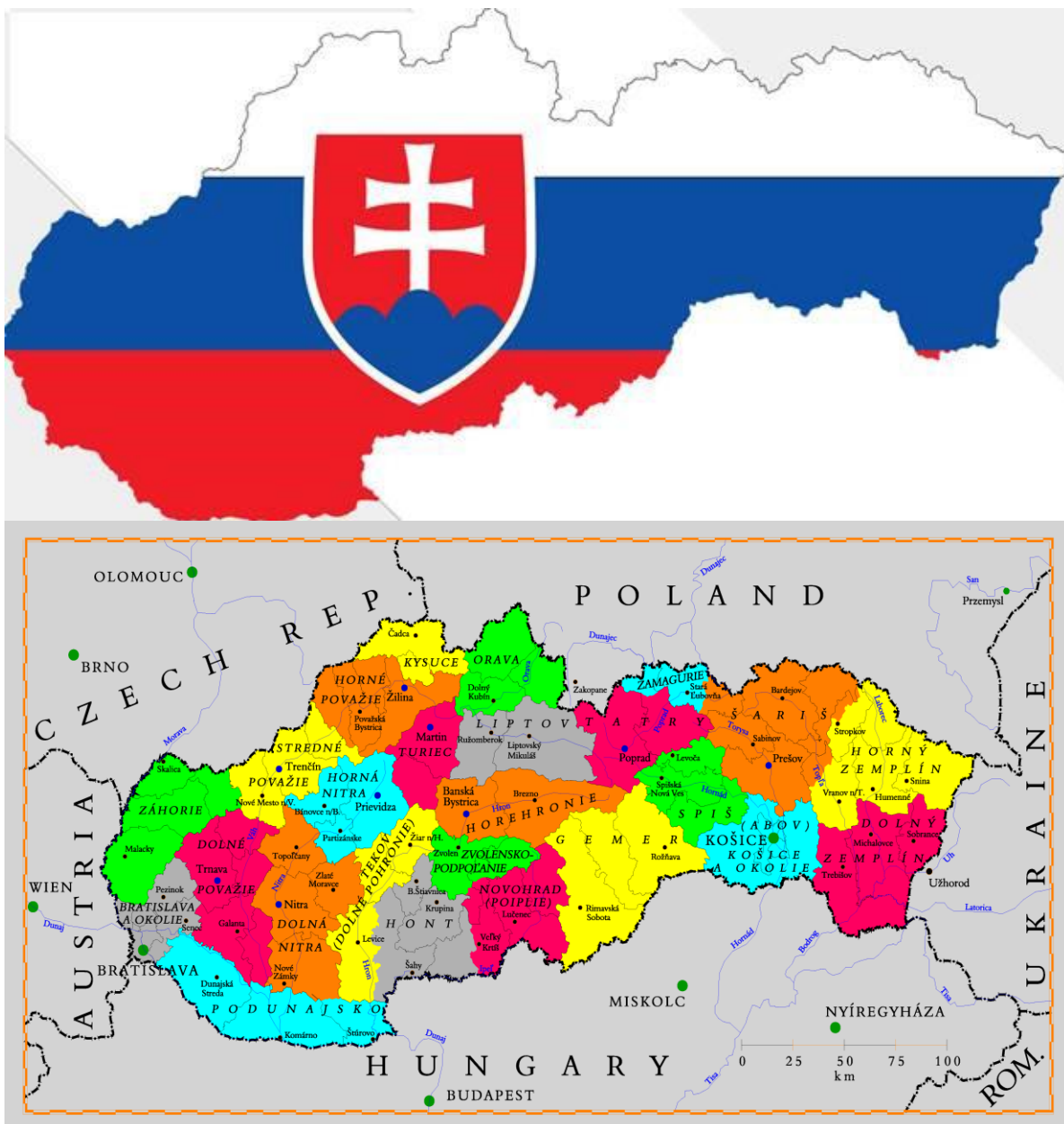


Directorate-General for Internal Policies of the Union  
Secretariat of the Committee on Budgetary Control

Brussels, 22 January 2019

## 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 turn 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 from 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 Zvilina, 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 Micko, farmer**

Participants: Štefan Béreš, Marián Mičko, 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 Wojchiechovsky, 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.





**Meeting with Mr Ratislav Trnka, President of the Kosice Self governing Region**



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 steal. 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 threats 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 threats 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 “steal” 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 any longer in APA's remit. Since the Commission detected mistakes in payment requests, APA has to perform a

higher number of checks. Control of 100% of applications is obviously not possible, but APA is making desk controls, 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 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 does not give advance payments, that it has to verify the facts before paying and that the Slovakian Anti-corruption entity 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 (Act n° 211/2013): in case of disputes on direct support, the applicants do not need to wait any longer for the outcome of legal proceedings and the APA decides according to a special regulation.

Mr Kožuch set out that the internal audit department received 1000 suggestions and complaints during the last year. Out of them 300 concerned requests from law enforcement (fights, stealing of crops) and 400 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.

**Meeting with Ms Zuzana Šubová, former official of the ministry of agriculture**

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 m<sup>2</sup> 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 Gyňov 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 Kušnírová: 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. 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.
2. 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.
3. 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.
4. Legislation on land reform seems urgently needed: the government should look at a reform in order to clarify the situation of multiple land ownership.
5. 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.
6. 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.

