

# **Gallina, Nicole: Anti-Corruption Revisited: The Case of the Czech Republic and Slovakia**

## **Abstract**

Corruption is an urgent problem in both the Czech Republic and Slovakia. Whereas the new Czech government has pushed anti-corruption plans; in Slovakia, a special court and prosecution office are in place facing constant challenges. In both countries, the issue has been highly politicised and the adaptation of anti-corruption institutions as well as the implementation of legislation have been poor. This paper examines, whether those shortcomings can be explained by elite-based “politics of corruption”. Basically, on a general scale, the paper shows the relation between politics and corruption and identifies a gap between anti-corruption efforts and results. The conclusion finds that anti-corruption in both states has no serious political base while, depending on single personalities, there have been some achievements in this respect in both the Czech Republic and Slovakia.

Keywords: Anti-Corruption, Political Elites, the Czech Republic, Slovakia

## **1. Introduction**

[...] A striking fact is that most oppositional political parties in East Central Europe have a strong focus on anti-corruption. This has been especially valid for the Czech Republic as oppositional parties have run on an anti-corruption ticket in election campaigns. Assuming government responsibility, the former oppositional and later governing parties abandoned or delayed law projects as a rule, and the former governing and later oppositional parties accused the new rulers of corruption. In Slovakia this occurred as well, but the anti-corruption efforts account has been more favourable (on the first sight), even if the authoritarian government of Vladimir Mečiar first pointed in another direction. The Mečiar-government experience, however, paved the way for a policy change. In the course of time, independent institutions have been established, as a separate court and prosecution office. Here, anti-corruption rhetoric was accompanied by the will to combat corruption, especially right after the fall of the Mečiar regime.

On a general scale, this paper examines the relationship between politics and corruption focussing on the Czech Republic and Slovakia in the first two decades of independence. It first outlines theoretical and methodological aspects. The paper then presents politics of anti-corruption in both countries. The underlying research questions can be posted as follows: How have political elites incorporated (anti-)corruption politics and what instruments do they use? Therefore it is attempted to disaggregate multiple factors of corruption, identify forms of corruption and the nature of anti-corruption efforts as well as their effectiveness for each government period.

## **2. Corruption in the Czech Republic and Slovakia: Some Theoretical Insights**

The points of departure are similar for both countries. After their separation, the Czech Republic and Slovakia have been two independent states and parliamentary democracies since 1993.<sup>1</sup> This had several implications: Young democracies are not as institutionalized as established Western European democracies, for instance visible in the volatility of their political party systems (e.g. Henderson 2002). The weak institutionalization could foster corruption – if parties cannot be sure about long-term electoral support, their members could

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<sup>1</sup> Until then, the two countries were united as Czechoslovakia. Czechoslovakia had been a democracy in the inter-War period of 1918–1938. In 1993 the two parts split peacefully into two sovereign states.

try to get “the best out of it”, a recent example might be the government of Robert Fico governing periods (2006 – 2010), or various no-confidence votes, placing narrow political party interests above the nation’s well-being (Freedom House 2010). An example of this would be the opposition-initiated no-confidence vote in 2010 during the Czech EU presidency which proved the political elite’s incapability to reach a consensus across party lines and re-opened political options.

According to the neo-classical approach, corruption is a problem that resides in the broader processes through which consent is won and authority is used. Typical are abuses of office positions or resources for private benefit. In certain states the principals (= the political decision-makers) and their agents are affected: the agent’s decision is influenced by remuneration, which is not passed on to the principal (Rose-Ackerman 1978: 6). In Central Eastern European countries principals and agents affect politics in a rather undemocratic way through corruption and put themselves above the democratic structures they operate in. Actors do not behave according to their democratic mandate, and do little to advance the common good; instead, they almost exclusively consider their personal well-being, for example in corrupting public procurements or privatizations (Gallina 2008: 47f. compare with Pehe 2009).

### *The Role of Corruption in Democracies*

Nowadays, there is a rather common understanding that political corruption can pose a serious threat to democracy like Larry Diamond already underlined in 1992. Rose-Ackerman (2001: 35f.) examined some features of democratic systems that determine the “extent to which the design of the political system affects the development of corruption” in the society. The difference between electing political leaders and the role political parties are playing, leads to various forms of incorporating interests in certain sectors. The level of corruption in a society depends upon the extent to which a political system’s design is congruent to public expectations.

In this paper, I will offer a different view: the nature of corruption is also reliant on the extent to which a political system’s design conforms to the needs of its elites. The young democratic history of both countries and the weak institutionalization of certain democratic pillars, such as political parties that compete for power within a democratic framework, might require shifting the perspective from institutions (i.e. government or political parties) to actors. Actors – political, economic and judicial decision-makers – might not fully consent to certain requirements of the democratic system. This paper therefore suggests that political elite dynamics have a strong impact on the degree and types of corruption.

Such a view does not exclude the important role of “intermediaries”. Intermediary groups seek contacts with powerful people, and aim at a personal share of power (Johnston 2001: 14). Dennis Thompson has introduced the notion of “mediated corruption” in case when corrupt acts are mediated (=filtered) by the political process (Thompson 1993: 369). Rose-Ackerman (1978: 6) underlines the agency relationship between the authority and the inspector. Corruption arises when a third person seeks to influence the agent’s decision by offering remuneration which is not passed on to the principal. An environment enabling a strong position of the agent fosters corruption. Regarding Slovakia and the Czech Republic, unstable governments and the understanding of political parties as instruments to maximize personal interests strengthen an agent’s position. Both factors also widen the opportunities for corruption for the principal, especially with regard to a politically dependent judiciary.

### *Why Political Elites, Why Corruption?*

Political elites are “persons who are able, by virtue of their strategic positions in powerful organizations and movements, to affect political outcomes regularly and substantially” (Higley/Burton 2006: 7). An actor-centred institutionalism emphasizes the role of political elites and their political instruments.

The Central European research perspective has to bear in mind that most political elites still have been socialized in a socialist environment with predominantly informal governing instruments. This can partly be explained through centralized command economies, which implied for example façade policy through five-year plans. Lack of technical facilities and sectoral requirements fostered corruption in various ways. In this regard, Tanzi (1998) underlines the importance of corruption in the communist space.

Informal instruments have continued to be very important after 1989 as for instance Lauth (2000), Haughton (2005) or Hayoz/Gallina (2011) have been showing. In 1999, the EBRD argued that the quality of the institutional environment and governance structures in the Czech Republic is one of the lowest in the region. The reason why elites in Eastern Europe might opt for informal practices is connected with reluctance toward formal structures and rule of law (Lauth 2004). Meyer et al. (2008) have considered how informal practices of political elites influence political power, and hinted at forms of corruption. In this regard, I undertake an attempt to identify the nature of (anti-)corruption politics and anti-corruption efforts.

### *On the Degree of Corruption*

How can we link political elites to the degree of corruption? The common view that corruption might be a legacy of a socialist past does not help analyse the degree of corruption. Also, the insights of Miller et al. (2000: 141f.) offer little insight: They have outlined that corruption might be far more institutionalized than commonly assumed. This points to a connection between political elites – through the formal democratic institution of political parties) – and corruption. Political elites avoid to be directly involved in this business, and with the help of agents, it could be possible to establish the necessary networks (see some examples in the underneath case studies).

Della Porta et al. (1999) have proposed an impressive analysis of the Italian corruption example where various actors were connected, often across party lines, in an invisible organizational structure. Corruption was (or is) a multi-headed collection of networks gathered around individuals, with few coordination from above.

On a general scale, Eastern European countries achieve more problematic results on corruption ratings than Western European countries – only Italy (72) and Greece (94) rate worse than almost all Eastern European countries on the 2012 Transparency International Corruption Perceptions Index. The Czech Republic and Slovakia rank 54 and 62 respectively.<sup>2</sup>

Even if Kotkin and Sajó (2002: 1f.) argue that the problem of corruption in Eastern Europe has been overstated. However “*Nations in Transit 2006* warned of the enduring problem of corruption, yet three years later, corruption continued to pose a major obstacle,” in spite of less petty corruption which resulted in declining corruption rates (Freedom House 2009). Data from Transparency International, Freedom House and domestic organizations are in line with regional findings for a high salience of corruption in the region.<sup>3</sup>

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<sup>2</sup> On the 2011 CPI–Corruption Perceptions Index the Czech Republic and Slovakia rank 57 and 66, compared for example with 2010 when they ranked 53 and 59 respectively <http://cpi.transparency.org/cpi2012/results/> (accessed 10 March 2013).

