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2024 Rule of Law Report

Country Chapter on the rule of law situation in Slovakia

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The Parliament passed a criminal law reform and dissolved the Special Prosecutor's Office, in a fast-track legislative procedure and without appropriate consultation, raising serious concerns on the process and content of the reform. In February 2024, the Constitutional Court temporarily suspended parts of the reform, which was further amended in another fast-track legislative procedure in July 2024. There was no progress on the introduction of safeguards for the dismissal of the members of the Judicial Council, and the Government dismissed three members before the end of their terms. The amendments to the Criminal Procedure Code raise additional concerns as regards the crime of 'abuse of law'. Statements of Government representatives targeting certain judges raise criticism for interference with the judicial independence. Under the reformed judicial map, courts are generally operating well, including the separate system of administrative courts. Amendments to increase access to free legal aid are under preparation. The level of digitalisation of the justice system is advanced but the development of a new digital court management system faces setbacks.

A new National Anti-Corruption Strategy for the years 2024-2029 is under preparation. However, the criminal law reform raises specific concerns as regards the fight against corruption and in particular high-level corruption, as well as the protection of the financial interests of the Union. The dissolution of the Department for Corruption Prevention of the Office of the Government and of the Special Prosecutor's Office, as well as the envisaged reorganisation of the National Crime Agency affect Slovakia's institutions specialised in the overall coordination, monitoring, detection, investigation and prosecution of high-level corruption. Instead of addressing concerns by limiting the use of the Prosecutor-General's discretion to annul investigations for high-level corruption cases, the control powers of the Prosecutor-General Office over high-level corruption investigations and prosecutions were increased. Taken together, these changes risk affecting Slovakia's ability to effectively pursue high-level corruption cases. The new Government committed to propose lobbying legislation and to strengthen conflict of interest and the asset declaration system.

A legal framework and autonomous budget permit the Council for Media Services to operate autonomously. The Media Services Act and Publications Act jointly ensure transparency of media ownership. There has been no progress to enhance the autonomy of public service media as the new Act regulating public service media dissolved the current broadcaster and established a new entity leading to concerns on the future independence of the broadcaster. Despite some progress with regard to mechanisms aimed at improving the safety of journalists, there are increasing concerns in relation to reported worsening of their working environment.

There is a lack of progress in ensuring effective public consultation in the lawmaking process. Amendments to the Competence Act widen the power of the Government to appoint and dismiss heads of certain independent bodies. The National Preventive Mechanism is now functioning under the Ombudsperson's office, the Commissioner for Children, and the Commissioner for Persons with Disabilities. The Slovak National Centre for Human Rights contributes with its projects to strengthening the rule of law culture. Initiatives to enhance the participation in the development of public policies continue, while the environment for civil society organisations deteriorated, particularly for those with the role of overseeing state activities, and in the area of human rights.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Slovakia has made:

- No progress on introducing measures to ensure that the members of the Judicial Council, notably those not elected by judges, are subject to sufficient guarantees of independence as regards their dismissal, taking into account European standards on independence of Judicial Councils.
- No progress on ensuring that sufficient safeguards are in place and duly observed when subjecting judges to criminal liability for the crime of “abuse of law” as regards their judicial decisions.
- No progress yet on introducing proposals to regulate lobbying and to strengthen the legislation on conflicts of interest and asset declarations.
- No progress on taking measures to improve the coordination among the different law enforcement entities and ensure the objectivity of prosecutorial decisions, and no legislative amendments were advanced to restrict the power of the Prosecutor-General to annul prosecutorial decisions with a view to promoting a robust track record of high-level corruption cases.
- No progress on enhancing the independent governance and editorial independence of public service media taking into account the European standards on public service media.
- Some progress on advancing with the process to establish legislative and other safeguards to improve the physical safety and working environment of journalists, including the reform of defamation law, taking into account European standards on the protection of journalists.
- No progress on ensuring effective public consultation and stakeholder involvement in the law-making process.

