

**Services of general economic interest: Report pursuant to Article 8 of the Commission Decision of 18.11.2005 (2005/842/EC) for the period 2009 - 2011**

The Slovak Finance Ministry, in Letter No MF/25112/2011-832 of 5.10.2011, asked the relevant authorities to provide information for the drafting of a report pursuant to Article 8 of the Commission Decision of 28 November 2005 for the period 2009 - 2011, within the structure requested by the European Commission.

In response to the Slovak Finance Ministry request, information on the implementation of the Decision was submitted by the Slovak Ministry of Health regarding the provision of services of general economic interest entrusted to health care providers, and the Slovak Ministry of Culture regarding the provision of services of general economic interest entrusted to the public service broadcasters Rozhlas a televízia Slovenska and Tlačová agentúra Slovenskej republiky.

The documents submitted do not show that special rules were applied to social housing and hospitals (the Slovak Finance Ministry requested documents for this area from the Slovak Ministry of Health, the Slovak Ministry of Labour, Social Affairs and the Family, and the Slovak Ministry of Transport, Construction and Regional Development).

## **I. HEALTH CARE**

The report includes information on the provision of state aid in the form of compensation for services of general economic interest granted to healthcare facilities entrusted with the provision of services of general economic interest as part of the implementation of the Health Care Operational Programme and as current and capital expenditure provided to healthcare facilities from the national budget for the reimbursement of costs arising in the fulfilment of obligations relating to services of general economic interest excluding Structural Fund resources.

### **1. IMPLEMENTATION OF THE COMMISSION'S DECISION:**

#### **1.1. AUTHORISATION**

In order to comply with the procedures under Commission Decision No EC/842/2005 of 28 November 2005, health care was legally defined as a service of general economic interest, and this is reflected in Act No 576/2004 on health care and services related to the provision of health care and on amendments to certain acts. Section 4(1) states that: "The provision of health care in a healthcare facility for outpatient health care and in a healthcare facility for institutional health care is a service in the public interest." The amendment to the Act entered into effect on 21.12.2008.

#### **Implementation of the Health Care Operational Programme**

In accordance with Article 4 of the Decision, the provision of services of general economic interest is entrusted to health care providers further to a decision authorising the operation of a healthcare facility under Sections 11 to 26 of Act No 578/2004 on health care providers, healthcare professionals, professional healthcare organisations and amending certain laws ('Act').

A decision authorising the operation of a healthcare facility includes:

- a) *specification of the nature and duration of the public service obligation.* The nature is determined by the type of healthcare facility (Section 7 of the Act). The duration of the obligation starts when the decision authorising the operation of a healthcare facility enters into force and effect; with the exception of the operation of emergency medical service outpatient departments, this decision is issued for an unlimited duration (Section 15 of the Act). The duration of the public service obligation ends when the authorisation is suspended, cancelled or expires (Sections 18, 19 and 20 of the Act).

b) *specification of the undertaking and territory concerned.* The decision authorising the operation of a healthcare facility specifies the healthcare facility for which the authorisation is issued, along with the place(s) of operation of the healthcare facility.

c) *the nature of any exclusive or special rights granted to undertakings.* All rights, depending on the type of healthcare facility, are laid down in the decision authorising the operation of the healthcare facility, including a specification of the departments the healthcare facility may operate under the authorisation.

As, in the application of the Decision in relation to aid granted from the Structural Funds and the national budget under the Health Care Operational Programme, state aid is provided for modernisation of the infrastructure necessary to the provision of services of general economic interest, the provisions of Article 4(d) and (e) of the Decision do not form part of decisions authorising the operation of a healthcare facility, but are laid down in the rules for the granting of aid from the Structural Funds, which are defined in the relevant calls for grant applications. The rules are subsequently reflected in the grant agreement.

d) *The parameters for calculating, controlling and reviewing compensation.*

The Slovak Ministry of Health drew up the Guideline for setting the level of compensation provided from EU and Slovak national budget sources, under which it has operated since 24.3.2009. The Slovak Ministry of Health verifies the level of compensation set for an applicant.

The parameters for calculating and assessing compensation connected with investment in the infrastructure of healthcare facilities are included in the relevant calls for grant applications.

e) *Arrangements for avoiding and repaying any over-compensation.*

The process for checking the level of compensation under a decision forms part of the process for approving and selecting projects, and is regulated by the Guideline for setting the level of compensation provided from EU and Slovak national budget sources. Ex-ante controls on the level of compensation set for an applicant on the basis of the Guideline prevent the occurrence of over-compensation (verification is laid down in the form which comprises an annex to the Guideline). Where over-compensation does occur, the Slovak Ministry of Health reduces the level of the grant prior to the signing of the grant agreement. Where over-compensation occurs after the signing of a grant agreement (due to duplicate funding or the provision of false information by the applicant during controls on the level of compensation in the assessment and selection process) a mechanism is defined in the grant agreement for the repayment of funds. The mechanism for repaying funds in connection with over-compensation was not applied in the period in question, as no such case occurred.

#### Current and capital expenditure

In accordance with Article 4 of the Decision, the provision of services of general economic interest is entrusted to health care providers on the basis of a decision to authorise the operation of a healthcare facility under Sections 11 – 26 of Act No 578/2004 on health care providers, healthcare professionals, professional healthcare organisations and amending certain laws ('Act').