<sup>3</sup> See the tables in the annex of this work on CPI and Freedom House assessments of corruption in the two countries. Local organizations underline that the perception of corruption remains high, see for example the

The importance of corruption among political elites is underlined by the fact that in all major cases shown here, high political representatives and also prime ministers have been highly suspected to be involved.

The degree of current political corruption also could be linked to the fragmentation of the political party system, which is split into different political elite groups or single persons who “work” on their own. As political party members are at odds with each other, there is little party cohesion (Gallina 2008).<sup>4</sup> Researchers such as Ágh (1998), Bielasiak (2005) and Lewis (1996) have described the fragmentation of the political space; Henderson (2002) has especially considered the problem of political party fragmentation in Slovakia and the Czech Republic. The fragmented political party system could be a reason for the persistence and strength of old (power) structures and behaviour patterns.

Tim Haughton (2005) argues for the case of Slovakia that the role of leadership in the region might not match Western European understandings of political elite rule. Kopecký (2006) underlined the importance of rent-seeking methods to enhance influence, and the reliance on politicized ties to interact with independent institutions and society. Corruption could be the underlying glue that pastes political elites together, more as the typical democratic government-opposition scheme.<sup>5</sup>

Methodological problems arise by trying to capture the degree of corruption. Corruption measures succeeded in supporting empirical work, but they quantify only the activities that are easily identifiable as corruption (Arvind 2001: 9). Undiscovered cases remain beyond corruption ratings such as Transparency International, and government statistics additionally do not tell which corruption cases have been monitored or resolved (Sičáková-Beblová/Nechala 2006: 7).<sup>6</sup> “If corruption could be measured, it could probably be eliminated,” and simply measuring bribes ignores many further forms of corruption (Tanzi 1998: 567). Often, ratings concentrate on narrow social groups, for example businessmen, who do not necessarily report real acts, and add their own perceptions, include exaggerations or false reports (compare with The World Bank 2000a).

### *Types of Corruption*

[...]

Based on these arguments, the focus of this case study is political elite-driven corruption in the Czech Republic and Slovakia. The case studies examine (anti-) corruption politics, focusing on the types of corruption, the instruments of preventing anti-corruption, and the nature of political elite anti-corruption efforts.

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CVVM report (2011) on corruption perception in the public service in the Czech Republic (accessed 1 October 2011).

<sup>4</sup> Recent examples are the Slovak vote on the EU bailout fund in October 2011 which led to the fall of the Radičová-government; or disputes within the VV-party and the Social-Democratic Party in the Czech Republic in autumn 2011.

<sup>5</sup> See the Economist (2011). The grim assessment is criticized by the current Interior Minister Kubice (Respekt 2011b). The following website lists the most important corruption cases in the Czech Republic and shows the varieties of corruption in the country that do not follow party lines, and supports the underneath argument that political elites cannot be differentiated in this respect. <http://kmotrdrobek.jex.cz/menu/afery-a-korupce/afery-v-politice> (accessed 15 October 2011).

<sup>6</sup> On detailed degrees and perceptions of corruption see the Transparency International Slovakia reports named “*Protikorupčné Minimum*”, Sičáková-Beblová (2011) and Lízal and Kocenda (2001) for the Czech Republic (until 2001).

## *How to Combat Corruption*

If political elites have incorporated corruptive behaviour and built corruptive circles within state structures and additionally include economic sectors, what kind of anti-corruption measures would work? Ivan Krastev (2004) has drawn a rather grim conclusion of his respective research in underlying non-effectiveness of anti-corruption campaigns in general. Spurný (2007a) has argued that the politicization of the police and justice sphere predominantly hindered anti-corruption efforts. One might also add the explanation of Mungiu-Pippidi (2006: 86) that anti-corruption efforts have been anti-political in nature and therefore failed.

The advocates of anti-corruption usually emphasize three aspects (e.g. The World Bank 2000a, Klitgaard 1988): to introduce new or amended legislation that reduces opportunities for rent-seeking; to build alliances with other governments in the struggle against corruption (international anti-corruption treaties, organizations), and to implement an integrated anti-corruption program, for instance according laws plus anti-corruption agencies.

Thus, anti-corruption efforts should refer to individual reasons of corruption. De-politicization of the state administration that prevents high-level political corruption through independent judiciary agencies, public or independent control of intelligence on the one hand, public internet-biddings or the prevention of monopolies on the other hand. “Monopolies must be reduced or carefully regulated” (Klitgaard 1998: 2), and the politicization of anti-corruption efforts is necessary.

Examples were the anti-corruption measures in Slovakia (Sičáková-Beblavá and Beblavý 2008) which consider the inner political sphere and the interaction with the economic realm. They include the privatization of banks or the registering of real estate, as well as and the free access to information such as public biddings. On the political side they focus on budget regulation of local administrations, supervision of political party financing, court management and the establishment of a special court and state prosecution. Interestingly, there are no instruments, explicitly called political in the Slovak strategy. So-called administrative instruments would have the most serious political implications and an efficient system of independent control of the supposedly corrupted political elite would complicate corruption in general.

## *Obstacles of Anti-Corruption Politics*

To identify the sincerity of anti-corruption proposals has not been easy. Proposed measures have usually not been implemented or remained vague. Political elite-led anti-corruption packages are rarely effective; just consider the instruments proposed in 2010 by the Nečas-government in the Czech Republic.

One core obstacle is that political elites try to politicize independent or control institutions through, for example, tight relations between ministers and police presidents or state prosecutors. Further obstacles are regulations that impede investigation in corruption cases, or agencies that are allowed to exclusively examine economic corruption. Such regulations do not advance anti-corruption.

Anti-corruption efforts have to consider political realities. Does their effectiveness depend on party rule? Deegan-Krause (2006) pointed to changing rhetoric according a government-opposition scheme in post-socialist space related to a quasi-identical conduct of ideologically different governing and oppositional parties. Incumbents do little to combat corruption, oppositional parties plead for strong anti-corruption instruments, but when in power they fall silent on that topic. For the case of Slovakia, Deegan-Krause (2009: 839) states that the country disposes of a “clean–corrupt” divide. This divide cuts across other political cleavages. In the end, the sides of “clean” and “corrupt” are not clear as “the roster”

changes continually, clean parties and political leaders might quickly change to corrupt ones, and new clean parties come to be perceived as corrupt. In the Czech Republic and Slovakia we can regard the phenomenon of new anti-corruption protest parties. It is yet to be seen whether those parties can meet voters' high expectations and if they will be re-elected – recent experience did not give cause for much hope.

### *Variations of Elite Strategies*

Basically, political elites' behaviour can be analysed according to various strategies:

- *Political power elites do not want and do not have to control corruption*, for example during the Mečiar-reign in Slovakia and the “opposition agreement” in the Czech Republic which meant a co-governing between the conservative Civic Democratic Party ODS and the Social-Democratic Party ČSSD in the late 1990s. Corruption could also not be an issue (Czech Republic pre-1997).
- *Political power elites do not want, but have to propose measures* according to public pressure, connected to elections mostly. Examples are the post-Mečiar period or the Topolánek-government in the Czech Republic. Those measures are designed in such way that their implementation fails or is too weak to tackle the corruption problem.
- *Oppositional elites propose measures which they abandon or largely ignore once assuming office*, for instance certain parties in the Czech government after the 2010 elections. The Fico-governments in Slovakia also largely fall in this category.
- *Political power elites want, and do propose measures* – often against the will of other power elites. Those are implemented, but the implementation issue remains important as political opponents or strong networks, for example in the justice sphere, might sabotage them directly. During the Dzurinda-governments in Slovakia certain governing elites did want to act, especially during his second government. They indeed proposed and implemented measures.

Mainly, the last argument leads to important questions on accountability. I assume that electoral accountability has been of little importance to political elites in general as the government-opposition scheme does not work, and both sides try to get the best out of it – for instance the institutional demands for corruption are more important than the fear of accountability. In addition to that, public or media accountability plays a role as well. This could lead to institutional accountability in the form of an anti-corruption police and courts. The question is how effective institutional accountability is in the long term.

