

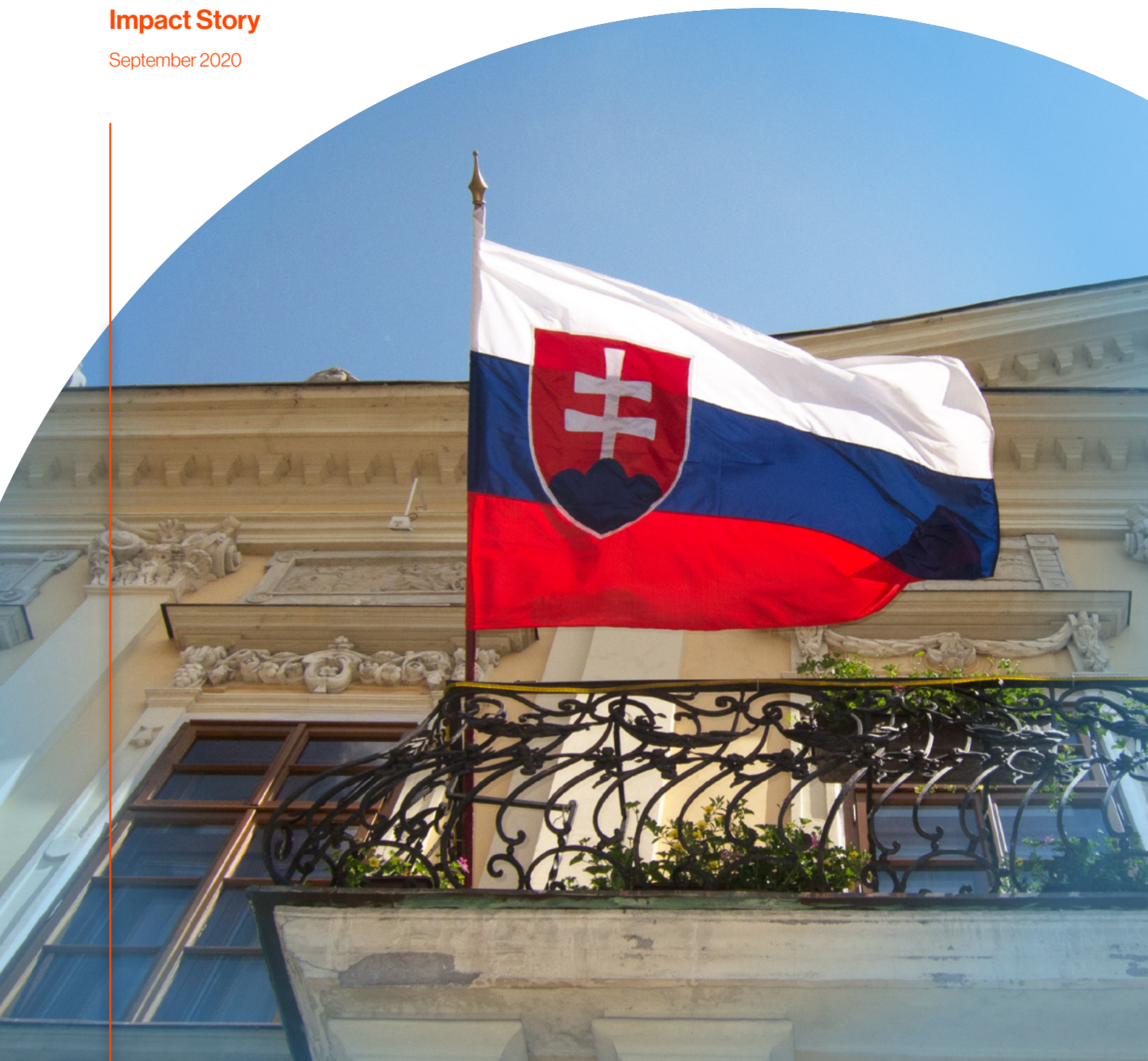


Early impacts of public registers
of beneficial ownership:

Slovakia

Impact Story

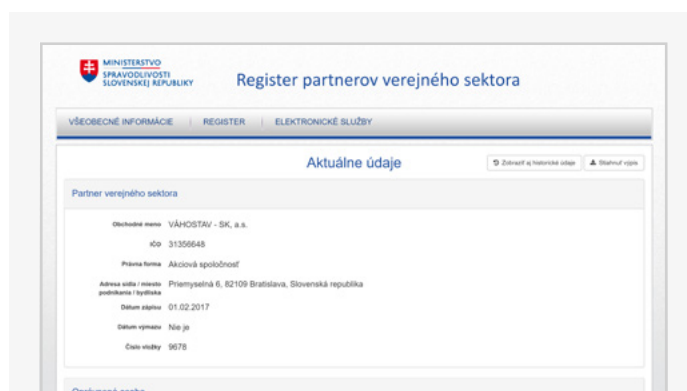
September 2020



Summary

The momentum for beneficial ownership transparency has increased enormously in recent years. A growing body of research makes the case for public registers as benefiting citizens, economies and governments. Increasing numbers of corporate leaders are championing beneficial ownership transparency as a tool to enable better risk management. Globally, over 90 countries have committed to beneficial ownership transparency in some form.

For the majority of governments, the opportunity ahead is to build on national demand to establish beneficial ownership transparency as an accepted and routine aspect of corporate activity in the 21st century. OpenOwnership assists governments in implementing beneficial ownership transparency. Slovakia was among the first countries in the world to implement a public beneficial ownership register and is a member of the Beneficial Ownership Leadership Group. Slovakian public beneficial ownership data was used to expose alleged cases of wrongdoing. Reaching this point required the Slovakian government to overcome challenges in that process, with practical lessons for other states implementing beneficial ownership transparency.



