



## INNOVATIONS FOR SUCCESSFUL SOCIETIES

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### TOOTHLESS BUT FORCEFUL: SLOVENIA'S ANTI-CORRUPTION WATCHDOG EXPOSES SYSTEMIC GRAFT, 2004–2013

#### SYNOPSIS

When Slovenia became independent from Yugoslavia in 1991, the Central European country rapidly transitioned to free-market democracy, with strong institutions and low levels of graft. In 2004, the government established the Commission for the Prevention of Corruption to demonstrate its commitment to good governance during the application process for European Union membership. However, the new watchdog body, which had no official enforcement powers, soon faced deeper challenges than it was equipped to handle. It found that political and business leaders had colluded to profit from Slovenia's prolonged and underregulated privatization process, undermining the economy and diminishing public trust. Leveraging its moral authority and limited powers, the commission undertook investigations and released advisory opinions that spotlighted public corruption and the systemic flaws that enabled it. By outfoxing political opposition and developing innovative uses for its investigative powers, the commission and its partner institutions helped spark a nationwide anti-corruption movement. In early 2013, public protests toppled a prime minister the commission found had been in violation of campaign finance rules, and Slovenia's struggle against corruption reached a turning point.

*Gabriel Kuris drafted this case study based on interviews conducted in Ljubljana, Slovenia, in November 2012. Case published April 2013.*

#### INTRODUCTION

In November 2012, cities across Slovenia erupted with citizen demonstrations demanding the resignation of high-level leaders implicated in corruption scandals. In Maribor, the country's second-biggest city, 10,000 protesters rallied, resulting in dozens of injuries and scores of arrests.<sup>1</sup> In the capital, Ljubljana, riot police dispersed thousands with tear gas. Crowds of hundreds assembled in more than a dozen other

towns, unprecedented in the usually serene Alpine nation of 2 million.

The protests marked a sea change in public attitudes from just two decades earlier. When Slovenia gained its independence from Yugoslavia in 1991, the country enjoyed an array of advantages rare among postcommunist states. Among Europe's smallest states (20,000 square kilometers), Slovenia had an ethnically homogeneous population, a diversified and broad-

based economy, liberal institutions of governance, and a favorable trading location between Central Europe and the Balkans.

When Slovenia applied for membership in the European Union (EU) in 1997, the European Commission recognized the nation as one of only two applicant countries with “no evidence of significant corruption.”<sup>2</sup> Facing few hurdles, Slovenia joined the EU and NATO in 2004, became the euro area’s first postcommunist member in 2007, and joined the Organisation for Economic Co-operation and Development (OECD) in 2010.

However, Slovenia’s smooth progress toward European integration masked a growing corruption problem. Once optimistic citizens became increasingly aware that political and business leaders were pilfering public and private sector wealth and undermining the country’s democratic institutions. A February 2012 Eurobarometer survey found that 95% of Slovenians perceived corruption as a major concern, with 83%—the highest share among EU countries—characterizing corruption as widespread among politicians.<sup>3</sup>

The Commission for the Prevention of Corruption (CPC) played an indispensable role in raising public awareness of Slovenia’s hidden corruption. Set up in 2004 to help secure EU accession, the commission lacked enforcement powers and faced stiff political opposition. However, under the successive leadership of Drago Kos and Goran Klemenčič, the CPC exposed corruption at the highest levels of government and catalyzed public demands for reform.

## THE CHALLENGE

“We look at the Baltic countries, we look at Poland, we look at the Czech Republic, and we remember how it was in the ’90s, in the late ’80s, when Yugoslavia in general and Slovenia in particular were way ahead of other postcommunist

countries,” Klemenčič said in 2012. “By all standards we should be a success story now. We are not. What happened? Who stole our transition and our dowry that we brought into our free-market democracy 20 years ago?”

Ruled for centuries by nearby Vienna, Slovenia developed laws, institutions of governance, and a culture of lawfulness similar to Austria’s. The country had strong courts, low crime rates, and relatively transparent and accountable public administration. Graft was rare in the provision of public services such as police protection and health care. “Low-level corruption does not exist, to a large extent,” said Klemenčič. “It never did. In that respect, we are the cleanest of the transitional economies.”

Thus, when Slovenia gained independence, “corruption was not very high on the agenda,” said Klemenčič. “People didn’t experience it in their day-to-day life.” A 1997 public opinion poll found corruption ranked at the bottom of a list of citizen concerns. A 2002 Open Society Institute report on Slovenia stated, “Anti-corruption policy has not been a political priority.”<sup>4</sup> Slovenia outperformed most of the postcommunist countries in surveys of corruption perception, such as Transparency International’s Corruption Perceptions Index and the World Bank’s Business Environment and Enterprise Performance Survey.

However, a moderately critical December 2000 report by the Council of Europe’s Group of States against Corruption (GRECO) faulted Slovenia for lacking an anti-corruption agency and an anti-corruption strategy. In July 2001, to keep these concerns from upsetting the EU accession process, the Slovenian government established the Office for the Prevention of Corruption to draft an anti-corruption strategy and law that would establish a permanent anti-corruption agency. According to Kos, who served as the office’s state undersecretary, if GRECO had not recommended the creation of an anti-corruption agency, “We would not have it, for sure.”

Boštjan Penko, a judge who had helped update Slovenia's laws of criminal procedure, led the anti-corruption office and reported to the prime minister. The office finished its work by 2003, aided by Dutch advisers. Both the new anti-corruption strategy and the Prevention of Corruption Act passed parliament with few changes. The law created the CPC.

Because the incidence of corruption in Slovenia appeared low, the new commission was geared toward managing routine corruption *risks* rather than uncovering and dealing with exigent corruption. The CPC was to provide guidance on ethical standards, supervise asset disclosure by functionaries, prevent conflicts of interest within government, promote systems of integrity management, and implement the national anti-corruption strategy. It also had educational roles, including researching corruption trends and raising public awareness.

The commission's investigative powers were limited. The agency could refer cases to law enforcement bodies, bring civil suits, subpoena documents, and question witnesses in cases related to its preventive functions, such as discrepancies in asset disclosure. It had no power to impose penalties for noncompliance. "They said the CPC is a tiger without teeth," said Bojan Dobovšek, a professor of criminal justice at the University of Maribor and a former CPC commissioner. "The idea was not to send bad guys to prison, but just to disclose cases to the public. That is the main tool of the CPC."

The CPC's lack of police powers marked a deviation from the three-prong anti-corruption agency model pioneered by Hong Kong and adapted by dozens of emerging democracies worldwide.<sup>5</sup> Such agencies combined law enforcement powers with preventive and educational roles. The CPC, according to Kos, who served as its first head, was among the first anti-corruption agencies in Europe to be "fully independent and have strictly preventive tasks."

In setting up the CPC, Slovenian leaders had feared that giving the new commission police authority might upset the balance of power within the justice sector or signal distrust in existing institutions. Kos explained, "Giving law enforcement powers to the anti-corruption agency means you are taking something that is traditionally the domain of the police, and for that you have to have damned good reasons."