The challenge for research is to give a structured account of the above identified factors of anti-corruption. This paper is based on research conducted in the Czech Republic and Slovakia in 2007 and 2008 (Gallina 2008). The goal was to map elite conduct and the willingness to apply informal rules and structures over formalized regulation and institutionalized agencies. Media analysis and interviews with outside experts were used to give a structured analysis of political elite behaviour.<sup>7</sup> The departing point of this analysis is

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<sup>7</sup> Elite interviews would have provided a biased result. The qualitative research was based on expert interviews, international NGO insights (Transparency International and others), and well-respected newspapers, such as the Swiss daily *Neue Zürcher Zeitung* and *The New York Times*, and national coverage by the investigative Czech weekly *Respekt* and daily *Mladá Fronta Dnes*, *Lidové Noviny* also covering Slovakia, the Slovak weekly *Týždeň* and the daily *Sme*. The Slovak case has the methodological

the assumption that the highest-political levels aim to control independent or executive institutions, like justice or police. I outline the main agents of corruption as well as the intermediaries involved, the politics of the principals, notably the instruments used to influence agencies engaged in anti-corruption as well as the kind of anti-corruption measures proposed according to single government periods.

### 3. The Non-Institutionalization of Anti-Corruption in the Czech Republic

#### *Politics and Corruption during the Conservative Governments in the 1990s*

[...]

Until the mid-1990s, corruption had not been of public relevance, but with organized crime leaking into the Czech government, with media coverage and in light of the degrading ODS-governing and the upcoming 1998 parliamentary elections attention increased.

Political power elites did not want, but had to propose measures as they faced to lose their power. Formally independent anti-corruption police units were set up. The establishment of the Anticorruption Service SPOK, and the Office for the Detection of Organized Crime ÚOOZ were first perceived as serious steps to anti-corruption policy. But soon it became obvious that their directors were tied to politics, and therefore those offices had little impact (Gallina 2008: 124).<sup>8</sup> The ODS interior minister, linked to corruption himself, proposed an anti-corruption plan that later proved not to tackle the most urgent problems: political elite corruption and the criminalization of politics. In this ODS-governing period politicians established rather useless elite-controlled institutions, and proposed an (ineffective) anti-corruption plan as late as 1998.

#### *The Opposition Agreement Period (1998 – 2002)*

Prime Minister Václav Klaus had created a climate of mutual suspicion on the one hand and of clientelism and corruption on the other hand.<sup>9</sup> With his late anti-corruption policy and electoral rhetoric he still managed to get significant political support. Due to personal animosities of Klaus, a minority social-democratic ČSSD-government headed by Miloš Zeman could assume office, tolerated by the Civic Democratic Party ODS, and both parties agreed to a political ceasefire.<sup>10</sup> A political opposition would no longer exist, and as a consequence, a corruption climax was reached during this ČSSD government. Its governing period from 1998 to 2002 is considered as the most corrupt so far. As one of the first measures, loyal persons were placed in all important state companies and agencies.<sup>11</sup> This implicated a battle against the newly established anti-corruption agencies, independent

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disadvantage of a distorted media landscape and most information therefore comes from TI, Freedom House or Czech sources. Self-critical analysis of political elite behavior is rare, but can happen. See the interview with former Czech Prime Minister Mirek Topolánek in the Czech daily *Lidové Noviny* on 24 November 2007.

<sup>8</sup> Even if the Czech Republic received its most favorable CPI rating ever (see annex).

<sup>9</sup> See *Idnes.cz* (2000) on the (illegal) party financing of the ODS; extensively Tabery (2008) and Kudrna/Volná (2007).

<sup>10</sup> As well-known from organized crime, business is most profitable in cases of ceasefire, mutual agreements and the separation of the relevant business branches.

<sup>11</sup> Probably the most serious case was put to a Swiss court in 2011/2012: In 1999, the *Mostecká uhelná společnost MUS*, today's Czech Coal, <http://www.czechcoal.cz/en/index.html> was privatized for a ridiculous amount of 26 million Euros (allegedly Zeman stood behind the deal, see Kudrna/Volná 2007). Swiss procurators confiscated assets worth a couple of billion in Switzerland. The finance ministry and the Prague state prosecution sabotaged investigations and ignored the Swiss charge (Radio Prag 2011b). This provoked a strong Swiss reaction: the stripped money would probably not be returned to the Czech state (NZZ 2012) – a final decision was to be made in spring 2013.

police, and independent media – notorious cases were the libel suit against the weekly *Respekt* and the involvement of Miroslav Šlouf, adviser to Miloš Zeman, into politics (Radio Prag 2001, Jordan 2002, Tabery 2008).<sup>12</sup>

A show-case for the unwillingness of the political elite of being controlled by independent agencies was the dismissal of the only successful member of the Czech Anticorruption Service SPOK, Evžen Šírek, in summer 2000.<sup>13</sup> He was investigating illegal founding of the social-democratic party. In late 2007, the Czech daily *Mladá Fronta Dnes* quoted an official from the police headquarters, who said that Evžen Šírek had been on the verge of uncovering serious fraud in the Czech Savings Bank. Police officials underlined that Evžen Šírek was charged on the very same day when he was planning to seize the documents that should have proved the fraud, connections to lobbyists and high politicians.<sup>14</sup> By this means all the anti-corruption efforts and the work of existing agencies became useless.

At the same time then Prime Minister Miloš Zeman publicly expressed his disgust of the anti-corruption service's work. This might be due to the investigations the service led into illicit political party accounts, in particular of the Civic Democratic Party ODS, or due to the investigation into the attempted murder of the ČSSD sponsor Ivan Lhotský. The ousting of Evžen Šírek prevented corruption issues of being solved, especially the corruption in the Czech Consolidation Agency ČKA (Spurný 2000). The period also saw the dismissal of the directors of the security service BIS, the National Security Agency or of the Agency against Money Laundering respectively (Kudrna/Volná 2007).

A significant pattern of reaction has been to accuse coalition partners or oppositional politicians of corruption, but this was not the case in the period of institutionalized corruption. Instead, the focus was on independent police services or media that still dared to reveal cases of corruption.

The systemic relevance of corruption became fully evident with compliance on the side of the police, investigative agencies and the judiciary.<sup>15</sup> Political elites of both governing parties could expose their powers; political decisions of any kind were made without control. In this period, political power did not want and did not have to control corruption. However, when they went as far as trying to control the public television; public protests erupted in late December 2000 (Tabery 2008, Lízal and Kocenda 2001: 156). According to observers, the situation calmed down a little, but on a long-term scale the protests had little effect, although the corruption indices showed decreasing figures (see annex).<sup>16</sup>

### *Obstacles for Investigation*

The ODS was perceived of being more corrupt than the ČSSD, due to that, the ČSSD gained power to govern without ODS support. Vladimír Špidla succeeded Zeman and did not continue the governing style of the opposition agreement. But soon, electorates' hope was

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<sup>12</sup> On his (dubious) activities also <http://vladneme.cz/?doc=slouf> (accessed 10 January 2013).

<sup>13</sup> On rather ridiculous grounds: he was accused of cross-checking information on his private computer. The Supreme Court dismissed the charges as late as 2003 (Kudrna/Volná 2007).

<sup>14</sup> Former government elites were thought to be involved in his ousting, namely, former Prime Minister Stanislav Gross, then vice president of the Czech Parliament (Kudrna/Spurný 2008).

<sup>15</sup> For example in the person of the police president (Vladislav Husák). He violated the speed limit, donated CZK 10,000 and gave up his driving license for three months. The daily *Mladá Fronta Dnes* complained that other citizens would have had to pay 22,500 plus a would have received a year's ban on driving. The police president was additionally accused that he had warned key suspects ahead of their planned arrest. He had to step down in March 2000.

<sup>16</sup> Tabery (2008) offers an in-depth analysis of the whole governing period. The impressive documentary film *Vládneme nerušit* provides details on government-business connections, corruption scandals and the infiltration of independent agencies (Kudrna/Volná 2007; only in Czech).

disappointed, as the ČSSD continued governing was built on corruption and induced several serious scandals.<sup>17</sup> Those governments were not interested in anti-corruption measures, in particular the ČSSD-governments of Stanislav Gross (2004 – 2005) and Jiří Paroubek (2005 – 2006). Gross was suspected of having connections to Czech's organized crime and had to leave only nine months after his appointment, because media revealed dubious transactions.<sup>18</sup> However, he never responded to a single case judicially.

Instead, Czech Prime Minister Stanislav Gross had invented another hindrance for the Office for the Detection of Organized Crime ÚOOZ that had been created to combat organized crime. The agency was restricted to only investigate crime and was instructed to keep away from political corruption. Corruption investigations were transferred to the SPOK, the Anticorruption Service, which did not cope with organized crime, despite the fact that organized crime was inherently connected to political corruption, for example in the case of biological fuel licence tenders (Mladá Fronta Dnes 2006, Spurný 2007d).

