certain political party, who by telephone put pressure on the chairperson of a certain supervisory board, insisting that a certain person should be appointed as director of a certain company, inquiring about the timeline for the recruitment procedure and the date of the meeting of the supervisory board and requesting reporting on the recruitment procedure prior to communication with the Slovenian Sovereign Holding, constituted a breach of integrity as defined in point 3 of Article 4 of the ZIntPK.

In the second case, the Commission considered a suspicion of violation of ethics and integrity of the public sector by a mayor of a certain municipality in connection with the selection of a director of a municipal public corporation. During the procedure, the Commission obtained documentation from the municipality, the public corporation and the person concerned, examined the publicly available records and interviewed the person concerned and two witnesses in a panel session. The Commission panel adopted a draft of findings on specific violations and submitted them to the person concerned for clarification in accordance with paragraph seven of Article 13 of the ZIntPK. The person concerned provided the clarification within the time limit. The Commission established that the mayor of a certain municipality sent several text messages to the then chair of the supervisory board of the public corporation during the period from 25 September 2017 to 29 September 2017, inquiring whom he will vote for at the supervisory board meeting and informing him that a certain candidate has the support of the municipality. With the aforementioned actions, the person concerned exerted political pressure on the chair of the supervisory board, who is also a municipal councillor, to vote for a certain candidate when electing the director of the public corporation. In doing this she exceeded her powers, as defined by the statute of the municipality and the ordinance establishing the public corporation, and interfered with the independence of operation and decision-making of the then chair of the supervisory board, thus acting in contravention with Article 4 of the Code of conduct for elected representatives at the local level and breaching integrity as defined in point 3 of Article 4 of the ZIntPK.

The Commission panel decided to publish the findings on specific violations and the clarifications by the persons concerned for all abovementioned cases on the Commission's website.

Principled opinion regarding recruitment procedures in the public sector

In 2019, SNAP also drew up one principled opinion, which was adopted at the panel session. On the basis of the consideration of several reports concerning alleged irregularities and corrupt practices in recruitment in the public sector, the Commission recognised an issue with the storage of documents produced in selection procedures of candidates for a job vacancy in a public sector entity. From the obtained data and the documentation available for the consideration of the reports, the Commission established that for the most part the employers did not possess either personal or other data on the candidates who applied for the job vacancy, even though the cases considered took place recently. In two cases, the employer did not even have a record of the selection procedure at its disposal or documentation which could prove that the selection procedure was conducted correctly. The responsible persons of public sector employers explained to the Commission that after the deadline for an appeal and when the purpose of data processing is fulfilled, all personal data is either returned to the candidates at their request or is destroyed, whereby they referred to the legislation on the protection of personal data and Article 48 of the Employment Relationship Act (ZDR-1), which provides in paragraph three that personal data of workers for the collection of which a legal basis no longer exists must be immediately deleted and ceased to be used. This provision also applies to the personal data of candidates. In the cases

considered, the Commission was therefore unable to verify who the remaining candidates that applied for the specific job vacancies were, whether the candidates that were not selected met the requirements for a specific job vacancy, nor how the selection procedure was conducted. The Labour Inspectorate or any other state authority could encounter the same obstacle when carrying out inspections, i.e. verifying the correctness and legality of the conducted recruitment procedure.

According to the assessments and detection by the Commission, recruitment procedures in the public sector are susceptible to high corruption risks and risks of dishonest practices, unethical and other illegal conduct, and are often exposed to corruption risk involving a conflict of interest, which the Commission already pointed out in the past. The clarification of the facts in considering the received reports is particularly challenging when the persons responsible (and other official persons who handle the documentation in each particular stage of candidate's recruitment) do not conduct the procedure in a transparent manner and with great care and responsibility. The absence of documentary material prevents the state authorities from verifying past events when performing their statutory tasks and makes it very difficult for persons responsible to prove their proper conduct.

Because the Commission assessed that the reasons for the destruction of documentation given by the persons responsible of the employers were not justified and failed to consider all aspects of the sectoral legislation, it also obtained opinions from other state authorities when it considered the received reports. The Information Commissioner highlighted that the duty of every personal data controller is to determine whether to store certain data following the expiry of the original purpose and on what other legal basis – e.g. in recruitment procedures pursuant to obligations and punitive law. The Labour Inspectorate can also face difficulties in document acquisition. In order to work efficiently (i.e. to conduct minor offence proceedings where the period of limitation is usually two years), the Labour Inspectorate must be able to acquire the documentation even after the expiry of a 30-day time limit pursuant to the Employment Relationships Act. In its opinions the Information Commissioner also highlighted that the employer must store the documentation which proves how the candidates have been assessed (i.e. have they met the selection criteria or not) regardless of the time limit for appeal. Because of the large number of questions that the Information Commissioner receives on the processing of personal data in the field of labour, the Commissioner drew up Guidelines for Personal Data Protection in Employment Relationships (hereinafter: the Guidelines of the Information Commissioner) at the end of 2016. The Guidelines of the Information Commissioner clearly state that the purpose of the documentation produced in the selection procedure (for example the vacancy notice, applications of candidates, the decision appointing the selection panel, analysis of the applications, invitations to interviews, tests or examinations of knowledge, records of the selection procedure, decision on selection, notifications to the selected candidate and the non-selected candidates, appeals) is to determine the most appropriate candidate and at the same time to serve as proof that the selection procedure has been conducted correctly. The Information Commissioner concludes that in accordance with these purposes the documentation should be stored for a longer period, i.e. for as long as it is possible to invoke the rights derived from the selection procedure or for as long as it is possible to lodge a criminal complaint or file an action for damages (i.e. five years from the date of the decision on selection).

Pursuant thereto, the Commission adopted a principled opinion that conduct of persons responsible and other official persons of public sector entities who do not follow the Guidelines of the Information Commissioner in the recruitment of new workers as regards to storage of documentation produced throughout the selection procedure is a violation of due diligence, prevents competent state authorities from functioning effectively and consequently violates integrity as defined in point 3 of Article 4 of the ZIntPK.

The preventive activities of SNAP and adopted recommendations

In 2019, SNAP responded in writing to 81 different general questions from residents on the Commission's competences in investigating suspicions of corruption (in 2018, SNAP answered 39 general questions).

SNAP also carried out preventive activities. In collaboration with the Slovenian Directors' Association (SDA), SNAP drew up a code of conduct for members of supervisory boards in cases of political influence and other forms of pressure and

unethical influence on independent decision-making. The aim of the code of conduct was to raise awareness of supervisory board members of their duty to report unethical and illegal attempts at influencing their decision-making made by third parties by means of demands, threats, corruption or any other means with a view to advancing their own interests that are subject to decision-making in supervisory boards. If the members of the supervisory boards are subject to pressure, influence or other demands by third parties, their personal integrity as well as exercise of supervisory functions with due diligence are at risk. If they fail to respond appropriately to such attempts, they will not be able to safeguard the interest of society in their decision-making, which can lead to personal, civil and criminal liability. They also lose their personal integrity and reputation. It is therefore important that the members of supervisory boards are aware of their duty to report unethical and illegal attempts at influencing their decision-making.

In 2019, the Commission issued several recommendations on a proposal from SNAP to state authorities, local communities and public sector bodies. SNAP staff also participated in providing six training courses for various participants.

Below is an overview of some recommendations that the Commission issued on the proposal of SNAP.

Recommendations relating to public procurement

Case 1:

In regard to determining the categories of buildings when determining the reference conditions in procedures for the award of public works contracts, the Commission established that the selection of the categories of buildings is under the jurisdiction of an expert commission formed to manage the public contract concerned. According to the collected data, there are no internal acts in which guidelines binding the expert commissions in selecting the categories of buildings would be provided. Therefore, the Commission issued a recommendation to the Ministry of Health to record the already existing criteria for the selection of categories of buildings in the form of an internal act, and, at the same time, assess, based on the completed procedures, whether it would be possible to add additional criteria to the existing ones, which expert commissions would have to take into consideration when determining the reference conditions in regard to the categories of buildings, as that would improve the transparency of the procedure and eliminate any potential corruption risks.

Regarding the given insurances in procedures for the award of public work contracts managed by the Ministry of Health, the Commission established that there are no predetermined procedures and criteria to determine whether a certain insurance is suitable and to verify the quality of the issued insurance. Therefore, it issued a recommendation to the Ministry of Health to adopt a relevant internal act to determine the insurance quality examination procedure, and criteria for the suitability of insurance. The adoption of a relevant internal act regarding the examination of the quality of issued insurances guarantees the economical and efficient use of public funds, while also improving transparency of the procedure and eliminating potential corruption risks.

Following the complaints in the reports filed and on the basis of collected data, the Commission also established that the same persons were involved in preliminary procedures that are the basis for the execution of public works contracts under the Ministry of Health, in procedures for the award of public works contracts, and, later, in the execution of the public procurements by the chosen tenderer. The involvement of the same persons in the phase of public procurement procedures and in the execution of the public procurement is regulated by the Public Procurement Act (hereinafter: the ZJN-3). Nevertheless, such involvement of persons in different phases of the procedure in itself poses certain corruption risks; therefore, recommendations were issued to the Ministry of Health to consistently comply with the provisions of Articles 65 and 91 of the ZJN-3.

Following the complaints that there were multiple annexes concluded and the real prices of projects increased in public procurements carried out under the Ljubljana University Medical Centre, the Commission established that the conclusion of annexes in itself does not constitute a violation as the ZJN-3 permits the conclusion of annexes in certain cases. Nevertheless, the overly frequent conclusion of annexes poses corruption risks and can indicate an illegal and ineffective

use of budget resources. The extension of timelines in itself also does not constitute a violation as the contracting authority has the possibility to claim insurance if the extension was without due cause or they can extend the procurement service provider's timeline if the extension was for duly substantiated reasons. If the extensions are frequent and not duly substantiated, they certainly pose a corruption risk.

As the detected corruption risks regarding the frequent conclusion of annexes that increase the real price of the execution and extend the implementation deadlines in this specific case require an assessment of the legality and prudence of the use of public funds, the Commission issued a recommendation to the Court of Audit of the Republic of Slovenia to add to its annual work schedule the audit of efficiency and prudence of the use of public funds in regard to the execution of the public works contracts under the Ljubljana University Medical Centre, performed independently or together with the Ministry of Health.

Case 2:

The Commission received a report regarding irregularities in the purchase of goods and services by the Private Investigation Chamber of the Republic of Slovenia, namely,

- that some purchases were not made reasonably,
- that some purchases were made without previously acquiring a larger number of offers, and
- that some services were procured from related parties.

Concerning the rules on the procurement of goods and services applying to the procedures for the procurement of goods and services carried out by the Private Investigation Chamber, the Commission established:

- that the Private Investigation Chamber is not a liable party under the Public Procurement Act,
- that the Private Investigation Chamber has not adopted any internal rules in regard to the procedures and conditions for the procurement of goods and services, and
- that the Private Investigation Chamber is not liable regarding the conflict of interests under the ZIntPK. Moreover, the Private Detective Services Act does not contain any provisions on the conflict of interest.

The collected documents and explanations show that the Supervisory Board of the Private Investigation Chamber uncovered some irregularities and unsound operation, but since the Private Investigation Chamber has not adopted any internal acts and the provisions of the ZJN-3 do not apply to it, the Supervisory Board could only provide the management board with recommendations and findings based on the general principle of the diligence of a good manager.

Considering the stated corruption risks, the Commission recommended that the Private Investigation Chamber adopt internal rules to regulate the conditions and procedures for the procurement of goods and services, as the internal general legal act would ensure the highest level of transparency, as well as allow potential subsequent verification of compliance with the adopted rules. If internal rules were adopted, all members of the Private Investigation Chamber would be informed of the conditions and procedures, which would ensure greater transparency within the authority (Private Investigation Chamber) than the adopted recommendations of the Supervisory Board.

Case 3:

In considering the report with complaints about irregularities in the procedures of the award of a specific public works contract, the Commission established that the contracting authority did not act in accordance with paragraph two of Article 81 of the ZJN-3 when verifying the admissibility of tenders, as it did not verify whether the (natural) persons who were chosen by the selected contractor in their tender as the responsible manager of works regarding road lighting, and as the responsible manager of works regarding the construction of the water distribution system comply with the relevant conditions for the participation, and whether there are any grounds for their disqualification.

The Commission also established that the chosen tenderer was obliged to declare the responsible manager of works regarding road lighting and the responsible manager of works regarding the construction of the water distribution system in its tender either as subcontractors or as economic operators on the capacities of which it relies.

The Commission also established a suspicion that the supervision and the monitoring of the construction by the responsible managers of individual works were not adequate. The responsible managers of individual works collaborated with the selected contractor under work contracts. Neither responsible managers participated in construction works or the project from the very beginning. The selected contractor clarified that they will carry out the work during the period when works to which essential requirements within the meaning of Article 18 of the Construction Act (hereinafter: the ZGO-1) apply would be carried out. The selected contractor also clarified that the responsible manager of all works, which cover all areas of the construction, is present at the site.

The Commission addressed its enquiries regarding the duty of guaranteeing the compliance of works carried out to the construction supervisor. The construction supervisor explained that all obligations from the contract performance agreement are based on the ZGO-1, which, in Article 76, stipulates that the contractor who is responsible for the entire construction must appoint a responsible works manager and a contractor that only assumes responsibility for specific works must appoint a responsible manager for such specific works. The responsible works manager and the responsible manager for individual works must keep relevant records on the management of the construction and individual works by making daily entries into the works execution log. Since the whole extent of the works were awarded to one contractor, the contractor had to name the responsible manager for individual works because of the contracting authority's requirements in the tender documentation. The contract engineer also presented the timeline for the execution of individual works.

Based on the stated clarifications, the Commission invited the contracting authority to explain why the tender documentation required the appointment of a responsible manager of individual works regarding road lighting, and a responsible manager of individual works regarding the construction of the water distribution system. The contracting authority replied that the tender documentation required the tenderer to appoint a responsible manager of individual works regarding road lighting and the construction of the water distribution system because the specification of work also entails electrical works and mechanical installation works which, in accordance with the ZGO-1, require a relevant expert from the field of electrical or mechanical engineering.

Based on the explanations provided, the Commission recognised differences in the interpretation of obligations regarding the required presence of the responsible manager of individual works for the supervision and monitoring of the construction.

The Commission also established that the right of the party to the (pre-)review procedure to adversarial proceedings was violated. The legal protection of tenderers and candidates, contracting authorities and the public interest, including the legal protection of defence and security interests, in procedures for the award of public contracts are regulated in the Legal Protection in Public Procurement Procedures Act (hereinafter: the ZPVPJN). Legal protection in public procurement procedures is based on the principles of legality, promptness and efficiency, accessibility, publicity, and the adversarial principle. The adversarial principle dictates that in the pre-review procedure, review procedure and court proceedings under the ZPVPJN, the contracting authority, the applicant and/or the defender of the public interest and the successful tenderer shall be given the opportunity to be heard on the allegations of the opposing party. The ZPVPJN stipulates that, in the pre-review procedure, review procedure and appeal procedure, the law governing contentious civil procedure shall apply *mutatis mutandis* and in a subsidiary way to issues that are not regulated by the ZPVPJN.

The Commission expressed its opinion regarding the issue whether the compliance with the adversarial principle was guaranteed for parties to (pre-)review procedure considering the fact that the contracting authority provided supporting documents (two work contracts the successful tenderer concluded with the responsible managers of individual works for the implementation of another public contract) during the (pre-)review procedure, while the contracting authority and the National Review Commission (DKOM) did not refer these documents to the applicant to give the applicant the opportunity to state their views, although, their decision was based on these documents.