Register of Public Sector Partners facts

Established	2017
Scope	Private entities that provide goods and services to the public sector, or acquire assets or receive qualified financial contributions from the public sector
Beneficial owners registered	78,608
Companies registered	28,358
Data on the global register	Yes

As of June 2020. Accessible via: <https://rpvs.gov.sk/rpvs>

‘For a long time anonymous companies were seen as an elite problem that didn’t affect people. Now the practices of companies are becoming more open, the system is working, culture is changing.’

Zuzana Wienk, Open Government Partnership Slovakia & Co-Founder of Fair Play Alliance, 2019

Slovakia's innovative approach

1. Definition of beneficial ownership:

Slovakia adopted the EU's Anti-Money Laundering Directive definition of beneficial ownership, but added an aspect on joint control and coordinated action, based on their own practical experiences of wrongdoing. This means that somebody may not meet the definition and threshold of beneficial ownership on their own, but they may meet it together with one or multiple other people. Joint control and coordinated action is assumed, for instance if people are family members, or if different shareholders show a similar voting history.

2. Responsibility for registration

This is delegated to a locally based 'authorised person' such as an attorney, notary, auditor, banker or tax advisor. The vast majority of verifications are carried out by attorneys. Verification documents showing how a beneficial owner was identified are publicly available on the Register, validated by the authorised person.

3. Qualified claim mechanism

The register has independent oversight and is governed by a Registration Court. Anyone can submit a claim querying data to the Registration Court, and if the Court finds it reasonable, there is a proceeding to require the company to verify the data they submitted. This reverse burden of proof is based on two principles:

- a. It is reasonable to ask people who register data to prove it is correct, because they have the best access to the data;
- b. It is fair for the burden of proof to be on owners, because they benefit most from the ownership.

4. Enforced sanctions for false information

If queried data remains incorrect or incomplete, the court can fine the company, remove them from the register and current government contracts can be cancelled. Fines can be up to 100% of the economic benefit of a company's government contracts, or if that cannot be determined, up to €1m. Authorised persons and those in management positions can be fined up to €100,000. Removal from the register means a company cannot undertake contracts with the government.

CASE STUDY

Váhostav-SK

Public procurement for construction in Slovakia has historically been opaque and suboptimal, with companies previously bidding for work with low estimates resulting in bankruptcy and half-finished projects.

Slovakia's largest construction firm, Váhostav-SK, faced bankruptcy in 2015, and its restructuring risked leaving hundreds of subcontractors largely unpaid. The police investigated Váhostav-SK, which had won several large state contracts for highway construction. Prime Minister at the time, Robert Fico, said in a press conference that it was not uncommon for Slovak construction companies to respond to the former government's demand for cheap highways and bid as much as 60% less than the estimated cost by expert opinion.¹ In the Váhostav-SK case, companies ended up struggling to pay subcontractors, many of whom were small businesses.² Owing €104.68 million to hundreds of small and medium enterprises (SMEs), Váhostav-SK initially offered to pay a total of €15.7 million (15%) over a five-year period as part of its restructuring plan,³ whilst the Slovakian Government proposed to buy up the remainder of the debt.

Transparency International Slovakia, in cooperation with Bisnode data company, uncovered the complicated ownership structure of Váhostav-SK, which led to shell companies in New Zealand and Cyprus as well as five private persons based in Costa Rica.⁴ In response, opposition MPs filed a criminal complaint about the restructuring of Váhostav-SK, citing concern that claims were being registered from 'fictitious [shell] companies.' An opposition party chairman also noted that during the process of

restructuring five shell companies had been created. There was a serious suspicion that the creditors included companies that had channeled state payments so Váhostav-SK would not need to fully pay its debts.

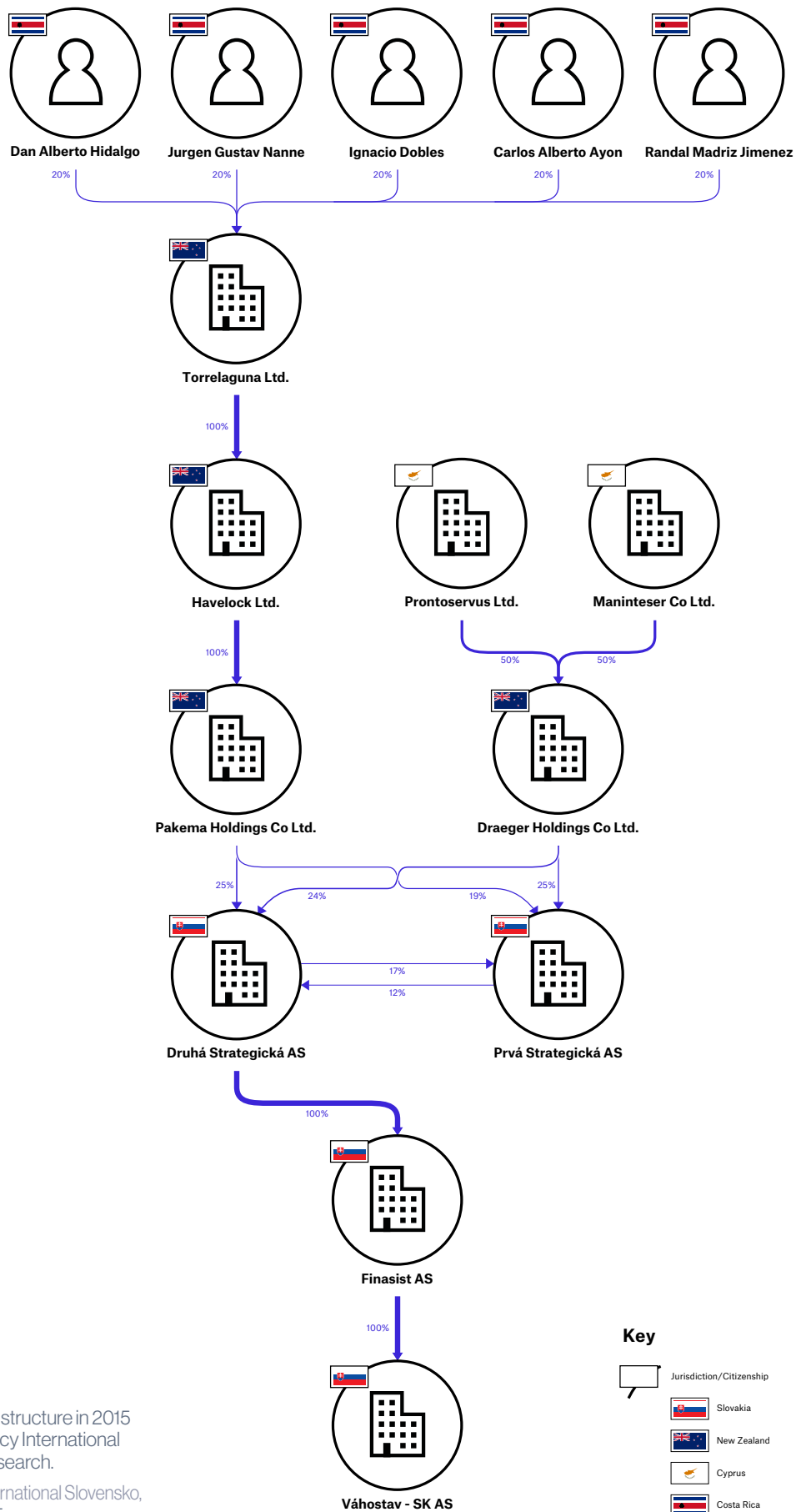
¹ The Slovak Spectator, "Small businesses cut out in Váhostav case". 2 April 2015. Available at: <https://spectator.sme.sk/c/20056770/small-businesses-cut-out-in-va-hostav-case.html> [Accessed 24 June 2020].

