Draft report
on the fact-finding mission to Slovakia

17-19 December 2018
EXECUTIVE SUMMARY

The fact finding mission to Slovakia was the third mission of an EP delegation that took place in 2018. Following the murder of the investigative journalist Ján Kuciak and his fiancée Martina Kušnírová, a delegation composed of CONT and LIBE Members, encompassing the European Parliament’s full political spectrum went for a first ad hoc fact finding mission in March. In September, a further LIBE mission inquired on the situation of the Rule of Law in Slovakia. Two weeks later, the perpetrators of the crime were arrested; the mastermind ordering the murder is still not known.

The aim of the CONT mission was to follow up on accusations from farmers in Eastern Slovakia on which the late journalist had inquired before he was killed.

The CONT delegation met with different groups of farmers, with journalists and representatives of NGOs, with the President of the Self-governing region of Kosice, the Director-General of the Agricultural Paying Agency, the Minister of Agriculture and the Special Prosecutor.

The meetings demonstrated that Slovakia is facing problems with Land use/land grabbing due to a complicated system of land ownership (20% of land owned by the State) and leasing arrangements (about 80% of land leased) which sets Slovakia apart from all other Member States. This in turns causes issues as regards the right to receive direct payments under the EU Common Agricultural Policy.

The delegation was faced with evidence of intimidation and physical violence against small farmers and confronted with accusations that state authorities do not follow-up on such acts. Farmers also complained that they are “unable to receive” direct payments either because third entities cultivate the land they are entitled to farm without their consent or because of overlapping claims for the land they are farming with the consequence that the Agricultural Paying Agency stops paying and this, in turn, creates economic difficulties for small farmers which can even force them to give up their farming activity.

In Slovakia, around 19,000 claimants apply for direct agricultural payments. Out of these, 17,000 are small farmers holding only 10% of farmland, while only 10% out of all claimants hold 90% of land and 5% of them get 75% of direct payments.

Hundreds of cases of quasi-expropriation of small farmers are said to have occurred, not only in Eastern Slovakia, but also throughout the entire Slovak territory. The delegation was not able to verify such allegations or the extent of the problem. In addition, the delegation was confronted with allegations that the EU aid is not reaching the right beneficiaries and that the Agricultural Paying Agency does not fulfil its role and would need to be reformed. More generally, the delegation was confronted with complaints that people are not treated equally before the law, that corruption is a widespread phenomenon in the Slovak society, that Oligarchs have captured the state for the sake of pushing their interests, that judgments of the Supreme Court are not always respected and that law enforcement authorities are not up to their task. The delegation was not able to verify the veracity of all these accusations which were denied by the concerned government interlocutors. However, it will be up to better scrutiny on national and European level to check the veracity of the different allegations, which, if verified, would seem to indicate that the Rule of law is being defied in Slovakia.
I. INTRODUCTION

Following the murder of Ján Kuciak and his fiancée Martina Kušnírová, the European Parliament sent from 7 to 9 March 2018 an ad hoc delegation to the Slovak Republic consisting of CONT and LIBE members. There was immediate suspicion, which later proved to be correct, that the murder was connected to the journalist’s investigative work. For his last, unfinished, article, Ján Kuciak investigated about links between politics and organized crime and EU subsidy fraud.

The mission report concluded among others that the Supreme Audit Office of Slovakia has expressed serious criticism on the functioning of the agricultural paying agency (APA), notably with regard to the lack of expertise of APA’s personnel, on assessment criteria of proposals and on accounting. Further analysis was also requested on the steep increase in the number of beneficiaries of direct aid of more than EUR 100000 per year since 2015. After the mission, CONT Members were directly addressed by Slovak farmers on several cases of “land grabbing”.

In the follow-up to this mission, CONT took the following measures to shed more light on the alleged shortcomings:

- sent a letter to Commissioner Hogan on 12 June 2018, asking him to examine complaints addressed to CONT by Slovak farmers on abusive seizures of estates, de facto expropriation by companies using land regularly leased to others, doing business and receiving EU money and alleging that the Slovakian Paying Agency is involved in this malpractices and that also other state authorities are supposedly not up to their task of law enforcement;

- in his reply, of 20 June 2018, the Commissioner shared the concerns regarding the allegations of illicit use of land claimed for EU subsidies under the CAP and informed that the allegations of fraud and other serious irregularities addressed in the letter were referred to OLAF on 14 June 2018; he stressed however that the irregular use of land is a matter that should be controlled and corrected by the competent national authorities;

- sent a letter to Commissioner Cretu on 20 June 2018, passing on information received about systematic cases of fraud and blackmail related to structural fund projects in Slovakia, implying that “special handling charges” or “administrative fees” were demanded for launching or participating in structural fund projects; by letter of 11 July, CONT sent additional information to Commissioner Cretu concerning the mining company EuroGas;

- in her reply of 12 October 2018 , Commissioner Cretu asserted that no such practices are known to the Commission, but that the information received by CONT was transmitted to OLAF;

- organised on 21 June 2018 a follow-up meeting to the mission, inviting the Director-General of the Slovak Agricultural Paying Agency in order to discuss suspected irregularities regarding payments made to farmers under the Common Agricultural Policy and addressing 30 questions to him; replies to this questions were received by CONT on 9 July 2018;

- requested by letter of 16 July and received on 5 December 2018 access to summaries of the nine OLAF reports containing judicial recommendations which have been discarded by the Slovak judicial authorities since it appeared from the OLAF 2017 report that Slovakia is among the three Member States having the lowest indictment rate upon judicial recommendations
stemming from OLAF investigations (the Slovak judicial authorities dismissed 9 out of 11 OLAF recommendations issued between January 2010 and December 2017);

- addressed 17 written questions focusing on the alleged land grabbing in Slovakia and the performance of the Slovak Agricultural Paying Agency in the preparation of the hearing with Commissioner Hogan in the framework of the discharge procedure for the financial year 2017;

- had the opportunity to discuss the Commission replies to these and other questions of the discharge questionnaire during the hearing with Commissioner Hogan on 25 October 2018;

CONT coordinators recommended to request authorization for a further mission to Slovakia end of 2018 in order to follow-up on alleged irregularities concerning the use of EU agricultural funds which came to light on the occasion of the ad hoc delegation to Slovakia in March 2018.