On this basis, and considering other developments that took place in the period of reference, and in addition to recalling the relevant commitments made under the Recovery and Resilience Plan, and the relevant country-specific recommendations under the European Semester, it is recommended to Slovakia to:

- Introduce measures to ensure that the members of the Judicial Council, notably those not elected by judges, are subject to sufficient guarantees of independence as regards their dismissal, taking into account European standards on independence of Judicial Councils.
- Ensure that sufficient safeguards are in place and duly observed when subjecting judges to criminal liability for the crime of “abuse of law” as regards their judicial decisions.
- Introduce proposals to regulate lobbying and to strengthen the legislation on conflicts of interest and asset declarations.
- Ensure the effective and independent investigation and prosecution of high-level corruption cases with a view to establishing a robust track record, including by preventing any undue interference in such cases and by restricting the use of the Prosecutor-General’s powers to annul final investigatory and prosecutorial decisions.
- Strengthen the rules and mechanisms to restore and further safeguard the independent governance and editorial independence of public service media taking into account European standards on public service media.

- Advance with the process to establish legislative and other safeguards to improve the physical safety and working environment of journalists, including the reform of defamation law, taking into account the European standards on the protection of journalists.
- Ensure effective public consultation and stakeholder involvement in the law-making process, including by avoiding excessive use of the fast-track procedure.

I. JUSTICE SYSTEM

The court system of the Slovak Republic consists of 36 District Courts, including five Municipal Courts, eight Regional Courts, three Administrative Courts, the Specialised Criminal Court, the Supreme Court, the Supreme Administrative Court, and the Slovak Constitutional Court¹. The Regional Courts function as the courts of appeal in civil, commercial, and criminal cases. The Specialised Criminal Court is competent to judge serious criminal matters as enumerated in the relevant provision of the Code of Criminal Procedure². The Judicial Council plays a central role in the administration of the judiciary and in the appointment of judges, as well as in maintaining judicial ethics. Half of its members (9 out of 18) are judges elected by their peers. Other members of the Judicial Council are appointed by the Slovak President, the Parliament, and the Government³. The public prosecution service of Slovakia is an independent state authority headed by the Prosecutor General⁴. Slovakia participates in the European Public Prosecutor's Office (EPPO). The Slovak Bar Association is an independent self-administrative professional organisation⁵.

Independence

The level of perceived judicial independence in Slovakia continues to be low among both the general public and companies. Overall, 33% of the general population and of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024⁶. The perceived judicial independence among the general public has slightly decreased in comparison with 2023 (34%) but remains higher than in 2020 (26%). The perceived level of independence among companies has consistently increased since 2020 (15%), as well as in comparison with 2023 (31%)⁷.

The Parliament passed a criminal law reform and dissolved the Special Prosecutor's Office, in a fast-track legislative procedure and without appropriate consultation, raising serious concerns on the process and content of the reform. In its Programme Statement, the new Government⁸ announced a plan to recodify the Criminal Codes with the stated objective to humanise the prescribed sanctions⁹. On 6 December 2023, the Government tabled in Parliament the draft amendments to the Criminal Code and other related acts, using a fast-track

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

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

³ Art. 141a of the Slovak Constitution.

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

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

⁶ Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

⁷ 33% of the companies in Slovakia are either fairly or very confident that their investments are protected by the law and courts in the Member State. 46% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

⁸ A new Government was formed on 25 October 2023 after parliamentary elections on 30 September 2023.

⁹ Programme Statement of the Government of the Slovak Republic, 2023-2027, pp. 63 and 64.

legislative procedure¹⁰, without appropriate consultation of stakeholders. Parliament adopted the amendments on 8 February 2024 in the third reading¹¹. The former President of the Republic voiced concerns over the amendments during the legislative process¹² and, upon signature of the law on 16 February, requested a constitutional review on 19 February, asking the Constitutional Court to suspend the entry into effect of the amendment¹³. The Constitutional Court merged the request with two requests for constitutional review filed by groups of members of Parliament and, on 28 February 2024, temporarily suspended parts of the reform¹⁴. In its final decision of 3 July 2024, the Constitutional Court declared only some parts of the Criminal Codes' amendment unconstitutional, namely those that would retroactively interfere with criminal proceedings¹⁵. The criminal law reform brings changes to the statutes of limitations of crimes and penalties, including by introducing waivers of penalties involving detention. Furthermore, the Special Prosecutor's Office, specialised in, *inter alia*, fighting corruption and EU budget fraud, was dissolved through this reform. Overall, these amendments raise concerns as regards the effective fight against corruption and the protection of EU financial interests¹⁶. The European Commission has repeatedly expressed its serious concerns over the procedure and the content of the reforms, calling on the Slovak authorities to consult the draft law with the Venice Commission, during an intensive political and technical dialogue with the Slovak authorities. Concerns were also expressed by the European Chief Prosecutor¹⁷ and the European Parliament adopted a resolution¹⁸. The criminal law reform sparked mass protests across Slovakia, with calls on the Government to put the legislative procedure on hold and to refrain from carrying out the planned changes¹⁹. This reform was adopted despite the