**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

Directorate-General for Internal Policies of the Union  
Directorate for Budgetary Affairs  
Secretariat of the Committee on Budgetary Control

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Brussels, 14 December 2018

**Fact-finding mission  
of the Budgetary Control Committee to Slovakia,  
17-19 December 2018**

**DRAFT PROGRAMME**

**Members of the delegation:**

1. Ingeborg GRÄBLE - (Head of Delegation, EPP, DE)
2. Claudia SCHMIDT (EPP, AU)
3. Tomas ZDECHOVSKY (EPP, CZ)
4. Derek VAUGHAN (S&D, GB)
5. Wolf KLINZ (ALDE, DE) - - *Tuesday PM/Wednesday AM (Bratislava)*

**Accompanying Members out of quota**

6. Monika SMOLKOVA (S&D, SK) - *Monday PM/Tuesday AM*
7. Vladimir MANKA (S&D, SK) - *Tuesday PM/Wednesday AM (Bratislava)*
8. Ivan ŠTEFANEC (EPP, SK)

**CONT Secretariat**

9. Evelyn WALDHERR
10. Veronika PATYI-HORVATH - CONT mobile phone: +32 472 58 07 21

**Advisors of Political Groups**

11. Balazs SZECHY
12. Hélène BEAGHE

**European Commission**

13. Christina Borchmann - Director, DG AGRI, Directorate H, Assurance and Audit

**Court of Auditors**

14. Janusz WOJCIECHOWSKI, Member of the European Court of Auditors

### **Interpreters, technician**

15. Dagmar HAJKOVA - Team leader
16. Peter HARONIK
17. Tomas HOLICKA
18. Bettina EXNER-MARA
19. Andrew LIGHTFOOT
20. Barbro WOLLBERG
21. Laurent RECCHIA - Technician

### **Languages covered**

DE, EN, SK

### **Coordination in Bratislava - European Parliament Liaison Office**

EP Information Office, Palisády 29, SK-811 06 Bratislava  
Robert HAJSEL, Head of EPLO  
+421 2 5 50696

### **Accommodation**

Kosice: 17 December x 1 night

#### **Boutique Hotel Bristol**

Orlia 3, 040 01 Košice, Slovakia  
+ 421 55 729 00 77, 78 - [info@hotelbristol.sk](mailto:info@hotelbristol.sk)

Bratislava: 18 December x 1 night

#### **Crowne Plaza**

Hodzovo Namestie 2, 81625 Bratislava, Slovakia  
+421 2 5934 8111  
+421 800 500 803 - [info@cpbratislava.sk](mailto:info@cpbratislava.sk)

### **Bus Transport**

Blaguss Slovakia, s.r.o.  
Mlynské nivy 70,  
821 05 Bratislava 2  
Slovakia  
T: +421 2 43 63 72 57  
M: +421 911 090 317 - Mail: [tbezousek@blaguss.sk](mailto:tbezousek@blaguss.sk)

### **Flights proposed:**

#### **Monday 17 December**

) 9:10 - 10:35 Brussels - Prague OK 631  
) 12:15 - 13:45 Prague - Kosice OK 972  
or  
) 10:25 - 12:30 Brussels - Warsaw LO236  
) 13:20 - 14:25 Warsaw - Kosice LO509  
or  
) 10:10 - 12:00 Brussels - Vienna OS352  
) 13:00 - 14:00 Vienna - Kosice OS741

#### **Tuesday 18 December**

) 15:05 - 16:10 Kosice - Vienna OS742

#### **Wednesday 19 December**

) 18:00 - 19:50 Vienna - Brussels SN 2906

**Day 1 - Monday, 17 December 2018**

<b>Time</b>	<b>Meeting/visit</b>	<b>Location</b>
13:45 - 14:25	Arrival of the delegation in Košice airport	
14:45	Departure from the airport to Sobrance	
	Briefing of the situation in Slovakia by the head of the EP Liaison Office, <b>Mr Robert Hajšel</b>	<i>During the bus ride</i>
16:15 - 17:15	Meetings with representatives of farmers directly linked with the situation described by Mr Kuciak: <b>Marián Mičko, Kristián Mičko, Jaroslav, Majoroš, Erik Majoroš, Mário Majoroš, Alex Kentoš, Štefan Béreš, Juraj Hospodár, Milan Kyseľ, Milan Poľák, Ján Petro, Vladimír Ivanko, Jozef Kuvinka</b>	<i>Municipality Office in Sobrance Tyršova 12, Sobrance</i>
17:15 - 18:15	Meeting with <b>Mr Ján Petro</b> , Head of the local agro cooperation and <b>Mr Marian Micko</b> , famer	<i>Municipality Office in Sobrance</i>
18:15 - 19:15	Meeting with representatives of farmers directly linked with the situation described by Mr Kuciak: <b>Mr. Daniel Tiža, Mr. Ján Cenckner, Mr. Belejčák, Mr. Vladislav Fedič, Mr. Milan Alexovič, Mrs. Jana Ovšaničková, Ms. Hredzáková, Mr. Bilik</b>	<i>Municipality Office in Sobrance</i>
19:15 - 20:15	Bus transfer to Košice	
20:30	Check in the hotel and private dinner	<i>Boutique Hotel Bristol Orlia 3, 040 01 Košice</i>

**Day 2 - Tuesday, 18 December 2018**

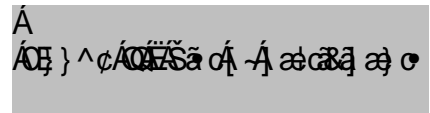
<b>Time</b>	<b>Meeting/visit</b>	<b>Location</b>
8:30	Departure from hotel	
09:00 - 10:00	Meeting with <b>Mr Rastislav Trnka</b> , President of the Košice Self-governing Region	<i>Námestie Maratónu Mieru 1, Košice</i>
10:00 - 10:30	Bus travel to Gyňov	
10:30 - 12:30	Meetings with Patrik Magdoško, František Oravec, Zsolt Molnár and Daniel Tiža - farmers and activists who organised the June 2018 protest	<i>Hospodarsky Dvor 193, Gyňov</i>
12:30 - 13:00	Bus travel to Kosice airport	
13:00 - 15:00	Private lunch at the airport, check-in	
15:05 - 16:10	Flight Kosice - Vienna OS742	
16:40 - 17:30	Bus to Bratislava	
17:45 - 18:45	Meeting with representative of The Agriculture Payment Agency (PPA) <b>Mr Juraj KOŽUCH</b> , Director General	<i>EPLO, Bratislava</i>