The ÚOOZ published its investigation results in May 2006, shortly before the parliamentary elections, despite the political demand to stop corruption-related investigations. Elites had counted on the political dependency of the service. But instead, its director Jan Kubice revealed how criminal structures had infiltrated the state administration and the ČSSD government led by Jiří Paroubek (2005 – 2006).<sup>19</sup> The social-democratic party feared to lose power and initiated a special investigation into whether this report signified a criminal act.<sup>20</sup> Jan Kubice received both threats on his life and sixteen criminal charges, presumably politically motivated.<sup>21</sup> Nevertheless, these ÚOOZ reports were ignored on a high political level and additionally even criticized by the judiciary (Radio Prague 2007c).

The report found that Paroubek, the interior minister and the police president hindered independent police work. It particularly accused social-democratic representatives of impeding investigation in the murder of the controversial businessman František Mrázek, who negotiated the privatization of state enterprises, most notably the sale of the petrochemical giant Unipetrol on behalf and in favour of high ČSSD politicians during the 2000s (Spurný 2006). Such a constellation and the largely uncontrolled operations had been possible because elites had worked as a closed shop which had favoured the access of criminal networks to politics in the 1990s (Radio Prague 2005).

The ÚOOZ from its very beginning of existence had to face the attempt of various social democratic and conservative political networks to exploit the agency for their own political benefits or to close it down (Gallina 2010). Jan Kubice and his team were publicly turned into scapegoats and accused of having failed to meet the obligations of their office. Kubice left in 2008 after losing support from Interior Minister Ivan Langer, and after the police headquarters, dependent on the interior minister, had tightened control of sub-officials – among others they had to report to their superiors every meeting they intended to have.<sup>22</sup> The Czech police president himself informed the minister on interesting pending cases (Mladá Fronta Dnes 2010). As a consequence the Czech Office for the Detection of Organized Crime ÚOOZ and the Anticorruption Service SPOK were equipped with new heads that had proved

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<sup>17</sup> See <http://kmotrdrobek.jex.cz/menu/afery-a-korupce/afery-v-politice> (accessed 15 October 2011).

<sup>18</sup> He had to step down because he purchased an expensive luxury flat and financed it with a loan from an unclear source. In September 2007, the Czech daily *Mladá Fronta Dnes* revealed additionally that he owned a major stake in the energy company Moravia Energo that he could not have purchased from his own income (Mladá Fronta Dnes 2007 and Spurný 2007c).

<sup>19</sup> See the so-called Kubice-report under <http://zpravakubice.sweb.cz/> (accessed 10 October 2011).

<sup>20</sup> Later, it was proved that the accusations were constructed and illegal, but nobody had to take the consequences.

<sup>21</sup> Zdeněk Doležel, the former head of the prime minister secretariat of Stanislav Gross and Jiří Paroubek, was even accused of having planned the murder of Jan Kubice.

<sup>22</sup> Additionally, the ÚOOZ was forced not to pay overtime, as the superiors knew very well that the most important informants would not meet during office time.

themselves reliable bureaucrats, loyal to the political sphere (Spurný 2008a).

After the period of the minority government, tolerated by the parliamentary opposition, the subsequent social-democratic governments continued to avoid anti-corruption politics: The ČSSD-governments ignored the media and actively countered the Kubice-report and its authors; but were initially not made accountable by the public neither in between nor in elections. They accused other colleagues and parties of being corrupt, weakened ÚOOZ and SPOK, and influenced the justice and police realm negatively. Here, political elites did not want and in principle also did not have to combat corruption. Those governments even fostered corruption. However, they did not manage to fully control the situation – therefore, ÚOOZ and the Kubice-report from 2006 could claim that political elites had allowed for a criminalization of the political sphere. Despite this, the Corruption Perception Index (CPI) showed better Czech rankings, while Freedom House saw rather stagnation. In contrast, an elite-oriented analysis shows a clear deterioration of the situation.

### *The Topolánek government: Laying the Prerequisites for Anti-Corruption Institutions?*

The government in 2007 underlined its will to combat corruption (Radio Prag 2007b, MVČR 2006, and compare with MVČR 2007). Before assuming the office of prime minister Mirek Topolánek had promised to combat political corruption. But afterwards, he changed conduct toward the media, the public and party colleagues (Spurný 2010). Political pressure on the ÚOOZ had grown considerably after its accusations that political corruption concerned equally the ČSSD and ODS, mainly during the opposition agreement period. Subsequently, ODS Interior Minister Ivan Langer (in office from 2006 to 2009) was blamed for in fact liquidating the ÚOOZ, after many staff members left ÚOOZ.

Additionally, many groups of the political elite resisted the replacement of the criminal code from socialist times. It regulated that investigation against politicians could not be opened without proving the act of handing over money. This helped the former Prime Minister Stanislav Gross to get away without charges for corruption.<sup>23</sup> The law from 1961 was replaced only in 2008, after numerous delays in parliament, and only because the ruling party had lost its credibility. So elites had not wanted, but were forced to do something. Passing a new Czech criminal code was crucial for the establishment of the intended special court and prosecution office (Spurný 2008b, Freedom House 2008: 185). Those institutions would give special anti-corruption police units more institutional backing when confronting corrupt political elite networks. The nearly twenty-year long repression of the new criminal code underlined that political elites had no interest to pave the way for easier corruption combat and for anti-corruption institutions.

Attempts to hinder corruption investigations did not stop after the criminal law came into force. The show case was that of Jiří Čunek, a politician from the Christian and Democratic Union/Czechoslovak People's Party KDU-ČSL. The media accused him of accepting bribes and an investigation was initiated. The responsible prosecutor publicly expressed doubts about the credibility of the principal witness and the state prosecution suspected investigators of manipulating evidence. The investigation was stopped on account of procedural errors. Finally, the case was re-opened and Čunek resigned as regional development minister and vice-prime minister. However, he remained senator and chairman of the KDU-ČSL (Gallina 2010). In November 2007 general prosecutor Renata Vesecá ordered detailed investigations, but the responsible prosecutor decided to close the corruption proceedings again. Čunek was

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<sup>23</sup> As above mentioned Stanislav Gross bought a flat with suspicious money, another politician, Jiří Čunek, received social welfare. The KDU-ČSL politician allegedly obtained 18,000 Euros from a real estate agency, and was accused of receiving bribes. Czech television reported in 2008 that he had accumulated three and a half million CZK in his bank account in the mid-1990s, at the same time receiving social benefits.

reintegrated into the government in April 2008 (Schmid 2008, Freedom House 2010: 189). Elites did not want to propose measures, in principle they should have had to, but as in other many cases government stability was placed above the corruption question. Just to remind: the period of the “opposition agreement” had been the most notorious.

This case, however, caused a serious split in the state prosecution and revealed the close ties between politics and judiciary. In May 2008, the displaced first prosecutor of the Jiří Čunek case, Zlatuše Andělová, said in a court hearing that the Vice-President of the Supreme Court, Pavel Kučera, and the General Prosecutor, Renata Vesecká, themselves were involved in exerting pressure on her to stop the investigation. Justice Minister Jiří Pospíšil, who had been in office since 2006, refused to dismiss General Prosecutor Vesecká. Prime Minister Mirek Topolánek repeatedly stated that Jiří Čunek could return to office if he cleared his name. At this point, the term “justice-mafia” came into use to denominate political influence on the judiciary (Spurný, Sacher and Kundra 2008, Freedom House 2010: 189).

The Čunek-case showed the growing self-consciousness of the state prosecution, like single state prosecutors gained more self-confidence in spite of a powerful disciplinary board, and the pressure of single ministers.

It was a vicious circle of government-connected political corruption: Government stability depended onto whether corrupted politicians remained in office or not. Additional, the Čunek scandal for the first time shed full light on the bargaining methods between political elites and the judicial machinery.<sup>24</sup> This case was characteristic for the “elites do not want and do not have to” attitude. However, for the first time a serious discussion of practices accepted since 1989 became possible, namely the right to appoint and to dismiss the general prosecutor by the minister of justice.

Nevertheless, Jiří Čunek was sacrificed, in order not to endanger the control of judges and state prosecution. In firing one discredited politician, at least the dependence of the justice sphere could be largely kept. As a consequence judicial staff members who were willing to enforce the rule of law were ousted by their own colleagues and the appointment of judges remained a primarily political decision.<sup>25</sup>

In this period, prosecutors had been repeatedly re-assigned to other cases in order to ensure political correctness of the judiciary. Additionally, police presidents regularly informed the ministers on investigations into political corruption. Subversive regulations outweighed anti-corruption politics, for example, the rather artificial difference between political corruption, a task of the anti-corruption task force, and organized crime, an ÚOOZ task. Moreover, it has been criticized that high ranking officials from the police or other superior units had to give a formal order to start a prosecution (Uhlíř 2010 and Kundra 2010). This pointed at an urgent need of high politicians to conceal their involvement in suspicious deals. The overall corruption situation was assessed negatively by CPI (degrading) or slightly improved according to Freedom House. In any case, the result of servile judges and state prosecution, and police directors was that the Czech police did not manage to close a single case of the big post-communist corruption scandals in spite of anti-corruption agencies in place.