¹⁰ Act No. 40/2024 Coll., amending Act No. 300/2005 Coll. The Criminal Code, as amended, and other acts. The issue of the fast-track legislative procedure is described in Pillar IV.

¹¹ Government of the Slovak Republic (2024), Slovak Parliament approved amendments to the Criminal Code.

¹² The information on signing the law can be found on President of the Slovak Republic (2024), Signed and vetoed laws. The information on filing the request for constitutional review can be found in Constitutional Court of the Slovak Republic (2024), Decision No. PL. ÚS 3/2024-112 from 28 February 2024, pp. 1-2.

¹³ President of the Slovak Republic (2024), Proposal to initiate proceedings on compliance of legal acts, pursuant to Article 125(1)(a) of the Constitution of the Slovak Republic.

¹⁴ The Constitutional Court suspended all the amendments to the Criminal Code and the Act on the criminal liability of legal persons and suspended two amending provisions to the Criminal Procedure Code. Constitutional Court of the Slovak Republic (2024), Decision No. PL. ÚS 3/2024-112 from 28 February 2024, p. 2.

¹⁵ Constitutional Court of the Slovak Republic (2024), Press release No 30/2024 of 3 July 2024. Amongst the provisions considered unconstitutional are the retroactive opening of plea agreements and those on the penalty of confiscation of property. However, on the reduction of penalties, the lowered statutes of limitation and the dissolution of the Special Prosecutor's Office were not considered unconstitutional. The Court equally concluded that it did not find the dissolution non-compliant with EU law. In its ruling, the Court considered that the fast-track procedure contained procedural deficiencies, but not to such extent that the Constitution would be breached. Similarly, on the dissolution of the Special Prosecutor's Office, the Court emphasized its restraint and respect for the state power exercising direct democratic legitimacy, that is the Parliament. The suspension of the effect of the provisions will be lifted once the decision enters into effect.

¹⁶ For more details, see pillar II below. Transparency International (8 February 2024), The approved amendments to the criminal code weakens the rule of law and the fight against corruption.

¹⁷ EPPO (2023), Statement regarding the legislative amendments proposed by the Slovak government.

¹⁸ European Parliament, Resolution of 17 January 2024 on the planned dissolution of key anti-corruption structures in Slovakia and its implications for the rule of law, 2023/3021(RSP).

¹⁹ DenikN (2024), There were 30,000 people at the Bratislava protest, the most since demonstrations against the amendment to the Criminal Code began. Jurist – Legal News & Commentary (9 February 2024), Thousands protest in Slovakia over proposed criminal law reform; Reuters (8 February 2024), Slovakia approves criminal law reforms that sparked protests; Reuters (1 February 2024), Slovaks ratchet up protests against government's criminal law reform; AP News (26 January 2024), Thousands protest in Slovakia against plan to amend penal

Government's plans to carry out a recodification of the Criminal Codes in 2025 and 2026²⁰. On 16 July 2024, fast-track amendments to the Slovak Criminal Code were adopted by the Slovak Parliament with a view to ensure better alignment with relevant EU legislation²¹.

There was no progress on the introduction of safeguards for the dismissal of the members of the Judicial Council and the new Government, Parliament and the new President dismissed their nominees before the end of their term. The 2023 Rule of Law Report recommended to Slovakia to “ensure that the members of the Judicial Council are subject to sufficient guarantees of independence as regards their dismissal, taking into account European standards on independence of Judicial Councils”²². As reported in last years' Reports, the conditions for the dismissal of Judicial Council members, notably those not elected by judges²³, have still not been laid out in law. Shortly after assuming office, the new Government dismissed the three members of the Judicial Council appointed by the previous Government, ahead of the end of their term, and appointed three new members to replace them²⁴. Two of the dismissed members challenged this decision before the Constitutional Court²⁵. Both Parliament and the President also have the right to dismiss three members each, constituting, together with the Government's nominees, half of the Judicial Council. On 16 April, the Judicial Council, supported by, *inter alia*, all three members newly nominated by the Government, dismissed its President from the function, alleging a breach of law²⁶. The dismissed President was unsuccessful with his constitutional complaint against this decision and plans to submit the case before the European Court of Human Rights²⁷. Parliament subsequently dismissed the former President of the Judicial Council, together with one other member, as the members of the Judicial Council, who are nominated by Parliament²⁸. Moreover, the new Slovak President

