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## **COMMISSION STAFF WORKING DOCUMENT**

### **2022 Rule of Law Report Country Chapter on the rule of law situation in Slovakia**

#### *Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

#### **2022 Rule of Law Report The rule of law situation in the European Union**

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## **ABSTRACT**

Slovakia has continued efforts to reform its justice system, building on the constitutional reform noted in the 2021 Rule of Law Report. The Parliament approved the reform of the judicial map. The Supreme Administrative Court has become operational and a draft act on the establishment of lower administrative courts was adopted. These reforms were covered in the RRP. The Ministry of Justice is preparing an amendment to restrict the power of the Prosecutor General to annul prosecutorial decisions in individual cases. Concerns remain as regards the regime of dismissal of members of the Judicial Council and the regime of criminal liability of judges for ‘abuse of law’, although the latter contains some safeguards. The Bar Association reported that lawyers encounter threats and harassment in the course of their practice. Public perception of judicial independence remains very low. Efficiency of proceedings continued to deteriorate, notably in administrative cases.

Progress in key areas for preventing corruption continues to be slow, although a number of topics are covered in the RRP. While work on a new anti-corruption strategy post-2023 has been launched, an update of the 2019 National Anti-Corruption Programme remains pending. Lobbying remains unregulated but the government plans to present a new bill on lobbying by the end of 2022 and to establish an Office for the Protection of the Public Interest in charge of lobbying, conflicts of interest and asset declarations. Slovakia’s dedicated Whistleblower Protection Office has taken up its functions and has already protected whistleblowers against dismissals from work. Efforts to fight high-level corruption continued, with several former high-ranking officials charged with bribery offences. However, the use of the Prosecutor General’s discretion to close cases has raised concerns particularly with a view to several high-level corruption cases where the legality of the criminal charges in some instances had also been upheld by higher level courts. Allegations of politically motivated decisions to open corruption investigations risk eroding law enforcement cooperation, the effectiveness of the fight against corruption as well as the public’s trust in the integrity of the institutions.

The Media Services Act and the Publications Act both adopted in June, 2022 respectively promote media pluralism and enhance transparency of media ownership. The Act on Slovakian Radio and Television provides a solid legal framework for the establishment, governance and operation of public service media but politicisation of appointments and dismissals of managers and board members thereof is an issue of concern. Legislation geared at securing media ownership transparency is pending. The retrial of the alleged masterminds of the assassination of journalist Ján Kuciak and his fiancée Martina Kušnírová is ongoing following the annulment of their previous acquittals by the first instance court. Proposed legislation aimed at strengthening the protection of journalists and amendments to the criminal code to reduce the punishment contemplated for defamation, one of the strictest in the European Union, have once more been postponed.

The inclusiveness of civil society in the law-making process remains limited and proper consultation for major legislative changes appears to be lacking. Plans announced in 2020 for improving the law-making process and strengthening public administration have seen limited progress. The Constitutional Court confirmed that it does not have a general competence to review constitutional laws, but noted that it has competence to do so when necessary to protect the material core of the constitution. Constitutional review of COVID-19 measures continued. Concerns continue over financing of certain civil society organisations, in particular those working on issues related to gender equality and LGBTIQ rights.

## **RECOMMENDATIONS**

In addition to recalling the commitments made under the National Recovery and Resilience Plan, relating to certain aspects of the justice system, it is recommended to Slovakia to:

- Ensure that the members of the Judicial Council are subject to sufficient guarantees of independence as regards their dismissal, taking into account European standards on independence of Judicial Councils.
- Ensure that sufficient safeguards are in place and duly observed when subjecting judges to criminal liability for the crime of “abuse of law” as regards their judicial decisions.
- Introduce proposals to regulate lobbying and to strengthen the legislation on conflicts of interest and asset declarations.
- Improve the coordination among the different law enforcement entities and ensure the objectivity of prosecutorial decisions, including by continuing to advance the legislative amendments to restrict the power of the Prosecutor-General to annul prosecutorial decisions with a view to promoting a robust track record of high -level corruption cases.
- Advance with the process to establish legislative and other safeguards to improve the physical safety and working environment of journalists, including the reform of defamation law, taking into account European standards on the protection of journalists.
- Strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account the European standards on public service media.

## **I. JUSTICE SYSTEM**

The court system of the Slovak Republic consists of 54 District Courts, 8 Regional Courts, the Specialised Criminal Court, the Supreme Court, the Supreme Administrative Court and the Slovak Constitutional Court<sup>1</sup>. The Regional Courts function as the courts of appeal in civil, commercial and criminal cases and at the same time function as the courts of first instance in administrative matters. The Specialised Criminal Court is competent to judge serious criminal matters as enumerated in the relevant provision of the Code of Criminal Procedure<sup>2</sup>. The Judicial Council plays a central role in the administration of the judiciary and in the appointment of judges, as well as in maintaining judicial ethics. Half of its members (9 out of 18) are judges elected by their peers. Other members of the Judicial Council are appointed by the Slovak President, the Parliament and the Government<sup>3</sup>. The public prosecution service of Slovakia is an independent state authority headed by the Prosecutor General<sup>4</sup>. Slovakia participates in the European Public Prosecutor's Office (EPPO). The Slovak Bar Association is an independent self-administrative professional organisation<sup>5</sup>.

### **Independence**

**The level of perceived judicial independence in Slovakia continues to be very low among the general public and low among companies.** Overall, 25% of the general population and 30% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2022<sup>6</sup>. According to data in the 2022 EU Justice Scoreboard, no clear trend can be identified in the evolution of the perceived level of independence since 2016. The perceived judicial independence among the general public has decreased in comparison with 2021 (28%), but it is higher than in 2016 (21%). The perceived judicial independence among companies remains at the same level as in 2021. The main reason cited by the general public for the perceived lack of independence of courts and judges is the perception of interference or pressure from the Government and politicians, followed closely by perception of interference or pressure from economic or other special interests<sup>7</sup>.

**The Judicial Council has taken up its new tasks following the Constitutional reform, while concerns remain over the regime for dismissal of its members.** The 2020 Constitutional amendment extended the powers of the Judicial Council<sup>8</sup>, notably by vesting it with the competence to review asset declarations of judges, and tasked it with the selection of members of the newly established Supreme Administrative Court. Resources for the Council

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<sup>1</sup> For a description of the judicial structure, see e.g. the Annual study for the European Commission carried out by the Council of Europe Commission for the Efficiency of Justice (CEPEJ).

<sup>2</sup> Slovak Code of Criminal Procedure, para. 14 (e.g. premeditated murder, corruption, terrorism, organised crime, severe economic crimes, damaging the financial interests of the EU etc.).

<sup>3</sup> Art. 141a of the Slovak Constitution.

<sup>4</sup> Arts. 149-151 of the Slovak Constitution; Act No. 153/2001 Coll. on Public Prosecution Service.

<sup>5</sup> Parliamentary Act No. 586/2003 Coll. on the Legal Profession and on Amending Act No. 455/1991 Coll. on the Business and Self-employment Services (Business Licensing Act) of 4 December 2003.

<sup>6</sup> Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>7</sup> Figure 51, 2022 EU Justice Scoreboard. Among companies, the main cited reasons were in almost equal terms perception of interference or pressure from economic or other special interests and perception of interference or pressure from the Government and politicians. Figure 53, 2022 EU Justice Scoreboard.

<sup>8</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 3.

were increased to enable it to perform these tasks<sup>9</sup>. Stakeholders acknowledged the efforts of the Judicial Council to make its decision-making more transparent<sup>10</sup>. Concerns however remain over the dismissal regime of members of the Judicial Council, under which members may be dismissed at any point by the authority which appointed them<sup>11</sup>. There are no legally prescribed conditions for such a dismissal<sup>12</sup>. While no member has been dismissed under this procedure so far<sup>13</sup>, stakeholders reiterated concerns that this system threatens the independence of the Council<sup>14</sup>. According to European standards, Judicial Councils need to be subject to sufficient guarantees of independence in relation to the legislature and the executive including as regards the way their members can be dismissed<sup>15</sup>.

**Criminal liability of judges for ‘abuse of law’, although accompanied by some safeguards against abuse, remains controversial.** As a part of the 2020 Constitutional amendment<sup>16</sup>, the Parliament amended the Constitutional provision on immunity of judges<sup>17</sup> and also introduced a new criminal offence of ‘abuse of law’, under which judges may be prosecuted for any arbitrary decision causing damage to or bestowing a favour on another person<sup>18</sup>. The amendment was introduced in the context of an overall effort to enhance the integrity regime for judges, but some stakeholders continue to have concerns that the provision could be misused<sup>19</sup>. Others considered that there are sufficient safeguards against abuse<sup>20</sup>, notably due to the possibility of the Judicial Council to intervene<sup>21</sup>. Whereas

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<sup>9</sup> Information received in the context of the country visit to Slovakia from the Judicial Council.

<sup>10</sup> Contribution from Via Iuris for the 2022 Rule of Law Report, p. 3; Information received in the context of the country visit to Slovakia from Judges for Open Judiciary.

<sup>11</sup> The Council is composed of 18 Members, half of which are judges elected by their peers. The Government, the Parliament and the President of the Republic each choose three members as well. For further information see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 3–4. The provision has been challenged before the Constitutional Court, where it remains pending, file No. 414/2021.

<sup>12</sup> However, in accordance with established case law of the Constitutional Court, the dismissal must not be discriminatory or arbitrary. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 3–4.

<sup>13</sup> Information received in the context of the country visit to Slovakia from the Judicial Council.

<sup>14</sup> Contribution from the European Association of Judges for the 2022 Rule of Law Report, pp. 2, 11; Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, pp. 465-466; Contribution from the Association of Judges for the 2022 Rule of Law Report, p. 2. During the country visit, the representative of the Judicial Council expressed reservations to this amendment, while indicating that the Council does not feel under pressure.

<sup>15</sup> The Court of Justice has recalled, as regards the process for appointing members of the judiciary, for a Council of the Judiciary to contribute to rendering that process more objective, it is necessary that such a body should itself be sufficiently independent of the legislature, the executive and the authority to which it is required to submit an opinion on the assessment of candidates for a judicial post. See judgment of the CJEU of 20 April 2021, *Repubblika*, Case C-896/19, ECLI:EU:C:2021:311, para. 66.