² Ibid

³ Ibid

⁴ Transparency International Slovakia, "How to Make Beneficial Ownership Register Work: Lessons from the Slovak Beneficial Ownership Register". December 2017. Available at: http://transparencysk/wp-content/uploads/2018/04/HOW-TO-MAKE-BENEFICIAL-OWNERSHIP-REGISTER-WORK_fin.pdf [Accessed 24 June 2020]; The Slovak Spectator, "Small businesses cut out in Váhostav case". 2 April 2015. Available at: <https://spectator.sme.sk/c/20056770/small-businesses-cut-out-in-va-hostav-case.html> [Accessed 24 June 2020].

Figure 1. Váhostav beneficial ownership structure in 2015



Váhostav-SK ownership structure in 2015 according to Transparency International Slovakia and Bisnode research.

Source: Transparency International Slovensko, Facebook, 26 March 2015.

An alleged sponsor of the Prime Minister's Smer party, Juraj Široký, was reported to hold a controlling interest in Váhostav-SK and potentially be behind the shell companies. This raised conflict of interest questions around the government's investigations⁵ and suspicions that Široký could be paid out himself in the government bailout, potentially at the expense of all the SME creditors.⁶

The Váhostav-SK case led to calls to establish a beneficial ownership register for companies receiving public funds.⁷ In November 2015, The Register of Public Sector Partners was set up with the aim of revealing the management and ownership structures of companies entering contractual relationships with the public sector.⁸ In 2017, Váhostav-SK was fined for misrepresenting its ownership, and the true beneficial owner turned out to be Juraj Široký, as confirmed in the company's disclosure to the register that year. The company maintains that Široký was not an owner in 2015 and only acquired his ownership later.⁹ The latest disclosure to the register from April 2020 shows an ownership structure that remains vague and complicated, although there is a noticeable difference in terms of the information that is available, the level of detail and how accessible it is, in addition to the fact that it is now fully clear how Juraj Široký exercises ownership and control over Váhostav-SK, meaning that the events from 2015 are less likely to repeat themselves.¹⁰

⁵ Prime Minister Fico did distance himself from Široký during the 27 March press conference. (FinWeb, "Kráľ štátnych zákaziek. To je legendami opradený Široký". 2 December 2014. Available at: <https://finweb.hnonline.sk/financie-a-burzy/538015-kral-statnych-zakaziek-to-je-legendami-opradeny-siroky> [Accessed 24 June 2020].)

⁶ The Slovak Spectator, "Small businesses cut out in Váhostav case". 2 April 2015. Available at: <https://spectator.sme.sk/c/20056770/small-businesses-cut-out-in-vahostav-case.html> [Accessed 24 June 2020].