Decisions authorising the operation of a healthcare facility include:

1. *Specification of the nature and duration of the public service obligation.* The nature is determined by the type of healthcare facility (Section 7 of the Act). The duration of the obligation starts when the decision authorising the operation of the healthcare facility enters into force and effect; with the exception of the operation of emergency medical service outpatient departments, this decision is issued for an unlimited duration (Section 15 of the Act). The duration of the public service obligation ends when the authorisation is suspended, cancelled or expires (Sections 18, 19 and 20 of the Act).
2. *Specification of the undertaking and territory concerned.* The decision authorising the operation of a healthcare facility specifies the healthcare facility for which the authorisation is issued, along with the place(s) of operation of the healthcare facility.
3. *The nature of any exclusive or special rights granted to undertakings.* All rights, depending on the type of healthcare facility, are laid down in the decision authorising the operation of the healthcare facility, with a specification of the departments the healthcare facility may operate under the authorisation.
4. *The parameters for calculating, controlling and reviewing the compensation:* compensation for services of general economic interest is granted to healthcare facilities entrusted with the provision of services of general economic interest:

- The Slovak Ministry of Health has drawn up the Guideline for setting the level of compensation provided from EU sources and from national budget resources under the budgetary chapter of the Slovak Ministry of Health. The Slovak Ministry of Health verifies the amount of compensation provided to an applicant.  
The parameters for calculating and assessing compensation linked to the provision of funding from the national budget are presented by the Slovak Ministry of Health to individual healthcare facilities at the start of the budgetary year.
5. Arrangements for avoiding and repaying any over-compensation: The Guideline for setting the level of compensation provided from EU and Slovak national budget sources is applied in the processes for the granting of aid from national budget resources, and the amount of compensation provided to the applicant is verified. No over-compensation has been identified in the provision of funding from the national budget.

## 1.2. AMOUNT OF COMPENSATION

### Implementation of the Health Care Operational Programme

To prevent over-compensation and cross-subsidies from other sources, the following rules and guidelines have been issued for investment projects to modernise health infrastructure under the Health Care Operational Programme:

- Guideline for setting the level of compensation provided from EU and Slovak national budget sources, valid and effective from 24.3.2009. The procedure for determining over-compensation is mandatory for applicants. The Slovak Ministry of Health (MoH SR) verifies the amount of compensation that has been set for an applicant.
- An obligation for healthcare facilities to proceed in accordance with the rules on avoiding over-compensation is set out in the grant agreement.

### Current and capital expenditure

To ensure correct cost distribution and prevent cross-subsidies and over-compensation, the MoH SR guides and checks the beneficiaries of financial resources from the national budget. It keeps meticulous records of individual subordinate organisations' investment projects and sources of funding. It complies with the Guideline for setting the level of compensation provided from EU and Slovak national budget sources, which has been valid and effective since 24.3.2009.

## 1.3. OVER-COMPENSATION

### Implementation of the Health Care Operational Programme

Controls on the level of compensation under Article 5 are carried out in the assessment and selection process for grant applications. During project implementation, administrative controls and on-the-spot controls include verification of the eligibility of expenditure and its conformity with the approved investment project in accordance with the rules of the grant agreement.

### Current and capital expenditure

Control mechanisms have been established by means of civil servants, the Supreme Audit Office, the MoH SR Control Department, and Ministry of Finance Controls. Individual controls focused on:

- effectiveness and efficiency in terms of the financial resources used,
- the management of public finances,
- the effect of the funds used,
- the use of financial resources within the scope authorised, i.e. prevention of the use of public funds beyond the scope authorised.

## 1.4. MONITORING AND ANNUAL REPORTS

### Implementation of the Health Care Operational Programme

All documentation on the granting of aid under the Health Care Operational Programme is archived and retained in keeping with the procedures in force for implementation of the Structural Funds. Within the MoH SR, the registration rules of the MoH SR stipulate the retention of documents relating to aid from the Structural Funds for a period of 15 years.

### Current and capital expenditure

Information related to the provision of funding from the national budget in the form of compensation for services of general economic interest granted to healthcare facilities entrusted with the provision of services of general economic interest is archived for 10 years.

## **2. SCOPE OF APPLICATION AND STATISTICAL INFORMATION ABOUT SERVICES OF GENERAL ECONOMIC INTEREST**

### Implementation of the Health Care Operational Programme

The sums of compensation for an individual calendar year include funds paid to beneficiaries by the MoH SR. The calculated sums are reduced by the value of funding repaid by beneficiaries.  
The data for 2011 is calculated as at 31.10.2011.

Information within the meaning of Article 2(1)(a) - polyclinics and health centres (priority axis 2 of the Health Care Operational Programme):

	2009	2010	2011
Amount of compensation (EUR)	1 991 215.21	10 253 416.73	11 855 107.74

a) Number of beneficiaries

**2009** 3

**2010** 7

**2011** 12

b) Average amount of compensation (EUR)

**2009** 663 738.40

**2010** 1 464 773.82

**2011** 987 925.65

c) Maximum annual amount of compensation for services of general economic interest (EUR)

**2009** 1 642 933.00

**2010** 5 090 029.47

**2011** 2 352 171.27

Information within the meaning of Article 2(1)(b) – hospitals (priority axis 1 of the Health Care Operational Programme):

	2009	2010	2011
Amount of compensation (EUR)	14 659 935.78	37 910 985.04	35 599 622.58

a) Number of beneficiaries

**2009** 4

201013  
201113

b) Average amount of compensation (EUR)

2009 3 664 983.95  
2010 2 916 229.62  
2011 2 738 432.51

c) Maximum annual amount of compensation for services of general economic interest (EUR)

2009 6 622 085.89  
2010 11 183 303.88  
2011 10 101 993.87

Current and capital expenditure

Information within the meaning of Article 2(1)(b) on compensation for services of general economic interest granted to hospitals which perform activities classified as services of general economic interest, regardless of the amount:

	2009	2010	2011*
Amount of compensation (EUR)	22 101 627.19	6 482 384.11	1 500 000

a) Number of beneficiaries :

- in 2009 : 15
- in 2010 : 12
- in 2011 : 1

b) Average amount of compensation :

- in 2009 : EUR 1 473 441.81
- in 2010: EUR 540 198.68
- in 2011: EUR 1 500 000

c) Maximum annual amount of compensation for services of general economic interest:

- in 2009 : EUR 6 713 636.26
- in 2010 : EUR 1 332 642
- in 2011 : EUR 1 500 000

\*the data for 2011 only goes up to 29.09.2011, i.e. it does cover the whole budgetary year.

## II. PUBLIC BROADCASTING

The report includes information on the provision of state aid in the form of compensation for services in the public interest granted to Rozhlas a televízia Slovenska and Tlačová agentúra Slovenskej republiky, which are entrusted with the provision of services of general economic interest.