code and close special prosecutor's office; SME News (8 February 2024), Protests and obstruction did not work, parliament approved new criminal codes; Euractiv (2 February 2024), Opposition to Slovakian PM's proposed criminal reforms grows.

²⁰ Written input from Slovakia, p. 2. Information received from the Ministry of Justice in the context of the country visit to Slovakia.

²¹ The Act will have to be signed by the Prime Minister, the Speaker of the Parliament, and the President of the Slovak Republic, before being sent to the Ministry of Justice for its publication in the Collection of Laws. The Commission is currently analysing the criminal law reform, including these latest amendments.

²² 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in Slovakia, p. 2 and p. 2.

²³ The Council is composed of 18 Members, half of which are judges elected by their peers. The Government, the Parliament and the President of the Republic each choose three members as well. Members of the Council can be dismissed only by the body which appointed them.

²⁴ Government of the Slovak Republic (2023), Decision of the Government of the Slovak Republic No. 576 of 2 November 2023 on the proposal to dismiss and appoint members of the Judicial Council of the Slovak Republic.

²⁵ Aktuality.sk (2023), Two dismissed members of the Judicial Council: The Government decided arbitrarily, we will file a constitutional complaint; RTVS (2024), Former members of the Judicial Council were not successful with their constitutional complaints against their dismissal.

²⁶ Slovak Judicial Council (2024), Proposal to dismiss the president of the Judicial Council of the Slovak Republic, prof. JUDr. Ján Mazák, PhD., from his function as the president of the Judicial Council, pp. 1-2; Slovak Judicial Council (2024), Decision No. 103/2024 of 16 April 2024. The decision on dismissal was adopted based on the proposal of six members of Judicial Council, five of whom were elected by judges.

²⁷ As announced on the website of the Judicial Council. Slovak Judicial Council (2024), Constitutional complaint pursuant to Article 127 of the Constitution of the Slovak Republic and a Request for interim measures; The President of the Judicial Council issued a statement on this matter: Slovak Judicial Council (2024), Statement of the President of the Judicial Council of 15 April 2024; Additional input from the Slovak Judicial Council in the context of the country visit to Slovakia. RTVS (2024), Ján Mazák did not succeed with his constitutional complaint against his dismissal as a President of the Judicial Council.

²⁸ Slovak Judicial Council (2024), Judicial Council of the Slovak Republic again in incomplete composition.

dismissed two of the former President's nominees as well²⁹. The Judicial Council plays a significant role, in particular, in the selection procedure for the office of a judge, the vetting procedure of a judge, disciplinary proceedings against judges, or in granting a decision not to prosecute a judge for the crime of 'abuse of law'³⁰. According to the case law of the Court of Justice of the European Union, judicial councils need to be subject to sufficient guarantees of independence in relation to the legislature and the executive, including as regards the way their members can be dismissed³¹. Considering that no guarantees for independence were introduced as regards the dismissal of members of the Judicial Council, there has been no progress on the implementation of the recommendation made in the previous years.

Statements of Government representatives targeting certain judges raise criticism for interference with the judicial independence. Judges, including representatives of the highest courts, have been targets of strong statements by representatives of the Government, including public calls for removal from their posts. These statements were condemned by the Judicial Council, in particular those attacking the judges for their decision making³². In the context of an inspection of allocation of cases, the Ministry of Justice has requested twice the disclosure of a significant amount of information on cases handled by the Supreme Court, which was refused and condemned by the President of the Supreme Court as excessive and interfering with sensitive information contained in the files³³. The Ministry had the same request in relation to cases at the Specialised Criminal Court, which provided the access. In this context, the Supreme Court President faced personal attacks and the President of the Specialised Criminal Court resigned³⁴. The Government's actions were condemned by the Judges for Open Judiciary, appealing to the Government representatives to refrain from the statements that undermine public trust and respect for the courts³⁵, as well as the President of the European Association of Judges, that noted threats to the independence of justice³⁶.

