



VICE PRESIDENT VĚRA JOUROVÁ

COUNTRY VISIT: SLOVENIA

DAY 1

LOCATION: LJUBLJANA

DATE AND TIME: 1-2 MARCH 2023

MEMBER RESPONSIBLE: [REDACTED]

Steering brief

Scene setter

You are visiting Slovenia for the first time after the change of government on 2 June 2022, when Prime Minister Robert Golob (GS-Renew) took over from former Prime Minister Janez Janša (SDS-EPP). The new government enjoys a comfortable majority in the Parliament. Prime Minister Golob's party won the election in a landslide as voters mobilised against the excesses of Prime Minister Janša's governing style.

On the first day, you will meet the President of the Constitutional Court, as well as representatives of Slovenian media (policy side).

The meeting with Slovenian media will give you good insights on how the media perceive the situation of media freedom in the country, the efforts of the current government to initiate reforms, after the tense period under Janša. This meeting will help inform the discussions that you will have on the second day, including with the Minister of Culture.

The media issue might dominate your public debates and questions from journalists. This is a tense and controversial subject in the public debate. On media, we see a positive shift with the new government – which has also been supportive of efforts at EU level.

The **rule of law** is a highly political topic in Slovenia and subject to divisive opinions between the previous government and their supporters on the one hand and the new government, media and NGOs on the other.

The most high-profile issues under the previous government concerned its refusal to finance the public service of the Slovenian Press Agency (STA) as mandated by law; political appointments to public broadcaster RTV Slovenija's programming council and management, which led to pressures on journalists and undermined editorial independence; political meddling and abuse of police forces.

The new government has welcomed the Commission's rule of law report and initiated many changes that were positively acknowledged by the Commission at the Council exchange of views on the Slovenian 2022 rule of law report. The 2023 rule of law report country visit was conducted between 17 and 24 February, with two outstanding meetings left for 2 and 16 March. As in 2022, Commission services

met with a wide variety of ministries, institutions and civil society and professional organisations. The meetings were informative and held in a constructive atmosphere.

As part of the coalition agreement, the government has suggested a **media reform**, but there is no details or timing available. The minister of Culture might tell you more details. The suspected aim is to protect the independence of Slovenian Press Agency STA and public broadcaster RTV Slovenija, ensure fair and transparent state-funded advertising, and provide a comprehensive and sustainable model for funding media content that is in the public interest. The reform will also increase media transparency and plurality and improve the system of media regulation. These objectives sound similar to the objectives of the Media Freedom Act.

The situation at **RTV Slovenija** remains tense. Organisations of journalists, unions and NGOs claim that the appointments to the boards lead to serious breaches of editorial independence and biased reporting, undermining the reputation of the public broadcaster.

The new law on RTV Slovenija – one of the main election pledges of the current coalition government – entered into force on 28 December 2022. Politically, one of its main aims is to remedy the situation at the public broadcaster by “depoliticising” it, which in practice means changing the composition of the programming council and the management.

The public broadcaster bill was prepared in close cooperation with media experts and an NGO “Legal Network for Protection of Democracy (you will meet them in the course of your visit). The bill had been adopted under the emergency procedure as a means to depoliticise the public broadcaster after allies of the previous government were appointed to key posts.

However, the law was challenged at the Constitutional Court by the president of the broadcaster's programme council on the grounds that rules for the emergency parliamentary procedure were not followed. He also contested the legality of the provisions terminating the terms of current senior management.

On 20 February 2023, the Constitutional Court stayed (i.e. kind of interim measure to wait until the final ruling) the key provisions that enable the change of management. The decision is somehow

controversial because it means that the procedure of appointment of the new management structures can proceed while the Court continues deliberating, but the appointments will not take effect until the Court has reached the final decision on the matter. So in practice today there are two governing structures, the old one calling the shots and the new one waiting for the final court ruling.

On the positive side, the new governing body is appointed without involvement of politicians, but by civil society and RTV staff.

The government approved on 26 January 2023 a contract on the public service performed by the **Slovenian Press Agency (STA)** for 2023, raising its funds by around 10% compared to last year. The government endorsed the contract after repealing a regulation adopted by the previous government in June 2021 under which the agency was financed on a per-item basis rather than monthly as before. The regulation was to partly resolve its year-long dispute with the STA that left the agency on the brink of bankruptcy. The government is further expected to change the STA legislation in order to eliminate some ambiguities about the definition of the STA public service. The change would prevent any government from making arbitrary decisions in relation to the funding of the public service and thus the STA's editorial autonomy.

Regarding the **European Media Freedom Act**, Slovenia supports the text at the Council, stressing the importance of a pluralistic, independent media sector. The government has raised issues with regard to the new regulatory/supervisory functions that the Media Freedom Act would assign to national media regulatory authorities. They asked to take into account the diversity in regulatory systems of Member States, where more than one body may be involved and the current regulator under the AVMSD is not necessarily responsible for other, new tasks included in the Media Freedom Act. They also raised the importance of ensuring the full independence of the Board, in particular from the Commission.

Since the adoption of the Commission's 2022 Rule of Law Report, a possible case of **SLAPP** in a **civil** lawsuit has come to the fore. The lawsuit was brought in September 2021 by Slovenian MP Zmago Jelinčič Plemeniti against [REDACTED] TV Slovenia news programme because the Slovenian National Party (SNS) was not invited to a talk show. Media freedom groups denounced the lawsuit

as a targeted and baseless form of pressure on a journalist for the public broadcaster. According to the Council of Europe, since August 2020 three journalists have each had 13 different **criminal** lawsuits lodged against them by [REDACTED] a tax expert and unofficial financial advisor to former Slovenian Prime Minister Janez Janša, targeting their reporting on his business dealings and alleged involvement in an illegal loan to the (then) ruling SDS party.

While generally supporting our **anti-SLAPP** objectives, Slovenia has rarely taken the floor during the technical Council negotiations and its detailed position is not yet clear. Unlike many other Member States, Slovenia has not yet submitted comments in writing. During the policy debate in the JHA Council in December 2022, Slovenia stressed that legitimate lawsuits should not be impeded, and requested that anti-SLAPP protection should not be extended to those spreading fake news. The latest text changes discussed at technical level in the Council Working Party should accommodate these concerns to a considerable extent. Slovenia has not yet nominated a focal point for the implementation of the anti-SLAPP Recommendation.

Social networks, especially Facebook and, to a lesser degree, Twitter, remain the main vectors of misinformation and **disinformation** in the Slovenian media landscape. The main narratives concern the war in Ukraine, immigration issues and public health matters, especially the COVID-19 epidemic and vaccines. The established, legacy media organisations such as the public TV and radio broadcaster, the national news agency, the biggest newspapers and the most popular news portals only rarely amplify such narratives. Disinformation have been increasingly weaponised against political opponents in internal political battles, mainly by social media accounts and web portals either owned by or close to various political parties.

Slovenia has been supportive of the EU policy to tackle **online hate speech**, including by highlighting this problem in a conference during its presidency and by supporting the initiative to extend the list of EU crimes to include hate speech and hate crime.