However, beneath the surface of Slovenian society were high-level corruption problems too deep and intractable for Slovenian law enforcement to uproot. Although those corruption issues did not burst into the public consciousness until after the 2008 European financial crisis, they did originate shortly after Slovenia's independence.

Before its independence, Slovenia had been Yugoslavia's most autonomous republic, insulated by its prosperity and ethnic homogeneity. That autonomy eased the country's postcommunist transition and kept it out of the ethnic wars of Yugoslavia's disintegration (1991–95), which claimed more than 100,000 lives. But the conflict disrupted Slovenia's economy, which relied heavily on Balkan markets. And the country's long border with Croatia made it an ideal transit point for traffickers seeking to circumvent the United Nations-enforced embargo on the former federation's warring forces. A windfall in a weak economy, that illicit trafficking entangled key political leaders and became, according to investigative journalist Blaž Zgaga, "the mother of all scandals" in Slovenia.

From 1991 to 1994, Slovenia was a node in an arms-trafficking network that stretched from Odessa to Khartoum to London and included state, private, and criminal elements.<sup>6</sup> A German media exposé in 1993 prompted first Slovenian president Milan Kučan to curb arms trafficking, but the highly profitable trade was already ingrained. According to many journalists and scholars, evidence uncovered by investigators indicated that defense minister Janez Janša and

other national security officials continued the trade in secret.<sup>7</sup>

Zgaga said political leaders skimmed millions of dollars from the arms trade. “The elite raised a lot of money in cash,” he said, “and then they invested this money in political campaigns.” Complicity in the secret trade created opportunities for blackmail and backroom bargains that directly or indirectly involved rising politicians from across the political spectrum.<sup>8</sup>

“We never solved one critical issue back in 1991–94, and that is arms trafficking,” Kos recalled in 2012. “The major players in the current politics were involved in [wartime] arms trafficking, both sides, left and right, . . . the whole generation.”

Kos had played a key role in bringing the scandal to light. In 1993, he was a police investigator assigned to investigate covert arms trafficking within Janša’s defense ministry. When Slovenian commandos publicly assaulted one of Kos’s informants, the resulting outcry led to Janša’s dismissal. “He was forced to resign . . . because of what investigators under my supervision were doing,” Kos said. “He’s the kind of guy who wants to take revenge.” Janša would later serve as prime minister from 2004 to 2008 and from 2012 to 2013, and his lingering animosity against Kos would create obstacles for the CPC.

After Janša’s dismissal, Kos became lead investigator in the arms-trafficking case, interrogating dozens in the defense ministry. The police eventually brought criminal complaints against 21 people in the case, but prosecutors dropped the charges. Three subsequent parliamentary inquiries (in 1995, 1999, and 2007) closed down after their chairpersons faced personal threats or political retribution, according to Zgaga. “These people behaved like the mob,” he said.

Kos himself was forced out of the police in 1999. “I thought I was a born police officer,” he

said. “When they kicked me out, my world crumbled.” He later won a lawsuit for wrongful termination. Rather than rejoin the police, however, he became an anti-corruption policy maker: first as a government adviser, then as chair of GRECO (2002–11) and the first director of the CPC (2004–10).

A second locus of corruption in postcommunist Slovenia, far more lucrative than arms trafficking, was Slovenia’s prolonged privatization process. When Slovenia became independent, its economy was still largely collectivized. Policy makers battled over how to design a privatization process that balanced market efficiency with the public interest. The left favored a simple, gradual process that gave managers and workers shares in the organizations where they worked. The right argued that such a plan would perpetuate economic domination by the communist-era elite and proposed a centralized mass voucher privatization. Under that plan, a state-controlled investment fund would convert state assets into private joint-stock companies, with shares distributed equitably among all citizens. The compromise law that ultimately passed in 1992 distributed 60% of state assets under the former plan, 20% under the latter plan, and divided the remaining 20% among two quasi-governmental funds: one to compensate victims of Yugoslav-era nationalization and another to finance public pensions.<sup>9</sup>

The gradual privatization process succeeded in keeping economic assets largely in domestic hands. Furthermore, it split control of state assets among different economic elites. Ali Žerdin, a senior editor of Slovenia’s leading newspaper, *Delo*, said the process put Slovenia’s economy “partially under the control of the political elite, partially under the control of the old economic elite, and partly under the control of newcomers, mostly financial managers running investment funds.”

However, the privatization process was slow, and it lacked public oversight and anti-corruption controls. Politically appointed officials held direct or indirect control over a broad swath of the economy, especially through the two quasi-governmental funds as well as major companies that remained state owned in such sectors as insurance, banking, and transportation. By appointing allies to supervisory boards that controlled the selection of corporate directors, state officials even pulled strings in the private sector. As the Slovenian economy gathered steam from 1997 until the 2008 financial crisis, corruption opportunities multiplied.

“Privatization was the key original sin of Slovenian corruption,” said University of Ljubljana economist Marko Jaklič. “Opportunity makes a thief. There was an opportunity, and these groups went for it, . . . interest groups supporting each other in stealing money.” The groups drained the assets of viable firms, made sweetheart deals with local governments, and defrauded partners and contractors. They used their influence over the private sector to siphon corporate funds or securitize bad debts. In some instances, they used their political or economic power to extort funds from banks; in others, they colluded with banks for mutual gain. For example, fund managers would acquire a firm using a bank loan collateralized by shares of the acquired firm. “Everywhere things like this are happening, but in Slovenia it is the prevailing system,” Jaklič said.

Urban Vehovar, a sociology professor at the University of Primorska, said those behind such activities—popularly called *tajkuni* (tycoons)—used an “extremely sophisticated system to siphon out funds” from Slovenia’s economy. “They bought power; they have lawyers; they have laws; they have political power. They use all this leverage to pump money out of publicly owned funds.” He added that economists had estimated total losses at 9 billion to 10 billion euros (US\$12

billion to US\$13 billion) during Slovenia’s decade-long boom.

In other contexts, such economic parasitism might not have met the strict definition of corruption. But in the unique economic mix created by Slovenia’s privatization process, in which the state directly or indirectly owned an estimated 30 to 35% of business sector capital, political and economic elites aligned.<sup>10</sup> Colluding with the tycoons, political leaders abused their powers to exploit the system.

*Delo* editor Žerdin called the resulting arrangement “state capitalism.” But unlike other examples of state capitalism, Slovenia featured shifting and competing elite coalitions rather than one dominant regime. In a 2012 doctoral dissertation at the University of Ljubljana, Žerdin compared the executive composition of 250 major Slovenian firms from 2004 to 2009 and found dramatic leadership turnover correlated with the elections of new ruling coalitions. “The changes in this corporate network are enormous and obviously made under the influence of changes in the political elite,” Žerdin said. “When we have new political authorities, they give awards to people who are politically loyal to them, in the form of membership in the supervisory boards or executive boards.”