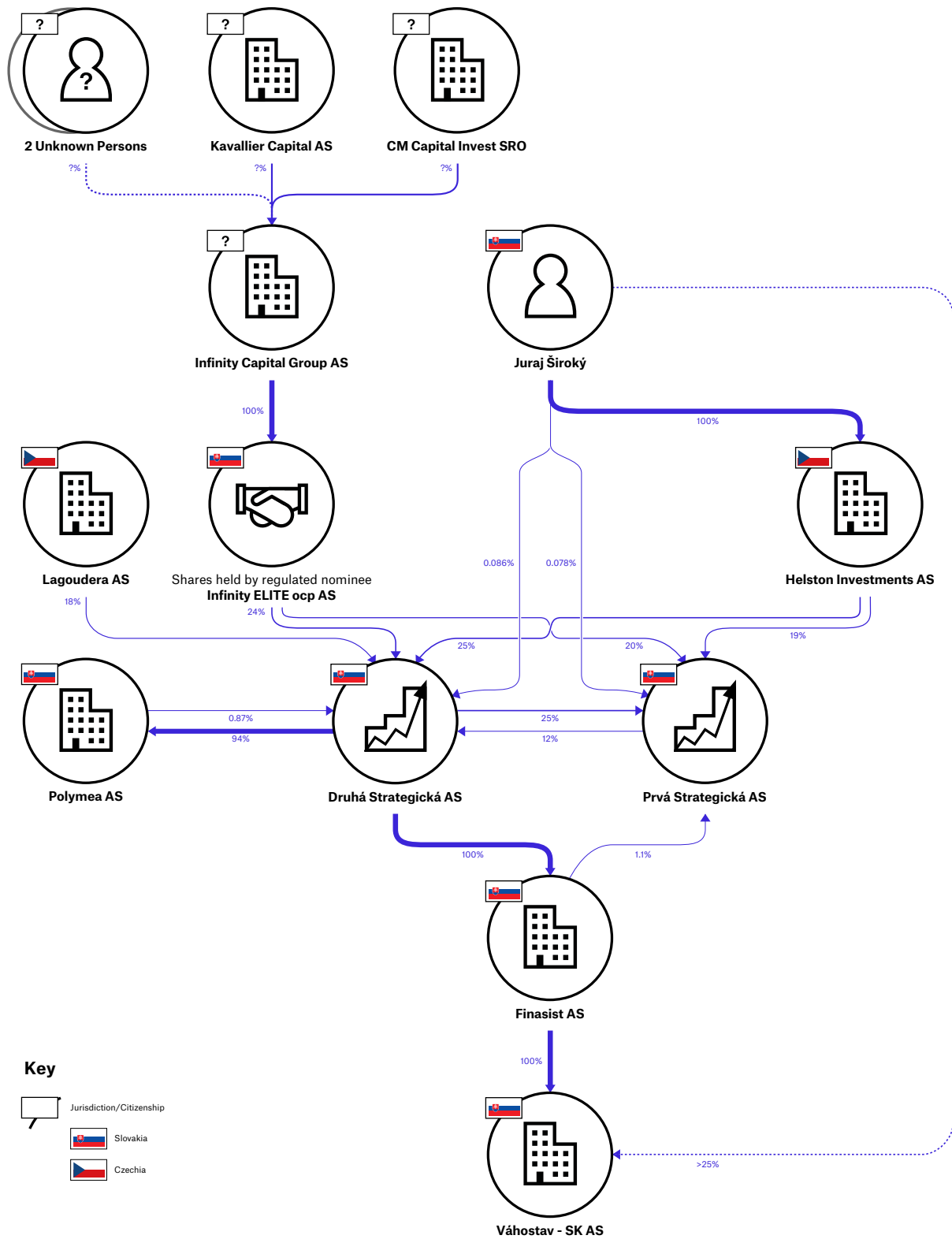
⁷ Transparency International Slovakia, "How to Make Beneficial Ownership Register Work: Lessons from the Slovak Beneficial Ownership Register". December 2017. Available at: http://transparency.sk/wp-content/uploads/2018/04/HOW-TO-MAKE-BENEFICIAL-OWNERSHIP-REGISTER-WORK_fin.pdf [Accessed 24 June 2020].

⁸ The Slovak Spectator, "Register of Public Sector Partners – brief overview on duties for foreign recipients of public funds". 26 November 2018. Available at: <https://spectator.sme.sk/c/20967942/register-of-public-sector-partners-brief-overview-on-duties-for-foreign-recipients-of-public-funds.html> [Accessed 24 June 2020].

⁹ The Slovak Spectator, "Tycoon Široký is the real owner of Váhostav". 18 2015. Available at: <https://spectator.sme.sk/c/20436124/tycoon-siroky-is-the-real-owner-of-vahostav.html> [Accessed 24 June 2020].

¹⁰ <https://rpvs.gov.sk/rpvs/Partner/Partner/Detail/9678>; <https://rpvs.gov.sk/rpvs/Partner/Partner/Dokument/111291>

Figure 2. Váhostav beneficial ownership structure in 2020



Váhostav-SK ownership structure in 2020 according to the register, showing the ownership and control relationship between Juraj Široký and Váhostav-SK. (Source: Slovak Republic Register of Public Sector Partners, VÁHOSTAV - SK, a.s. verification document, 24 April 2020. Accessible at: <https://rpvs.gov.sk/rpvs/Partner/Partner/Detail/9678>)

CASE STUDY

Agrofert Group

Transparency International Czech Republic also recently uncovered a conflict of interest in the Czech Republic using Slovakia's public register.¹¹ Before entering politics in 2011 on an anti-corruption platform,¹² current Czech Prime Minister Andrej Babiš worked in the private sector and now has a net worth of USD3.60 billion,¹³ making him the richest elected national leader in the world. Babiš gained much of his wealth through the Agrofert Group, a business he founded in 1993 that now has more than 250 subsidiaries, including two of the largest Czech newspapers, MF DNES and Lidové noviny, and the most visited Czech news server, iDnes, through the Mafra media group, a subsidiary company of Agrofert.¹⁴

Following the introduction of Czech conflict of interest legislation that prevents members of government and other

public officials from having a controlling interest in news media, Babiš transferred his sole ownership of the Agrofert Group to two trust funds, AB private trust I, owning 565 shares (89.97%), and AB private trust II, owning 63 shares (10.03%).¹⁵ Agrofert is currently active in 18 countries in 4 continents,¹⁶ and as such is registered in both the Czech Republic as well as Slovakia, where it is a market leader in agriculture and food processing.¹⁷

¹¹ <https://www.transparency.org/en/press/andrej-babish-is-our-controlling-person-czech-republic>

¹² DW, "Czech prosecutors drop fraud probe into PM Andrej Babiš". 2 September 2019. Available at: <https://www.dw.com/en/czech-prosecutors-drop-fraud-probe-into-pm-andrej-babis/a-50255477> [Accessed 24 June 2020].

