

Report from the mission to Slovenia

Day 1 – 1 March 2023

1. Meeting with President of the Constitutional Court, dr Matej Accetto

VPJ recalled the rule of law report, and recommendations for Slovenia.

The President recalled the Slovenian constitutional system and the role of the Constitutional Court. He said they receive more than 1,500 cases a year, some of them on the judicial decisions allegedly breaching individual fundamental rights.

He described the Constitutional Court decision on Parliament Inquiries Act which was deemed unconstitutional (follow up is one of the recommendations in the rule of law report).

He also said that there are cases about lawful deployment of digital mass surveillance tools.

VP further inquired about relevant recommendations from the RoL report (Parliament Inquiry Act). The President said the issue was not applied systematically and that the CT ruling specified legal limits of such an act. President was 'cautiously optimistic'. In his view it was unclear if there was a need to change the law. Rather the implementation. With CT rulings, the issue is clarified and constitutionally settled. He did not hear of the Parliamentary committees that would breach the rulings.

On the budgetary autonomy, the President explained the case that the budgetary process is not correct (here this is about the fact that the government can change the proposal from the judiciary without involvement of the parliament). He has the impression that the message was heard by the government.

On primacy, the President recalled a number of decisions that stated ECJ decision 'ultra vires'. He perceives there is a degree of distrust and tension between national courts and the ECJ. He appreciated that there are debates and conferences organised where this can be discussed.

On the pressure on judiciary he remarked that PL and HU are the most prominent focus in the discussions among the constitutional tribunals, but he stressed that he observes increased pressure on judiciary in many other places across the EU. They talked about the importance of implementing the judgments of ECJ, especially in the context of primacy of EU law.

Finally, he remarked that he sees a growing trend of trying to translate political problems into legal cases that are put forward to the ECJ or national Constitutional Courts. In his view, this increases the perception of politicisation of judiciary, because whatever the decision, it most likely be divisive.

2. Meeting with the representatives of Slovenian media

Participants:

- Mr [REDACTED] Slovenian Press Agency (STA)
- Ms [REDACTED] Journalists Unions Coordinator/President
- Ms [REDACTED] Slovene Association of Journalists (DNS)

The participants expressed disappointment with the actions of the government because they feel the government does not take sufficient action to improve the situation of the media. The situation with RTV public TV is particularly challenging and the CT ruling made the situation on the ground objectively worse. A lot of staff of RTV is leaving and there is a big risk of irreversible damage to the public TV. According to the participants, the proposed reform includes good solutions and is a step in the right direction when it comes to the increase independence of the governing board.

Situation of the print media in Slovenia is quite dire. The government does not give a lot of state aid, and that included also the period of the Covid pandemic. The increased cost of running a paper on a small Slovenian market is putting a lot of media on a brink of bankruptcy. The government is aware but does not seem to prioritise actions to support the media.

VPJ took note of this remark. She recalled actions on the EU level (recommendation on safety, anti-SLAPP directive, the European Media Freedom Act). She recalled that state-aid is in the hands of the Member States.

On the CT ruling, VPJ stressed she did not discuss it with the President of the Court and she has no comment to the ongoing proceedings.

Day 2 – 2 March 2023

1. Joint debate of the Committee on EU Affairs, the Committee on Justice and the Committee on Culture of the Slovenian Parliament.

Participating members:

- Mr Franc Breznik (SDS-EPP), EU Committee chair
- Ms Lena Grgurevič (GS-RE), Justice Committee Chair
- Ms Tamara Vonta (GS-RE), Cultural Committee chair
- Mr Andrej Hoivik (SDS-EPP)
- Ms Alma Intihar (GS-RE)

- Mr Rado Gladek (SDS-EPP)
- Ms Vida Čadonič Špelič (NSi-EPP)
- Mr Tomaž Lah (GS-RE)
- Branko Grims (SDS-EPP)
- Andreja Rajbenšu (GS-RE)
- Tomaž Lisec (SDS-EPP)
- Ms Katarina Štravs (GS-RE)
- Ms Lucija Tacer (GS-RE)
- Ms Sara Žibrat (GS-RE)

It was a good and constructive debate where all the main parties were represented, both from the government and the opposition.