As the ZPVPJN does not regulate this issue, the Contentious Civil Procedure Act shall apply to questions regarding the compliance with the adversarial principle in the proceedings. In Article 5, this act stipulates that the court shall grant each

party the opportunity to be heard on the opposing party's claims and assertions. The provision derives from the constitutionally provided right to equal protection of rights in the procedure. Article 22 of the Constitution of the Republic of Slovenia provides that everyone shall be guaranteed equal protection of rights in any proceedings before a court and before other state authorities, local community authorities and holders of public authority that decide on their rights, duties or legal interests. In its decision Ref. No Up 12/97 of 25 March 1999 regarding the constitutional procedural guarantees in the evidence-taking procedure, more precisely regarding the right to submit evidence and participate in the procedure, the Constitutional Court held that: "The right to equal protection of rights in any proceeding in accordance with Article 22 of the Constitution also entails the evidence-taking procedure. Under this right the equality of parties must be guaranteed in the evidence-taking procedure, which means that the party has the right to submit evidence and to be heard about the evidence motions of the counterparty, to be present when evidence is presented, to ask witnesses and experts questions, and to be heard about the results of the procedure." The provision of Article 22 of the Constitution is to also be understood in the manner that the court has to guarantee compliance with the adversarial principle regarding the facts and evidence observed *ex officio*. The court must not produce nor admit evidence regarding which the party was not afforded the opportunity to be heard about. Although the Constitutional Court adopted this position when resolving the constitutional complaint against an administrative ruling, the position also directly applies to the assessment of the same issue in the civil procedure as well as in this particular case.

In considering the case in question, the Commission also took a position on whether the provisions of the ZPVPJN, more precisely paragraph one of Article 38 of the ZPVPJN stipulating that the National Review Commission shall make decisions within the limits of a request for a review, i.e. on all the alleged infringements in the contract award procedure, were observed. In this regard, the Commission established that the National Review Commission did not take the position regarding the allegations of the applicant that, considering the tender documentation and the fact that the responsible manager of individual works regarding the works on road lightning was not the tenderer's employee, the tenderer should have named the responsible manager of individual works as a subcontractor or an entity on the capacities of which they rely. The National Review Commission also did not take the position regarding the allegation that the contracting authority violated the provision of paragraph two of Article 89 of the ZJN-3 and the provisions of its own tender documentation as it did not verify whether the appointed responsible manager of individual works was also the tenderer's employee or whether the chosen tenderer even has the stated staff at their disposal.

On the basis of the above, the Commission recommended the contracting authority to:

- lay down technical and professional criteria for economic operators that are proportional to the subject-matter of the public contract during the adoption of the tender documentation;
- verify the existence and content of data or other information indicated in the tender of the tenderer to which it has decided to award the public contract after the expiry of the time limit for the submission of tenders and before awarding the contract;
- ensure compliance with the adversarial principle in the pre-review procedure.

In the same case, the Commission issued a recommendation to the National Review Commission to ensure compliance with the adversarial principle in the review procedure so that when it makes decisions within the limits of a request for a review, it decides on all the alleged infringements in the contract award procedure, and to ensure the equality of parties to procedures.

Recommendations relating to health care

Case 1:

In Case 1, the Commission considered the report of suspected corruption in regard to the employment of a family member of a manager in a certain health institution. The Commission referred the received report to the Labour Inspectorate for consideration, and obtained the findings of the Inspectorate. The Commission also received the final report from the Ministry of Health on the administrative supervision performed in the public health institution concerned. The final report stated that the director of the health institution explained to the administrative control authority that "there

are no regulations prohibiting the employment of the director's daughter", and that there are 24 other cases in the hospital where family relations are involved. The administrative supervision by the Ministry of Health also established that the director's daughter did not fulfil the tender conditions for the job vacancy (although the post was classified anew), and could not enrol in the specialisation programme of laboratory medicine due to inadequate education; however, her enrolment was enabled based on a decision by the Ministry of Health.

Based on the findings made by the administrative supervision, the Commission assessed that it was necessary to raise the issue of inadmissibility of methods of staffing based on family and/or friend connections. It is crucial to ensure that enrolment into specialisation programmes is only possible for candidates who will provide protection of human health and life after the conclusion of the programme. If persons with inadequate previous education enrol in specialisation programmes, that poses a risk to the protection of human health and life.

Based on its findings, the Commission issued the following recommendations to the Ministry of Health:

- The Ministry of Health as the founding member of public health institutions owned by the Republic of Slovenia has to warn the responsible persons in public health institutions that, as officials, they have to pay due attention to any actual or possible conflict of interests and make every effort to avoid such conflict (paragraph one of Article 37 of the ZIntPK). Pursuant to point 12 of Article 4 of the ZIntPK, a conflict of interest means circumstances in which the private interest of an official person influences or appears to influence the impartial and objective performance of their public duties.
- In classifying jobs relating to the provision of health services in the broadest sense, public health institutions have to take into consideration the opinions or positions of the Medical Chamber of Slovenia, the Chamber of Laboratory Medicine and other competent authorities (e.g. required education, eligibility to enrol into specialisation programmes, etc.) to ensure the protection of human health and life.
- If, in the process of administrative supervision, the Ministry of Health establishes irregularities (conditions for the job have not been met), it has to act to remedy the established irregular situation.

Case 2:

In Case 2, the Commission considered the report of suspected corruption in regard to energy efficiency renovation works in a certain public health institution. The report stated that the manufacturer's gas turbines installed during the energy efficiency renovation were in a very poor condition. Based on the additionally provided documentation, the Commission examined the whole issue and formed findings on the case. After investigating the facts of the case under consideration, the Commission established that in the future the Ministry of Health has to act with all due diligence when implementing investments in public health institutions, and to look after the interests of the contracting authority more carefully.

Based on its findings, the Commission issued the following recommendations to the Ministry of Health:

- The Ministry of Health and/or public health institutions should insist that architects produce technical plans that enable different contractors and different suppliers to implement the project, this being the only way to ensure competition between tenderers for the supply of different equipment to implement the investment. For example: a plan in which an architect (intentionally) includes a technical solution that may be provided or supplied by only one supplier (who is "connected" with the architect) for the selected most favourable contractor in the process of implementing the investment is inappropriate. If the contracting authority does not request that the architect's design should include solutions that make possible for the necessary equipment to be supplied by at least three suppliers, there is a risk of the architect being connected with a certain supplier, expecting the supplier to pay them a certain percentage of the commission on the supplied and installed equipment because they helped them get the job.
- The Ministry of Health and/or the public health institute as the contracting authority should have confidence in an expert who holds a licence issued by the Slovenian Chamber of Engineers, but they should nonetheless supervise the expert's work. If an expert who holds a licence issued by the Slovenian Chamber of Engineers and the contractor that has been selected as the most advantageous tenderer in the public procurement

procedure have interests that are "very similar", it can hardly be expected that the expert will work in the interests of the contracting authority as they will make decisions in favour of the contractor rather than the contracting authority.

Case 3:

Based on the received report about the actions of a doctor in a public institution, the Commission considered doctors' privileges. In 2019, the Commission panel adopted the final conclusions on the report, establishing that a doctor in the public institution (daughter) granted sick leave to her family member (mother), and a departure abroad during this sick leave. During the sick leave, the family member (mother) took care of three young children not yet attending school (children of the doctor – her daughter) in an apartment owned by the employer (public institution) on an island. The case considered by the Commission was from 2018. However, the Commission was informed that the employee of the public institution acted in a similar way (combined sick leave with her annual leave) in 2019 and 2017, i.e. three years in a row.

The Commission did not identify any violations of the ZIntPK in the case considered. However, in examining the circumstances related to doctors' privileges, it established that the privileges are interpreted and/or exercised differently among the competent authorities (doctors, Medical Chamber of Slovenia and Health Insurance Institute of Slovenia), and that some doctors' rights lack a legal basis, which can lead to corruption risks. The Commission established that it is likely that doctors do not comply with the provisions of the Code of Medical Ethics, that they have certain rights that lack a legal basis, and that the competent authorities do not interpret the Rules on compulsory health insurance and/or the Health Care and Health Insurance Act as they are interpreted by the Health Insurance Institute of Slovenia.

Therefore, the Commission sent a call to action in accordance with Article 13 of the ZIntPK to the Ministry of Health, the Health Insurance Institute of Slovenia, and the Medical Chamber of Slovenia. The Commission called on the institutions to explain how they will act in regard to the measures related to the Code of Medical Ethics, what measures will be implemented regarding doctors' privileges, and how a uniform interpretation of provisions of the Health Care and Health Insurance Act and the Rules on compulsory health insurance will be ensured.

Case 4:

In 2018, the Commission considered a report of suspected corruption regarding the appointment of the director of a certain public health institution and established that the director of the public health institution was appointed by way of an ordinance of the founding municipalities. The Commission believes that due to its provision that "the director is appointed and dismissed by the council of the institute with the consent of the founding municipality where the institute's registered office is located" (however, this provision was not transferred to the amendments to the statute), the ordinance was in violation of paragraph two of Article 32 of the Institutes Act (hereinafter: the ZZ) and paragraph one of Article 29 of the Health Services Act (hereinafter: the ZZDej) which is also the sector-specific act governing health institutions at the primary level. Paragraph one of Article 29 of the ZZDej explicitly stipulates that "the director of a health institute shall be appointed as well as dismissed by the council of the institute with the consent of the founder," which in the case of several founding members means with the consent of all founding members.

In 2018, the Commission – based on the established corruption risks – issued a recommendation to the municipal councils of all founding municipalities of the health centre to harmonise the ordinance with the provisions of the ZZ and the ZZDej, and informed the supervisory boards of the founding municipalities of the recommendation. As one year after the recommendations were issued the ordinance was still not in compliance with the provisions of the ZZ and the ZZDej, and, consequently, the corruption risks remain, the Commission has requested from the Ministry of Health to file a motion for a review of the legality of Article 3 of the Memorandum of Association of the public health institution with the Constitutional Court.

Determining the conditions and criteria for appointing candidates for the Governor and Vice-Governors of the Bank of Slovenia

In considering the suspicion of a violation of due action by a holder of public office at the Bank of Slovenia, the Commission examined the legal basis for the appointment of the Governor and Vice-Governors of the Bank of Slovenia.

Within the scope of its powers, the Commission requested and acquired relevant explanations, from the Office of the President of the Republic of Slovenia among others.

The Commission established that the Bank of Slovenia Act (hereinafter: the ZBS-1) does not lay down any special conditions or criteria to be satisfied by candidates for the Governor or Vice-Governor on appointment, or criteria to be taken into account in the selection of the proposed candidates. The criteria are also not laid down in any other records, internal acts or documents.

In accordance with Article 4 of the ZIntPK, members of the Governing Board of the Bank of Slovenia (Governor and Vice-Governors) are holders of public office and officials. Therefore, the Commission considers it unacceptable that there are no conditions and criteria for the selection of candidates for such positions in the public sector. Procedures for the appointment and dismissal of public office holders that are regulated (or rather not regulated) in the manner as set out in the ZBS-1 are not consistent with ensuring the highest levels of transparency and traceability expected of such procedures and do not allow for the elimination of risks of corruption and political influence and other influence of interest groups on the appointment or dismissal of members of the Governing Board of the Bank of Slovenia.

In accordance with the provisions of Article 39 the ZBS-1, the office of a member of the Governing Board of the Bank of Slovenia may be terminated if it is established in the prescribed procedure that the member concerned no longer meets the required conditions for the performance of their duties or that they have committed a serious violation; this is unacceptable, considering that the act does not expressly define any such conditions for the appointment of a candidate and the termination of office; accordingly, this could give rise to corruption risks, a lack of transparency and traceability and, consequently, violations of the principles of ethics and integrity in procedures for the appointment and dismissal of members the Governing Board of the Bank of Slovenia.

In accordance with Article 12 of the ZIntPK, the Commission recommended that the competent ministry amend the ZBS-1 by explicitly defining the conditions and criteria to be met by candidates for Governor and Vice-Governor of the Bank of Slovenia and the grounds for the dismissal of such persons, and informed the Office of the President of the Republic of Slovenia, the National Assembly of the Republic of Slovenia and the Bank of Slovenia of its recommendations.

Recommendations to the Government of the Republic of Slovenia and the Slovenian Sovereign Holding regarding recruitment procedures for members of supervisory boards

The Commission has issued recommendations to the Government of the Republic of Slovenia and the Slovenian Sovereign Holding for ensuring transparency in procedures for the appointment and dismissal of members of supervisory and management boards of companies with state-owned assets.

In considering a report relating to the procedure for the dismissal and appointment of the supervisory board members at the Slovenski državni gozdovi company owned by the Republic of Slovenia, the Commission noted corruption risks and risks of breaches of ethics and integrity in regard to the dismissal and appointment of supervisory board members of predominately or exclusively state-owned companies.

Regarding the identified corruption risks, at the end of October the Commission called on the Government of the Republic of Slovenia and the Slovenian Sovereign Holding, which exercise property rights on behalf of the Republic of Slovenia, to consistently comply with the Commission's systemic principled opinion No 06210-201/2014-30 of 16 September 2014, recommending that, to ensure transparency in the management of state-owned assets, they state in writing the reasons for the decisions they adopt in procedures for the appointment and dismissal of members of supervisory and management boards of companies with state-owned assets. This is the only way to eliminate any potential corruption risks and risks of breaches of ethics and integrity and enable the potential supervision by state authorities.

The systemic principled opinion No 06210-201/2014-30 establishes that transparency has to be increased at all stages of the procedures for appointing and dismissing members of supervisory boards and management boards of predominantly state-owned companies. In the reasoning of the principled opinion, the Commission explicitly states that,

in terms of the responsibility held by the managers and reducing the corruption risks and conflicts of interest and other ZintPK principles, justifying the dismissal by referring to the Companies Act (hereinafter: the ZGD-1), which provides that "the decision to dismiss is left to the shareholders," is inadequate and inappropriate. Furthermore, in the reasoning of the principled opinion the Commission also states its opinion that decision-makers and managers of public assets have to justify their decisions and thus avoid any suspicion of illegal or unethical actions.

The ZGD-1 does not contain any specific provisions stipulating a justification of dismissal of supervisory board members, but that does not mean that the owner or shareholder who can be identified and would request the dismissal of the supervisory board would not have to justify the reasons for their proposal in the event of supervision or request for information by the state authorities. The dismissal of members of supervisory boards prior to the expiry of their term of office is undoubtedly a decision which has to be duly substantiated by the authority or company representing the Republic of Slovenia as the owner, as dismissals without any justifications would clearly constitute an abuse of rights awarded to the authority or company as the manager of public assets.

As the procedures of appointment and dismissal of members of supervisory and management boards of predominantly state-owned or even exclusively state-owned companies constitute the representation of the Republic of Slovenia and, indirectly, the management of assets owned by the Republic of Slovenia, any decision adopted by holding a general meeting has to be duly substantiated. A justification is especially essential for every decision not constituting a "regular decision" within the general meeting, which certainly includes the decision on the dismissal of members of supervisory boards prior to the expiry of their term of office. If the manager discharges the supervisory board beforehand (paragraph two of Article 294 of the ZGD-1), this constitutes a deviation from or a change in company management policies, therefore, the justification of such decisions should also be in accordance with the guidelines of the Organisation for Economic Cooperation and Development (OECD; <http://www.bicg.eu/wp-content/uploads/2017/07/OECD-2015.pdf>).