Concerning the **Russian war of aggression against Ukraine**, both the previous and the current government have condemned the aggression and committed to support Ukraine as long as is needed. Former Prime Minister Janša was among the first three European leaders who visited Kyiv after the start of the war. Furthermore,

Slovenia re-opened its embassy in Kyiv already in April 2022. Slovenia is also among the biggest donors per capita to Ukraine among the EU Member States, having already provided around EUR 23 million of humanitarian and military aid.

Pro-Russian narratives in Slovenia are mainly spread on fringe news portals and on social media – especially Facebook and Twitter. These narratives focus on the alleged ineffectiveness of sanctions against Russia, de-industrialisation of the EU economy as a consequence of energy sanctions, the submission of EU policies and policymakers to the US economic and military interests, and shifting of responsibility for the war onto aggressive Western/NATO policies. **Pro-Russian narratives have not been able to gain a foothold in the established media**, although they can surface in some opinion pieces. It does not appear that these disinformation activities are being directly led or paid by Russian actors, although the possibility cannot be excluded.

On 20 February, prominent personalities in Slovenia, including two former Presidents (Milan Kučan, Danilo Türk) published a **letter calling on the EU, the US, NATO and the Russian Federation to stop the fighting in Ukraine**, stop arms supplies and start peace negotiations as there is an increasing risk of further escalation, which could end in nuclear war. The letter was carried by all big Slovenian media, igniting a furious debate on social media.

PM Golob clearly distanced himself from the letter.

The letter was met with two replies in Slovenia's leading daily Delo – one from columnists, and one from ambassadors accredited in Ljubljana. Both pointed out that it is unfair to call on NATO to end the conflict, as it has not started it, nor is it a party to it. On the other hand, Russia could end the conflict tomorrow by withdrawing its army behind its borders. Both letters warned that calling on NATO to end the war is recycling Russian talking points.

Peace protests took place in the capital, Ljubljana. Slovenia supports a common EU approach to imposing **sanctions** on Russia. As regards the economic and financial impact of the Russian aggression against Ukraine, Slovenia supports coordinated measures and solidarity among Member States. In June 2022 Justice Minister Švarc Pijan called for caution on the proposed directive on confiscation of assets

of people violating sanctions imposed by the EU. She stressed that all EU actions must be in line with the rule of law and common, European values, especially when it comes to confiscating assets, which is a major encroachment on the rights of the individual.

Slovenia is one of the 14 Member States that have **opened national investigations into international crimes** committed in Ukraine. Justice Minister Švarc Pipan has stated that all **war crimes** committed during the war in Ukraine must be investigated and perpetrators tried. The parliamentary Justice Committee unanimously endorsed a draft declaration on the European Parliament's resolution on fighting impunity for war crimes in Ukraine, which was tabled by the opposition (SDS-EPP) in June 2022. Together with the Netherlands, Slovenia, plays a leading role in developing the **Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes (MLA convention)**. The international treaty would facilitate cooperation in prosecuting war crimes in Ukraine and should be signed at a diplomatic conference in Ljubljana at the end of May in the presence of Commissioner Reynders. More than 77 countries, including all EU Member States, formally support the initiative and further support is expected. The Commission was asked to financially support the initiative and is assessing how it can support the initiative.

Meeting with the President of the Constitutional Court

Location: Constitutional Court

Time: 17h00-18h00

Scene setter

You are meeting the President of the Constitutional Court, Mr Matej Acceto on 1 March from 17.00 to 18.00. This is an opportunity to discuss the rule of law in Slovenia, in particular the follow-up to the rule of law report's recommendations, judicial independence, and the primacy of EU law, especially in the context of ongoing infringement against Poland.

Mr Accetto participated in the 2022 and 2023 rule of law report country visit (the last meeting, chaired by Director-General Ana Gallego, took place on 24 February 2023). He is a strong supporter of closer cooperation between constitutional courts and the European Commission. As an EU law professor himself, he supports the role of the Constitutional Court as a key institution to uphold the primacy of EU law.

Objectives of the meeting

- What we want:
 - remind him of the relevant rule of law recommendations from the 2022 rule of law report;
 - reaffirm the primacy of EU law.

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Key messages

On the Rule of Law Report

- You have noticed that in the 2022 Rule of Law Report for Slovenia, there were several references to the decisions of your Court.
- More specifically, two of our recommendations specifically asked Slovenian authorities to resolve rule of law issues identified in Constitutional Court judgments.
 - First, the report recommended introducing safeguards for judicial independence and prosecutorial autonomy in rules governing parliamentary inquiry
 - Second, it recommended introducing safeguards for the budgetary autonomy of certain independent bodies.
- The upcoming 2023 Rule of Law Report will include the assessment of how these recommendations were implemented in practice.

On the primacy of EU law

- Let me recall the fundamental principles of the European Union:
 - EU law has primacy over national law;
 - All judgments by the European Court of Justice are binding on all Member States' authorities, including all national courts.
- The Commission considers that these fundamental principles were breached by the Polish Constitutional Tribunal and its case law.
- Moreover, all national courts active in the fields covered by the EU law must be independent, impartial and established by law, so as to provide effective judicial protection to citizens.

- The European Union is and remains a community based on law. The last word on EU law is always spoken in Luxembourg.

On the infringement procedure concerning the Polish Constitutional Tribunal

- The Commission opened this infringement on 22 December 2022.
- In its rulings of 14 July 2021 and 7 October 2021 the Polish Constitutional Tribunal, considered Article 279 TFEU and 19(1) TEU as interpreted and applied by the Court of Justice incompatible with the Polish Constitution, expressly challenging the primacy of EU law.
- On 15 July, the Commission decided to send a reasoned opinion to Poland, to which Poland replied [14 September 2022], rejecting the reasoning of the Commission.
- Poland's reply did not remove the concerns of the Commission. This is why the Commission decided to refer the case to the Court of Justice.

CV of Matej Accetto, President of the Constitutional Court of Slovenia



Dr Accetto graduated from the Faculty of Law of the University of Ljubljana in 2000 and obtained a doctorate in law from the same Faculty in 2006. He further obtained an LL.M. from Harvard Law School in 2001.

He worked at the Institute for Comparative Law of the Faculty of Law of the University of Ljubljana as a young researcher during his doctoral studies, from 2008 as an assistant professor of EU law, and from 2013 as an associate professor of EU law. From September 2013 until August 2016 he lectured at the international graduate law school Católica Global School of Law / UCP in Lisbon as a professor with an additional research grant from the Gulbenkian Foundation. Since the beginning of the 2016/17 academic year he has been lecturing at the Faculty of Law of the University of Ljubljana.

In addition to his regular lectures in Slovenia and Portugal, he has taught courses or held lectures as a guest lecturer in China, Russia, Hungary and Portugal. He has delivered occasional guest lectures, inter alia, at Harvard University, the University of Copenhagen (Denmark), Tokyo Waseda University and the University of Kyoto (Japan), the University of Graz (Austria), the University of Iceland (Iceland), the University of Kaunas (Lithuania), the Faculty of Law in Bihać (Bosnia and Herzegovina), and Franklin College (Switzerland). He continues to lecture at the Faculty of Law of the University of Ljubljana and the Católica University in Lisbon as an external staff member.