The amendments to the Criminal Procedure Code do not introduce any new safeguards as regards the crime of 'abuse of law', but they raise additional concerns. The 2022 and

²⁹ Slovak Judicial Council (2024) Press release of 15 July: The Judicial Council of the Slovak Republic has two fewer members. RTVS (2024) President P. Pellegrini dismissed two members of the Slovak Judicial Council (*'Prezident P. Pellegrini odvolal dvoch členov Súdnej rady SR'*). SME (2024) Pellegrini dismissed two members of the Judicial Council, which were nominated by the former President (*'Pellegrini odvolal dvoch členov Súdnej rady, ktorých vymenovala ešte bývalá prezidentka'*). The President noted that he dismissed the two members so that he could contribute his own ideas to the functioning of the Judicial Council.

³⁰ Inter alia, Section 3b and 4 of Act No. 185/2002 Coll., on Judicial Council.

³¹ The Court of Justice of the European Union has recalled, as regards the process for appointing members of the judiciary, for a Council of the Judiciary to contribute to rendering that process more objective, it is necessary that such a body should itself be sufficiently independent of the legislature, the executive and the authority to which it is required to submit an opinion on the assessment of candidates for a judicial post (judgment of 20 April 2021, Case C-896/19, Repubblica, ECLI:EU:C:2021:311, para. 66).

³² Slovak Judicial Council (2024), Decision No. 136/2024 of 17 April 2024.

³³ Information about the inspection is available on the website of the Ministry of Justice. Statements by the President of the Supreme Court as quoted in Sita (2024), Denník N (2024a), HNonline.sk (2024). Second inspection was asked in the form of remote access to the database. The same request was made by the Ministry of Justice at the Specialised Criminal Court, which did disclose the requested files. Subsequently, the President of the Specialised Criminal Court resigned.

³⁴ Aktuality.sk (2024), President of the Specialised Criminal Court resigns; RTVS (2024), Ján Hrubala resigns from the post of President of the Specialised Criminal Court.

³⁵ SME.sk (2024), Judges for Open Judiciary appeal to the politicians not to undermine public trust for the courts by their statements.

³⁶ El Espanol (2024), European judges put Spain on a level with Hungary due to the deterioration of judicial independence.

2023 Rule of Law Reports recommended to Slovakia to “ensure that sufficient safeguards are in place and duly observed when subjecting judges to criminal liability for the crime of ‘abuse of law’ as regards their judicial decisions”³⁷. Under this crime, judges may be prosecuted for an arbitrary decision causing damage to or bestowing a favour on another person³⁸. The judge has a possibility to request the Judicial Council to discontinue the criminal proceedings by a vote of minimum ten of its members³⁹. However, this can take place only after the indictment enters into effect, meaning that at the moment of the voting of the Judicial Council, the judge may already be in detention⁴⁰. Instead of introducing additional safeguards, the new wording of the Criminal Procedure Code might however suggest that the content of judicial decisions may be subject to prosecution also under different offences than the one of ‘abuse of law’, bringing a level of uncertainty to the application of the provision⁴¹. Moreover, the amendments to the Criminal Procedure Code, in the context of the amendments to the Criminal Code and other related acts of 8 February 2024⁴², have limited the judge’s right to request a vote to discontinue criminal proceedings from the Judicial Council. While there was no time limit so far, the law now foresees a limit of 60 days from the delivery of a decision on indictment⁴³. Since the introduction of the crime of ‘abuse of law’ in 2021⁴⁴, only two cases were brought before the court⁴⁵. However, over 100 crime reports against judges were filed based on this provision, which, so far, has been dismissed in early stages of proceedings, creating a high administrative workload connected with the handling of these complaints⁴⁶. The criminal proceedings negatively affect the judges not only because of the burden of the investigation as such, but also because the lack of clarity and insufficient safeguards make the provision prone to potential misuse, creating a chilling effect on the independent exercise of the judges’ decision-making⁴⁷. Criminal proceedings against a judge are also a relevant aspect for the vetting procedure of a judge⁴⁸. As the recent legislative changes do not improve safeguards for

³⁷ 2023 and 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Slovakia, p. 6 and p. 2, respectively.