The OECD guidelines also set out that the state has to manage the predominantly state-owned companies to the benefit of its citizens. This undoubtedly means that a higher level of transparency has to be ensured. Consequently, at least those state authorities that conduct procedures for determining potential violations are allowed to assess, based on a written reasoning, whether the decisions were made to the benefit of the citizens and in accordance with the regulatory norms, or whether authorisations were abused in order to achieve unauthorised goals.

Supervising noise pollution of the environment and compliance with limit and critical values for noise indicators in the environment

The Commission received multiple complaints in which reporting persons listed alleged irregularities regarding noise emissions in the environment and measurements performed by the persons authorised to conduct noise assessments for persons causing noise pollution (noise sources).

A problem was exposed during the examination of allegations in that, in accordance with the law, measurements are commissioned and paid by the person causing the noise pollution. The Human Rights Ombudsman also noted the problems regarding the performance of noise measurements and their suspect results. The reporting persons point out that the reports on performed noise measurements which were commissioned by the persons causing noise pollution did not show any exceedances of limit values, while the noise measurements ordered by the reporting persons (or others, but not by the persons causing the pollution) showed different results. Noise measurements commissioned by the persons causing pollution were supposedly not performed during full operation nor in the areas where the noise levels were the highest, etc. Therefore, they should not be considered as credible. Furthermore, the current legislative regulation also poses a problem that persons authorised to carry out noise measurements refuse to perform certain measurements (e.g. ordered by residents) because they are already providing their services to the persons causing the noise pollution. The Inspectorate for the Environment and Spatial Planning explained to the Commission that at certain locations the noise assessments commissioned by the reporting persons often exceed the limit values. However, it is not always clear whether the overall noise levels were measured or only the noise caused by certain manufacturing activity (e.g. roadway noise). Furthermore, the Inspectorate for the Environment and Spatial Planning explained to the Commission that problems also arise with the commissioning of the control measurements, which should be performed

unannounced and during operation at the highest capacity to ensure the credibility of results. The highest operational capacity can only be ensured by the person causing the pollution, therefore, it is inevitable that they are notified in advance.

In reference to the above, the Commission established the following: Article 101 of the Environmental Protection Act (hereinafter: the ZVO-1) lays down that the person causing environmental pollution must ensure the monitoring of the effects of its operation on the environment. However, operational monitoring may only be carried out by a person that has been entered into the records of providers of operational monitoring in accordance with Article 101a of the ZVO-1. In accordance with Articles 97, 98, 99 and 101 of the ZVO-1, the verification of the monitoring is carried out by the Ministry, which can, by means of a decision, revoke the authorisation for the performance of the operational monitoring, among other things, if irregularities were discovered in the performance of the operational monitoring more than twice. If they have any doubts, environmental inspectors can order control measurements of noise levels. The Inspectorate for the Environment and Spatial Planning informed the Commission that, based on the reports from its regional units (OE), the inspectors proposed a review of the Reports on assessments of noise in the environment, Reports on determining the noise in the environment, and other reports by the Slovenian Environment Agency (ARSO); namely, four times in Celje OE, three times in Murska Sobota OE, six times in Ljubljana OE, and once in Novo mesto OE, Nova Gorica OE and Koper OE. The review identified indisputable irregularities in the performance of the measurements by the persons authorised to conduct noise measurements; namely, twice in Celje OE and once in Murska Sobota OE and once in Ljubljana OE.

The Commission established that the legislative regulation enabling the person causing the pollution to choose the person authorised to conduct measurements does not allow for efficient supervision by the state with regard to the prevention of noise emissions in the environment and, therefore, represents a source of corruption risks. The Commission has established the fact that the choice of persons authorised to conduct measurements, which should be objective and unbiased, is left to the party to the procedure who has its own private interests regarding the outcome of the measurements represents a corruption risk. The person authorised to conduct measurements is authorised by the state to perform, in accordance with regulations, measurements that are obligatory under the legal regulation and are used in administrative or inspection procedures as the basis or evidence, and must, therefore, be legal, i.e. carried out unbiasedly, professionally, reliably, etc. Persons authorised to conduct measurements can abuse this authorisation for their own interest (e.g. financial) and in a particular measuring procedure pursue the goal of the person causing the pollution in whose interest it may be for the measurements to not show exceeding levels of noise in the environment as laid down in the relevant legislation. Furthermore, there is a risk that if the person authorised to conduct measurements exercises this authorisation correctly and legally and the measurements turn out to be detrimental to the person causing the pollution (exceeding the limit values of noise in the environment), they could suffer retaliatory measures, such as the loss of work, if they perform such measurements for the same person causing the pollution in other cases. It is a fact that it is in the interest of the person causing the pollution for the outcomes of the measurements to benefit them, e.g. that they do not exceed the limit values of noise as the legislation stipulates sanctions for exceeded values. Therefore, it is not impossible that the person causing the pollution would exert pressure on the person conducting the measurements (directly as threats, or more indirectly as loss of work). The Commission holds that the identified corruption risks could be controlled with independent supervision and financing of the measurements.

Considering the identified corruption risks, the Commission issued a recommendation to the Ministry of the Environment and Spatial Planning that it should ensure, within its powers, independent supervision of noise pollution and compliance with limit and critical values for noise indicators in the environment laid down by the Decree on limit values for environmental noise indicators. Independent supervision can only be ensured if noise assessments and measurements are conducted by independent, objective and professional providers who will not be subject to the identified corruption risks, which means that the state should designate the provider and finance the assessments.

The Commission also issued a recommendation to the Ministry of the Environment and Spatial Planning to, in accordance with the applicable legislation, exercise more control over the persons authorised to conduct measurements and to impose measures if undisputable irregularities are discovered.

Expert commission experts delivering opinions in accordance with the Personal Assistance Act

The Commission initiated the procedure based on the report stating observations regarding the provisions of the Personal Assistance Act (hereinafter: the ZOE) and the Rules on personal assistance applying to the expert commission of a social work centre. The commission consists of two experts and delivers expert opinions on the basis of which the decision on the right to personal assistance is issued. The report showed that, in certain cases, the employees of social work centres act as both experts and persons issuing the decision at the same time, that commission members are paid EUR 50 for each case closed, even though the cases are handled within their regular working hours for which they are paid according to the employment contract, and that a commission member has to be qualified to use the ZOJA assessment tool and has to hold the certificate of completed training, and it is very likely that the training was not paid by the experts themselves but rather the employer, i.e. the social work centre.

By examining the relevant legislation, the Commission established that social work centres appoint an expert commission consisting of two members – experts who are designated from a list of experts published on the Ministry's website. An examination of the websites of the Association of Social Work Centres of Slovenia and individual social work centres showed that the list of experts includes many persons who are also in management positions in social work centres. Furthermore, paragraph four of Article 6 of the Rules on personal assistance stipulates that remuneration is anticipated for delivering an opinion, therefore, the remuneration for expert's work cannot be contentious. Considering the fact that social work centres appoint experts to expert commissions themselves, there is a real possibility that experts who are employed at social work centres would appoint themselves to a particular expert commission and thus receive financial gain, which would constitute a violation of provisions of a conflict of interest provided by the ZIntPK.

The report also alleges that the employees of social work centres who were appointed to expert commissions to deliver their opinion carried out their expert commission work during regular working hours at the social work centre. The possibility of the members of expert commissions carrying out their work during regular working hours at social work centres while receiving additional payment for their work in expert commissions poses a risk of dishonest practices constituting a violation of the labour legislation. Employees of social work centres are not allowed to perform their work related to expert commissions during regular working hours. They should perform it outside regular business hours either after regular working hours or with justified absence.

Considering the identified corruption risks, the Commission issued a recommendation to the Ministry of Labour, Family, Social Affairs and Equal Opportunities to notify social work centres that cases in which the employees of the social work centre appointed themselves as experts to expert commissions to deliver opinions under the ZOE constitute a violation of the provisions on conflicts of interest in accordance with the ZIntPK. In this regard, the Commission also sent the Ministry its systemic principled opinion No 06211-9/2012/23 of 3 July 2012. Furthermore, the Commission issued a recommendation to the Ministry to notify social work centres that when employees of social work centres who are also members of expert commissions perform expert work for the commission during regular working hours at the social work centre, this constitutes dishonest practices, as well as a violation of the labour legislation, and to verify whether supervisory mechanisms for the prevention of such violations are in place and, if they are not, to recommend to the social work centres to set up such supervisory mechanisms.

Corruption risks in recruitment and selection procedures at the Agency for Communication Networks and Services of the Republic of Slovenia

At its own initiative, the Commission initiated procedures to consider suspected corruption, breach of ethics and integrity of the public sector and request to engage in unethical or illegal conduct when appointing the director of the Agency for Communication Networks and Services of the Republic of Slovenia (hereinafter: AKOS). Regarding the identified corruption risks, the Commission issued a recommendation to the Council of Officials that:

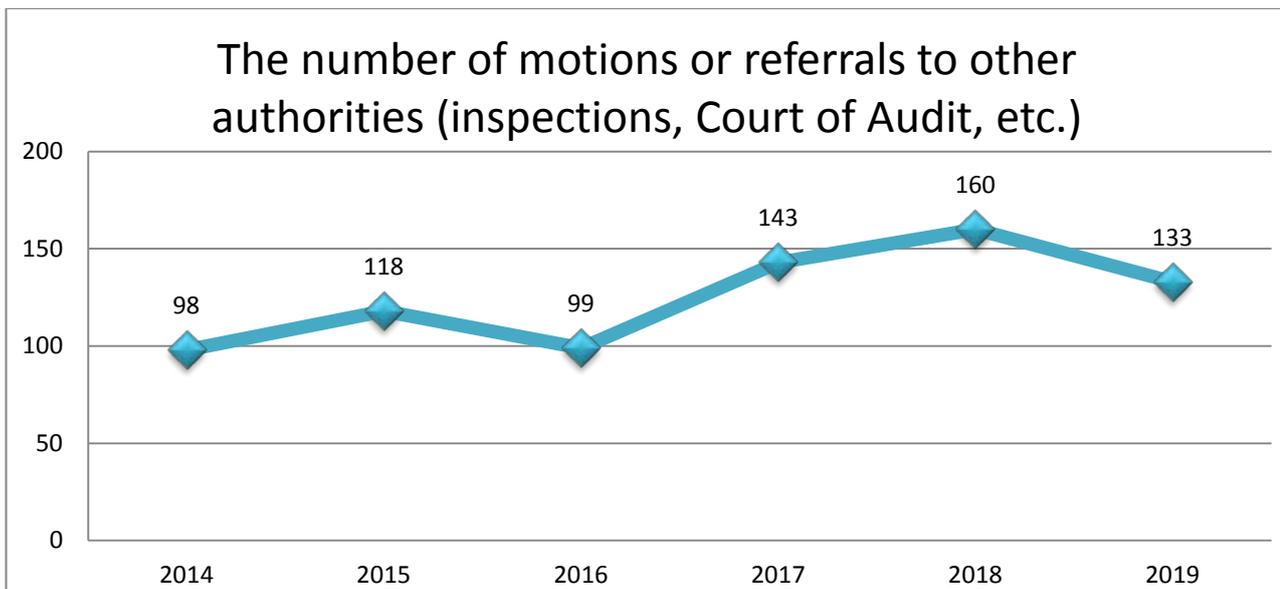
- in appointing persons to management positions, the competition commissions should act objectively and unbiasedly, and ensure equal consideration of candidates;
- competition commissions should pay special attention to the management of the corruption risk of exerting undue influence in competition procedures;
- the Council of Officials should ensure uniform practice regarding the use of the Standards of professional qualifications including the selection criteria and the methods of qualification testing for officials in public administration positions.

Regarding the identified corruption risks, the Commission issued the following recommendation to the AKOS Council:

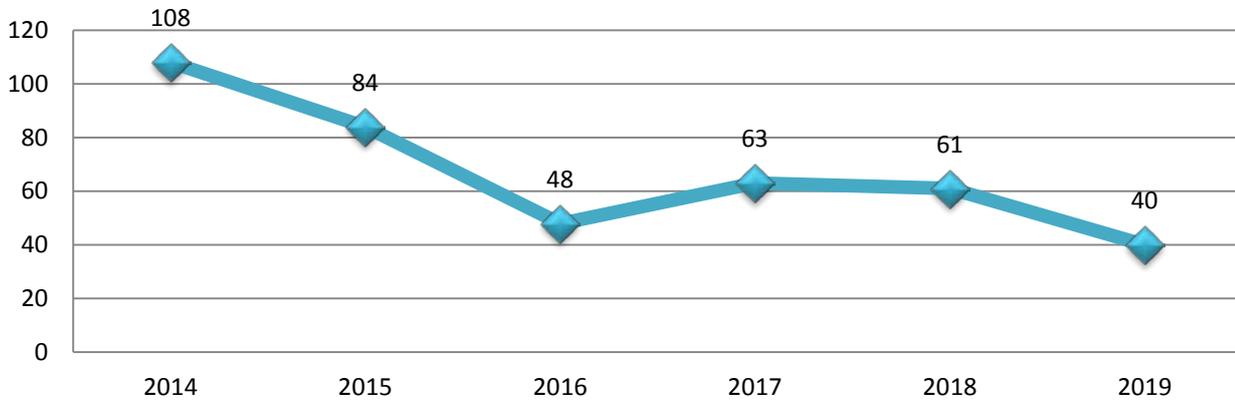
- that AKOS Council members should act rationally and efficiently when using public funds in public procurement, avoid unnecessary and targeted commissioning of legal opinions, and refrain from any actions which result in non-transparent decision-making in staffing matters.

Cooperation with other authorities

In 2019, SNAP continued its active cooperation with law enforcement (40 filed reports and complaints on suspected criminal offences in 2019), inspections and other state authorities, and institutions responsible for performing supervising tasks over the implementation of legislation (in total 133 reports were referred to these institutions for consideration in 2019) in considering reports and investigating corruption risks and other violations of the ZIntPK in order to fulfil the purpose of the act. Along with 40 referrals to the police and the Office of the Prosecutor, SNAP also issued a clarification or a reply at the request of the police or the Prosecutor's Office in 27 cases.