Dobovšek, the professor and former CPC commissioner, said in 2012, “The problems in Slovenia are grand corruption, state capture, conflicts of interest, revolving doors, influence trading, informal networks, and, most of all, connections. It’s not real competition. The real market is not working.” Consequences of the dysfunction included the entrenchment of political cartels, the ruination and indebtedness of Slovenian private firms, declines in public services, desertion of private contracts, and collapse of trust in the political system. “We have reached the bottom,” Dobovšek lamented.

The CPC’s first decade coincided with an



economic boom and bust that first concealed and then exposed Slovenia's systemic corruption problems. As commission leaders became aware of the issues, they worked desperately to unearth them, although the commission was not created with such deep-rooted challenges in mind.

### FRAMING A RESPONSE

Various institutions nominated the CPC's five commissioners, whom parliament then appointed to six-year terms, terminable only for specific reasons drawn from the law governing judicial removal. Slovenia's president, who generally played only a ceremonial role in state affairs, chose the chair and deputy chair. Parliament, the prime minister's office, and a judicial body each chose one of the other three commissioners. The commission had an independent budget, and it reported quarterly to a supervisory parliamentary commission led by the opposition.

In April 2004, parliament confirmed the first slate of commissioners, with Kos as chair. Kos was already well-known as an anti-corruption expert based on his work in exposing the arms-trading scandal, his advisory role within government, and his chairmanship of GRECO. Accordingly, in the CPC's early years, Slovenian media often called it the "Kos Commission." Nadja Žnidarčič Ferrari of the Court of Audit (the supreme audit body) became deputy chair. The other commissioners were Dobovšek, Barbara Lavtar, and Marko Hvala. The commissioners made decisions by majority vote.

The new commissioners began work two days before the October 2004 parliamentary elections, in which Janša's party formed a winning coalition that chose Janša as prime minister. During the campaign, Janša had derided the CPC as toothless and called for its replacement by a stronger but less independent parliamentary body. Janša's animosity toward Kos, dating back to Kos's role in Janša's dismissal as defense minister a

decade earlier, added a personal dimension to this plan.

Based on what he had learned from the experiences of other European anti-corruption agencies he had worked with as GRECO chairman, Kos said he believed that the commission's survival depended on public support. "I knew I had to earn the trust of the general public," he said. "If the general public does not support you, you're dead."

Kos believed the public wanted to see the commission take on corruption aggressively. But public expectations were at odds with the commission's modest powers. Kos recalled: "When I had my first press conference in the commission, the first question I got was, 'OK, so how many people will you arrest?' And I explained why we were not here to arrest people. When I left [in 2010], the first question I got in the press conference was, 'OK, so how many people have you arrested?' I said, 'What are you doing? I've spent six years chairing the commission trying to tell you that we are *not* the police, we are *not* the prosecutor service.'"

Although the CPC could not make arrests, it could command attention—especially, Kos reasoned, if Slovenians perceived the commission as independent and objective. The commission had to be willing to criticize high-level officials publicly, which government institutions were typically hesitant to do. "In this small country, we are all friends," Kos said. "So we were the first ones in the country to start yelling, 'This is wrong!' We did not try to put ourselves in some position of moral authority; we were strictly following the law. And this was enough."

To establish credibility, the CPC had to be impartial and make decisions on the basis of unimpeachable evidence. The commissioners strove to consider all cases without bias, even though Dobovšek conceded it was "hard to be independent" when investigations involved well-known politicians. The timing of the 2004

parliamentary election helped the nascent commission demonstrate impartiality; the CPC spent several months investigating backlogged complaints against officials of the previous government before turning to new complaints.

Kos also stressed the importance of full legal compliance to shield the commission from criticism. “That was a time when the prosecutor general and the police were heavily against me,” Kos said, “and if we had made one mistake, they would have blown me away. So you have to adhere to the law strictly.” Doing so required a commitment to supporting claims with the strongest possible evidence. “We had the power to ask for documents, and you can see a lot of things from documents,” said Kos. “We had whistle-blowers, too, but we never based our opinions on whistle-blowers alone. We always asked for papers.”

### GETTING DOWN TO WORK

Under Kos’s leadership from 2004 to 2010, the commission focused on spotlighting corrupt behavior, raising awareness, and attracting allies. Staffers also worked to carry out core preventive and educational tasks, even as parliament tried to disband the commission.

#### *Issuing attention-getting opinions*

Through whistle-blower tips and their own investigations, the commissioners accumulated copious evidence of high-level misdeeds. When evidence indicated likely criminal acts, they forwarded the information to police and prosecutors for further investigation. Often, however, the evidence was either inadmissible in court, insufficient to prove a crime under Slovenian law, or indicative of behavior that was unethical but not illegal. Dobovšek said, “We sent a lot of cases to prosecutors or the police, but in most of the cases, it was not a case for penal law.”

In such cases, the commissioners faced a dilemma over how to publicize corrupt but

noncriminal behavior without exposing whistle-blowers or risking defamation suits and other pushback. They decided to issue advisory opinions based on specific cases but cast as hypothetical scenarios that raised specific ethical concerns. Examples included violations of conflict of interest in government procurement, the appointment of unqualified but politically connected corporate executives by state-appointed corporate supervisory boards, and loans by state-owned firms to personal friends of board members. “Of course these [opinions] were always based on real cases, but we always said, ‘In general, if you do this or that, this is corruption,’” Dobovšek said. The opinions served a preventive purpose as ethical guidelines.

The commission carefully avoided direct accusations. “We do not want to do the job of the courts,” said Kos. “We are assessing the behavior, the activity. We are not saying anything about the guilt or innocence of the persons involved.” In a small country like Slovenia, media sources and political observers could often infer the real-life situation behind each opinion, amplifying their impact. Those who felt personally targeted by the opinions sometimes sued the commission, but only one such lawsuit was successful.

The commission prioritized cases that involved ongoing or urgent risks of public harm, cases with common issues, and cases involving public officials. Dobovšek said, “There was always debate” among the commissioners, especially in cases involving well-known politicians, but that in the end the commissioners tried to reach consensus before voting on a proposed opinion.

Kos said the opinions “became a trademark for the commission, and we are recognized by it.” The commission typically issued 20 to 40 opinions annually, totaling more than 200 during Kos’s tenure, drawing significant media coverage, and helping keep the commission and the corruption issue in the public’s eye. “This is something that kept us alive,” Kos said.

The commission's opinions related to the activities of law enforcement officials, judges (not regarding ongoing cases), legislators, ministers, and even the president. Dobovšek said: "We disclosed corruption at the highest levels. And the public opinion was that this [corruption] was wrong."

For a public institution to point out unethical behavior by public figures not convicted of any crime—even without naming the individuals involved—was a bold step in Slovenia. "No matter what happens in Slovenia, everybody waits for the final court verdict," Kos said. "I don't need a final court verdict . . . to say that something is wrong."