<sup>16</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 4-5.

<sup>17</sup> According to the reform, judges may not be held accountable for an opinion expressed during their decision-making, unless the decision-making of a judge can be qualified as a crime. The CCJE Bureau in its Opinion of 9 December 2020, in relation to the Constitution (CCJE-BU(2020)3, p. 5) stated that the new wording of the Constitution is vague and entails a potential risk of abuse. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 5.

<sup>18</sup> For further information see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 4-5.

<sup>19</sup> Contribution from the European Association of Judges for the 2022 Rule of Law Report, pp. 13; Contribution from the Slovak Association of Judges for the 2022 Rule of Law Report, p. 1;

<sup>20</sup> Information received in the context of the country visit to Slovakia from the Supreme Administrative Court and Judges for Open Judiciary.

<sup>21</sup> Criminal proceedings are led by the Special Prosecutor and a Specialised Criminal Court. A judge accused of this crime is entitled to request the Judicial Council to express its disagreement on the continuation of the

European standards provide that subjecting judges to liability for their judicial decisions may occur in exceptional cases of malice and gross negligence<sup>22</sup>, the forms of conduct which may constitute a crime should be defined sufficiently clearly and precisely<sup>23</sup>, and any regime governing personal liability of judges must provide necessary guarantees to prevent any risk of abuse<sup>24</sup>. Safeguards would need to be in place and duly observed in practice, in line with the aforementioned standards. So far, no judge has been prosecuted under this provision, but several criminal complaints were filed<sup>25</sup>.

**Parliament approved a reform of the judicial map.** For several years, the Ministry of Justice worked on a reform of the judicial map<sup>26</sup>. This reform aims to follow recommendations of the Council of Europe Commission for the Efficiency of Justice (CEPEJ)<sup>27</sup>, which among others, suggested enhancing specialisation of judges and changing the judicial map, in particular by decreasing the number of district courts<sup>28</sup>. After criticism from stakeholders, the Ministry of Justice revised its original draft of a comprehensive reform and submitted a new version to public consultations in September 2021, and an Act reforming the judicial map was approved by the Parliament on 27 April 2022<sup>29</sup>. It decreases the number of district courts from 54 to 36, changes territories of regional courts, and establishes five municipal courts. A separate act establishing administrative courts was also adopted. While the aim of the original governmental proposal to increase public trust in the judiciary and improve its efficiency and quality remain<sup>30</sup>, changes were made, among others, in the new territories of the courts. Additionally, the transfer of judges and staff from the dissolved courts to the new courts no longer requires them to physically move to other locations, as they will remain in the original location, serving as a branch of the successor court<sup>31</sup>. Cases will not be reallocated *ex lege*<sup>32</sup>. Presidents of successor courts will remain in

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criminal prosecution, which, if granted, is tantamount to the termination of the proceedings (this safeguard was originally only effective until 2024, but the relevant provision was subsequently amended and it is no longer temporary; Art. IX of Act No. 432/2021). The prosecuted judge may be temporarily suspended only by a decision of a disciplinary court. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 6.

<sup>22</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 68

<sup>23</sup> See by analogy in case of disciplinary proceedings against judges: judgment of the CJEU of 15 July 2021, C-791/19, para. 140. See also, by analogy, judgment of the CJEU of 18 May 2021 in joined cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, *Asociația 'Forumul Judecătorilor din România' and Others*, ECLI:EU:C:2021:393, para 234.

<sup>24</sup> See by analogy in case of disciplinary proceedings against judges: judgment of the CJEU of 15 July 2021, C-791/19, para. 146; judgment of the CJEU of 19 November 2019, *LM*, C-216/18, para. 67, as regards liability of judges see also judgment of the CJEU of 18 May 2021 in joined cases C-83/19, C-127/19, C-195/19, C-291/19, C-355/19 and C-397/19, paras. 228-239.

<sup>25</sup> As of March 2022 there were 32 criminal complaints. Information received in the context of the country visit to Slovakia from the Special Prosecutor. Media report that two of these were made by a politician against Supreme Court judges. See *Dennik N* (2022) <https://dennikn.sk/minuta/2675787/?ref=list>

<sup>26</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 6-7.

<sup>27</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 4. A CEPEJ review of the draft reform concluded that the methodology used is in line with its guidelines and its assessment report and highlighted the evidence-based approach adopted by Slovak authorities; CEPEJ (2020), CEPEJ Experts' review of the Judicial Map Reform in the Slovak Republic, pp. 8-9.

<sup>28</sup> CEPEJ (2017), Efficiency and quality of the Slovak judicial system, Assessment and recommendations on the basis of CEPEJ tools, CEPEJ-COOP(2017)14, pp. 20-28.

<sup>29</sup> Act No. 150/2022.

<sup>30</sup> Explanatory report to the draft act on reform of the district courts, p. 1; Input from Slovakia for the 2022 Rule of Law Report, p. 3.

<sup>31</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 4.

office and presidents of dissolved courts will become vice-presidents of successor courts<sup>33</sup>. Stakeholders, including representatives of the highest judicial institutions, continued<sup>34</sup> to criticise the legislative process due to a lack of meaningful consultations<sup>35</sup>. It was also pointed out that such an extensive reform, which would trigger a reorganisation of the prosecution service as well, should be implemented gradually over a longer period of time, in order to ensure the continuous operation of the courts during the transition<sup>36</sup>. Many stakeholders however agree with the general aims of the reform and the main features, such as the enlargement of court districts and achieving greater specialisation of judges<sup>37</sup>, and welcome the initiative as an effort to make the judiciary more effective and trusted<sup>38</sup>. The reform of the judicial map is part of the Slovak National Recovery and Resilience Plan<sup>39</sup>. As the reform will involve a transfer of judges, according to European standards, judges who would be transferred in the course of the reform without their consent should benefit from procedural safeguards in order to ensure that their independence is not jeopardised<sup>40</sup>.

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<sup>32</sup> However, if a judge specializes in a certain area, the president of the court may reallocate cases which do not fall under his or her area of specialization. This does not apply to judges of municipal courts in Bratislava. The reallocation will be conducted randomly using technical means under the general rules stipulated in Sec. 51 of Act 757/2000 on courts. Cases which fall under area of specialization of judges cannot be reallocated, and will be resolved by the president of the respective court in a work agenda of the court. Art. VIII of Act No. 150/2022, amending Secs. 18l, 18m and 18n of Act No. 371/2004. Information received in the context of the country visit to Slovakia from the Ministry of Justice.

<sup>33</sup> The previous draft contained different options for selections of court presidents, under one of which the term of office of all presidents of successor courts would be terminated and new presidents appointed, which would have raised questions as regards the discretion given to the executive power. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, footnote 56.

<sup>34</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 6.

<sup>35</sup> Joint statement of the Constitutional Court, Supreme Court, Supreme Administrative Court, Prosecutor General and the Bar Association of 28 January 2022, <https://www.nsud.sk/najvyssi-predstavitelia-justicnych-institucii-diskutovali-o-pripravovanych-legislativnych-zmenach/>; Contribution from the Slovak Bar Association for the 2022 Rule of Law Report, p. 21; Contribution from the Law Faculty of the Komensky University in Bratislava for the 2022 Rule of Law Report, p. 1; Information on criticism from relevant stakeholders is also noted in the Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 473. Public consultations for the drafts took place from 13 September 2021 to 4 October 2021; Public consultations LP/2021/503, LP/2021/504, LP/2021/505, LP/2021/506.

<sup>36</sup> Joint statement of the Constitutional Court, Supreme Court, Supreme Administrative Court, Prosecutor General and the Bar Association of 28 January 2022, <https://www.nsud.sk/najvyssi-predstavitelia-justicnych-institucii-diskutovali-o-pripravovanych-legislativnych-zmenach/>.

<sup>37</sup> Joint statement of the Constitutional Court, Supreme Court, Supreme Administrative Court, Prosecutor General and the Bar Association of 28 January 2022, <https://www.nsud.sk/najvyssi-predstavitelia-justicnych-institucii-diskutovali-o-pripravovanych-legislativnych-zmenach/>; Contribution from the Public Defender of Rights for the 2022 Rule of Law Report, p. 6; Information received in the context of the country visit to Slovakia from the Supreme Administrative Court, the Association Judges for Open Judiciary, the Slovak Bar Association.

<sup>38</sup> Contribution from the Public Defender of Rights for the 2022 Rule of Law Report, p. 6.

<sup>39</sup> Component 15 of the Slovak National Recovery and Resilience Plan.

<sup>40</sup> Pursuant to European standards, it is allowed, in exceptional cases, to transfer judges without their consent, provided that sufficient safeguards are in place. These safeguards include a requirement that the judge may not be transferred to a court of a lower instance and that he or she has recourse to judicial review. Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 52; European Charter of the Stature of Judges, Arts. 1.4., 3.4.; report of the European Network of Councils for the Judiciary, on Minimum standards for the evaluation of professional performance and the irremovability of members of the judiciary, proposal 4.21; judgment of the European Court of Human Rights of 9 March 2021, *Bilgen v Turkey*, 1571/07, para. 96.

**The new Supreme Administrative Court has become operational.** The Supreme Administrative Court was established by the Constitutional amendment of 2020<sup>41</sup> as of 1 August 2021. The Court acts as a second instance in administrative proceedings and performs several other tasks<sup>42</sup>, such as disciplinary proceedings against judges. The Court is currently composed of 21 judges<sup>43</sup>, selected<sup>44</sup> by the Judicial Council after a public hearing<sup>45</sup>, has its own staff, and is fully operational.