Parallel to CONT preparing for a second mission to Slovakia in 2018, also the LIBE committee progressed in its follow-up to the mission in March. During the LIBE mission to Slovakia and Malta form 17 to 20 September 2018, the delegation faced accusations that EU subsidies are seen as a gift, that people see that EU money is being stolen, but they do not realize that it is their money that is being stolen. The conclusions of the LIBE mission state that “several specific cases of alleged corruption, including of EU agricultural funds, were brought to the attention of the delegation. These merit in-depth investigations”.

On 12 October 2018 the Bureau authorized the CONT mission on and subsequently the secretariat started to prepare the mission. The main focus was on direct payments under the agricultural policy.

The preparation of the mission appeared to be challenging, mainly for two reasons:

1. The request to meet the farmers in one group in order to discuss the problems they are facing in relation to alleged dysfunctions of Slovak authorities did not succeed; indeed the farmers insisted to be received as three distinctive groups in two different locations.

2. The aspired meetings with the President, the Prime Minister and the General Prosecutor did not take place although requested via the Permanent Representation sufficiently ahead of the mission. Only shortly before the mission took place, these meetings were declined for alleged overburdening of agendas in the pre-Christmas period and the CONT delegation learned from the press that the delegation aiming to take a closer look how direct aid under the EU Common Agricultural Policy is spent in the Slovak Republic was actually not welcome.

In the absence of CONT Chair, Ms Ingeborg Gräßle, due to a missed flight connection, the delegation was chaired by Mr Derek Vaughan, first Vice-Chair of CONT.

On the way to Sobrance, the CONT Delegation received a briefing by Mr Robert Hajšel, the head to the EPLO in Bratislava. He gave a general outline of the overall very positive macro-economic performance of the Slovak Republic with strong economic growth, declining unemployment and a low fiscal deficit. The Slovak economy is an open economy which is highly dependent on external demand. Four car manufacturers have production sites in Slovakia: Peugeot in Turnova, Hyundai in Zvolina, VW near to Bratislava and Jaguar in the Nitra region. The purchasing power has reached 77% of the EU average in 2017, but there is a considerable gap between the Western and the Eastern part of Slovakia - the former having reached the EU average while the latter is lagging behind at roughly 50 % of EU average.
The Slovak Republic benefitted from EU membership and from disbursement of EU funds which count with the national co-financing for 80% of public investment.

The implementation rate under the current MFF 2014-2020 has been overall rather low so far in the Slovak Republic for some of the ESI funds: Implementation under the European Fund for Regional Development stands at roughly 8%, whereas under the European Agricultural Fund for Rural Development, the implementation is at roughly 34%, which is slightly above EU average. In the wake of the protests after the murder of the investigative journalist Ján Kuciak and his fiancée, the former Prime Minister Robert Fico resigned and was replaced by Peter Pellegrini. At this occasion, the government was reshuffled and the Ministers for Investment and Informatisation, the Minister of the Interior, the Minister of Justice and the Minister of Culture have changed.

In the wake of the crisis, the president of the police and the chief of the anti-corruption force of the police (NAKA) stepped down, but the former took up a post as advisor to the Czech Minister of the Interior and the second as an advisor to the Slovak Ministry of the Interior.
II. SUMMARY OF MEETINGS

The Chair of the delegation opened all meetings by recalling the two-fold objective of the CONT fact finding mission to Slovakia, namely to follow-up on the issues of alleged land pirating which have been raised by Slovak farmers and to make sure that the EU funds for direct aid in agriculture are spent properly.

Day 1 - Monday, 17 December 2018

Meeting with representatives of farmers directly linked with the situation described by Mr Kuciak and with Mr Jan Petro, head of the local AGRI cooperation and Mr Marian Míčko, farmer

Participants: Štefan Béreš, Marián Míčko, Milan Kysel, Kristián Mičko, Jozef Kuvinka, Erik Majoroš, Jaroslav Majoroš, Mário Majoroš, Alex Kentoš, Juraj Hospodár, Milan Polak, Vladimír Ivanko.

Daniel Tiža, Belejčák, Mr. Bilik, Vladislav Fedič, Ján Cenkner, Milan Alexovič, Jana Ovšaníková, Ms. Hredzáková.

For practical reasons the two meetings were merged, but due to the small size of the meeting room, the farmers spoke in two groups. The farmers described their individual experiences of how they lost the land they were entitled to cultivate:

One of the farmers started by explaining that he was sentenced to a fine by the Agricultural Paying Agency (APA) and lost more than 400 ha. According to his statement, the land was taken back by the land fund and was taken over by the Mafia. In July 2016, when he tried to defend his fields and harvest, he was aggressed on his own field and needed to be brought to hospital. The man who hit him was a guard of the APA. At the same time his son’s car was set on fire. He complained at the land fund in Bratislava, but only recently he was informed that the inquiries and prosecution of his case was ended. Since three years, he does not receive any subsidies any longer and now he suffers from cancer.

Another farmer of a local cooperation, counting 400 members and 140 employees working on 3500 ha of land out of which 3200 are arable land reported that the cooperation has been punished by the ceilings set for direct payments. These ceilings have led to the ending of animal production in this region which had as a consequence that 400 000 ha of land are overgrown and that pastures and meadows are unused. He referred to the 16000 entities which receive subsidies under the CAP in Slovakia. The large and medium entities employ 75% of the workforce. He fears that these companies who employ people and who produce will be ruined.

Another testimony equally described problems with APA, Ms Roskova and deficiencies in law enforcement. The farmer claimed having been stripped of his property. He went to Court, the Court gave him right, but he did not get back his land. In his eyes, legislation adopted by the ruling party SMER enabled local politicians to influence key institutions for farmers. He suspects a network of culprits having direct contacts to government. He considers the state to be corrupt and sees in Ms Roskova the spin-doctor behind the expropriations of land which began in 2013.
The “expropriations” took place by postponing or denying contracts with the land fund. Dozens of farmers have lost land in this way.