*Partnering with media, civil society, and the public*

To raise public awareness about corruption, Dobovšek said, "we started with the media." Even though the commissioners grew concerned that corruption had compromised state institutions, they believed many Slovenian media sources remained independent and eager to report about corruption.

In his university position, Dobovšek and his colleagues led seminars to educate journalists about corruption issues, to clarify the responsibilities of public officeholders, and to update on investigations of ethical violations. Through that outreach, Dobovšek said, "The notion of corruption and financial crime became important in Slovenia." Dobovšek also collaborated with other European scholars on in-depth studies of Slovenian informal networks and state capture. "We started to publicize our results," Dobovšek said, "and slowly, all the media started to describe the problems."

"The media supported the CPC a lot," said Simona Habič, founder of Slovenia's Transparency International chapter, adding that the media also served as a major platform of civil society support. Kos said the commission's outspokenness captured press attention. Kos's own

high media profile and frequent press interviews also built media support.

Kos raised the commission's profile abroad as well, especially in his role as GRECO chair. "As commissioner he traveled around the world a lot, and the commission did a lot of work with other commissions," Habič said. "So they had really strong international cooperation and support. These institutions around the world backed them up." International allies such as Britain, the United States, and the Nordic countries supported the CPC with direct assistance as well as indirectly, through diplomatic pressure. And the commission's high profile attracted sympathetic coverage in international media.<sup>11</sup>

In turn, international support helped raise the CPC's profile at home. Living at the edge of the postcommunist world, Slovenians were sensitive to global perceptions of their democracy. "People in this country respect things more that come from abroad," Kos said.

The CPC's educational activities also served as outreach. From 2005 to 2006, commissioners traveled throughout Slovenia for meetings with citizens and public servants in nearly all population centers. "That increased our visibility tremendously," Kos said. The local meetings were especially important given the strong community ties among Slovenia's decentralized population. The commission also reached out to religious communities, whose leaders were trusted as moral authorities.

Mainly, Kos said, the commission earned public credibility by "calling things as they were," by "treat[ing] everybody the same way," and by "strict adherence to the law."

"They are very successful at establishing this impression of independence and professionalism," said Matjaž Jager of the University of Ljubljana's Institute of Criminology. Citizens' corruption complaints to the commission nearly quadrupled to 1,027 in 2009 from 270 in 2005, reflecting the



commission's strong reputation and growing public awareness. "People wouldn't send them if they didn't trust [the commission]," said Jager. However, Kos offered a darker explanation for the increase in complaints: "The truth is that the people did not trust anybody else. Public trust in the police and prosecutors was going down dramatically." The commission's commitment to whistle-blower confidentiality, tested by parliament in a 2009 legal battle, also helped it solicit tips.

#### *Managing staff and core activities*

CPC staffers were subject to standard policies for public personnel,<sup>12</sup> and most came initially from the anti-corruption office that had preceded the CPC. Tight budgets precluded any significant additions during the commission's early years. Under the Janša government from 2004 to 2008, the CPC's annual budget was less than 700,000 euros (US\$940,000). Even including supplemental international assistance, there was only enough funding to support a staff of about 30. Staff recruitment became more of an issue in 2008, when a new government boosted the CPC budget, but by that time, Kos said, "I already knew what staff I wanted."

Kos found that the commission's small size simplified management issues and facilitated control over internal corruption risks and information leaks. He said that initial staff training "was the more difficult part," as most of the staff had to adapt from the broad focus of the anti-corruption office to the narrower focus of the CPC. Kos said that about 30% of the staff turned over as the CPC began operations. "For the rest it was easy, because they were young, eager to learn, starting from scratch," he said. Such dynamic energy helped the commission establish a reputation for creativity.

Although commission staff took innovative approaches to lower-profile educational and preventive activities, the organization lacked the

resources and the authority to implement those plans fully. For example, Dobovšek said, "At that time, we did not have the personnel or the money to monitor the finances of the public functionaries," which frustrated the commissioners because they had the legal power to do so. In the area of preventive reforms, staffers worked to develop integrity plans—based on international models—to manage corruption risks in public agencies nationwide, but a legal dispute over the plans' enforceability hampered implementation until 2010. Many agencies persisted in developing such plans, recognizing their value, and the commission provided support.

Educational staff worked with outside experts to develop and field-test free scholastic modules for youths as young as kindergarten age, including games and stories that conveyed the fundamental injustices underlying corruption issues. However, the education ministry dismissed such activities as unnecessary.

## OVERCOMING OBSTACLES

Political and legal battles often overshadowed the commission's activities. For most of Kos's term (2004–10), the commission was on the defensive against Janša and his legislative allies, both during Janša's premiership (2004–08) and afterward. By 2010, when Klemenčič succeeded Kos as head of the CPC, political circumstances had shifted, and the commission was fighting corruption from a stronger position.

#### *Riding out the storm*

When Janša took office in October 2004, his intent to disband the nascent CPC was clear. "That coalition made a very specific pre-electoral program," recalled Jager, the criminology professor. "They put in their program that they would abolish the CPC, that it was not necessary, that we need to devote those resources to the police. The public impression was that mostly this decision was connected with the head of the

commission, Drago Kos.” The commission’s survival odds appeared to be slim, but, as Kos predicted, public support was its lifeline. Ultimately, Jager said, “The public backed the commission.”

Janša’s past clashes with Kos formed the backdrop for his campaign to shut down the CPC. Because the law permitted a commissioner’s removal only under specified circumstances, which Kos steered clear of, Janša could not dismiss Kos directly. Besides, Kos argued, “It would be too obvious if he just went after me. So [his government] went after the whole commission.”

Zgaga, the journalist, argued that the government’s battle against the commission was more than a personal feud. “Maybe it looks personal; it’s not personal,” he said. “They tried to shut down the CPC because the CPC was proactive. It was practically the only island of institutional opposition, along with the Court of Audit.” Indeed, Janša’s party was not the CPC’s only political opponent. During Janša’s term, the parliamentary commission that supervised the CPC was under opposition control, but the two commissions often clashed in public.

The long legislative fight over the CPC’s existence began in May 2005, a year after the commission’s creation, when a nationalist party in Janša’s coalition proposed legislation to disband the organization. Parliament debated the measure in July, but CPC supporters stalled the vote with procedural tactics. In September, the supporters staged a parliamentary walkout that prolonged debate, and in November, with the bill on the brink of passage, they delivered a preliminary petition to call for a public referendum on the bill, suspending debate for 40 days. However, commission supporters were able to collect only half of the 40,000 signatures required for a referendum. Kos said: “It was simply too early for us, because we were not [well] known then. If the referendum were held later, it would be no problem.”

Finally, in February 2006, parliament voted 45:26 to shut down the CPC. However, the commission successfully challenged the new law in court. In a March 2007 ruling, the Constitutional Court supported the commission’s argument that parliament could not abolish the commission without delegating its functions to other agencies, which the new law failed to do.