### 1. IMPLEMENTATION OF THE COMMISSION DECISION

#### 1.1. AUTHORISATION

##### Rozhlas a televízia Slovenska

The provision of services of general economic interest has been entrusted to the public service broadcasters – Slovenský rozhlas ('SRO') and Slovenská televízia ('STV') by law. These two separate broadcasters were, under

Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other acts ('Act on the RTVS') with effect from 1 January 2011, combined into one undertaking called Rozhlas a televízia Slovenska ('RTVS'), which has two separate organisational divisions without legal personality – SRo and STV.

Under Section 2(1) of the Act on the RTVS, the RTVS is established as a public, national, independent informational, cultural and educational institution providing a public service in the area of radio broadcasting and television broadcasting. The name of the undertaking and its territory are as follows: Rozhlas a televízia Slovenska, registered at Mýtna 1, 817 55 Bratislava, ID No: 47232480, covering the entire territory of the Slovak Republic.

The mission of RTVS is regulated by Section 3 of the Act on the RTVS, according to which:

*(1) Rozhlas a televízia Slovenska is a broadcaster whose mission is to provide a service to the public in the area of broadcasting.*

*(2) The service to the public in the area of broadcasting comprises the provision of a programme service which is universal in terms of its geographical reach, with a diverse range of programmes produced on an editorially independent basis by a qualified workforce and with a sense of social responsibility, and which raise the cultural level of listeners and viewers, provide a space for contemporary cultural and artistic activities, present the cultural values of other nations and are funded mainly from the public purse.*

*(3) The programme service of Rozhlas a televízia Slovenska comprises journalistic, promotional, documentary, dramatic, musical, sporting, entertainment and educational programmes, as well as programmes for children and young people and other programmes, which:*

- a) are founded on the principles of democracy and humanism and contribute to the public's legal understanding, ethical understanding and environmental responsibility,*
- b) provide impartial, verified, unbiased, up-to-date, comprehensible and generally balanced and pluralistic information on events in the Slovak Republic and abroad for the free formation of opinions,*
- c) develop the cultural identity of the citizens of the Slovak Republic regardless of their gender, race, colour, language, age, faith and religion, political or other beliefs, ethnic or social origin, membership of a nationality or ethnic group, assets, and marital or other status in such a way that the programmes reflect the diversity of opinions, political, religious, philosophical and artistic trends and encourage the development of a knowledge society,*
- d) create the conditions for social agreement in public affairs with the aim of enhancing mutual understanding and tolerance and supporting the coherence of a diverse society.*

Under Section 5(1) of the Act on the RTVS, the main activity of the RTVS is to:

- a) broadcast at least two television programme services on two nationwide terrestrial analogue circuits 5) until such time as analogue television broadcasting ends on the territory of the Slovak Republic,*
- b) broadcast at least four radio programme services, one of which shall be designated for broadcasting programmes that are balanced in terms of content and regional orientation in the languages of national minorities and ethnic groups living on the territory of the Slovak Republic; if Rozhlas a televízia Slovenska broadcasts more than four radio programme services, at least four of them shall be implemented as nationwide broadcasts 6) and if it broadcasts only four radio programme services, at least three of them shall be implemented as nationwide broadcasts,*
- c) provide content services by means of public terrestrial multiplex, at least two of which shall be television programme services,*
- d) secure the creation, production and purchase of programmes and their distribution,*
- e) broadcast a majority of public interest programmes in the broadcasting of every programme service,*
- f) secure regional broadcasting by means of radio and television studios; the regional broadcasting of every studio must include a balanced contribution from the entire territory of its operation,*
- g) broadcast programmes that are balanced in terms of content and regional orientation, in the languages of national minorities and ethnic groups living on the territory of the Slovak Republic and with a time allocation*

*corresponding to the national and ethnic composition of the population of the Slovak Republic; in order to secure the production and broadcasting of programmes for national minorities and ethnic groups, Rozhlas a televízia Slovenska shall establish Slovenský rozhlas and Slovenská televízia as separate organisational divisions,*

- h) take account of the needs of the deaf and other social minorities in broadcasting,*
- i) provide space for the activities of registered churches and religious organisations in broadcasting,*
- j) carry out the transmission and recording of selected socially significant events of a political, cultural, religious, artistic and sporting nature,*
- k) provide broadcasting time for the broadcasting of political advertisements pursuant to separate regulations,*
- l) provide the necessary broadcasting time to state authorities for announcements in crisis situations and for other important communications intended for the public,*
- m) radio broadcasting to other countries of cultural and informational programmes,*
- n) securing the activities of the archive of Rozhlas a televízia Slovenska,*
- o) ensuring the protection of works and artistic performances in accordance with a separate regulation,*
- p) participate in the activities of international organisations operating in the area of broadcasting,*
- q) set up and manage artistic bodies and groups,*
- r) create a network of permanent reporters and special reporters in the Slovak Republic and abroad.*

The previous legislation<sup>1</sup> defined the status of SRo and STV and nature of the obligations of a service in the public interest in a similar way.

The provision of services of general economic interest is, in the case of public broadcasting, funded mainly through payments for the service to the public provided by Slovenská televízia and Slovenský rozhlas under Act No 68/2008 on payment for the service to the public provided by Slovenská televízia and Slovenský rozhlas and amending certain other acts, as amended by Act No 532/2010 ('Payments Act').