Another farmer reported of the association which was created in the wake of the farmers protest. According to him land pirating is a nation-wide issue. He also criticized that despite the 9 bn invested under CAP in Slovakia, self-sufficiency has still not been attained.

Another farmer reported a case of physical violence by the police which has been filmed. According to him, the blame has to be put on the State and the civil servants who do not behave as required by the law. He identified the dealings of the land fund as the source of the problem. 2000 ha have been taken away from small farmers in Sobrance by the land fund and Ms Roskova received the lease contract and could then claim subsidies.

Another farmer complained that those legally entitled to farm the land were prevented from getting hold of the land and that a lot of land was sold out. He also considered the present Minister of Agriculture not to be credible because she was earlier the head of the land fund.

A particularly emotional testimonial was given by a young farmer who decided to make his living from agriculture, but who is not able to do so because he became a victim of Ms Roskova’s dealings. The APA considered that his cases needed to be brought before the Courts and suspended payments as there was a double claim on the land, but without funding farmers are not able to survive. He is currently depending on support by his family.
In reaction to these presentations, members of the delegation asked for more clarity on the cases of land pirating, how land was taken away from the farmers and how it was possible that APA did not respect judgments by the Supreme Court. They also underlined that the problems raised need to be resolved, noting that the APA gets funding from the EU.

The second group of farmers reported that no progress has been achieved since they had come to Brussels in order to expose the problems they are facing and which are mainly due to the negligence of state authorities. They explained that 95% of land used was covered by contracts and that farmers claim subsidies for the land they are farming, but APA and the Ministry of Agriculture ignore pertinent case law and do not care for who is actually entitled to farm the land. This way, one of the farmers claimed having lost 376 ha in six years, because somebody else is claiming subsidies in his place although without having been forced to actually handover the land. If APA suspends payments because of unclear entitlements, this is economically liquidating the small farmers who cannot survive without getting support through direct payments. Further it was raised that since 2014, every year a company is created which is asking for agricultural subsidies without having a single cow.

An attorney of some of the farmers fighting for pieces of land advanced that neither APA nor the Ministry of Agriculture was aware of the Court’s decision and imposed fines of 70,000 EUR per year for 500 ha which changed hands without proper entitlement. These fines were requested because the farmers entitled to cultivate the land were chased away by others who claim subsidies on the basis of illegal contracts; they eventually just come to mow the lawn and pretend that they are active farmers. A complaint was made in 2014, the Supreme Court rendered its decision in
November 2017. Proofs have been promised to be sent to members of the delegation. He accused local employees and high echelons of wrongdoings. He also referred to another case of a father and a son applying for funding for a project of agro-tourism, which they eventually stopped because of problems of co-financing after having refused to participate in a bribe.

Attention was drawn to Act no. 504 on farm land and the fact that a small minority is misusing the law.

Members of the delegation were concerned by the alleged disrespect of the APA of a judgement by the Supreme Court and questioned whether the facts related are compatible with a functioning state and the rule of law. The explanations given by the farmers, gave the impression that APA and land fund are colluding against small farmers. The Chair of the delegation expressed understanding and sympathy for the farmers and promised to raise the government’s attention to their cases.

The member of the Court of Auditors, Mr Wojciechovsky, pointed out that it is not entirely clear who is entitled to the agricultural subsidies in the form of direct payments, as the Court of auditors has already explained in its Special Report 10/2017 on young farmers. This point would need to be clarified in future legislation.
Mr Trnka started by presenting a successful project called Biocircles in association of three regions aiming for biological production of agricultural products and following also a social agenda of helping farmers. He continued by stressing that he felt extremely sorry that farmers have problems in Slovakia, but that these problems are linked to competences at national level. He admitted that farmers are still encountering the same problems and that one of the issues he is aware of is the inequality of people before the law - some people are treated differently than others. He stated that there have been admittedly wrongdoings since (EU) money goes to people who have very little to do with agriculture and who do not deserve it. This problem - which he qualified as systemic without being able to quantify it exactly - is serious especially for small farmers, but needs to be tackled at national level because the regions lack the required competences. He explained that in case of double declaration for the same plots of land, the APA does not enter into a detailed analysis, but stops paying subsidies. If a small farmer does not get direct payments for two years, he will be economically liquidated. Press charges and go to Court will take too long and a Court ruling will come too late, because a small farmer will have gone bankrupt before receiving the judgment. The case of overlapping claims would have to be solved more efficiently and the APA would have to investigate who is the claimant who by law should get the payment. Some people are afraid of
speaking out, but it is necessary to change the system and to make sure that direct payments go to those farmers who deserve them, notably since there are important sums at stake.

Members of the delegation and the President of the self-governing region discussed how to best address the problem, evoking among others possibilities of decentralization and empowering small farmers and overall make sure that the law is obeyed and enforced. Members of the delegation also quizzed if there is an underlying problem in EU or national legislation. In reply, the legal advisor did not identify a specific problem in legislation, but rather in the enforcement of law. Concluding, Mr Trnka thanked the delegation for having come and for bringing more light to these problems, which do not get so much media attention but need to be addressed.

**Meeting with farmers and activists who organised the June 2018 protest**

Participants: Mr Patrik Magdosko, Mr Frantisek Oravec, Mr Zsolt Molnar, Mr Jan Micovsky and Andrej Gajdos.

The meeting took place in the village of Gyňov at the farm of Mr Oravec, one of the organizers of the farmers’ protests in June 2018. On the way to the meeting with farmers who organized these protest meetings, the delegation could see a huge number of posters and banners exposed on trucks standing next to the road and expressing the concern of the farmers. The messages transmitted were that the State helps with liquidation of farmers and that the APA system is rotten, as stated by the General Prosecutor, Mr Ciznar, during a press conference on 9 May 2018; that the Financial Group is committing subsidy fraud and that such subsidy fraud is covered by the APA, that neither the Prime Minister nor the Minister for Agriculture want to listen to small farmers and that the Chair of CONT should help.
The Chair of the delegation invited the farmers to express messages to be raised in the following meetings of the delegation and with other institutions in Brussels. He also asked them to come forward with suggestions on how their situation might be improved.