Klemenčič, then a law professor, led the legal team that saved the commission. “We made an interesting legal argument,” he said. “While the anti-corruption commission is not a constitutional entity such as the Ombudsman is, . . . corruption prevention is part of the constitution; it is implied in the constitution. It is implied in the [constitutional guarantee of the] rule of law. The constitution does not mandate that an independent anti-corruption agency exists in the way it explicitly mandates the institution of the Ombudsman or the Court of Audit, but effective prevention of corruption and conflict of interest is enshrined in other constitutional articles and thus a positive obligation of the state. The Constitutional Court subscribed to this argument.”

Seizing the opportunity, the CPC drafted its own replacement law and lobbied for its passage in parliament but lost by one vote in 2008. The Janša government countered with its own draft law to abolish the commission again and shift its powers to the Court of Audit, but by that time—three years after introduction of the original bill to kill the CPC—the commission had garnered strong public support, the Janša government had weakened, and the looming September 2008 election sapped the resolve of opposing legislators.

CPC supporters called for the law to be put to a referendum on the same ballot as the upcoming parliamentary election. “The ruling coalition perceived this referendum as a big threat,” Kos said. Thus, in an unusual parliamentary maneuver, the government indefinitely postponed action on the bill at the last

minute. “If we had not been known as we had been known, if people had not supported us as they supported us, then we’d be dead for sure,” Kos said.

Janša’s 2008 election defeat came amid public anger over rising corruption both in general and with regard to a major scandal exposed by Finnish and Slovenian journalists weeks before the election. The scandal, concerning alleged bribery of the Slovenian defense ministry by a Finnish military contractor, implicated Janša. Kos appeared in the Finnish broadcast that exposed the case, saying the evidence seemed solid. The CPC investigated the case and released a report that laid the groundwork for later investigations. Zgaga recalled, “The CPC in this initial phase made a total analysis of this public tender, and they found a lot of irregularities.” As of early 2013, trials concerning the case were underway in Slovenia, Austria, and Finland.

#### *Standing up for whistle-blowers*

After Janša lost the election, the commission’s clash with his coalition moved to a new battleground. Now in opposition, Janša’s party controlled the parliamentary commission that supervised the CPC. “And they were after us all the time,” Kos said.

Dobovšek said there was “huge pressure to disclose persons who reported corruption. Whistle-blower protection was a huge problem in the parliament.” Although they lacked explicit powers to protect whistle-blower confidentiality, the commissioners understood such protection as an implicit responsibility. Kos threatened to sue any CPC member who disclosed any informants’ identities.

The conflict over confidentiality came to a head in 2009, when the CPC learned that in an incident involving falsification of a legal document, a member of parliament had recently cheated on a university examination. The CPC recommended that the police investigate the

legislator, who headed the parliamentary commission that supervised the CPC. The parliamentary commission amended its own rules to require detailed monthly reports from the CPC, including all corruption complaints received and the names of complainants. Kos refused, arguing that the rule change violated the CPC’s independence. In February 2010, the Constitutional Court sided with Kos.<sup>13</sup> “Parliament cannot just invent its powers over the commission,” Kos said. “They have to follow the law, and the law was very clear.”

The CPC’s commitment to whistle-blower confidentiality helped cement public trust. “We showed that we protect our whistle-blowers,” said Kos. “I said a few times that whatever [the government] did to me I would not give up the names of the whistle-blowers, and I meant it.”

#### **MID-COURSE CORRECTIONS**

In 2010, Kos’s term ended and the president chose Klemenčič to replace him. A former computer scientist, police officer, law professor, and state secretary of the interior ministry, Klemenčič brought diverse skills to the commission. Like Kos, Klemenčič had a reputation for professionalism and impartiality. However, Klemenčič had a lower public profile than Kos, and he aimed to manage the commission more methodically.

In general, Klemenčič faced the same challenges as Kos: Slovenia’s structural corruption problems had not changed, although both experts and everyday citizens saw them more clearly. However, the commission itself, along with its operational environment, transformed.

Corruption was a major public issue by 2010 because of the damage wrought by the 2008 financial crisis and the corruption scandals revealed by the CPC and the media. *Delo* editor Žerdin saw a “change in political will” due to “a lot of debate concerning the so-called tycoons.” During the economic boom, the public had

viewed the tycoons indifferently. After the crash, the public blamed tycoons, politicians, and officials for profiting from Slovenia's economic ruin.

"The tycoons were not happy, of course, because before, they were regarded as smart, successful people," said Dobovšek. "When [their corruption] was disclosed, they were not heroes anymore." Dobovšek said the economic crisis had a "positive influence" on Slovenia's fight against corruption. With capital scarce, irregularities were harder to conceal. Cornered executives turned against one another, and economic collusion unraveled. Faced with cuts in salaries and services, citizens lost trust in government and demanded transparency and accountability.

The government faced increased international scrutiny as well, now that Slovenia was in the euro area and near OECD membership. Habič of Transparency International said there was "huge international pressure" on the government to crack down on corruption.

Borut Pahor's left-leaning government (2008–12) passed anti-corruption reforms at a frantic pace, creating new bodies to oversee corporate governance and a division of the national police dedicated to investigating corruption and major crimes (see Box 1 on the National Bureau of Investigation). The government also strengthened the CPC with new resources and new powers. Under Klemenčič, the commission used those powers to intensify its investigative and preventive efforts and further galvanize public support. The commission also released *Supervizor*, an innovative online database of public expenditures that facilitated corruption detection.

*Using new powers to bolster investigative and preventive efforts*

The Pahor government strongly supported the CPC, which had earned political capital through its legal victories and public trust. The

commission's budget in 2010 was 1.4 million euros (US\$1.9 million)—nearly double its 2008 budget—allowing the staff to grow to 40. And legislation passed in 2010 and 2011 gave the commission new legal powers.

The 2010 and 2011 reforms were based on the earlier proposal, drafted by the CPC itself, that parliament had rejected in 2007. Pahor-aligned legislators had supported the reforms in 2007 and continued to support those reforms after winning the election. Thus, although the commission's reform proposal failed in 2007, it successfully locked down the support of left-leaning legislators and shaped future legislation. Just a few years after legislators debated abolishing the commission, parliament was now discussing the commission's proposals to strengthen its own legal mandate.

In June 2010, parliament passed anti-corruption legislation that transformed the CPC into a more multifunctional agency, with some narrow enforcement powers. Under the new law, the commission had a chief commissioner and two deputies: one for investigation and supervision and one for integrity and prevention. (Klemenčič's deputies were criminal law professor Liljana Selinšek and journalist Rok Praprotnik.) The president appointed the three commissioners directly from a group of nominees selected through an open recruitment process judged by a panel of representatives of government, parliament, the judiciary, the public service, and civil society. The same panel had exclusive authority to remove any commissioner who became sentenced to prison or permanently incapacitated.