¹³ Forbes, "Not Just Trump and Bloomberg: Here Are The Billionaire Politicians Of The Decade". 26 December 2019. Available at: <https://www.forbes.com/sites/gjacomotognini/2019/12/26/not-just-trump-and-bloomberg-here-are-the-billionaire-politicians-of-the-decade/#1b5e47ec6a06> [Accessed 24 June 2020].

¹⁴ Agrofert, "About Agrofert". Available at: <https://www.agrofert.cz/en/about-agrofert> [Accessed 24 June 2020]; Progetto Repubblica Ceca, "The new Czech media owners". 28 July 2014. <http://www.progetto.cz/i-nuovi-padroni-dei-media-cechi/?lang=en> [Accessed 24 June 2020]; Lupa, "Zpravodajci na českém webu: přehled zpravodajských serverů". 12 February 2008. Available at: <https://www.lupa.cz/clanky/zpravodajci-na-ceskem-webu-prehled/> [Accessed 24 June 2020]; MAFRA. Available at: <https://www.mafra.cz/english.aspx> [Accessed 24 June 2020].

¹⁵ Podnikatel, "Babiš převedl Agrofert do svěrenských fondů, firma se mu ale vrátí". 2 February 2017. Available at: <https://www.podnikatel.cz/clanky/babis-prevedl-agrofert-do-sverenskych-fondu-firma-se-mu-ale-vrati/> [Accessed 24 June 2020]; Agrofert, "Shareholder informed the management of the companies AGROFERT and SynBiol on the transfer of shares into Trusts". 3 February 2017. Available at: <https://www.agrofert.cz/en/events-and-news/shareholder-informed-the-management-of-the-companies-agrofert-and-synbiol-on-the> [Accessed 24 June 2020].

¹⁶ Agrofert, "About Agrofert". Available at: <https://www.agrofert.cz/en/about-agrofert> [Accessed 24 June 2020].

¹⁷ Agrofert, "About Agrofert". Available at: <https://www.agrofert.cz/en/about-agrofert> [Accessed 24 June 2020].

The Czech Republic has a central register of beneficial owners, but it is not publicly accessible.¹⁸ However, since adopting the Act on Register of Public Sector Partners (Act. No. 315/2016) as part of a wider set of anti-money laundering legislation in 2017,¹⁹ Slovakia has required the public disclosure of beneficial ownership of all companies drawing public funds.

Following research on the Slovak register in 2018, Transparency International (TI) discovered that Agrofert Slovakia still identifies Babiš as one of five beneficial owners.²⁰ Agrofert has argued that TI purposefully misinterpreted the term 'final beneficiary' in Slovak law, and claimed that 'Mr. Babiš is not the controlling entity of the Slovak companies of the Agrofert Group.'²¹ TI contests this by highlighting the need for a substantive interpretation of beneficial ownership rather than a formal one and drawing attention to the fact that Babiš is the only beneficial owner that has the power to remove all other beneficial owners of the company.²² Additionally, he is listed as a beneficiary in the certified disclosure document; the trust funds are set up so that the shares will return to him when he terminates his public office.²³

¹⁸ ISSM Justice, "Informační systém skutečných majitelů". Available at: <https://issm.justice.cz/> [Accessed June 24 2020].

¹⁹ The Slovak Spectator, "Register of Public Sector Partners – brief overview on duties for foreign recipients of public funds". 26 November 2018. Available at: <https://spectator.sme.sk/c/20967942/register-of-public-sector-partners-brief-overview-on-duties-for-foreign-recipients-of-public-funds.html> [Accessed 24 June 2020].

²⁰ Transparency International, "Andrej Babiš is Our Controlling Person (Beneficial Owner), Says Agrofert". 22 June 2018. Available at: <https://www.transparency.org/en/press/andrej-babish-is-our-controlling-person-czech-republic> [Accessed 24 June 2020]; Ministry of Justice of the Slovak Republic, "Register of public sector partners". 1 February 2017. Available at: <https://rpvs.gov.sk/rpvs/Partner/Partner/HistorickyDetail/7859> [Accessed 24 June 2020].

²¹ Agrofert, "Rebuttal of misinformation from Transparency International". 19 June 2018. Available at: <https://www.agrofert.cz/en/events-and-news/rebuttal-of-misinformation-from-transparency-international> [Accessed 24 June 2020].