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<sup>24</sup> In most cases, the politicians were successfully influencing important judicial cases in their favor. For example, ČSSD corruption around alternative fuel transactions caused the state losses of millions of CZK. However, the state prosecutor stopped investigation in summer 2007. Political scientist Jan Bureš holds that politicians in positions such as Prime Minister Mirek Topolánek, even if they should have had different attitudes toward corruption, closed themselves in and only had contact with their close collaborators (Lidové Noviny 2007).

<sup>25</sup> Or not named, such as the refusal of Czech President Václav Klaus to name Petr Langer judge in spring 2008 – the judge was not named as long as Klaus kept his office until March 2013. Supposedly, the same has been the case in Slovakia.

## *The Nečas Government: End of the Judicial Mafia and..?*

Public pressure through elections could now get more important, as the established parties had finally totally discredited themselves. The Kubice- and Čunek-cases revealed the stunningly dependence of the judiciary and the independent police units – and the term “justice mafia” was accepted even by politicians to characterize the situation. The anti-corruption topic dominated the parliamentary election campaign in May 2010, especially the two small (protest parties) TOP09 and VV were running on the anti-corruption ticket, and elected into parliament.

Now it seemed that there were forces determined to combat corruption. First, the judicial mafia was disempowered. The general prosecutor and his closest collaborators were replaced,<sup>26</sup> as well as the vice-president of the Supreme Court. A list with judges and prosecutors who had been members of the communist party was published (Radio Prague 2011a).

Jan Kubice, the former upright director of the ÚOOZ was appointed new interior minister, but entered disputes with the new police president Petr Lessy with regard to planned reforms that concerned the police and a specialized anti-corruption agency.<sup>27</sup> Cooperation between the two was not possible. It was Lessy who was sacked in summer 2012. He had publicly accused a high police office of professional incompetence – a mistake his adversaries had waited for (Kundra 2012 and Spurný/Kundra 2012).

The reform in the state prosecution was also pending, notably to disconnect the appointment and the office of the general state prosecutor from politics, and to establish a special agency within the state prosecution to combat organized crime and economic criminality.<sup>28</sup>

Soon, the old game was played again: The first corruption allegations rose against the VV-party, and it became evident that the party had mainly been a vehicle to gain political positions in order to achieve economic goals. The well-known National Economic Council to the Government NERV stepped in and published a report to counter the ineffective corruption strategy of the VV-party.<sup>29</sup> VV Interior Minister Radek John had discredited itself as the vice-minister for the combat against corruption, and left the government after extensive political struggles (Radio Prag 2011b, Novinky.cz 2011).

Nevertheless, Jan Kubice managed to dissolve year-long corruptive networks, for example in the Ministry of Defence where corruption has been an issue since the 1990s (Radio Prag 2010b, 2011d). This culminated in the stripping off immunity of a former Defence Minister in the summer of 2012.<sup>30</sup>

Police could pressure for the first time effectively to get search warrants and conducted a crackdown in the national and the Prague state prosecution in order to collect relevant material (Spurný 2011). The pressure resulted in the ousting of the Prague state prosecutor Vlastimil Rampula who was connected to high-profile corruption cases and was regarded as a

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<sup>26</sup> The new general prosecutor put himself in a favorable light and accused the former environment minister Pavel Drobil (ODS) of illegal party financing, not without any reason (Radio Prag 2011f).

<sup>27</sup> The interior minister is still the superior of the police president and the state prosecution. In an interview with the weekly *Respekt* (2011b) Jan Kubice outlined the intended reforms (the 2008 proposed reforms had largely not materialized). They should reduce administrative leverage in the police, facilitate the cooperation between the anti-corruption agency SPOK (whose director still was the same one installed in the above mentioned period), the anti-organized crime unit ÚOOZ and the anti-drugs unit.

<sup>28</sup> Justice Minister Pospíšil claimed to support the establishment of such agency (Radio Prag 2011f). He had to go in 2012.

<sup>29</sup> See [http://www.nfpk.cz/\\_userfiles/soubory/odkazy/nerv-boj-proti-korupcisbornik.pdf](http://www.nfpk.cz/_userfiles/soubory/odkazy/nerv-boj-proti-korupcisbornik.pdf) (accessed 5 October 2011).

<sup>30</sup> Vlasta Parkanová who was also vice speaker of parliament. Those networks were supposedly directed by the former Minister of Defense Martin Bartak. Bartak has been a year-long security policy adviser of Petr Nečas.

patron in corrupt relations.<sup>31</sup> Additionally, the director of the Prague city police was dismissed, and attempts were made to crack the network of police, state prosecution, judges and politicians in the capital. Some independent judiciary structures along with police structures were finally starting to work. The question was whether they would include significant steps toward anti-corruption. In spite of resistance, independent ministers and their collaborators managed to dissolve the justice mafia, to combat criminal networks in the Defence and Environment Ministry (Českapozice 2011).

In this government period more cases have been brought to court than ever, and politicians and functionaries have been sentenced to prison sentences. Most important, there was a test case with the high level politician David Rath who as first politician ever in the history of the Czech Republic was stripped off immunity in spring 2012 and put into prison. But in this case police had caught him red-handed with a full basket of “dirty” money (Rozhlas 2012 and Novinky.cz 2012).

It is not clear if the newly appointed officials and the institutional drive will be powerful enough and receive constant political support to break up the vicious alliance between politics, leading police administration, state prosecutors and judges.<sup>32</sup> The Rath case, however, has made clear that a serious prosecution of politicians is possible, and has so far signified a jump to the “politicians want and do combat corruption” level from the very basic level of the Čunek-case in which “elites did not want and did not have to combat corruption.”

#### **4. Possibilities of Institutionalizing Anti-Corruption Politics: The Case of Slovakia**

##### *The Era of Vladimír Mečiar (HZDS)*

[...]

In many cases during the Mečiar-period, leading politicians overtly have been involved in corruption, and corruption was systemic through a close network of politicians, institutions and organized crime.<sup>33</sup> For example, with the support of the Vladimír Mečiar government, Alexander Rezeš<sup>34</sup> purchased the Eastern Slovak Steelworks (VSŽ), channelled the profit back to other enterprises that were controlled by himself, ruined the company within a few years, and finally sold the steelworks to U.S. Steel.

Slovak media reported on a tight network between the Rezeš family and Slovak organized crime. Prime Minister Robert Fico allowed Július Rezeš to become a member of the directorate of the Slovak oil company Transpetrol in late 2006 on the recommendation of Vladimír Mečiar (Hospodarské Noviny, 23 April, 2007).<sup>35</sup> When Mečiar left office in 1998

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<sup>31</sup> He was also suspected to have stopped investigation on a corruption case related to a former minister of environment. A document of the state prosecution that ordered to stop the prosecution leaked to the public (document 1439, Kundra 2011). His successor became the prosecutor of the Rath case (see underneath), Lenka Bradáčová (Radio Prag 2012). Presumably, corruption networks in the Prague city hall were also backed by him. See leaked documents cited in Prague Post (2012). Notorious corruption cases were for example asset-stripping in the Investment and Post Bank (IPB), and corrupted army tenders; among others the Gripen, Pandur and CASA cases (ČTK 2011a). The Economist (2011) cites three Czech doctoral students that have found that around 14% of all tenders between 2006 and 2010 had only one bidder, and 67% of all the procurements were not shown in the public database.

<sup>32</sup> Outgoing President Václav Klaus issued an amnesty law a few weeks after the end of his office in 2012 that also stopped investigation in a dozen of serious corruption cases. For example, the investigation of a judge who was charged with manipulating tenders.

<sup>33</sup> It is no wonder that CPI and Freedom House ratings have been low. Interestingly, the CPI placed the first Dzurinda-governments even lower, while Freedom House registered a stagnation (see annex).

<sup>34</sup> The Rezeš family (Július and his father Alexander Rezeš) were some of the most prominent actors in the Slovak wild privatizations of the 1990s that culminated in high-scale privatization scandals with huge financial loss for the Slovak state.

<sup>35</sup> In 2005, he impeded that the case could come before the Special Court (ŠS) in Pezinok, which was

he issued an amnesty that was applied to Lexa, mafia collaborators and suspicious SIS agents. By this Mečiar hindered the de-criminalization of Slovak politics.