The number of reports and complaints issued to the police or the Prosecutor's Office based on suspicions of criminal offences



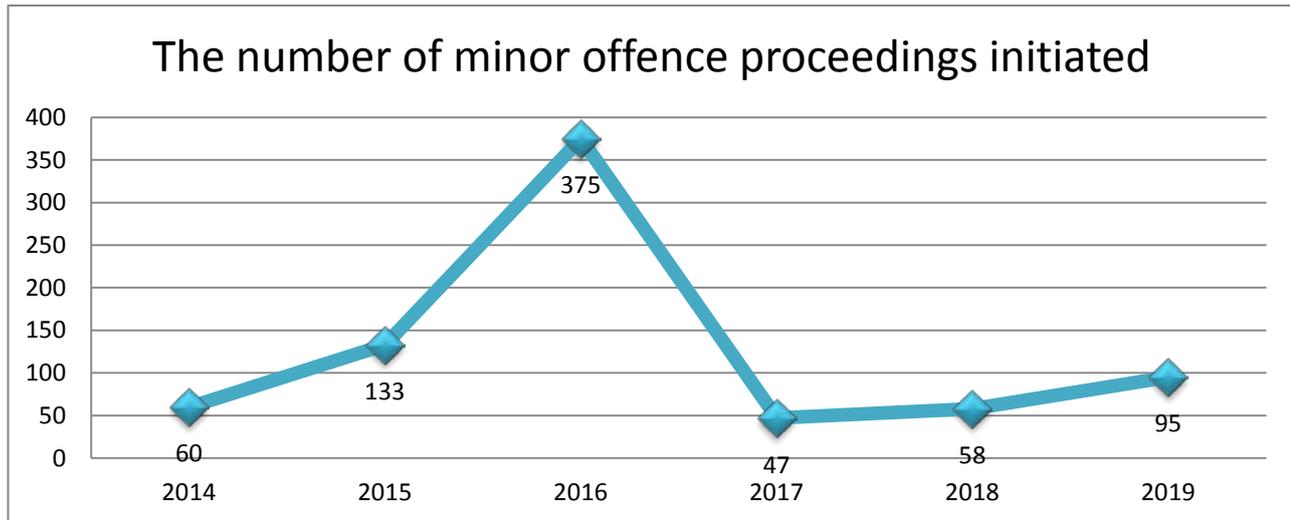
In 2019, the Commission cooperated with other authorities using, in particular, the following procedures:

- operational work meetings with the representatives of the police (especially the National Bureau of Investigation, the Specialised State Prosecutor's Office, and the Court of Audit);
- operational work meetings with the defenders of the public interest dealing with public contracts, i.e. the Public Procurement Directorate at the Ministry of Public Administration, the Competition Protection Agency, and the Court of Audit;
- referring cases to competent authorities for resolution or recommending them to initiate relevant supervisory or minor offence proceedings;
- participation in an inter-ministerial working group to monitor the implementation of the Decree on cooperation between the State Prosecutor's Office, the police and other supervisory authorities in identifying and investigating economic and corruption criminal offences;
- cooperation or participation in training or further training courses;
- participation in the inter-ministerial working group on the preparation of the new Resolution on the national programme for the prevention and suppression of crime 2018–2022;
- participation in the working group on the coordination of cooperation with the European Anti-Fraud Office. This is the Anti-Fraud Coordination Service (AFCOS) that ensures coordination in this field in the country and cooperation with the European Anti-Fraud Office (OLAF).

Minor offence proceedings

Presented below are some statistical data about the Commission's minor offence proceedings:

- 95 minor offence proceedings were initiated (in 2018, the Commission initiated 58 minor offence proceedings);
- 32 decisions on minor offences were issued (11 fines were imposed, and 21 sanctions of reprimanding nature were imposed);
- 48 warnings in accordance with the Minor Offences Act (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos 29/11 – official consolidated text, 21/13, 111/13, 74/14 – Constitutional Court Decision, 92/14 – Constitutional Court Decision, 32/16, 15/17 – Constitutional Court Decision and 73/19 – Constitutional Court Decision) were issued;
- EUR 15,400 of fines were imposed, and costs of proceedings amounted to EUR 2,170.



In 2019, total fines paid amounted to EUR 5,900 and administrative fees amounted to EUR 2,049 whereby some payments were made in connection with the decisions issued in previous years. Furthermore, the number of proceedings initiated does not correspond to the number of decisions or warnings issued as some decisions were issued in proceedings that were instituted in 2018, while some minor offence proceedings were not concluded with a decision or warning but with a stay of proceedings (e.g. if it was determined that the issue in question was not a minor offence).

Conflict of interest

- 37 minor offence proceedings were initiated
- 17 decisions were issued
- No requests for judicial protection were submitted
- 19 written warnings were issued

Restrictions on business activities

- 7 minor offence proceedings were initiated
- 2 decisions were issued
- 2 warnings were issued
- No requests for judicial protection were submitted

Incompatibility of office

- 6 minor offence proceedings were initiated
- 3 decisions were issued
- 2 written warnings were issued

Lobbying

- 23 minor offence proceedings were initiated
- 5 decisions and 12 warnings were issued
- 4 requests for judicial protection were submitted

Anti-corruption clause

- 6 minor offence proceedings were initiated
- 2 decisions and one written warning were issued

Protection of reporting persons

- No minor offence proceedings were initiated

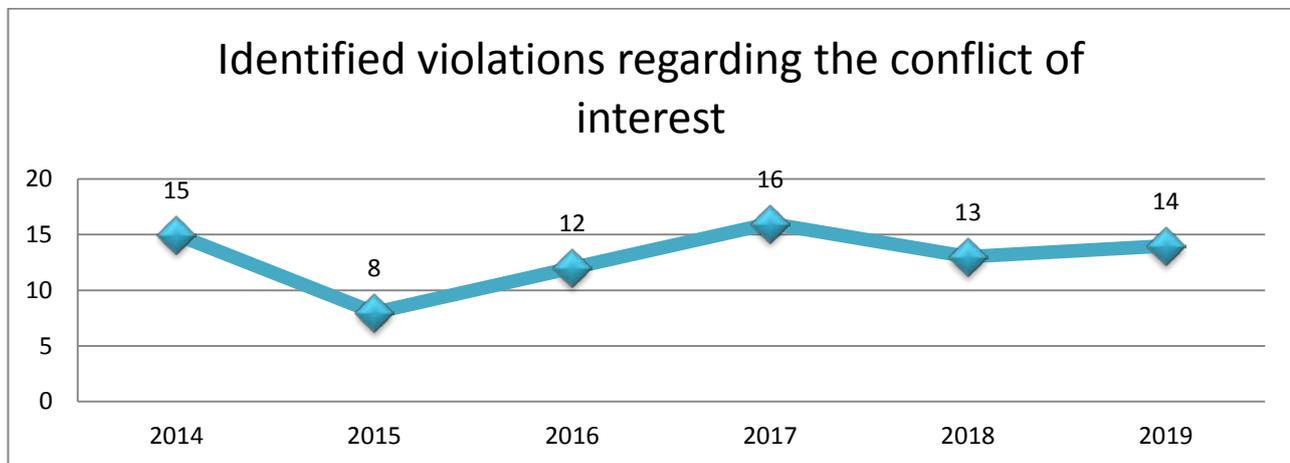
- No decisions were issued

Financial situation

- 16 minor offence proceedings were initiated
- 3 decisions were issued
- 10 written warnings and 2 verbal warnings were issued

Conflict of interest

In 2019, the Commission recorded 101 cases (reports of alleged conflicts of interest and procedures which were opened at the Commission's own initiative) regarding the suspected violation of due avoidance of conflict of interest. The Commission considered and resolved 90 cases. The Commission panel considered 18 cases. In 14 cases it found that the provisions of the ZIntPK on due avoidance of conflict of interest had been violated, 4 cases ended with a stay of proceedings, and the Commission issued recommendations in 2 cases. Outside the Commission panel, 72 cases were resolved. Of these, 59 cases were closed with an official note on the rejection of the deliberation of the report, 10 cases were referred to other competent authorities, while 3 cases were closed with an official note on dismissal.



The reasons for the rejection of deliberation of 59 reports were the following:

- in 49 cases, the Commission did not accept the report for deliberation as it did not contain any indication of serious suspicions of a violation of the ZIntPK;
- in 2 cases, the Commission rejected the report because of the subsidiary application of the ZIntPK;
- in 5 cases, the Commission rejected the report as the official performed the contentious official acts more than 2 years ago;
- in 3 cases, the person in question did not have the status of an official.

The reasons for the dismissal of three reports were the following:

- in 2 cases, the report was dismissed as untrustworthy and/or too general;
- in 1 case, the anonymous reporting person only expressed their opinion, and the case was not considered as a report.

In 2019, 37 minor offence proceedings because of a conflict of interest were initiated. Seventeen decisions on minor offences and 19 warnings were issued. Fines were imposed in 8 cases and in 9 cases only a reprimand was issued.

Last year, the Commission composed 133 answers to questions of individuals and legal persons and legal opinions related to the provisions of the ZIntPK on the conflict of interest.

initiative	
Number of cases closed	90
Number of cases deliberated by the Commission panel	18
Number of cases resolved outside the Commission panel	72
Number of cases where violations were identified	14
Number of referrals to other competent authorities	10
Number of dismissed reports	3
Number of rejected reports	59
Number of minor offence proceedings initiated	37
Number of decisions on minor offences issued	17
Number of written reprimands	9
Number of fines imposed	8
Number of written warnings issued	19
Number of answers to questions, legal opinions and positions	133

Explanation: The statistical data also includes data from the proceedings initiated before 2019 but completed in 2019.

Highlights

With regard to the conflict of interest, the Commission focused on preventive action in the previous period. In writing or via telephone, the Commission promptly answered any questions and dilemmas of public sector authorities and/or officials regarding the conflict of interest in specific cases. The questions touched on different procedures in the public sector and mostly concerned the work of officials in the authorities of self-governing local communities, and members of management bodies of public institutions. Every year, the Commission receives more questions than the previous year (133 in 2019). It has also noted an increase in the number of received reports and referrals from other state authorities that, during their supervision or procedures, identified (potential) violations of the provisions of the ZIntPK on the due avoidance of conflict of interest. In 2019, the Commission received 17 referrals from various authorities: 7 cases were closed with findings on the particular case (i.e. the Commission identified violations of the ZIntPK), while 10 were concluded with an official note.

In 2019, the Commission identified the highest number of violations of due avoidance of conflict of interest (either based on the reports or acting on its own initiative) with regard to appointments and voting procedures or appointing of municipality representatives into management or supervisory bodies of public institutions.

The conflict of interest in employment procedures in public institutions most commonly manifested in the following ways: 1) the manager of the institution (usually the head teacher) participated in the decision-making process regarding the employment (or contract work) of their family member; and 2) a public employee (teacher) or manager (head teacher) of a public institution who was also a candidate for the head teacher of the institution participated in the secret ballot on the candidates during a teachers' council meeting (thus voting about their own position). In the cases concerning employment procedures in public institutions considered in 2019, the Commission identified violations of Articles 37 and 38 of the ZIntPK with regard to 5 persons (3 managers and 2 public employees) who found themselves in 5 specific circumstances of conflict of interest.

The second most common conflict of interest was identified in voting procedures or the appointment of municipality representatives to management and supervisory bodies of public institutions. This is still one of the fields most plagued by conflict of interest. In these cases, municipal councillors (officials – public office holders) who were also members of the Commission for Mandate Issues, Elections and Appointments participated in discussions and voting procedures about candidates for members of councils of public institutions (management bodies) or other positions at the local government level (managers of institutions, member of supervisory boards, etc.) in which they themselves, their family members or persons with which they had personal, political or business contacts were candidates.

In such cases considered in 2019, the Commission identified violations of Articles 37 and 38 of the ZIntPK with regard to 8 officials (municipal councillors) who found themselves in specific circumstances of conflict of interest (in the procedure of appointing a candidate with whom they were connected or were themselves candidates, officials participated in the Commission for Mandate Issues, Elections and Appointments where they prepared the candidate proposals, and then in the municipal council meetings where they approved these proposals and definitively appointed members/managers, etc.).

Interesting practical examples

Here are some typical cases of conflict of interest considered by the Commission in 2019:

- An official employed at a public institution found themselves in circumstances of a conflict of interest by participating in a teachers' council meeting involving a secret ballot on candidates for the head teacher of the public institution, in which they themselves were a candidate, and also voted about the opinion on the candidates for head teacher. It is considered that their personal interest is demonstrated by the fact that by participating and voting they co-decided on the positive opinion (a form of non-pecuniary gain) about themselves.
- The manager of a public institution did not pay attention to the circumstances of a conflict of interest before signing a contract of employment with their family member which enabled their employment. The manager did not notify the head about the possibility of a conflict of interest nor did they eliminate themselves from the contract signing process.
- The manager of a public institution found themselves in circumstances of a conflict of interest when deciding to enter into a contract with a company owned by their family member.
- The Commission deliberated the conflict of interest with regard to several municipal public office holders and determined that, in several cases, the municipal councillors who were also members of the Commission for Mandate Issues, Elections and Appointments found themselves in circumstances of a conflict of interest as they first participated in the Commission for Mandate Issues, Elections and Appointments meeting and later in the municipal council meeting's discussion and voting about candidates for members of the council of a public institution, while running for the position themselves. In addition, municipal councillors that participated in municipal council discussions and voting about candidates for members of the council of a public institution, while running for the position themselves, also found themselves in circumstances of a conflict of interest.

Prohibition and restrictions with regard to the acceptance of gifts

In 2019, the Commission compiled a public catalogue of gifts accepted in 2018, which is published on its website, and answered five questions in connection with gifts. In 2019, the Commission concluded five procedures in regard to alleged violations connected to acceptance of gifts. In accordance with the provisions of the ZIntPK (Articles 30 to 34), it is in the Commission's jurisdiction to supervise the acceptance of gifts by public office holders as exhaustively defined in point 6 of Article 4 of the ZIntPK, and not public employees.

Most of the questions of persons with obligations in this field regarded the dilemmas whether certain gifts are in accordance with the provisions of the ZIntPK and whether they are allowed, and the forms for declaring the acceptance of a gift. In this regard and in connection with keeping the list of gifts, the Commission identified errors in filling out forms and asked certain persons with obligations to supplement relevant forms or to submit the form completed in full.

The form for declaring the acceptance of gifts for the public catalogue of gifts accepted in 2018 was filled out and submitted by 251 authorities and organisations. In 47 authorities and organisations, the gifts were accepted by public office holders. Some of the public office holders hand over all of their gifts to the authority at which they perform their office, while others retain the accepted gifts for their own use, e.g. books, local craft products or tickets for shows.

Incompatibility of office

In 2019, the Commission recorded 14 new reports regarding the incompatibility of office, initiated procedures for six cases at its own initiative. In the same year, the Commission resolved 17 cases regarding the incompatibility of office. Two cases were concluded with final findings, one case was closed with an official note on the rejection of the deliberation of the report and referral, while 14 cases were concluded with an official note on the rejection of the deliberation of the report.

In 2019, the Commission adopted Systemic Explanation No 06240-2/2019 on the incompatibility of office with the performance of a gainful occupation, and on prohibition of membership and activity in accordance with the ZIntPK. In the explanation, the Commission took the following position: "The provisions of the ZIntPK regulating the incompatibility of office and the prohibition of membership and activity are of a subsidiary nature. In accordance with paragraph one of Article 3 of the ZIntPK, the ZIntPK shall only apply to the public sector if issues governed by it are not regulated otherwise by another act. To be more precise, the following provisions of the ZIntPK do not apply if another act regulates issues regarding the incompatibility of office, the prohibition of membership and activity in full and for specific issues otherwise than the ZIntPK."

In 2019, the Commission initiated an examination procedure regarding the incompatibility of office with the performance of a gainful occupation, and the prohibition of membership and activity in accordance with the ZIntPK for the entire group of deputies of the National Assembly of the Republic of Slovenia to whom the Systemic Explanation pertains. All current deputies and those who only performed the office of a deputy for a short period of time were inspected.

In 2019, the Commission also composed 55 answers to questions raised by natural and legal persons, and legal opinions and positions connected with the provisions of the ZIntPK on the incompatibility of office.

In 2019, the Commission initiated six minor offence proceedings in connection with the violations of the provisions of the ZIntPK regarding the incompatibility of office, and issued three decisions.