18:45 - 19:45	Round table of discussion with <b>NGOs</b> active in the fight against corruption: ) Transparency International, Slovakia ) <b>Ms Zuzana Wienk</b> , Head of Alliance Fair Play	<i>EPLO, Bratislava</i>
19:45 - 20:45	Meeting with <b>investigative journalists</b> : ) <b>Mr Andrey Ban</b> , Dennik N ) <b>Ms Katarina Zackova</b> - RTVS - Radio and Television of Slovakia ) <b>Ms Xenia Makarova</b> -Trend economic weekly ) <b>Pavel Knapko</b> , Hospodárske noviny- economic daily ) <b>Martin Turček</b> - Aktuality.sk web	<i>EPLO, Bratislava</i>
21:00	Check in the hotel and private dinner	<i>Crowne Plaza Hodzovo Namestie 2, 81625 Bratislava</i>

### Day 3 - Wednesday, 19 December 2018

<b>Time</b>	<b>Meeting/visit</b>	<b>Location</b>
07:45	Departure from hotel	
08:00 -08:30	Meeting with <b>Ms Zuzana Šubová</b> , former official at ministry of agriculture	EPLO, Bratislava
08:45 -09:45	Meeting with <b>Ms Gabriela MATEČNÁ</b> , Minister of Agriculture and Rural Development	<i>Ministry of Agriculture Venue: Dobrovičova 12, Bratislava</i>
10:00 - 11:00	Meeting with Special Prosecutor <b>Mr Dušan Kováčik</b>	EPLO, Bratislava
11:30 - 12:15	Press conference	EPLO, Bratislava
12:30 - 13:30	Private lunch	
14:00	Delegation leaves for the airport	
15:00	Arrival at the Vienna airport, end of official programme, individual departures of participants <b>End of official programme</b>	



**Fact-finding mission  
of the Budgetary Control Committee to Slovakia,  
17-19 December 2018**

**List of participants**

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**Members of the delegation:**

1. Derek VAUGHAN (S&D, GB) - Head of Delegation
2. Claudia SCHMIDT (EPP, AU)
3. Tomas ZDECHOVSKY (EPP, CZ)
4. Wolf KLINZ (ALDE, DE)

**Accompanying Members, out of quota**

5. Monika SMOLKOVA (S&D, SK)
6. Vladimir MANKA (S&D, SK)
7. Ivan ŠTEFANEC (EPP, SK)

**CONT Secretariat**

8. Evelyn WALDHERR
9. Veronika PATYI-HORVATH -

**Advisors of Political Groups**

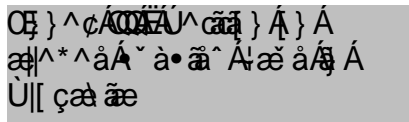
10. Balazs SZECHY (EPP advisor)
11. Hélène BEAGHE (S&D advisor)

**European Commission**

12. Christina Borchmann - Director, DG AGRI, Directorate H, Assurance and Audit

**Court of Auditors**

13. Janusz WOJCIECHOWSKI, Member of the European Court of Auditors



The Chair  
Committee on Petitions

D 320390 20.12.2018

Brussels,  
KG/cd[IPOL-COM-PETI D(2018)47380]

Ms Ingeborg Gräßle  
Chair  
Committee on Budgetary Control  
ASP 15E154

**Subject:** For information: Petition No 0517/2018 by Róbert Pikáli (Slovakian), on behalf of Élő Vidék Gazdaplatform, bearing two signatures, on alleged EU subsidy fraud in Slovakia

Dear Chair,

As part of the cooperation between committees in the framework of the PETI network, I am sending you, **for information**, the above mentioned petition which the members of the PETI committee decided to forward to CONT in October 2018. The petition may be used as a contribution to the work of your committee.

I would like to be informed of any eventual follow-up action taken on the matter.

Yours sincerely,

Cecilia Wikström  
Chair  
Committee on Petitions

*Annex: Petition No. 0517/2018 as summarized by the PETI secretariat, as well as the English translation of the original petition (via GEDA).*

## **Petition 0517/2018**

**Petitioner** Mr Róbert Pikáli  
**Nationality** Slovak

**Information Public** YES

### **Title**

Illegal thwarting of the operations of smallholders in Slovakia and misuse of EU budgetary instruments

### **Document**

Dear Committee on Petitions,

As farmers with Slovak nationality farming in Slovakia, and also as members of the informal farmers' association the Farmers' Platform for a Living Countryside, we wish to address you about a problem relating to the persistent use over a long period of instruments that are either illegal or borderline illegal and make it completely impossible for Slovak farmers to operate. In view of the fact that, as described below, the Slovak State authorities have repeatedly been guilty of serious failures to maintain conditions that accord with the law, the rule of law is being called into question in Slovakia. I would particularly like to draw your attention to the fact that, to a large extent, these illegal actions arise from illegal use, or abuse, of the European Union's budgetary resources.

The illegal actions that are the subject of this petition and which are being committed to our detriment, are being carried out with a view to obtaining area-based subsidies and/or by means of abusive application of the rules on the payment of such aids. These illegal acts are being committed by influential interest groups in the agricultural sector (often using physical violence) with the active (or indeed passive) cooperation of state bodies (the police, the Agricultural Paying Agency, the Slovak Land Fund, the Ministry of Agriculture). The numerous cases in which such acts have been systematically committed over many years have varied from the point of view of their modus operandi and specific purpose and the involvement of state bodies.