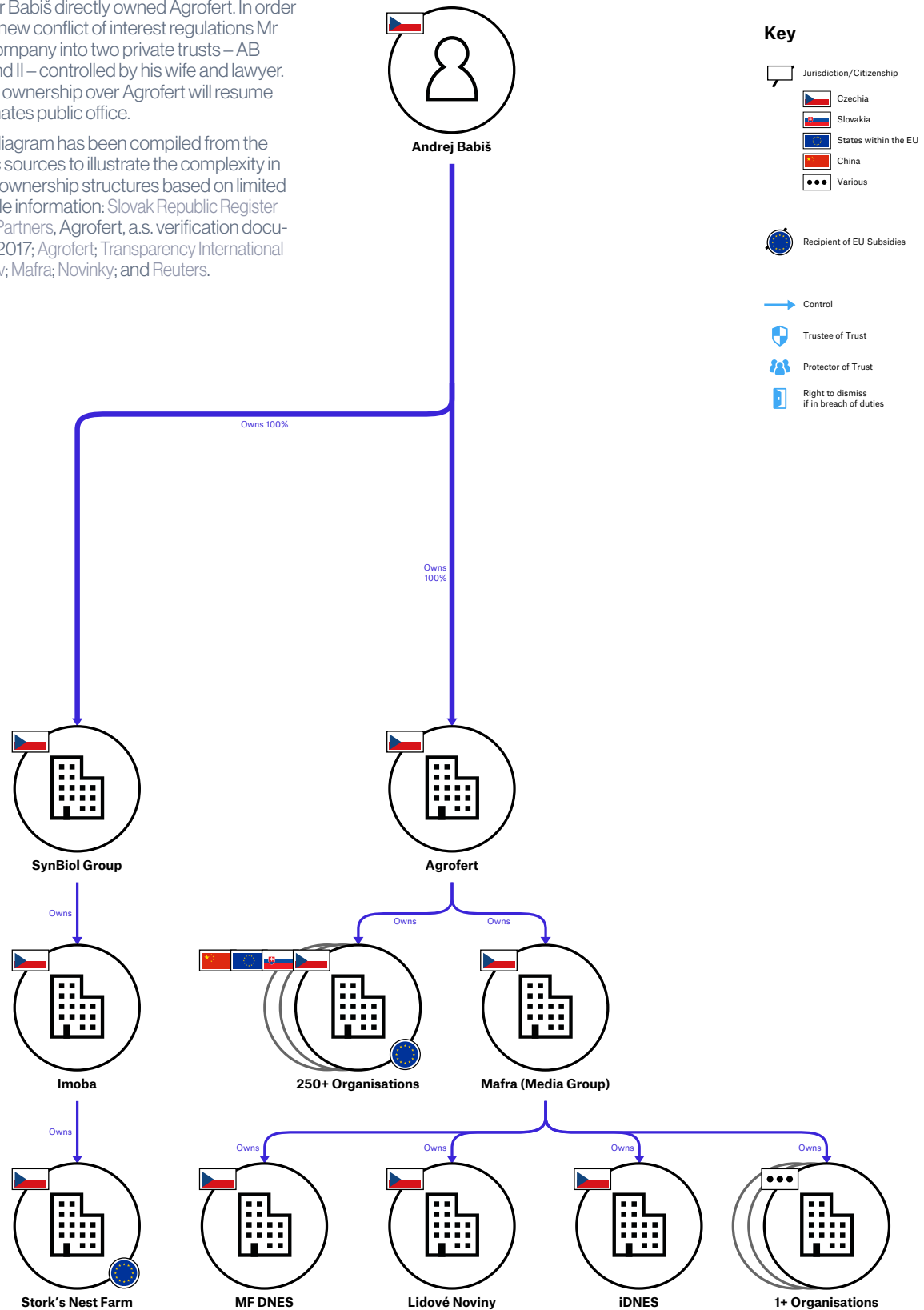
²² Transparency International, "Andrej Babiš is Our Controlling Person (Beneficial Owner), Says Agrofert". 22 June 2018. Available at: <https://www.transparency.org/en/press/andrej-babish-is-our-controlling-person-czech-republic> [Accessed 24 June 2020].

²³ Podnikatel, "Babiš převedl Agrofert do svěrenských fondů, firma se mu ale vrátí". 2 February 2017. Available at: <https://www.podnikatel.cz/clanky/babis-prevedl-agrofert-do-sverenskych-fondu-firma-se-mu-ale-vrati/> [Accessed 24 June 2020].

Figure 3. Agrofert beneficial ownership structure before 2017, which restores upon Babiš leaving office

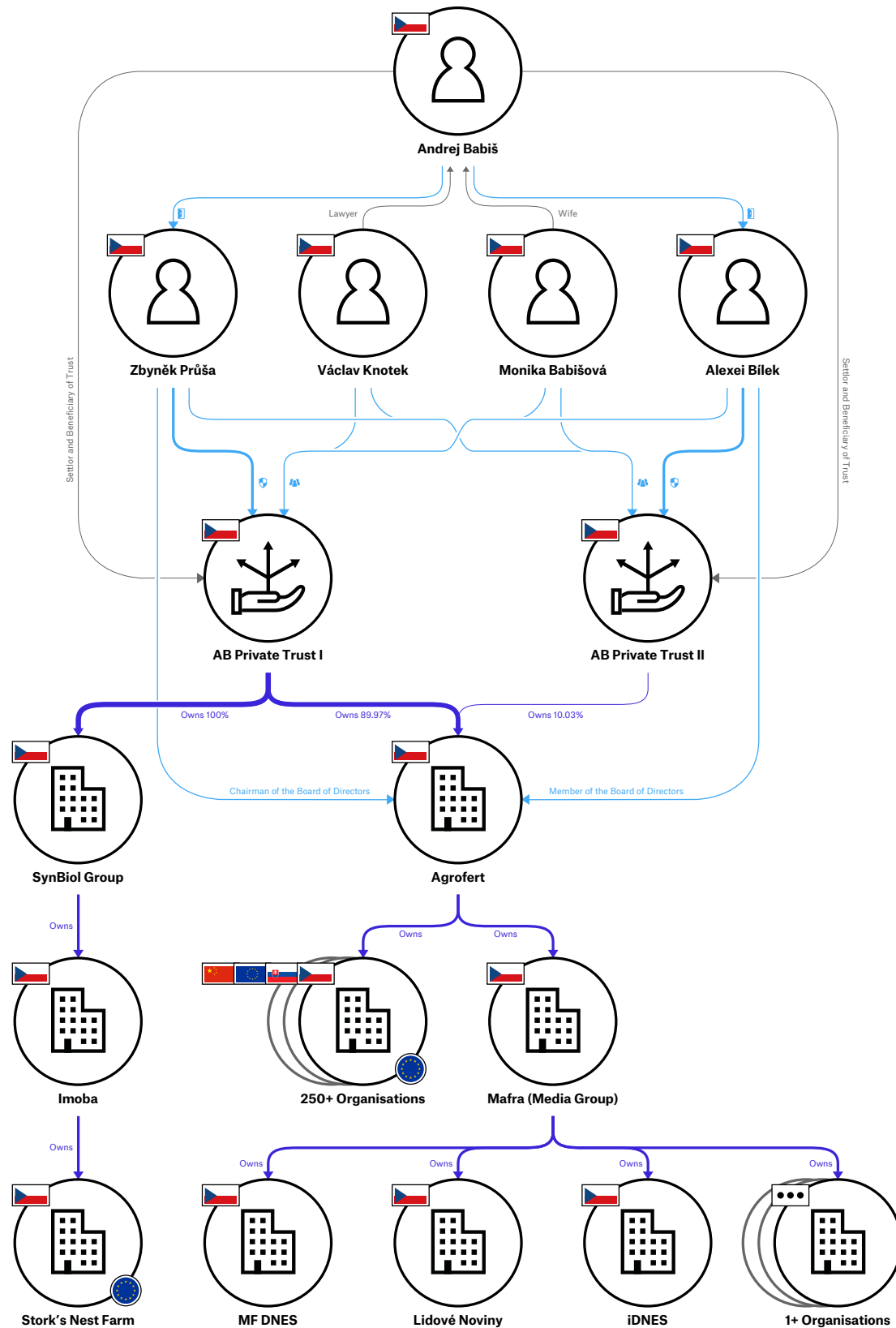
This diagram shows the current relationship of Czechia's Prime Minister Andrej Babiš with Agrofert. Prior to 2017, Mr Babiš directly owned Agrofert. In order to comply with new conflict of interest regulations Mr Babiš put his company into two private trusts – AB private trust I and II – controlled by his wife and lawyer. Mr Babiš direct ownership over Agrofert will resume when he terminates public office.