Restrictions on business activities

In 2019, the Commission recorded 11 new cases regarding restrictions on business activities – seven were opened following the received reports, while four were opened at its own initiative. The Commission also considered four cases regarding restrictions on business activities that were recorded the previous year, i.e. in 2018. In total, it considered 15 reports, of which 13 have already been resolved. Five of these cases were considered by the Commission panel, whereby violations were identified in two cases, while eight cases were resolved outside the Commission panel with the rejection/dismissal of the consideration as there were no confirmed violations of the provisions from the ZIntPK. In one case, violations regarding the non-reporting of the public office holder to the authority where they hold their office were identified, while one case included violations of the provisions of the ZIntPK in regard to the business conducted between an authority and an entity with which the holder of public office at this authority or their family members were connected in a way determined in paragraph one of Article 35 of the ZIntPK.

In 2019, the Commission also:

- composed 88 answers to questions received from natural and legal persons, and legal opinions and positions in connection with the provisions of the ZIntPK on restrictions on business activities;
- initiated seven minor offence proceedings and issued two decisions.

Assets

Even though the ZIntPK has been in force for several years, the Commission still (as in previous years) notes that many persons with obligations as well as authorities are not aware of their obligations under the ZIntPK regarding their assets. During the inspections of the assets of officials in 2019, the Commission identified many irregularities concerning asset declaration by persons with obligations and the submission of lists of persons with obligations by authorities or contracting authorities.

Similarly to the previous years, the following (in)advertent mistakes by persons with obligations were the most common:

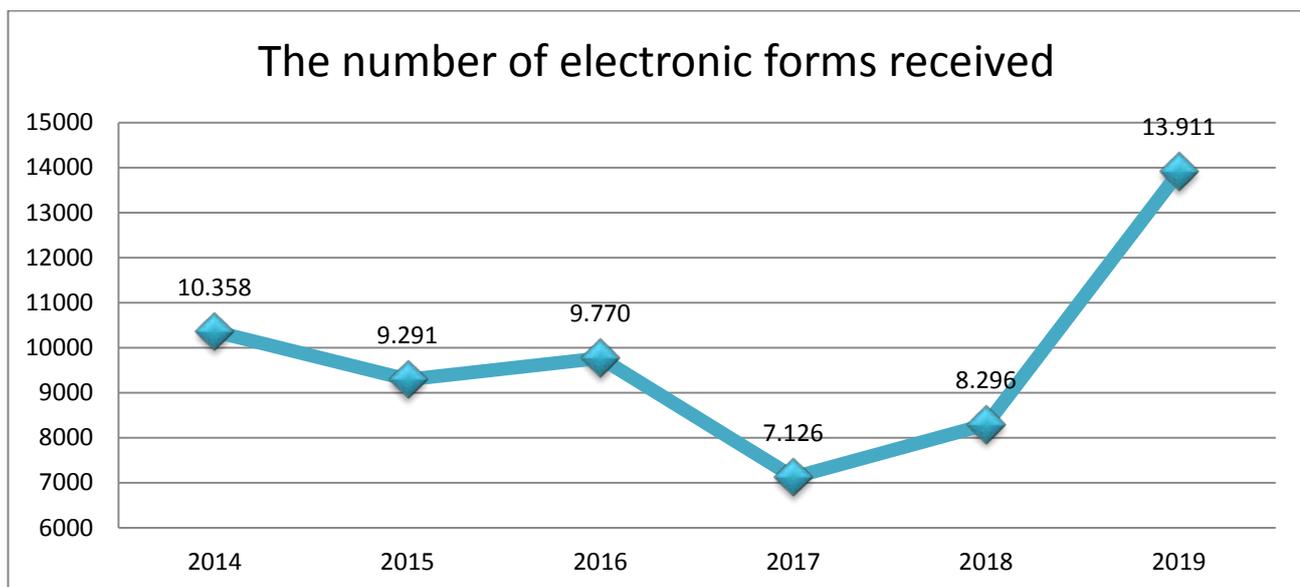
- filling-out the form to register/deregister individuals in/from the list of persons with obligations;
- persons responsible for public procurement fill out the wrong form for the declaration of assets (the form for deregistration of assets or for declaration of changes in assets);
- the form was not filled out on the date of commencement/expiration of office or work;
- the form is not signed;
- providing information in various letters, even though it is obligatory to fill out an electronic form;
- when persons with obligations provide information for the first time, they forget to declare all real property including all land register information irrespective of their value; only if declaring a change in assets, the information on acquired real property in the value of less than EUR 10,000 need not be provided;
- persons with obligations often declare ownership of a vehicle although the vehicle was leased, which means that they are not owners of the vehicle, but have to declare that they have debt;
- persons with obligations who are not public sector employees and participate in procurement procedures forget that they are persons with obligations to declare their assets.

Common (in)advertent mistakes by authorities and contracting authorities that operate in accordance with the regulations on public procurement:

- the forms are not signed by the responsible or authorised person;
- forms do not contain the stamp of the authority (the exception are companies where the stamps are no longer obligatory);
- authorities fail to provide lists of persons with obligations or provide them with a substantial delay;
- authorities provide incomplete lists of persons with obligations.

In the previous year, the Commission received 13,911 forms:

TOTAL	13,911
deregistration of assets	467
deregistration from the register of persons with obligations	1292
declaration of changes in assets	775
registration in the register of persons with obligations	7199
declaration of assets	4178



In 2019, the Commission received 95 written questions concerning the assets of officials. Throughout the year, the supervisors of assets of officials answered many substantive questions related to assets of officials. As in all previous years, the majority of questions were submitted in December, when contracting authorities submit the lists of persons responsible for public procurement, and in January and February when the time limit expires for the obligatory submission of information on any change in assets and for the declaration of assets of persons responsible for public procurement on an electronic form.

The Commission also has an established system of office hours, when supervisors are available to answer questions and provide assistance. Most questions on assets were about who are the persons responsible for public procurement, what are their obligations under the ZIntPK and what are the obligations of authorities. As the question of who are the persons responsible for public procurement is submitted far too often, the Commission has been trying to ensure, throughout the drafting of the amendment to the ZIntPK, that the act would include a clear definition of a person responsible for public procurement which the largest group of persons with obligations would be able to interpret without difficulty.

An important milestone in 2019 was the modernisation of the asset declaration system on the eUprava (e-Government) portal. The Commission carried out the related activities in collaboration with the representatives of the Ministry of Public Administration. The new system for submitting asset declarations was launched on 1 January 2020. It eliminates administrative barriers for both persons with obligations and the Commission.

This is an important modernisation eliminating the barriers of the previous system where a person with obligations had to print the filled-out form, sign it and send it by post. In the new system, persons with obligations fill out the form and sign it with a digital certificate or smsPASS mobile identity on the eUprava portal. The form is sent to the Commission automatically.

The eUprava system directs the user through the steps, which considerably reduces the possibility of inadvertent false declaration and the unnecessary risk of unintentional offence.

As in all previous years, the Commission also carried out prevention activities. This included training courses to raise awareness of persons with obligations and contracting authorities about their obligations under the ZIntPK with regard to assets. In December 2019, the Commission conducted training for directors of directorates and public employees responsible for public procurement, during which it presented the new asset declaration system on the eUprava portal. It was also agreed that a special lecture will be held in 2020 for state secretaries and secretaries general at ministries.

At the 11th "Informatics in Public Administration 2019" Conference, the Commission and the Ministry of Public Administration presented the system to the general public as an example of good practice of the digitisation of asset declaration that is very favourable for persons with obligations. Further updates to the system are planned in 2020, which concern both, the persons obliged to declare their assets and the authorities employing persons with obligations.

Supervising the assets of officials

With regard to asset supervision, the Commission conducts two types of procedures, i.e. the regular and the extraordinary inspections of assets, in accordance with its Rules of Procedure. In the regular inspection of assets, the Commission selects a category of persons with obligations whose assets will be subject to inspection. An extraordinary inspection is initiated on the basis of a report or information published in media or information made available to the Commission in another way that gives rise to suspicion that a person with obligations has not declared all their assets or all changes in their assets. The majority of inspections conducted by the Commission are regular inspections, as it receives very few reports concerning the assets of officials. The purpose and aim of asset inspection is to determine whether the provisions of the ZIntPK have been violated and whether a person with obligations obtained assets of unknown origin in the period inspected.

In the past year, the Commission concluded 11 inspections (of individuals and groups), within which it examined 232 natural persons obliged to declare their assets under paragraph two of Article 41 of the ZIntPK, and 212 legal persons obliged to submit information under paragraph five of Article 41 of the ZIntPK.

Below is a summary of an extensive inspection campaign on the assets of mayors in the 2018–2022 term of office in all Slovenian municipalities. The Commission decided to inspect this group of persons with obligations because the Commission panel assessed that mayors represent a category of persons with obligations to which the highest public interest applies with regard to compliance with the ZIntPK and because local elections were held in 2018.

During the inspection campaign, the Commission examined whether mayors declared their assets in accordance with paragraph two of Article 41 of the ZIntPK, i.e. within one month of assuming their office in the 2018–2022 term. The Commission established that 155 mayors did not need to re-declare their assets, as they had already been obliged to declare assets before assuming the current office and have assumed the current office within one month of the termination of the previous office. 20 new public office holders declared their assets in time. 27 new public office holders declared their assets with delay, i.e. after one month of assuming office. However, they submitted the declaration of their own accord, without the notice of the Commission. The Commission sent notices to 10 new mayors reminding them that they have to declare their assets upon assuming office. Following the notices, 8 new mayors submitted information on their assets and the minor offence authority only issued them a warning. Minor offence proceedings have been initiated against two mayors who did not submit information on their assets even after receiving a notice from the Commission. After a reminder, both mayors submitted the requested information.

This inspection campaign also included the records of persons with obligations at municipalities for the period from January 2012 to April 2019. During the campaign, the Commission examined the registrations and deregistrations of mayors, deputy mayors and secretaries of municipal administrations, and the registrations of persons responsible for public procurement. The Commission examined the actual situation in 212 municipalities, which included 6,780 forms for registering or deregistering persons with obligations.

It was established that despite repeated clarifications and several training courses provided by the Commission, municipalities often inadvertently violated the provision of paragraph five of Article 41 of the ZIntPK and did not report every change in the office of persons with obligations, even when public office holders or officials in managerial positions were serving for another term. After the inspection, municipalities registered additional 3,011 persons with obligations (51% increase in the number of registrations) and deregistered 634 persons with obligations (70% increase in the number of deregistrations).

The Commission also notes that the problems municipalities have with fulfilling their obligations are due to the fact that normally the person responsible for registration or deregistration of persons with obligations is the mayor currently in office. Therefore, the Commission proposed to municipalities that they or the mayor appoint public employees who will be responsible for fulfilling the relevant obligations towards the Commission, following the example of persons authorised to implement integrity plans.

In the previous year, the authorised officials recorded the following statistical data with regard to the failure to declare or incomplete declarations of assets (indents 11 and 12 of paragraph one of Article 77 of the ZIntPK): 16 minor offence proceedings were initiated, in relation to which

- 3 decisions,
- and 12 warnings were issued.

Highlights from the previous period

As on 31 December 2019, the Commission:

- had on record 17,164 persons with obligations;
- had conducted 11 inspections related to assets of officials, during which it considered 232 persons and 212 authorities;

- had received 13,911 forms related to the assets of officials;
- had received 95 written questions;
- had issued 12 warnings and 3 decisions;
- had concluded the modernisation of the asset declaration system on the eUprava portal.

Examples of frequently asked questions

What date should the persons responsible for public procurement enter as the date of the start of office or work?

Example: A person responsible for public procurement participates in a contract award procedure in 2019. The contracting authority, by way of a decision, appointed this person to the expert commission on 5 June 2019 and registered them with the Commission as a person with obligations on the same date.

The person responsible for public procurement is obliged to fill out the asset declaration form upon assuming office or duties by 31 January 2020 and enter 5 June 2019 as the date of the start of work. On the same day, they are obliged to list their assets and enter at the end of the declaration the right date to which the information on assets applies – in this particular case, 5 June 2019.

A person participates in an expert commission for awarding a contract as an external partner. Which authority must the person enter in the asset declaration form?

When a person responsible for public procurement is filling out the asset declaration form, they must enter the contracting authority in the public procurement procedure in which they participate as an external partner and not the authority at which they are employed.

A minister, in addition to their current office, temporarily assumes the office of minister at another ministry. What are their obligations with regard to asset declaration? What are the obligations of the ministry with regard to submitting lists of persons with obligations?

If a minister also assumes the office of minister of another ministry (multiple office holding), they do not have to re-declare their assets in full, they must only submit information on the change in their office by 31 January. They provide this information on the form for submitting information on the change in assets under point 2.

Pursuant to the ZIntPK, the minister declares their assets in full no later than one month from the date of assuming office, no later than one month from the date of the termination of office and one year from the date of the termination of office. During their term of office(s), the minister only submits information on any changes in their assets, including the changes in their office in accordance with paragraph two of Article 43 of the ZIntPK.

The ministry must notify the date of the termination of term of office of each person with obligations and the date of the start of term of office of a person with obligations within 30 days of the change on the form for registering a person as a person with obligations or the form for deregistering a person with obligations.

Lobbying

Supervising lobbying

Following the entry into force of lobbying regulations, the Commission notes that:

- lobbying is present and practised in Slovenia, however, due to various reasons it is still perceived negatively and lobbied persons have difficulties admitting that they have been lobbied because they assume they will get negative publicity;
- lobbied persons still lack knowledge of the lobbying regulations; therefore, the Commission invests significantly in training and awareness-raising and promptly answers their questions;

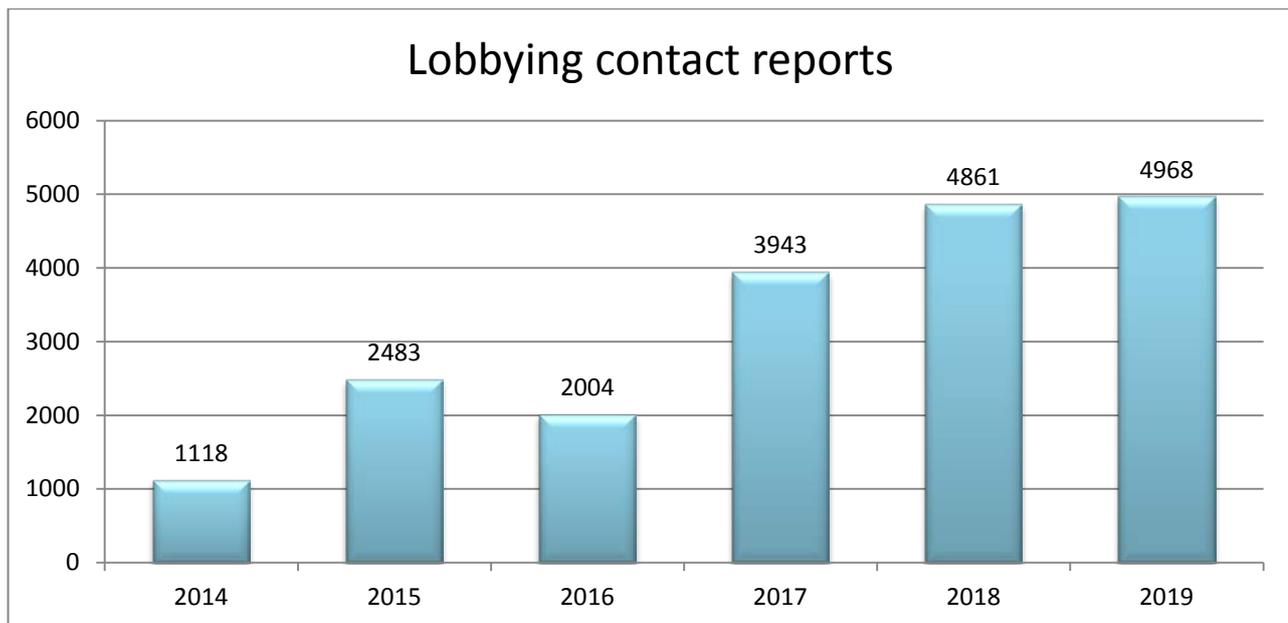
- lobbied persons often believe that reporting lobbying contacts means informing on somebody; in such cases the Commission explains that the obligatory reporting of lobbying contacts is not intended to be used as a means of informing on somebody, but to ensure the transparency of non-public influence of interest groups on decisions in matters of public interest;
- municipalities, certain ministries and the holders of public authority still only seldom report lobbying contacts.