### *From an Authoritarian towards a Liberal Approach*

The rather authoritarian governing of Mečiar had made the corruption-combat question obsolete as there were no forces that could have challenged his reign. In the end, Mečiar was ousted from office, and the electorate with the media pressured for a political change, which could be seen at the 1998 parliamentary elections. In contrary to the HZDS, the SDKÚ Party and its president Mikulaš Dzurinda, had promised to establish a national anti-corruption program. Yet, cases of corruption within the government became evident from the beginning and the Prime Minister Dzurinda had to dismiss four ministers. In fact, the legacy of the Mečiar period has been a tight connection between the political, judicial and criminal sphere (Miller 2000: 49). Some of the most important networks have continued to operate until today.<sup>36</sup>

The façade-program “Clean Hands”, established in 1995, was followed by a national anti-corruption program, approved by the government in June 2000 – it prepared the grounds for systemic changes (Zemanovičová/Sičáková 2001 and Sičáková-Beblavá et al. 2011: 19, 24). The most important measure concerned the introduction of a randomized case management system in the judiciary to prevent the pre-assignment of cases.<sup>37</sup>

The government gave the Ministry of the Interior and the Ministry of Justice the main responsibilities to fight corruption during the first Dzurinda government, which did not prove the best solution as the ministries managed to draft an anti-corruption program, but were not able to establish effective institutions, for example separate courts and prosecution offices (Sičáková 2002). Those ministries had to draft programs, because the pressure on them was high. Despite that, they were presumably deeply involved in corruptive networks; therefore it was a very necessity for them to hinder effective anti-corruption politics.

Corruption was a key issue again in the 2002 national election campaign, and the SDKÚ promised to implement more efficient measures. At the end of 2002 the new coalition under Dzurinda established the Anti-Corruption Department at the Government’s Office with Ján Hrubala as its head, who had been known before as a civil activist for anti-corruption stances. The implementation of the first corruption program had not worked out due to vague descriptions of tasks and little skilled personnel, and presumably through political influence on the concept’s nature.

The corruption program of the second Dzurinda government was rather technical and originated from the Ministry of Justice – therefore it focused on corruption in the justice sphere. In fact, the governing politicians were driven by its minister Daniel Lipšic, who was regarded as a politically independent person aiming at strengthening independent state structures over the power of political elites and criminal elements (Spurný 2007b). Compared to the Czech Republic, here, anti-corruption programs have been directed by the ministers of internal affairs who had less interest to cut corrupted networks and to establish efficient anti-corruption institutions.<sup>38</sup>

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established in 2005 to investigate political corruption and political-criminal networks independently (Slovak Spectator 2005).

<sup>36</sup> See the “Gorila” scandal of 2011, described underneath.

<sup>37</sup> At the same time, the EU suspended pre-accession funding because of corruption (Slovak Spectator 2001). In 2002, several public officials were accused of corruption. The most prominent to leave its office was the transportation minister (Freedom House 2003). Afterwards, the randomized case management system was turned ad absurdum in re-assigning cases by different means (Piussi 2011).

<sup>38</sup> See for example the strategy presented by the former Minister of Interior John: <http://www.mvcr.cz/mvcren/article/new-anti-corruption-strategy-introduced.aspx> (accessed 1 October 2011).

During the second Dzurinda government the Special Court (ŠS) and Special Prosecution Office have been founded. Attached to them were two special police units on corruption and organized crime that dispose of secret agents. This major step was accompanied by intense political struggle over the right to corrupt. The anti-corruption faction succeeded, and despite of the strong resistance of the political opposition (HZDS) the new institutions began to work in summer 2005 (Sičáková-Beblavá/Nechala 2006).

The goal of the two institutions was to strengthen democratic political processes in the country. In contrast to ordinary Slovak judges, the judges of the Special Court underwent lustration, like a screening for collaboration with or a membership in the secret police, and were responsible to the Supreme Court of the country. Its founding fathers thought of a special, independent justice structure to meet high political corruption and to place a counter-weight that could confront the corrupted Slovak justice system.<sup>39</sup> The Special Court conducts an investigation when members of parliament, judges, or civil servants are suspected of criminal acts and corruption, and investigates organized crime.

As until December 2006, almost 200 cases related to Vladimír Mečiar and his surrounding came before the court, of which 70 per cent were brought to a decision.<sup>40</sup> The Special Court proved its ability and willingness to decide independently and relatively quickly upon long-lasting corruption cases. Some weak points have also existed. The right of the Supreme Court of Slovakia to annul verdicts has been criticized distinctively.<sup>41</sup> As several of its politicians have been object of court investigations, SNS and HZDS promised to shut down the court in their party programs (Sičáková-Beblavá/Nechala 2006 also Šipoš et al. 2010).<sup>42</sup>

This became especially obvious right after the elections in 2006, when former communist judge, and new Minister of Justice Štefan Harabín (HZDS),<sup>43</sup> an outstanding critic of those structures, presented a draft law, proposing to abolish the Special Court and Special Prosecution Office. He intended to give powers back to local courts with appeal possibilities in front of (corrupted) regional courts. Also, former State President Ivan Gasparovič, one of the closest intimates of Vladimír Mečiar in the 1990s, argued that special courts are not necessary and that the regular courts were sufficient for criminal prosecution (The Slovak Spectator 2006). So, SNS and HZDS quite openly presented their disgust of anti-corruption institutions.

The then President of the Special Court, Igor Králik, underlined that both HZDS and SNS were against the court because it worked independently. The court was hard to accept for those politicians who, according to him, were used to the methods of the old regime which included bribes and threats and the belief that a court had to be subordinated to politics and to decide in line with political requirements (Schmid 2006).

The country improved its rating in the Corruption Perception Index from 57 (2004) to 49 (2007).<sup>44</sup>

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<sup>39</sup> The establishment of the independent institutions did not solve the problem of a corrupted justice system in Slovakia (Šimecka 2011).

<sup>40</sup> For example, the case of the bankrupt Devín banka that involved several murders and disappearances. On 10 January 2007, the Special Court handed down one of its most significant decisions. Three former managers of bankrupt investment companies Horizont Slovakia and BMG Invest were sentenced to between seven and eleven and a half years for embezzlement.

<sup>41</sup> The Majský case has been an example. Jozef Majský was condemned for twelve years in April 2007 for heading a criminal group. The Special Court faced a revision of its verdict on the grounds of formal irregularities. The case was given back to the Special Court. In the end, Jozef Majský succeeded with a complaint in front of the Supreme Court that annulled the previous rulings and set him free (Javůrek 2007).

<sup>42</sup> In the period of the 1990s some of those politicians turned surprisingly rich during the privatization of large enterprises.

<sup>43</sup> According to “Gorila” he was placed in this function to find incriminating evidence against Lipšic. This would additionally underline his role as independent actor.

<sup>44</sup> The Czech Republic improved from 51 (2004) to 41 (2007) <http://archive.transparency.org>

The anti-corruption effort was significant under Dzurinda, and the government was determined to propose measures and in fact adopted effective measures. Still there were corruption scandals and laws that were approved were poorly applied, such as the 2004 law on conflicts of interests that had been a serious issue in the 2002 national elections (Freedom House 2006).<sup>45</sup> Single, independent actors drove the process, notably the prime minister and his justice minister. In contrary, most of the political elites would have neither proposed nor adopted measures, and instead seemingly would have preferred a politically dependent justice and police agency.<sup>46</sup>

### *Anti-Corruption: Reset during the Robert Fico Period*

After two terms Dzurinda had to pass power to the opposition, and in 2006 a coalition of Smer, SNS, and HZDS overtook power. Those parties have had a significant percentage of anti-reformist members. The new government did not feature anti-corruption measures in its program and no official government strategy existed (Bútorá et al. 2009: 11f. and Sičáková-Beblavá et al. 2011: 21).

This has been in line with political elites who not allow politically independent institutions and lobby against the special court, because they had been deeply involved in the issue. Therefore, it is of no surprise that there were various efforts to strip the special court off its powers when a new government coalition of the anti-court parties won the elections. A decision of Slovak Prime Minister Robert Fico at the beginning of 2007 changed its status and reduced additional wages of the judges.