In particular, the method used to make it completely impossible financially for the small farmer submitting this petition (Zsolt Molnár) to carry on his business was this: a well capitalised foreign big businessperson applied to the Agricultural Paying Agency for an area-based payment (evidently without any genuine legal title) in respect of arable land rented and cultivated by Mr Molnár. In such a case, where more than one application is submitted in relation to the same land (so-called 'crossing'), the rules stipulate that aid must be suspended until the final legal settlement of the dispute (which generally takes between 3 and 4 years!). As a result of the reduction in revenue from area-based payments persisting for years, the small farmer, left with limited resources, will quickly go bankrupt. Irrespective of the

outcome of the legal debate, therefore, the wealthy big businessperson who is manipulatively abusing the law will be able, in the course of the ensuing bankruptcy proceedings, on the one hand to gain access cheaply to the small farmer's rented farmland and to the EU funding that goes with it and, on the other hand, to destroy local competition. To some extent, the authorities are not in favour of this situation, but due to shortcomings in the relevant legislation, they also cannot resolve the problem, or cannot do so quickly enough. The farmer's situation is exacerbated by the fact that, precisely because of the conspicuously ignorant attitude of state bodies, it is necessary to spend a lot of money on legal experts whose services would never be required if the state bodies had adopted a correct attitude, as was to have been expected of them. These expenses, as well as the expenditure of time and energy that I am not devoting to my business as such, are by themselves sufficient to potentially cause my small farm to go bankrupt.

It is important to report on this specific case primarily because my own many years of experience and that of our farming colleagues suggest that this is a typical method employed by well-capitalised entrepreneurs across Slovakia in order to force smallholders out of business. However, as I have said, the methods used both in the numerous cases that have come to public attention and in those which have not yet done so have been varied. A few specific examples of the former may be found by following the links to press reports shown at the end of our petition.

Some change occurred in the isolated struggle of smallholders when the investigative journalist Ján Kuciak and his fiancée were killed in February this year. Immediately before his death, Mr Kuciak had revealed a series of frauds involving EU farm subsidies, and acts of violence against local farmers, by mafia families from southern Italy who had settled in Eastern Slovakia, and their links, which extended to state office-holders at the highest levels. As a result of the murder of Ján Kuciak and his fiancée and the serious abuses that have constantly come to light since then, it has become clear to Slovak society, essentially overnight, that, while illegal acts against smallholders had hitherto only sporadically been reported, they were meanwhile systematic being committed regularly and systematically, and not only in exceptional cases, and that, far from any suggestion that farmers were becoming 'emotionally overheated' on the subject, they were engaged in a desperate battle against interest groups operating with the backing of state bodies and using organised illegal means.

Smallholders trusted that, in parallel with Slovak society's sudden and abrupt realisation of the situation, there would be a swift and radical change in attitudes towards the serious problems that they faced on the part of those state bodies responsible for decision-making and law enforcement that had not previously become aware of the serious abuses, despite our repeated complaints. To tackle this desperate situation and engage in dialogue with state bodies, farmers have launched the Farmers' Initiative (Gazdálkodók Kezdeményezése/Iniciatíva po nohospodárovo), a national alliance to protect their interests. It is a joint platform of farmers' associations from various regions, and is the largest such platform in the history of Slovakia. Farmers have adopted tools to raise awareness of rule-of-law aspects: on 8 March 2018, the Farmers' Platform for a Living Countryside, representing farmers in the Csallóköz region, organised a traffic-blocking demonstration. As a result of our efforts, on 27 April the various regional farmers' organisations in the country succeeded in holding a discussion forum with representatives of the Minister of Agriculture, the Slovak

Land Foundation, the Agricultural Paying Agency, the regional court and the police. During the forum, the smallholders presented a written appeal containing a comprehensive set of proposals to address the serious problems of farmers (the Slovak text of the Košice Appeal may be found at the end of this petition). The meeting in Košice was ultimately a failure, as farmers were unable to secure any promise of meaningful help or a constructive attitude: rather, they were lectured and reproached, while their arguments were completely ignored. In response to the failure of the meeting, on 4 May many regional farmers' associations jointly organised a national traffic-blocking demonstration on 19 sections of road, with 550 tractors and 350 cars, which received significant media coverage.

It is worth noting that, in the context of what is called for in the Košice Appeal, the Farmers' Platform for a Living Countryside stands emphatically for: (1) real support for access to land for young farmers (instead of the present symbolic, unrealistic aid); (2) a review of the conditions for the acquisition of farmland in Slovakia by legal persons; and (3) a solution to more problems appearing with the termination in law of the option of using replacement land ('land consolidation'). The difficulties concerned with these three issues differ from what has been set out so far in that here, it is not compliance with the law which is the main problem but precisely the fact that the legal framework in force makes no attempt to ensure equality of opportunity for capital-scarce smallholders – typically running a small family business – who live on site and work small areas of land. However, rather than such smallholders being protected by the EU's legal framework from the well capitalised, economically-superior and often abusive (and, typically, foreign) farming concerns, their medium- and long-term prospects are hopeless.

Unfortunately, at the time of submission of this petition there has been no indication from the relevant decision-makers – and primarily from the Minister of Agriculture – whether they are planning any action (with or without the involvement of the smallholders in Slovakia) to systematically prevent at least the most serious cases, which might be interpreted in terms of criminal law, from being pursued. Resolving the implications of the smallholders' situation which do not fall within criminal law categories but are nonetheless dispiriting by using primarily legislative means if anything meets an even stonier silence from the decision-makers involved.