While concentrating mainly on his research and pedagogical work, he has also cooperated with the judiciary and jurisprudence in various ways. In 2003 he spent five months at the Court of the European Union as a trainee, and in the period 2003/04, as a Fellow of the British Lord Slynn Foundation for European Law, he spent a year working with distinguished British judges, attorneys, and law firms. Between 2007 and 2011 he was, inter alia, a member of the National Commission for the Legal Revision of the Historic Case Law of the European Court of Justice, and between 2009 and 2013 he was president of an examination board for the

examination of court interpreter candidates as well as a lecturer at events organised by the Slovene Judicial Training Centre.

He has participated in numerous national and international research projects that focused on different issues of fundamental rights, (constitutional) adjudication, and citizenship. He is the author of several books and numerous scientific legal papers (in Slovene, English, and Portuguese) as well as numerous editorials and columns in legal newspapers and on websites.

Dr Accetto commenced duties as judge of the Constitutional Court on 27 March 2017 and assumed the office of Vice President of the Constitutional Court on 28 September 2019.

Meeting with media representatives

Time: 18h30-19h30

Location: Commission representation in Ljubljana

Scene setter

You are meeting selected media representatives on 1 March from 18.30 to 19.30:

- [REDACTED] Slovenian Press Agency (STA)
- [REDACTED] RTV Journalists Unions
- [REDACTED] Slovene Association of Journalists (DNS)

This is an opportunity to discuss media policy and media freedom in Slovenia, EU initiatives in this area, as well as the issue of Russian disinformation.

Short bios of the participants:

[REDACTED]

[REDACTED]



Key messages

Media freedom in Slovenia

- Thank you for the opportunity to meet and discuss the situation of media freedom in Slovenia.
- I know you have been through difficult times.
- I understand that the situation now is changing, with the good efforts by the new government to initiate reforms on a series of important issues, including the independence of public service media.
- I would like to hear from you on all this.

European Media Freedom Act

- At European level, we also try to do more.
- We saw a series of negative trends across the European Union, pressure being put on the media. Not in one or two Member States, across the EU.

- This is why we decided to come with a novel set of rules to protect media pluralism and independence in the EU. The proposed Regulation includes, among others, safeguards against political interference in editorial decisions and against surveillance. It puts a focus on the independence and stable funding of public service media as well as on the transparency of media ownership and of the allocation of state advertising. It also sets out measures to protect independence of editors and disclose conflicts of interest. Finally, the Act will address the issue of media concentrations and create a new independent European Board for Media Services, comprised of national media authorities.
- The proposal is now being discussed by the European Parliament and Council and we hope to make good and fast progress this year. We count on your input and support.

On anti-SLAPP

- The phenomenon of SLAPP is gaining ground in the EU. We see instances of SLAPPs in many EU Member States.
- Our **proposed Directive will** deter the filing of SLAPP, enable the quick dismissal of a SLAPP once filed, and provide other remedies, such as award of costs, compensation of damages and penalties against an abusive claimant. In addition, the proposal will protect EU defendants against third-country SLAPP.
- In designing the proposal, I aimed to ensure sure that we maintain a careful balance of all rights involved. Because there is not only the perspective of those who are expressing their views through freedom of expression and information, but also that of those who claim the right of access to justice and the right to protect their private life and reputation.

- The proposed anti-SLAPP safeguards would protect our democracies while **maintaining important balance with the right of access to justice.**
- Another important issue is ensuring that the protection is granted to those journalists and rights defenders who act in the public interest. **It is not a blank check for impunity.**
- In addition, we are encouraging Member States to **offer training on SLAPP** to legal professionals and potential targets to make sure that they are aware of when they could be dealing with a case of abusive litigation.
- **Awareness-raising activities** will make sure that these cases are detected earlier, and that the public understands that these cases are designed to silence journalists and human rights defenders.
- Member States should also ensure that there are support mechanisms in place for targets of SLAPPs. This includes establishing **a focal point** for SLAPP targets to turn to when seeking guidance and support.

Defensives – Media Freedom Act

The Commission is creating a Board to supervise the media

- No. The Media Services Board is in fact an upgrade of the existing group of European Regulators, ERGA. The Act strengthens this group and gives it more responsibilities. Its tasks are well defined by the law, and **the Board is not a new authority overseeing the press, deciding on self-regulatory standards or ethics**. The Board will give non-binding opinions on national measures and concentrations affecting the media, in the single market. The idea is rather to promote a dialogue between regulators and to promote mutual understanding across the EU. We have done it in the past in other areas.
- The Board is absolutely not about concentrating power in Brussels. This is about more cooperation among the relevant authorities. The Commission has no voting right but it has a role to play, as the guardian of EU law. We are open to further improve the text and bring necessary clarifications.

What are the rules for public service media?

- Public service media play a special role in ensuring that citizens have access to information. However, they can be exposed to the risk of political interference.
- This is why the Media Freedom Act pays particular attention to public service media and the challenges they face. The Regulation proposes that funding provided to public service media should be adequate and stable, thus ensuring editorial independence. The Regulation also stipulates that public service

media providers shall provide a plurality of information and opinions, in an impartial manner. Finally, to ensure greater independence from partisan political influence, the head and the governing board of public service media will have to be appointed in a transparent, open and non-discriminatory manner and can be dismissed only in very specific circumstances.

What does « adequate and stable » funding of public service media mean?

- Sufficient and stable resources for public service media are important, in particular for predictability reasons. We have heard concerns with regards to the resources allocated in the context of the preparation of the latest rule of law report. Stakeholders indicate that it is difficult for example for the Director General of a public radio to foresee a long term development plan without knowing that it will have at hand sufficient resources.
- Public service media need to develop strategies for long-term development and it is therefore difficult for such companies to rely on the budget negotiations on a yearly basis. For this reason, in Recital 18, we indicate that the funding should be decided and appropriated on a multi-year basis to avoid the potential for undue influence from yearly budget negotiations.

What are the requirements for the media themselves?

- The Act includes a series of new rights to protect the media and it also comes with a very targeted set of responsibilities. The Act includes some specific requirements for media providing news and current affairs content, as these media play a particularly important role in informing citizens and shaping public opinion.

- First, those media have to be transparent about their ownership. This requirement builds on existing EU legislation applying to companies in general (company law and anti-money laundering rules).
- Second, those media shall also take the measures that they deem appropriate with a view to guaranteeing the independence of individual editorial decisions and to disclosing any actual or potential conflict of interest.
- The media have full freedom in deciding which measures are the best fit according to their business model, size and other specificities. However in order to bring more transparency and trust, and in the public interest, the Act requires them to take those important principles – transparency related to owners, actual or potential conflict of interest and the independence of individual editorial decisions – into account.
- This is not about regulating how media organise themselves. The overwhelming majority of media already have relevant measures in place.
- It can be noted that the new Board has no role in monitoring those rules and is not a new oversight body for the press sector.