The farmers were grateful that the CONT delegation came to listen to them, while Slovakian politicians did not make time available to meet them. They believe that things have changed with the murder of Ján Kuciak, because, finally, the farmers stand up for agriculture. Agriculture needs to be restructured in Slovakia and a chance needs to be given to young farmers. Also the people working in forestry feel wronged by corruption.

They went back to the history of communism to explain the current state of affairs: in their view, everybody was happy when communism finally collapsed, but the system taught everybody to steel. This attitude remains deeply engraved in the psychology of people. The owner of the farm explained the evolution of the company he started with 1.5 ha and two employees after accession to the EU. His own farm seemed to have evolved well thanks to EU funding. As he explained, over time EU funding has awakened desires and applications for EU funding became a commodity for large groups. Also bribes were common and regularly an 8% tip or advice fee was asked for getting access to EU funding. In the view of the farmer, the police in Slovakia is in such a pitiful state that it is not able to investigate in such bribery.

With regard to direct payments, he stated that the Slovak institutions still try to minimize the facts and refuse to accept that there is indeed a problem, resulting from overlapping claims: the law in Slovakia requires that in order to claim direct payments you must either be the owner or have a contract. If two applicants request direct payments, the APA does not investigate, but recommends to both applicants to go to Court. A civil law case normally takes three to four years, but could also take up to 10 years and during this time no subsidies will be paid by the APA, but a small farmer can economically not survive such a long time, while waiting how long the other party survives does not cause harm to financial groups. These financial groups discovered direct payments in agriculture as a source of income and they take also advantage of the fragmented ownership of land. The farmers do not understand why the government does not launch a land reform in order to remedy to the fragmented ownership. Such a land reform would prevent conflicts on overlapping claims.

Slovakia, they said, has also a strong tendency to nepotism: one of the farmers had 368 leasing contracts himself and considered that he had the right to be paid direct payments but there was a double claim on the same land and therefore he had not been paid. Where rights were disputed, they filed a case at Court, won in two instances and even before the Supreme Court, but still APA did not respect the Court’s judgment. They also reported a case of a police officer who maltreated a farmer and who is still in service despite a video taken by an employee who was documenting a destruction of harvest and then observed and filmed how this police officer ran towards the farmer.
and started a fight. This was a rare photographic evidence, but it was not admitted as evidence in Court.

One of the farmers also reported that he faced Mafia threads before the murder of Ján Kuciak happened. His cats were poisoned and his wife was warned that he should stop meddling in things that do not concern him.

A forestry farmer added that problems have been cropping up for many years and that corruption is also a major problem in forestry since politicians discovered that money can be made out of forests. Slovakia is very rich in forests, 42% of the surface are covered by them. He quoted as an example the practice of certain business groups to send invoices for work which has not been performed and adding threads should the amount not be paid. Recently, the foresters refuse to pay and spread the message that this must not happen. Eleven signatories signed a declaration “We refuse”, but the Minister still had not found time to meet them.

He also quoted two other examples of fraud:

1. The installation of a system of surveillance cameras in forests as a fire prevention mechanism. The price for the cameras was very high, while their usefulness is questionable because other measures like improved infrastructure or soil erosion prevention would have been more useful. EUR 22.4 mio were invested in this camera system, but the price of the cameras was only EUR 6 mio. He wondered in whose pockets went the other 16 mio EUR. It was not completely clear whether EU money was involved here.

2. The development of a forest portal for the price of 700 000 EUR for which only the money was taken but no portal was put in place. This case was reported to OLAF. The inspector who pointed to the problem lost her job, but she went to Court and the case is pending before the Supreme Court right now. He accused that millions are thrown around, human tragedies are behind if corruption is denounced and lamented the moral degradation the country is witnessing. While blaming that the availability of EU funds is considered by some as an invitation to “steel” the money, he nevertheless stressed that forestry needs EU subsidies and ended with a fervent statement of support of the EU.

A vice Chair of self-employed persons in forestry, representing small holdings, confirmed from his perspective several problems he faced with the APA: according to him, small entrepreneurs have no chance to deal with administrative burdens and cannot fulfil the conditions to get support. In his eyes, the biggest problem is public procurement and he denounced that the prices for machinery in forestry are inflated and that 20% is the unavoidable bribe for buying a new machine.
During the debate, the members of the delegation were aiming to get a better understanding of the size of the problem and on what needs to be done to address it. Farmers again considered the problem to be nation-wide, considering that potentially all of the 17,000 small farmers who own only 10% of the farm land might be concerned. The financial group can buy and own arable land and by applying for subsidies, they can block the subsidies for the small farmers. If they do not get the money in the first place, they do not mind, because they can be sure that the small farmers will soon get bankrupt. The farmers also advanced that the financial group is closely linked to the APA. Again, the accusation was made that EU money frequently serves pointless projects and that the money is “thrown out of the window”. On what needs to be changed, the farmers pleaded for a compulsory central register of contracts of land lease including sanctions. A voluntary register of ownership and lease giving an overview of all ownership contracts on farmland already exists, but there are no sanctions if somebody fails to enter a contract in the register. There was more doubt on the usefulness of changes in legislation: there have been many changes already, without much results. However, legislation to protect the Slovak soil from being bought by foreign companies would be welcomed. The farmers also wondered about the activities of COBRA, the criminal agency for fighting corruption, also in the field of agriculture. It is not clear what they are doing and which results they achieve.

Ending the meeting, the Chair of the delegation asked the farmers not to expect miracles, but promised to do his best to address their problems at the appropriate level.