In her opening remarks, VPJ has outlined EU policies on the rule of law and media policies. In the Q&A, the interventions from the participants were divided along the party lines. The parties from the governing coalition praised the actions of the government, which in their view follow the direction of the Commission, by strengthening the independence of the public TV, for instance. The opposition parties saw it differently and accused the government of trying to politicise the governing board by removing appointments made when Mr Jansa was the Prime Minister. They stressed that the media spectrum in Slovenia is biased and mainly centre-left or left.

After the debate VPJ had a very short curtesy meeting with the Speaker of the Parliament, Urška Klakočar Zupančič (GS – RE). The Speaker indicated she would like to have a longer policy discussion with VPJ either in Brussels or in Slovenia.

2. Meeting with the Minister of Justice Ms Dominika Švarc Pipan (SD-S&D)

It was a cordial and constructive meeting. The Justice Minister expressed her support to the rule of law report and indicated that they were working on following up on the recommendations. Some of the issues might be addressed only after the publication of the 2023 report, because they require wider legislative changes (e.g. increases of salaries of judges are planned as a reform of the public sector salaries. The coordination for the Rule of Law report is in the hands of the Secretary of State for European Affairs (GAC minister).

On anti-SLAPP package – minister expressed broad support for the directive. On recommendations she mentioned Slovenia might have bigger problems (she mentions some issues with contact points).

Minister stressed that Slovenian law includes defamation as a part of the criminal code and this is unlikely to change. 80% of SLAPPs come from the criminal angle.

Hate speech legislation – full support.

E-evidence – the minister requested further efforts to encourage the EP to progress work on this file in a realistic manner.

VPJ and the minister had a long discussion on the war in Ukraine. The minister is very supportive of prosecution of Russian war crimes and confiscation of Russian assets. The minister recalled that Slovenia is organising a conference in this context on the mutual legal assistance (the Commission is expected to be present there).

The minister expressed her observation that there are a lot of initiatives going on the national level in Europe but they are uncoordinated. She would see a European level coordination or streamlining as desirable. Priority number 1 should be funding and securing evidence.

3. Meeting with the Culture Minister Ms Asta Vrečko (Levica-GUE/NGL)

Meeting was cordial and constructive. It focused mainly on EMFA and disinformation. The minister welcomed the EMFA initiative and expressed broad support. The ministry is working on the Act as there are also some questions regarding the new roles of the national media regulator and the Board. The Minister stressed they agreed with the identification of the negative aspects that EMFA aims to address. The minister appreciated the fact that EMFA would provide key definitions relevant for regulating the media sector.

The minister explained that the law they proposed on public broadcaster, RTV, is in the spirit of EMFA and aims at strengthening the independence of the broadcaster. The government is awaiting the ruling of the Constitutional Tribunal on the law. The minister also informed about the ongoing work to update the existing media law that in her opinion is too old and does not reflect the reality. In this context, the government is looking at strengthening the independence of the press agency and set in law stable financing to avoid the problems that appeared in the past. The minister recalled that the opposition is not in favour of these changes and is trying to delay the work.

On illegal hate speech – the minister welcomed the attempt to legislate and define the crime on the EU level. She remarked that she finds the national courts interpretation of illegal hate speech very narrow which makes very difficult to seek judicial recourse.

On disinformation, the minister acknowledged there is also problem in Slovenia, especially on online platforms which are not doing enough to address the problem. The minister appealed to the VP to continue her work with platforms and recall the need to work also in smaller countries and smaller languages, like Slovenian. In the view of the minister, the post fact-checking, even with labelling does not work well. So the question whether EU should consider, e.g. funding for media to hire fact-checkers to check the stories before they are published.