**A law creating a new separate system of administrative courts was approved by the Parliament.** Administrative cases of first instance are currently handled by administrative chambers within regional courts. In the context of the reform of the judicial map, the Government has proposed the establishment of a separate administrative court system<sup>46</sup> and the Act was adopted by the Parliament on 27 April 2022<sup>47</sup>. The presidents of the new administrative courts will be selected from among judges<sup>48</sup> by a committee of five members, which should be chosen by the Minister of Justice, two of which from candidates nominated by the Judicial Council<sup>49</sup>. As regards the selection of judges to the administrative courts<sup>50</sup>, the Minister of Justice, after consultation of the Judicial Council, determines which posts will be filled by a transfer of judges<sup>51</sup> and which through a selection procedure<sup>52</sup>. The courts are established as of 1 June 2022 and will start operating as of 1 January 2023<sup>53</sup>. It will be important that the establishment of these new administrative courts and the regime applicable to them complies with EU law and takes into account European standards<sup>54</sup>.

**Parliament adopted the new act on disciplinary proceedings against judges, now falling under the responsibility of the Supreme Administrative Court.** Previously, disciplinary proceedings against judges were conducted by disciplinary bodies organised and supervised

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<sup>41</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 7.

<sup>42</sup> Review of constitutionality and legality of election to local authorities and dissolution or temporary suspension of activities of political parties Sec. 142(2) of the Constitution.

<sup>43</sup> The total number of judges will be 30. Information received in the context of the country visit to Slovakia from the Supreme Administrative Court.

<sup>44</sup> Certain stakeholders criticized that judges from the former administrative branch of the Supreme Court were not automatically transferred to the Supreme Administrative Court, but had to pass through the election procedure. Some of the Supreme Court judges refused this process and chose to remain at the Supreme Court.

<sup>45</sup> Sec. 151zf, Act 385/2000, on Courts.

<sup>46</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 7.

<sup>47</sup> Act No. 151/2022 on the establishment of administrative courts.

<sup>48</sup> Art. I, Sec. 3(6) of the Act No. 151/2022. Any judge may apply for the position.

<sup>49</sup> In the standard process of appointment of court presidents as stipulated in Secs. 36 and 37 of Act 750/2004, on Courts, four members of the selection committee are chosen by the Minister of Justice from a list of candidates so that one of the members was nominated to the list by the Judicial Council and three by the Minister. One member of the selection committee is elected by the council of judges at the respective court. The list of candidates is published at the website of the Ministry of Justice <https://www.justice.gov.sk/Stranky/Sudy/Vyberove-konania-na-sudoch/Kandidati-na-clenov-vyberovych-komisii-na-vyber-predsedov-sudov.aspx>.

<sup>50</sup> Art. I, Sec. 3(7) of the Act No. 151/2022.

<sup>51</sup> Transfer of judges is conducted by the Judicial Council either on the request of a judge, or with his or her consent, or based on a disciplinary decision, Sec. 14, Act 385/2000, on Courts.

<sup>52</sup> Selection procedure will be conducted by a selection committee composed of two members nominated by the Minister of Justice and three members nominated by the Judicial Council. Art. I, Sec. 3(9) of the Draft Act on the establishment of administrative courts.

<sup>53</sup> Art. XIII of the Act No. 151/2022.

<sup>54</sup> Consultative Council of European Judges (2016), Opinion No.19, The role of court presidents, paras 37-40.

by the Judicial Council<sup>55</sup>. The 2020 amendment of the Constitution<sup>56</sup> transferred the responsibility to conduct disciplinary proceedings to the Supreme Administrative Court. The Supreme Administrative Court has also been assigned the responsibility to conduct disciplinary proceedings against prosecutors, bailiffs and notaries<sup>57</sup>. On 11 November 2021 Parliament adopted the act on disciplinary proceedings conducted by the Supreme Administrative Court<sup>58</sup>. Pursuant to this act, disciplinary proceedings against judges are conducted by disciplinary bodies composed of five members, three of which, including the Chair, are judges of the Supreme Administrative Court appointed according to a work schedule prepared by the President of the Supreme Court<sup>59</sup>. Two members are selected randomly from a list of persons elected by the Judicial Council<sup>60</sup>. A judge condemned in the disciplinary proceedings may challenge the decision before an appellate body<sup>61</sup> if the decided sanction is dismissal from office<sup>62</sup>. Stakeholders have welcomed the new regime of disciplinary proceedings, expecting among others an increase in efficiency, transparency and uniformity of decisions<sup>63</sup>.

**Criminal proceedings continue in relation to corruption and abuse of office charges against judges and other representatives of justice and law enforcement.** Following high-profile police operations referred to in the 2020 and 2021 Rule of Law Reports<sup>64</sup>, the resulting criminal proceedings linked to serious allegations of corruption and abuse of office involving a number of judges and other representatives of justice and law enforcement continue<sup>65</sup> (for other high level corruption cases see Section II).

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<sup>55</sup> Members of the disciplinary bodies were elected by the Judicial Council from candidates proposed by the councils of judges of individual courts, Minister of Justice, and the Parliament; former Sec. 119a of Act 385/2000 on judges.

<sup>56</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 3.

<sup>57</sup> Sec. 142(2)(c) of the Constitution. The Ministry of Justice also reflects on granting to the Supreme Administrative Court the competence to review decisions from disciplinary proceedings against lawyers conducted by the Slovak Bar Association. The Minister of Justice requested an opinion of the Venice Commission on this mechanism. The Venice Commission stated that the Ministry's general proposal was in line with international standards. Opinion of the Venice Commission No. 1048/2021 of 18 October 2021, para. 64.

<sup>58</sup> Act No. 432/2021 on disciplinary proceedings conducted by the Supreme Administrative Court, in effect since 1 December 2021. Disciplinary liability, offences and penalties continue to be governed by Act No. 385/2000.

<sup>59</sup> The work schedule is prepared for three years. Sec. 6 of Act No. 432/2021. Other two members are selected from persons elected by the Council of prosecutors, the president of the Chamber of Bailiffs, the president of the Chamber of Notaries or by the Judicial Council.

<sup>60</sup> Sec. 6(4) and Sec. 9(4) of the Act No. 432/2021. These persons may not be judges, prosecutors, notaries or bailiffs, but must have a law degree and practiced law for at least ten years. Sec. 10(4) of the Act No. 432/2021.

<sup>61</sup> An appellate body is composed of five judges of the Supreme Administrative Court. Information received from the Supreme Administrative Court.

<sup>62</sup> Sec. 37 of Act No. 432/2021 on disciplinary proceedings conducted by the Supreme Administrative Court.

<sup>63</sup> Contribution from the Slovak European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, pp. 472-473; Information received in the context of the country visit to Slovakia from the Judicial Council, the Association Judges for Open Judiciary, civil societies organisations Zastavme korupciu (Stop Corruption) and Via Iuris, Public Defender of Rights.

<sup>64</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp.2, 3.

<sup>65</sup> As of March 2022, criminal proceedings involved 18 judges (out of which four have already been sentenced), three prosecutors and six attorneys. Information received from the Special Prosecutor.

**The Ministry of Justice announced legislative amendments to restrict the power of the Prosecutor General to annul prosecutorial decisions.** Currently, the Prosecutor General has the power to annul any decision by lower-ranking prosecutors or the police made in the course of criminal proceedings<sup>66</sup>. Since August 2021<sup>67</sup>, when this power was used to stop criminal proceedings against several high-profile defendants<sup>68</sup> (see below in Section II), it became a subject of a public debate. In one case this power was applied after the Supreme Court issued several decisions in the proceedings<sup>69</sup>, leading to the perception of this step as an interference with judicial power<sup>70</sup>. The annulment of criminal proceedings also contributed to tensions between the Prosecutor General and the Special Prosecutor<sup>71</sup>. The Ministry of Justice is currently preparing a draft amendment of the Criminal Procedure Code, including steps to narrow down this power of the Prosecutor General<sup>72</sup>. In general, a limitation of the power of the Prosecutor General would be in line with European standards relating to autonomy and internal independence within the prosecution service<sup>73</sup>.

**The Bar Association is active in promoting the rule of law and has raised concerns about the working environment of lawyers.** The Bar Association started hosting a platform where the highest representatives of the judiciary discuss matters related to justice and the rule of law. Representatives on the highest level of the Bar Association, the Constitutional Court, Supreme Court, Supreme Administrative Courts and the Prosecutor General agreed to meet regularly to exchange views on the topics regarding the justice system and the rule of law in Slovakia, such as the reform of the judicial map<sup>74</sup>. The purpose of these meetings is also to increase trust in the highest judicial institutions. The Bar Association reported that lawyers encounter threats and harassment in the course of their practice<sup>75</sup>.

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<sup>66</sup> Art. 363 of the Criminal Procedure Code. There is no legal remedy against the decision. Following such a decision, the only possibility for investigators to bring again charges is to provide new evidence different from what was presented in the original case.

<sup>67</sup> The instrument has however been frequently used even before; since its creation in 2016, the Prosecutor General annulled approximately 80 decisions each year.

<sup>68</sup> Including one person with close connections to politicians from a government coalition party.

<sup>69</sup> The criminal proceedings in this case were opened again. Information received in the context of the country visit to Slovakia.

<sup>70</sup> Information received in the context of the country visit to Slovakia.

<sup>71</sup> In reaction to the tensions, the Government set up a special working group to restore trust in the rule of law, which was intended to prepare recommendations for improvement of the functioning of courts, police and prosecution. The working group has since been suspended, awaiting a political decision on the discussed questions. Press release from the Government Office of 16 September 2021, Prime Minister: Expert working group will discuss restoration of trust in the rule of law, <https://www.vlada.gov.sk/premier-odborna-pracovna-skupina-bude-riesit-obnovu-dovery-v-pravny-stat/>. Information received in the context of the country visit to Slovakia from the Ministry of Justice.

<sup>72</sup> Information received in the context of the country visit to Slovakia from the Ministry of Justice. Two options are under consideration, either to enact that this power cannot be used if a court decision already confirmed the lawfulness or justification of the proceedings, or to limit the power only to the annulment of decisions of prosecutors through which they decided to stop prosecution. The draft bill is expected to be submitted to public consultation in spring 2022.

<sup>73</sup> Recommendation CM/Rec(2000)19 of the Committee of Ministers to member states on the role of public prosecution in the criminal justice system, recommendation 9 and 10; Venice Commission, Rule of Law Checklist, CDL-AD(2016)007rev, para. 92.

