



Brussels, 5.7.2023
SWD(2023) 824 final

COMMISSION STAFF WORKING DOCUMENT

2023 Rule of Law Report Country Chapter on the rule of law situation in Slovenia

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

2023 Rule of Law Report

The rule of law situation in the European Union

{COM(2023) 800 final} - {SWD(2023) 801 final} - {SWD(2023) 802 final} -
{SWD(2023) 803 final} - {SWD(2023) 804 final} - {SWD(2023) 805 final} -
{SWD(2023) 806 final} - {SWD(2023) 807 final} - {SWD(2023) 808 final} -
{SWD(2023) 809 final} - {SWD(2023) 810 final} - {SWD(2023) 811 final} -
{SWD(2023) 812 final} - {SWD(2023) 813 final} - {SWD(2023) 814 final} -
{SWD(2023) 815 final} - {SWD(2023) 816 final} - {SWD(2023) 817 final} -
{SWD(2023) 818 final} - {SWD(2023) 819 final} - {SWD(2023) 820 final} -
{SWD(2023) 821 final} - {SWD(2023) 822 final} - {SWD(2023) 823 final} -
{SWD(2023) 825 final} - {SWD(2023) 826 final} - {SWD(2023) 827 final}

ABSTRACT

The quality of the Slovenian justice system has been further improved, and some issues raised in the 2022 Rule of Law Report have been resolved, such as the removal of the Minister of Interior's power to instruct the Police in individual cases. Legislative amendments, that would introduce safeguards for judicial independence and autonomy of prosecutors in the rules on parliamentary inquiries, are being drafted. New reforms envisage transferring the power to appoint judges from Parliament to the President and Judicial Council, while the lack of safeguards for judicial independence raises concerns. The level of remuneration of judges and state prosecutors, largely unchanged since 2012, raises concerns and was, as far as judges' salaries are concerned, declared unconstitutional by the Constitutional Court. The backlog of court cases was further reduced, and the Supreme Court working group presented recommendations on addressing the increasing length of court proceedings.

The work on the new anti-corruption strategy is ongoing. The resources of the State Prosecution were increased, the operational independence of the National Bureau of Investigation was restored, and the length of statute of limitations is overall long enough. However, criminal investigations, indictments, and judgments on corruption, including in high-level cases, remain at a low level, raising serious concerns. The length of judicial investigations and trials related to corruption present a serious challenge. The Whistleblowers Act broadens the scope of protection and is expected to improve the detection of corruption. The resources of the Commission for the Prevention of Corruption are being improved. The rules on conflict of interests and incompatibility of office indicate certain gaps in supervision. The Court of Audit is reflecting on improving the effectiveness of political party audits. Risks of corruption in public procurement persist, particularly in the health care sector.

The situation of media freedom and pluralism continues to face challenges, although positive developments are noted with respect to a more favourable climate for media. The Government announced an overhaul of the media legislation to address the structural challenges of the regulatory framework and foster transparency, plurality and resilience of the media landscape. Amendments to the legal framework regulating the media regulator were introduced, but concerns remain regarding the lack of safeguards for its independence. The lack of specific rules on the allocation of state advertising and the regulatory and enforcement gaps in the field of media ownership transparency continue to raise concerns. In 2022, the financial situation of the Slovenian Press Agency has improved. A new law was adopted to reform the governance structure of the public services media and introduced safeguards for their independence. The Government took initial steps with regard to the protection of journalists.

Civil society has seen improvements in the enabling environment, resolving a challenge identified in the 2022 Report. The Government submitted into parliamentary procedure constitutional amendments to reduce the Constitutional Court's considerable caseload and the Human Rights Ombudsperson continued to receive an important number of complaints. Legislative amendments introduced safeguards for budgetary autonomy of the independent bodies.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2022 Rule of Law Report, Slovenia has (made):

- Some progress on ensuring that rules on parliamentary inquiries contain adequate safeguards for independence of judges and state prosecutors, taking into account European standards on judicial independence.
- Fully implemented the recommendation on removing obstacles to the investigation and prosecution of corruption cases, including by ensuring the operational autonomy of the National Bureau of Investigation, increasing the resources of State Prosecution and revising the statute of limitation.
- Some progress as regards adopting and start implementing without further delay the anti-corruption strategy.
- Fully implemented the recommendation on strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media.
- Some progress on establishing non-legislative safeguards and no progress on establishing legislative safeguards to protect journalists, particularly online, taking into account European standards on the protection of journalists.
- Fully implemented the recommendation on ensuring requisite safeguards for budgetary autonomy of the independent bodies.

On this basis, and considering other developments that took place in the period of reference, and 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 Slovenia to:

- Take forward the process to ensure that rules on parliamentary inquiries contain adequate safeguards for independence of judges and state prosecutors, taking into account European standards on judicial independence.
- Ensure that the reform of judicial appointments contains adequate safeguards for judicial independence, taking into account European standards on judicial independence.
- Take measures to increase the remuneration of judges and state prosecutors, taking into account European standards on resources and remuneration for the justice system.
- Adopt the new anti-corruption strategy and action plan with concrete measures and a timeframe for their implementation and step up efforts to ensure a track record of investigations, prosecutions and final judgments in corruption offences, including in high-level cases.
- Take forward the process of adopting non-legislative safeguards and start the legislative process in relation to the protection of journalists, particularly online, taking into account European standards on the protection of journalists.

I. JUSTICE SYSTEM

The Slovenian justice system has three levels, with Local and District Courts (dealing with civil, commercial and criminal cases), and Labour Courts and an Administrative Court at first instance¹, five Higher Courts (including Higher Labour and Social Court) at second instance and the Supreme Court at third instance (dealing mainly with appeals on points of law and requests for the protection of legality against judgments of Higher Courts and of the Administrative Court). The Constitutional Court carries out constitutional review. The Constitution provides for a Judicial Council, a *sui generis* body outside of the three branches of Government, which is tasked with protecting the independence as well as promoting and ensuring the accountability, efficiency and quality of work of the judiciary². Candidate judges are selected by the Judicial Council and then proposed for election by the National Assembly (the first chamber of Parliament)³. If the Judicial Council selects a candidate who has already been elected to judicial office, the candidate is promoted to the new judicial position by the Council itself. However, a Supreme Court judge shall always be elected by the National Assembly. The State Prosecution, while being part of the executive power, is an independent authority, with the main powers regarding the career of state prosecutors and its functioning resting with the State Prosecutorial Council and the Prosecutor General. The State Prosecutorial Council is an independent and autonomous state body that performs the tasks of self-governance of the State Prosecution and participates in ensuring the uniformity of prosecution and safeguarding the independence and autonomy of state prosecutors. Slovenia participates in the European Public Prosecutor's Office (EPPO). The Slovene Bar Association is an autonomous and independent body. It is responsible for supervising the professional activities of lawyers and deciding on disciplinary measures regarding its members⁴.

Independence

The level of perceived judicial independence in Slovenia continues to be average among both the general public and companies. Overall, 53% of the general population and 40% of companies perceive the level of independence of courts and judges to be 'fairly or very good'

¹ There are in total 60 first instance courts with one Labour Court also dealing with social security cases. The Administrative Court has the status of a higher court.

² The primary responsibility of the Judicial Council is the selection of candidate for judicial offices. As guaranteed by the Constitution, the majority of members of the Judicial Council are judges, elected by their peers. The remaining five members are representatives of other legal professions, elected by the National Assembly based on the nomination of the President of the Republic. The Judicial Council manages its own budget.

³ Since the initial re-election of judges after the independence of Slovenia in 1990s, the Parliament has rejected a candidate judge for first appointment only once. It should be noted that a candidate judge, who is not appointed, cannot request judicial review of the decision of the Parliament, which has no obligation to state reasons when rejecting a proposed appointment.

⁴ According to the Constitution, the Bar is part of the judiciary. Disciplinary Commissions of 1st and of 2nd Instance, each consisting of 16 lawyers elected for 3 years by the assembly of the Bar, decide (in three-member panels) regarding disciplinary sanctions at first instance and at second instance, respectively. The Disciplinary Court, consisting of three lawyers elected for 2 years by the assembly of the Bar and of two Supreme Court judges, decides on violations that could lead to a lawyer being disbarred.

in 2023⁵. According to data in the 2023 EU Justice Scoreboard, the level of perceived judicial independence among the general public has consistently increased in the last years. The figure has increased in comparison with 2022 (49%) and 2016 (30%). The level of perceived judicial independence among companies has decreased in comparison with 2022 (49%), but it is higher than in 2016 (29%).

Legislative amendments have removed the Minister of Interior’s power to instruct the Police in individual cases that could have affected independent work of state prosecutors and the EPPO. The 2022 Rule of Law Report found that the 2021 amendments to the Organisation and Work of the Police Act gave the Minister of the Interior the power to issue instructions to the Police even when the latter acted in the framework of a criminal investigation, until the moment the state prosecutors demanded in writing to take the lead of the investigations or issued written guidance to the Police⁶. On 21 July 2022, Parliament adopted a law submitted by 5 000 citizens that amended the Organisation and Work of the Police Act, including on the Minister’s power to issue instructions⁷. These amendments removed the possibility for the Minister of Interior to instruct the Police in individual cases. The Ministry of the Interior is preparing new amendments to the Organisation and Work of the Police Act.

Some progress has been achieved on introducing safeguards for judicial independence and autonomy of prosecutors, as amendments are being drafted. The 2022 Rule of Law Report recommended to Slovenia to ‘ensure that rules on parliamentary inquiries contain adequate safeguards for independence of judges and state prosecutors, taking into account European standards on judicial independence’⁸. The 2022 Report found that rules governing parliamentary inquiries lacked the safeguards on the independence of judges and state prosecutors required by two Constitutional Court judgments⁹. In September 2022, the President of Parliament established a Working Group comprising members of all parliamentary political groups tasked with preparing amendments to the Parliamentary Inquiries Act and the

⁵ Figures 49 and 51, 2023 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%).

⁶ These provisions could have also applied to the relations between the Slovenian European Delegated Prosecutors and the Police. Previously, it was deemed that the state prosecutors were in charge of the investigation by default, from the moment the Police informed them of the criminal offence, and the Minister/Police hierarchy could not intervene. To be noted that on 23 June 2022, the Government amended the Decree on the cooperation of the state prosecutorial service and Police and removed the obligation of state prosecutors to demand in writing to take the lead of the investigations and the obligation to issue guidance to the Police in writing. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 6.

⁷ Act to reduce inequalities and harmful policy interventions and ensure respect for the rule of law, submitted into legislative procedure in April 2022, which amended a number of laws.

⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

⁹ In 2019, a Parliamentary Inquiry Committee opened an investigation to look into actions of prosecutors and judges in specific criminal cases. In January 2021, the Constitutional Court found the Parliamentary Inquiries Act and the Rules of Procedure on Parliamentary Inquiry to be unconstitutional, insofar as they lack procedural safeguards for ensuring the independence of judges. In August 2021, the Constitutional Court found similar deficiencies in relation to safeguards for ensuring the independence of state prosecutors. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 2-3.

Parliamentary Rules of Procedure¹⁰, to implement the two Constitutional Court judgments and the 2022 Rule of Law Report recommendation. Since November 2022, the Working Group held one meeting and its members were invited to submit suggestions to the draft amendments, which are expected to be adopted by the end of 2023¹¹. On 20 June, President of Parliament invited the Ministry of Justice to prepare the draft amendments as regards the safeguards for judges and state prosecutors. In light of these developments, only some progress was achieved regarding the recommendation made in the 2022 Rule of Law Report.

New reforms envisage transferring the power to appoint judges from Parliament to the President and the Judicial Council, while adequate safeguards for judicial independence are lacking. On 26 September 2022, 53 members of Parliament submitted draft amendments to the Constitution, aiming to transfer the power to appoint first-time judges from Parliament to the President of the Republic¹². In parallel, the Ministry of Justice has been preparing amendments to the Judicial Service Act and Courts Act, which would transfer the power to appoint Supreme Court judges and the Supreme Court President from Parliament to the Judicial Council¹³. In both reforms, the Judicial Council would retain its power to select and propose the candidates for first-time judges and Supreme Court judges and President. The stated aim of these reforms is to decrease the influence of politics in the election and appointment of judges¹⁴.

¹⁰ It should be noted that amendments to the parliamentary Rules of Procedure require a relative two-third majority (of members of Parliament present).

¹¹ Input from Slovenia for the 2023 Rule of Law Report, p. 2, written contribution from Parliament for the 2023 Rule of Law Report, pp. 19-20, and information received from Parliament in the context of the country visit to Slovenia.

¹² The members of Parliament come from the three political parties in the governing coalition. Following a special procedure for Constitutional revision, the parliamentary Constitutional Commission started discussing the amendments and established an expert Working Group. Upon a request from the Judicial Council, Parliament has invited Council's representatives to the Constitutional Committee sessions. However, the Expert Group does not include a single judge among its members. Letter from the Judicial Council to the President of Parliament, 3 October 2022, and letter from the Constitutional Commission Chairperson to the Judicial Council, 6 October 2022.