Defensives

Special Tribunal

Does the Commission have a preferred option?

- No, both options (ad hoc tribunal or hybrid tribunal) remain on the table at this stage.
- Pros and cons, as well as the legal and political issues of each option, need to be further explored. This requires further discussions within the Commission, with the Member States and with our international partners.
- At any rate, both options require strong international support and backing by the United Nations and a solid legal framework. Whatever option is chosen, it should be legally sound and should gather sufficient international support.

What would be the necessary international support required to legitimately establish a special tribunal for the crime of aggression?

- The options presented in our options paper take into account the need for the broadest international legitimacy, including due involvement of the United Nations.
- A court supported by the UN, either international or hybrid, created at the behest of the General Assembly, would seem to confer the broadest legitimacy to relinquish immunities and to act in the international community's name.
- The EU will continue to work with Ukraine and partners, including G7 countries, with a view to building international understanding and support for ensuring accountability.

International Centre for the Prosecution of the Crime of Aggression (ICPA)

What would be the main features of the ICPA?

- The basic idea behind the ICPA is to provide a structure to enhance the overall coordination of ongoing national investigations. The ICPA will ensure that the evidence collected is exchanged and analysed, cases are built and prosecution strategies coordinated.
- Therefore, some Joint Investigation Team members should be relocated to Eurojust for a standing coordination centre. Eurojust could provide continuous logistical as well as operative support, e.g. providing common secure office space, but also legal and strategic advice.
- While Eurojust would host the ICPA, Eurojust and the ICPA would remain separate entities – the ICPA remaining part of the Joint Investigation Team.
- The ICPA would not have own investigative powers. Investigative powers would remain limited to the capacities that the national Joint Investigation Team members have under their own national law.

What would be the next steps in the implementation?

- The Commission is now working with the Joint Investigation Team members (including Ukraine), the Netherlands and Eurojust to define the exact modalities for the implementation of the ICPA.
- In the meantime, Eurojust is already working on a detailed implementation plan, including budgetary impact, human resources needs, and allocation of office space.
- We also need to discuss the conditions for a relocation of Joint Investigation Team members and the need for a MoU or other form of agreement, as well as funding options.
- Once these steps are taken, Eurojust and the Joint Investigation Team members could work on the practical implementation. This should be possible until summer.

What is the Commission's position on the UK-NL Justice Ministers Conference for support to the ICC's investigations into international crimes committed in Ukraine on 20 March? Will the Commission participate?

- The Commission fully supports the objective of the conference to strengthen the ICC's capacities.
- The Commission supports the full inclusion of all Member States in this conference, in particular in light of the exceptional support Member States have provided to the ICC since the beginning of the Russian invasion [EUR 7 million].
- The Commission is currently discussing with the Netherlands and the UK how it can be involved.

Background

International Centre for the Prosecution of the Crime of Aggression (ICPA)

The political leadership of the EU Member States, during the last European Council on 9-10 February 2023, and the Commission and Ukraine, during the EU-Ukraine summit on 3 February, **have expressed full political support for initiating the ICPA.**

The Commission, in close cooperation with the JIT members (including Ukraine), NL and Eurojust, has developed a concept note to define the modalities of the ICPA. The amendment of the JIT agreement is in the hands of the JIT members, which are already working on this with the support of the JIT network secretariat hosted by Eurojust. The amended JIT agreement is expected to be signed early March. The expectation is that the ICPA will be operational by July 2023. Eurojust is already working on a detailed implementation plan, including security measures, allocation of staff and office space as well as an estimation of the budgetary impact.

Special Tribunal

Discussions on the follow up to the **options paper on accountability** took place in COJUR on 15 February. A common understanding that the crime of aggression must not go unpunished emerged but there is still divergence of views on the way forward.

EE, LV, PL, BE, LU, LT and RO support the **creation of an international tribunal**, although views diverged on the modalities for setting it up (either through a multilateral treaty or an agreement between the UNSG and UA). CY and ES are also inclined to support the international tribunal. The EU members of the G7 (IT, FR, DE) have expressed very cautious positions vis-à-vis both options, since the legal obstacle of personal immunity cannot be ignored. FI, DK, **SI**, IE, HR, NL, PT, EL, MT and SK support the establishment of the special tribunal but do not have a preferred option yet. DE, CY, **SI**, BE, LU argued in favour of amending the Rome Statute to allow the ICC to have jurisdiction over the crime of aggression in similar cases in the future.

Reflections will continue in next meeting of the **Core Group on the establishment of the special tribunal for the crime of aggression**, which is scheduled on 21-22 March in Strasbourg.

The **UNGA Just Peace Resolution** was finalised on 15 February and voted on 23 February. Operative Paragraph 10 of the Resolution contains generic language on the need of ensuring accountability. There is no timeline yet for the Accountability Resolution.

Defensives

What is the amount of immobilised public assets in the EU?

- According to the information gathered at G7 level in June, the total amount of immobilised public assets in G7 countries (+ Australia) and the EU is estimated at 300 billion dollars.
- The actual number in the EU is however under assessment.

Can you provide more details on the financial structure to manage the Russian Central Bank's assets?

- This financial structure would actively manage frozen and immobilised public assets, including liquid assets of the Russian Central Bank, invest them and use the net returns on these investments to finance the reconstruction of Ukraine.
- According to the Commission's preliminary assessment, the main steps required would be the following:
 - Identification of the assets – currently Member States have a duty to report on private assets frozen, but a similar obligation is not in place with regard to immobilised public assets. There is therefore a need to put in place mechanisms to identify these assets in the EU and ensure reporting to the Commission;
 - The identified assets would have to be transferred to a legal entity (not yet identified) that would have overall responsibility for active asset management;
 - The selected legal entity will have to ensure active management of the assets on the basis of an investment

strategy aiming to achieve a fair and stable return on investment;

- The extra proceeds/returns on the investments would have to be returned to the parties participating in the selected entity;
- These proceeds could then be used for the reconstruction of Ukraine.
- Russian assets, together with the minimum interests generated while immobilised would have to be returned to Russia. This could happen following the lifting of the sanctions and the conclusion of a settlement agreement between Ukraine and Russia.
- At this stage, we are exploring this solution and engaging in discussions with relevant EU and international institutions (World Bank, European Central Bank), as well as with other international partners (G7).

Are there any precedents that the Commission can build on?

- No. That is why we are currently examining this option very carefully within the Commission, with the Member States and in close coordination with relevant institutions and partners at international level.

Defensives

What will be the added value of the Commission's proposal aimed at approximating the criminal definitions and penalties for the violation of sanctions?

- The Member States have **different definitions of offences** and different **penalties** for the violation of sanctions under their **administrative and/or criminal law**.
- Such differences may lead to **forum shopping** and ultimately to **impunity**. Offenders could choose to conduct their activities in the Member States that provide for less severe responses to the violation of Union sanctions.
- In addition, the harmonisation of criminal definitions and penalties for the violation of sanctions will reinforce their deterrent effect.

Will this Directive allow for confiscation of frozen Russian assets?