As Anna Vitteková, state secretary of the Ministry of Justice, stated in November 2006: “Inspired by the experience from abroad (the Czech Republic, in particular) the struggle with corruption will focus on prevention, which was neglected in past years, instead of repression” (ČTK 2007).<sup>47</sup>

In the related field of transitional justice, it is worth mentioning the case of the independent Nation’s Memory Institute ÚPN established in 2002. The institute guards files of the interior ministry, defence ministry, justice ministry, and the Slovak Information Service SIS. The files concern activities and lists of members of the communist secret police ŠtB. Its goal is to gradually publish a register of communist secret police officials.<sup>48</sup> The government of Robert Fico tried to subordinate the institute to political structures and replaced independent members of the director’s board with politically loyal persons. The efforts of politicizing the ÚPN were of particular importance because the Nation’s Memory Institute was the only Slovak institution publishing ŠtB registers and therefore of high importance. This has some relevance for anti-corruption policy, as previous ŠtB collaborators had transferred to the SIS and still exempted a lot of influence during the Mečiar era through supporting Mečiar’s illegal activities. Consequently, Mečiar had abolished the lustration law after Slovak independence in 1993. After the take-over of Robert Fico, loyalists were placed in strategic positions in the SIS.<sup>49</sup>

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/policy\_research/surveys\_indices/cpi/2004, [http://archive.transparency.org/policy\\_research/surveys\\_indices/cpi/2007](http://archive.transparency.org/policy_research/surveys_indices/cpi/2007) (accessed 1 October 2011).

<sup>45</sup> Concerning corruption perception ratings (CPI) and Freedom House, the situation improved considerably from 3.7 to 4.7 and from 3.75 to 3.0 (see annex).

<sup>46</sup> Most of the suspicions were confirmed the context of the “Gorila” case, see below.

<sup>47</sup> Interestingly, the Czech Republic itself was preparing the ground for a Slovak-inspired battle against corruption with a special court and prosecution, attached special police units and secret agents, and the institution of a principal witness.

<sup>48</sup> It released the names of former collaborators and agents in June 2007, and made the archives accessible through the internet.

<sup>49</sup> The original “Gorila” file is for example found under: <http://pastebin.com/Vqgb77Qz> (accessed 10 January 2013).

In April 2008, the SNS came up with a proposal to abolish the ÚPN after information on illegal deeds of young Ján Slota, the head of the nationalist SNS party, leaked to the press (Javůrek 2008). Also because of corrupted tenders, Transparency International Slovakia assessed the anti-corruption effects of this government as negative (TI Slovakia 2011).

Concerning the work of the Special Court, it faced restructuring, but the number judgements delivered was stable between 2006 and 2010. This also concerns the number of detected cases, accused and sentenced persons. The overwhelming majority of those cases came before the Special Court.<sup>50</sup>

TI terminated the cooperation with the government due to its passivity. Mesežnikov et al. (2009: 495) even spoke of a “significant decline” in anti-corruption activities. Moreover, Robert Fico repeatedly had defended political clientelism and attacked NGOs. He also presented a draft law to restrict media freedom (Freedom House 2008). During his term as Prime Minister, Robert Fico had created the image of an aggressive media landscape in Slovakia that was spreading false information and trying to impede the ruling elites. This strategy helped stop anti-corruption policy and fostered a restrictive media law (Gehring/Thanei 2010), as the media remained rather critical towards the political elites.<sup>51</sup>

The performance of the Fico-government showed similarities to the later ČSSD-governments in the Czech Republic according to its anti-corruption passivity. Robert Fico and his surrounding did not want to combat corruption,<sup>52</sup> and turned to a confrontational strategy to actively hinder the new anti-corruption institutions to work, they tried to influence the justice and police realm and to conceal corruption, even through a restrictive media law.<sup>53</sup>

#### *Turn from the Fico-government to Iveta Radičová*

The parliamentary elections of June 2010 brought two surprises to many observers: the Smer party of Robert Fico won the elections despite the relevance of corruption. But oppositional center-right wing parties were able to form a government.<sup>54</sup>

The significant criminalization of politics under Mečiar had enabled the creation of a Specialized State Prosecution Office for the Fight against Corruption and a Special Court during the Dzurinda government. Additionally, parliament had passed several important laws. The Fico-period was a setback, however.

Iveta Radičová, the new head of government, managed to drive anti-corruption politics again. In this context Sičáková-Beblavá et al. (2011: 12) offer an analysis of the word “corruption” in government policy statements: the Radičová-government had it 20 times, Fico 9 times, the Dzurinda-governments 23 and 12 times respectively.

Since January 2011, all state biddings have to be published on the internet, which means all Slovak public administration institutions are obliged to publish any contracts involving allocation of state or public resources (The Slovak Spectator 2010b, Šimečka 2011b). In summer 2011, Radičová presented a draft document on anti-corruption – scheduled to be completed in November. Unfortunately, her government was brought down in October 2011 ostensibly because of the EU-bailout fund, but domestic issues played an important role, too

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<sup>50</sup> Sentenced: 112, 168, 130, 164, 167 for 2006 – 2010. See table 3 in Sičáková-Beblavá et al. (2011: 3).

<sup>51</sup> For example current Czech President Zeman characterized Czech journalists as “the dumbest creation on earth;” translated from and quoted in Kudrna/Volná (2007) .

<sup>52</sup> One of the major scandals concerned the Slovak Land Fund – Robert Fico had to dismiss the deputy director of the fund and the agriculture minister. A major issue was EU-fund corruption: It concerned public procurement at the construction ministry overseen by a Slovak National Party (SNS) minister. Freedom House and the government underlined that those branches, including courts (and the health sector) have been the most affected (Prague Post 2011). Besides, the Czech Republic faced an EU fund freeze in 2012.

<sup>53</sup> On the usual ratings Fico was even better rated in his first years (see annex).

<sup>54</sup> For an overview of the campaign see Haughton et al. 2011.

(Prague Post 2011).

Daniel Lipšic, Minister of Justice under Mikulaš Dzurinda, had returned into government as minister of internal affairs in 2010. He proceeded with the anti-corruption issue, put emphasis on independent and professional staff members, reformed anti-corruption offices and courts and fostered regulations on principal witnesses courts (The Slovak Spectator 2008) – at that time there already had been efforts to induce investigations into the “Gorila” tape transcript which proved systemic corruption. Leading politicians regularly met with important businessmen (e.g. of the main investment group of the country Penta) in an apartment to plan faked privatizations, the “tunneling” of assets, illegal party financing, and the bribing of politicians or judges in general.<sup>55</sup>

Still, there was no overall party consensus on the need of anti-corruption, and mainly the HZDS-party continued to obstruct anti-corruption politics, for instance with respect to the new general procurator (SME 2010).<sup>56</sup> Also during the Radičová-government politicians from HZDS, SDKÚ-DS and SNS accused each other of being corrupt, and Smer and SNS obstructed anti-corruption legislation. Transparency International Slovakia found that there was some improvement.<sup>57</sup>

### *Again Fico*

The fight against corruption was a crucial topic in the March 2012 election campaign, especially as the tape transcript, “Gorila”, had leaked at the end of 2011.

But again, elections won, reality is a different one: The government has not developed any anti-corruption activities, placed a loyal general prosecutor, police president and purged police (Transparency International Slovakia 2012 compare with Kurian 2012). The new police president Jaroslav Spišiak refused any information on the investigation in “Gorila”-linked corruption cases in order “not to endanger investigations” (Piussi 2011). The former Justice Minister Harabín was named president of the Justice Council and filled the Supreme Court with his loyalists. The Council additionally opened various disciplinary proceedings against independent judges and suspended them from office, and brought justice reforms to a standstill. The judge Peter Paluda claimed that politicians had overtaken the justice sphere. To be sure, the media were blamed for the situation. Štefan Harabín spoke of media libel in regard to politics.<sup>58</sup> This gives a rather grim outlook for the further combat against corruption.

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<sup>55</sup> SIS agents had installed a legal wire tape between 2005/2006, and requested their superiors to act. Then police president Tibor Gašpar (featuring in the transcripts in connection to Penta) allegedly said there was no chance of investigation. After 2010 they wrote to Lipšic, and made another effort to push the case, the report was handed in again (it had been lost), but the investigation team was harassed and closed down. Nicholson further describes the general reluctance to “go into it” under every government. See Tom Nicholson in Piussi (2011), accessed 10 February 2013, and Nicholson (2012).

<sup>56</sup> Allegedly corrupt behaviour of highly-positioned employees has taken place in the Office for the Fight against Corruption, and some officials have been accused of having accepted bribes in order to stop investigations (The Slovak Spectator 2010a).

<sup>57</sup> <http://www.transparency.sk/sk/analyza-hodnotenie/> (accessed 20 October 2012).