<sup>74</sup> Meetings of 23 September 2021 and 28 January 2022, [https://www.sak.sk/web/sk/cms/news/form/list/form/row/967235/\\_event](https://www.sak.sk/web/sk/cms/news/form/list/form/row/967235/_event), <https://www.nsud.sk/najvyssi-predstavitelia-justicnych-institucii-diskutovali-o-pripravovanych-legislativnych-zmenach/>.

<sup>75</sup> Contribution from the Council of Bars and Law Societies of Europe, p. 58.

## Quality

**Efforts to advance digitalisation are continuing but gaps remain.** Digital tools are widely used in courts<sup>76</sup> and court and prosecutorial decisions are generally accessible online<sup>77</sup>. Gaps continue to exist, in particular as regards the prosecution service, both in terms of use of digital technology<sup>78</sup> and availability of secure electronic communication tools, notably between the prosecution service and detention facilities and investigating authorities<sup>79</sup>. Stakeholders<sup>80</sup> further report weaknesses in using digital tools and infrastructure in practice and that better equipment, better compatibility of different information systems and the introduction of a new, improved case management system would enhance the benefits of digitalisation. The development of a new court management system, an integration of judicial, police and prosecution case management systems into a new criminal case management system and a new commercial register are among the priorities of the Government<sup>81</sup>. Efforts are supported also by funding from the EU, including the Recovery and Resilience Facility<sup>82</sup>.

## Efficiency

**Efficiency of proceedings has continued to deteriorate, notably in administrative cases.** Already comparably lengthy in EU perspective, the trend of the growing length of proceedings in administrative cases continued in 2020, reaching 585 days in the first instance in 2020, compared to 317 days in 2017, 401 days in 2018 and 518 days in 2019<sup>83</sup>. At the same time, the clearance rate is comparably low in EU perspective, at 86.8 % in 2020 (vs. 81.4 % in 2019)<sup>84</sup>, pointing out at the system not managing to deal efficiently with the workload in administrative cases. As regards civil and commercial cases, the estimated length of proceedings in litigious civil and commercial cases also increased in 2020 compared to 2019, reaching 204 days (compared to 170 in 2019)<sup>85</sup>. Several groups of cases concerning excessive length of civil proceedings have been examined by the Council of Europe<sup>86</sup> (see also below in Section IV).

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<sup>76</sup> Figure 43, 2022 EU Justice Scoreboard.

<sup>77</sup> Figures 48 and 49, 2022 EU Justice Scoreboard. For prosecutorial decisions, <https://www.genpro.gov.sk/dokumenty/pravoplatne-uznesenia-prokuratora-ktorymi-sa-skoncilo-trestne-stihanie-vedene-proti-urcitej-2f09.html>.

<sup>78</sup> Figure 43, 2022 EU Justice Scoreboard.

<sup>79</sup> Figure 45, 2022 EU Justice Scoreboard.

<sup>80</sup> Information received in the context of the country visit to Slovakia from the Association of Judges, Supreme Administrative Court and Slovak Bar Association

<sup>81</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 13 and information received in the context of the country visit to Slovakia from the Ministry of Interior and the Office of the Prosecutor General.

<sup>82</sup> The Slovak Recovery and Resilience Plan plans investments into digitalisation and analytical capacities for the justice system, Component 15 of the Slovak Recovery and Resilience plan. Other examples of digitalization projects supported from EU funds are projects at the Supreme Court, e.g. to strengthen cybersecurity supported from the European Regional Development Fund or improve the Court's website to allow free access to key information in the form of open data or accessibility for people with disabilities, with the support from the European Social Fund.

<sup>83</sup> Figure 9, 2022 EU Justice Scoreboard.

<sup>84</sup> Figure 13, 2022 EU Justice Scoreboard.

<sup>85</sup> Figure 7, 2022 EU Justice Scoreboard.

<sup>86</sup> These groups of cases concern excessive length of civil proceedings, excessive length of proceedings concerning a compensation claim of the aggrieved party attached to criminal proceedings, effectiveness of the remedy for excessively lengthy civil proceedings and excessive length of restitution-of-land proceedings

## II. ANTI-CORRUPTION FRAMEWORK

In Slovakia, the competences for the prevention, detection and prosecution of corruption are shared between several authorities. The Office of the Government is the central body for the corruption prevention coordination, reporting directly to the Prime Minister's Office. The National Crime Agency of the Presidium of the Police Force is in charge of the detection and investigation of corruption offences, with the exception of corruption crimes committed by members of the police itself and certain law enforcement agencies falling under the remit of the Bureau of Inspection Service<sup>87</sup>. The Special Prosecutor's Office<sup>88</sup> has exclusive jurisdiction over the investigation of criminal offences under the substantive jurisdiction of the Specialised Criminal Court, including corruption offences<sup>89</sup>.

**The perception among experts and business executives is that the level of corruption in the public sector still remains relatively high.** In the 2021 Corruption Perceptions Index by Transparency International, Slovakia scores 52/100 and ranks 22<sup>nd</sup> in the European Union and 56<sup>th</sup> globally<sup>90</sup>. This perception has been relatively stable over the past five years.<sup>91</sup> The 2022 Special Eurobarometer on Corruption shows that 83% of respondents consider corruption widespread in their country (EU average 68%) and 36% of respondents feel personally affected by corruption in their daily lives (EU average 24%)<sup>92</sup>. As regards businesses, 84% of companies consider that corruption is widespread (EU average 63%) and 50% consider that that corruption is a problem when doing business (EU average 34%)<sup>93</sup>. Furthermore, 20% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 34%)<sup>94</sup>, while 15% of companies believe that

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(two-tier proceedings consisting of an administrative phase before a Land Office and a judicial phase on appeal) and lack of effective remedies, respectively. Decisions on these cases were delivered by the European Court of Human Rights and the execution of these judgments by the Slovak authorities is ongoing and monitored by the Council of Europe under the standard procedure. See statuses of execution of the judgments of the European Court of Human Rights of 24 July 2012, *Maxian and Maxianova*, 44482/09, of 15 September 2015 *Javor and Javorova*, 42360/10, of 27 June 2017, *Ivan*, 57405/15, of 31 August 2018, *Balogh and others*, 35142/15. Most recently, Slovak authorities presented two action reports: Communication from the Slovak Republic concerning the cases of *Maxian and Maxianova* (Application No. 44482/09) and *Ivan v. Slovak Republic* (Application No. 57405/15), DH-DD(2021)696, of 6 July 2021, and Communication from the authorities (05/05/2021) concerning the case of *Javor and Javorova v. Slovak Republic* (Application No. 42360/10), DH-DD(2021)467 of 6 May 2021.

<sup>87</sup> Cf. Article 4(3) of Act No. 171/1993 Coll. on the Police Force.

<sup>88</sup> Act of the National Council of the Slovak Republic No. 458/2003 Coll. on the establishment of the Special Court and the Office of Special Prosecutor's Office.

<sup>89</sup> Act No. 291/2009 Coll. on the Specialized Criminal Court.

<sup>90</sup> Transparency International (2022), Corruption Perceptions Index 2021. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>91</sup> In 2017, the score was 50, while, in 2021, the score is 52. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points) and is relatively stable (changes from 1-3 points) in the last five years.

<sup>92</sup> Special Eurobarometer 523 on Corruption (2022). The Eurobarometer data on citizens' corruption perception and experience is updated every second year. The previous data set is the Special Eurobarometer 502 (2020).

<sup>93</sup> Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022). The Eurobarometer data on business attitudes towards corruption as is updated every second year. The previous data set is the Flash Eurobarometer 482 (2019).

<sup>94</sup> Special Eurobarometer 523 on Corruption (2022).

people and businesses caught for bribing a senior official are appropriately punished (EU average 29%)<sup>95</sup>.

**While work on a new anti-corruption strategy post-2023 has been launched, an update of the 2019 National Anti-Corruption Programme is still pending.** The 2019 programme<sup>96</sup> is part of Slovakia's overall strategic framework for anti-corruption provided by the Anti-Corruption Policy for 2019-2023, which focuses primarily on prevention through soft measures<sup>97</sup>. Overall, the National Anti-Corruption Program does not describe concrete steps to fulfil the priorities outlined in the strategic document, being essentially identical to the strategy. The updated programme<sup>98</sup> was submitted to the Government in November 2021, but has not yet been approved. Following the suspension of the discussions on the update in November 2021<sup>99</sup>, a decision on its approval remains pending<sup>100</sup>. The draft updated programme contained measures based on GRECO evaluations, including on principles of integrity, conflicts of interest, and statistical indicators relating to criminal proceedings<sup>101</sup> as well as an evaluation of the implementation of the 2019 measures, most of which are still outstanding<sup>102</sup>. In the meantime, as of March 2022, the Office of the Government has begun work on a new Anti-Corruption Strategy for the years 2024-2029 with a continued focus on integrity measures<sup>103</sup>. Adoption by the Government is planned for the end of 2023<sup>104</sup>.

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<sup>95</sup> Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022).

<sup>96</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 10. Government of the Slovak Republic, National Anti-Corruption Program of the Slovak Republic (2019), which includes several sectoral programmes that were adopted by the ministries and other institutions, including the Ministry of Justice, of Economy, of the Interior, of Transport and Construction, of Environment, of Finance Sector, of Foreign and European Affairs, of Health, and of Labour, among others. The adopted action plans of these entities contained also primarily preventive elements, including on awareness-raising, anti-corruption education and corruption risk-management.

<sup>97</sup> Government of the Slovak Republic, Anti-Corruption Policy of the Slovak Republic for 2019-2023 (2018).

<sup>98</sup> The Updated National Anti-Corruption Programme of the Slovak Republic (October 2021).

<sup>99</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 22. According to information received by the Office of the Government, officially, there were some fundamental objections from the Ministry of Finance regarding the terminology, the length of the draft update, the preciseness of measures, with the Government preference for less measures (four or five), which would require a complete re-drafting.

<sup>100</sup> Information received by the Office of the Government in the context of the country visit to Slovakia.