- The criminal offences harmonised by this proposal will fall within the scope of the revised confiscation Directive.
- In addition, the proposal also clarifies the concept of 'proceeds' of crime in specific situations of circumvention of Union sanctions.
- This will allow the Member States to confiscate proceeds derived from the violation of sanctions.
- However, this will not be a blanket authorisation to confiscate frozen assets. Some strict criteria will still have to be met. Notably, to confiscate assets there must be a link with a criminal activity – such as the circumvention or the attempt to circumvent sanctions regimes.

- In other words, confiscation, which deprives individuals of the property on their assets, should always take place in full respect of the rule of law, proportionality and of the fundamental rights of individuals, including the right to property.

Background

On 25 May 2022, the Commission adopted a package on criminal penalties for the violation of Union restrictive measures, consisting of proposal for a Council Decision to add the violation of Union restrictive measures to the list of EU-crimes in Article 83(1) TFEU and a Communication with an annex presenting elements for a future Directive.

Further to the European Parliament's consent given on 7 July 2022, on 28 November 2022, the Council unanimously adopted a decision to add the violation of Union restrictive measures to the areas of crime included in Article 83(1) TFEU.

On that basis, on **2 December 2022**, the Commission adopted a **proposal for a Directive on the definition of criminal offences and penalties for the violation of Union restrictive measures**.

Discussions are ongoing in the Council with the aim of achieving a **General Approach by June** at the latest. The work at technical level is progressing well in the Council.

The proposal has been referred to the **LIBE Committee**.

Defensives

Many Member States already have legal safeguards. Why do we need something specific for SLAPP?

- Currently, none of the Member States have specific safeguards against SLAPP proceedings and only a few (MT, IE and LT) are considering the introduction of such safeguards. Existing safeguards – such as the principle of the ‘loser pays’ – are not sufficient to prevent the significant negative impact that SLAPP can have on public participation and the exercise of human rights and fundamental freedoms.
- There are also no EU-wide rules that address SLAPP.
- By developing a common EU understanding on what constitutes a SLAPP and by introducing procedural safeguards, the proposal will provide national courts with effective means to identify and deal with SLAPP. And it equips journalists and human rights defenders with the means to defend themselves and avoid the chilling effect of SLAPP.
- The EU initiative also serves to ensure that all SLAPP targets are protected evenly across the EU and prevent forum shopping and circumvention of national procedural safeguards.

Isn't there a risk that the proposed Directive intervenes with Member States' civil and procedural law, which belongs to national competence?

- The proposed Directive will provide for targeted legislative safeguards only for cross-border situations.

- The selected instrument (a directive) will allow Member States to adapt the legislative provisions to their national system.

Is it clear that the proposed Directive will apply only in civil matters?

- The proposed Directive will apply to civil and commercial matters and not to criminal matters.
- However, it should be noted that the Recommendation applies also to criminal and administrative proceedings. Member States are invited to implement the Recommendation swiftly to ensure comprehensive protection against SLAPP.

Why is the proposed Directive not only about journalists?

- Human rights defenders, civil society organisations and others also have an important role to play in the public debate and in defending democracy and rule of law. Evidence shows that not only journalists are targeted by SLAPP.
- The key notion here is that of public interest – the safeguards are meant to protect those who are targeted by SLAPP due to their involvement in the public debate in matters of public interest such as, for example, public health, safety, the environment, climate, corruption or disinformation.

Why are public authorities excluded from the scope of the proposed Directive?

- Contrary to individual journalists, human rights defenders and others who are in a weaker position, public authorities have better means to defend themselves if they are targeted by abusive lawsuits. They have the protection of the state power to defend themselves.

How does the proposed Directive ensure that journalists won't abuse the protections granted?

- The safeguards do not apply to any lawsuits brought against journalists. We are not creating a blank check to impunity.
- First, the defendant must show that the statement or activity targeted constitutes an act of public participation on a matter of public interest.
- In addition, the safeguards apply only against manifestly unfounded or abusive court proceedings, which is for the national court to qualify, using the toolbox provided in the proposed directive.

What about the right of access to justice? Isn't the proposal giving special privileges to certain persons at the expense of the rights of others?

- The proposed directive ensures a careful balance between the rights of the claimant and the defendant in SLAPP proceedings. It needs to be recalled that in SLAPP the aim of the claimant is not to seek access to justice or to win the case, but to harass the defendant and to silence public debate.
- If the claimant's lawsuit has merit – meaning that it is an arguably genuine case for example of defamation –, it will be assessed in ordinary court proceedings and early dismissal is out of question. In ordinary proceedings, the claimant must show in any case that their claim is founded.
- If the case is not a SLAPP, the defendant cannot benefit of the safeguards provided by the proposed directive. A SLAPP has to be either manifestly unfounded or abusive.

What is the reasoning behind the notion of “matters with cross-border implications” used in the proposed Directive?

- Public participation targeted by SLAPP often occurs in matters that are typically cross-border by nature such as environmental campaigns or allegations of money laundering with relevance for more than one Member State.
- The fact that online media content is accessible across jurisdictions may also open the way to abuse jurisdiction rules, with SLAPP targets sometimes facing court proceedings in different jurisdictions launched by the same claimant.
- The phenomenon of forum shopping (or libel tourism) amplifies the problem, as some jurisdictions are perceived as more claimant-friendly - where for instance damages awarded in defamation cases are higher. SLAPP launched outside of the EU can be particularly damaging for journalists and human rights defenders.

What are the criteria on which a judge can deem if a case is abusive or not?

- The proposed Directive lists the most common indicators of abuse, such as the disproportionate, excessive or unreasonable nature of the claim and coordinated or multiple legal actions on the same or on related issues.
- SLAPP are often preceded by intimidation, harassment or various threats, in an attempt to silence the victim. These are also indicators that the judge is in front of a SLAPP.
- These indicators are merely a toolbox to help a national judge to identify abusive court proceedings early on.

Defamation is an important offence present in national legal frameworks for a good reason. Is the Commission putting pressure on Member States to scrap it?

- What we are asking is for Member States to strike the right balance between the various rights involved – the right to privacy on the one hand, and the public interest on the other hand.
- Member States are recommended to review their legal frameworks applicable to defamation in order to prevent a chilling effect on the public debate.
- They should ensure that penalties against defamation are not excessive and disproportionate. In particular, we ask them to remove prison sentences for defamation from their legal framework. They should favour the use of administrative or civil law, instead of criminal law, for defamation cases.

Will the Commission provide funding for anti-SLAPP activities?

- Yes. Funding is available under the Citizens, Equality, Rights and Values (CERV) Programme, for activities linked to capacity building and awareness on the Charter including on freedom of expression. This also includes anti-SLAPP activities.
- There is also funding available for the training of legal professionals, which is crucial for helping SLAPP targets.
- In addition, anti-SLAPP activities may also be funded as part of the Commission's support to the principles of media freedom and media pluralism.

Does this initiative overlap with the Whistleblower Protection Directive?