The Payments Act established, with effect from 1 April 2008, that the payer of the payment is the natural person who is the end user of the electricity and employers who employ at least three employees. Within the meaning of Section 2 of this Act, the aim of the payment is to fund services to the public in the area of radio broadcasting and television broadcasting provided by Rozhlas a televízia Slovenska. The level of payment for a natural person was set at EUR 4.64 (SKK 140) monthly and for an employer from EUR 4.64 to EUR 464.71 (SKK 140 to SKK 14 000) monthly, depending on the number of employees. From the payments collected, SRo takes 30% of each payment, and STV 70% of each payment. The Act took account of the position of the various demographic and social groups within the population and widened the circle of people exempted from the obligation to make the payment. These are mainly payers who are natural persons with a serious disability or who live in a shared household with a seriously disabled person. The monthly payment of a payer who is a pensioner and who does not live in a shared household with a person in revenue of a regular income from employment was reduced by a half. The circle of people who pay half the amount of the payment was also widened to include recipients of a benefit based on material need or people jointly assessed with a recipient of a benefit based on material need. The Act thus established rules on the basis of which a considerable portion of users of the services of general economic interest provided by SRo and STV are fully or partially exempted from these payments. SRo and STV, however, are ex lege obliged to provide these services to everyone, regardless of whether they make a payment or not. They are therefore entitled to compensation for the loss of revenues caused by the new legislation, if they are at the same time obliged to continue providing these services of general economic interest to the same extent.

In connection with the provision of services of general economic interest, the specific arrangement with RTVS may be regarded as a so-called agreement with the state. This arrangement was introduced under Act No 312/2009 on certain measures related to Slovenský rozhlas and Slovenská televízia, with effect from 1 January 2010 (and thus still for SRo and STV as separate public media services) and meant an adjustment to the existing aid, since the contribution for SRo and STV provided from the national budget up to that point<sup>2</sup> took the form,

<sup>1</sup> Section 2(1), Section 3 and Section 5(1) of Act No 619/2003 on Slovenský rozhlas, as amended.

Section 2(1), Section 3 and Section 5(1) of Act No 16/2004 on Slovenská televízia, as amended.

<sup>2</sup> Act No 619/2003 on Slovenský rozhlas, effective up to 31 December 2009 included among the revenues of SRo in Section 21(1)(b) to (d) the transfer from the national budget under the Act on the national budget for the relevant year and intended for the reimbursement of expenditure on the provision of

following the adoption of the Act in question, of an agreement with the state, precisely specifying the criteria for using and monitoring the aid. The arrangement was also incorporated into the Act on the RTVS. The purpose of an agreement with the state is to provide broadcasters who provide a service to the public in the area of broadcasting with the financial resources to fund new original programmes in the public interest, targeted investment projects and radio broadcasting to other countries, under criteria that are clearly established in advance. The agreement is concluded for five years (in 2009 a separate agreement was created with SRO for the area of radio broadcasting and a separate agreement with STV for the area of television broadcasting, and the agreements were concluded for the period 2010-2014) and the concrete specifications of the obligations for the area of radio broadcasting and for the area of television broadcasting are regulated under addenda to these agreements which are always concluded for a period one budgetary year.

The provision of services of general economic interest was, in the public media services, entrusted to the parties concerned in the period in question on the following legal basis:

- Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other acts (effective from 1 January 2011),
- Agreement No MK – 1/09 on the provision of funding from the budget of the Slovak Ministry of Culture for 2009 concluded on the basis of Section 21(1)(b) of Act No 619/2003 on Slovenský rozhlas, as amended in accordance with the schedule of binding indicators from the national budget for the Slovak Ministry of Culture for 2009,
- Agreement No MK – 78/09/M on the content, objectives and provision of services to the public in the area of radio broadcasting for the period 2010 – 2014, as amended by Supplement No 1 - Ref No: MK - 34/10/M and Supplement No 2 - Ref No: MK - 51/10/M,
- Addendum No 1 MK – 79/09/M for 2010 to Agreement No MK – 78/09/M on the content, objectives and provision of services to the public in the area of radio broadcasting for the period 2010 – 2014,
- Addendum No 2 MK - 52/10/M for 2011 to Agreement No MK – 78/09/M on the content, objectives and provision of services to the public in the area of radio broadcasting for the period 2010 – 2014,
- agreement No MK – 77/09/M on the content, objectives and provision of services to the public in the area of television broadcasting for the period 2010 – 2014 as amended by Addendum No 1 Ref No: MK - 5/11/M,
- Addendum No 1 MK - 80/09/M for 2010 to Agreement No MK - 77/09/M on the content, objectives and provision of services to the public in the area of television broadcasting for the period 2010 – 2014,
- Addendum No 1/A MK - 28/10/M to Agreement No MK - 77/09/M on the content, objectives and provision of services to the public in the area of television broadcasting for the period 2010 – 2014 as amended by Addendum No 1 MK - 80/09/M for 2010,
- Addendum No 2 for 2011 to Agreement No MK - 77/09/M on the content, objectives and provision of services to the public in the area of television broadcasting for the period 2010 – 2014,
- Resolution of the Government of the Slovak Republic No 457 of 17 June 2009 on the proposal to provide budgetary resources from the Slovak Ministry of Culture for the intended purpose of compensating Slovenská televízia and Slovenský rozhlas for loss of revenue in respect of a service to the public in 2008 as a result of the social impact of Act No 68/2008 on payment for the service to the public provided by Slovenská televízia and Slovenský rozhlas and amending certain other acts,
- Resolution of the Government of the Slovak Republic No 869 of 2 December 2009 on the proposal to provide budgetary resources from the Slovak Ministry of Culture for the intended purpose of compensating Slovenská televízia and Slovenský rozhlas for loss of revenue in respect of a service to the public in 2009 resulting from the social impact of Act No 68/2008 on payment for the service to the public provided by Slovenská televízia and Slovenský rozhlas and amending certain other acts.

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broadcasting to other countries under Section 5(1)(k), the transfer from the national budget under the Act on the national budget for the relevant year intended for the implementation of certain programmes in the public interest, and a capital transfer from the national budget for implementing targeted investment projects.

Act No 16/2004 on Slovenský rozhlas, effective up to 31 December 2009, included among the revenues of príjmy STV v Section 21(1)(b) and (c) the transfer from the national budget under the Act on the national budget for the relevant year and intended for the implementation of certain programmes in the public interest and a capital transfer from the national budget for implementing targeted investment projects.