The current situation of Slovak smallholders and essentially of the whole agricultural sector is summed up by the statement made by Slovakia's senior lawyer, Jaromír Jižnár, on 9 May, which appears well-meaning but sadly does not call for any specific action: 'Mechanisms were set up there – and I don't believe certain people are not aware of this – which serve to stifle and destroy those smallholders. All that is needed to do this is what is known as 'crossing', when the poor soul seeking support who cannot afford lawyers is thwarted by someone who can. Is this not known at the Agricultural Paying Agency?!... I don't wish to use uncouth language. So let the Minister sort things out at that Agricultural Paying Agency, because that is where everything went wrong.' 'This did not just begin a week or two ago, but has been that way for a number of years. And did the Agricultural Paying Agency not know about it? I personally do not believe it.'

Participation in Slovak party political struggles has not and does not feature in the smallholder's agenda; this is why they expect, from government bodies, political stakeholders

and essentially everybody, not to be discredited and accused of being politically motivated in standing up for their most elementary interests in an open, active and organised way. Slovakia's smallholders of course also understand that the dispiriting circumstances which prevail in the agricultural sector (the creation and safeguarding of legal frameworks favouring big business players; prevention/suppression of due process; direct or indirect involvement of specific state bodies in illegal acts) prevail not only in this sector but also exist in the government and economic sphere. This is precisely why, on the basis of our most direct everyday experience, we are not surprised that public opinion polls show the lowest level of trust placed in government bodies out of all the EU Member States to be in Slovakia.

As members of the Farmers' Platform for a Living Countryside, and with reference to the above, we consider it essential that we should turn to European Union forums representing the interests of small farmers in Slovakia and, indirectly, the interests of all decent citizens of the Union. As the abuses that are being committed are persistent, serious and systemic, we are convinced that, through the Committee on Petitions, the European Union should take decisive and effective action to protect the EU citizens concerned and the EU's own interests. We would ask the Committee on Petitions to carefully examine the above phenomena and cases, and assess them overall to establish to what extent they are consistent with fundamental values of the European Union such as the rule of law, equality and human dignity, and to take appropriate action to resolve the matter. We would also ask the Committee on Petitions to examine the extent to which what we have described in our petition (and other similar cases that we would be happy to report on if our petition is accepted) damages the EU's budgetary interests.

On behalf of the Él Vidék Gazdaplatform (Farmers' Platform for a Living Countryside)  
Róbert Pikáli and Zsolt Molnár

Links to press reports:

<https://www.youtube.com/watch?v=MJtdA88QdXI&feature=youtu.be>

<https://plus.sme.sk/c/20812478/stat-v-sluzbach-smerakov-najprv-pridu-hrubokrki-po-nich-grofka-roskova.html>

[https://www.facebook.com/ivan.stefanec.1/videos/10216294538536052/?hc\\_ref=ARS7uqBaU7blbsqPYU7mRJQwZBg9Uk-fPj2DsJ\\_p4kIuw8FM\\_9EZQW\\_r1c6EvQiAN0E](https://www.facebook.com/ivan.stefanec.1/videos/10216294538536052/?hc_ref=ARS7uqBaU7blbsqPYU7mRJQwZBg9Uk-fPj2DsJ_p4kIuw8FM_9EZQW_r1c6EvQiAN0E)

**Answers of the Slovak Agriculture Paying Agency to 30 questions posed by the chair of the CONT committee Ms Ingeborg Grässle on the 21 June 2018 during the CONT meeting in Brussels**

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**1 Slovak media have reported several cases of how the Slovak Payment Agency dealt with competing applications for direct payments on the same land. Let's put aside the specificities of the overall Slovak farmland ownership situation as well as the responsibility of the Slovak Land register in this matter and focus only on what the Slovak Payment Agency can and should do. Apparently, in Slovakia, it is possible to legally claim direct payments on land that you neither own nor rent, and receive funding before all the formal checks have been made. Is this correct?**

*Answer: Slovakia receives applications and evaluates them based on European legislation, which is binding for all Member States. At the time of filing an application, the applicant is not obliged to prove the right to use the land by submitting property title deeds or renting contracts, as this obligation does not arise from European or national legislation.*

*APA requires the submission of these documents in accordance with the national legislation if it is found that several applicants apply for support for the same agricultural area.*

**2 This must make your job very difficult; can you explain to us in this context what "krizenie" [krizhenie] – "crossing of claims" means? How is it legally possible?**

*Answer: When applicants file their applications for a payment on agricultural area it may happen that two or more applicants draw their farmed agricultural area on the same area specified in the application. These overlaps are removed as part of the application procedure. APA communicates with applicants and most of these errors are eventually administratively removed. If errors still persist, APA performs an on-the-spot check with the applicant during which it detects the real situation in the field.*

**3 How does an owner of land in Slovakia find out if anyone else is getting direct payments for his/her land?**

*Answer: APA has published a search tool on its website that is available to everyone. APA has also published a summary of all direct support applications according to individual support schemes that have been submitted by applicants to APA in that year, since 2004. In addition, APA provides information on data on parts of soil blocks reported in applications submitted by applicants in a given year (starting in 2004). Please note that APA does not keep any user register of agricultural land, therefore it does not have information about any users of agricultural land, it only records the data from the submitted applications and that data is published in the above-mentioned tool and is fully available to the public.*

**4 If renting contracts for agricultural land are not subject to verification, validation nor registration by any public authority in Slovakia, how do you actually control who has the right to work on a given land?**