In accordance with the parliamentary Rules of Procedure, the Constitutional Commission first voted on starting the constitutional revision, after which Parliament votes on starting the procedure and gives guidance to the Constitutional Commission on the drafting. After a new round of discussions and drafting in the Constitutional Commission, Parliament needs to approve the amendments to the Constitution with two third of all members (at least 60, out of 90 members in total). 30 members of Parliament can request a referendum on the amendments.

¹³ Draft amendments of the Judicial Service Act envisage that Supreme Court judges would be appointed by the Judicial Council (if the candidate is already a judge). Parliament would appoint candidates for Supreme Court judges, who are not yet judges (until the amendments to the Constitution come into force, transferring this power to the Judicial Council). Draft amendments to the Courts Act envisage that the President of the Supreme Court would be appointed by the Judicial Council, on prior opinion of the Minister of Justice and the plenary session of the Supreme Court. Written contribution from the Ministry of Justice following the country visit to Slovenia.

¹⁴ To be noted that since the initial re-election of judges in 1990s, Parliament has rejected a candidate judge for first appointment only once. However, Parliament rejected several candidates for Supreme Court judges (three between 2018 and 2022 alone) or candidate for the President of the Supreme Court (in 2010). Replies from the Judicial Council to the 2022 ENCJ Judicial independence questionnaire, and Explanatory memorandum to amendments to the Constitution, p. 4. Furthermore, during the recent procedure for the appointment of Supreme Court President (conducted end 2022 and beginning 2023), the Minister of Justice invited the only candidate for an interview before the judicial bodies issued their opinions on the candidate, which raised concerns of some members of the Judicial Council. Minutes from the session of the Judicial Council, 19 December 2022.

The amendments would also concern the article in the Constitution providing for a permanent judicial mandate, and would introduce a three-year probationary period, after which the judge could be appointed for a permanent term. This amendment is to introduce a “professional examination of beginner judges” in which the Judicial Council could be involved¹⁵. The Judicial Council and the Supreme Court supported, in principle, the transfer of appointment powers, although the Supreme Court stated that their President should be selected by the Supreme Court judges themselves, followed by a solemn oath before the President of the Republic¹⁶. The explanatory memorandum to the draft constitutional amendments does not specify whether the President of the Republic would be obliged to follow the proposal of the Judicial Council and appoint the proposed candidate as a judge, nor does it make clear whether the President’s decision not to appoint a candidate would need to be reasoned or would be subject to judicial review. The Ministry of Justice stated that the President of the Republic should be bound by the Judicial Council’s proposal, whereas the Council expressed the view that the President’s decisions should be both reasoned and subject to judicial review¹⁷. On 20 February 2023, the Expert Group appointed by the Constitutional Commission presented its opinion on the draft constitutional amendments and stressed that the President of the Republic should not have any discretionary power in appointing judges and that to limit the President’s discretion, an obligation to provide reasoning for rejecting a candidate and access to judicial review should be provided for in the Judicial Service Act and the Judicial Council Act¹⁸. It is important that the reform of judicial appointments guarantees judicial independence, taking into account Council of Europe recommendations that provide that the Judicial Council should be authorised to make recommendations on a candidate judge which the appointing authority follows in practice¹⁹. Furthermore, the Expert Group strongly criticised the removal of the permanent term of office for judges and the introduction of a probationary period, stating that the discretion in the draft constitutional provision²⁰ in deciding about a judge’s permanent term of office would present a “systemic risk for a judge’s independence”²¹. In so far as the proposed

¹⁵ Explanatory memorandum to the Proposal for beginning the procedure for amending the Constitution of Republic of Slovenia with draft constitutional law, p. 7.

¹⁶ Information received from the Supreme Court in the context of the country visit to Slovenia.

¹⁷ Information received from the Ministry of Justice and the Judicial Council in the context of the country visit to Slovenia.

¹⁸ Opinion of the Expert Group of the Constitutional Commission, 20 February 2023, p. 7. On 25 May 2023, the Constitutional Commission asked that the Expert Group should prepare suggestions for amending Art. 131 of the Constitution which prescribes the composition of the Judicial Council by taking into account international standards and good practices regarding composition, elections and functioning of Councils for the Judiciary. The suggestions should focus on conditions for becoming a Council member, nomination procedure, transparent work of the Council and professionalisation of the work of the Council members.

¹⁹ “47. Where the constitutional or other legal provisions prescribe that the head of state, the government or the legislative power take decisions concerning the selection and career of judges, an independent and competent authority drawn in substantial part from the judiciary [...] should be authorised to make recommendations or express opinions which the relevant appointing authority follows in practice.” Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 47. As regards the tenure and irremovability, see paras. 49-51 of the same Recommendation.

²⁰ The wording implying that the judge “could” be appointed.

²¹ Opinion of the Expert Group of the Constitutional Commission, pp. 2-4, 20 February 2023 (considering that this would go “against the principle of ‘non-regression’ under EU law”).

probationary period does not yet provide adequate safeguards for judicial independence (either in the Constitution or legislation), it raises concerns²².

Changes to the Judicial Council Act focusing on its procedural role in disciplinary proceedings are in preparation. The 2022 Rule of Law Report noted that on the judiciary's initiative, amendments to the disciplinary framework for judges and to the provisions on elections and status of Judicial Council members were in preparation²³. The Ministry of Justice has since narrowed down the objective of the reform to addressing the unconstitutionality of certain provisions of the Judicial Council Act on disciplinary proceedings²⁴. The objective of the reform of disciplinary proceedings appears to be in line with EU law and takes also into account Council of Europe recommendations²⁵. The Judicial Council still supports a wider reform of the disciplinary framework that would, amongst others, clarify the disciplinary offences, and would require amending also other laws²⁶.

Quality

Electronic communication tools have been further extended, including in criminal justice²⁷. Case management tools are advanced, particularly in courts. The 2023 EU Justice Scoreboard shows that in 2022 some improvements have been made, particularly regarding the use of electronic tools for communication of external actors with the State Prosecution Office and the procedural rules allowing digital technology in administrative cases²⁸. However, room for improvement remains on electronic communication in criminal cases, which remains at the lowest level in the EU²⁹. To address this, the Supreme Court plans measures to allow natural and legal persons (including victims and defendants) to submit electronically all types of

²² “51. Where recruitment is made for a probationary period or fixed term, the decision on whether to confirm or renew such an appointment should only be taken in accordance with paragraph 44 so as to ensure that the independence of the judiciary is fully respected.”

“44. Decisions concerning the selection and career of judges should be based on objective criteria pre-established by law or by the competent authorities. [...]” Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe.

²³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 4.

²⁴ Input from Slovenia for the 2023 Rule of Law Report, p. 3, and information received from the Ministry of Justice in the context of country visit to Slovenia. The Constitutional Court found that the Judicial Council should not have the possibility of initiating disciplinary proceedings against a judge in a situation where in the Disciplinary Court, appointed by the Council itself, also members of the Council are participating, Judgment of the Constitutional Court of 14 October 2021, *U-I-445/18-13*, para. 28. In order to prevent an unconstitutional situation, the Judicial Council decided not to start any disciplinary proceedings on its own initiative, until the amendments are adopted resolving the issue. Information received from the Judicial Council in the context of the country visit to Slovenia.

²⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 4.

²⁶ Information received from the Judicial Council in the context of the country visit to Slovenia. In its analysis of March 2021, the Judicial Council identified, amongst others, the need for establishing a special disciplinary procedure instead of using criminal procedure, updating the list of disciplinary offences, revising the right of the Judicial Council to initiate disciplinary proceedings, revising disciplinary sanctions to allow for more proportionality, and clarifying the limits on the length of suspension of a judge. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 5.

²⁷ The 2022 Rule of law Report found that electronic communication tools in the justice system were being gradually improved, including in criminal justice, where room for improvement remains. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 6-7.

²⁸ Figures 40-48, 2023 EU Justice Scoreboard. The other areas do not show improvement, compared to 2021.

²⁹ Figure 44, 2023 EU Justice Scoreboard.

documents to the court in criminal proceedings by end 2023³⁰. As regards civil and administrative cases, the Supreme Court plans to introduce electronic communication in all registers of the information system for all participants in court proceedings by end 2023³¹. To further improve the electronic communication of the courts with professional users, such as state prosecutors, state attorneys, lawyers, notaries and the Police, the Supreme Court in 2023 envisages establishing an electronic filing service, the use of a central environment for managing documents and access to the case-management system and case files³². In 2023, the Supreme Court plans to expand online access to published judgments, which remains limited for first instance courts³³, through a series of improvements to the ICT system, particularly on anonymisation software and search tools³⁴.

The level of remuneration of judges and state prosecutors, largely unchanged since 2012, raises concerns and was, as far as judges' salaries are concerned, declared unconstitutional by the Constitutional Court. The salaries of judges and state prosecutors have largely not been changed in nominal terms since 2012, while the salaries of civil servants and functionaries (ministers, members of Parliament) in the legislative and the executive branches have been increased³⁵. In real terms, this means that in the last 15 years, the salaries of judges and state prosecutors decreased by around 5% and 11%, respectively³⁶. According to the 2023 EU Justice Scoreboard, the salaries of Slovenian judges and state prosecutors are among the lowest in the EU, especially for first instance court judges and state prosecutors, when compared to the average national salary³⁷. On 30 June 2023, the Constitutional Court, on request from the Judicial Council, declared the judges' salaries as unconstitutional and contrary to the principle of judicial independence due to the disrespect of the constitutional requirement of their stability. The Constitutional Court also recognised as relevant the imbalance of the salary grades of the judiciary compared to those of the legislative and the executive branches and the delay in judges' salaries increase compared to the increase of the average salary in Slovenia³⁸. The Court gave Parliament six months to remedy the unconstitutionality. Representatives of the judiciary stated that the current salary system makes it difficult to attract

³⁰ Written contribution from the Supreme Court in the context of the country visit to Slovenia.

³¹ Ibid.

³² Ibid.

³³ Figure 47, 2023 EU Justice Scoreboard.

³⁴ The first part of the renovation of the application for processing and publishing decisions was completed in 2022, and the envisaged development of the module for pseudo-anonymisation and the integration of solutions is underway, which, along with the simultaneous development of new search tools for the external and internal public, would enable the new system to start operating in 2023. Written contribution from the Supreme Court in the context of the country visit to Slovenia.

³⁵ Information received from the Supreme Court, the Judicial Council and the Judges' Association in the context of the country visit to Slovenia.

³⁶ Ministry of Justice, Press release of 2 February 2023.

³⁷ Figure 31, 2023 EU Justice Scoreboard.

³⁸ The Constitutional Court declared the provision on annual adjustment of judges' salaries as unconstitutional, as it does not guarantee that the salaries would actually be adjusted. Judgment of the Constitutional Court of 1 June 2023, *U-I-772/21-37* (published on 30 June 2023). For arguments raised in their constitutional request by the Judicial Council, which are similar to those relied upon by the Constitutional Court, see 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 8. On 19 April 2023, the President of the Judicial Council expressed similar concerns in a letter to the European Commission. The European Network of Councils for the Judiciary also expressed concerns about remuneration of judges in Slovenia. European Network of Councils for the Judiciary, Statement by the Executive Board on financial security in the context of judicial independence, 25 May 2023.

and retain judges and state prosecutors in the justice system³⁹. In October 2022, following the Government's agreement with public sector trade unions, amendments to the Public Sector Salary System Act led to an increase of 4,5% also of salaries of judges and state prosecutors⁴⁰. The Government acknowledged that the current classification of officials (in the judiciary, and in the legislative and executive branches), and the ratio of their salaries, need to be reassessed⁴¹. The elimination of disparities between officials is envisaged as part of the upcoming 2023 public sector salary system reform. In January 2023, the Government announced that all judges and state prosecutors would receive a temporary monthly salary increase of (gross) EUR 600, but the corresponding legislative amendments were withdrawn from the legislative process in February 2023 because of doubts about their constitutionality⁴². Considering the situation and developments, the level of salaries of judges and prosecutors raises concerns. According to Council of Europe recommendations, judges' remuneration should be commensurate with their profession and responsibilities and be sufficient to shield them from inducement aimed at influencing their decisions⁴³. The Venice Commission has also stated that a sufficient remuneration is necessary to reduce the danger of corruption of prosecutors⁴⁴.

A planned judicial map reform would merge first instance District and Local Courts. As noted in the 2020 Rule of Law Report, the split between the first instance courts has long been identified as affecting the efficiency of the courts⁴⁵. Currently, the court system has 55 first instance courts, with 44 Local Courts dealing primarily with low (financial) value civil litigious and non-litigious cases, and certain criminal cases. It also counts 11 District Courts dealing primarily with high-value civil cases and commercial cases among legal persons, and with certain criminal cases. Previous attempts, in 2019 and 2020, to conclude this reform have not been successful. In 2023, the Ministry of Justice envisages a reform to merge District and Local Courts, while retaining the geographical distribution of court units⁴⁶.