On 21 October 2011, the National Council of the Slovak Republic approved a draft of the Act amending Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other acts. With effect from 1 January 2013, this amendment will fundamentally change the system for funding public broadcasting. It is proposed to scrap two of the revenues of RTVS, which are the payment for the service to the public provided by RTVS in the area of broadcasting and the contribution from the national budget provided on the basis of an agreement with the state. It is proposed that the main revenue of RTVS be a contribution from the national budget provided annually under the Act on the national budget for the relevant budgetary year for the reimbursement of the costs of providing a service to the public in the area of broadcasting. The proposed level of the annual contribution will depend on the gross domestic product of the Slovak Republic in such a way that the amount of the state contribution to the funding of RTVS is linked to the performance of the national economy. Following the entry into force of Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other laws, effective from 1 January 2013, the arrangement of an agreement with the state will expire on 31 December 2012.

#### Tlačová agentúra Slovenskej republiky

On 1 January 2009, Act No 385/2008 on Tlačová agentúra Slovenskej republiky and amending certain other acts ('TASR Act') entered into effect, repealing Act of the Slovak National Council No 81/1992 on Česko-slovenská tlačová agentúra Slovenskej republiky, as amended by Act No 442/2003. Up to 2009, Tlačová agentúra Slovenskej republiky ('TASR') had the status of a publicly-funded organisation, linked financially to the national budget through the budgetary chapter of the Slovak Ministry of Culture. Since 2009 the TASR has been a public institution, which the Slovak Ministry of Culture provides with funding on the basis of an agreement on the provision of services of general economic interest, intended exclusively for the provision of these services of general economic interest.

Under Section 2(1) of the TASR Act, the TASR is a public, national, independent, informational institution providing a service to the public in the area of news reporting. As far the name of the undertaking is concerned, the full name and registered office are as follows: Tlačová agentúra Slovenskej republiky, registered at Pribinova 25, 811 09 Bratislava, ID No: 31 320 414. TASR is a press agency covering the entire territory of the Slovak Republic.

The nature of the obligation of the service of general economic interest is governed by Section 3(5) of the TASR Act, according to which:

*Tlačová agentúra shall perform the following services in the public interest:*

- a) *issuing in full the declarations of the President of the Slovak Republic, government of the Slovak Republic, Constitutional Court of the Slovak Republic, Supreme Audit Office of the Slovak Republic, Speaker of the National Council of the Slovak Republic, Prime Minister of the Slovak Republic, other constitutional officials, the Office of the President of the Slovak Republic, the Office of the National Council of the Slovak Republic, the Office of the Judicial Council, the Office of the Ombudsman and the central authorities of the state administration, if they so request,*
- b) *providing information about the opinions and announcements of the President of the Slovak Republic, government of the Slovak Republic, Constitutional Court of the Slovak Republic, Supreme Audit Office of the Slovak Republic, Speaker of the National Council of the Slovak Republic, Prime Minister of the Slovak Republic, other constitutional officials, the Office of the President of the Slovak Republic, the Office of the National Council of the Slovak Republic, the Office of the Judicial Council, the Office of the Ombudsman and the central authorities of the state administration, if they so request,*
- c) *providing information about the opinions and announcements of other public authorities, publicly-funded organisations and publicly-funded organisations and legal persons established under the Act, if so requested by the relevant central authority of the state administration or a public authority which has no superior central authority of the state administration,*
- d) *collecting and making available information about the operations, legislative processes, decisions and activities of European Union authorities,*
- e) *searching for and processing information on social, cultural, economic, political and sporting events in the territory of the Slovak Republic for other countries in at least two foreign languages,*

- f) *retaining and making available the information collected,*
- g) *collecting and making available a database of images, sound recordings and video recordings in electronic form for study and academic purposes.*

The duration of the TASR's obligation to provide services of general economic interest has no time limit. The agreement on the provision of services of general economic interest on the basis of which the implementation of this obligation is funded is always concluded for one year.

During the period monitored the TASR was provided with funding on the basis of:

- the TASR Act,
- Agreement No MK – 4/09/M on the provision of services of general economic interest,
- Agreement No MK – 64/09/M on the provision of a contribution from the national budget for capital expenditure earmarked for the implementation of a targeted investment project in the public interest,
- Agreement No MK - 84/09/M on the provision of services of general economic interest,
- Addendum No 1 to Agreement No MK-84/09/M on the provision of services of general economic interest,
- Agreement on the provision of services of general economic interest No MK-63/2010/M,
- Addendum No 1 Ref No MK-50/1 I/M to Agreement No MK-63/2010/M on the provision of services of general economic interest

## **1.2. AMOUNT OF COMPENSATION**

Within the meaning of Article 5 of the Commission Decision of 28 November 2005 on the application of Article 86(2) of the EC Treaty to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest ('Decision'), the level of compensation shall not exceed what is necessary to cover the costs incurred in discharging the public service obligations, taking into account the relevant revenues and a reasonable profit on any own capital necessary for discharging those obligations. The compensation must actually be used for the operation of the service of general economic interest concerned, without prejudice to the undertaking's ability to enjoy a reasonable profit.

The level of compensation for RTVS (STV, SRO) and TASR is set by the agreement under which compensation is provided to these entities. The individual provisions of the relevant agreements, together with the provisions of separate Acts, include measures for preventing over-compensation, as well as measures ensuring that the compensation is used for the provision of the relevant services of general economic interest.

Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other acts, and Act No 385/2008 on Tlačová agentúra Slovenskej republiky, also govern the operation of these entities, and stipulate that RTVS and TASR may not use funding from the national budget for business activities. The Acts also establish an obligation to keep separate detailed records of business activities in the accounts and an obligation to keep the funds from these activities on a separate account. Similar provisions are also included in Act No 619/2003 on Slovenský rozhlas, as amended, and Act No 16/2004 on Slovenská televízia, as amended.