<sup>101</sup> For more information, see GRECO Fourth Evaluation Round - Second Amendment to the Second Report on the State of Implementation; Council of Europe, MONEYVAL (2020), Anti-money laundering and counter-terrorist financing measures Slovak Republic, Fifth Round Mutual Evaluation Report.

<sup>102</sup> They are formally classified as 'not fulfilled' or 'in progress'. The government cited the pandemic as the reason for delayed implementation of the anti-corruption programme. Input from Slovakia for the 2022 Rule of Law Report, p. 20. The Corruption Prevention Department of the Government Office oversees the implementation of the policy and action plan. Oversight over the implementation of the sectoral programmes is the competence of the relevant central state administration bodies. The role of the Corruption Prevention Department of the Office of the Government is, however, limited to checking whether the relevant ministry has prepared the programme but it does not evaluate its content. However, the Corruption Prevention Department cooperates with the anti-corruption coordinators with the Council of Anti-Corruption Coordinators. See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 11.

<sup>103</sup> Input from Slovakia for the 2022 Rule of Law report, p. 22. The work will take into consideration the recommendations of the OECD (2021), Integrity Review of the Slovak Republic, which was presented by the Prime Minister at the Integrity Forum in Bratislava on 3 March 2022.

<sup>104</sup> Information received from the Ministry of Justice/Corruption Prevention Department of the Government in the context of the country visit to Slovakia.

**A draft reform of the Criminal Code seeks to amend the provisions criminalising corruption.** The envisaged changes<sup>105</sup> aim to introduce new definitions of the crime of bribery<sup>106</sup> to modify and widen their scope to include also bribes of an intermediary influencing the decision-maker, and to reassess sanctions<sup>107</sup>. They also include a proposal to make compensation for damages more enforceable. The draft amendments were submitted by the Government for public consultation in December 2021<sup>108</sup>. In addition, the Ministry of Justice is preparing a major amendment of the Code of Criminal Proceedings<sup>109</sup>, with the launch of the legislative process planned in the course of 2022<sup>110</sup>, which aims at accelerating criminal proceedings and at addressing lengthy pre-trial periods<sup>111</sup>.

**A police reform aimed at increasing the effectiveness of the police in fighting corruption entered into force on 1 February 2022.** Among others, the new organisational measures aim at supporting the National Crime Agency in the detection and investigation of serious economic crime, including the most serious forms of corruption threatening the financial resources of the state and the European Union budget<sup>112</sup>. Furthermore, to facilitate the police's anti-corruption investigations, regional analytical departments and financial investigation departments were created across Slovakia within the structure of the National Crime Agency, thus reporting to the Presidium of the Police Force<sup>113</sup>. The changes in the police follow the measures implemented to strengthen the capacities of the Special Prosecutor's Office at the beginning of 2021, as reported in last year's report<sup>114</sup>. More generally, concerns have been raised about the potential impact of the Civil Service Reform<sup>115</sup> on law enforcement, regarding the newly introduced possibility for the Minister of the Interior or another appointed public official<sup>116</sup> to transfer a police officer or other staff

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<sup>105</sup> Act amending Act No. 300/2005 Coll. Criminal Code, as amended, and amending certain acts <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2021/744>. Act No 312/2020 added to Act No 300/2005 provisions on new criminal offences, in particular Section 233a, Section 326a, Section 336 'Indirect corruption' and, Section 336 'Acceptance and confer of an undue advantage'. The amendment to the Criminal Code is based on the government commitment as laid down in the Manifesto of the Government of the Slovak Republic for the years 2021-2024 in the section Criminal Policy and Prisons, in response to issues identified in practice.

<sup>106</sup> Section 328 of the Criminal Code (passive bribery) and section 332(1) (active bribery).

<sup>107</sup> Input from Slovakia for the 2022 Rule of Law Report, pp. 17 and 27.

<sup>108</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 28. Due to the large extent of changes and comments received, a second public consultation is considered by the government for the second half of 2022.

<sup>109</sup> Act No. 301/2005 Coll. Code of Criminal Procedure, as amended.

<sup>110</sup> Information received from the Ministry of Justice/Corruption Prevention Department of the Government in the context of the country visit to Slovakia.

<sup>111</sup> Information received from the Ministry of Justice/Corruption Prevention Department of the Government in the context of the country visit to Slovakia.

<sup>112</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 19.

<sup>113</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 19. In detail, the changes within the police force concern: (i) the expansion of the analytical capacities of the Criminal Analysis Management Department of the Presidium to the regional level and the establishment of new units, including (ii) the National Centre of Special Crimes of the Presidium with nationwide competence, including a new Department for the Detection of Hazardous Materials and Environmental Crime that will look, among others, into links to corrupt behavior; and (iii) the Bureau of Criminal Techniques of the Presidium with nationwide competence to enhance the quality of investigation techniques and evidence-gathering.

<sup>114</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 11.

<sup>115</sup> Amendment of Act No. 55/2017 on Civil Service, adopted by the National Council of the Slovak Republic on 23 November 2021.

<sup>116</sup> This includes also the Minister of Justice or the Director of the Slovak Intelligence Service.

member to another post or location without need for justification<sup>117</sup>. In general, corruption investigations have received increased public scrutiny on the integrity and effectiveness of the process<sup>118</sup>. Allegations of politically motivated decisions to open corruption investigations risk eroding law enforcement cooperation, the effectiveness of the fight against corruption as well as the public's trust in the integrity of the institutions<sup>119</sup>.

**Efforts to fight high-level corruption continued while challenges emerged in high-level corruption cases, including regarding the Prosecutor-General's discretion.** Investigations of high-ranking officials that had started in 2020 continued in 2021 and investigations on charges of bribery were opened against several other former high-ranking public officials, including former ministers<sup>120</sup>. In 2021, the National Crime Agency initiated proceedings in 114 cases of corruption<sup>121</sup>. The number of individuals convicted for corruption offences remained relatively stable with 132 convictions in 2021 (compared to 128 convictions in 2020)<sup>122</sup>. Since 1 August 2021, the new Office for the Management of Seized Property<sup>123</sup> is operational, which is viewed to be an important tool in the fight against corruption<sup>124</sup>. However, the Prosecutor-General has recently invoked in several corruption-related cases Article 363 of the Code of Criminal Procedure<sup>125</sup>. As described in Section I this grants the

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<sup>117</sup> Information received from Transparency International/Zastavme korupciu in the context of the country visit to Slovakia.

<sup>118</sup> Information received from Transparency International/Zastavme korupciu in the context of the country visit to Slovakia. See in this context also Zastavme korupciu (2021), Kovařík has resigned - Mikulca wants to be removed - How they've managed the police so far; and Euractiv (2021), 'Slovakia's representatives discuss investigations of corruption'; Euronews (2022), 'Former Slovakian Prime Minister Robert Fico faces criminal charges'; EUobserver (2022), 'Slovak ex-PM narrowly stays out of jail in corruption fiasco'.

<sup>119</sup> Information received from the National Crime Agency and civil society organisations Zastavme korupciu and Transparency International in the context of the country visit, reporting about the consequences of increasing public distrust in the police in the context of the country visit to Slovakia. See also The Slovak Spectator (2021), 'War among the police? Big corruption cases complicate relations between institutions'; and Euractiv (2021), 'Slovakia's police chief charged for abuse of power, obstructing justice'.

<sup>120</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 12-13. Input from Slovakia for the 2022 Rule of Law Report, p. 18. The political support and thus possibility to investigate and prosecute high-level corruption has considerably improved following the public mass demonstrations against the perceived impunity for high-level corruption based on revelations made in the context of the murder of journalist Ján Kuciak and his fiancée Martina Kušnírová in 2018.

<sup>121</sup> Corruption statistics are available in the annual reports of the National Crime Agency on the number of criminal investigations and prosecutions and the number of individuals charged with corruption offences. Also the Ministry of Interior publishes monthly crime statistics online.

<sup>122</sup> Crimes included in the statistics are passive corruption (section 328), passive corruption – procurement of items of general interest (section 329), active corruption (section 332), active corruption – procurement of items of general interest (section 333), trading in influence (section 336), electoral bribery (section 336a), sports corruption (section 336b), see General Prosecutor, Statistics for the year 2021 (March 2022), p. 45.

<sup>123</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 11. The Office was established on the basis of the new Act 312/2020 Coll. on the Enforcement of the Decision.

<sup>124</sup> Contribution from ENNHRI for the 2022 Rule of Law Report, p. 30, emphasising the Office's importance in the fight against corruption in managing properties seized during criminal and tax fraud proceedings, in proving the origins of assets and in imposing international sanctions. In December 2021, the Office has successfully managed several seizures, including 35 seizures of cars, 18 houses, 23 apartments, 79 premises and 25 weapons. The relevant law on asset seizure, which entered into force in January 2021, is Act. No. 312/2020 on Forfeiture of Assets and Management of Seized Property and Amendments to Certain Acts. For more details on this, see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 11.

<sup>125</sup> Article 363 of the Code of Criminal Procedure empowers the Prosecutor-General to annul police and prosecutorial decisions if they were illegal. The annulment must take place within six months of the disputed decision. Notably, the article was considered controversial already before it was used in high-level corruption cases, due to which the government committed itself to explore narrowing down this provision in

Prosecutor-General the power to determine whether prosecution is lawful and thus to annul any decision to bring charges by lower-ranking prosecutors or police investigators<sup>126</sup>. This resulted in the closure of investigations against several high-profile defendants held in pre-trial detention for corruption allegations<sup>127</sup>, which triggered calls for more transparency of the process<sup>128</sup>. The law does not provide for a remedy against such annulments. The legality of the criminal charges had previously been upheld by different courts, including the Supreme Court and the Constitutional Court.

**The new Whistleblower Protection Office took up its work in September 2021.** As noted in the 2021 Report<sup>129</sup>, the Office's mandate focuses on the reporting of breaches of law and the protection against retaliatory measures undertaken based on the principles of confidentiality and anonymity<sup>130</sup>. Within its first 100 days of operations, the office<sup>131</sup> has granted four whistleblowers protection against their dismissal from work<sup>132</sup>. A major obstacle in detecting corruption is the low level of active reporting on corruption when it occurs, particularly in areas where business meets politics<sup>133</sup>. An amendment to the national Whistleblower Protection Act was discussed by the Legislative Council on 25 May 2022, a revised version of which will be submitted to the Government as a next step<sup>134</sup>. The draft

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April 2020. Information received from Transparency International/Zastavme korupciu in the context of the country visit to Slovakia.

