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The offering of a financial advantage in exchange for the resignation of a seat in parliament

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Introduction

The Slovak Parliament still has not adopted a code of ethics that would define the expected standards of behaviour. Nevertheless, a financial offer for the resignation of a seat would undoubtedly damage the reputation of the individual MP as well as the political party involved. Thus, it is hard to imagine that such an offer would be made – and that the public would become aware of it.

1) Is there any legislation or other form of regulation, such as a code of conduct, that prohibits

a) a Member of Parliament from accepting a financial advantage on the condition that they resign their seat;

b) the act of offering such a proposal, including by individuals from the member's own party.

There are several legislation acts that could/should prevent such behaviour of MPs and other persons, most notably:

- [Constitution](#) (available in [English](#), though not necessary up-to date)
- Act [No. 350/1996](#) Coll. on Rules of Procedure of the National Council of the Slovak Republic (available in [English](#), though not necessary up to date)
- Constitutional Act [No. 357/2004](#) Coll. on the Protection of the Public Interest in the Performance of the Duties of Public Officials
- Act [No. 300/2000](#) Coll. Criminal code

Constitution

Article 75

(1) A Member of Parliament is sworn in at the first meeting of the National Council of the Slovak Republic in which he participates, by taking the following oath:

*"I swear on **my honour and conscience** to be faithful to the Slovak Republic. I will **discharge my duties in the interest of its citizens. I will uphold the Constitution and other laws** and work toward their implementation into life."*

Act on Rules of Procedure (even though the National council of the Slovak Republic did not approve the Ethical code, it is still expected for MPs to follow moral and ethical norms and protect public interest).

§ 9a

Ethical Code

*Each Member while serving his term **must oblige by the moral and ethical code of conduct**, abide the Constitution, laws, and the Ethical Code of the Member, which shall be approved by the National Council resolution.*

Constitutional Act on the Protection of the Public Interest in the Performance of the Duties of Public Officials

§ 4

General Duties and Restrictions

*(1) A public official is **obliged to promote and protect the public interest** in the performance of their duties. In the exercise of their office, a public official **shall not give precedence to personal interest over the public interest**.*

(2) In the performance of their duties, a public official must refrain from any conduct that may be in conflict with this constitutional act. For this purpose, a public official shall not:

*a) use their office, the powers arising from it, or any information acquired in connection with or during the performance of their office **to obtain benefits for themselves**, for persons close to them, or for other natural or legal persons; this shall not apply to activities or tasks arising from the proper exercise of their official duties,*

*b) **request gifts, accept gifts, induce others to provide gifts, or obtain other advantages** in connection with the performance of their office; this shall not apply to gifts customarily given in the course of holding public office or gifts provided in accordance with the law.*

Criminal code

Part Three

Corruption

Acceptance of a Bribe

§ 328

*(1) Whoever, directly or through an intermediary, **accepts, requests, or agrees to accept a bribe for themselves or for another person**, in order to act or refrain from **acting in breach of their duties arising from their employment, profession, position, or office**, shall be punished by imprisonment for up to four years.*

§ 330

*(1) **Whoever, as a public official or a foreign public official, directly or through an intermediary, accepts, requests, or agrees to accept a bribe for themselves or for another person in connection with the performance of official duties or in connection with the exercise of their office, with the intent to obtain or retain an undue advantage, or for the purpose of acting or refraining from acting in accordance with their duties or in the performance of their functions in a***

manner that harms or may harm the financial interests of the European Union, shall be punished by imprisonment for a term of three to eight years.

Bribery

§ 334

(1) Whoever, directly or through an intermediary, **provides, offers, or promises a bribe to a public official, a foreign public official, or another person in connection with the performance of official duties or in connection with the exercise of the office of a public official** or foreign public official, with the intent to obtain or retain an undue advantage, or for the purpose of inducing them to act or refrain from acting in accordance with their duties or in the performance of their functions in a manner that harms or may harm the financial interests of the European Union, shall be punished by imprisonment for a term of one to five years.

§ 336 Indirect Corruption

(1) Whoever, directly or through an intermediary, for themselves or for another person, **accepts, requests, or agrees to accept a bribe in return for exerting influence, or for having exerted influence**—either through their own influence or through the influence of another person—

a) on the exercise of the powers of a public official,

b) on the exercise of the powers of a foreign public official,

c) on a person in connection with the handling of matters of public interest, or

d) on a person in order to induce them to act or refrain from acting in breach of their duties arising from employment, profession, position, or office,

shall be punished by imprisonment for a term of one to five years.

(2) Whoever, directly or through an intermediary, **promises, offers, or provides a bribe to another person in return for that person exerting influence, or having exerted influence**—either through their own influence or through the influence of another person—

a) on the exercise of the powers of a public official,

b) on the exercise of the powers of a foreign public official,

c) on a person in connection with the handling of matters of public interest, or

d) on a person in order to induce them to act or refrain from acting in breach of their duties arising from employment, profession, position, or office,

shall be punished by imprisonment for up to four years.

2) If so, what does the regulation entail, and how is it enforced?

Aside from law enforcement authorities, the National Council has established two committees that oversee the actions of MPs and have certain powers in this context. The details are defined by the Act on the Rules of Procedure.

§ 57 Mandate and Immunity Committee

(1) The Mandate and Immunity Committee shall, in particular,

a) submit to the National Council proposals to verify the validity of Members' mandates [§ 8 section (2)];

- b) ascertain whether a Member has taken the pledge or has taken the pledge with reservations. Where the Committee finds that a Member has refused to take the pledge or has taken a pledge with reservations, it shall recommend the National Council to adopt a resolution on the loss of the Member's mandate;*
- c) ascertain whether a Member has lost eligibility;*
- d) consider whether there are grounds to refuse to permit a Member to be detained in custody;***
- e) decide on requests to permit the detention of a Member who has been caught and detained while committing a crime. This decision shall report to the Speaker of the National Council and the National Council at the next session;***
- f) conduct disciplinary proceedings (§ 136-140);***
- g) debate on matters dealing with the loss, resignation or expiration of a Member's mandate, moving proposals thereon to the National Council;*
- h) discuss termination of employment or related contract of a Member, which is to be performed against Member's will.*

§ 135

Each Member is subject to the disciplinary authority of the National Council in the case of:

- a) any statement made during the performance of a Member's functions in the National Council or any of its bodies,*
- b) any breach of the ban on voting for another Member [§ 39 section (6)],*
- c) any major breach of the Member's pledge,***
- d) any breach of the Member's Ethical Code,***
- e) breach of order at a session of the National Council (§ 32) or at a committee meeting (§ 49a).*

§ 58 The Committee for Incompatibility of Functions

(1) The Committee for Incompatibility of Functions shall, in particular,

- a) examine whether a Member performs any other duties or holds any function incompatible with the office of a Member of the National Council or a function due to which his or her mandate cannot be fulfilled;*
- b) discharge tasks related to **the examination of the conduct of state officials**, and to whether such conduct is in contravention of a special law,*
- c) submit reports on the results of the examinations conducted under (a) and (b) to the National Council, and propose a proposal for a resolution to be adopted by the National Council.*

Additionally, the committee **conducts proceedings in matters concerning the protection of the public interest** and the prevention of conflicts of interest for breaches of duties and restrictions established by the constitutional law, including sanctions that may be imposed on a public official for failure to fulfill or for violation of such duties or restrictions.