### Rozhlas a televízia Slovenska

The fact that compensation may be used only for the provision of the relevant service of general economic interest arises mainly from those provisions of the agreements that precisely delimit and define the purpose for which the contribution from the national budget is to be used. For example, in Agreement No MK – 78/09/M on the content, objectives and provision of services to the public in the area of radio broadcasting for the period 2010 – 2014, Article I stipulates that the state shall provide SRO with a contribution from the national budget to produce original programmes in the public interest within the scope of the agreed category, to implement targeted investment projects within an agreed scope and to cover the cost of implementing broadcasting to other countries within the agreed scope. Under Article III of this Agreement, the SRO must use the contribution for producing original programmes in the public interest exclusively for the purpose of reimbursing the direct costs connected with the production of original programmes in the public interest, use the contribution for implementing targeted

investment projects exclusively for the purpose of reimbursing expenditure connected with implementation of the targeted investment projects for which it was provided and use the contribution for the reimbursement of expenditure for the implementation of broadcasting to other countries exclusively for the purposes of reimbursing such expenditure. Agreement No MK – 1/09 on the provision of funding from the budget of the Slovak Ministry of Culture for 2009 and concluded on the basis of Section 21(1)(b) of Act No 619/2003 on Slovenský rozhlas, as amended, in accordance with the schedule of binding indicators from the national budget for the Slovak Ministry of Culture for 2009 stipulates in Article I(1) that the subject of an agreement is the provision of funding from the national budget earmarked for the reimbursement of expenditure for the performance of broadcasting of cultural and informational programmes to other countries. Under Article 3(1) of this Agreement the funds are earmarked and the recipient must use them only for a purpose pursuant to Article I of this Agreement.

Under Article I of Agreement No MK - 77/09/M on the content, objectives and provision of services to the public in the area of television broadcasting for the period 2010 – 2014, the state provides RTVS (formerly STV) with a contribution from the national budget for the specified portion of the programme obligation to produce new original television programmes in the public interest and to implement targeted investment projects within the specified scope, which must concern projects directly related to discharging the main activity of Rozhlas a televízia Slovenska in the area of television broadcasting. Article V of the Agreement specifies that funding provided on the basis of the Agreement is earmarked and that Rozhlas a televízia Slovenska is entitled to use it exclusively for the specified purpose pursuant to Act No 523/2004 on public administration budget rules and amending certain other acts as amended.

With respect to the method for determining the amount of compensation provided on the basis of an agreement with the state, the minimum amount of compensation is determined directly in that agreement. An agreement with the state for the area of radio broadcasting sets the minimum amount of the contribution from the national budget at EUR 4 000 000. Under the agreement with the state for the area of television broadcasting, the state provides a contribution of at least EUR 10 000 000 in a given year. On the basis of the addenda to the agreements with the state, SRo was provided with EUR 4 500 000 in 2010 and STV with EUR 12 500 000. On the basis of the addenda for 2011, RTVS was provided with EUR 4 000 000 for the performance of radio broadcasting through its SRo organisational division, and EUR 10 000 000 for the performance of television broadcasting through its STV organisational division.

The purpose of use of funds provided also arises from Section 20(1)(b) of Act No 532/2010 on Rozhlas a televízia Slovenska and amending certain other acts, within the meaning of which the revenue of RTVS also includes the contribution from the national budget under the Act on the national budget for the relevant budgetary year provided on the basis of an agreement with the state intended for the implementation of programmes in the public interest, for the implementation of targeted investment projects or for the reimbursement of expenditure for the implementation of broadcasting to other countries. Through these and other provisions of the Agreement and of the Act it is ensured that the compensation is actually used for providing the relevant services of general economic interest – in the case of RTVS this constitutes providing a service to the public in the area of radio and television broadcasting. The contribution from the national budget was arranged in a similar way in the previous legislation.<sup>3</sup>

#### Tlačová agentúra Slovenskej republiky

The amount of compensation provided to TASR is set by an agreement on the provision of services of general economic interest, which is concluded between the TASR and the Slovak Ministry of Culture, and always for one year.

The agreements between the state and TASR on the provision of services of general economic interest specify that a contribution provided on the basis of the agreement is intended exclusively for the reimbursement of

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<sup>3</sup> Act No 619/2003 on Slovenský rozhlas, as amended, in Section 21(1)(b) established that the revenues of SRo include the contribution from the national budget under the Act on the national budget for the relevant budgetary year provided on the basis of an agreement with the state and intended for implementing programmes in the public interest or targeted investment projects or for the reimbursement of expenditure for the implementation of broadcasting to other countries and Act No 16/2004 on Slovenská televízia, as amended, in Section 21(1)(b) established that the revenues of STV include the contribution from the national budget under the Act on the national budget for relevant budgetary year provided on the basis of an agreement with the state and intended for na implementing programmes in the public interest or for implementing targeted investment projects.

expenditure on the services of general economic interest, the scope of which is stated in the annex to the agreements. Under Section 6(1)(b) and (c) of Act No 385/2008 on Tlačová agentúra Slovenskej republiky and amending certain other acts, the revenues of TASR also include a contribution from the national budget under the Act on the national budget for the relevant year intended for the provision of services of general economic interest on the basis of an agreement on the provision of services of general economic interest and a contribution from the national budget under the Act on the national budget for the relevant year on capital expenditure intended for implementing targeted investment projects in the public interest.

Agreement No MK – 64/09/M on the provision of a contribution from the national budget for capital expenditure intended for implementing a targeted investment project in the public interest in Article I(2) includes a precise definition of what constitutes a targeted investment project in the public interest, and under Article IV(2) of this Agreement a contribution from the national budget is earmarked and the TASR undertakes to use it only for implementing a targeted investment project in the public interest under Article I(2) of the Agreement. The purpose of use of a contribution provided on the basis of this Agreement also arises from Section 6(1)(c) of Act No 385/2008 on Tlačová agentúra Slovenskej republiky and amending certain other acts, according to which a contribution from the national budget under the Act on the national budget for the relevant year also constitutes revenue of the TASR for capital expenditure intended for implementing targeted investment projects in the public interest.

Within the meaning of the agreements on the provision of services of general economic interest for the period 2009, 2010 and 2011 the volume of funding is set in accordance with the binding indicators of the national budget for the relevant year for the budgetary chapter of the Slovak Ministry of Culture.