In addition to its previous duties, the new CPC had responsibilities for conducting administrative investigations into corruption and conflict of interest, protecting whistle-blowers, reviewing legislation for corruption risks, and monitoring the implementation of integrity plans for public and private institutions. The



### Box 1: National Bureau of Investigation

After its investigative mandate expanded in 2010, the CPC relied more than ever on strong cooperation with law enforcement agencies such as the National Bureau of Investigation (NBI), which launched in January 2010. An interagency working group of experts led by Goran Klemenčič, then state secretary of the Ministry of Interior, designed the NBI as an independent unit of the national police focused on complex crimes.

The NBI represented a rethink of results-oriented policing. Academic experts in project management identified five organizational weaknesses impeding police investigations of economic crime: legal bases, equipment, education, interagency information sharing, and organizational structure. In response, the ministry empowered the NBI by means of legal exemptions, new offices and computers, training with outside partners, cooperation agreements with other agencies (like the CPC), and a flat organizational hierarchy.

Robert Črepinko, the NBI's first acting director, said the NBI was structured to have "a big army and few generals." At full capacity, the bureau had 70 investigators, led by a director, a deputy director, and seven heads of investigation. Unique among Slovenian police leaders, the NBI director had discretion to choose the unit's case portfolio, based on set criteria such as international linkages and the potential for public controversy. The director assigned each case to a lead investigator, who assembled a team of appropriate size and skill set. Team members temporarily moved into neighboring offices to ease collaboration.

The police director general selected the NBI director based on the recommendation of a three-person commission with representatives from the prosecutor's office, the money-laundering office, and academia. The director could be removed only with the commission's assent. Prosecutor Harij Furlan served as first permanent director from July 2010 until February 2012, when he left to head a new, specialized prosecutor's office, making Črepinko acting director once again. Črepinko said Furlan's nontraditional background was an asset: "We wanted to give this signal that things have changed, and we wanted to tackle things differently."

An interagency selection committee hired staff by following special procedures. More than 300 police officers applied to join the unit, attracted partly by a salary bonus of up to 15%. The bureau accepted 18, as well as several finance experts from the private sector. "It was much cheaper to buy [these experts] than to make them," Črepinko said. "It would take us years and years to make out of a police officer a good expert." By the end of 2012, the staff had grown to roughly 60, including 5 heads and 46 investigators.

In 2010, the first graft investigation of a state prosecutor in Slovenian history brought the NBI and CPC close together. "The [CPC] received the information first, handed it over to us," Črepinko said. "We made the investigation and the arrests. It was really a case of perfect cooperation." Klemenčič agreed, saying the agencies cooperated "very well" on an "almost daily" basis.

Critics decried the NBI's slow case-disposal rate. The bureau handled only a few dozen investigations at a time, many of which went on for a year or more. In rebuttal, Črepinko pointed to the sophistication and sensitivity of the crimes in question. "The power on the other side is vast, and we are dealing with very important people," he said. By the end of 2012, the NBI had arrested two mayors and many other high-level suspects. (For more on the NBI's impact, see Results, below.)



commission now had the power to subpoena financial documents from any agency, question public servants, request the investigative assistance of law enforcement authorities, and levy fines for noncompliance. Although the parliamentary supervisory commission disbanded, the CPC still reported yearly to parliament and was subject to judicial review and periodic external audits.

Two amendments passed in 2011 closed legal loopholes in the 2010 law, gave the commission regulatory authority over political lobbying, and boosted the commission's subpoena powers. The commission drafted and circulated the amendments on its own initiative, using press conferences and the looming 2011 elections to secure political support.

Under the new law, formal opinions remained the CPC's most powerful tool of influence. Now called *principled opinions*, those position statements became more detailed and included names and specific facts, resembling judicial findings in style. Although the opinions had no inherent legal weight, Klemenčič estimated in 2012 that his commission's opinions accompanied criminal charges forwarded to prosecutors roughly three-quarters of the time.

Klemenčič said the shift in Slovenia's corruption environment necessitated those changes. "General opinions . . . work in a system where you need fine-tuning," he said. "It doesn't work in a system which is highly partisan, which is under a lot of pressure, where there is a huge amount of distrust in the political system and democratic institutions." Klemenčič said that because the Slovenian public had become more aware of ethical boundaries and conflicts, it was no longer sufficient to set guidelines and shame wrongdoers indirectly. "In a system where there is a general lack of political accountability, this is window dressing," he said. "You need tougher action, and you need serious preventive actions." For example, in the second half of 2012, the commission detected three cases in which

parliamentarians had committed ethical violations related to the forgery of academic credentials or the plagiarism of academic work. The commission issued an opinion on the issue, but Klemenčič said the opinion was not a strong enough deterrent. He publicly pressured the political parties to penalize the members in question. In two cases, the parties expelled the violators.

In its preventive efforts, the commission focused on the development of integrity plans. The Constitutional Court decision in 2007 that had upheld the commission's right to exist had ruled that the commission did not have the authority to issue mandatory integrity plans, but the 2010 law empowered the commission to do so. Newly responsible for the implementation of integrity plans across roughly 2,000 public agencies, Klemenčič's staff imported and modified a new methodology for integrity-plan management from the anti-corruption agency of New South Wales, an Australian state.

Under the new methodology, the commission required each institution to recognize its own corruption risks and develop its own plan under a guardian the institution appointed. Rather than taking an active role in drafting integrity plans, the CPC took a backseat, providing advice, training, evaluation, and feedback for those guardians.

The commission barred the guardians from hiring private law firms to develop their plans. When a legal consultant sued the CPC for restraint of trade, the commission won the case in court, arguing that public sector institutions could not outsource their duty for anti-corruption enforcement. "Buying [an integrity plan] or making somebody else to write it is like sending your neighbor to the confessional," Klemenčič said, "because an integrity plan requires that *you* actually look at your organization, not an outsider. That's the first stage."

Vita Habjan, the commission's chief project manager, explained the benefits of having

institutions write their own plans. “It raises awareness because they have to think; they have to check whether they understand the law correctly,” she said. “They also may raise alarms that we have not anticipated.” Furthermore, such plans were meant to be living documents and regularly updated, and the CPC could not keep track of trends in relevant risk factors as well as the guardians of the institutions themselves.

The integrity plans informed the commission’s investigations. With proper integrity plans in place, the commission could quickly pinpoint the preventable causes of a corruption incident, whether those causes were improper organizational rules, insufficient work processes, or noncompliant individuals. In turn, investigation results enabled commission staff to give specific feedback about integrity plans based on concrete cases.

With a staff of three, the commission’s integrity team managed to finish evaluating all public sector integrity plans by early 2013. The commission also assisted other countries in the region, especially Serbia, with developing their own systems of integrity plans.

#### *Exposing state capture with Supervisor*

In addition to its formal responsibilities, the commission developed a groundbreaking project called Supervisor to illuminate systemic corruption.<sup>14</sup> Like a search engine for all public expenditures, the system enabled users to find and browse transactions by public sector agencies. “The Web page is very clean and easy,” said Klemenčič. “[For] basically every cent of public money spent by any public entity, from a small kindergarten somewhere in the outskirts to the Ministry of Interior, you can look up where they spent that money, which companies got it, when it was paid, how much was paid. . . . It gives you a huge amount of information through a very easy interface.” When released in June 2011, Supervisor was unique in the world.