Efficiency

The overall number of pending cases was further reduced, but the length of trials increased and is a challenge particularly in money laundering and corruption cases.

³⁹ Information received from the Supreme Court, Judges' Association and the State Prosecutorial Council in the context of the country visit to Slovenia. For example, the imbalance between the public sector salary system and the salary system applicable to judges leads to situations where officials working in courts (judicial advisers) sometimes have a higher salary than a judge. Information received from the Supreme Court in the context of the country visit to Slovenia.

⁴⁰ Input from Slovenia for the 2023 Rule of Law Report, p. 4.

⁴¹ Ibid.

⁴² These doubts were particularly due to the temporary character of the increase and the risk of creating new salary imbalances. Ministry of Justice, Press release of 2 February 2023.

⁴³ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 54, and Court of Justice of the European Union, judgment of 27 February 2018, C-64/16, *Associação Sindical dos Juízes Portugueses*, para. 45, 'Like the protection against removal from office of the members of the body concerned [...], the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence'.

⁴⁴ Venice Commission, Independence of the Judicial System, Part II: The Prosecution Service, CDL-AD(2010)040, para. 69.

⁴⁵ As a partial remedy, the 2009 and 2015 reforms brought Local Courts under the stronger control of District Courts in order to even-out the caseload and reduce jurisdictional conflicts. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 5.

⁴⁶ Information received from the Ministry of Justice in the context of the country visit to Slovenia.

According to the 2023 EU Justice Scoreboard, the efficiency of the justice system improved in 2021, except in administrative cases, where the courts have experienced some challenges with managing incoming cases⁴⁷. In 2022, according to the latest Supreme Court data, the courts received 1% fewer cases and resolved 2% fewer cases than in 2021, with the total backlog of cases at the end of 2022 further decreasing by 5%⁴⁸. However, in 2022, the average length of proceedings slightly increased both at first and second instance courts⁴⁹. Additionally, the time needed for the first instance courts to conduct the first hearing increased in nearly all type of cases, taking up to 20 months in civil and 10 months in criminal cases⁵⁰. At first instance criminal courts, the average length in 2021 in more complex money laundering offences further increased to 1 034 days (925 in 2021) and was 793 days in corruption offences, which were the longest in the EU⁵¹. The efficiency in administrative courts has been worsening since 2021, due to a larger number of incoming cases (10% increase in 2022, compared to 2021), and despite a 11% increase in resolved cases, backlog increased by 2% at end of 2022⁵². To address the efficiency in administrative courts, in February 2023 the Government proposed amendments to the Administrative Disputes Act, which would allow simpler administrative cases to be decided by a single judge⁵³, increase procedural discipline and introduce new incentives for reaching a court settlement⁵⁴.

The Supreme Court working group on the reasons behind the increase in length of court proceedings presented its findings and recommendations. In 2021, the President of the Supreme Court established a working group consisting of Supreme Court and appeal court judges tasked to analyse the challenges, particularly those related to efficiency, regarding the adjudication of cases, including on financial and economic crime⁵⁵. The working group identified courts that consistently worked in an efficient manner, and those with efficiency challenges, and examined work practices, including through a questionnaire on best practices⁵⁶.

⁴⁷ Figures 2-15, 2023 EU Justice Scoreboard.

⁴⁸ Written contribution from the Supreme Court in the context of the country visit to Slovenia.

⁴⁹ The average length of proceedings at first instance courts slightly increased to around 2 years in large value (23 months in 2021) and to 16 months in small value litigious civil cases (15 months in 2021), and to 13 months in litigious commercial cases (11,4 in 2021). In criminal cases, the average length increased both in lesser offences (12 months, from 10,7 in 2021) and in more serious offences (18,5 months, from 16,6 in 2021). In appeal, the average length is much shorter, but also slightly increased in 2022, namely to 2,1 months in civil (1,8 in 2021) and to 2,9 months in commercial cases (2,7 in 2021). Written contribution from the Supreme Court in the context of the country visit to Slovenia.

⁵⁰ Time from the start of court proceedings until the first hearing slightly increased to 20 months in large value civil litigious cases (19,3 in 2021), 10,4 months in more serious criminal offences (8,7 in 2021), and to 8,3 months in lesser criminal offences (8 in 2021). It stagnated in small value litigious civil cases (17 months), labour cases (13 months) and decreased in social cases to 6,1 months (7,4 in 2021). Written contribution from the Supreme Court in the context of the country visit to Slovenia.

⁵¹ Figures 22 and 23, 2023 EU Justice Scoreboard.

⁵² Written contribution from the Supreme Court in the context of the country visit to Slovenia.

⁵³ Instead of a panel of judges as is currently the case.

⁵⁴ Press release of the Ministry of Justice, 23 February 2023.

⁵⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 9.

⁵⁶ Among the reasons for reduced efficiency, the working group identified changed structure of civil and commercial cases (e.g. an increase in damage claims requiring court hearings), uneven workload of judges (particularly in commercial courts), delays in filling vacant posts of judges and court staff, and lengthy judgments (focussing on summarising witness' statements, instead of assessing testimonies and evidence) and the non-use of streamlined case-management practices. Report of the working group to examine the reasons for the increase in resolution time and decrease in number of resolved cases, 9 June 2022.

The working group put forward several recommendations, such as addressing the uneven workload of judges, adapting procedural rules (in inheritance, civil, misdemeanour and criminal procedures), increasing the salaries of judges, speeding up procedures for replacement/appointment of judges, introducing speech recognition to create hearing transcripts, and introducing streamlined case-management practices⁵⁷.

II. ANTI-CORRUPTION FRAMEWORK

The key law setting up the institutional and legislative framework to prevent corruption in Slovenia is the Integrity and Prevention of Corruption Act. The Commission for the Prevention of Corruption is an autonomous and independent state body, responsible for the prevention of corruption through administrative oversight of rules on integrity and conflicts of interests. It cooperates regularly with the police and the State Prosecution. The National Bureau of Investigation is the specialised criminal investigation unit for the detection and investigation of serious crimes, including corruption. The Specialised Public Prosecutor's Office is responsible for the prosecution of corruption offences in both the public and the private sectors and directs the work of the police. The National Review Commission for Public Procurement is an independent and autonomous body that decides on the legality of the awarding of public contracts and can refer potential illegal acts to the police. The Court of Audit is the highest independent supervisory body for all public spending in Slovenia, and reviews political party finances.

The perception among experts and business executives is that the level of corruption in the public sector remains relatively high. In the 2022 Corruption Perceptions Index by Transparency International, Slovenia scores 56/100 and ranks 16th in the EU and 41st globally⁵⁸. This perception has been deteriorating⁵⁹ over the past 5 years. The 2023 Special Eurobarometer on Corruption shows that 83% of respondents consider corruption widespread in their country (EU average 70%) and 28% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁶⁰. As regards businesses, 79% of companies consider that corruption is widespread (EU average 65%) and 38% consider that corruption is a problem when doing business (EU average 35%)⁶¹. Furthermore, 26% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁶², while 18%

⁵⁷ Report of the working group to examine the reasons for the increase in resolution time and decrease in number of resolved cases, 9 June 2022.

⁵⁸ Transparency International (2023), 'Corruption Perceptions Index 2022'. 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).

⁵⁹ In 2018, the score was 60, while in 2022 the score is 56. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last 5 years.

⁶⁰ Special Eurobarometer 534 on Corruption (2023). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 523 (2022).

⁶¹ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). The Eurobarometer data on business attitudes towards corruption is updated every year. The previous data set is the Flash Eurobarometer 507 (2022).

⁶² Special Eurobarometer 534 on Corruption (2023).

of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 30%)⁶³.

Some progress has been achieved regarding the adoption of an anti-corruption strategy.

The 2022 Rule of Law Report recommended to Slovenia ‘to adopt and start implementing without further delay an anti-corruption strategy’⁶⁴. The Resolution on the Prevention of Corruption lays out the national strategy in the fight against corruption⁶⁵. Together with the Action Plan for the Implementation of the Resolution, it forms a comprehensive anti-corruption and integrity strategy⁶⁶. The Commission for the Prevention of Corruption (CPC), in partnership with the Ministry of Public Administration and the Ministry of Justice⁶⁷ is preparing a new Resolution and accompanying Action Plan focusing on corruption risks, concrete risk-mitigation measures, and a timeline for their implementation. The draft resolution is under preparation and a proposal should be finalised by the autumn⁶⁸. The CPC must adopt the corresponding Action Plan within three months of the Resolution’s adoption. In parallel, the new 2023-2026 Government Programme to Strengthen Integrity and Transparency in the Public Sector was adopted on 9 February 2023⁶⁹. The Programme’s objectives and measures should be included in the future Resolution and Action Plan⁷⁰. Some progress has therefore been achieved regarding the recommendation made in the 2022 Rule of Law Report.

The operational autonomy of the National Bureau of Investigation was restored, and its director was reinstated.

The 2022 Rule of Law Report recommended to Slovenia to ‘remove obstacles to the investigation and prosecution of corruption cases, including by ensuring the operational autonomy of the National Bureau of Investigation [...]’. Serious concerns were raised in the 2022 Rule of Law Report⁷¹ about the undermining of the independence of the National Bureau of Investigation (NBI) brought about by amendments to the Organisation and Work of the Police Act adopted in 2021⁷². On 21 July 2022, Parliament adopted a law⁷³ submitted by 5 000 citizens that reversed previous changes to the Organisation and Work of the Police Act. These amendments, among others, re-established the autonomous status of the NBI, the Public Prosecutor’s power to direct pre-trial and criminal proceedings without

⁶³ Flash Eurobarometer 524 on Businesses’ attitudes towards corruption in the EU (2023).

⁶⁴ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

⁶⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 10.

⁶⁶ The current resolution dates from 2004 and the Action Plan was last amended in 2009.

⁶⁷ Twenty-five sector-specific working groups in areas such as health, public procurement, employment, media, and local government have been created, and include representatives from the public and private sectors and civil society.

⁶⁸ Input from Slovenia for the 2023 Rule of Law Report, pp. 12-13. Information received from the Commission for the Prevention of Corruption in the context of the country visit to Slovenia.

⁶⁹ Programme of the Government of the Republic of Slovenia to strengthen integrity and transparency in the public sector 2023 – 2026.

⁷⁰ The Programme, the third of its kind, includes measures to strengthen the integrity of institutions, public employees, high officials, and other public sector employees, including on conflicts of interest, as well as improving transparency of public sector operations. Interim reports are envisaged every six months. Written contribution and information received from the Ministry of Public Administration in the context of the country visit to Slovenia.

⁷¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 11.

⁷² Amendment to Article 21 of the Organisation and Work of the Police Act.

⁷³ Act to Reduce Inequalities and Harmful Policy Interventions and Ensure Respect for the Rule of Law, submitted into legislative procedure in April 2022, which amended a number of laws.

direction from the Ministry of Interior, and the procedure for the appointment and dismissal of the NBI's Director and other Police leadership positions, now without the decisive role of the Minister of Interior. On 26 July 2022, the previous Director of the NBI, who had been appointed in June 2019 but dismissed in May 2020 was reinstated⁷⁴. The Government is currently preparing amendments to the Police Tasks and Powers Act⁷⁵. One of the objectives is to prevent any political interventions in decision-making through a more precise regulation of the supervision of police work to enhance the objectivity, professionalism, and effectiveness of individual forms of supervision mechanisms⁷⁶. Based on these developments, the part of the 2022 recommendation on ensuring the operational autonomy of the National Bureau of Investigation has been fully implemented.

The statute of limitations is overall long enough to carry out proceedings, also considering that the resources of the State Prosecution and the Police have increased, and vacant posts are expected to be filled. The 2022 Rule of Law Report recommended to Slovenia to 'remove obstacles to the investigation and prosecution of corruption cases, including by [...] increasing the resources of State Prosecution and revising the statute of limitation'⁷⁷. In 2022, thirty-two new prosecutor posts and 60 posts for officials, and the corresponding financial resources, were approved for the period 2023-2024⁷⁸. The number of district state prosecutors at the Specialised State Prosecutor's Office (SSPO) was increased by four posts⁷⁹ while at the end of 2022, 213 prosecutorial posts were filled in the State Prosecution Offices out of a total of 236 envisaged posts⁸⁰. The expectation is that the vacant posts should be filled during 2023 and 2024⁸¹. The National Bureau of Investigation is in the process of employing five new financial crime specialists and nearly all allocated posts are filled (i.e., 64 out of 70 Senior Criminal Police Inspector-Investigator positions). While lengthy procedures for recruitment and transfers can deter skilled applicants from applying, the NBI considers it has sufficient capacity⁸². As for the statute of limitations, in 2017 penalties for most corruption criminal offences were increased while the limitation period was extended from 10 to 20 years. The revised law also suspended the statute of limitation during

⁷⁴ Police Press Release, The management of the National Bureau of Investigation today is taken over by Darko Muženič, 26 July 2022.