*Answer: As mentioned above, APA accepts and evaluates applications under the European legislation, which is binding for all Member States. At the time of filing the application, the applicant is not obliged to prove the right to use the land by submitting property title deeds, or renting contracts, as such obligation does not arise from the European or national legislation.*

**5 Would you agree that much of the competing claims situations that your agency is dealing with could be avoided if all renting contracts were available in the information system of the land registry? Why haven't you been pushing for improvement on this key issue?**



*Answer: We do not agree with this claim, because the registration of all contracts does not constitute a sufficient basis. Another problem is the shared ownership of land, the validity of legal relationships, as well as the geographical location of land relations. This requires a deeper analysis beyond APA's competence. A renting contract is a private-law relationship. The landowner makes a sole decision on whom the land is rented to. It may be rented to one tenant or parts of it to several tenants. The landowner may limit the right of the tenant to sub-rent the land. Although there is no separate register of land use relations, the record of tenancy relationships to agricultural land is kept in the land register if the rental lasts for at least 5 years. The minimum rental period for agricultural land is, in principle, 5 years. However, registration of the land rent relationship in the land register is not a condition for the validity of a renting contract.*

*In case of fragmentation of agricultural land ownership (about 4 million parcels, an average of 11 co-owners), up to 44 million potential renting contracts can be assumed in theory (for comparison, Slovak Republic has 5,000,000 inhabitants), not considering (1) the possibility of renting only part of lands, (2) the possibility of tenants to sublet lands, (3) the possibility of subtenants to sublet lands for use to another person, or (4) other titles of use (decisions of state administration authorities, statutory rental contracts).*

**6 Most of the renting contracts for land for agricultural use are signed for longer than 5 years. The land register has a legal obligation to keep copies of all renting contracts with the duration of at least 5 years. But your Agency is way too often confronted with the fact that the land register does not comply with this obligation. Why haven't you initiated a legal proceeding for failure to comply with the existing legislation in this respect?**

*Answer: The completeness and accuracy of the land register does not fall under APA's competence, whereas Act No. 543/2007 Coll. (until December 31, 2017) as well as Act No. 280/2017 Coll. (as of January 1, 2018) stipulate that the registration of land blocks and parts of land blocks is not covered by Act No. 162/1995 Coll. Cadastral Law. It is not, however, true that the land register is required to record renting contracts lasting for more than 5 years. The owner or tenant has the obligation to file an application for a record of rental contract lasting longer than 5 years; if the owner or tenant fails to do so, he/she commits an offense subject to penalty.*

**7 Would you be in favour of giving full public access to LPIS data, ecological focus areas' and landscape elements' mapping? Could this be done in the ZBGIS application?**

*Answer: The Land-Parcel Identification System (LPIS) is publicly available through the "Land Registry – LPIS" Map Service at the website of the National Agricultural and Food Centre (NPPC) – the Soil Science And Conservation Research Institute (VUPOP). At the same time, the shapefile of the LPIS for cultural works, including information that may be disclosed with respect to the restrictions under the General Data Protection Regulation, is publicly available from 2017 at the website of the National Agency for Network and Electronic Services <https://data.gov.sk/>. The ZBGIS application is not within the competence of the agriculture sector or its subordinate organizations.*

**8 According to the same media reports, when there are competing claims, the Slovak Payment Agency sends a control to establish who has the right on the disputed land and, if it is unable to determine it, withholds direct payments. Is this correct?**

*Answer: In the event of persisting irregularities following cross-checks, APA carries out an on-the-spot check with applicants and if it is objectively unable to determine whom the right to use and farm the land belongs to, it determines 0.00 ha to the applicants on the disputed area, i.e. the claim that APA*

*withholds payments is incorrect, it only does not determine the land area within the disputed areas to all the applicants concerned.*

*Subsequently, applicants have the option to file a court action to determine their claim. In the event that the court decides to the benefit of the applicant or the claimants settle the dispute out-of-court, the applicant has the right to ask the APA to review the decision outside the appeal proceedings. The deadline is set within 7 years of the validity of the decision.*

**9 Is it true that it is enough for someone claiming that he/she works on a given land to cut some grass on it, to be considered, by your Agency, as entitled to direct payments?**

*Answer: The applicant is to carry out an agricultural activity and in the sense of Art. 4 (1c) of the European Parliament and Council Regulation No. 1307/2013 "agricultural activity" means:*

*i) the production, breeding or cultivation of agricultural products, including collection, milking and breeding of animals, and the rearing of animals for agricultural purposes,*

*ii) maintenance of the agricultural area in a state in which it is suitable for grazing or cultivation without a preparatory activity beyond the use of normal farming practices and machinery on the basis of criteria to be determined by Member States on the basis of the framework established by the Commission, or*

*iii) carrying out a minimum activity on agricultural land naturally left in a state suitable for grazing or cultivation, to be defined by the Member States;*

**10 How do you ascertain who actually really works as a farmer on a disputed land?**

*Answer: APA examines the evidence presented during the procedure individually and in their mutual context. Account is taken of all the evidence submitted by the applicant and APA takes it into consideration when assessing the eligibility conditions of the applicant for payment, including any doubts found in the given procedure.*

**11 Are you personally involved in such decisions?**

*Answer: APA evaluates applications through the Integrated Administration and Control System (IACS), i.e. the administrative and control mechanisms are running in a systematic manner, part of which is also the eKNM module for electronic processing of the on-the-spot check results.*

**12 You in any case bear the responsibility of the Slovak Payment Agency's decisions, so what is the degree of discretion you have in such cases?**

*Answer: According to Act No. 280/2017 Coll., the statutory body of the paying agency is the CEO who manages the activity of the paying agency and is authorized to act on its behalf. The CEO manages the processes in the organization in accordance with EU legislation, national legislation and internal management and organizational acts of APA.*