³⁸ Section 326a of the Slovak Criminal Code, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 4 and 6 respectively.

³⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 6.

⁴⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 6. See also Statement by nine members of the Judicial Council of 5 February 2024.

⁴¹ Section 9 para 2 of the Criminal Procedure Code now provides an additional sentence which reads that ‘[t]he prosecution of a judge must be discontinued, or the case referred for a disciplinary offence only if the act of which the judge is accused cannot be legally assessed as a different offence.’ The crime of ‘abuse of law’ constitutes a *lex specialis* to the crime of ‘abuse of power by a public official’ under Section 326 of the Criminal Code.

⁴² The provisions of the Criminal Procedure Code (except for two provisions, the effect of which was suspended by the Constitutional Court) entered into effect on 15 March 2024.

⁴³ Section 207a, para 3. Before this amendment, there was no time limit for the judge to file such request with the Judicial Council.

⁴⁴ Introduced by 2020 Constitutional amendments, with the aim to enhance the integrity regime for judges, effective as of 2021.

⁴⁵ Country visit to Slovakia, Specialised Criminal Court. One of the two cases has already been decided, Specialised Criminal Court (2023), Judgment No. 4T/1/2023 of 24 February 2023.

⁴⁶ Country visit to Slovakia, Specialised Criminal Court; 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 6.

⁴⁷ Country visit to Slovakia, Judges for Open Judiciary, Association of Judges, 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 7; The Judicial Council has publicly issued decision No 63/2023 on the crime of abuse of law, as stipulated in Section 326a of the Criminal Code, from 16 February 2023.

⁴⁸ Vetting procedure of a judge is initiated every time when there is a promotion of a judge to a higher court, but also by the decision of the Judicial Council if a majority agrees (i.e. more than 9), Act on the Judicial Council. Information received by the Association of Judges.

judges as regards the crime of “abuse of law”, but raise further concerns, there has been no progress on the recommendations.

The reformed judicial map, including the separate system of administrative courts, is generally operating well, with some initial challenges to be overcome. The reform, referred to in the previous Rule of Law Reports⁴⁹, took effect on 1 June 2023, after a postponement of five months to allow for a better preparation of the justice system. Since then, courts operate in adjusted districts and regions, and there is a new separate system of administrative courts⁵⁰. Data collected by the Ministry of Justice suggest that these changes did not cause any immediate systemic disruptions of performance at the district or regional level⁵¹. Stakeholders report challenges in the administration and organisation of work, higher financial demands, and some negative impacts on parties in proceedings, while long-standing issues such as remuneration of administrative and assistant staff are not addressed⁵². The new administrative courts started operating while only partially staffed, with the situation progressively improving.⁵³ The reform has required adjustments to the functioning of the prosecution service, where challenges were reported, especially as regards the accessibility of courts, logistical issues and the efficiency of the work of public prosecutors⁵⁴. While initial challenges and a temporary drop in court efficiency was expected⁵⁵, the aim of the reform is to progressively improve the efficiency and quality of the justice system, in particular by increasing the specialisation of judges⁵⁶.

The power of the Prosecutor General to annul decisions of lower-ranking prosecutors without adequate safeguards remains a concern. The Prosecutor General has the power, as an extraordinary remedy, to annul any final decision by lower-ranking prosecutors or the police, made in the pre-trial stage of criminal proceedings, if the decision is considered to be in breach of the law, without the obligation to reason such a decision (Section 363 et seq. of the Criminal Procedure Code)⁵⁷. There is neither judicial review of such decisions, nor any other remedy⁵⁸. According to European standards, interested parties or victims should be able to challenge

⁴⁹ 2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Slovakia, pp. 3-4, pp. 5-6 and pp. 7-8, respectively.

⁵⁰ See website of the Ministry of Justice, <https://www.justice.gov.sk/sudy-a-rozhodnutia/sudna-mapa/zmeny-v-sudnej-mape/>. 2023, 2022 and 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Slovakia, pp. 9-10, p. 7 and p. 6, respectively.

⁵¹ Information received in the context of the country visit from the Ministry of Justice.

⁵² Statement by nine members of the Judicial Council of 5 February 2024, p. 2. And information received in the context of the country visit from Association of Judges of Slovakia. Association of Judges of Slovakia (2024), Association is currently gathering knowledge and experience of its members, which it will evaluate in a complex manner.