<sup>126</sup> The Government has signalled its intention to propose legislative changes in this regard, as explained in the justice section above.

<sup>127</sup> For example, on 31 August 2021, Article 363 of the Code of Criminal Procedure was invoked to annual corruption charges against a former director of the Slovak Secret Service (SIS) and four other individuals held in custody. See in this context also Euractiv (2021), 'Prosecutor General dismisses high-level corruption charges'.

<sup>128</sup> Transparency International (2021), The cancellations call for a clear justification in front of the public.

<sup>129</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 13.

<sup>130</sup> For more details on the office's role, see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 13. The Office is accountable to the Parliament and will provide annual reports. The target audience for the Office is both the public and the private sector.

<sup>131</sup> The term of office of the Head of Office is seven years. The Office is independent from any other department and staffed with 21 staff members and an estimated total budget of approximately EUR 873 000 for the year 2021. National Council of the Slovak Republic, The state budget 2022, [https://www.nrsr.sk/web/Dynamic/DownloadSslpZip.aspx?MasterId=8434&section=3\\_citanie&WFTID=](https://www.nrsr.sk/web/Dynamic/DownloadSslpZip.aspx?MasterId=8434&section=3_citanie&WFTID=).

<sup>132</sup> No information is available whether these actions relate to corruption disclosures specifically but they give an indication of the effective operations in general. See Whistleblower Protection Office, Today we have a jubilee – 100 days of the Office, <https://fb.watch/9YeqrEml6l/>. In its first 100 days of operations, 111 individuals contacted the Office and 45 complaints were submitted, with more than half of them on serious violations. Of these, the office is dealing with 22 pending cases. Until the creation of a dedicated whistleblower office, the protection was exercised by labour inspectorates, which registered twenty whistleblower disclosures or fewer annually. See also Labor Inspection, Results of the Labor Inspection in the area of reporting anti-social activities.

<sup>133</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 31, notes in particular scenarios where public officials would be offered bribes from entrepreneurs for the provision of subsidies, of non-repayable funds or of lucrative contracts, and they refused to accept the bribe and thus effectively helped to prevent corruption in these cases. There is a low level of active reporting of the corruption. According to a recent June 2021 opinion poll, 59% of respondents would not file a complaint and speak up against wrongdoing in their employment.

<sup>134</sup> See Act 54/2019 Coll. on the protection of whistleblowers and amendment of certain laws entered into force on 1 March 2019. The amendment to the Act will transpose the EU-level directive on the subject matter.

reform of the Criminal Code would introduce a new criminal offence of ‘breach of protection of a whistleblower’<sup>135</sup>.

**Slovakia remains without a specific framework regulating lobbying activities.** In December 2021, the Government indicated a new timeline for a lobbying bill, postponing its initial commitment to present the bill by November 2021<sup>136</sup>. In December 2021, the Deputy Prime Minister for Legislation and Strategic Planning presented preliminary information on a forthcoming lobbying bill, which would consist of a statutory regulation, a mandatory register for lobbyists, and a code of ethics, but not rules on revolving doors<sup>137</sup>. The new deadline for the Deputy Prime Minister in charge of proposing a lobbying bill is set for 31 December 2022<sup>138</sup>. Several attempts to adopt legislation on lobbying have failed in the past<sup>139</sup>. As a result, there are still no legal definitions of lobbyists, lobbying activities and lobbying targets, nor effective sanctions for undue lobbying, nor any legislative footprint that illustrates who sought to influence specific pieces of legislation<sup>140</sup>. However, as reported last year, related legislation and tools allow for the tracking of stakeholder comments and of the extent to which they influenced a legislative draft<sup>141</sup>.

**Discussions are ongoing in the Parliament to establish an Office for the Protection of the Public Interest to monitor asset declarations**<sup>142</sup>. Apart from asset declarations, the Office would also oversee the implementation of new rules on conflict of interest and lobbying. However, the amendments to the constitutional law on conflict of interest and on asset declarations were postponed until the end of 2022<sup>143</sup>. Until then, the system of asset declarations for members of Parliament, judges, prosecutors, public officials and civil servants remains decentralised and fragmented<sup>144</sup>. As in the previous year, significant delays

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<sup>135</sup> Section 340a of the Criminal Code. See Act 54/2019 Coll. on the protection of whistleblowers and amendment of certain laws entered into force on 1 March 2019. An amendment to the Act, which will transpose the EU-level directive on the subject matter is in preparation.

<sup>136</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 13.

<sup>137</sup> Deputy Prime Minister, Preliminary information on the Lobbying Bill.

<sup>138</sup> See OECD (2022), Integrity Review of the Slovak Republic – Delivering Effective Public Integrity Policies, p. 99,

<sup>139</sup> Cf. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 8, and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 13.

<sup>140</sup> See OECD (2021), Lobbying in the 21<sup>st</sup> Century: Transparency, Integrity and Access; GRECO Fourth Evaluation Round - Addendum to the Second Compliance Report, para. 8, and GRECO Fourth Evaluation Round – Evaluation Report Slovak Republic, para. 25 (with regard to members of the parliament); GRECO Fifth Evaluation Round – Evaluation Report, Slovak Republic, para. 89 (with regard to the central government/ top executive functions); GRECO Fourth Evaluation Round - Addendum to the Second Compliance Report.

<sup>141</sup> These include among others the strong Freedom of Information Act and the Constitutional Law on Conflicts of Interests No 357/2004 Coll.

<sup>142</sup> Information received by the Office of the Government in the context of the country visit to Slovakia. During the last reporting, the Government Office in cooperation with the Parliament was at an initial stage in the conceptualisation of a legislative proposal to establish a unified office, see also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 14.

<sup>143</sup> Information received by the Office of the Government in the context of the country visit to Slovakia. However, two working groups have been set up on the issue of asset declarations of public officials: first, under the authority of the Government to prepare draft principles for the streamlining of the filing mechanism for asset declarations and, second, of the Slovak National Council to draft a legal regulation for asset declarations and a verification mechanism, which was to be submitted to the legislative process and then for approval by the Government by 31 December 2021.

<sup>144</sup> As reported last year, 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 14.

are also reported in the publication of the 2020 asset declarations of Members of Parliament due in August 2021<sup>145</sup>, partly due to the extended number of public officials that need to submit declarations<sup>146</sup>.

**The Government proposed amendments to the criminal offence of electoral corruption and to transparency requirements in political party finance.** With regard to elections, the reform of the Criminal Code aims at criminalising active and passive bribery in the electoral context, including acts of bribery of a larger number of voters, thus including the more regular and serious cases beyond the scenario of one bribe for one vote<sup>147</sup>. Furthermore, more severe penalties are proposed for electoral corruption taking into consideration its social impact<sup>148</sup>. The amendment of the Election Codes in December 2021 extended some national transparency standards for party and campaign finance to the sub-national level<sup>149</sup>. The main law regulating the financing of political parties is the Act on Political Parties and Movements<sup>150</sup>, allowing for donations to political parties of up to EUR 300.000 per calendar year, while donations from foreign entities and anonymous donors are banned<sup>151</sup>.

**Several reforms were launched to address corruption in the agricultural sector.** In 2021, the Slovak Government initiated several reforms of the agricultural land management system<sup>152</sup>, including a legislative proposal to create a register of land-use relationship to prevent corruption schemes, such as those that occurred between 2016-2020<sup>153</sup>. In September 2021, following an administrative investigation, OLAF raised concerns about the lack of a complete central digital depository of EU payment-related documentation in the agricultural

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<sup>145</sup> The parliamentary committee did not publish the 2019 asset declarations of public officials until April 2021, i.e. ten months after the deadline. Press Agency TASR (2020), 'Property Declarations of Public Officials for 2019 were published'. See in this context, 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 14. Notably, the Chairman of the Parliamentary Committee announced in August 2021 an effort to speed up the publication of asset declarations, see Press Agency SITA, 'Politicians' property declarations will be delayed, and they have hired an external company to help'.

<sup>146</sup> The extended personal scope is due to Act no. 66/2019 amending Constitutional Act no. 357/2004 Coll. on the protection of the public interest in the exercise of the functions of public officials, as amended by Constitutional Act no. 545/2005.

<sup>147</sup> Act No. 300/2005 Coll. Criminal Code, as amended, introducing a new sub-section in Section 336(1)(e) of the Criminal Code.

<sup>148</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 27.

<sup>149</sup> The main law regulating elections is Act No. 181/2014 on electoral campaigns.

<sup>150</sup> Act 85/2005 on political parties and political movements, largely reflecting GRECO recommendations.

<sup>151</sup> Written contribution received by the State Commission for Elections and the Ministry of Interior in the context of the country visit to Slovakia, p. 2. Failure to comply can result in a fine by the State Commission on Election and Control of the Financing of Political Parties in the amount of double the income from the donation or the gratuitous service. Parties are required to report on their finances annually to the State Commission. Financial reports are made publicly available. The reports are overseen by the National Council of the Slovak Republic and must reveal financial information in relation to election campaigns and the identity of donors (section 22(5) of the Act 85/2005 on political parties and political movements of 2005, as amended in 2019).

<sup>152</sup> The Slovak Land Fund is in charge of the management of agricultural land under State ownership or land without a known private owner. These parcels cover approximately 20% of all agricultural land in Slovakia and are in majority eligible for EU direct payments grants.

<sup>153</sup> As reported in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 12-13, in May 2021, the National Crime Agency also detained several high-ranking officials of the Land Fund allegedly involved in corruption schemes between 2016 and 2020, see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 12-13, and Aktuality.sk, NAKA again detained financier Kvietik and several people from the Slovak Land Fund (2021). In this context, see also next footnote below.

sector, guaranteeing the accessibility and storage of information for transparency and control<sup>154</sup>.