- No, although there is a clear link between the two. Protecting whistleblowers is also essential for defending the public interest and also for safeguarding the watchdog role of media in democratic societies, as whistleblowers are often an important source for investigative journalism.
- But the target groups of the two instruments are different: the Whistleblower Protection Directive protects reporting persons working in the private or public sector who acquired information on breaches of EU law in a work-related context, against any retaliation.
- The proposed anti-SLAPP Directive will protect journalists, human rights defenders and others participating in public debate and providing information.
- There may be situations falling partly under both instruments – and in such cases, the protection offered by both acts should apply.

What are the focal points Member States are asked to set up?

- The Recommendation provides that each Member State should establish a focal point that gathers and shares information on all organisations that provide guidance and support for SLAPP targets.
- The focal point is intended to be a visible entry point to which a SLAPP target can turn to learn where they can find support. The focal point would also gather information on resources available at national level. The focal points are not tasked with ensuring the implementation of the Recommendation in their Member States.

- It is up to Member States to decide on their own organisation when setting up the focal points.

Hate speech online

Background

On the 2016 Code of conduct on countering illegal hate speech online

The Code is signed by Facebook, Instagram, Twitter, YouTube, Dailymotion, Snapchat, jeuxvideo.com, and recently TikTok (September 2020), LinkedIn (2021), Viber and Twitch (2022).

The results of the evaluation have shown a continuous improvement until 2020. In 2016, only 28% of content was removed, while it was over 70% in 2020; in 2020 81% of the notices were reviewed within 24 hours versus 40% when the Code was signed.

The October 2021 data showed however a slight decrease in the average removal rates (62.5%). These slowdown trends are confirmed by the latest evaluation published on 24 November 2022. Overall removal rates have not increased and the time of assessment is lower than in 2020 and 2021. Some differences among the platforms persist (Twitter removes less content than TikTok, Instagram, Facebook and YouTube for example).

In relation to the cooperation with civil society organisations, since 2016 the IT platforms have built larger networks of “trusted flagger” NGOs and have engaged with them also on counter-narrative and awareness-raising campaigns. A new annex to the Code of conduct published on 24 November 2022 contains a joint statement of trusted flagger organisations and IT companies committing to strengthening their cooperation, to creating a knowledge hub on countering hate speech online and to engaging in regular meetings and exchanges.

Disinformation

Defensives

How does the DSA address disinformation? / Relation with Code of practice.

- The Digital Services Act provides for rules to ensure greater accountability on how platforms moderate content, on advertising and on algorithmic processes.
- Very large online platforms will have to conduct regular risk assessments which cover, among other issues, how their services are misused for disinformation, or on cyber-bullying. They will have to adopt measures to mitigate those risks.
- Regular reporting and transparency measures, such as the obligation of public ad archives, independent audits of their recommended algorithms and access to data by authorities and researchers will ensure that the societal risks and impact can be independently evaluated. The regulator will be able to investigate concrete concerns and can require services to open up their 'black box' of data around disinformation.

How is the Commission monitoring platforms' actions on disinformation related to Ukraine?

- With the new, strengthened Code of Practice on Disinformation regular exchanges are now taking place in the context of the Code's newly established Permanent Task-force.

- The work of the task-force notably includes bi-monthly regular meetings to monitor the evolution of disinformation in the context of the Ukraine war, with all relevant Signatories (platforms, as well as factchecking and civil society organisations, etc.)
- Several other subgroups are also working on further concrete deliverables such as devising a list of malicious tactics, techniques and procedures of disinformation actors prohibited on their services, or the establishment of a Transparency Centre website for the Code.

Background

On disinformation vulnerabilities in Slovenia

In December 2021, during the Slovenian Presidency of the Council of the European Union, the European Parliament voted a resolution criticising Slovenia. MEPs said they are "deeply concerned about the level of public debate, climate of hostility, distrust and deep polarisation in Slovenia, which has eroded trust in public bodies and between them."

Disinformation and fake news in Slovenia are most often peddled by outlets close to SDS (EPP), which lost re-election in April 2022. These outlets are controlled by Hungarian business people from Viktor Orban's circle and run by SDS sympathisers.

Chief among them are the news portals Nova24tv.si and Demokracija.si (where SDS has more than 30 % direct ownership stake) that often distribute disinformation produced by foreign far-right portals, most often Breitbart.com.

The reporting of both portals has been repeatedly condemned by the Slovene journalists' honour tribunal. The reporting of both portals is often referred to by some local portals.

The former director of Nova Hiša, which controls the Nova24tv.si portal, Aleš Hojs became the Minister of Internal Affairs in the last Janše's government in 2020. In this position, he publicly spread disinformation or false claims at least five times.

Meanwhile, mainstream media in Slovenia, including local, are trapped in a centrifuge of interest groups and inadequate business models, forced to beg for clicks and produce a relentless stream of "shocking" stories.

The current Slovene Government Communications Office established an informal interdepartmental working group of strategic communicators, which exchanges opinions on monitoring disinformation. They announced in December 2022 that the group will prepare proposals on how to curb disinformation. They did not specify when.

The Ministry of Culture is planning activities related to media literacy, for example a public call for media projects aimed at raising awareness about the harm caused by disinformation and fake news. They did not explain when the call will be published.

The only regular fact-checking project in Slovenia, Razkrinkavanje.si, was established in 2019 by Oštro, a centre for investigative journalism in the Adriatic region.

Resilience against disinformation remains low due to low media literacy, low trust in institutions, limited space for professional journalism and a low level of media freedom.

Code of Practice baseline report highlights on Slovenia

YouTube announced that it will expand its HitPause media literacy campaign, which aims at teaching viewers critical media literacy skills via and educational public service announcements on the YouTube home feed and via advertisements, to Slovenia.

Meta detailed that it partners with the fact-checking organisation Oštro in Slovenia. Over 220.000 fact-checking labels were applied to content in Slovenia on Facebook and 12000 on Instagram from 1 October to 31 December 2022.

TikTok reported that 3504 fake accounts were removed in Slovenia in Q3 2022, which at the time of removal had gathered 23731 followers.

Microsoft stated that in December 2022 the number of fake accounts LinkedIn prevented or restricted in Slovenia was 2149 and the number of pieces of content removed in LinkedIn as misinformation was 6 in this period.

On platforms' actions regarding Ukraine

Since March 2022, regular meetings are taking place with the main platform signatories of the Code of Practice on Disinformation (Google, Meta, Twitter, TikTok, Microsoft).

In general, since March 2022, online platforms are stepping up their efforts to de-prioritise and/or remove disinformation content related to the war.

Social media are labelling content/accounts and/or down-ranking/de-amplifying Russian state affiliated media globally.

Several platforms have taken action regarding Russian government affiliated accounts to limit their ability to share disinformation related to the war. (Twitter and Instagram use de-amplification, while Meta adopted a new policy to stop accounts to share content that denies the use of the force against other states.)

Online platforms have increased cooperation with fact-checkers in and around the areas of the conflict and boosted the capacity of content moderation teams.

All major platforms have demonetised players spreading disinformation related to the war and limited the possibility of monetizing content related to the war.