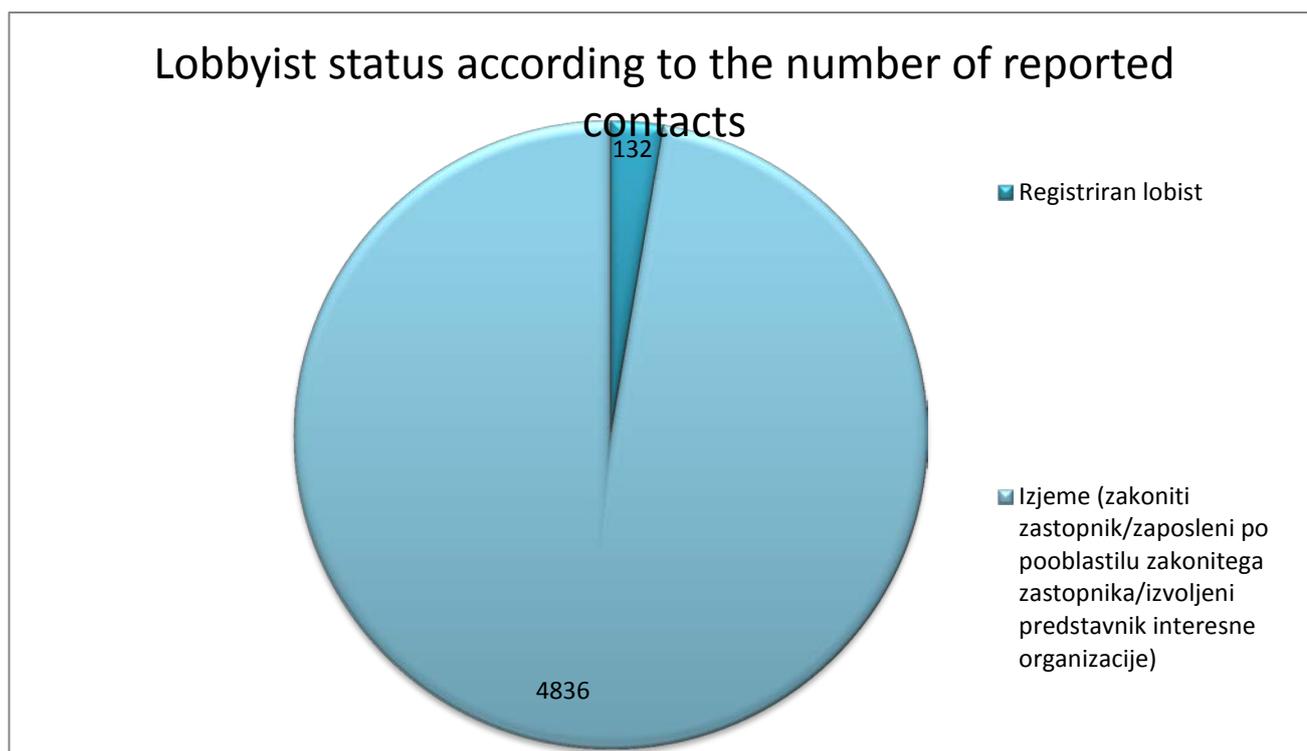
The supervision of lobbying includes, in particular, the following activities:

- planning, organising, performing, coordinating, directing and supervising various tasks related to lobbying;
- training, awareness-raising and informing about lobbying;
- maintaining and updating records on lobbying, including the register of lobbyists in Slovenia;
- conducting administrative procedures related to issuing decisions on the entry in and strike-off from the lobbyist register and to determining the compliance of lobbying reports with the ZIntPK;
- conducting minor offence proceedings and imposing sanctions for the violations of the ZIntPK related to lobbying.

Lobbying contacts

In the past year, there were a total of 4968 reported instances of contact, of which 132 were reported as lobbying activities by registered lobbyists and 4836 as lobbying activities by "exceptions" (lobbying activity was carried out by a statutory representative and/or an employee authorised by the statutory representative or an elected representative of an interest group).





BESEDILO NA GRAFU:

IZVIRNIK	PREVOD
Registered lobbyist	Registered lobbyist
Exceptions (statutory representative/employee authorised by the statutory representative/elected representative of an interest group)	Exceptions (statutory representative/employee authorised by the statutory representative/elected representative of an interest group)

The purpose of lobbying – contacts with lobbying elements

Out of the 4968 reported instances of contact, the majority (3142) were made with the aim of influencing the adoption of regulations and other general legal acts, while 1826 were made with the aim of influencing decision-making on other matters.

The purpose of lobbying – contacts with no lobbying elements

The Commission still notes that public employees and public office holders report contacts that do not have lobbying elements. For example, when persons from the public sector provide information to or obtain information from public office holders or public employees and exercise other permitted forms of public and non-public influence while performing their statutory and/or work duties or protect the interests of a public institution within which they work.

The number of submitted questions and answers

In 2019, the Commission received 50 questions related to lobbying and replied with appropriate answers.

Entry in and striking-off from the register of lobbyists

In 2019, the Commission received eight requests for entry in the register of lobbyists and three requests for striking-off.

Administrative sanctions

In 2019, the Commission did not impose any administrative sanctions on registered lobbyists.

Offences – lobbying

In 2019, 23 minor offence proceedings related to lobbying were initiated, in which 5 decisions and 12 warnings were issued.

**BESEDILO NA GRAFU:**

IZVIRNIK	PREVOD
Vpliv na sprejem predpisov in drugih splošnih aktov	Influence on the adoption of regulations and other general legal acts
Vpliv na odločanje v drugih zadevah	Influence on decision-making on other matters

Integrity and Prevention Centre

Strengthening the integrity of public sector authorities and organisations

Integrity plans are one of the basic tools for strengthening the integrity of authorities and organisations in the public sector, which falls under the responsibility of the Commission. As a tool for managing the risks of corruption and breach of integrity, the plans are useful for strengthening the integrity of the public sector at the specific, operative level of operation of public sector authorities and organisations, but only when used consistently and pro-actively. An integrity plan gives an authority or organisation a clear overview of the risks of corruption or breach of integrity related to its operation, the threats to the authority/organisation if these risks are realised and measures that could limit or eliminate these risks. As an organisation is a live organism whose operation changes through time, its inherent risks also change. It is essential to regularly and promptly review and update integrity plans if their implementation is to be effective. By being aware of the risks and designing and implementing measures for limiting/eliminating them, an organisation strengthens its integrity and indirectly also the integrity of its employees.

In 2018, the Commission already studied a different method of strengthening the integrity of an organisation, i.e. leadership by values⁵. This method is based on establishing an integrity culture in an organisation, which is founded on clear ethical norms and expected behaviour, good human relations and the primary role of the organisation's managers in giving an example of complying with these norms and fulfilling the expectations. This type of leadership emphasises and strengthens the integrity of employees who in turn strengthen the integrity of the organisation with their conduct.

Since, to the best knowledge of the Commission, this leadership principle is not (yet) applied in public sector authorities/organisations, the Commission continued with the upgrading of mechanisms for strengthening the integrity of public sector authorities and organisations in 2019.

Upgrading the concept for strengthening the integrity of the public sector

The Commission strives to strengthen the integrity of the public sector by educating public employees and public office holders on anti-corruption principles, with a particular emphasis on integrity, and through integrity plans, including the supervision of their implementation.

In 2019, the Commission continued designing the upgrade of mechanisms for strengthening the public sector, as is within its statutory powers. The upgrade is based on promoting the implementation of leadership by values as an effective mechanism for establishing integrity in an organisation. In this way, the strengthening of the integrity of an organisation by identifying the risks of corruption and breach of integrity inherent to its operation (its procedures, environment, the activities of employees) is complemented by the strengthening of integrity of employees by the example of the management and by establishing an ethical culture in the organisation. Due to the complexity and multidimensionality of such an upgrade and also due to the volume of other activities (regular and extraordinary) and lack of staff (the Integrity and Prevention Centre only has six employees), the upgrade of the concept for strengthening the integrity of the public sector is slower than we would like and the activities to finalise the concept will continue in 2020.

A questionnaire on ethical culture in public sector organisations

The Commission is aware that measuring the effectiveness of new mechanisms is an important element of their introduction. Therefore, in 2019 it drew up a questionnaire to measure ethical culture and leadership by value in public sector authorities/organisations, as part of the upgrade of the concept for strengthening the integrity of the public sector. The questionnaire is based on a multidimensional model of ethical virtues of an organisation (Corporate Ethical Virtues

⁵ The Commission believes that in terms of content, the leadership by values is the best approximation of the term "ethical leadership", which, although self-explanatory, has less substance.

Model – CEVM or CEV Model) developed by Muel Kaptein⁶, which defines eight virtues or dimensions of ethical culture that affect (un)ethical behaviour in an organisation.

In past years, the Commission has used a similar questionnaire in supervising the implementation of the integrity plan at the Ministry of Finance (see the Commission's 2018 Annual Report). In 2019, it formulated a general questionnaire that can also be used in other public sector authorities and organisations.

Reviewing legislation with regard to corruption risks and the risks of breach of integrity

In accordance with the ZIntPK (indent 15 of Article 12), the Commission may provide opinions on the compliance of proposals for acts and other regulations with the legislation on the prevention of corruption and conflict of interest, prior to their consideration by the Government. The legislature should have an interest in ensuring that the regulations it adopts are reviewed with regard to potential inherent risks of corruption and of breaches of integrity. However, the advantage of such an advance anti-corruption review has not yet attained sufficient recognition, as there is no legal basis that would expressly require the Government, or the ministries as proposers of regulations, to review each regulation proposal with regard to corruption risks before submitting it to the National Assembly (in practice, it would be most efficient to do this during inter-ministerial coordination). Furthermore, the Commission, as a body with express authority to conduct such reviews, would need considerably more staff for this purpose.

Until such system is established, the Commission reviews and delivers opinions on the proposed acts it receives from certain ministries (which is rarely) that are aware of the importance and benefits of such a review and on the proposed acts it manages to obtain itself. In 2019, the Commission reviewed and provided comments to the proposal for an act governing the Council for Persons with Disabilities and was a member of the working group for drafting the proposal for an act governing the Foundation for Funding Disability and Humanitarian Organisations (hereinafter: the FDHO) and the Foundation for Funding Sports Organisations (hereinafter: the FSO).

The Foundation for Funding Sports Organisations in the Republic of Slovenia and the Foundation for Funding Disability and Humanitarian Organisations in the Republic of Slovenia Act

The Commission has been monitoring the operation of the FDHO for many years. In 2011, the Commission ordered the FDHO to draw up an integrity plan due to identified risks of corrupt and dishonest practices.

As some risks are systemic, the Commission actively engaged in the drafting of a new act by becoming a member of the working group established by the Ministry of Education, Science and Sport to draft a new act. Following the appointment of a new Government in 2018, the activities for the amendment of legislative bases restarted and the Commission regularly attended the meetings of the working group on the drafting of a new act and presented its comments to the proposal for an act governing the FDHO. At the beginning, the working group also included representatives of disability, humanitarian and sports organisations and of the Ministry of Labour, Family, Social Affairs and Equal Opportunities. However, in 2019, on the proposal of the Ministry of Education, Science and Sport, the working group was reduced to the representatives of the Ministry of Education, Science and Sport as the body drafting the proposal, the representatives of the Ministry of Finance and two representatives of the Commission in order to accelerate the drafting procedure.

In its comments, the Commission highlighted, in particular, that the existing legislative basis is inadequate and that changes need to be made in the structure of the organisation and its operation and the supervision over the management of public funds needs to be improved. The Ownership Transformation of the Lottery of Slovenia Act

⁶ Kaptein, M. 2008. Developing and testing a measure for the ethical culture of organizations: the corporate ethical virtues model. *Journal of Organizational Behavior* 29(7): 923-947. Available at: https://www.researchgate.net/publication/227701978_Developing_and_Testing_a_Measure_for_the_Ethical_Culture_of_Organizations_The_Corporate_Ethical_Virtues_Model, 3. 5. 2018, and Kaptein, M. 2011. Understanding unethical behavior by unraveling ethical culture. *Human Relations*, 64, 843-869. Available at: <http://journals.sagepub.com/doi/pdf/10.1177/0018726710390536>, 3. 5. 2018.

governing the operation of the the FDHO and the FSO is too broad, but most of all, it has outlived its purpose, which was to regulate the ownership transformation of the Lottery of Slovenia. The Commission believes that it is imperative to establish a legal framework that will clearly redetermine the structure and functioning of the FDHO and provide for stricter supervision of its operations. In general, the Commission in its legislative proposals pursues the objective of ensuring the legality and transparency of the distribution of the FDHO's funds (approximately 17 million euros per year) – i.e. that the funds are distributed among users in an equitable way in accordance with their actual needs – and establishing the supervision of the use of these funds. The Commission's aim is to set up mechanisms that will, while consistently respecting the right of vulnerable groups to self-determination, ensure the legal, transparent and equitable distribution of public funds intended for these groups, and certainly not to nationalise the foundation or interfere with its autonomy, as some (primarily disability organisations, which would like for the situation to stay as it is) often claim.

The findings of the audits of the Court of Audit⁷ and more than 10 judgments of the Administrative Court⁸ also confirm that irregularities have been occurring under the current system for fund distribution. Therefore, the Commission with regard to the proposed act advocates the establishment of a system that would make it possible to check, at any time, whether the allocation of funds to a particular organisation has been justified and legal. The practice shows that the existing system does not allow that, which is also evident from the judgments of the Administrative Court.

In the drafting of the proposal for the act, the Commission pursues the following main objectives:

- to clearly delimit the duties of the Directors and the Councils of the FDHO and the FSO;
- to set up stricter supervision of the operation of foundations with greater direct supervision by the state (e.g. in the adoption of key internal acts, the selection and work of Supervisory Board members, who must be professionals from specific fields; the grounds for the termination of office of Council members must be clearly specified);
- to clearly determine the decision-making procedure for allocating funds (it is essential that the proposed act includes certain fundamental principles and the process rules of the administrative procedure); and
- to introduce preventive mechanisms to ensure a higher level of integrity of responsible persons (the statement on the conflict of interests, precisely regulated procedure in the event of a conflict of interest, the regulation of the status of the director and employees within the public sector system, the payment of meeting fees, etc.).

The Council for Persons with Disabilities Act

Pursuant to indent 15 of paragraph one of Article 12 of the ZIntPK, the Commission can provide its opinion on proposals for acts and other regulations before they are discussed by the Government, with regard to their compliance with the acts and other regulations governing the prevention of corruption and the prevention and elimination of conflict of interest.