**13 For how long can you withhold payments?**

*Answer: APA makes decisions and pays direct support to the applicant after all control procedures have been completed and, if collaboration of other institutions on which the payment calculation depends is necessary, APA is authorized to suspend the procedure until the issue is resolved. APA does not withhold payments, but according to the current EU and Slovak legislation decides on the granting of support, while depending on the fulfilment of the determined conditions by the applicants, it applies appropriate reductions and sanctions and makes a decision.*

*We also draw attention to the answer to question No. 8.*

**14 How many such cases are currently open? Can you quantify the overall amount of withheld direct payments under your watch?**

*Answer: It is not clear from this question which are the cases that the European Parliament is interested in. To answer the question correctly, it would be necessary to specify the set of cases of interest in more detail.*

**15 How many of such cases implicate or implicated the company Esin? How many of such cases implicate or implicated companies that are part of the J&T group?**

*Answer: In accordance with current EU legislation, APA examined the fulfilment of the condition of an active farmer, i.e. performance of activities from the so-called negative list, also in persons related to the applicant.*

*APA does not investigate the links between companies in connection with direct support, as no legislation stipulates such an obligation or APA's authorization to do so.*

*Although the Slovak Republic introduced the Act No. 315/2016 Coll. on the register of public sector partners, APA does not examine the data and outputs resulting from the registration because they are not relevant for the purpose of examining the eligibility of the applicant. The condition of registration in the register in question is verified in relation to defined payments, which are funded, for example, from the EAFRD and the state budget of the SR.*

*For this reason, APA cannot answer the questions, as we do not have a database with the required information.*

**16 How many of such cases implicate or implicated companies that are part of Mr Babis' Agrofert group?**

*Answer: As mentioned in the previous answer, APA does not investigate the links between companies in connection with direct support.*

**17 Would you agree that your decision to withhold payments or not and its timing are extremely important as it could actually contribute to ruining farmers?**

*Answer: As already mentioned in the answer to question No. 13, APA does not withhold payments, but decides to provide support in accordance with valid legislation. If APA notes any inconsistency in an application that prevents from making a decision, APA deals with it within evidence procedure and, once the evidence procedure has been completed, APA is entitled to issue a decision to the applicant.*

*For completeness and accuracy, it should be noted that problems - disputes with the use of agricultural land and, subsequently, with the provision of direct support payments have been occurring since the beginning of the provision of EU funds. For these reasons, Act No. 543/2007 Coll. was amended by **Act No. 390/2009 Coll., with effect from December 1, 2009, when Section 16c was introduced**, according to which if the application for support for the same agricultural land was submitted by several applicants and the procedure pursuant to Section 16b (1) has found that the right of use of the applicants is disputable, **the paying agency suspends the procedure for granting support and refers the applicants to the court**. APA prescribes a reasonable period to file an action, but at least 30 days after the receipt of the notice of the suspended procedure.*

*However, this legislation did not seem to meet the expectations of the applicants (the need to wait for the legal proceedings to be completed), which led to further legal regulation of Act No. 543/2007 Coll.*

**by Act No. 211/2013, which with effect from September 1, 2013 amended the wording of Section 16c so that when the application for support for the same agricultural land is submitted by several applicants and the procedure according to Section 16b (1) finds out that the right of use of the applicants to the land is disputable, the paying agency does not determine the defined area on the disputed land and, in accordance with the conditions laid down, decides according to a special regulation.**

*Similar legislation also applies under Act No. 280/2017 Coll. as of January 1, 2018, which repealed Act No. 543/2007 Coll.*

*If the applicant additionally submits a court decision granting him the right to use the disputed land (or an agreement is made by the disputed applicants) and the statutory deadlines are met, APA proceeds to review the decision outside the appeal proceedings. In the new procedure, APA re-examines the evidence and, if the conditions are met, it grants the applicant a payment on the disputed area.*

**18 According to the reports in Slovak media, there seems to be cases when such disputes and your decision to withhold direct payments were used as a means to cut competitors from cash. Would you agree that the farmers or companies that would claim direct payments in order to cut their competitors from cash should be subjected to a criminal investigation?**

*Answer: APA cannot judge whether or not any action of the applicant is a criminal offence.*

*However, in the period from March 2017 to May 2018, the APA identified several cases where non-payment or delayed payment of support due to non-fulfilment of the conditions for granting the support could lead to difficulties or even the termination of an agricultural company. Generally, the situation of the disputed right of use was created when one of the previous applicants and, as a general rule, a new applicant cannot prove that the conditions for granting the support were fulfilled. The subsequent foreseeable decision made by the APA (according to the regulations) not to approve the support can in repeated cases act as an economic sanction, which brings the problem in particular to one of the previous applicants. The mistakes of some previous applicants are that they create such a situation - for example, agreements on rational land farming between multiple applicants arise on the basis of verbal agreement and the like. The problem of prosecution is, in such cases, a demonstration of intent. APA has therefore, in cooperation with law enforcement agencies, assessed the possibilities of demonstrating the intention and is currently preparing several complaints (following the fulfilment of the set conditions).*

**19 Have you initiated any such criminal investigation?**

*Answer: As mentioned above, APA cooperates with law enforcement agencies and also filed criminal injunctions against entities where it has been shown that the facts of the criminal offense could have been fulfilled.*

**20 According to Slovak media reports, you have initiated criminal proceedings for a blatant fraud case involving the company Gard. This company claimed and obtained direct payments for what turned out to be a parking lot and airport. This fraud was easily discovered when sifting through data contained in the Orthoimagery portal GSAA. How long have you been aware of this fraud case?**

*Answer: On the basis of information on possible support for ineligible areas (the medialized GARD case), the APA carried out an analysis of remote land survey data and assessed the eligibility of permanent grassland areas (PGA) and the area declared by the applicants in their applications on a sample of the eastern Slovakia territory (APA Trebišov and Michalovce regional offices). As a result,*

more than 97 % of PGA applicants reported the correct size of areas eligible for direct payments. Other applicants were included in the risk analysis for 2018, so they will be subject to an on-the-spot check by the APA.