Sources: This diagram has been compiled from the following public sources to illustrate the complexity in understanding ownership structures based on limited publicly available information: Slovak Republic Register of Public Sector Partners, Agrofert, a.s. verification document, 30 June 2017; Agrofert; Transparency International Slovakia; Euractiv; Mafra; Novinky; and Reuters.



Agrofert ownership structure showing the ownership and control relationship between Czech PM Andrej Babiš and Agrofert before 2017, as well as the future ownership and control relationship after he leaves public office. (Source: <https://www.agrofert.cz/en/events-and-news/shareholder-informed-the-management-of-the-companies-agrofert-and-synbiol-on-the>)

Figure 4. Agrofert beneficial ownership structure in 2020



Agrofert ownership structure showing the current ownership and control relationship between Czech PM Andrej Babiš and Agrofert while he holds public office. Under Slovak law, joint control and coordinated action is assumed between family members, thereby making Babiš a beneficial owner under Slovak law. Agrofert denies that Babiš exercises any control over Agrofert. (Source: <https://www.agrofert.cz/en/events-and-news/rebuttal-of-misinformation-from-transparency-international>)

According to one of the most commonly accepted definitions of beneficial ownership by the Financial Action Task Force, an intergovernmental policy-making body focussed on combatting money-laundering and terrorism financing, beneficial owners ‘includes those persons who exercise ultimate effective control over a legal person or arrangement.’ As Babiš maintains the right to dismiss the trustees of the trusts that own and control Agrofert if they are ‘in breach of their duties,’²⁴ one could argue that he maintains ‘ultimate effective control.’ This raises several important questions: firstly, whether Babiš is violating the Czech Conflict of Interest Act; and secondly, whether Babiš is violating EU laws regarding firms being owned by politicians not being eligible to receive EU funding,²⁵ being that Agrofert subsidiary companies received EU subsidies both before and after Babiš transferred his ownership to the two trusts in 2017. The Stork’s Nest, a hotel and conference centre indirectly owned by Agrofert, received €2 million in EU funding in 2008. This has been the subject of extensive news coverage²⁶ and a number of lawsuits in the Czech Republic (most recently reopened in late 2019) as the company has alleged to have concealed its ownership by Agrofert in order to become eligible for the funds, which was earmarked for SMEs.²⁷ The company voluntarily returned the subsidies it has received.²⁸ According to Transparency International, the company received funds through the Rural Development Programme, which has run from 2014-2020 and is financed by the European

Agricultural Fund for Rural Development.²⁹ According to Czech media, Agrofert received subsidies worth €82 million in 2018.³⁰

Additionally, even if Babiš doesn’t currently derive benefits from the company, the trust funds are set up so that the shares will return to him when he terminates his public office.³¹ As such, he may derive benefits in the future, which could create a serious risk for corruption right now. This underlines the importance of having a substantive definition of beneficial ownership.

In late 2019, a leaked European Commission audit report confirmed Babiš is in conflict of interest and that Agrofert should not have received €17.6 million in EU subsidies, stating that ‘Andrej Babiš is still the owner of the Agrofert holding and, since February 2017, of two trust funds which he directly controls.’³² The report has received criticism from the Prime Minister and led to protests calling for his resignation in the Czech Republic.³³

A subsequent leaked report following a visit in February by MEPs to Prague concludes that there are ‘systemic weaknesses in the detection, prevention and abolition of conflict of interests in the Czech Republic.’ Babiš and Agrofert have maintained a vigorous denial of any wrongdoing.³⁴ As part of the EU’s fifth anti-money laundering directive (AMLD5), the Czech Republic has to implement a public beneficial ownership register. However, critics

²⁴ Euractiv, “MEPs put pressure on Commission to take position on Czech PM fraud case”. 14 September 2018. Available at: <https://www.euractiv.com/section/justice-home-affairs/news/meps-put-pressure-on-commission-to-take-position-on-czech-pm-fraud-case/> [Accessed 24 June 2020].

²⁵ Specifically Article 57 of Regulation (EU, Euratom) No 966/2012 and Article 61 of Regulation (EU, Euratom) 2018/1046; European Parliament, “European Parliament resolution of 14 September 2017 on transparency, accountability and integrity in the EU institutions”. 14 September 2017. Available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0358_EN.html [Accessed 24 June 2020].