Klemenčič said that Supervisor “changed the paradigm of access to information in Slovenia” and “revolutionized the attitude toward the spending of money” by public agencies. Citizens, journalists, activists, and law enforcement officers all used the Web site to monitor public spending at all levels of government.

Supervisor had been the brainchild of Matej Kovačič, a University of Ljubljana computer scientist who became the commission’s head of analytics, intelligence, and information security. Kovačič had conceived the project as a graduate student but was deterred by the difficulties he foresaw in accessing government procurement data. In 2011, when Klemenčič solicited his advice about digital methods of corruption detection, Kovačič raised the idea of analyzing public procurement data to spot trends in cash flow.

Klemenčič realized the CPC could subpoena the data from relevant ministries. Klemenčič recalled: “When they received the subpoena, they called and they said, ‘Are you crazy? . . . This is ridiculous; it is an amazing amount of data.’” However, the ministries complied, and the commission received two terabytes of data (equivalent to hundreds of millions of printed pages), including all public transactions recorded by Slovenia’s centralized public payment administration since 2003 as well as corporate data from the business registry such as board composition and annual reports.

The commission completed the project at minimal cost, using volunteers and freely available open-source software. Kovačič’s friend Primož Bratanič, a political blogger and mathematician at the University of Ljubljana, agreed to program the software for free, provided that the commission made the program public. Klemenčič recalled Bratanič’s telling him, “This will shake the country.”

According to Kovačič, Supervisor posed few technical challenges. The project took three months, including three weeks of programming

and several weeks of testing and soliciting outside feedback. To handle heavy Web traffic, the program used a server connected directly to the government's core network router.

Before launch, the commission secured the permission of the information commissioner, who endorsed the project and wrote a supportive note for the Web site's main page. The commission also sent advance letters to all public institutions. "There was no problem," Kovačič said. "Nobody was angry." As a precaution, the commission tried to remove all personal data as well as data related to national security. In addition, the commission hid any transaction under 2,000 euros (US\$2,600), which it worried might unintentionally reveal personal information—and decided to postpone public release of the database itself until all privacy issues had been resolved.

On Supervizor's launch date, the site received 2 million hits and more than 100,000 unique users—a sizable portion of Slovenia's 2 million people. After a few days, to optimize site performance and protect user privacy, the commission stopped logging users.

From the start, Supervizor drew backlash. Kovačič said attackers "tried every possible way to exploit" security vulnerabilities but were unsuccessful. Klemenčič said the commission received a flood of complaints and cease-and-desist letters. "The court had no legal grounds to lock us down," he said, but companies could use the courts to force the commission to remove specific data that might reveal trade secrets such as the terms of private contracts. "So, we said, 'No problem,'" Klemenčič continued. "The first time we receive an order to delete something, we will put [a notice] on our front page, just below the search engine, saying, 'You will not find *this* data on *this* person because it was ordered by *this* judge. Please contact them.' And then they stopped."

Klemenčič said neither the ruling coalition nor the opposition openly objected to Supervizor. He added that Supervizor had become so

entrenched that there was "no way back on this new level of transparency." If shut down, he warned, "there is a tacit agreement that we will just put it into the public domain."

In late 2012, the commission was preparing to release Supervizor 2.0. In the new version, data automatically updated daily instead of requiring weekly input. The new version also included the ownership structure of state-owned enterprises. Eventually, the commission hoped to include more private firms, integrate lists of corporate legal events gleaned from court registries, and allow users to click on individual directors to learn of those directors' stakes in other firms and thereby reveal potential conflicts.

## ASSESSING RESULTS

The public trust earned by the CPC—and the commission's success in raising awareness of corruption—was reflected in the steady increase in corruption complaints it received from the general public, as seen in Figure A. Furthermore, a January 2013 *Delo* public opinion poll found that 92% of Slovenians supported the work of the CPC.<sup>15</sup>

The number of advisory opinions issued annually by the CPC varied, as seen in Figure B. The number of opinions issued decreased in later years, as the commission took on many other duties after its 2010 and 2011 reforms, such as regulating lobbyists, implementing whistle-blower protection measures, and implementing integrity plans.

One significant result of the systemic analysis that Supervizor made possible was what Klemenčič called "the first empirical study of the state capture." The commission found a cluster of hundreds of companies that received substantial procurement contracts during the period when a left-leaning government was in office but few funds when a right-leaning coalition took power. And it found a countercluster of companies that profited during times of right-leaning

government. The companies often overlapped in their board membership (affirming Žerdin’s research).

Such trends suggested stark corruption risks. Supervisor also uncovered other situations of high corruption risk: public officials who awarded procurement contracts to businesses they had stakes in; to companies that derived the vast majority of their profits from public procurement; to companies that appeared to collude over market share; and to contractors that received constant and unchanging shares of a municipality’s procurement budget even as the budget itself changed over time.

Klemenčič said in 2012 that the commission had already launched 105 investigations based on financial irregularities detected through Supervisor, adding that there was potential for launching thousands more such investigations if the commission had the capacity. Media, civil society, and the police, too, relied on the program. “Supervisor is very good, very useful for journalistic investigations and advancing oversight of public spending,” said investigative journalist Zgaga.

Overall, Klemenčič said, the CPC had made a long-term impact. “The notion of systemic

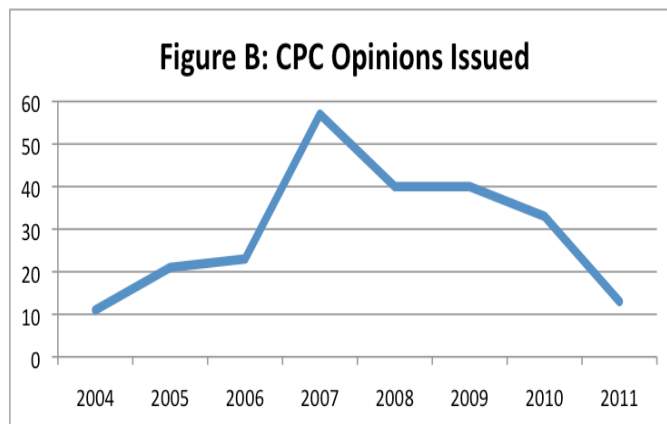
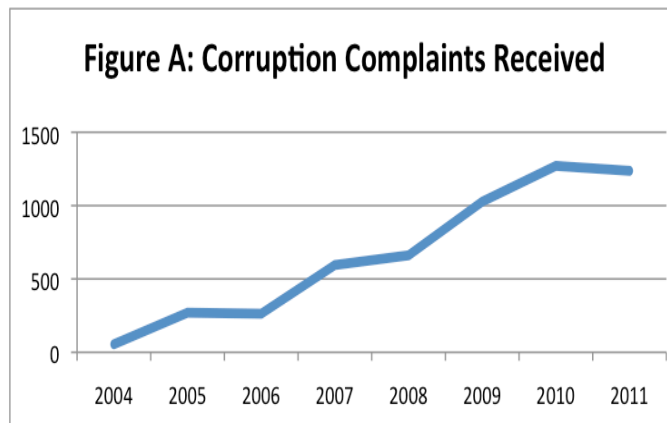
corruption has . . . become a household name. Lobbying and the use of public money through supervision have come much more under scrutiny. There are a lot more investigations into serious corruption or abuse of powers. . . . We kept corruption high on the agenda.”