⁷⁵ Input from Slovenia for the 2023 Rule of Law Report, p. 16, and information and written contribution received from the Police and the Ministry of the Interior in the context of the country visit to Slovenia.

⁷⁶ Written contribution received from the Ministry of the Interior in the context of the country visit to Slovenia. In this context, it should be noted that in December 2022, the then Minister of the Interior resigned and stated this was due to political pressures from the Government on the work of the Police, including about management decisions within the Police and the choice of the Director-General of the Police, whose acting status was prolonged twice. Since then, the Government appointed a new acting Director-General and journalists raised questions whether he fulfils the criteria for appointment as Director-General.

⁷⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

⁷⁸ Information received from the Ministry of Justice and the State Prosecutor General in the context of the country visit to Slovenia. The first 25 vacancies were published in March 2023.

⁷⁹ Ibidem. The Specialised State Prosecutor's Office also received key financial and technical resources with plans to modernise and upgrade electronic equipment. Input from Slovenia for the 2023 Rule of Law Report, pp. 14-15 and its Annex II, p. 22.

⁸⁰ Written contribution from the Ministry of Justice in the context of the country visit to Slovenia.

⁸¹ New salary reforms to ensure parity between the salaries of judges and prosecutors are also being considered. Information received in the context of the country visit with Slovenia from the Supreme State Prosecutor's Office and the State Prosecutor General.

⁸² Written contribution and information received from the NBI in the context of the country visit to Slovenia.

the time when it is legally not possible to start or continue a criminal prosecution or when a perpetrator is unavailable to state authorities. Accordingly, the limitation period for prosecution expires 20 years after the commission of the criminal offence, even for corruption offences⁸³. Previous attempts to undo these changes were unsuccessful and there are currently no plans to revise the statute of limitation for corruption offences⁸⁴. While for some criminal offences, such as certain modalities of unauthorised acceptance of gifts, the statute of limitation is 20 years⁸⁵, for others the limitation period remains unchanged at ten years⁸⁶. The SSPO has thus maintained its concern about this shorter period (particularly in public procurement in the health sector) especially when combined with procedural obstacles, such as lengthy judicial investigations⁸⁷. Over a five-year period (2017-2022), the SSPO prosecuted twelve such cases in the health sector⁸⁸. Therefore, it appears that the statute of limitations is overall long enough to carry out proceedings, and only a relatively low number of cases in the health sector are affected by the 10-year limitation period. Furthermore, the increase of resources in the State Prosecution could improve efficiency in prosecuting corruption. Therefore, the relevant parts of the recommendation made in the 2022 Rule of Law Report were fulfilled.

Criminal investigations, indictments and judgments in corruption cases remain at a low level and the backlog of court cases has increased, raising serious concerns. In 2022, the number of criminal reports filed by the Police to the State Prosecution regarding alleged corruption offences stood at 191 cases, a level comparable to the 187 cases in 2021 (below the 298 cases in 2020)⁸⁹. Cooperation between EPPO and the police and prosecution reportedly works well⁹⁰. The number of indictments brought by state prosecutors in 2022 with 24 cases is

⁸³ The 20-year limitation period is considered amongst the longest in European countries. Input from Slovenia for the 2022 Rule of Law Report, p. 13.

⁸⁴ Input from Slovenia for the 2022 Rule of Law Report, pp. 13-14 and Annex II, p. 22. In 2021, the opposition had proposed draft amendments to reduce the time available to start and conduct a criminal investigation, but these changes were not pursued. The European Chief Prosecutor had also expressed serious concerns that those proposed amendments would have considerably shortened the time span available for the detection, prosecution and trials related to criminal offences falling within the competence of the European Public Prosecutor's Office and would compromise ongoing investigations. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 12-13.

⁸⁵ Article 241(1) of the Criminal Code.

⁸⁶ E.g. for another modality of the offence of unauthorised acceptance of gifts under Article 241(2) of the Criminal Code which carries a prison sentence from three months to five years and a fine.

⁸⁷ Specialised State Prosecution Office (2023), Annual Report 2022, p. 153.

⁸⁸ All 12 cases were prosecuted under Article 241(2) of the Criminal Code, for which the statute of limitation is 10 years, not 20 years as for most other corruption offences. Written contribution from the Specialised State Prosecution Service in the context of the country visit to Slovenia.

⁸⁹ According to the Police, the figure of 191 cases is above the ten-year average of 145. In 2022, an increase in corruption crimes against the economy was detected (37 corruption cases compared to the five-year average of 34 and the ten-year average of 30). Written contribution from the Police in the context of the country visit to Slovenia. Reasons for these fluctuations vary e.g., corruption may be difficult to detect and investigate because the persons concerned are closely connected and cover for each other, or because individuals only report cases informally or anonymously to avoid appearing as witnesses in a judicial process, or do not report at all because they fear reprisals or are bribed themselves. Specialised State Prosecution Office (2023), Annual Report 2022, pp. 147, 151 and 155. Information received from the Specialised State Prosecution Office and the State Prosecutor General in the context of the country visit to Slovenia.

⁹⁰ Written contribution from the Police in the context of the country visit to Slovenia and contribution from the EPPO for the 2023 Rule of Law Report. According to statistical data and police records, in 2022 police administrations received 10 cases for consideration in connection with damage to EU funds. See also EPPO,

similar to the trend in the previous two years (21 in 2021 and 23 in 2020, a significant drop from 123 in 2019)⁹¹. The data on all corruption offences show that the number of first instance court judgments also decreased from 53 in 2021 to 11 in 2022 (compared to 29 in 2020 and 28 in 2019)⁹² while the number of unresolved court cases increased significantly from 259 in 2021 to 353 in 2022 (compared to 67 in 2020 and 203 in 2019)⁹³. These trends raise serious concerns about the effectiveness of the investigation and prosecution of corruption offences and their effective adjudication. The OECD has raised similar concerns over the lack of enforcement of the foreign bribery offence⁹⁴. The situation for high-level corruption cases has remained unchanged since the last Report⁹⁵ as no high-level corruption judgments were delivered in 2022⁹⁶. In 2022, the prosecution reported that it dealt with cases involving four persons that could meet the conditions for high-level corruption⁹⁷. The Supreme State Prosecution Office is conducting an analysis of 243 cases against 35 officials – mayors and deputy mayors – and the reasons why the majority of cases were closed without indictment or conviction in the period 2007-2020. The report is expected by the end of 2023⁹⁸.

The length of judicial investigations and first instance court trials related to corruption offences present a serious challenge to effective prosecution of such offences. According to the 2023 EU Justice Scoreboard, at first instance criminal courts, the average length in corruption offences in 2021 was 793 days, which was the highest in the EU⁹⁹. The length of judicial proceedings relating to corruption and other complex offences together with the pre-

‘Slovenia: Indictment submitted against two persons and two legal entities for EU funding fraud’, 20 April 2023.

⁹¹ Input from Slovenia for the 2023 Rule of Law Report, Annex I, p. 4.

⁹² Ibidem. Part of the backlog has been attributed to the delays caused by the COVID-19 pandemic. See e.g., Specialised State Prosecution Office (2023), Annual Report 2022, p. 146.

⁹³ Ibid.

⁹⁴ OECD, Working Group on Bribery, Implementing the OECD Anti-Bribery Convention Phase 4 Report: Slovenia, 11 March 2021, p. 14. Slovenia has not prosecuted any foreign bribery cases since it became Party to the Convention in 1999. These concerns are maintained. See OECD, Working Group on Bribery, Implementing the OECD Anti-Bribery Convention Phase 4 Two-Year Follow-Up Report: Slovenia, 9 March 2023, pp. 3-4.

⁹⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 12. In 2020, there was one such judgment involving a mayor and none in 2019.

⁹⁶ A criminal procedure in a high-profile corruption case involving a foreign company in the energy sector is currently still ongoing, also involving several individuals. Input from Slovenia for the 2023 Rule of Law Report, p. 14.

⁹⁷ A complaint for corruption against several persons, including against the former Prime Minister was closed in May 2023 after the district prosecutor decided that there was no ground for continuing the procedure. On 20 June 2023, the first instance Court acquitted the mayor of Ljubljana and six co-defendants accused of misuse of EU funds and abuse of office. In this case, the court trial started more than nine years after the police investigation, and the judgment was delivered twelve years after the alleged criminal conduct. The Specialised State Prosecution Office announced it will appeal the court's decision. Another case at the pre-trial stage involves three persons, including a mayor. A request for judicial investigation has been made against three persons, including a mayor and a deputy mayor. There were also two recent high-level cases concerning a judicial investigation of a former Minister for the acquisition of protective medical equipment and pre-criminal proceedings against a former Secretary of State for cash development assistance for the more demonstrable offences of abuse of public office, abuse of office or trust in an economic activity, or damage to public funds. Written contribution from the Specialised State Prosecution Office in the context of the country visit to Slovenia. See also Specialised State Prosecution Office (2023), Annual Report 2022, pp. 155-157.

⁹⁸ Information received from the State Prosecutor General in the context of the country visit to Slovenia.

⁹⁹ Figure 23, 2023 EU Justice Scoreboard. See above, section Justice system - Efficiency in this Country Chapter.

trial phase presents a serious obstacle for the prosecution services¹⁰⁰. One significant procedural bottleneck stems from the fact that evidence and witness testimony must be carried out three times. First, a witness is questioned by the Police who makes an official record (unsigned by the witness), but which has no probative value in court. Second, a witness is questioned by the investigating judge during the judicial investigation¹⁰¹, which can last for several months¹⁰². Third, a witness is questioned during the main hearing, often taking place many years after the crime. Ensuring that the first witness statement drawn up by the police would have probative value under the law to avoid a repetition during the judicial investigation is one way to improve the situation¹⁰³. Another is to change the role of the investigating judge as a guarantor judge¹⁰⁴, ensuring that the witnesses are questioned by the prosecutor and the defence lawyer, but not by the investigative judge¹⁰⁵. Changes to the Criminal Procedural Code, announced by the Ministry of Justice for end 2023¹⁰⁶ could potentially offset some of these shortcomings and significantly shorten the length of the proceedings.

The resources of the Commission for the Prevention of Corruption are being increased and plans to upgrade the IT system are progressing. The changes to the rules of procedure of the Commission for the Prevention of Corruption (CPC) in October 2021¹⁰⁷ resulted in better safeguards for defendants, which improved the CPC's success rate when their findings were challenged in court¹⁰⁸. In 2022, the CPC received 695 notifications of corruption, breaches of integrity, and violations of other provisions of the Integrity and Prevention of Corruption Act (such as incompatibility of offices) as compared to 629 in 2021 and 728 in

¹⁰⁰ Other challenges include high standards for the admissibility of evidence in the courts, restrictions on the use of special investigative measures essential to investigate and prove complex corruption cases, inadequate rules on witness protection (only a judge can grant anonymity and only if there is a threat to life), and overburdened specialised criminal court departments (e.g., for banking and financial crime that may also have elements of corruption). Information received from the Specialised State Prosecution Office, the Police and the NBI in the context of the country visit to Slovenia. See also Specialised State Prosecution Office (2023), Annual Report 2022, p. 158-159 and its written contribution in the context of the country visit to Slovenia.

¹⁰¹ Witness questioning consumes most of the time during a judicial investigation. Before that, the investigating judge must issue a search warrant and decide on the defence's request to exclude evidence. Any appeal against that decision must be decided by a higher court. It can take several months, often more than a year, before an investigation order becomes final. Written contribution from the Specialised State Prosecution Office in the context of country visit to Slovenia.

¹⁰² The hearing of evidence for criminal offences in the health sector can take from ten months to one year and seven months and an average of one year and nine months for banking crime. Obtaining evidence from abroad via mutual legal assistance also causes delays. Specialised State Prosecution Office (2023), Annual Report 2022, pp. 159, 164-165.

¹⁰³ Written contribution from the Specialised State Prosecution Office in the context of the country visit to Slovenia.

¹⁰⁴ Investigative judges would still maintain their role for the approval of detention orders and the most intrusive investigative measures. Both Specialised State Prosecution and Supreme Court have expressed support for the possibility to reform the role of investigative judges. Information received from the Specialised State Prosecutor's Office, the State Prosecutor General and the Supreme Court in the context of the country visit to Slovenia.

¹⁰⁵ Written contribution from the Specialised State Prosecution Office in the context of the country visit to Slovenia. Setting up a specialised court to deal with corruption cases is another possibility. See Specialised State Prosecution Office (2023), Annual Report 2022, p. 168.

¹⁰⁶ Information received from the Ministry of Justice in the context of the country visit to Slovenia.

¹⁰⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 13.

¹⁰⁸ Information received in the context of the country visit to Slovenia from the Commission for the Prevention of Corruption.