Accordingly, on 10 June 2019 the Commission submitted its comments to the proposal for an act governing the Council of the Republic of Slovenia for Persons with Disabilities. The Commission received the proposal, not from the drafting authority but from another stakeholder (the Council for the Persons with Disabilities), on 9 April 2019. However, it was first informed of the deadline for submitting comments (i.e. 10 June 2019) on 30 May 2019 by the interested public. All this despite the fact that the Commission is involved in the subject concerned, primarily through the membership in the working group on drafting the proposal for an act governing the FDHO and the FSO, which is known to the body officially responsible for the proposal of the act (the Minister of Labour, Family and Social Affairs is the body requesting the drafting of the proposal, while the actual drafting was carried out by the Institute of Public Administration at the Faculty of Law of the University of Ljubljana), as it is drawing up the proposals for both acts. The Commission thus again

⁷ Audit reports and post audit report of the Court of Audit, available at: <http://www.rs-rs.si/revizije-in-revidiranje/seznam-revidirancev/revidiranec/fundacija-za-financiranje-invalidskih-in-humanitarnih-organizacij-v-republiki-sloveniji-150/>.

⁸ For example, the judgment regarding the order to draw up an integrity plan issued to the FDHO, available at: <http://www.sodisce.si/usrs/odlocitve/2012032113046739/>, and the judgment regarding the lack of criteria for the allocation of funds, available at: http://sodisce.si/znanje/sodna_praksa/upravno_sodisce_rs/2012032113044667/.

encountered the problem of the failure to include it in the procedure when the proposal for an act was in the drafting stage. This prevents the Commission from being included in the drafting of a regulation in the early stages, which would give it greater influence on the content of the regulation, as well as increase the effectiveness of the drafting procedure. The views of relevant stakeholders, such as the Commission, should be taken into account in the drafting of regulations if the regulations are to be based on the quality analysis of the current situation, which includes the observations of the state authority involved in the implementation of the regulation concerned. Therefore, these stakeholders should be included early enough in the drafting procedure.

In this particular case, the Commission detected risks of corrupt and dishonest practices with regard to illegal influence in the formulation of substantive provisions of the proposed act. The proposal for the act was being drafted by an entity that is not an official producer of documents for government consideration. This prevented the Ministry of Labour, Family and Social Affairs from having control over other influences on the content of the proposed act. It is not possible to ensure a legislative footprint, which should be made possible by obligatory records on lobbying contacts in accordance with the ZIntPK, in the drafting procedure for this act, as the Ministry of Labour, Family and Social Affairs did not have control over the process and cannot know which interest groups (or lobbyists on their behalf) influenced the content of the proposal, directly or indirectly through the members of the Council for Persons with Disabilities, with which the actual drafter of the proposal (the Institute) had consulted several times about the content of the proposal. The minutes of the meetings of the Council for Persons with Disabilities show that the Institute met with the Council several times and wished to follow the Council's proposals. This means that disability organisations had a significant influence on the formulation of the content of the proposed act. There is a concern that the proposal for the act was not drafted based on the existing comparable legal practices and technical solutions but on particular interests.

With regard to the suitability of the proposal for government consideration, the Commission again points out the deficiency (see the Assessment of the Situation, chapter Systemic deficiencies of the legislative procedure) that it had pointed out several times in the past, i.e. that the text published on the eUprava portal is not in compliance with the requirements of the Rules of Procedure of the Government of the Republic of Slovenia, as it does not include a summary of the content with expert basis and key issues and objectives of the proposed act (Article 9a in conjunction with paragraph two of Article 9 of the Rules of Procedure of the Government of the Republic of Slovenia). The assessment of the situation, the grounds for the adoption of the proposed act, the objectives of the proposed act and the assessment of financial consequences for the state budget and other public funds are also inadequate. Furthermore, the Institute did not make a comparative legal review to determine whether other countries also had an independent state body responsible for the protection of disabled persons, what is the structure of any such body, whether there is a selection procedure for representatives of disability organisations to become members of such body, what is their status (public office holders, public employees) and similar. The Ministry of Labour, Family and Social Affairs as the proposer of the act did not make an assessment of whether such a body is even necessary. It is even more worrisome that in a telephone conversation with the Commission, the Ministry of Labour, Family and Social Affairs admitted that it had commissioned the Institute to draft the proposal due to not having enough knowledge about the protection of persons with disabilities. In the past, the Ministry has produced several draft acts that did not meet the requirements of international bodies involved in the protection of persons with disabilities and the requirements of the Convention on the Rights of Persons with Disabilities. This reasoning is unprofessional and calls into question the competence of the Ministry's employees dealing with this area, which definitely requires the employer to take action.

Another important shortcoming of the proposed act is that it envisages the establishment of an independent state body with an organisational structure that is completely different from the structure in other independent state bodies under the Slovenian legal system (e.g. the Human Rights Ombudsman, the Commission for the Prevention of Corruption, the Advocate of the Principle of Equality and the Information Commissioner). These bodies are headed by a holder of public office or several holders of public office as a collegial body, while their specialist services employ public employees. The Council for Persons with Disabilities as proposed by the drafter of the act is completely different. According to the proposal for the act, a consulting body consisting mostly of representatives of private interest organisations (disability organisations) will become an independent state body. This independent state body will have a council as its decision-

making body. It will consist of 14 members, of which 7 will be representatives of disability organisations and 7 representatives of professional organisations involved in the protection of persons with disabilities. The transitional and final provisions provide that the current members of the Council for Persons with Disabilities, who have been appointed by disability organisations and professional organisations in the field of protection of persons with disabilities, will remain members of this body when it is transformed from a consulting body to the decision-making body of an independent state body. This means that representatives of private interest groups will assume direct leadership of the independent state body. Currently, they are only members of a consulting forum and play a consultative role. The proposed act also does not lay down grounds for dismissing Council members. This legal lacuna needs to be rectified.

Furthermore, the proposed act allows representatives of private interest organisations to enter the public sector sphere without checking their qualifications, knowledge and experience at all. Normally, a person must fulfil specified conditions to hold a post or an office in any state authority or other public sector body or organisation. In this particular case, the proposed act does not determine any conditions for becoming a member of the Council.

The proposed act is also unclear about the status of the members of the Council as a decision-making body. It only lays down that the duties of the Chair of the Council will be performed by a professional holder of the office for at least half of the full working time and that the office will be comparable to that of a state secretary. The status of other Council members is not determined.

This arrangement under which an independent state body is led by a public office holder who only performs the duties of this office part time is dubious. There is also a risk that the holder of such public office would threaten the independence of the office by performing other activities and holding other memberships. Particularly, as the proposed act provides only a very limited definition of the incompatibility of the office of the Council Chair with other offices or memberships and activities (it only prohibits the Chair from being in a leadership position in a political party, or holding a state office or being an official in a managerial position in a state authority but not, for example, from holding the office of the president of a disability organisation). This makes it easier for a particular disability organisation to advance its interests, which the provisions on the incompatibility of office should prevent.

The procedure for the appointment of half the Council members (representatives of disability organisations) and their deputies is left entirely to private interest organisations. They will be able to choose and appoint representatives to the Council at their discretion, which means that the representatives will not necessarily be selected in a transparent procedure determined in advance. There is a risk that various non-transparent methods will be used in decision-making and negotiations.

The proposed act also does not define members of the Council as official persons under the ZIntPK. Therefore, the provisions of the ZIntPK do not apply to them. This means that Council members are not obliged to avoid a conflict of interest and to ensure transparency in non-public influence when lobbied, they and their family members are not prevented from doing business with an independent state authority, etc. None of the instruments that prevent private interests from intermixing with the performance of public duties applies to them.

The proposed act stipulates that the Secretary of the Council, who is a public employee, is appointed by the Council on the proposal of the Council Chair. This is a derogation from the rules on the employment of public employees provided by the legislation, for which the Commission sees no reasonable grounds. This arrangement does not adhere to the fundamental principles of the public employee system, such as the principles of open competition and impartiality.

Joint inspection activities of the Commission and the Labour Inspectorate: Activities following the Assessment of corruption risks and the risks of breach of integrity in Slovenian basic and secondary schools

In the beginning of 2017, the Commission presented to the public the Assessment of corruption risks and the risks of breach of integrity in Slovenian basic and secondary schools (hereinafter: the Risk Assessment). On the basis of its findings, the Commission provided recommendations for the better management and limitation of risks to schools and

their councils and to certain key stakeholders, including the Labour Inspectorate. The Commission met with the Labour Inspectorate and they agreed to carry out joint inspection activities in the education sector in 2018.

The inspection activities in the field were carried out in November and December 2018. In January 2019, the Commission made another visit to two schools due to the absence of key persons on the first visit. The Commission and the Labour Inspectorate conducted joint inspections at 10 Slovenian schools, which included basic and secondary schools and one music school.

In accordance with its competences, the Labour Inspectorate inspected, in particular, the implementation of particular provisions of labour legislation concerning the general legal act on job classification, job requirements for particular positions, the adoption procedure for the general acts of the employer, the advertisement of job vacancies, the employment of workers, the fulfilment of employment requirements, the rights of non-selected candidates, the prohibition of discrimination, the prohibition of sexual and other harassment and bullying in the workplace and the protection of dignity of workers in the workplace. The Commission focused its inspections on the areas and risks that were highlighted in the Risk Assessment. At each school, it checked whether in the one-and-a-half years since the Risk Assessment was presented the school had appropriately dealt with the highlighted risks and how it had tried to limit these risks.

The Commission checked how schools manage risks in public procurement (e.g. who conducts the procedures and how are they run), how the school and its employees limit the conflict of interests in all areas of their work, but particularly in appointing head teachers, employing staff, conducting public procurement or concluding other contracts with the private sector, performing other competitive activities (e.g. courses, remedial instruction), and in teaching and grading and enrolling children. The Commission was also interested in whether schools have established measures and mechanisms for the protection of reporting persons, whether they maintain an environment in which employees can, without reservations, point out unethical conduct and practices and other irregularities they note and not be subject to retribution, how schools ensure that there is no illegal and inappropriate acceptance of gifts, and whether they devote sufficient efforts to its integrity plan. Wherever possible, the Commission during inspections interviewed head teachers, chairs of school councils and other employees active in various areas where there are risks as determined in the Risk Assessment.

The Commission found that schools had different practices in conducting public procurement procedures. Some schools delegate the complete implementation of procurement procedures, including the drawing up of documents, to external partners (e.g. lawyers), who are not bound by the same standards of conduct as employees in the public sector, which increases the risks of corruption and dishonest practices. With regard to the inclusion of an anti-corruption clause in contracts and the obligation to obtain a statement on ownership structure under Article 14 of the ZIntPK, the Commission found that schools are generally aware of and fulfil the obligations regarding the first provision but not the second. Some schools are also not particularly transparent in letting school premises and do not have clear and predetermined criteria for this or if such criteria exist, they are not available to the public. Despite many findings in specific cases in the past, minor offence proceedings initiated against the responsible persons in schools, the training of school staff on this subject by the Commission and the activities of the Labour Inspectorate, the Commission still found many deficiencies in appointment procedures for head teachers, particularly with regard to the risks of a conflict of interest – for example, in relation to the composition of councils, the transparency of discussing head teacher candidates and voting, and the identification of conflict of interest and its disclosure. Similar lack of identification of conflict of interest and appropriate conduct was found in the behaviour of school council members. The employment procedure at schools is also not transparent and does not allow a sufficient level of verification and traceability of the procedure. In particular, it lacks clear and predetermined secondary criteria (the formal criteria are specified appropriately), and the verification of the fulfilment of criteria and the grounds for making the final decision are not recorded.

These are only a few of the Commission's findings, which will be presented in detail in the final report in the beginning of 2020.

Recalling directly elected public office holders

In September 2019, the Commission proposed an initiative, addressed to the National Assembly and the Ministry of Public Administration, to introduce appropriate mechanisms for sanctioning the members of representative bodies at the national and local levels and mayors (hereinafter: the initiative). The Commission was induced to make the initiative when it noted deficiencies of the existing legislative framework with regard to the assessment of incompatibility of Deputy Ferenc Horváth's office of deputy and the office of the president (representative) and member of the board of a certain legal entity under public law. When in the summer of 2019 deputies drafted and submitted a proposal for amendments to the Deputies Act that would abolish the applicable sanctions for the failure to eliminate the incompatibility of office, the Commission drew up the initiative and submitted it to the competent authorities for consideration.

Several times in the past, when considering cases of violations of the ZIntPK, the Commission has noted that the Slovenian legal system does not provide for an effective mechanism to sanction certain elected public office holders (i.e. deputies, members of the National Council, municipal councillors and mayors) for engaging in illegal or dishonest practices. The current legislation in force envisages the termination of the term of office only in the event of certain personal circumstances of the public office holder (e.g. the loss of the right to vote, permanent incapacity for discharging the duties of the office, incompatibility with another office or activity), if a sanction is imposed on the office holder due to the violation of legislation (final judgment imposing unsuspended sentence of imprisonment for more than six months), or if the office holder resigns. However, it does not provide an effective sanctioning mechanism when a public office holder violates the applicable legislation in any other way or engages in dishonest practices that would cause the voters' trust in them and their support to be reduced or lost.

The Commission has also determined that even when a court establishes, while ensuring judicial protection, that a certain elected public office holder has abused their position or violated the anti-corruption legislation, the Slovenian legislation requires further action by the representative body concerned, which has to make a constitutive decision to terminate the office of the public office holder. For example, the National Assembly must find that grounds exist for the termination of the term of office of a deputy as provided by the Deputies Act, and only on the date of such finding is the deputy's term of office actually terminated. The same applies to the members of the National Council, as their term of office terminates on the date when the National Council establishes that grounds exist for the termination of office as provided by the law. The Commission believes that, in order to protect the reputation and integrity of the public office and the reputation and integrity of the public sector, the legislation should allow for the recall of a public office holder by an enforceable court decision and also provide as a sanction the prohibition to hold public office for a specified period by way of an enforceable court decision.

As no effective mechanisms are available to supervisory bodies and voters to sanction public office holders who have engaged in illegal or dishonest practices thus damaging the reputation of their public office and breaking the trust in their ability to discharge their public office duties legally and with integrity, the Commission believes that the legislation should be amended to allow faster action against such public office holders. Various measures could be used for this purpose (suspension, the reduction of salary or other receipts, public reprimand, etc.) but they should be provided by the law so that they can be implemented effectively, and they should be proportionate and effective so that they discourage future violations. Such measures should be available to both supervisory public authorities and voters.

In modern democracies, the holders of political power normally primarily responsible to the citizens who elected them. In practice these connections are often weak and there is a growing impression that no connection exists between the holders of political power and their voters, as the first are responsible to their political leadership and political decision-makers to a much greater extent than to the voters. This sparked the attempts to introduce mechanisms that would strengthen the relations between an elected representative and voters and ensure a more effective and direct participation, as means to: (1) establish relations between voters and elected representatives, and (2) facilitate feedback to voters regarding the performance of duties of the office of an elected representative, including recall as a sanction for inadequate performance of duties or unethical behaviour.

In addition, international legal acts have been putting increasing emphasis on the ethics of public office holders in relation to the good management of public affairs. The integrity system, which should be established and enhanced within individual public sector institutions and the public sector as a whole, should be based on the obligation of the highest representatives of the public sector and management staff to demonstrate high standards of personal suitability for holding an office or position, and also on clearly defined rules and values of the public sector that are appropriately laid down by legislation and organisations' policies and effectively communicated to the addressees.