**Meeting with the Director General of the Agriculture Payment Agency, Mr Juraj Kožuch**

Confronted with the concerns of competing applications for direct payments and the small farmers’ lack of possibilities to stand a long conflict in Court, Mr Kožuch, thanked for the opportunity to explain the matters at stake. According to him, APA is acting fully in line with EU legislation and is protecting the EU’s financial interests. The allegations of farmers are putting APA under great pressure but the disputes on entitlements do not fall under APA’s responsibility. Disputes on legal entitlements are out of scope of APA, which executes its power solely based on Slovak legislation and under control of certification body and competent authority, as well as under the control of the Commission and the Court of Auditors. Mr Kožuch reminded that the CONT/LIBE delegation came to the APA headquarters in March 2018 where he explained the issues at stake already and since then he has proven continuous readiness for cooperation. By contrast, he perceives a lot of pressure from journalists and farmers and considers facts are even twisted by MEPs, but he will not succumb for pressure and attacks. APA evaluates applications through the Integrated Administration and Control System (IACS) and verifies payments. APA is concerned to making sure that eligibility conditions are fulfilled; whether the payments are then used in a proper way, is not in APA’s scope according to EU legislation. Since a high error rate was detected in payment requests, APA has to
perform a higher number of checks. The APA performs administrative control of 100% of applications and is proceeding to further risk analysis and random checks. In 2018, APA made 7000 on the spot checks out of 19,000 claims for direct payments. This means that APA made more than 1/3 on the spot checks. Mr Kožuch admitted that that the APA is not yet perfect in its activities, because they are lagging behind with the implementation of IT systems, but he underlined that APA’s first and primary objective is to protect the financial interest of the EU. He further contested the accusation of ignoring Court rulings: if any claimant submits a Court ruling, APA will fully respect it and there has been not a single case of disrespect of a Court judgment. In his view, 95% of beneficiaries of direct aid fulfil all the requirements, why can’t the other 5% do the same? He feels very concerned by the accusations of some farmers and journalists because he is convinced that APA is acting fully in line with applicable EU and national legislation and it is not right that a couple of activists discredit APA’s work.

Confronted with the accusation that APA side with large corporations, Mr. Kožuch objected firmly, stating that by no means APA would provide preferential treatment to any side. In order to receive payments, claimants must have a right to the use of the land and cultivate the soil. At the time of application, the applicant is however not obliged to prove his entitlement to use the land (by submitting property title deeds or leasing contracts). The completeness and accuracy of the land register does not fall under APA’s competence. APA requires submission of documents on legal entitlement only in case that several applicants apply for support for the same agricultural area (“double claim”). In response to the case of one of the farmers, Mr. Kožuch referred to Act N°280/2017 concerning payments to land in use and stated that, as a rule, APA is against meetings with claimants, because payments requests just flow through the system - the Integrated Administration and Control System (IACS) - and at the end a decision comes out. That way corruption is excluded and the accusation of taking sides is unfounded.

Ms Borchmann from the Commission intervened on the issue of double claims where conflicting views are diametrically opposed. She inquired on the percentage of disputes and of overlapping claims given the almost complete use of the budgetary envelope for direct payments by Slovakia. In addition, she wanted to know why a claimant was not paid upon a Court judgment. Finally, she also asked for explanations on the complaints that farmers allegedly have to pay an 8 to 12% service fee in order to get a positive reply to their claims.

Mr. Kožuch regretted that such information was given to the Commission and indicated that there were 36 cases of conflicts on overlapping claims remaining after resolving deficiencies either by cross or random checks for claim year 2017. For claim year 2018 there had been double claims involving around 4 000 out of 18 000 claimants. Some of this can be very small overlaps and APA is working to sort them out. APA keeps working on both the remains from 2017 and the new ones for 2018. In the 2017 cases, both claimants have shown documents and proof of cultivation. He is not able to tell about hidden agendas, but APA publishes a lot of information on the internet,
including a list of beneficiaries, and offers also training courses for applicants in order to help them to get their claims right. APA can of course not require applicants to use advisory services and most do anyway not need it. If errors still persist after the administrative procedure, APA performs on the spot checks. Mr Kožuch vehemently denied the allegations that any “fees” were paid for lodging claims to staff at APA.

Concerning the respect of Court decisions, the APA Director General explained that having a title to farming the land is not sufficient for getting direct payments; farmers also need to fulfil the requirement that they actually manage the land. If somebody were prevented from managing the land, he would have to ask for enforcement.

In the ensuing debate, members of the delegation asked a series of questions, notably on:

- can APA not immediately check if land is rented by somebody?
- is it possible to deter abusive overlapping claims?
- could the APA’s control system be further improved?
- how to explain the imbalance that only 5% of the farmers get 75% of direct payments?
- how to avoid that small farmers have to give up their farming existence?
- how to make sure not only that EU funds are spent properly, but also to avoid the impression of perceived systematic injustice for those who are driven out of their farming existence?
- what has changed since 2015 and how is the cooperation with the Commission and the Court of auditors?

Mr. Kožuch replied that APA has to rely on registers, which are under the responsibility of other administrative entities, like the register on forestry or the Land Parcel Identification System (LPIS) for which a research institute is responsible (the Soil Science and Conservation Research Institute). Once a plot of land is in the LPIS, APA has to accept it. APA is not only looking at the cultivator of an area but also on the legal title, but it cannot control everything. Direct payments fall into the responsibility of the Member State and accusations against APA are unfounded. He also stated, that neither APA nor the Minister of Agriculture can be held responsible for people beaten in the field. Out of the almost 19,000 claimants for direct aid for claim year 2018, 14,000 have already received payments in December 2018 by APA. Hence, APA approved 76% of the requests. Claims from small farmers amount to 12,000. In case of disputes, APA suspends the procedure for granting support, this implies that in case of large entities, large sums are being held back, but they do not complain if small farmers are damaging their business.

On the issue of big and small farming entities, the Director-General detailed that the average size of a farming entity in Slovakia is 28 ha. Out of the 19,000 claimants for direct aid, 6500 are corporations/companies which can appear in 12 different legal forms. Once more, he stressed that APA is providing technical assistance, notably through 14 regional centers. Mr Kožuch further reminded that he replied to all questions asked by CONT during its meeting of 21 June 2018 (Annex 4) and that he would be ready to provide his original version of the answers.