2020. It resolved 661 cases¹⁰⁹ (compared to 646 in 2021 and 785 in 2020). The budget of the Commission has increased yearly since 2019 and is expected to increase further by 2024¹¹⁰. The CPC was granted five additional staff in 2022 (same as in 2021) and currently employs 47 staff¹¹¹. An additional five staff for 2023 and an additional five posts to cover new responsibilities under the whistleblower protection legislation will be allocated¹¹². The CPC is in the process of publishing a public tender to replace and renew the internal IT system designed to digitize and facilitate the input and availability of data about asset declarations, the lobbying registry and whistleblowing reports¹¹³. Nearly 20 000 officials must declare their assets before taking up duties, but the Commission only has the capacity to check a random selection of declarations, currently estimated at around five to seven percent. The new IT system aims to improve the situation and ensure better analytical tools for data evaluation¹¹⁴.

The Court of Audit is reflecting on possibilities to improve its effectiveness as regards auditing of political parties. The Court of Audit monitors the regularity of political parties' operations, conducts a mandatory review of their annual reports, and can file criminal notifications in cases of financial misdemeanours. The Court carried out a review of only 12 small political parties in 2021¹¹⁵ (13 in 2020¹¹⁶) and highlighted the need for more frequent audits¹¹⁷. The Court did not carry out any political party audits in 2022 as it gave priority to campaign financing audits which was resource-intensive (in a year of multiple elections)¹¹⁸. The Court audits political parties¹¹⁹ over a three-year cycle, but it only has the capacity to audit around one-third of the parties each year over that period. This means that each party is only risk-assessed for the preceding one year and not for the remaining two years in the cycle¹²⁰. The next cycle runs from 2023-2026 and the Court is reflecting on how to systematically improve the efficiency and effectiveness of these audits¹²¹.

The new Protection of Whistleblowers Act broadens the scope of protection and is expected to improve the detection of corruption. The new Act entered into force on 22

¹⁰⁹ Of these 661 cases, there were 397 resolved notifications of corruption and breaches of integrity and 264 resolved notifications of violations of other provisions of the Integrity and Prevention of Corruption Act. A few cases were from the previous year. Commission for the Prevention of Corruption (2023), Annual Report 2022. See also its Assessment of the Situation in 2022.

¹¹⁰ Information received from the Commission for the Prevention of Corruption in the context of the country visit to Slovenia.

¹¹¹ Chief Commissioner, two Deputy Commissioners and 44 public servants. Input from Slovenia for the 2023 Rule of Law Report, p. 14.

¹¹² Information received in the context of the country visit to Slovenia from the Commission for the Prevention of Corruption.

¹¹³ Written contribution and information received from the Commission for the Prevention of Corruption in the context of the country visit to Slovenia.

¹¹⁴ Ibid.

¹¹⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 15.

¹¹⁶ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 13.

¹¹⁷ Information received from the Court of Audit in the context of the country visit to Slovenia. Transparency International Slovenia is equally concerned about the infrequency of political party financing audits according to information received in the context of the country visit to Slovenia.

¹¹⁸ Information received from the Court of Audit in the context of the country visit to Slovenia.

¹¹⁹ Political party financing is regulated in the Election and Referendum Campaign Act.

¹²⁰ Information received from the Court of Audit in the context of the country visit to Slovenia.

¹²¹ Ibid.

February 2023. The law aims to implement the EU Whistleblowers Directive¹²² but also provides protection for all persons reporting any breach of national legislation¹²³. The new law sets up external and internal reporting channels and procedures enabling individuals to report breaches of regulations in work-related contexts. The Act also defines the powers of the Commission on the Prevention of Corruption (CPC)¹²⁴ and the safeguards and support measures to prevent or eliminate retaliation against whistleblowers, including unemployment benefits, legal aid, and psycho-social assistance. The law has been positively received by the CPC and by civil society¹²⁵. The latter welcomed the provisions allowing whistleblowers to make anonymous reports¹²⁶. From the law enforcement perspective, the National Bureau of Investigation indicated their expectation that the new law will positively result in an increase in reports of infringements, whereas the Specialised State Prosecution Office stated that additional protection of whistleblowers under criminal procedural law would be required to encourage more reports on corruption¹²⁷.

The rules on conflict of interests and incompatibility of office indicate certain gaps in supervision. In 2022, the Commission for the Prevention of Corruption (CPC) issued 31 recommendations (62 in 2021) and seven initiatives for inspection on issues such as incompatibility of office and conflicts of interests¹²⁸. It received 353 notifications of corruption, 38 reports of breaches of integrity and 304 reports of violations of other provisions of the Integrity and Prevention of Corruption Act¹²⁹, resolved 661 cases (629 in 2021) of which 82 cases were reported to the Police or the Specialised Prosecutor's Office (91 in 2021)¹³⁰. The CPC has encountered challenges in applying integrity rules and monitoring conflicts of interest and incompatibilities between public office and private functions particularly at the local level

¹²² Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

¹²³ Input from Slovenia for the 2023 Rule of Law Report, pp. 14 and 20 and information received in the context of the country visit to Slovenia from the Ministry of Justice and the Commission for the Prevention of Corruption.

¹²⁴ In 2022, the CPC received one request for whistle-blower protection and helped establish a causal link between the initial report and the retaliatory measures suffered by the whistleblower. Input from Slovenia for the 2023 Rule of Law Report, p. 20.

¹²⁵ Information received from the CPC and Transparency International in the context of country visit to Slovenia.

¹²⁶ Civil society took an active role in the process and some of their ideas were incorporated into the draft law. Information received from Transparency International Slovenia in the context of the country visit to Slovenia. See also Transparency International Slovenia (2023), Press Release – TI Slovenia's response to the adoption of the Law on the protection of whistleblowers.

¹²⁷ For example, having the possibility for witnesses or suspects who bring information about alleged corruption offences to remain anonymous in criminal proceedings even in situations where there is no direct threat to their life (currently only a judge can grant anonymity to witnesses and only if their lives are endangered). Information received from the NBI and the Specialised State Prosecution Office in the context of the country visit to Slovenia.

¹²⁸ In 2022, the CPC issued a series of official systemic explanations clarifying the legal and practical aspects of lobbying, of conflicts of interest with an emphasis on prevention, the declaration and supervision of assets, as well as prohibitions and restrictions on gifts in the public sector. Input from Slovenia for the 2023 Rule of Law report, pp. 18-19.

¹²⁹ Such as incompatibility of offices, prohibitions regarding memberships and activities, limitations and prohibitions regarding the acceptance of gifts, restrictions on operations, the duty to avoid any conflicts of interest, the duty to declare assets, etc.

¹³⁰ Commission for the Prevention of Corruption (2023), Annual Report 2022. See also its 'Assessment of the Situation in 2022'.

(within 212 municipalities)¹³¹. The CPC has oversight functions under the Integrity and Prevention of Corruption Act (IPCA)¹³² covering professional holders of public office but not under the Public Employees Act covering other public servants and which does not necessarily preclude income-generating professional or other activity¹³³. In addition, independent checks at the local level do not seem to be carried out regularly while the CPC does not have competence to carry out checks at that level¹³⁴. Such systematic discrepancies in the application of the rules and between office holders indicate a need for legislative streamlining, including at the local-municipal level¹³⁵. There are no indications of any planned reforms in this area at this stage¹³⁶. The CPC completed an analysis of corruption risks in public sector employment following a change of government. It identified potential systemic corruption risks in employment of officials and persons of trust (political appointees) after the expiry of their mandate. It issued recommendations on how to address these risks including the need for a legal framework for a “cooling-off period” after the end of the term of office¹³⁷. On the side of Parliament, the Council of the President of the Parliament is responsible for monitoring the implementation of the Code of Ethics for members of Parliament¹³⁸ and, in case of misconduct, may issue sanctions. In 2022, three potential breaches of the Code of Ethics were detected¹³⁹.

¹³¹ Information received in the context of the country visit to Slovenia from the CPC.

¹³² The IPCA applies to professional holders of public office that include high-level officials such as parliamentarians, members of government and judges as well as officials in other state bodies and local communities. Unless they are covered by another act, such officials may not engage in any income-generating professional or other activity. Certain exceptions apply (e.g., engaging in pedagogical, scientific, artistic, or cultural or activities) which must be notified to the CPC.

¹³³ The practical consequence of this legal framework is that certain public officials, such as directors of health institutions at the local level are not prevented from engaging in any paid profession and thus not in breach of ‘incompatibility of office’ as they are covered by the terms of their employment contract and conflict of interest rules under the Public Employees Act rather than by the IPCA. Information received from the Ministry of Justice and the CPC in the context of the country visit to Slovenia. In addition, there are no limits to the amount of additional income deriving from certain activities in associations, foundations or political parties nor is it taken into consideration when assessing incompatibilities of office or conflict of interest. Article 27 (1) of the IPCA. See also Rule of Law Report 2022, p. 13, footnote 85.

¹³⁴ Such checks would be conducted, for example, by supervisory bodies of companies owned by local municipalities (e.g., Council of a health institution owned by the municipality). Information received from the Ministry of Justice and CPC in the context of the country visit to Slovenia.

¹³⁵ Information received in the context of the country visit to Slovenia from the Commission for the Prevention of Corruption. In 2021, the CPC had already warned that the current legislation was inconsistent, unequal, and deficient, opening room for diverging interpretations and different treatment. It had identified systemic corruption risks and issued recommendations to the government, including the uniform regulation of incompatibility of functions and prohibition of membership and activities for all officials within the provisions of the IPCA, defining, if necessary, the acceptable level of income or other financial benefits for professional public officials by law, and establishing a method of sanctioning directly elected officials in cases of perceived violations in connection with incompatibility of functions. See Commission for the Prevention of Corruption (2021), Opinion on the examination of the complaints alleging infringements of the provisions on the incompatibility of the duties of officials.

¹³⁶ The Government’s 2022-2026 Programme to Strengthen Integrity and Transparency in the public sector takes account of the 2020 CPC guidance on conflict of interests. Written information received in the context of the country visit to Slovenia from the Ministry of Justice and the Ministry of Public Administration.

¹³⁷ Commission for the Prevention of Corruption (2022), Analysis of the assessment of corruption risks including clientelism in public sector employment in the period of government change between 2004 and 2013.

¹³⁸ The Council of the President of the National Assembly adopted, at its 71st meeting of 12 June 2020, the Code of Ethics for Deputies of the National Assembly of the Republic of Slovenia. Available here: <https://www.dz-rs.si/wps/portal/en/Home/AboutNA/PoliticalSystem/CodeEthics>.

¹³⁹ Input from Slovenia for the 2023 Rule of Law Report, Annex II, p. 25.

They were discussed in a closed meeting of the Council of the President in January 2023. The cases were withdrawn, and no sanctions were imposed¹⁴⁰.

Lobbying reports to the Commission for the Prevention of Corruption have improved but there are issues with the interpretation of the rules. In 2022, the Commission for the Prevention of Corruption (CPC) received 3 639 lobbying reports (4 526 in 2021). In 2022, it carried out 9 proceedings for violations of the lobbying rules (12 in 2021) and concluded they had been breached in 6 cases (5 in 2021; 3 cases are not finalised) and initiated 4 misdemeanour proceedings (none finalised)¹⁴¹. The level of reporting amongst interest groups has improved. However, the CPC was compelled to issue guidelines¹⁴² clarifying the legal and practical aspects of lobbying in view of the flexible interpretation by interest groups and lobbyists as to who is covered by and who is exempt from the rules¹⁴³. The CPC expects that the IT system being developed will improve its technical capacity to review the lobbying reports and increase the reporting level¹⁴⁴.

Risks of corruption in public procurement persist particularly in the health care sector. Several actions were taken in the past to increase digitalisation and competition in public procurement procedures, including a new amendment to the Public Procurement Act, in force since 1 January 2022¹⁴⁵. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 26% of companies in Slovenia (EU average 26%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁴⁶. In February 2023, the Ministry of Health and the Commission for the Prevention of Corruption announced their intention to carry out an analysis of public sector performance in the field of healthcare¹⁴⁷. The Ministry of Public Administration has continued its efforts to increase the level of transparency by upgrading the Register of Public Procurement Contracts¹⁴⁸ to provide more detailed information about the life cycle of public contracts¹⁴⁹. To

¹⁴⁰ Information received from the Parliamentary Secretariat in the context of the country visit to Slovenia.

¹⁴¹ Commission for the Prevention of Corruption (2023), Annual Report 2022.

¹⁴² Commission for the Prevention of Corruption (2022), 'Systemic Explanation of Lobbying'.

¹⁴³ Information received from the CPC in the context of the country visit to Slovenia.

¹⁴⁴ Ibid.

¹⁴⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p.16. In the context of the European Semester, a Country Specific Recommendation is addressed to Slovenia to improve competition, professionalisation and independent oversight in public procurement.

¹⁴⁶ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). This is at the same level as the EU average.