**Sectors particularly vulnerable to corruption risks remained largely the same as before the COVID-19 pandemic.** Notably, government procurement and investment are among the high risk sectors for corruption, according to the Prosecution Service<sup>155</sup>. Slovakia's public procurement system is currently under reform<sup>156</sup>. Following the revision of May 2021, a compromise legislative proposal was passed in autumn 2021, as a result of a public petition and criticism for excluding the Office for the Public Procurement from the review procedure<sup>157</sup>. The use of quality criteria in public procurement remains limited, limiting competition and reducing the possibility for strategic use of public procurement in support of other policies<sup>158</sup>. Overall, the epidemiological situation due to COVID-19 and related mitigating measures considerably affected the Governments' implementation of anti-corruption actions, which had to be delayed<sup>159</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

The Slovak Constitution enshrines the right to express opinions, the right to search for, receive and disseminate ideas and information as well as the right of access to information. The Media Services Act, adopted in 2022, replaces the Broadcasting and Retransmission Act and the Act on Digital Broadcasting and is aimed at ensuring plurality of information<sup>160</sup>, while the Press Act establishes rules relating to the press and to journalists. Legislation is in preparation or pending in Parliament to enshrine a number of media freedom principles in the Constitution and to replace the Press Act. The right to access information finds legal expression in the Freedom of Information Act<sup>161</sup>.

**The former Council for Broadcasting and Retransmission, renamed the Council for Media Services under the Media Services Act, operates autonomously.** The number of employees of the Council is expected to increase in line with its additional tasks in terms of

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<sup>154</sup> The European Anti-Fraud Office (OLAF) had already raised concerns in 2020 following three administrative investigations into agriculture payments about shortcomings in the Land Fund with regard to transparency, equal treatment of lease applicants and legal certainty in internal procedures. See Press Release of the European Anti-Fraud Office (2021), OLAF closes cases on EU agricultural funds in Slovakia. The Slovak Land Fund is in charge of the management of agricultural land under State ownership or land without a known private owner. These parcels cover approximately 20% of all agricultural land in Slovakia and are in majority eligible for EU direct payments grants.

<sup>155</sup> Input from Slovakia for the 2022 Rule of Law Report, p. 26, including sectors, such as infrastructure, construction, agriculture, environment, IT and healthcare. See also the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 15.

<sup>156</sup> National Council of the Slovak Republic on the change and supplement to Act 343/2015 Coll. on public procurement and on change and supplement to some acts as amended by subsequent provisions. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 15, noting that the Government prepared a legislative proposal amending its public procurement law in an effort to reduce the period needed for procuring goods, services and construction work during the pandemic.

<sup>157</sup> The details of the reform have not yet been published.

<sup>158</sup> In 2020, approximately 94% of the contracts were awarded on the basis of the lowest price only.

<sup>159</sup> Reportedly, many police force units had to postpone planned corruption prevention tasks, including capacity-building activities in 2021. Input from Slovakia for the 2022 Rule of Law report, p. 20.

<sup>160</sup> Law on media services and amending certain acts (Media Services Act) of 22 June 2022 which transposes the AVMS Directive 2018/1808.

<sup>161</sup> Slovakia ranks 27th in the 2022 Reporters without Borders World Press Freedom Index compared to 35th in the previous year.

research, media literacy and liaison with digital media platforms. The Broadcasting Council disposes of its own budget, resources allotted are considered adequate for the accomplishment of its tasks and clear rules on appointment and dismissal of the Council's members are established by law. The Media Pluralism Monitor 2022 confirms that the independence of the Council is overall guaranteed and therefore presents low risk though purely political nominations are possible given that the selection of candidates remains solely in the hands of the Parliament<sup>162</sup>.

**The framework for ensuring transparency of media ownership has been reinforced.**

The Publications Act<sup>163</sup> has replaced the former Press Act and introduces a framework to ensure transparency of media ownership, including with regard to ultimate beneficiary ownership as foreseen in the Audiovisual Media Services Directive. The Media Pluralism Monitor has reviewed its score for this area from high risk to medium risk<sup>164</sup>. In the meantime, the continuing lack of data with regard to revenues and audience market shares renders an assessment of the actual situation with regard to horizontal ownership in the television and media markets difficult to perform while the existing media concentration rules do not cover native digital media and do not take into account the ultimate owners of the media companies. This leads the Media Pluralism Monitor to consider news media concentration to be an area presenting high risk<sup>165</sup>.

**A robust legal framework for the governance of public service media is in place but there are concerns about politicisation of appointments and dismissals.**

The Act on Slovakian Radio and Television<sup>166</sup> provides the legal framework for the establishment, governance and operation of public service media in the country. Under the Act, nominations of the nine members of the Slovak Radio and Television (RTVS) Management Board are submitted to a parliamentary committee by NGOs and are elected for a period of six years, renewable by one term, by an absolute majority of MPs present. Board members may not hold positions or be employed in political parties or movements, act on their behalf or act in their favour. The Media Pluralism Monitor 2022 concludes<sup>167</sup> that Act 532/2010 itself is fit for purpose but that politicization and political interference in the appointments and dismissals of managers and board members are issues of concern. RTVS is funded by means of a license fee established by the Act, advertising and other commercial activities and by means of a contribution from the state budget on the basis of a public contract which requires annual negotiations between RTVS and the Ministry of Culture in accordance with the Act on Slovakian Radio and Television. The MPM 2022 further points out that the Act does not establish transparent and fair procedures in order to ensure adequate funding for RTVS. For all these reasons the Media Pluralism Monitor concludes that this is an area of high risk.

**The adoption of proposed legislation aimed at strengthening the protection of journalists and on reforming criminal defamation have once more been postponed while verbal attacks against journalists continue.** Proposed legislation aimed at strengthening the protection of journalists and amendments to the criminal code to reduce the punishment contemplated for defamation, both referred to in the 2021 Rule of Law Report<sup>168</sup>, have once

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<sup>162</sup> Media Pluralism Monitor 2022 report on Slovakia, p. 10.

<sup>163</sup> Act on publishers of publications and on the media and audiovisual register of 22 June 2022.

<sup>164</sup> Ibid. p. 12.

<sup>165</sup> Id. p. 12.

<sup>166</sup> Act 532/2010.

<sup>167</sup> Media Pluralism Monitor 2022 report on Slovakia, p. 14-15.

<sup>168</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 17.

more been postponed. The punishment for defamation, up to two years imprisonment, is one of the strictest in the European Union. Since July 2021, the Council of Europe's Platform to promote the protection of journalism and safety of journalists published one alert for Slovakia, which concerned criminal charges pressed against two journalists for having revealed confidential information relating to a former intelligence agent who had acted as a witness in the investigation into the murder of Ján Kuciak and Martina Kušnírová<sup>169</sup>. Following widespread criticism, the Bratislava Region Prosecutor ordered such charges to be dropped<sup>170</sup>. The MPM 2022 reports that in terms of verbal attacks on journalists by politicians, the situation has deteriorated<sup>171</sup> including the use of dehumanising language. No news media support scheme was introduced to counter the impact of the COVID-19 pandemic. On 28 February, the Specialised Criminal Court started hearing the retrial of the alleged masterminds of the assassination of journalist Ján Kuciak and his fiancée Martina Kušnírová in 2018 following the annulment of their previous acquittals by the first instance court.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

Slovakia is a parliamentary republic with a unicameral parliament (the National Council) as the sole legislative body<sup>172</sup>. The right to introduce legislation belongs to the Committees of Parliament, individual members of Parliament, and the Government<sup>173</sup>. The Constitutional Court decides on the compliance of laws with the Constitution, constitutional acts and international agreements, and ensures respect for fundamental and constitutional rights. Independent authorities also play a role in safeguarding fundamental rights, notably the Office of the Public Defender of Rights, the National Centre for Human Rights, the Commissioner for Persons with Disabilities and the Commissioner for Children.

**Concerns about the inclusiveness of the law-making process persist<sup>174</sup>.** Stakeholders criticised the lack of proper consultation for major legislative changes<sup>175</sup>. While less significant changes were transparently and inclusively discussed, stakeholders have complained that meaningful discussions on major legislative projects were often avoided, and draft laws concerned were adopted in haste.<sup>176</sup> Several draft laws were submitted by members of Parliament, where the opportunity for stakeholders to comment is limited, due to a lack of procedural framework for public consultations<sup>177</sup>. Although the number of laws adopted in a

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<sup>169</sup> Council of Europe, Platform to promote the protection of journalists and safety of journalists, Slovakia.

<sup>170</sup> Reply of the Slovak authorities of 15 February 2022

<sup>171</sup> See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 16.

<sup>172</sup> Article 72 of the Slovak Constitution.

<sup>173</sup> Article 87 of the Slovak Constitution.

<sup>174</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 17.

<sup>175</sup> Such as the reform of the judicial map and reforms of the Criminal Code and Criminal Procedure Code. Contribution from the Slovak Bar Association for the 2022 Rule of Law Report, p. 21; Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 462; Contribution from Via Iuris for the 2022 Rule of Law Report, p. 2; Contribution from Law Faculty of the Komensky University in Bratislava for the 2022 Rule of Law Report, p. 1.

<sup>176</sup> See previous footnote.

<sup>177</sup> This procedure was used for example for an amendment on the Act on Schools, which was adopted as Act No. 273/2021, and for a draft Act on help to pregnant women, print No. 665, which was rejected only in the third reading and stirred a public debate. Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 462.

fast-track procedure decreased<sup>178</sup> and the majority of laws adopted in a fast-track procedure were related to the COVID-19 pandemic<sup>179</sup>, stakeholders express continued concern that the fast-track procedure is being abused<sup>180</sup>.