**21 How come that this kind of extremely rudimentary fraud has not been detected by your Agency, but had to be discovered by investigative journalists?**

*Answer: This error was not made by the APA, but by NPPC (the National Agricultural and Food Centre) – VUPOP (the Soil Science and Conservation Research Institute) that manages the LPIS, since LPIS included areas that did not qualify for payments. These non-eligible areas are not part of the LPIS, as this register serves as a reference register under the EU legislation, which the APA uses to verify eligibility for direct support. In addition, the APA works in the IACS with data on the areas of agricultural parcels reported in applications and verifies this data systematically and not physically through individual workers.*

**22 Is data related to this fraud case still available on the GSAA portal? (Why not? Where is it?)**

*Answer: The data is still part of the GSAA application, which contains geo-spatial data on year-by-year basis for 2016, 2017 and 2018 applications, including the results of on-the-spot checks.*

**23 Do you have the power to sanction farmers or companies which commit fraud?**

*Answer: The sanction mechanism for direct support is laid down in the EU regulations and, according to the breach, sanctions, i.e. reduction or rejection of payments, are imposed on applicants within individual support schemes.*

*In addition, Act No. 280/2017 Coll. contains provisions for APA procedures where the recipient, statutory body or a member of the statutory body of the beneficiary, or a person acting on behalf and at the expense of the beneficiary, has been convicted or accused of an offense referred to in Sections 212 to 283 of the Criminal Code (criminal offenses against property, including for example subsidizing fraud, harm to the financial interests of the European Communities...).*

**24 Do you at least apply reinforced scrutiny and systematic controls for any demand emanating from such companies, or any companies run or related to the people who have attempted to commit or have committed fraud?**

*Answer: Administrative checks verify the conditions laid down by the legislation on the basis of the data from the reference registers and the evidence submitted by the applicants. Additionally, administrative checks are complemented by on-the-spot checks.*

*Within the framework of valid organizational and management acts, APA has developed procedures for addressing and reporting suspicious cases to the Division for Internal Control, Supervision and Protection of EU Financial Interests. This APA division also ensures communication with law enforcement authorities.*

**25 We understand that in the wake of the scandalous revelations, 3 employees of the VUPOP (Research Institution for land and land protection) were fired by the Agriculture minister. What was their responsibility in failing to discover the numerous frauds that were uncovered by investigative journalists in Slovakia, and about which you personally have apparently been informed a long time ago?**

*Answer: APA is not competent to draw consequences and impose sanctions on the VUPOP employees. However, the error was explained in the answer to question No. 21.*

**26 Do you now apply any specific procedure on “crossing of claims” coming from the company Agro Porubka, for instance?**

*Answer: The control mechanism is determined by the EU and SR legislation. APA, after assessing the findings of the on-the-spot check, including eventual multi-year non-use even in previous years (whether by Agro Porúbka, Ltd. or other applicant), will proceed to recover unlawful payments in accordance with the provisions of Act No. 280/2017 Coll. to ensure the settlement of financial relations with the EAGF and the EAFRD and by following procedure for dealing with irregularities.*

**27 Why not? According to the Slovak media reports, the same people who were behind the Gard Company are now behind Agro Porubka. If Agro Porubka can't be disqualified for requesting direct payments, shouldn't you at least apply extreme caution and stringent controls with regard to any claim coming from such a company?**

*Answer: APA can only proceed in accordance with the valid EU and SR legislation and cannot implement measures beyond the established procedures, otherwise there would be a violation of rules by the SR against the EU. Under the current legislation, we have carried out an on-the-spot check on all the land declared by the applicant Agro Porúbka, Ltd. in the single application for 2017, and we will work with the findings as stated in the answer to question No. 26.*

**28 Would you agree that there are systemic failures in the current system as designed in Slovakia for implementing the Common Agricultural policy? What can only be solved at EU level, and what is your direct responsibility? Please be very specific.**

*Answer: We do not agree with systematic mistakes in implementing the rules of the Common Agricultural Policy in the Slovak Republic. APA proceeds in line with current EU legislation, our procedures are audited annually by the certification body, continuously audited by DG AGRI audits as well as by the European Court of Auditors.*

**29 How long have you been aware of these failures? What have you done about it?**

*Answer: The error that occurred did not arise on the APA side. However, it has been communicated to the relevant sectoral institutions and we are looking for a better solution together to avoid speculative action.*

**30 According to a farmer, Mr Beres, a standard fee for your Agency to close an eye on “minor irregularities” is 10 % of the requested direct payments. That is a very specific and terrible accusation. What follow up have you made with regard to this public accusation of systematic corruption in the Slovak Payment Agency under your watch?**

*Answer: The argument made by Mr. Béreš is not based on any facts, it is not directed against a particular person and it is not possible to draw any consequences. If such a case really occurred, APA would take all necessary steps to avoid such action, including criminal liability. APA is constantly inviting applicants as well as the general public to report any suspicions of non-use of available funds, use of unfair practices, or corruption suspected at [korupcia@apa.sk](mailto:korupcia@apa.sk). At the same time, APA's new leadership has been striving for transparency and public awareness and the widest possible public control. For this purpose, APA publishes all the important information at its website, where, among other things, as we mentioned in the answer to question No. 3, all applications for direct support have been published since 2004, including agricultural areas reported by applicants in individual applications.*