<sup>58</sup> One judge, who was alleged co-responsible for the death of a judge in Piussi (2011), filed a criminal complaint against her (Šimečka 2012). In the course of disciplinary proceedings several judges were removed, among them Juraj Majchrák, the vice-chair of the Slovak Supreme Court, and sharpest critic of Harabín, who was driven to suicide. Harabín was additionally accused of having close contacts to an Albanian drug cartel boss. The issue was discussed 2008 in parliament at the time Harabín was justice minister. The general prosecutor confirmed the authenticity of the tapes – the result was that Harabín was granted compensation for the damages on his reputation. Details in Piussi (2011) and Šimečka (2012).

## 5. Conclusion

[...]

The main problems in both countries have been the politicization of investigative agencies, dependent police presidents as well as state prosecutors and judges which close their eyes at suspicious tenders, privatizations and other incidents. The willingness to apply corruption-supportive measures has often been higher than the willingness to propose effective anti-corruption programs in both countries. Some measures during the Nečas period in the Czech Republic have been undertaken without program, but have been driven by single powerful actors, the interior and justice ministers and some state prosecutors.

In fact, there has been only one (more or less) effective, repressive program drafted by the Dzurinda-government in Slovakia. Unfortunately, the “Gorila” tape transcription that revealed systemic political corruption concerned the Dzurinda governing period which gave the impression that his governments were especially corrupted. However, the systemic corruption revealed was not an invention of Dzurinda: the Vladimir Mečiar (1994 – 1998) reign had laid the basis for this system that continues to work until today. The transcripts leaked at the worst point possible – the Radičová-government had to go, and it was no wonder that Robert Fico won the elections who did not figure prominently in the transcript.

The politicization of anti-corruption measures has been a crucial problem – the more cases a given government presents, the more this creates the impression that this government is especially corrupted, the main problem of the current Czech government.

A rather grim insight of this analysis could therefore be that the predominant elite strategy was to continue with their “business”, and to ignore the corruption problem unless significant public indignation or pressure from the political opposition emerged. It has not been the case that political power elites as a whole wanted, proposed and enforced effective measures.

This article could only present a fragmented picture of (anti-)corruption politics, and highlight the most important issues. It contrasted qualitative evaluations with selected quantitative findings. While comparing the qualitative insights of this paper with index evaluation by Freedom House or Transparency International it is maybe not too pretentious to state that quantitative measures could not analyse in detail why political elites foster or oppose anti-corruption measure, to which networks they belong and which political loyalties they are following. Nevertheless, further in-depth investigation is necessary and it would be desirable to identify political power networks more clearly, and to follow their long-term development.

The goal of this article was to contribute to research on the relationship between political elites and corruption, and to depict underlying forces of the corruption problem in post-transformation societies. It has been shown that little willingness might have to do with the political elite’s unwillingness to submit to a rule of law based system. This could be overcome through individual actors who manage to evoke a knock-on effect pushing the establishment of a firm regulative framework that could succeed to adapt political elite’s needs to a formal democratic system.

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Table 1: Slovak Prime Ministers and State Presidents (Slovak Republic)

Prime Ministers (from 1992 onward)

beginning of office	end of office	prime minister	Government	CPI Corruption	Freedom House
(24 June 1992)	15 March 1994	Vladimír Mečiar (HZDS)	HZDS, SNS		
16 March 1994	13 December 1994	Jozef Moravčík (DEÚS)	Provisional government (V. Mečiar ousted out of office)		
13 December 1994	30 October 1998	Vladimír Mečiar (HZDS)	HZDS, SNS, ZRS	3.9 (1998)	3.75 (1998)
30 October 1998	15 October 2002	Mikuláš Dzurinda (SDK/SDKÚ)	SDKÚ, MKP	3.7, 3.5, 3.7, 3.7 (1999–2002)	3.75, 3.75, 3.75, 3.25 (1999–2002)
16 October 2002	4 July 2006	Mikuláš Dzurinda (SDKÚ/ SDKÚ-DS)	SDKÚ/SDKÚ-DS, MKP, KDH	3.7, 4.0, 4.3, 4.7 (2003–2006)	3.25, 3.25, 3.0, 3.0 (2003–2006)
4 July 2006	8 July 2010	Robert Fico (Smer)	Smer, SNS, HZDS	4.9, 5.0, 4.5, 4.3 (2007–2010)	3.25, 3.25, 3.25, 3.75 (2007–2010)
8 July 2010	4 April 2012	Iveta Radičová (SDKÚ-DS)	SDKÚ-DS, SNS, KDH, Most-Híd	4 (2011)	3.50 (2011 and 2012)
4 April 2012		Robert Fico (Smer)	Smer		

Source: <http://www.vlada.gov.sk/7366/historia-vlad-slovenskej-republiky.php?menu=1243>; CPI Scale : 10 is the best scoring, tables see under [www.transparency.org](http://www.transparency.org) and Sičáková-Beblavá et al. (2011: 4). They state that the best time for Slovakia was between 2003 and 2007. For Freedom House 1 is the best scoring, see under <http://www.freedomhouse.org/report/nations-transit/2012/slovakia>. For the Corruption Perceptions Index: <http://www.transparency.org/research/cpi/overview>.

## State Presidents

beginning of office	end of office	president	political party
1 January 1993	2 March 1993	Vladimír Mečiar prime minister acting as president)	HZDS
2 March 1993 14 July 1998	14 July 1998 30 October 1998	Michal Kováč Ivan Gašparovič (speaker of parliament) prime minister acting as president – parliament was unable to choose president	HZDS non-partisan
30 October 1998	15 June 1999	Jozef Migaš (speaker of Parliament) and Prime Minister Mikuláš Dzurinda acting as President – Parliament was unable to choose a president	
15 June 1999 15 June 2004	15 June 2004 Re-elected 21 March 2009	Rudolf Schuster Ivan Gašparovič	non-partisan HZD

Source: <http://www.prezident.sk/>

Table 2: Czech Prime Ministers and State Presidents (Czech Republic)

Prime Ministers

beginning of office	end of office	prime minister	Government	CPI Corruption	Freedom House
(2 July 1992) 4 July 1996	4 July 1996 2 January 1998	Václav Klaus (ODS) Václav Klaus (ODS)	ODS(-KDS) ODS, ODA, KDU- ČSL	5.37 (1996)	
2 January 1998	17 July 1998	Josef Tošovský	ODS, ODA, KDU- ČSL	4.8 (1998)	3.25 (1998)
22 July 1998	12 July 2002	Miloš Zeman (ČSSD)	ČSSD (ODS)	4.6, 4.3, 3.9, 3.7 (1999–2002)	3.75, 3.75, 3.75, 3.50 (1999–2002)
15 July 2002	4 August 2004	Vladimír Špidla (ČSSD)	ČSSD, KDU-ČSL, US-DEU	3.9, 4.2 (2003–2004)	3.50, 3.50 (2003–2004)
4 August 2004	25 April 2005	Stanislav Gross (ČSSD)	ČSSD, KDU-ČSL, US-DEU	4.3 (2005)	3.50 (2005)
25 April 2005	4 September 2006	Jiří Paroubek (ČSSD)	ČSSD, KDU-ČSL, US-DEU	4.3, 4.8 (2005–2006)	3.50 (2005–2006)
4 September 2006	9 January 2007	Mirek Topolánek (ODS)	ODS and non- partisans	4.8, 5.2, (2006–2007)	3.50, 3.25 (2006–2007)
9 January 2007	26 March 2009	Mirek Topolánek (ODS)	ODS, KDU-ČSL, SZ	5.2, 4.9, (2008–2009)	3.25 (2008–2009)
8 May 2009	13 July 2010	Jan Fischer	Provisional government	4.6 (2010)	3.25 (2010)
13 July 2010		Petr Nečas	ODS, LIDEM (former VV), TOP09	4.4 (2011)	3.25 (2011–2012)

Source: <http://www.vlada.cz/>; CPI Scale : 10 is the best scoring, tables see under [www.transparency.org](http://www.transparency.org) and Sičáková-Beblavá et al. (2011: 4). For Freedom House 1 is the best scoring, see under [www.freedomhouse.org](http://www.freedomhouse.org). As we can see in this table, Czech governments have been far more unstable – and the relation to corruption remains unclear. For the Corruption Perceptions Index: <http://www.transparency.org/research/cpi/overview>.

State Presidents

beginning of office	end of office	president	political party
2 February 1993	2 February 2003	Václav Havel	non-partisan
7 March 2003	7 March 2013	Václav Klaus	ODS
8 March 2013		Miloš Zeman	SPOZ

Source: <http://www.hrad.cz/cs/prezident-cr/soucasny-prezident-cr-milos-zeman/zivotopis.shtml>

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