²⁶ See for instance: The Guardian, “EU antifraud office finds ‘irregularities’ in payments allegedly obtained by Czech PM”. 5 January 2018. Available at: <https://www.theguardian.com/world/2018/jan/05/eu-antifraud-office-finds-irregularities-in-payments-allegedly-obtained-by-czech-pm> [Accessed 24 June 2020]; Financial Times, “Czech prosecutor reopens Andrej Babiš fraud probe”. 4 December 2019. Available at: <https://www.ft.com/content/ffe1cfd0-16a3-11ea-9ee4-11f260415385> [Accessed 24 June 2020]; Reuters, “Czech attorneys drop fraud charges against billionaire PM Babiš”. 13 September 2019. Available at: <https://www.reuters.com/article/us-czech-babis/czech-attorneys-drop-fraud-charges-against-billionaire-pm-babis-idUSKCN1VY0U8> [Accessed 24 June 2020]; DW, “Czech prosecutors drop fraud probe into PM Andrej Babiš”. 2 September 2019. Available at: <https://www.dw.com/en/czech-prosecutors-drop-fraud-probe-into-pm-andrej-babis/a-50255477> [Accessed 24 June 2020]; Financial Times, “Czech police recommend charging prime minister with fraud”. 17 April 2019. Available at: <https://www.ft.com/content/7f01e73c-611e-11e9-a27a-fdd51850994c> [Accessed 24 June 2020]; Aljazeera, “Corruption cases pile pressure on Czech prime minister”. 6 December 2019. Available at: <https://www.aljazeera.com/news/2019/12/corruption-cases-pile-pressure-czech-prime-minister-191206160318659.html> [Accessed 24 June 2020].

²⁷ Czech prosecutors have dropped the case against Babiš, concluding that it was not illegal, but reopened the case against a former employee. (Politico, “Czech prosecutor reopens Babiš subsidy fraud case” 12 May 2019. Available at: <https://www.politico.eu/article/czech-prosecutor-reopens-andrej-babis-subsidy-fraud-case/> [Accessed 24 June 2020].)

²⁸ Reuters, “Czech attorneys drop fraud charges against billionaire PM Babiš”. 13 September 2019. Available at: <https://www.reuters.com/article/us-czech-babis/czech-attorneys-drop-fraud-charges-against-billionaire-pm-babis-idUSKCN1VY0U8> [Accessed 24 June 2020].

²⁹ Transparency International, “Andrej Babiš’s potential conflict of interest”. 19 September 2018. <https://transparency.eu/andrej-babis-potential-conflict-of-interests/> [Accessed 24 June 2020].

³⁰ Politico, “Czech prosecutor reopens Babiš subsidy fraud case” 12 May 2019. Available at: <https://www.politico.eu/article/czech-prosecutor-reopens-andrej-babis-subsidy-fraud-case/> [Accessed 24 June 2020].

³¹ Agrofert, “Shareholder informed the management of the companies AGROFERT and SynBiol on the transfer of shares into Trusts”. 3 February 2017. Available at: <https://www.agrofert.cz/en/events-and-news/shareholder-informed-the-management-of-the-companies-agrofert-and-synbiol-on-the> [Accessed 24 June 2020].

³² RFI, “Leaked EU audit shows Czech PM in conflict of interest: report”. 3 December 2019. Available at: <http://www.rfi.fr/en/wires/20191203-leaked-eu-audit-shows-czech-pm-conflict-interest-report> [Accessed 24 June 2020].

³³ DW, “EU dismisses Czech prime minister’s criticism of subsidy audit”. 5 June 2019. Available at: <https://www.dw.com/en/eu-dismisses-czech-prime-ministers-criticism-of-subsidy-audit/a-49071113> [Accessed 24 June 2020].

³⁴ The Guardian, “Czech PM must resign if conflict of interest is confirmed, say MEPs”. 29 April 2020. Available at: <https://www.theguardian.com/world/2020/apr/29/czech-pm-andrej-babis-must-resign-if-conflict-of-interest-say-meps> [Accessed 24 June 2020].

say the Czech Republic has passed a bill including a weak definition of beneficial ownership, which would be easily circumvented, and does not regard Babiš as the beneficial owner of Agrofert.³⁵ According to the Slovakian definition of beneficial ownership, the Czech Prime Minister remains the beneficial owner of Agrofert.

³⁵ Radio Prague International, "Babiš denies bill on registration of beneficial owners would help him". 6 February 2020. Available at: <https://english.radio.cz/babis-denies-bill-registration-beneficial-owners-would-help-him-8682319> [Accessed 24 June 2020]; LinkedIn, "Andrej Leontiev". June 2020. https://www.linkedin.com/posts/andrejleontiev_babi%C5%A1-denies-bill-on-registration-of-beneficial-activity-6677618808997343232-Evm4 [Accessed 24 June 2020].

Impact

Slovakia's public register has not only positively impacted its own government, but it has also created resources that have been impactful beyond national borders. The value of public registers is demonstrated by the Slovak register versus the closed Czech register. While the Czech Republic will also be implementing a public register as part of their obligations under the EU AMLD5, it is threatened to be undermined by, at the time of writing, by two potential loopholes in the draft definition. The draft may exempt individuals that would be identified as beneficial owners under Slovak law by including wording that suggests an exhaustive list of types of ownership and control as opposed to a substantive understanding of beneficial ownership. Additionally, the current draft includes an exemption for the Czech trusts that now form part of the Agrofert ownership structure. The Vahostav-SK case shows the impact beneficial ownership registers can have with the company fined for misrepresentation in its ownership information. It has also helped clean up public procurement and greatly reduced the risk to SMEs sub-contractors. Without the use of a public register, obtaining these results would not have been possible.

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