Accordingly, the ZIntPK sets as one of its goals to strengthen the integrity of individuals, as well as bodies and organisations, in the public sector. These individuals include both public office holders and public employees. The ZIntPK deems integrity to be the required standard for public office holders, which means "the conduct and responsibility expected of individuals and organisations in the prevention and elimination of risks related to the use of any authority, office, mandate or any other decision-making power contrary to an Act, legally admissible objective or code of ethics" (point 4 of Article 4 of the ZIntPK). Integrity as a legal standard is assessed with regard to the type of public office and within the concept of normal conduct as expected from a public office holder in a certain environment. For example, the behaviour expected from a deputy as a public office holder is defined by a different legal framework than that expected from a judge, who is also a public office holder. The public in a certain environment (e.g. other deputies, parliament employees, general public, the media) also has different expectations with regard to the conduct of deputies and judges. All of this means that the legal standard of integrity is different for different public office holders and has to be determined on a case-by-case basis.

An important part of the integrity of a public office holder is their due respect of obligations imposed on them by legislation. The Commission monitors the extent to which a public office holder fulfils the obligations imposed by the ZIntPK, for example, that they duly avoid conflict of interest and do not allow themselves or other persons to realise unauthorised private interests, that they do not hold other offices or memberships or perform gainful activity if these are incompatible with their current office, that they do not accept gifts or other benefits in relation to the performance of the duty of the office. These are important obligations, as they enhance the transparency of the operations of the public sector and the public office holder and facilitate the supervision of the Commission, thus preventing the public office holder from abusing the power of the public office and the power to decide on public matters or influence such decisions for their own interests or the interests of others. According to international anti-corruption standards, this would be an indication of the criminal offence of corruption.

In practice, the Commission notes that the awareness of how important are integrity and the maintenance of certain ethical standards that public office holders should meet is quite low in among Slovenian politicians. Therefore, the Commission believes that by introducing mechanisms for sanctioning elected representatives, the integrity of offices held by these elected representatives would be more effectively enforced and enhanced.

When considering the cases of violations of the ZIntPK and noting many other cases, the Commission too often finds that there is no culture of resignation from a public office among Slovenian politicians as a way of assuming personal political responsibility for violations of legislation when these violations are committed in the performance of the duties of the office and greatly compromise the integrity of the public office holder. The public office holders deem the non-legal political responsibility, which is related to the sanction of not being re-elected, as the only important and valid form of political responsibility.

All holders of public office in the legislative and executive branch of power are holders of political responsibility, and all forms of political responsibility are important. Non-legal political responsibility, which in practice means the possibility of not being re-elected in the next elections, predominates in relation to public office holders in the national and local representative bodies. However, the law also lays down legal political responsibility, in the form of the sanction of the termination of a public office (a dismissal or recall of a public office holder). The difference between the non-legal and legal political responsibility is in the potential sanction. When the non-legal responsibility is exercised, the sanction is merely a critique expressed as the public office holder not being re-elected to the office when the term expires, but they

remain in office until the end of term. However, if the legal political responsibility is successfully exercised, the office is terminated before the term expires.

Recall or dismissal as a means of enforcing legal political responsibility before the expiry of the term of office is only one of the measures provided for by the law to sanction a public office holder, albeit the most definitive one. Some foreign legal orders provide other measures for the effective enforcement of political responsibility of a public office holder when they engage in illegal or dishonest practices. There are reprimands, suspensions, the prohibition of attending meetings, censorship, the (gradual) reduction of salary and other receipts, and exclusion.

In its initiative, the Commission invited the competent authorities to consider introducing such measures and pointed out that the measures must be effective and proportionate to the type of violation and must dissuade the perpetrator from future violation. They must also have a dissuasive effect on other public office holders. This requires a sanctioning mechanism that would enable a fast and effective response to illegal and dishonest practices, either by supervisory public authorities or voters.

The Commission received responses on the initiative from the President of the National Assembly Dejan Židan and the Minister of Public Administration Rudi Medved. Mr Židan highlighted the complexity of the initiative, which demands the involvement of several line ministries and a legislative initiative of the government. He said the initiative was a good basis for the National Assembly and its working bodies to consider a change in the existing regulation. Mr Medved pointed out that it is essential to formulate comprehensive solutions that will apply to all elected public office holders at both the local and national levels.

Activities related to the anti-corruption clause and the statement on the ownership structure of the provider

In order to protect public funds, Article 14 of the ZIntPK stipulates that any contract in relation to which bribery occurs during its conclusion, implementation or supervision is null and void (paragraph one). The ZIntPK also stipulates that this rule (referred to as the *anti-corruption clause*) must be expressly included in the text of contracts the value of which exceeds EUR 10,000 excluding VAT and which the public sector concludes with suppliers of goods or services (paragraph two).

The ZIntPK allows an exception of not including the anti-corruption clause in a contract, if the inclusion of an anti-corruption clause is not possible or appropriate due to the nature of the contract or if the other contracting party is established outside Slovenia and opposes the inclusion but the interest to conclude the contract outweighs the potential risks. Authorities and organisations are not authorised to establish whether circumstances exist that justify such an exception. In order to apply the exception, they must obtain an authorisation from the Commission before concluding the contract (paragraph five of Article 14).

Before concluding a contract that must include the anti-corruption clause, an entity subject to the obligation to carry out public procurement procedures must obtain from the supplier of goods or services information on persons directly or indirectly participating in their ownership structure and on affiliated companies (i.e. *the statement on ownership structure*, paragraph six of Article 14 of the ZIntPK). The information that a contracting party is obliged to provide allows public sector organisations to be mindful of any conflict of interest and violations of restrictions on business activities.

In 2019, the Commission answered 13 questions regarding the use of anti-corruption clause and the statement on ownership structure and in one case authorised an exception to conclude a contract without the anti-corruption clause. It initiated seven minor offence proceedings, imposed two fines and issued one warning for violations in this area.

Prevention – projects, events, conferences, collaborations, training

A part of the Commission's prevention activities are aimed at children and youth. In these activities, the Commission collaborates with educational institutions, as it believes that they play an essential role in building a society based on honest, responsible, respectful and independent individuals.

Learning about integrity in kindergartens through pictures and play

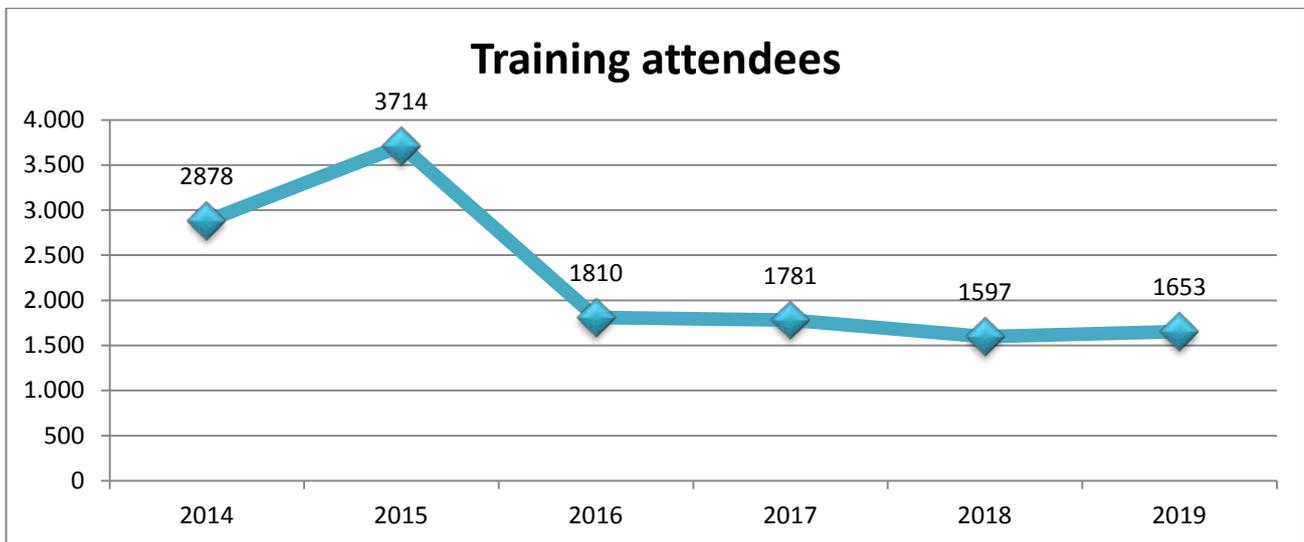
Since a person's fundamental values start to develop in early childhood, it is reasonable to introduce children to the value of honesty and integrity as soon as they are capable of distinguishing between right and wrong. In order to develop a tool to present integrity/honesty to children in kindergartens, the Commission designed the project "Learning about integrity in kindergartens through pictures and play". The project is being implemented as a creative competition based on the "Polomljena kočija" (Broken Carriage) picture book. Through an illustrated story suitable for their age, and with the indispensable help of teachers and their assistants, children are shown that there are negative consequences to unethical behaviour. The story takes place in a setting children are familiar with, thus allowing them to empathise with the characters and imagine themselves in the same situation. When the story is finished, they make art based on their impressions. The story was written within the Commission, while the illustrations were gifted as a donation.

The Commission carried out a pilot implementation of the project in 2014 in the kindergartens in the Žalec municipality. The response and many examples of children's artwork motivated the Commission to invite all Slovenian kindergartens to join the project in 2016. In 2019, the project was implemented at the national level for the fourth time. A total of 28 kindergartens participated, the majority with more than one group of children.

As in previous years, the kindergartens showed incredible creativity in their artwork based on the story, from paintings and drawings in various techniques to cardboard models of the carriage and main characters. In December, as part of marking the International Anti-Corruption Day, the Commission held an exhibition of the children's artwork in the House of the European Union. Many kindergartens also exhibited the artwork on their premises thus also presenting the project to the parents.

Training public employees on ethics and integrity and the fight against corruption

In 2019, in accordance with its long-term policy, the Commission continued to train public employees and raise awareness about the importance of integrity and ethical behaviour and of the fight against corruption. It held 43 training courses, which were altogether attended by 1653 participants (for comparison, in 2018 it held 29 training courses with a total of 1597 attendees; in 2017, 38 training courses with a total of 1781 attendees; in 2016, 46 training courses with a total of 1810 attendees; and in 2015, 65 training courses with a total of 3714 attendees). The lectures were conducted by 10 Commission employees who took turns depending on the subject of the session. In addition to employees in the public sector, the Commission also held lectures for members of the Office of the Prime Minister of the Republic of Slovenia and offices of certain ministers, for members of management and supervisory boards and holders of procurement of companies with state-owned assets, for employees and members of the Council and Supervisory Board of the Foundation for Funding Disability and Humanitarian Organisations, and for members and the management of the National Council of Disabled Persons' Organisations of Slovenia, and also for representatives of Palestinian institutions.



In majority of training courses, the Commission held lectures for the entire staff at the premises of the institution concerned. The lectures included subjects such as the application of the integrity plan, the concept of corruption and avoiding conflict of interest, accepting gifts, restrictions on business activities and, depending on the need, also lobbying and asset declaration. The collaboration with the Administration Academy was expanded in 2019. Within the training courses organised by the Administration Academy, the Commission held specially adapted lectures for managers in the public sector and two training courses for the employees of municipalities and public institutes owned by municipalities, along with the standard presentations of the ZIntPK by the Commission's experts during which public employees receive comprehensive information on their statutory obligations and opportunities to enhance integrity in their organisation. The Commission also held customised training courses for some other special groups. In 2019, the Commission noted a particular increase in the interest for courses on lobbying.

Extraordinary inspection of the implementation of integrity plans

In 2019, the Commission carried out several extraordinary inspections of the implementation of integrity plans. Such inspections are based on the integrity plan of an authority/organisation, but are not limited to it. On the basis of the risks of corruption and risks of breaches of integrity that the authority/organisation included in the integrity plan and on the

measures for limiting these risks, the Commission examines the implementation of the measures in practice and assesses if any other risks exist that the authority/organisation has not (yet) included in its integrity plan.

The general objectives of the supervision of the integrity plan of an authority is to increase the transparency of procedures and the responsibility of the authority and its employees in considering and adopting regulations and other general legal acts, as well as in making decisions on other matters directly or indirectly related to the principles under the ZIntPK, to strengthen the knowledge and professional integrity of public office holders and public employees so that they are able to efficiently and successfully perform their duties and implement measures provided by the ZIntPK with regard to the prevention and disclosure of corruption, illegal and unethical practices, and to increase the responsibility of the state authority and public office holders in the performance and exercise of their constitutional and statutory duties and powers.

Supervising the implementation of the integrity plan of the FDHO

The Commission has been monitoring the operation of the Foundation for Funding Disability and Humanitarian Organisations in the Republic of Slovenia (FDHO) for many years, more intensively in the last few years. In 2011, the Commission ordered the FDHO to draw up an integrity plan, as it found that there are risks of corrupt and dishonest practices in the FDHO that are not appropriately managed. This is an extraordinary measure under paragraph two of Article 47 of the ZIntPK, which provides that the Commission may issue such an order when "there is a considerable risk of corruption or other forms of unlawful conduct in performing an activity in the public interest and disposal of public assets".

Despite initial opposition (an appeal of the FDHO to the Administrative Court, which upheld the Commission's decision), the FDHO drew up an integrity plan. However, the plan had many deficiencies and the FDHO has made no updates to it. Therefore, in 2017 the Commission intensified its activities to update and revise the FDHO's integrity plan. The FDHO's cooperation with the Commission has improved since the last change in the FDHO's management. The new director was willing to discuss and participate in the revision of the FDHO's existing integrity plan, so the relevant activities could be set in motion. In 2018, an agreement was reached that the Commission was to take over the technical assistance to the working group for the FDHO's integrity plan, providing assistance and support in identifying risks and finding solutions for them.

In 2019, the working group for the FDHO's integrity plan started to meet regularly with two representatives of the Commission. The working group will continue its work in 2020, as this is an extensive process of considering the specific risks of the Foundation. When finished, the FDHO's integrity plan will reflect the risks of corruption and breach of integrity in the operation of the FDHO and form a good basis for the effective management of these risks (limiting/eliminating risks). It will also allow prompt updates in the future.

Supervising the implementation of the integrity plan of the Ministry of Finance

The Ministry of Finance is an important actor in managing Slovenia's financial operations and designing the tax policy and the policy of the management of state property in any form, and has to be an example in ensuring the best possible management of any corruption risks it encounters and in respecting the provisions of the ZIntPK in general.

Therefore, the Commission decided to carry out an inspection of the implementation of the integrity plan at the Ministry with the main objective to assess the Ministry's exposure to corruption and issue instructions and recommendations for managing risks and updating the integrity plan. In producing the assessment of the Ministry's exposure to corruption, the Commission focused on four areas within which it was able to also check compliance with the majority of the ZIntPK provisions concerning individual principles⁹:

- the ethical culture of the Ministry,
- the procedure for drawing up regulations,

⁹ More information on individual principles is available in the Commission's 2018 Annual Report.

- appointment procedures for bodies of institutes, agencies, funds, companies and international and other organisations, and
- public procurement procedures.

The Commission concluded inspection activities in 2018. In 2019, it issued a final report with specific recommendations concerning, among other things, the ethical culture of the Ministry, the legislative footprint in the drafting of the proposal for the Demographic Reserve Fund Act and the appointment to the bodies of institutes, agencies, funds, companies and international and other organisations.