On the accusations of liquidation of small farmers, he replied that APA has to verify the facts before paying. He said that he operates a public mailbox in the APA for anti-cuorruption where he only received 40 complaints for the last calendar year.
He reminded that a legislative change to speed up the granting of direct payments was based on his idea. In 2009, the Act n°543/2007 established for the first time the procedure for the disputed right on direct support. In 2013, the applicants were given the possibility to submit the disputed right to court.

Mr Kožuch set out that the internal control department received 1000 suggestions and complaints during the last year. Out of them 30% concerned requests from law enforcement (fights, stealing of crops) and 40% concerned questions of entitlements - whether applicants have land at their disposal by a lease contract. These cases are often very complicated because of the fragmented ownership of agricultural land (4 million parcels with an average of 11 co-owners).

He finished his explanations by reiterating his readiness to cooperate and to reply on any further question by e-mail.

Round table with NGOs active in the fight against corruption as well as with investigative journalists

Participants:

NGOs:
- Ms Zuzana Wienk, Head of Fair Play Alliancia
- Mr Matej Hruška, Stop the Corruption

Journalists:
- Mr Andrey Ban, Dennik N
- Mr Martin Turček- Aktuality.sk web
- Mr Pavel Knapko, Hospodárske noviny- economic daily
During the exchange of views, the following aspects have been advanced by the participants:

- Slovakia is facing very deep state capture by oligarchs with a mismatch between formal structures and a serious threat to democracy due to the state capture behind the formalistic appearances; the main issue is not about formal rules, there is no need to adopt new laws but about their enforcement and by whom they are enforced;

- Corruption is perceived as a generalized problem; the setting-up of the EPPO is seen as a vital issue; it is considered to be alarming that the Commission has stopped to produce an annual report on corruption; the EP is asked to keep up pressure that the Commission takes up this reporting again;

- Police, prosecution forces and administrative control mechanisms are not functioning properly; fraud and corruption are mainly detected by investigative journalists, as demonstrated in several cases:
  - case of subsidy fraud and damage to the financial interest of the EU by Lubica Roskova’s company Agro Porúbka (formerly Gard). She will have to repay 140,000 EUR;
  - case of Patrik Suchta, a former police officer and businessman involved in physical aggression of a farmer and guarding the headquarters of the APA in Bratislava;

- Domestic oligarchs are very influential and are very close to politics; the Slovak police would need to be more independent and strict asset declarations should be required from officials;

- The number of cases of land pirating seems difficult to evaluate, the estimates range from 20 to 80 cases, not limited to the East of Slovakia, but occurring all over the country;
A land reform unifying land ownership is urgently needed: the situation of having 4 million parcels, each of them having an average of 11 co-owners, is untenable; currently 3% of all claims for direct payment support are concerned by overlapping requests.

Members of the delegation were intrigued to hear very different stories from mainly farmers and journalists on the one side and from institutional representatives on the other. They would like to find out the truth and make sure that EU funds are well spent. They observed that a solution needs to be found to prevent overlapping claims for direct support to farmers.

Journalists and representatives of civil society expressed their satisfaction that the EP’s CONT delegation showed willingness - contrary to the national politicians, as they said - to come on site and to listen to the problems farmers are facing.
The delegation heard Ms Šubová giving account of her whistle-blower experience at the ministry of agriculture. She started working at the Ministry in 2014, first on management documentation on a regional operational program and as of 2016 on the second operational program, as head of department of operations. In this capacity, she was acting as “budgetary watchdog”. At that time, the Minister appointed Mr Marek Mitosinka, a former advisor to the international consulting firm Deloitte, as Director General in the Ministry of Agriculture. After his appointment, Ms Šubová observed an enormous increase in consulting services to the Ministry of Agriculture by Deloitte; compared to the previous programming period, the services provided by Deloitte doubled. She considered the invoices for these consulting services overpriced (hourly rate of 140 EUR), especially compared to the quality of the work. Ms Šubová addressed her hierarchy, including the Minister, in order to point out these excessive amounts and the conflict of interest of the Director General who was ordering consulting services on behalf of the Ministry from the company he had been working for before. She stated that the hierarchy was not interested in her reports, started bullying her and finally she was dismissed on the grounds of “organizational change”. The Director General in question is still in office and allegedly closely cooperating with his former parent company.
In the debate with Members of the delegation, Ms Šubová, detailed examples for overpriced services, notably with regard to the production of a manual for public procurement. She pointed to the difference of payment for Deloitte and the salary in the Ministry for Agriculture and she highlighted that the envelope for technical assistance is drawn to 100% by all ministries, while the program implementation is lagging behind. Finally, she confirmed that the money paid to Deloitte came from the EU budget for technical assistance. In reply to the question why it took her two years for her coming out, she replied that she raised the issue in the Ministry as soon as she had found out the reasons for suspicion. After having lost her job and realizing that society has changed in Slovakia in the wake of the protest movement after the murder of Ján Kuciak, she found the courage to make her revelations public.

**Meeting with the Minister of Agriculture and Rural Development, Ms Gabriela Matečná**

Minister Matečná welcomed the EP delegation and their wish to learn more about small particular problems of some farmers.

The Chair and the members of the delegation confronted the Minister with the claims of the small farmers and asked about legislation for land reform and possibilities for independent arbitration in order to avoid that farmers have to wait several years for the outcome of judicial proceedings.

In her statement, the Minister made the following points:

- APA does not give preference to anyone; 14000 applicants have received up to 5000 EUR; the integrated management and control system works efficiently and anybody who presents an eligible claim will receive direct payment support;

- Slovakia has a very specific system of land ownership where 8 million plots of land with the size of 2000 m² per plot are shared by different co-owners; almost all arable land is leased; 20% of land is managed by the Slovak Land Fund;

- Since 2018, applicants for direct aid must declare the used land area in digital form (geospatial aid application, GSAA), irrespective of the size of land; the ministry publishes all beneficiaries of direct payments;

- A preparation of a further amendment to legislation in order to simplify access to land for smaller farmers is currently in public consultation.