¹⁴⁷ This will review suppliers in the field of procurement of medical equipment and pharmaceutical and personal care products in relation to 26 public care institutions for the period 1 January 2018 to 31 December 2022. Ministry of Health, Press Release - 'Ministry of Health launches supplier analysis to public health institutions', and Commission for the Prevention of Corruption, Press Release - 'The Commission, in cooperation with the Ministry of Health, launched an analysis of suppliers to 26 public health institutions at secondary level', 22 February 2023. The Specialised State Prosecutor's Office reports that the health and energy sectors remain at high risk of corruption in 2022. Specialised State Prosecution Office (2023), Annual Report 2022, pp. 146, 152-153, 159 and 161. In 2022, the Commission for the Prevention of Corruption identified a high risk of corruption or conflicts of interest primarily in public procurement in the healthcare sector. Input from Slovenia for the 2023 Rule of Law Report, pp. 20-21.

¹⁴⁸ Part of the Public Procurement Portal available at <https://www.enarocanje.si/>.

¹⁴⁹ Such as on public spending, including contracts, their amendments, and annexes, as well as monthly publication of payments for concluded contracts. Information received from the Ministry of Public Administration in the context of the country visit to Slovenia.

address the possible lack of transparency behind the use of the negotiated procedure, an amendment to the Public Procurement Act¹⁵⁰ introduces safeguards to mitigate against corruption risks. In 2022, the Commission for the Prevention of Corruption referred several cases to the National Review Commission for Public Procurement.

III. MEDIA PLURALISM AND MEDIA FREEDOM

In Slovenia, the legal framework for freedom of expression and information is established by the Constitution¹⁵¹, while media plurality is ensured through specific secondary legislation¹⁵². The audiovisual media services regulator, the Agency for Communication Networks and Services (AKOS), an authority which is legally and functionally distinct from the Government. The Access to Public Information Act guarantees access to information held by public authorities, while the rules on transparency of media ownership require companies to declare to the competition authorities the ownership or management influence above a certain threshold. A considerable change in ownership requires also the agreement of the competent ministry. A new law regulating the public service broadcaster RTV Slovenija is in force and under constitutional review.

Amendments to the legal framework regulating the media regulator were introduced, but concerns remain with regard to lack of safeguards for its independence. AKOS is a convergent regulator serving several different sectors, including telecommunications, postal services, railway service market, radio frequency spectrum, broadcasting, and other electronic media¹⁵³. AKOS has also been active in the promotion of media literacy and has continued to develop the media and information literacy portal, one of the first online portals developed by media regulators in the EU aimed at raising public awareness on the importance of critical and safe use of media content and information technologies¹⁵⁴. In addition, AKOS is competent for the enforcement of the audiovisual media regulation on hate speech; in this context, it issued, in 2022, guidelines on the implementation of content regulation prohibiting incitement to violence or hatred and incitement to commit terrorist offences¹⁵⁵, and dealt with two cases of incitement to hatred concerning broadcasting programmes¹⁵⁶. In order to fulfil its extensive functions, AKOS relies on a self-financing system based on fees collected from the

¹⁵⁰ Law on amendments to the Public Procurement Act (ZJN-3D), Official Journal, No. 28/2023 of 3.3.2023, adopted on 21 February, published on 3 March and entered into force on 1 April 2023.

¹⁵¹ Constitution of Slovenia, Article 39. Slovenia ranks 50th in the 2023 Reporters without Borders World Press Freedom Index compared to 54th in the previous year.

¹⁵² Mass Media Act, Audiovisual Media Services Act, Electronic Communication Act 2022.

¹⁵³ 2022 Media Pluralism Monitor, country report for Slovenia, p. 13.

¹⁵⁴ AKOS (2021), Annual Report 2021, pp. 70-71, and information received from AKOS in the context of the country visit to Slovenia.

¹⁵⁵ AKOS (2022), the Agency's position and recommendation to publishers on the implementation of the provision of the audiovisual media services act prohibiting incitement to violence or hatred.

¹⁵⁶ While an alleged case of racial discrimination is still under investigation, in October 2022, AKOS found that the broadcaster Nova24TV station and its show 'Who is Lying to You?' had incited violence and hatred on the grounds of belief, political or other opinion, violating the Audiovisual Media Services Act, AKOS (2022), 'Decision 06121 – 13/2022/7', and information received from AKOS in the context of the country visit to Slovenia.

undertakings operating in the sectors falling under its regulatory remit¹⁵⁷. The Government has also secured further human resources to support the fulfilment of the new tasks attributed to AKOS in the Audiovisual Media Services Act¹⁵⁸. Nevertheless, some stakeholders consider the current level of AKOS resources insufficient for the fulfilment of its responsibilities in the electronic media field¹⁵⁹. The independence of AKOS is guaranteed by the new Electronic Communication Act adopted in September 2022 and transposing the Electronic Communication Code¹⁶⁰. Parliament eventually withdrew certain controversial provisions on the appointment and dismissal of the head of AKOS, contained in the original proposal, which were seen as violating AKOS's autonomy¹⁶¹. However, certain critical provisions already reported in the 2022 Rule of Law Report remain unchanged¹⁶².

New safeguards have been adopted to improve the independence of the public services media. The 2022 Report recommended Slovenia to “strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media”¹⁶³. Over the last year, challenges to the independence of RTV Slovenija persisted¹⁶⁴ with issues reportedly related to the appointment to the management roles, alleged mobbing and smearing of RTV Slovenija staff, and the adoption by the RTV Slovenija's management of controversial measures on staffing and programming¹⁶⁵. This has included threats of dismissal, disciplinary actions and incentives for early retirements, which have also led the Union of RTV Slovenija journalists to stage several strikes demanding editorial autonomy and the resuming of an effective social dialogue¹⁶⁶. In December 2022, amendments to the RTV Slovenija Act entered

¹⁵⁷ For its operation AKOS relies on an overall budget of EUR 5.5 million, EUR 700 000 of which are devoted to the enforcement of media regulation. Information received from AKOS in the context of the country visit to Slovenia.

¹⁵⁸ Information received from AKOS in the context of the country visit to Slovenia.

¹⁵⁹ Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p. 4; 2023 Media Pluralism Monitor, country report for Slovenia, p. 12 and information received from the Peace Institute & National NGO umbrella network (CNVOS) in the context of the country visit to Slovenia.

¹⁶⁰ Electronic Communication Act 2022, Articles 242-249.

¹⁶¹ AKOS (2022), Press release – Agency for further consideration of the electronic communications act without controversial provisions; STA (2022), New electronic communications act passed, as confirmed by information received in the context of the country visit to Slovenia from AKOS and the Ministry of Culture.

¹⁶² 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 17. In particular, the Director General is still appointed by the Government upon a proposal from the responsible minister, after a public selection and there are no rules for the Director General to avoid conflict of interests during the term of office with the Government or the political parties, Electronic Communication Act 2022.

¹⁶³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

¹⁶⁴ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 18-19. According to European Parliament's Flash Eurobarometer: News & Media Survey 2022, 43% of respondents in Slovenia stated that they trust public TV and radio stations, below the EU average of 49%.

¹⁶⁵ In March 2023, the Higher Labor and Social Court found the appointment of the incumbent Director General of RTV Slovenija to be illegal, as he did not meet the relevant experience criteria required by law, see STA, 2021 appointment of RTV director general ruled unlawful, 8 March 2023. In August 2022, the incumbent Director of TV Slovenija questioned the editorial decisions of a news anchor and the editor, asking the editor-in-chief to assess their actions, while a court decision of September 2022 found the dismissal of the previous Director of TV Slovenija unlawful, see contribution from the National NGO umbrella network (CNVOS) for the 2023 Rule of Law Report, pp. 6-7. The Director General of RTV Slovenija appointed a different editor-in-chief, disregarding the indications of the newsroom staff, 80% of whom voted for a different candidate, see contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p. 8.

¹⁶⁶ Stakeholders reported about dozens of complaints filed by RTV Slovenija staff with relevant authorities over alleged pressures received by the leadership of the public broadcaster, Contribution from Liberties (Peace

into force after being confirmed at the referendum held in November 2022¹⁶⁷. These amendments are currently under constitutional review before the Constitutional Court¹⁶⁸, following an initiative launched in January 2023 by the president of the RTV Slovenija Programme Council¹⁶⁹, who considered the new rules unconstitutional as, inter alia, they would no longer allow Parliament to appoint members of the RTV governing bodies¹⁷⁰. On similar premises, some stakeholders have opposed the new law as an attempt by the ruling coalition to remove the incumbent leadership of RTV Slovenija and achieve a disguised politicisation of the public service broadcaster “by the back door”¹⁷¹. In the Government’s view, supported by several stakeholders, the new Act depoliticises the relevant governing and management bodies and aims to restore the RTV Slovenija independence vis-à-vis political actors¹⁷². In particular, the law replaces the two former governing bodies, the Programme Council and the Supervisory Council, whose majority of members was appointed by Parliament, with a new single Council, which is composed of representatives appointed by the RTV Slovenija staff, independent

Institute) for the 2023 Rule of Law Report, p. 9; Contribution from the National NGO umbrella network (CNVOS) for the 2023 Rule of Law Report, p. 6, and information received from the Union of Journalists, the Association of Journalists, and the Peace Institute & National NGO umbrella network in the context of the country visit to Slovenia. The MPM 2023 considered the independence of public service media at high risk, with a risk score of 96%, due to the deteriorating working conditions and the escalation of managerial and political pressures on RTV Slovenija staff, 2023 Media Pluralism Monitor, country report for Slovenia, p. 19.

¹⁶⁷ 62.83% of voters supported the amendments to the RTV Slovenija Act, according to the results provided by the National Electoral Commission.

¹⁶⁸ On 16 February 2023, the Constitutional Court temporarily suspended, until the adoption of its final judgment, the implementation of the transitional provisions regulating the setting up of the new governing and management bodies of RTV Slovenija, while allowing the continuation of the appointment procedures for the new Council. Stakeholders indicated a lack of clarity with respect to the operational capacity of the public broadcaster as the new Council could not start operating while the incumbent governing and managerial bodies, operating in an ‘acting capacity’ could only perform caretaker duties and were not able to fully function. With a decision adopted on 26 May 2023, the Constitutional Court lifted the temporary suspension of the transitional provisions and allowed the amendments to the RTV Slovenija Act to fully take effect, including the possibility for the new RTV Slovenija Council to be established and start operating, Decision of the Constitutional Court of 16 February 2023, *U-I-479/22-25*; STA, Jurist says court's decision on RTV law creates legal uncertainty, as confirmed by information received by the Association of Journalists, the Peace Institute & National NGO umbrella network, and the Union of Journalists; Decision of the Constitutional Court of 26 May 2023, *U-I-479/22-63*; STA (2023), Constitutional Court allows new RTV Slovenija Act to take effect.

¹⁶⁹ STA (2022), Constitutional challenge of changes to RTVS act filed.

¹⁷⁰ Written contribution from the Programme Council of RTV Slovenija in the context of the country visit to Slovenia.

¹⁷¹ According to some stakeholders, this would be achieved through selected groups and according to non-transparent appointment procedures of the members of the new Council, leading to a corporatist capture of the public service media where specific entities would be able to promote their partisan and sectorial interests to the detriment of pluralism. Information received from the Programme Council of RTV Slovenija in the context of the country visit to Slovenia; written contribution from the Association of Journalists and Publicists in the context of the country visit in Slovenia, pp. 3-4.

¹⁷² Input from Slovenia for the 2023 Rule of Law Report; pp. 23 and 25 Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, pp. 7-8; Contribution from the International Press Institute for the 2023 Rule of Law Report, p. 15; Contribution from the National NGO umbrella network (CNVOS) for the 2023 Rule of Law Report, pp. 4-5; Contribution from the European Federation of Journalists for the 2023 Rule of Law Report, pp. 59-60; as confirmed by information received in the context of the country visit to Slovenia from the Ministry of Culture, the Union of Journalists, the Peace Institute & National NGO umbrella network, and the Association of Journalists.

entities, and civil society organisations¹⁷³. In addition, the new law also reforms the managerial structure of RTV Slovenija, by replacing the post of director general with a collective management board of four members¹⁷⁴. On 5 June 2023, the new Council held its first session in which it elected its president and started the procedure for the selection and appointment of the new collective management board. Considering that under these new rules the governing and managerial bodies are no longer directly appointed by Parliament, the possibility for any Government, through its parliamentary majority, to exert political influence on RTV Slovenija is expected to be significantly reduced. Pending the final decision of the Constitutional Court on the merit, the newly adopted rules are therefore expected to enhance the independent governance and editorial independence of public service media. Consequently, the recommendation made in the 2022 Rule of Law Report has been fully implemented.