The volume of funding provided to the TASR on the basis of an agreement on the provision of services of general economic interest was EUR 1 885 813 in 2009, EUR 2 343 067 in 2010 and EUR 1 000 000 in 2011. In 2009, the TASR was also provided with EUR 199 164 for maintaining software that is used to operate the specialised information unit of the service agency 'Zóna verejného záujmu' on the website of the agency, on the basis of an agreement on the provision of a contribution from the national budget for capital expenditure intended for implementing a targeted investment project in the public interest. The need to implement this investment project arose from the obligation to discharge services of general economic interest under Section 3(5) of the TASR Act, in connection with which it was necessary to secure technical access to the databases and archives of the TASR to the general public.

### **1.3. OVER-COMPENSATION**

With respect to the possibility of over-compensation, the individual agreements include an obligation to account to the Slovak Ministry of Culture properly for the use of the funding provided and at the same time an obligation to repay unused funds. At the same time, RTVS and TASR are obliged to manage and handle the funds provided with professional care, economically, efficiently and effectively and to keep accounting records of the contribution provided on the basis of an agreement in accordance with Act No 431/2002 on accounting, as amended. Checks on this compensation are governed by Act No 502/2001 on financial controls and internal audits and amending certain other acts as amended, which sets out in detail the rules for checking the handling of public funds.

With respect to the existence of possible cross-subsidies, it can be stated in the case of TASR and RTVS that these entities are not provided with any subsidy from the national budget, and cross-subsidies will therefore not occur in this case.

The Slovak Ministry of Culture, the Supreme Audit Office and the Financial Control Authority are entitled to carry out checks in respect of funding provided to RTVS (formerly SRO and STV) and TASR from the national budget. In the period in question, the Slovak Ministry of Culture performed checks at SRO, RTVS and TASR. The checks performed in 2009 related to funds provided in 2008. The funds provided in 2011 will be checked in the following period.

Rozhlas a televízia Slovenska

Measures for preventing over-compensation and for the repayment of any over-compensation arise from the relevant provisions of individual agreements. Contributions provided to RTVS (formerly STV and SRO) are earmarked and may be used exclusively for the purpose set out in the relevant agreement.

The agreements state that if a contribution provided on the basis of an agreement and in accordance with the addendum for the relevant year is not used in full, the unused funds must be repaid to the national budget.

The obligation to repay unspent funding in order to avoid over-compensation is also reflected in the fact that STV repaid a sum of EUR 484 064 from the funding provided for 2010 to the national budget (as of 31 December 2010) and a sum of EUR 326 307.10 (as of 15 May 2011), while SRO repaid a sum of EUR 9 748 to the national budget (as of 15 May 2011) from the funding provided in 2010 and TASR repaid a sum of EUR 75.95 from the funding provided for 2010 (as of 15 May 2011).

Checks on this compensation are regulated by Act No 502/2001 on financial controls and internal audits and amending certain other acts, as amended, which lays down detailed rules for checks on the handling of public funds, and thus for the funding provided to SRO and STV (now RTVS) from the budgetary chapter of the Slovak Ministry of Culture.

An actual agreement with the state includes, both in the case of radio and television broadcasting, a whole series of instruments for checking compensation and for its subsequent review. Such instruments comprise mainly an obligation on RTVS to use the funding provided exclusively for the specified purpose, failing which it must be repaid to the Ministry of Culture by 31 December of the relevant calendar year, an obligation to account for the funds used by 31 March of the following year, while the agreement sets out in more detail the particulars of these accounts. The Slovak Ministry of Culture then performs checks on the submitted accounts. Funds that are not used, not accounted for or in respect of which accounting discrepancies have not been eliminated must be repaid by RTVS. Every agreement has a separate article setting out penalties for violations of financial discipline pursuant to Act No 523/2004 on public administration budget rules and amending certain other acts as amended, which should also be regarded as an instrument for the checking and review of compensation.

In 2010 the Slovak Ministry of Culture performed a follow-up financial check at SRO on management of the public funds provided to the SRO from the national budget in 2009 on the basis of Agreement No MK – 1/09 on the provision of funding from the budget the Slovak Ministry of Culture for 2009, concluded on the basis of Section 21(1)(b) of Act No 619/2003 on Slovenský rozhlas, as amended, and in accordance with the schedule of binding indicators from the national budget for the Slovak Ministry of Culture for 2009.

On the basis of the result of this check, a finding was made of funding exceeding the authorised limit by EUR 1 344.74 and penalties of EUR 4 590.61 for the late payment of the funding used in an unauthorised way. On the basis of this check, SRO thus repaid a total of EUR 5 935.35 to the budget.

In 2011, a follow-up financial check was performed in respect of funding provided to RTVS from the national budget through the Slovak Ministry of Culture. The check found use of funding in excess of the authorised limit amounting to EUR 63 788.64, which was repaid to the national budget.

#### Tlačová agentúra Slovenskej republiky

The measures for avoiding over-compensation and for the repayment of any over-compensation arise from the relevant provisions of individual agreements. Contributions provided to TASR are earmarked and may be used exclusively for the purposes stipulated in the relevant agreement.

Checks on funds provided in this way are governed by Act No 502/2001 on financial controls and internal audits and amending certain other acts as amended, which lays down detailed rules for the handling of public funds, and thus for the funds provided to TASR from the budgetary chapter of the Slovak Ministry of Culture.

Checks and reviews on the contribution to TASR from the national budget were also secured through the fact that the agreements from 2009, 2010 and 2011 specified an obligation on TASR to fund from the contribution from the

national budget for the provision of services of general economic interest only expenditure for reimbursement of costs for the services of general economic interest set out in detail in the annex to the agreement, as well as an obligation on TASR, in the event that it does not perform any service in the public interest in respect of which it was provided with a contribution from the national budget, to repay the unused portion of the contribution. The TASR also assumes an obligation to account for the contribution provided to the Slovak Ministry of Culture within a set deadline.