Moreover, several platforms have stopped their ads services in Russia (e.g. Meta and Google)

Adria Digital Media Observatory (ADMO)

Slovenia is covered by ADMO – one of the regional hubs of the European Digital Media Observatory (EDMO) covering as well Croatia. It has been operational since January 2023 and is supported by the Commission under the Digital Europe Work Programme 2023- 2024.

The Slovenian partner in ADMO is the Center za Preiskovalno Novinarstvo v Jadranski Regiji Oštro. Ostro is one of the fact-checking organisations who worked on the European Code of Standards for Independent Fact-Checking Organisations.

The Foreign Information Manipulation and Interference Toolbox

The EEAS, in close cooperation with the Commission is working on developing a toolbox to lower the impact and deter actors from attempting to manipulate information. A closer cooperation between the EU, Member States, civil society, and the private sector will be central. It will be built around four axes: situational awareness; resilience; disruption and regulatory responsibility; and diplomatic responsibility and instruments in the CFSP area. Discussions are ongoing.

Defensives

In light of the murder of several journalists, can the media in EU countries rely on any protection mechanisms from violence/threats?

- For the first time ever, the Commission proposed in 2021 recommendations to Member States on the safety of journalists.
- Among others, the Recommendation calls for the creation of independent national support services, including helplines, legal advice, psychological support and shelters for journalists and media professionals facing threats. It also calls for an increased protection of journalists during demonstrations, greater online safety and particular support to female journalists.
- The Member States have now to get back to the Commission with the measures taken.
- At EU level, we are funding projects such as the Media Freedom Rapid Response, which offers legal and practical support to media actors under threat, and can provide temporary shelter when needed.
- We are currently supporting the project with €1.95 million.

The 2022 rule of law report pointed to problems in Slovenia regarding state advertising. How does the European Media Freedom Act address this issue?

- The Media Freedom Act requires public authorities to base the allocation of state advertising on transparent, objective, proportionate and non-discriminatory criteria.

- This is about national or regional authorities, or local authorities of cities with more than 1 million population) and state-owned enterprises
- The aim of the new rules is to ensure that state advertising will not be used to favour and covertly subsidise certain media outlets that publish or broadcast government-friendly information.
- Different media outlets should have an equal opportunity to benefit from public funds for the purposes of advertising regardless of their political orientation.
- Public authorities and state-owned enterprises will also have to publish yearly information about their advertising expenditure allocated to media service providers, including the names of the media service providers from which advertising services were purchased and the amounts spent (annual amount and amount per provider).

The 2022 rule of law report found problems in Slovenia regarding the identification of the ultimate media ownership structure. How does the European Media Freedom Act address this issue?

- In Media Freedom Act we require media services to make accessible to the public information on direct, indirect and beneficial owners.
- Such information would be disclosed on the websites or another medium that is easily and directly accessible for the audience.

The 2022 rule of law report found problems in Slovenia regarding the lack of an appropriate legal framework for addressing high concentration of media. How does the European Media Freedom Act address this issue?

- The Media Freedom Act does not aim to prevent media ownership concentration – the proposal does not set any thresholds for media market concentrations.
- However, it provides a framework to assess media market concentrations that could have a significant impact on media pluralism and editorial independence. This would be for the case for example when one single entity would control the media landscape.
- This assessment would be separate from competition rules.
- The new European Board for Media Services will also be able to issue opinions when the concentration has a potential to impact the functioning of the internal market or where there is no national assessment.
- There will also be an annual reporting on the level of concentration.

How will the European Media Freedom Act regulate the use of spyware against journalists?

- The Act prohibits the use of spyware against media, journalists and their families. The Act narrows down any possible exceptions to this rule on the ground of national security, which is a competence of the Member States, or in case of investigations of a closed list of crimes, such as terrorism, child abuse or murder. In such cases, the Act makes it very clear that it should be duly justified, on a case-by-case basis, in compliance with the Charter of Fundamental Rights, in circumstances where no other investigative tool would be adequate.

- Any affected journalist would have the right to seek effective judicial protection from an independent court in the respective Member State. Additionally, every Member State will have to designate an independent authority to handle complaints of journalists concerning the use of spyware against them. These independent authorities will issue, within three months of the request, an opinion regarding compliance with the provisions of the Media Freedom Act.

Background

Media freedom in Slovenia – 2022 rule of law report

The **2022 Rule of Law report** (published last summer) highlighted that the situation of media freedom and pluralism has not improved since the 2021 Rule of Law Report. Challenges remain regarding the commitment of the Slovenian Government to strengthen the independence of the audio-visual media service and with respect to the existence of regulatory gaps for addressing high concentration of media. Despite legal safeguards providing for the independence of public service media, there are also challenges regarding their effectiveness in practice in limiting political influence. Moreover, the situation of journalists continues to deteriorate. Notably, a hostile environment, online harassment of and threats against journalists are growing sources of concern, and several lawsuits against journalists with intimidating effect have been reported.

Recommendations

- Strengthen 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.
- Establish legislative and other safeguards to protect journalists, particularly online, taking into account European standards on the protection of journalists

Media regulation in Slovenia – the new law on public service media

After Slovenians voted overwhelming in favour of amendments to legislation on the governance of the public broadcaster RTVS in November (in the referendum, about 440,000, or 62.73%, supported the amendments and about 260,000, or 32.27%, were against), on 27 December a new law was adopted which reforms the composition of the Slovenian public broadcaster RTV Slovenija's supervisory bodies.

The current management of RTV Slovenija has challenged the new law before the Constitutional Court, complaining that their early dismissal, stemming from the establishment of a new governance, was unconstitutional.

On 20 February 2023 the Constitutional Court stayed the key provisions of the new Act on public broadcaster RTV Slovenia. These provisions are suspended until the Court makes a final decision. The timing of the decision is not known.

As regards the relevant provisions concerned by the referendum, the new Slovenian media law foresees a reform of the composition of the Slovenian public broadcaster RTV Slovenija's supervisory bodies.

RTV Slovenija has currently two supervisory bodies:

- The Supervisory Board is in charge of carrying out financial supervision and oversight of RTV's financial affairs; and
- the Programme Council is in charge of adopting programming standards, concepts and programme production plans. It is the body with the power to decide on all aspects of programming and scheduling.

The new law merges the Programme Council and the Supervisory Board in order to form a single decision-making body with 17 members. Appointments to this new body would be made by representatives of civil society and RTV employees.

The National Assembly, which currently appoints the majority (21 members) of the Programme Council, would only appoint two members.

Under the reorganised system, the body would be led by a four-member management board, headed by a president, which would oversee financing and programming. Appointments would be made in a staggered manner.

If the changes are approved, the mandate of the current members of the current program and supervisory councils, director general director, director of television, and director of the radio would end, though they would continue in their position until the new council is established. Current editors would remain in their posts, except in cases where it is determined that they do not enjoy the confidence of the majority of employees in their editorial team.

The main purpose of the new law is to ensure the full institutional and programmatic autonomy of RTV Slovenia and to protect its journalistic autonomy and editorial independence.

RTV Slovenia, as a public institution of special cultural and national importance, is obliged to carry out its statutory mission, based on the constitutionally protected right to freedom of expression or public information, which is crucial for the existence of democracy and thus of the state.