The situation of the Slovenian Press Agency has improved. Since the 2022 Rule of Law Report¹⁷⁵, no political interference in the editorial choices of the Slovenian Press Agency (STA) have been reported by stakeholders¹⁷⁶, as the new Government has repealed the regulatory framework which enabled the Government Communication Office (Ukom) to fund STA on a per-item basis rather than annually¹⁷⁷. The contract for the financing of the public service of the Agency, signed by STA and Ukom in January 2023, raised the funds by around 10% compared to the previous year¹⁷⁸. The STA's Director and staff welcomed the contract as an important development towards ensuring more financial stability and adequate editorial independence for the Agency¹⁷⁹. Nevertheless, the Union of Journalists has stressed the need to properly update the relevant legislation, the Slovenian Press Agency Act, to prevent potential future financial exhaustion crises¹⁸⁰.

¹⁷³ In particular, the new Council will be composed of 17 members, of which six will be appointed by the employees of RTV Slovenija, while the remaining 11 members will be appointed on the basis of public calls by the Italian National Union, the Hungarian National Community, the President of the Republic of Slovenia, the Slovenian Academy of Science, the National Culture Committee, the Slovenian Olympic Committee, the Information Commissioner, the Council for Sustainable Development, and the Human Rights Ombudsperson, respectively, Act amending the RTV Slovenija Act, article 17.

¹⁷⁴ In particular, the Chairman of the management board will be appointed by the Council on the basis of a public tender, one member, acting as Labour Director, will be directly elected by the RTV Staff, while the remaining two members will be appointed by the Council on a proposal from the Chairman, Act amending the RTV Slovenija Act, article 21.

¹⁷⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 19-20.

¹⁷⁶ Contribution from the International Press Institute for the 2023 Rule of Law Report, p. 16 and information received from the Peace Institute & National NGO umbrella network (CNVOS) in the context of the country visit to Slovenia.

¹⁷⁷ 2023 Media Pluralism Monitor, country report for Slovenia, p. 18; STA (2022), Government repeals contested regulation on STA public service obligation, as confirmed by information received in the context of the country visit to Slovenia from the Peace Institute & National NGO umbrella network (CNVOS) and the Union of Journalists.

¹⁷⁸ STA (2023), Government endorses annual contract with STA for 2023.

¹⁷⁹ STA (2023), STA director says new funding contract to allow normal functioning, and information received from the Peace Institute & National NGO umbrella network (CNVOS) and the Union of Journalists in the context of the country visit to Slovenia.

¹⁸⁰ Information received from the Union of Journalists in the context of the country visit to Slovenia.

The gap in the legal framework regulating transparency of media ownership continues to raise concerns. As mentioned in previous Reports¹⁸¹, the legislative framework is outdated and characterized by regulatory and enforcement gaps for addressing high concentration of media and ownership transparency. The Mass Media Act requires publishing or broadcasting companies to disclose information about individual ownership or management stakes in the company when they exceed 5%¹⁸². However, several stakeholders have stressed that the current transparency regime does not provide for enough data allowing to identify the beneficial owners nor to detect some complex cross-ownership structures which are used to circumvent the rules limiting horizontal and cross-media concentration in the media sector¹⁸³. Stakeholders have also indicated the need to address the loopholes which enable to circumvent the rules on media concentration, leading to high levels of horizontal concentration in the media market and the related risk of decreasing plurality and diversity of content¹⁸⁴. In this regard, the Government has announced an overhaul of the media legal framework with a view to improve transparency and plurality in the media sector as well as the system of media regulation¹⁸⁵.

The regulatory gap for ensuring transparency in the allocation of state advertising has not been addressed yet. As reported in previous Reports¹⁸⁶, the legal framework neither contains rules on the transparency of state advertising nor adequate safeguards against its political misuse. As reported by several stakeholders, the misuse of state advertising is a long-standing issue in the media landscape; state advertising is often allocated, both at national and local level, in a non-transparent manner, without taking into account professional marketing standards or objective key performance indicators such as audience ratings or print circulation¹⁸⁷. In this respect, the Government indicated the adoption of rules aimed at ensuring

¹⁸¹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 17-18; 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 16-17; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 12.

¹⁸² Mass Media Act, Articles 12 and 14.

¹⁸³ 2023 Media Pluralism Monitor, country report for Slovenia, p. 14, as confirmed by written contribution from the Association of Journalists and Publicists in the context of the country visit in Slovenia, p. 8, and information received from the Union of Journalists, the Human Rights Ombudsperson, AKOS, the Peace Institute & National NGO umbrella network (CNVOS), and the Association of Journalists in the context of the country visit to Slovenia.

¹⁸⁴ 2023 Media Pluralism Monitor, country report for Slovenia, p. 14, as confirmed by information received in the context of country visit to Slovenia from the Association of Journalists; The Media Pluralism Monitor 2022 reports a high risk for the indicator on news media concentration, stemming in particular from the high horizontal concentration which characterizes the radio and the print sectors, which are dominated by the same actors by means of unclear ownership structures: “The media market is small and horizontal concentration is generally high. Same is true for vertical integration. The highest horizontal concentration is present in the radio sector (which is dominated by one actor operating through unclear ownership structures), followed by the magazine sector (dominated by the same publisher as in the radio sector, increasing cross-media concentration even further). [...] Combining radio and television activities, advertising and radio and television activities or telecommunications and radio and television activities is not permitted. The limitations are however not always implemented [...]”, 2022 Media Pluralism Monitor, country report for Slovenia, pp. 14-15.

¹⁸⁵ STA (2023), Minister: Media reform to prioritise protection of STA, RTV independence, and information received from the Ministry of Culture in the context of the country visit to Slovenia.

¹⁸⁶ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p.18; 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 17-18; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 12.

¹⁸⁷ Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p.6; 2023 Media Pluralism Monitor, country report for Slovenia, p. 19; 2022 Media Pluralism Monitor, country report for Slovenia, p. 19,

the transparent and fair allocation of state advertising as one of its priorities¹⁸⁸. In the first half of 2023, the Government Communication Office is expected to issue guidelines aimed at providing state institutions with common criteria for the transparent allocation of their advertisements¹⁸⁹. In June 2022, Parliament established an inquiry to investigate the allegedly illegal direct or indirect advertising practices followed by state institutions, state-owned enterprises and other public bodies¹⁹⁰.

Access to information is ensured through a robust legal framework, although misuse in practice has been reported. The right of access to information is enshrined in the Constitution¹⁹¹ and regulated by the Access to Public Information Act, which provides for well-defined exceptions limiting the access to certain information as well as appeal mechanisms against decisions by which public bodies refuse or dismiss a request of access¹⁹². In 2022, the Access to Public Information Act was amended to transpose the EU Open Data Directive¹⁹³, fostering the re-use of relevant information held by public institutions and bodies¹⁹⁴. Nevertheless, stakeholders have reported on the misuse of the relevant provisions by public administrations which results in the access to information being restricted or prevented in practice¹⁹⁵.

The Government has taken some initial steps to address challenges related to the safety of journalists. The 2022 Rule of Law Report recommended to Slovenia to ‘establish legislative and other safeguards to protect journalists, particularly online, taking into account European standards on the protection of journalists’¹⁹⁶. The freedoms of expression and information are enshrined in the Constitution and judicial mechanism are in place to uphold them. The Government has announced to strengthen the regulatory framework for the safety of journalists through the implementation of an Anti-SLAPP (strategic lawsuits against public participation) package and the establishment of an information contact point for victims of SLAPP cases¹⁹⁷.

as confirmed by information received in the context of the country visit to Slovenia from the Union of Journalists, the Association of Journalists, and AKOS.

¹⁸⁸ STA (2023), Minister: Media reform to prioritise protection of STA, RTV independence, and information received from the Ministry of Culture in the context of the country visit to Slovenia.

¹⁸⁹ Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p.6.

¹⁹⁰ STA (2022), Parliament launches inquiry into financing of "party propaganda in media"; the act ordering the establishment of the parliamentary inquiry was published in the Official Journal of the Republic of Slovenia, No. 89/2022 of 1 July 2022.

¹⁹¹ Constitution of Slovenia, Article 39. In March 2023, Slovenia also ratified the Council of Europe Convention on access to public documents.

¹⁹² Access to Public information Act, Articles 5, 5a, 6 and 27.

¹⁹³ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information.

¹⁹⁴ Input from Slovenia for the 2023 Rule of Law Report, p.26.

¹⁹⁵ In particular, stakeholders have reported about cases of public institutions and bodies not replying to requests of access, excessively prolonging the relevant procedures or providing only partial information, Contribution from the International Press Institute for the 2023 Rule of Law Report, p.21; Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p.12; 2023 Media Pluralism Monitor, country report for Slovenia, p. 12; 2022 Media Pluralism Monitor, country report for Slovenia, pp.11-12.

¹⁹⁶ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

¹⁹⁷ In April 2023, the Government established a working group which is composed by representatives of the Ministry of Justice and the Ministry of Culture and is tasked with implementing the Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings. The working group is

On 17 March 2023, the Government established a Strategic council for the Prevention of Hate Speech aimed at addressing online coordinated attacks and smear campaigns against journalists and civil society activists¹⁹⁸. Based on inputs received by relevant interested parties, including the representatives of the competent ministries, civil society organisations and experts, the Strategic Council is preparing a set of recommendations, which are intended to be adopted in July 2023, with a view to propose measures that could foster a more effective prevention of hate speech and the protection of journalists¹⁹⁹. In addition, schemes for quality journalism and democracy with a view to support independent journalism and enhance the media sector's resilience are also under development²⁰⁰. Several stakeholders have indicated an improvement with respect to the general attitude of the new Government towards the media community and the possibility for media outlets and journalists to work in a less hostile environment²⁰¹. In 2022, the Mapping Media Freedom platform registered 12 alerts in Slovenia, a significant decrease compared to 2021 when 29 incidents were reported²⁰². However, different sources and stakeholders have reported ongoing cases of threats and pressures exerted by the management of RTV Slovenija against the editorial staff²⁰³. In addition, the increasing trend to SLAPPs²⁰⁴ and the current lack of an anti-SLAPP framework²⁰⁵, as well as the recurrence of cases of online harassment, intimidations, and smear campaigns against journalists, including from relevant political figures²⁰⁶, remain a source of concern for media actors in Slovenia. In this respect, the Association of Journalists has been active in developing initiatives aimed to increase the safety and protection of journalists and other media workers, which include the

also charged with carrying out a public call for the establishment of the information contact point for victims of SLAPP cases, written contribution from the Ministry of Culture in the context of the country visit in Slovenia.

¹⁹⁸ The Strategic Council, established by the Prime Minister, is composed of representatives of the Government, other public institutions and civil society organisations and is vested with monitoring and advisory powers, , Government of Slovenia (2023), Press release – Prime Minister's Office launches the Strategic Council for the Prevention of Hate Speech, as confirmed by written contribution from the Ministry of Culture in the context of the country visit in Slovenia.

¹⁹⁹ At its 5th Meeting held in May 2023, the Strategic Council made a set of draft proposals for the regulation of hate speech in the media field. As regards the protection of journalists, the draft recommendations stressed the need for the competent authorities to promptly address cases of attacks against journalists. To this end, the Strategic Council proposed the introduction of regular training for prosecutors, judges, police and other relevant authorities, and that prosecution of criminal offences committed on journalists and other related media actors should start *ex officio* and not on proposal from the victim. In addition, the recommendations also suggested that all procedures concerning media actors should be prioritised through an expedited procedure, Government of Slovenia, Press release – Strategic Council to Prevent Hate Speech on The Media, 25 May 2023.

²⁰⁰ Information received from the Ministry of Culture in the context of the country visit to Slovenia.

²⁰¹ Information received from the Association of Journalists and the Peace Institute & National NGO umbrella network (CNVOS) in the context of the country visit to Slovenia.

²⁰² Mapping Media Freedom, Slovenia country profile.

²⁰³ See footnotes 165 and 166.

²⁰⁴ The newspaper Necenzurirano has been targeted by more than 50 lawsuits, resulting in extensive legal costs which negatively affected the financial viability of the media outlet, Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p. 11; Contribution from the European Federation of Journalists for the 2023 Rule of Law Report, pp. 60-61.

²⁰⁵ Contribution from the International Press Institute for the 2023 Rule of Law Report, p. 21.

²⁰⁶ 2023 Media Pluralism Monitor, country report for Slovenia, p. 11 and 12; Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report p. 11; Contribution from the National NGO umbrella network (CNVOS) for the 2023 Rule of Law Report., p. 6; Written contribution from the Association of Journalists and Publicists in the context of the country visit in Slovenia, pp. 2-3, and pp. 5-6.

launch of a platform for reporting attacks on journalists²⁰⁷ and the development of a regular communication channel with the Police with a view to exchange relevant information and increase the safety of journalists²⁰⁸. Nevertheless, several stakeholders flagged the deterioration of journalists' working conditions and the lack of adequate public intervention to properly sustain professional journalism and the media sector²⁰⁹. In light of the generally improved attitude of the Government towards media, as also reflected in the lower number of cases of harassments against journalists, which represents a positive development, and considering that the Government has taken some initial steps for the implementation of the announced measures concerning the protection of journalists, there was some progress on implementing the recommendation made in the 2022 Rule of Law Report.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Slovenia has a parliamentary system of government with an 'imperfect' bicameral structure, where only the National Assembly (the first chamber of Parliament), and not the National Council (the second chamber of Parliament), adopts laws²¹⁰. Draft legislation can be tabled by the Government, any member of Parliament (the National Assembly), the National Council or at least 5 000 'voters'. The Constitutional Court carries out *ex post* constitutional review, including in concrete cases on the basis of a constitutional complaint. In addition to the justice system and other bodies, the Human Rights Ombudsperson and the Advocate of the Principle of Equality are also in charge of the protection of the rights of individuals.