In 2011, the Slovak Ministry of Culture carried out a follow-up financial check at TASR on the management of the contribution which the Slovak Ministry of Culture provided to TASR in 2010 on the basis of Agreement No MK-84/09/M of 4 January 2010 and Addendum No 1 to Agreement No MK – 84/09/M on the provision of services of general economic interest of 3 December 2010. The check found use of funding exceeding the authorised limit by EUR 469, which was also repaid to the national budget.

#### **1.4. MONITORING AND ANNUAL REPORTS**

The system for submitting the annual reports of SRO, STV (now combined into RTVS) and TASR was already enshrined in Slovak legislation in the past. Any system of regular submission of reports leads to a certain level of prevention in relation to the duty to comply with set obligations.

The Slovak Republic has endeavoured, in every legal act through which it has entrusted and set out particulars of the provision of services of general economic interest by the public service broadcaster and the TASR, to respect Article 106(2) of the Treaty on the Functioning of the EU (Article 86(2) of the EC Treaty), competition rules and the Commission Decision of 28 November 2005. We therefore believe that the nature and duration of the obligations of a service of general economic interest, the definition of the relevant undertaking and its territorial coverage, the nature of the rights assigned to the undertaking, the parameters for calculating, checking and assessing compensation, and also the measures against over-compensation, are specified sufficiently well in the aforementioned acts.

#### **1.5. VARIOUS**

##### Rozhlas a televízia Slovenska

The provision of services of general economic interest in public service media was, up to 31 December 2010, entrusted to the entities concerned on the following legal basis:

- Act No 619/2003 on Slovenský rozhlas, as amended (effective up to 31 December 2010),
- Act No 16/2004 on Slovenská televízia, as amended (effective up to 31 December 2010).

Act No 619/2003 on Slovenský rozhlas, in the version effective up to 31 December 2010, included among the revenues of SRO in Section 21(1)(b) to (d) the transfer from the national budget under the Act on the national budget for the relevant year and intended for the reimbursement of expenditure for the implementation of broadcasting to other countries under Section 5(1)(k), the transfer from the national budget under the Act on the national budget for the relevant year intended for implementing certain programmes in the public interest, and the capital transfer from the national budget for implementing targeted investment projects.

Act No 16/2004 on Slovenský rozhlas, in the version effective up to 31 December 2010, included among the revenues of STV in Section 21(1)(b) and (c) the transfer from the national budget under the Act on the national budget for the relevant year intended for implementing certain programmes in the public interest and the capital transfer from the national budget for implementing targeted investment projects.

The details of these undertakings up to 31 December 2010 were:

Slovenský rozhlas, registered at Mýtna 1, 817 55 Bratislava, ID No: 00167355, covering the entire territory of the Slovak Republic.

Slovenská televízia, registered at Mlynská dolina 1, 845 45 Bratislava, ID No: 00 167 398, covering the entire territory of the Slovak Republic.

## **2. SCOPE OF USE AND STATISTICAL INFORMATION ON SERVICES OF GENERAL ECONOMIC INTEREST**

The compensation for services of general economic interest was, within the meaning of Article 2(1) of the Decision, granted to undertakings with an average annual turnover before tax from all activities not exceeding EUR 100 million in the two financial years preceding the year in which the service of general economic interest was assigned, and which receive annual compensation not exceeding EUR 30 million for the relevant service.

With respect to the requirement relating to statistical data, the amount of funding provided from the national budget for RTVS (up to 2011, STV and SRo) and TASR for the period 2009, 2010 and 2011 can be seen from the following table:

Entity	Year	Budgeted (EUR)	Spent as of 31.12.*(EUR)
Slovenský rozhlas	2009	5 994 449  (the contribution based on Agreement No MK-1/09 for 2009 amounted to 1 991 635, and the compensation for lost revenue amounted to EUR 2 802 814 for 2008 and EUR 1 200 000 for 2009)	5 994 449
	2010	4 500 000	4 500 000 (repaid 9 748 as of 15.5.2011)
	2011	4 000 000	4 000 000
Slovenská televízia	2009	9 339 900  (the compensation for lost revenue amounted to EUR 6 539 900 for 2008 and EUR 2 800 000 for 2009)	9 339 900
	2010	12 500 000	12 015 936 (**repaid 484 064)
	2011	10 000 000	10 000 000
Tlačová agentúra Slovenskej republiky	2009	2 084 977	2 084 977
	2010	2 343 067	2 343 067 (repaid 75.95 as of 15.5.2011)
	2011	1 000 000	1 000 000

\* For 2011 the money spent is for the period up to today (10.11.2011)

\*\* A sum of EUR 484 064 was repaid up to 31.12.2010, and is therefore reflected in the level of the sum spent, but a sum of EUR 326 307.10 was not repaid until 2011, and therefore was not reflected in the sum spent as of 31.12.

## Rozhlas a televízia Slovenska

On the basis of Resolution of the Government of the Slovak Republic No 457 of 17 June 2009, SRO and STV were provided with budgetary resources equal to the loss of revenue for 2008 in relation to exempted persons, who are persons with serious disabilities and persons paying half the level of compensation, i.e. pensioners and recipients of a benefit based on material need. The amount of lost revenue was calculated on the basis of data provided by the payment collector - Rozhlasová and televízna spoločnosť, s.r.o. Compensation for revenue lost in 2008 as a result of the social impact of the Payments Act represented a total sum of EUR 9 342 714, in a ratio of 70% to 30%. For STV there was a sum of EUR 6 539 900 and for SRO a sum of EUR 2 802 814.

For similar reasons, and based on data from the payment collector and on the basis of Resolution of the Government of the Slovak Republic No 869 of 2 December 2009, the public service media were provided with compensation for part of the lost revenues resulting from the social impact of the Payments Act amounting in total to EUR 4 000 000 for 2009. For STV this represented a sum of EUR 2 800 000 (70 %) and for SRO a sum of EUR 1 200 000 (30 %).

Since these funds represented compensation for lost revenues, the purpose of which was to fund the provision of services to the public in the area of radio broadcasting and television broadcasting, SRO and STV were entitled to use them only for that specific purpose, in other words for funding services to the public in the area of broadcasting.