Members of the delegation raised questions notably on the following topics:

- Have the problems of the company GARD - who claimed and obtained direct payments for ineligible land (parking lot and airport) - been solved?

- Are there any further activities on land ownership reform?

- Why do farmers who won cases in Court still not receive direct payments?

- What is behind the accusations of overpriced public procurement?
• Why did the Director General for Operational Programs, Mr Mitosinka, accept to work at the ministry of Agriculture for a fraction of his earlier salary at Deloitte?

• How many active farmer organizations exist in Slovakia?

• Given the 20% of land managed by the land fund - would public auctions for land lease of unowned land be a solution?

• Why have the Minister for Agriculture and the Prime Minister refused to meet the farmers?

• How to explain that a farmer has been beaten up on his own land by a private security service which also provides security to APA?

• How is it possible that one of the farmers met in Gyňov does not receive direct payments since 2016 despite a Court decision in his favour?

In reply, the Minister and on the question concerning him, the Director-General, Marek Mitosinka, pointed out the following aspects:

• APA has filed a criminal report against the company GARD and the money has been claimed back; the human error was made on the basis of an aerial image on which the land looked like arable land; Ms Matečná personally took measures upon this case and transferred the section of LPIS (Land Parcel Identification System) from the Research Institute to the Ministry; vectorisation is happening on annual basis with three yearly updates - in her eyes, the system responded by adequate measures;

• On consolidated land ownership, Slovakia aims to progress, but the problem is particularly difficult, not least because of the inheritance law; the ministry is currently preparing a public procurement procedure for land reform and the intention is to use funds under the next MFF for land consolidation; a further ambition is to make the use of land more transparent and to make it more easy to check who is the real user of a given land;

• Court rulings are respected, but the decisive question for direct payments is who is actually managing and using the land;

• She is not aware of any overpriced procurement, farmers purchase tractors produced in the Czech Republic or in Austria and the price of tractors cannot be manipulated;

• The wage difference for the Director
General who formerly was employed as external advisor by Deloitte was not more than 15 % and he saw the task at the Ministry as an interesting career development;

- The association of farmers is very fragmented, there are several like the Chamber of Food and agriculture, a Union of small farmers, and a new association which has split in two upon internal conflicts; the Minister appeals on them to form a board;

- Public auctions on unowned land would not work; the land fund is applying a specific Regulation on land lease which is especially attractive for young farmers;

- The Minister contests not having met with protesting farmers and affirms having spent many hours in discussion with them; concerning the protest in June 2018 when farmers came with tractors to Bratislava, the Ministry asked them to select five representatives to talk with, but they were unable to agree on representatives;

- The case of the farmer in Győv is not within the scope of the Ministry of Agriculture since it is a question of law enforcement. The farmer in question uses 2300 ha of land and is receiving agricultural subsidies; the litigation concerns only a small part of subsidies;

- Subsidies are paid if eligibility criteria are met; the Slovak authorities proceed to cross compliance controls, on the spot checks and risk assessments; they agreed with the Commission to perform control on all items although the applicants feel that they have too many inspections; the top priority for the Ministry of Agriculture is to defend the financial interest of the EU.

- On the case of Ms Šubová, her former superior, Mr Mitosinka confirmed that she lost her job because of a change in the organizational structure, but contradicted her and declared that her department was not functional and the merger of her entity with another one increased the efficiency of the work. He explained that his relationship with Deloitte finished in 2014 and that afterwards he provided services to them for one and a half years. When he arrived at the Ministry, the situation was critical and he had to embark in parallel on many activities where they were lagging behind. The work was of such size that it would have been impossible for the staff of the Ministry to deliver. He further stated that Ms Šubová does not have the professional capacity to judge on this;

- Finally, the Minister raised on her own initiative a question to the delegation on the quality of foodstuff, which is an essential matter for Slovakia: the topic was erased by the Austrian Council presidency, but for Slovakia it is inadmissible to have two standards of food.

The EP delegation confirmed that the European Parliament was and is dealing with the dual quality of food products and that the rapporteur of a report of initiative on this topic invited the Commission to view the dual standards as unfair trading practice. The Chair highlighted that this topic does not fall in the remit of CONT.
Meeting with Special Prosecutor, Mr Dušan Kováčik

The delegation received an update on the results of the investigation on the murder of Ján Kuciak and his fiancée Martina Kušnirová: On 28 September 2018, two weeks after the LIBE delegation visit to Slovakia, the police arrested several persons and charged four of them: Tomas S., a former police investigator, his cousin, Miroslav M., a former soldier, the businessman Zoltán A. and the translator, Alena Zs. They are charged with premeditated murder; one of them made a confession. The target was Ján Kuciak, while his fiancée happened to be in the wrong place at the wrong time. The murder was allegedly ordered for 70000 EUR. The mastermind behind the crime who asked Alena Zs. to order the murder, has not yet been identified. Slovak media reported that one of the four suspects had testified that the murder was ordered by businessman Marian Kocner whose shadowy business activities had been a topic of Ján Kuciak’s investigative work.

Members of the delegation asked questions on the following topics:

- The success of the General Prosecutor to investigate in tax-fraud;
- State of play of investigation in agricultural subsidy fraud;
- The possible prolongation of the joint investigation with Europol into the murder of Ján Kuciak;
- The frustration of the farmers about investigation processes and their impression that the prosecution is either not acting or not acting quickly enough and the doubts resulting thereof on the rule of law;

- What is the Special Prosecutor’s view on the alleged theft of EU funds through State forest enterprises via manipulated public procurement procedures? What is the number of attacks by physical violence? If such testimonials were ignored, is the prosecution aware that this would undermine the confidence of citizens in justice and rule of law?

- The General Prosecutor was very critical on APA - what was his criticism about?