Among the main solutions, the aforementioned law submitted by the Government to the National Assembly provides for a new regulation of the management, administration and supervision of the public institution RTV Slovenia.

The new law introduces a Finance Committee as a consultative body of the RTV Slovenia Council. Instead of a Director General, a four-member Board of Directors is introduced, which is a more appropriate governance model in the light of technological change and the existing media and communication environment. The existing directors of radio and television are joined by a Director of Digital Content, which will give a more equal and time-appropriate position to the new media activities.

The influence of party politics on RTV Slovenia has had a number of negative consequences for RTV Slovenia, which are currently reflected in its declining public image and media relevance, the deteriorating quality of its programming and the lowering of its

professional standards, which means that RTV Slovenia is finding it increasingly difficult to fulfil its public function, mission and role.

Slovenian public TV

RTV Slovenia independence has been deteriorating over the last years. Several stakeholders as well as the Council of Europe have pointed to recent cases of intimidation towards public service media journalists and of appointment of managerial positions as signalling possible interference with the editorial independence of the broadcaster.

Several stakeholders have complained about an increased deterioration since the appointment of Andrej Grah Whatmough as new Director General of RTV Slovenia in April 2021 and the appointment of Uroš Urbanija, former head of the Government Communication Office (UKOM) as Director of RTV Slovenia.

Both figures are seen as politically tied to former Premier Minister Janša. While Urbanija headed UKOM, the body suspended financing for the Slovenian Press Agency (STA), a move that was heavily criticised by the Commission and that several stakeholders considered as politically motivated and led to a number of staff leaving.

In the past months, several journalists of RTV Slovenia made claims of harassment and pressure while their unions organised several strikes.

Background

Follow-up to the 2022 report

- As regards the **justice system**, on 6 October 2022, in the meeting of the European Parliament Democracy Rule of law and Fundamental rights Group, the Minister of Justice reported that - in September - the President of Slovenian Parliament established a working group that will prepare amendments to the rule on parliamentary inquiries in order to implement the recommendation 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”.
- As regards the **anti-corruption framework**, in her letter of August 2022, the Minister of Justice informed the Commission about the recent amendments to the Organisation and Work of the Police Act, adopted end July, which reverted the provisions on giving instructions to the Police and returned the control to the State Prosecutors. The same amendments, submitted by the civil society, returned the functional autonomy of the National Bureau of Investigation. The Minister of Justice also informed you that the Minister of Interior is preparing additional amendments to the Organisation and Work of the Police Act to address the recommendation to “remove 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”. As regards the State Prosecution, altogether 25 state prosecutors were appointed by the new Government, with 12 additional since the publication of the Report. In September 2022, the Government accepted the State Prosecution’s proposal to hire additional 92 people, a EUR 3.5 million increase of resources. As regards the recommendation to “adopt and start implementing without further delay the anti-corruption strategy”, the Commission for the Prevention of Corruption is drafting a new resolution and is consulting stakeholders. On 7 December 2022, the Minister of the Interior, a former long-term policewoman, announced she intends to resign due to ‘political pressure on police’. This appeared to be linked to the recent decision of the Government not to appoint the candidate the minister chose for the post of the Director General of Police (the government extended his acting position instead). The prime minister asked the Minister of Interior and the acting DG of Police to report about alleged political pressure on police.
- As regards **media freedom and media pluralism**, the amendments to the RTV Act were adopted in August 2022, and the referendum of 25 November confirmed the Act to implement the recommendation to “*strengthen 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*”. The act is presently being reviewed by the Constitutional Court, which on 20 February 2023 suspended the application of certain provisions until it pronounces itself on the act itself.
- As regards the **checks and balances**, the amendments to the Public Finance Act are to be submitted to the Parliament shortly, to address the recommendation to “ensure requisite safeguards for budgetary autonomy of the independent bodies”. Until then, the government stated that it is respecting the Constitutional Court judgment.

Rule of law report 2022 – Country Chapter for Slovenia

ABSTRACT

The Slovenian justice system has seen some improvements in quality and efficiency, and regarding issues raised in the 2021 Rule of Law Report, such as the nomination of European Delegated Prosecutors. Improvements to the Judicial Council Act, including on disciplinary framework, are in preparation. However, concerns have been raised over the Minister of Interior's powers to instruct the Police in individual cases, potentially affecting independent work of state prosecutors and the European Public Prosecutor's Office. Rules governing parliamentary inquiries lack safeguards on independence of judges and state prosecutors – as required by Constitutional Court judgments. The Government decreased, without consultation with judicial authorities, the previously agreed budget for courts, the Judicial Council and the State Prosecution. The Judicial Council launched procedures for constitutional review of salaries of judges.

Work started on a new national anti-corruption strategy, but the timeline for adoption is not yet known. The resources of the Commission for the Prevention of Corruption are being increased. The Government aims to strengthen the rules on whistleblower protection. However, the number of prosecutions has decreased to their lowest level in recent years. The State Prosecution Service faced challenges, including on human resources and due to the short statute of limitation. Furthermore, institutions in the fight against corruption are concerned about continuing challenges to the independence of their work. Serious concerns exist regarding the independent work of the anti-corruption police, including the National Bureau of Investigation. The number of Police investigations of corruption has dropped. Several actions have been implemented during the COVID-19 pandemic with the aim to address the risk of corruption, especially in public procurement.

Since the 2021 Rule of Law Report, the situation of media freedom and pluralism has not improved. The independence of the audio-visual media services regulator is ensured by law, however challenges remain regarding the commitment to strengthen its independence, particularly through the proposed amending legislation. The legislation aimed to transpose the Audiovisual Media Services Directive has been adopted. A regulatory gap for addressing high concentration of media raises concerns. After delays in payments which were considered by stakeholders as politically motivated and led to a number of staff leaving, the financial viability for 2021 and 2022 was ensured for the Slovenian Press Agency. Despite legal safeguards providing for the independence of public service media, there are challenges regarding their effectiveness in practice in limiting political influence. A hostile environment, online harassment of and threats against journalists are growing sources of concern, and several lawsuits against journalists with intimidating effect have been reported.

The Constitutional Court reported an increase in cases related to COVID-19 pandemic measures. The law on public finances lacks safeguards on budgetary autonomy of certain independent bodies – as required by a Constitutional Court judgment. The share of laws adopted by urgent procedure in Parliament has decreased. The Human Rights Ombudsperson received an increased number of complaints, including those related to COVID-19 pandemic measures. The civil society faced challenges regarding negative narrative, but funding issues and limitations on freedom of assembly were resolved.

RECOMMENDATIONS

In addition to recalling the commitments made under the National Recovery and Resilience Plan relating to certain aspects of the justice system, it is recommended to 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.
- Remove 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.
- Adopt and start implementing without further delay the anti-corruption strategy.
- Strengthen 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.
- Establish legislative and other safeguards to protect journalists, particularly online, taking into account European standards on the protection of journalists.
- Ensure requisite safeguards for budgetary autonomy of the independent bodies.