**Plans announced in 2020 for improving the law-making process and strengthening transparency, efficiency and accountability of the public administration have seen limited progress.** As mentioned in the 2021 Rule of Law Report, the Programme Statement of the Government included a commitment to improve the process for preparing and enacting laws, strengthen the transparency, efficiency and accountability of the public administration, expand access to information and broaden the application of open government<sup>181</sup>. The quality of law-making and frequent changes in legislation is a significant reason for concern about the effectiveness of investment protection among companies in Slovakia (45.4%)<sup>182</sup>. The Government consulted its departments on a draft amendment to the Act on Free Access to Information<sup>183</sup> and is now evaluating the comments. The amendment would, among others, broaden the range of information and documents that are subject to compulsory publication and extend the obligations under the Act to state-owned companies and their subsidiaries. No legislative changes have been proposed to implement the other commitments from the Programme Statement of the Government. The Office of the Plenipotentiary of the Government for Civil Society Development is preparing a project to support participative creation of public policies, which would follow-up on a similar project implemented from 2017 to 2020 and which was co-financed from the European Social Fund<sup>184</sup>.

**The Constitutional Court dismissed the petition regarding its competence to review constitutional laws, but noted it may review constitutional laws in extreme circumstances.** As noted in the 2021 Rule of Law Report<sup>185</sup>, the Constitutional Amendment of 2020 expressly stipulates that the Constitutional Court does not have the competence to review constitutional laws, which continues to be criticised by stakeholders<sup>186</sup>. The provision was challenged before the Constitutional Court. On 25 May 2022 the Constitutional Court dismissed the action and upheld the Amendment but noted that it could review constitutional laws in extreme circumstances in order to protect the material core of the constitution<sup>187</sup>.

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<sup>178</sup> From 60 in 2020 to 27 in 2021; Input from Slovakia for the 2021 Rule of Law Report, p. 30; Input from Slovakia for the 2022 Rule of Law Report, p. 37.

<sup>179</sup> Contribution from the Public Defender of Rights for the 2022 Rule of Law Report, p. 21.

<sup>180</sup> Contribution from the Public Defender of Rights for the 2022 Rule of Law Report, p. 21; Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 466; Statement of Via Iuris of 23 May 2022 ‘Politicians must respect fundamental principles of the rule of law’.

<sup>181</sup> Program Statement of the Government of the Slovak Republic for 2021 – 2024.

<sup>182</sup> Figure 55, 2022 EU Justice Scoreboard.

<sup>183</sup> Draft Bill amending Act No. 211/2000 Coll. on Free Access to Information.

<sup>184</sup> Input from Slovakia on the 2022 Rule of Law Report, pp. 41-42; National project ‘Support for partnership and dialogue in the field of participatory public policy making’, [https://www.minv.sk/?ros\\_np\\_participacia](https://www.minv.sk/?ros_np_participacia). The project, among other, facilitated twelve participatory public policy making pilot projects ranging from national to local level, delivered more than 70 professional publications, incl. five legislative proposals or developed new educational programmes and curricula.

<sup>185</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 3, 18.

<sup>186</sup> Contribution from the European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 470 and 472.

<sup>187</sup> Judgment of the Constitutional Court of 25 May 2022, No. PL ÚS 8/2022.

**Constitutional review of measures adopted in the context of the COVID-19 pandemic continued.** A state of emergency<sup>188</sup> was declared by the Government as of 25 November 2021 for 90 days<sup>189</sup>. The state of emergency ended on 22 February 2022<sup>190</sup>. The Constitutional Court also continued<sup>191</sup> to review specific measures taken in the context of the pandemic. While it did not detect any systemic issues<sup>192</sup>, it held that the obligation of certain persons to quarantine in state run facilities was unconstitutional<sup>193</sup>.

**On 1 January 2022, Slovakia currently had 20 leading judgments of the European Court of Human Rights pending implementation<sup>194</sup>.** At that time, Slovakia's rate of leading judgments from the past 10 years that remained pending was at 41 % and the average time that the judgments have been pending implementation was 2 years and 10 months<sup>195</sup>. The oldest leading judgment, pending implementation for 10 years, concerns the excessive length of civil proceedings<sup>196</sup>. On 1 July 2022, the number of leading judgments pending implementation has increased to 22<sup>197</sup>.

**The Office of the Public Defender of Rights had to operate with reduced resources despite the increased need for to the protection of fundamental rights in the wake of the Covid-19 pandemic.** Based on the Government decree approving the budget of the public administration for the period 2021 - 2023<sup>198</sup>, the budget of the Office of the Public Defender of Rights for 2021 decreased and the staff level was reduced<sup>199</sup>. According to the Public Defender of Rights, whose mandate came to an end on 30 March 2022, this represents an interference with its competences as a constitutional body<sup>200</sup>. The selection of the Public Defender of Rights is still pending; a new selection round by the National Council is envisaged in September 2022. The resources of the National Centre for Human Rights, which has a mandate as NHRI and equality body accredited with B-Status, have increased. At the same time, no legislative initiative has been carried out to strengthen the mandate of the

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<sup>188</sup> The state of emergency allows the Government to adopt ordinances that limit certain rights and freedoms, such as freedom of movement. The state of emergency may be declared by the Government for no longer than 90 days. For more information on the state of emergency see the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 18-19.

<sup>189</sup> Government resolution No. 428/2021.

<sup>190</sup> Information received from the Slovak Government.

<sup>191</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 19.

<sup>192</sup> Information received in the context of the country visit to Slovakia from the Constitutional Court.

<sup>193</sup> Judgment of the Constitutional Court of 8 December 2021, *No. PL ÚS 4/2021*.

<sup>194</sup> The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

<sup>195</sup> All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2022. See the Contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 69-70.

<sup>196</sup> Judgment of the European Court of Human Rights of 24 July 2012, *Maxian and Maxianova v. Slovakia*, 44482/09, pending implementation since 2012.

<sup>197</sup> Data according to the online database of the Council of Europe (HUDOC).

<sup>198</sup> Government resolution No 649/2020 of 14 October 2020.

<sup>199</sup> Reduction by 5 employees from the total of 57 staff positions, including the Public Defender of Rights; contribution from the Public Defender of Rights for the 2022 Rule of Law Report, pp.14-15. 2021 Report on the Activity of Public Defender of Rights, p. 134.

<sup>200</sup> Contribution from the Public Defender of Rights for the 2022 Rule of Law Report, pp.14-15. 2021 Report on the Activity of Public Defender of Rights, p. 134.

Centre and ensure legislative compliance with the United Nations Principles on the Status of National Institutions (‘Paris Principles’)<sup>201</sup>. The Commissioner for Persons with Disabilities was re-elected on 3 December 2021 for another six-year mandate. After the expiry of the mandate of the Commissioner for Children in December 2021<sup>202</sup>, a new Commissioner was elected by the National Council on 25 May 2022, after several unsuccessful rounds of votes. Following fundamental objections in a public consultation in July and August 2021, including from the General Prosecutor’s Office, the Commissioner for Children and the Commissioner for Persons with Disabilities, the legislative proposal establishing the National Preventive Mechanism (NPM) is still under review by the Ministry of Justice.

**Concerns continue over financing of civil society organisations activities on issues related to gender equality and LGBTIQ rights and over verbal attacks addressed to human rights defenders in these areas.** There were no relevant changes of the legal framework governing civil society and civil society organisations continue to be free to operate. However, stakeholders pointed out some instances of shrinking of civic space and verbal attacks by public figures directed at civil society organisations and human rights defenders, especially those working on human rights of LGBTIQ people and on women’s rights including sexual and reproductive rights<sup>203</sup>. The disbursement of funding through public subsidies schemes continues to exclude organisations working on issues related to gender equality and LGBTIQ rights<sup>204</sup>, reported already in the 2021 Rule of Law Report<sup>205</sup>. The COVID-19 pandemic and related measures continued impacting the activities of civil society organisations, in particular those offering social services and cultural and sports activities, as well as the finances of civil society organisations through, among others, reductions in contributions from private donors<sup>206</sup>.

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<sup>201</sup> Input from Slovakia on the 2022 Rule of Law Report; contribution from European Network of National Human Rights Institutions (Slovak National Centre for Human Rights) for the 2022 Rule of Law Report, p. 4521-5.

<sup>202</sup> The incumbent Commissioner for Children stays in the office until a new Commissioner is elected.

<sup>203</sup> Contributions from Civil Society Europe and Slovak National Center for Human Rights (ENNHRI), for the 2022 Rule of Law Report; Letter by the Council of Europe Commissioner for Human Rights to the Members of the National Council of the Slovak Republic of 15 October 2021, mentioning ‘an increasingly hostile environment’ for Slovak human rights defenders working on the issues of gender equality and sexual and reproductive health and rights, <https://rm.coe.int/letter-to-the-slovak-national-council-by-dunja-mijatovic-council-of-eu/1680a43530>.

<sup>204</sup> Ministry of Labour, Social Affairs and Family of the Slovak Republic, List of accepted applications for subsidies in 2021, <https://www.employment.gov.sk/sk/ministerstvo/poskytovanie-dotacii/archiv/poskytovanie-dotacii-roku-2021/schvalene-dotacie-2021.html>.

<sup>205</sup> 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 20.

<sup>206</sup> Information received during the country visit of Slovakia from the Slovak National Centre for Human Rights; contribution from Civil Society Europe for the 2022 Rule of Law Report, p. 13.

## Annex I: List of sources in alphabetical order\*

\* *The list of contributions received in the context of the consultation for the 2022 Rule of Law report can be found at [https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en).*

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## **Annex II: Country visit to Slovakia**

The Commission services held virtual meetings in February 2022 with:

- Association of Judges for Open Judiciary
- Government Office – Corruption Prevention Department
- Judges For Open Judiciary
- Judicial Council
- League of Human Rights
- Ministry of Culture
- Ministry of Health
- Ministry of Interior
- Ministry of Justice
- National Centre for Human Rights
- Police National Crime Agency
- Open Government Partnership
- Prosecutor General’s Office
- Public Defender of Rights
- Slovak Bar Association
- Slovak Council for Broadcasting
- Special Prosecutor’s Office
- Supreme Administrative Court
- Supreme Court
- Transparency International
- Via Iuris

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Article 19
- Civil Liberties Union for Europe
- Civil Society Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Human Rights Watch
- ILGA Europe
- International Federation for Human Rights (FIDH)
- International Press Institute
- Open Society European Policy Institute ( OSEPI)
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- Transparency International Europe