The prosecutor and his team gave the following replies:

- Tax fraud counts for a large proportion of financial crimes; if it appears on a large scale or if there is evidence of carousel-fraud, then the prosecution takes up investigations; on VAT fraud, they are working on hundreds of cases with joint investigation teams, several cases are at pre-trial stage, some are already in Court; a lot of attention is devoted to this type of crime which is difficult to detect behind formally legal appearances;

- Slovakia wishes to participate fully on the establishment of the European Public Prosecutor and is currently preparing the related national legislation;

- The prosecution services are currently working on 60 cases of possible subsidy fraud in the field of agriculture; the cases are spread over the whole country; the prosecution filed notably a charge against the Italian businessman enterprising in Slovakia, Antonino Vadala, for subsidy fraud and for attempting to harm the European Union’s financial interests; the businessman was transferred to Italy where he is currently held in custody;

- The prosecution, including the Special Prosecution Office carry out supervision of criminal investigations and prosecution, including fraud committed to EU’s financial interests; seven criminal cases on agricultural subsidies with a damage of EUR 1 mio are currently investigated; other criminal procedures harming EU financial interests relating to other fields than agriculture have led to 80 reports of possible crime;

- The joint investigation team under the Eurojust agreement will run for one year, until April 2019; prolongation could be asked for since the team was and continues to be very useful; for instance, the Slovak police was not sufficiently equipped to analyse large amounts of telecommunication data and thanks to the help by Europol, through its technological expertise and financial means, it was possible to analyse video recordings which subsequently led to the identification of the perpetrator;

- With regard, to the farmers in Eastern Slovakia, the number of reports increased after the General Prosecutor had been appointed; seven or eight new cases have been reported since August 2018 and the Prosecutors are taking action upon; the Prosecutors also met with the investigators and they are aware that farmers are concerned, but they are having a huge number of cases and the process takes some time; the Prosecution services make every effort to ensure that confidence in their proper functioning is justified, notably by enhancing professional training. The first round of training courses for prosecutors and investigators has just been successfully completed;
- After the Press Conference of the Prosecutor General, he agreed on sharing more information and on better cooperation with other services and on 23 October 2018, a meeting took place with the Director General of APA and representatives of the Ministry of Agriculture where they discussed the control mechanism of agricultural subsidies which improved after the murder.

- The police is acting independently, but the prosecution will supervise the police in order to verify if they are doing their job lawfully; if people feel neglected by the police, their cases can be revised upon request;

- The prosecution services fully agree with the statements given by the General Prosecutor in his Press Conference; he also met with the Minister of Agriculture to make clear that such cases should be prevented and must be prosecuted; with regard to protection of financial interests, APA will be trained to detect such cases; if an investigator wrongly cancels a case, the prosecution service can guarantee that such a mistake will be corrected;

- With regard to overpriced goods in public procurement, the prosecution cannot be launched on the basis of press articles, but the supervision by prosecutors will make sure that the investigators will not overlook a systemic issue of corruption; unfortunately the police does not have sufficient analytical capacity, but the prosecution will publish in a report that the analytical capacity for the police must be enhanced, particularly for the financial police; since the prosecution is at the end of the chain, the police must fully fulfil its obligations.
A well-attended press conference gave the Chair and the members of the delegation an opportunity to draw the first conclusions at the end of the series of meetings with farmers, representatives of NGOs, the APA, government representatives and the Special Prosecutor.

The tenor of the press conference was that good will to tackle the problems was apparent, but that a lot more needs to be done and that the problems must not be swept under the carpet. The police and the prosecution service must take complaints on intimidation and physical violence much more seriously and deal with them in an effective way.
III. Recommendations

Recommendations of the Chair of the delegation and the members of the mission are as follows:

1. Legislation on land reform in view of land consolidation seems urgently needed: the government should look at a reform in order to clarify the situation of multiple land ownership.

2. Slovakian farmers should work closer and better together. They should find a single voice to express their complaints instead of articulating them in different rivaling associations. The delegation was confronted with the situation that certain farmers did not want to sit in the same room together with other farmers; this is clearly not an ideal situation.

3. The government should talk to the farmers, give them information and cooperate in direct meetings between the government and the farmers in order to resolve the litigious issues and in order to raise awareness.

4. With regard to double claims for direct agricultural payments, more clarity will be needed on who can effectively rightly get these subsidies. It might be considered to create an independent body to arbitrate on the right to use land areas. Such arbitration could help small farmers to avoid costly and lengthy court proceedings.

5. The Commission is invited to monitor closely the management and control systems set up by the Agricultural Paying Agency and to report quarterly thereof.

6. A compulsory register on lease contracts is needed. The legal status must be clear and sanctions have to be foreseen for those who do not register.

7. The allegations on bribes in order to get tenders need to be investigated. OLAF has to follow-up on overpriced tenders with regard to the purchase of agricultural machinery and the acquisition of surveillance cameras as a fire prevention mechanism in forests.

8. The pending reform of the Common Agricultural Policy must avoid wrong incentives for land grabbing and must make sure that direct payments serve the interests of farmers and not those of financial corporations (by capping the direct payments). Over the past years, the situation of small farmers in Slovakia has deteriorated to the point that 5% of beneficiaries of direct agricultural payments receive 75% of the total amount of direct payments distributed in Slovakia. The European Union must not be the driving force for creating a landed gentry with European subsidies.

9. Further measures should be taken to protect the Rule of law in Slovakia: potential conflicts of interests in public service need to be properly addressed; the capacity of police resources needs to be strengthened.

The delegation is deeply intrigued by information received in the aftermath of the mission that the farmers who participated in the meetings were targeted for inspections the very next day what can only be perceived as a matter of intimidation.

The delegation is however pleased to learn that apparently, after the CONT mission, farmers took first steps to better organise themselves.

During the debate in CONT on 29 January 2019, CONT Members underlined the need to keep the situation in Slovakia under constant review and to keep up pressure with regard to the Rule of Law at political level.
Annexes:

1. Final Program

2. List of participants

3. Petition by Mr Róbert Pikáli, on alleged subsidy fraud, received from PETI on 20 December 2019

4. Replies of 9 July 2019 by APA to 30 questions posed by the Chair of CONT at the meeting of 21 June 2018