Dobovšek focused on the CPC’s high-profile investigations. “We disclosed financial tycoons; a lot of cases are still in progress,” he said. “Now I

think it’s harder and harder to be corrupt.” Dobovšek noted that “most of the major politicians in Slovenia—the prime minister, the mayors, the leaders of the parties—are all in procedures in court.” High-level politicians forced to resign following CPC findings of unethical behavior included two secretaries of state, an interior minister, and several department heads.

The NBI’s investigations, often conducted with CPC support, exposed crimes involving 300 million euros (US\$410 million) in total and led to the

judicial confiscation of 50 million euros (US\$68 million) of assets. “The [NBI] really did a lot of intense and organized work that resulted in high-level exposures, and the results were important for the further work of prosecutors,” said Transparency International’s Habič.



Figures A & B: Stephanie E. Trapnell, “Commission on the Prevention of Corruption Slovenia,” August 2010; CPC Annual report 2011/2012.

However, the NBI's institutional privileges, slow pace of work, and explosive investigations put it under fire. "Fifty million euros make you a lot of enemies," Črepinko said. "One month you're attacked from the left, and then one month you're attacked from the right. Then one day it comes that you don't have any more friends apart from your guys in [the bureau]." New legislation in early 2013 made the NBI director less independent, raising questions about the bureau's future effectiveness.

The nationwide anti-corruption protests begun in November 2012 upended Slovenia's political landscape. Typically, elected politicians prosecuted for corruption refused to step down until they had exhausted all legal options for appeal, which frustrated citizens. However, the Maribor protests in November 2012 forced the city's mayor—battered by multiple indictments and complaints by the CPC—to step down in December. Jaklič, the economist, compared the protests to "the Arab Spring," unprecedented among Slovenians and indicative of a loss of trust in the political system. "If you don't believe in anything anymore, then you go to the streets," he said.

In January 2013, the CPC revealed a yearlong investigation into the assets of the seven party leaders in parliament. The investigation found that Slovenia's two leading politicians—Prime Minister Janša and opposition leader Zoran Janković, who was mayor of Ljubljana—had failed to disclose assets worth hundreds of thousands of dollars and millions of dollars, respectively. Klemenčič called for both leaders' resignations, saying they had committed "systemic, gross, and repeated violations of the anti-corruption legislation."<sup>16</sup> Roughly 10,000 protestors gathered in Ljubljana to support Klemenčič, some of them bearing signs reading, "Klemenčič, You Are Our Hero."<sup>17</sup> When these leaders denounced the findings as politicized, a *Delo* poll found that more than 85% of Slovenians wanted them to resign.<sup>18</sup>

Immediately after the CPC report, one of Janša's coalition partners withdrew. Within weeks, others followed, and Janša's government collapsed in February 2013. A month earlier, Janković had stepped down as leader of his party. Those resignations represented a sea change for Slovenian politics, propelled by the commission's high-level investigations and awareness-raising activities. However, the commission's increased assertiveness prompted backlash. Klemenčič said in early 2013 that during the two and a half years he had been in office, various politicians targeted by CPC investigations had sued the commission 18 times. In contrast, he noted that the commission had been sued only four times during the preceding six years.

## REFLECTIONS

When the Slovenian government created the CPC, lawmakers intended the agency to serve as an international model of an agency without enforcement powers. A decade later, with public anger over corruption at crisis levels, the wisdom of that model remained uncertain.

CPC head Goran Klemenčič said there were drawbacks to both the prevention-centered model and the enforcement-centered model: "You have rather weak but preventive bodies that don't bother anyone really, because if you just publish books and do studies, everyone likes you. You can actually make some progress, but it's slow. Or you have a typical law enforcement body like [Latvia's] KNAB, like [Lithuania's] STT, like [Croatia's] USKOK, basically not much different from your typical prosecution or police force. Important, of course, and they can be very effective, [but] the problem is that . . . a lot of stuff that is systemic, endemic, institutional corruption is not a crime and will never be a crime. You cannot fight that only through putting people in jail. Yes, you should; that needs to be a part, an important part of it and it is often lacking. But you also need other measures."



Klemenčič further argued that criminal law was ill suited to such systemic corruption: “Corruption is rarely a cause; it is usually a consequence of the problems in the system,” he said. “Criminal law is by its definition something that addresses the consequences, not the cause.”

Even without police powers, however, the CPC created by the 2010 and 2011 reforms was arguably too powerful. Former head Drago Kos said the laws made the commission less accountable. “They can take a look in your bank account, what the police are saying about you, the intelligence [service] is saying about you, and they don’t have any special monitoring body,” he said. “This is a clear imbalance. If someone raises the issue at the Constitutional Court, they will have serious issues.”

Kos’s successor, Goran Klemenčič, however, disputed that the commission was too powerful. “Our major problem is that in many ways we *know* a lot, but we cannot *enforce* a lot,” he said. “We issue corrupt-conduct findings, and things don’t change because we don’t have enforcement powers.” Permitted only to issue fines for noncompliance, Klemenčič said he felt the commission was limited in power, although he supported the idea of future reforms to ensure accountability while preserving institutional independence.

Under both Kos and Klemenčič, the commission collaborated closely with other domestic-control institutions, including the Court of Audit, the information commissioner, and the Ombudsman. However, Klemenčič conceded:

“The problem is that all those institutions, including [ours], are overburdened, overstressed . . . and underresourced in many ways; and we often have different priorities. Sometimes it is hard to negotiate this.”

In concert with typical preventive agencies and typical enforcement agencies, both Kos and Klemenčič attempted to mobilize public opinion, creating a third front in the battle against corruption. Under their leadership, the CPC was a watchdog with few teeth but had a loud bark and a keen sense of detection. By early 2013, it was clear that the commission had earned the trust of Slovenia’s citizens and had helped sniff out the kinds of individual malfeasance and systemic failures that had sapped the country’s prosperity and subverted its institutions of governance.

But the commission lacked the resources and institutional allies to reverse the proliferation of high-level corruption. It remained to be seen whether the Slovenian public had the strength or capability to reclaim control of their country and restore its former reputation as a global leader in good governance. “You need to strengthen the accountability of the political class,” Klemenčič said. “But you cannot do that through awareness as such; only people can change that—[in the] long run.”

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