VPJ recalled the reasons behind the EMFA and thanked the minister for support. She explained there is a strong opposition, coming especially from some publishers, and that we need to invest in explaining and dispelling the myths. The SE presidency is working well on the file and she asked Slovenian government to support as much progress as possible. VPJ showed flexibility to certain aspects of the EMFA, but

insisted that the key issues must remain there untouched if the Act is to bring desired effects.

VPJ recalled the actions on EU level on disinformation, and stressed that the signatories of the Code of Practice published first base-line reports, including some country specific data.

4. Meeting Mr Marko Štucin, Secretary of State at the Ministry of Foreign and European affairs (GAC minister)

The minister has shown keen interest and understanding of the rule of law files. He is responsible for coordinating the Slovenian dialogue in the context of the rule of law report and in following up on the recommendations. He informed that the work is ongoing to implement the recommendations, but for some the government needs more time (e.g. the salaries of judges would be part of a wider reform of the public service salaries that is planned for the end of the year).

Minister inquired if the ongoing work would be reflected in the report and stressed it would be helpful to describe the ongoing processes.

He recalled that Slovenia has joined the 'friends of the RoL' club in the Council, but underlined the government wants to have a constructive approach, especially with Hungary. As a neighbouring country, the minister feels, there is a special relationship with Hungary that might be somehow helpful. For instance, the minister invited HU Justice Minister, Judith Varga, to Slovenia to showcase Slovenian systemic solutions with integrity authority and other anti-corruption measures.

VPJ thanked the minister for his proactive engagement and commitment. He thanked the government for constructive approach to the rule of law report. She explained that the recommendations that remain valid will be repeated in the report. On HU, she appreciated the support of the government and also bilateral outreach. She stressed that in Hungary there will be a need for reality check, if the measures proposed by Hungary indeed are working in practice.

5. Meeting with the members of the Legal Network for the Protection of Democracy (LNPD)

The network was established in 2021 with the aim of allowing Slovenian civil society to monitor, understand and protect the implementation of the rule of law principles in times of the COVID-19 pandemic. The founding members of this informal coalition are Amnesty International Slovenia, IT-Institute for Other Studies – Today is a New Day, PIC – Legal-Informational Center for NGOs, and the Institute for Culture of Diversity Open. The network cooperates with various attorney offices, professors of law and volunteers.

The participants stressed difficult circumstances for the civil society in Slovenia. They stressed they are heavily under-funded and faced strong pressure under the previous government. They appreciated the change of the atmosphere by the current government, but grow impatient and somehow sceptical, as there is little improvements in real life. They gave example of the government organising a lot of

structural dialogues on various issues that are mainly process oriented, and its huge number makes it difficult for the CSOs to follow it and advice properly, given the potential outcome is unclear.

They also had a feeling the government is shifting more difficult debates to the CSOs like for instance with the referendum on public TV.

The participants also stressed that Slovenia has relatively weak equality and supervisory bodies, which again increased the work for the NGOs. They concluded that practically today they also must play a role of constructive opposition.

They asked for more financial and structural support.

VPJ thanked them for frank and open discussion and for their involvement in democratic life of the country. She stressed the Commission recognises important role of CSOs. She presented Commission work on the rule of law, anti-SLAPP legislation, Fundamental Rights and media policy.

NGOs stressed two pertinent issues that are not dealt towards a solution by any government. The first one is the "Erased", meaning the people that were left without passport after Slovenia gained independence, where several cases still not solved. Without legal status, those people were deprived of their economic, political, and civil rights and lost their jobs, homes, pensions, as well as access to health services, and social benefits, without legal remedy.

The second one is difficult situation of Roma people, particularly in the south east part of Slovenia where they even don't have access to drinking water. The situation is usually not seen in country reports as by contrast the situation of Roma in the north-east is much better solved. VPJ said she will share the notes with Commissioner Dalli.