The share of laws adopted by urgent procedure in Parliament has increased to the highest level in recent years. In 2022, the share of laws adopted by urgent procedure increased to 35%, which was at the highest level in recent years (17% in 2021, 32% in 2020, 18% in 2019, and 20% in 2018)²¹¹. As regards the public consultations on draft laws on the side of the Government, their duration was mostly shorter than the recommended 30-day period²¹². The number of submissions of documents to Parliament by civil society increased, while the number of participants that attended the sessions of the parliamentary working bodies decreased²¹³.

²⁰⁷ 55 cases have been reported since the launch of the platform in 2021, according to the information available on the Association of Journalists website, Report an attack | Slovenian Journalists' Association (novinar.com).

²⁰⁸ Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report p. 11, as confirmed by information received in the context of the country visit to Slovenia from the Association of Journalists.

²⁰⁹ 2022 Media Pluralism Monitor, country report for Slovenia, p. 27; Contribution from Liberties (Peace Institute) for the 2023 Rule of Law Report, p. 2, as confirmed by written contribution from the Association of Journalists and Publicists in the context of the country visit in Slovenia, p. 8, and by information received in the context of the country visit to Slovenia from the Union of Journalists, the Peace institute, and the Association of Journalists.

²¹⁰ Judgment of the Constitutional Court of 22 October 2008, *U-I-295/07*. According to the Constitution, the National Council has the right to veto adopted legislation which has to be voted again by absolute majority in the National Assembly to be adopted.

²¹¹ Written contribution from Parliament for the 2023 Rule of Law Report, p. 28, and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 21.

²¹² Counter of violations of the 2009 Parliament Resolution on the normative activity, CNVOS: <https://www.cnvos.si/stevec-krsitev/>.

²¹³ Number of documents submitted by the civil society: 237 in 2022, 203 in 2021, and 461 in 2020. Number of participants that attended the sessions of the parliamentary working bodies: 899 in 2022, 1253 in 2021, and

The Government submitted into parliamentary procedure constitutional amendments to reduce the Constitutional Court's considerable caseload. For several years, the Constitutional Court has been raising concerns about the considerable caseload, which prevents the Court from dedicating more attention to the constitutionally most far-reaching cases²¹⁴. Due to these challenges, in some cases the Court needs more than four years to reach a decision²¹⁵. In 2022, the Constitutional Court received about 6% fewer cases, compared to 2021, when excluding collective cases²¹⁶. This slight decrease in caseload combined with a 30% increase in resolved cases led to a 24% decrease in the backlog²¹⁷. In May 2023, the Government submitted into parliamentary procedure constitutional amendments that would reduce the Constitutional Court's caseload. Among the envisaged changes are setting into the Constitution the current list of privileged bodies that can request constitutional review (and are currently set in several laws) the gradual transfer of review of local government acts (and jurisdiction disputes between local government) and of spatial planning acts to the administrative courts, and allowing the Constitutional Court to select constitutional complaints and initiatives for constitutional review based on guidelines defined in the Constitution²¹⁸.

On 1 January 2023, Slovenia had four leading judgments of the European Court of Human Rights pending implementation, the same number as the previous year²¹⁹. At that time, Slovenia's rate of leading judgments from the past 10 years that remained pending was only at 13% (compared to 12% in 2022), and the average time that the judgments had been pending implementation was 1 year and 5 months (compared to 1 year and 10 months in 2022)²²⁰. The oldest leading judgment, pending implementation for 1,25 years, concerns the lack of an effective remedy to challenge or seek compensation for national bank's extraordinary

1155 in 461. Written contribution from Parliament for the 2023 Rule of Law Report, pp. 25-26, and input from Slovenia for the 2022 Rule of Law Report, p. 25.

²¹⁴ Among the possible solutions, a) setting into the Constitution a reduced list of privileged bodies that can request a constitutional review, b) introducing a filtering mechanism for constitutional complaints, and c) transferring the review of legality of bylaws to the administrative courts, have been discussed. Information received from the Constitutional Court in the context of the country visit to Slovenia.

²¹⁵ Information received from the Constitutional Court in the context of the country visit to Slovenia.

²¹⁶ In 2022, the Court received 1 167 cases (compared to 1 245 in 2021, and 1 285 in 2020). It also received 1 087 collective initiatives for constitutionality review/collective constitutional complaints. The constitutional complaints constitute a large majority of cases (78%, compared to 75% in 2021), when excluding collective cases. Written contribution from the Constitutional Court in the context of the country visit to Slovenia.

²¹⁷ In 2022, the Constitutional Court resolved 1 657 cases (1 272 in 2021) when excluding collective cases. Pending cases at the end of 2022 amounted to 1 550 cases (2 043 at end 2021) when excluding collective cases.

²¹⁸ The draft constitutional amendments list the 'importance of the constitutional issue' and 'the gravity of the consequences of human rights violations' for the complainant or subject submitting the initiative for constitutional review.

²¹⁹ 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.

²²⁰ 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 2023. See the Contribution from the European Implementation Network for the 2023 Rule of Law Report, p. 7.

measures, cancelling the applicants' shares and bonds²²¹. On 15 June 2023, the number of leading judgments pending implementation has increased to five²²².

Legislative amendments introduced safeguards for budgetary autonomy of certain independent bodies. The 2022 Rule of Law Report recommended to Slovenia to “ensure requisite safeguards for budgetary autonomy of the independent bodies”²²³. The 2022 Report found that the law on public finances lacked requisite safeguards to define the budget of the National Council (the second chamber of Parliament), the Constitutional Court, the Human Rights Ombudsperson and the Court of Audit, as required by a Constitutional Court judgment²²⁴. The budget allocations for 2022 and 2023 have followed the budget proposals submitted by these institutions themselves²²⁵. On 28 June 2023, Parliament adopted amendments to the Public Finance Act which give the right to the abovementioned bodies to submit their own budgetary proposals to Parliament in case the Government would not agree with their initial proposals²²⁶. The amendments provide that in case of disagreement between the Government and certain independent bodies²²⁷ on their budget, the Government is obliged to insert into budgetary act submitted to Parliament the values proposed by these bodies. It would then be up to Parliament to decide on the budget of these bodies. Therefore, the recommendation made in the 2022 Rule of Law Report has been fully implemented.

The Human Rights Ombudsperson continued to receive an important number of complaints. The 2022 Rule of Law Report found that the Ombudsperson, which gained A-status in 2021²²⁸, received an increased number of complaints, including those related to COVID-19 pandemic measures. In 2022, the number of complaints slightly decreased (by 13% compared to 2021) but remained significantly higher than in 2019²²⁹. The Ombudsperson has, together with the Ministry of Justice, prepared amendments to the Human Rights Ombudsperson’s Act, which were on 22 June 2023 submitted into public consultation²³⁰. In 2022, the Ombudsperson issued 86 new recommendations, with a large majority based on initiatives from individuals²³¹. In addition, the Ombudsperson acting in the capacity of National Prevention Mechanism issued another 501 recommendations to various institutions²³². On

²²¹ Judgment of the European Court of Human Rights of 14 September 2021, *Pintar and others v. Slovenia*, 49969/14, pending implementation since 2021.

²²² Data according to the online database of the Council of Europe (HUDOC-EXEC).

²²³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 2.

²²⁴ The Constitutional Court annulled parts of the Public Finance Act and set provisional rules to ensure budgetary autonomy of the independent bodies, until the Public Finance Act would have been amended. The Constitutional Court set the deadline for the implementation of the decision to 23 December 2021. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 22.

²²⁵ Input from Slovenia for the 2023 Rule of Law Report, p. 31.

²²⁶ Amended Art. 20 of the Public Finance Act. The amendments are envisaged to come in force in mid July 2023.

²²⁷ The National Assembly, the National Council, Constitutional Court, Ombudsperson, and the Court of Audit.

²²⁸ According to the Principles relating to the Status of National Institutions (The Paris Principles).

²²⁹ The number of complaints received in 2022 was 5 949 (compared to 6 863 in 2021 and 4 600 in 2019). Information received from the Human Rights Ombudsperson in the context of the country visit to Slovenia.

²³⁰ Information received from the Human Rights Ombudsperson in the context of the country visit to Slovenia. The draft amendments envisage specialisation and extension of the Ombudsperson’s powers, for example a dedicated deputy Ombudsperson for children’s rights and new tasks regarding promotion, guaranteeing and monitoring the rights of persons with disabilities.

²³¹ Summary of the Human Rights Ombudsperson’s work in 2021, p. 4.

²³² Input from Slovenia for the 2023 Rule of Law Report, p. 32.

several occasions, the Ombudsperson expressed his concerns about the poor and slow implementation of his recommendations by the authorities²³³. In 2022, the Ombudsperson highlighted approximately 150 especially relevant past recommendations that remain either unimplemented or partially implemented²³⁴. The Ombudsperson regularly calls on authorities to secure timely implementation of ordinary court and Constitutional Court judgments as well as of recommendations from international, regional and national human rights bodies²³⁵. The Ombudsperson reiterated its 2020 recommendation that the Government should, similarly to the mechanism already in place for implementing European Court of Human Rights judgments, establish a special mechanism for providing expert assistance in implementing Constitutional Court judgments and would regularly inform the public about the state of play on implementation²³⁶.

Civil society has seen improvements in the enabling environment. The 2022 Rule of Law Report found that the civil society faced challenges regarding negative narratives, but funding issues and limitations on freedom of assembly were resolved²³⁷. The civic space in Slovenia is considered to be narrowed²³⁸. In 2022, civil society organisations (CSOs) reported improvements in the enabling environment, as the negative narrative addressed to CSOs largely ceased (including from the current Government coalition parties, which came into power mid-2022)²³⁹. In July 2022, the Government adopted the first report on the implementation of the Strategy on Development of Non-Governmental Organisations and Volunteering for 2018-2023, according to which most measures have been implemented with some delays that could be attributed to the COVID-19 pandemic²⁴⁰. Additionally, the new Government in the second half of 2022 took measures aiming to ensure effective operation and safety of civil society organisations, including the withdrawal of claims for reimbursement of the Police protection related to unauthorised protests²⁴¹. In the second half of 2022, the Government, in agreement with donors, launched activities to reallocate available funds to the Active Citizen Fund, which were allocated to the CSOs working in the field of human rights, democracy and the rule of law, and distributed through a public call²⁴².

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Ibid.

²³⁶ Summary of the Human Rights Ombudsperson's work in 2021, pp. 5-6.

²³⁷ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 23-24.

²³⁸ Rating given by Civicus, Slovenia; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²³⁹ Annual Civic Space Report for 2022 (CNVOS), pp. 3-8, and information received from Peace Institute and CNVOC in the context of the country visit to Slovenia.

²⁴⁰ Input from Slovenia for the 2023 Rule of Law Report, p. 33.

²⁴¹ Ibid.

²⁴² Ibid.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2023 Rule of Law report can be found at https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en.*

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Annex II: Country visit to Slovenia

The Commission services held virtual meetings in February and March 2023 with:

- Agency for Communication Networks and Services (AKOS)
- Association of Journalists
- Association of Journalists and Publicists (Ms Irena Zagajšek)
- Bar Association
- Commission for the Prevention of Corruption
- Constitutional Court
- Court of Audit
- Faculty of Social Sciences (Prof. dr. Marko Milosavljević)
- General Police Directorate (Economic Crime division), and National Bureau of Investigation (NPU)
- Human Rights Ombudsperson
- Judges' Association
- Judicial Council
- Ministry of Culture
- Ministry of Justice
- Ministry of Public Administration
- Ministry of the Interior
- National NGO umbrella network (CNVOS)
- National Review Commission
- Parliament Secretariat
- Peace Institute
- Radio-television Slovenia (RTV): Programme Council (President)
- State Prosecution (State Prosecutor General, Supreme State Prosecution Office, Specialised State Prosecution Office)
- State Prosecutorial Council
- Supreme Court
- Transparency International Slovenia
- Union of Slovenian Journalists

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

- ALDA (European Association for Local Democracy)
- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Culture Action 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
- Front Line Defenders
- ILGA Europe

- International Commission of Jurists
- International Federation for Human Rights (FIDH)
- International Planned Parenthood Federation European Network
- International Press Institute
- JEF Europe
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- SOLIDAR
- Transparency International EU