⁵³ This temporarily impacted their performance, written contributions from Liberties Europe, Association of Judges of Slovakia. Information received in the context of the country visit from the Supreme Administrative Court.

⁵⁴ Information received in the context of the country visit from the Office of the Prosecutor General.

⁵⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 4.

⁵⁶ The Ministry of Justice is collecting feedback from courts and analysing how the reform would affect the work of courts and the accessibility of justice by the public.

⁵⁷ Art. 363(1) et seq. of the Criminal Procedure Code. The Prosecutor General shall revoke the final decision of the prosecutor or police officer if the decision or proceedings which preceded it were in breach of the law. 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 9 and p. 7, respectively.

⁵⁸ Art. 363(3) of the Criminal Procedure Code. See also Figure 59, 2022 EU Justice Scoreboard. Following such decision, the only possibility for investigators to bring charges is to start the process again and collect new evidence different from what was presented in the original case.

decisions of public prosecutors not to prosecute⁵⁹. In addition, European standards relating to autonomy and internal independence within the prosecution service call for a clear mechanism to allow lower-level prosecutors to appeal against assignments or instructions of a superior prosecutor⁶⁰. As reported in last year's Report, Section 363 of the Criminal Procedure Code was challenged before the Constitutional Court, which adopted a decision on 21 June 2023 not to grant the motion⁶¹. The Constitutional Court decision, however, did not address the issue of safeguards, which are required by European standards. A second constitutional complaint, launched by Slovakia's former President Čaputová, requesting to assess the constitutionality of the activities of the Prosecutor General regarding the use of Section 363, is pending⁶².

The Special Prosecutor's Office has been dissolved without adequate safeguards being put in place, risking to impact the efficiency and autonomy of the prosecutions. The amendments to the Criminal Code and other related acts of 8 February 2024, led to the dissolution of the Special Prosecutor's Office (SPO) with effect as of 20 March 2024. Until its dissolution, the SPO was a specialised branch investigating the most serious crimes, including corruption, that fall within the competence of the Specialised Criminal Court⁶³. The SPO was also dealing with offences concerning the protection of financial interests of the Union. The SPO, headed by the Special Prosecutor appointed by Parliament⁶⁴, held a certain level of autonomy from the Prosecutor General's Office (PGO). For example, the Prosecutor General was not entitled to give instructions to the Special Prosecutor or the SPO prosecutors and was not entitled to carry out tasks for the Special Prosecutor or the SPO prosecutors⁶⁵. Following the SPO's dissolution, all its prosecutors have been included in organisational units of the

⁵⁹ Interested parties of recognised or identifiable status, in particular victims, should be able to challenge decisions of public prosecutors not to prosecute; such a challenge may be made, where appropriate after a hierarchical review, either by way of judicial review, or by authorising parties to engage private prosecution. Recommendation Rec(2000)19 of the Committee of Ministers on the Role of Public Prosecution in the Criminal Justice System, para 34. See also Venice Commission CDL-AD(2010)040-e Report on European Standards as regards the Independence of the Judicial System: Part II — the Prosecution Service (2011), para 45 and Venice Commission Rule of Law Checklist (2016), para. 96.

⁶⁰ Clear mechanisms should be established, which will allow lower-level prosecutors to appeal against assignments or instructions of a superior prosecutor if they find that these assignments or instructions are illegal or unjustified. CCPE Opinion No. 13: Independence, accountability and ethics of prosecutors (2018), para 43. Also Recommendation CM/Rec(2000)19 of the Committee of Ministers to member states on the role of public prosecution in the criminal justice system, recommendation 9 and 10; Venice Commission, Rule of Law Checklist, CDL-AD(2016)007rev, para. 92. These apply also in cases where the Prosecutor General can issue a decision on discontinuation of the prosecution procedure directly. Venice Commission CDL-AD(2014)042, Opinion No. 785/2014 Interim Opinion on the Draft Law on the State Prosecution Office of Montenegro, paras. 34 and 108.

⁶¹ Constitutional Court of the Slovak Republic (2023), Decision No. PL. ÚS 1/2022-270 from 21 June 2023; The motion was submitted by a group of Members of Parliament and the President of the Slovak Republic. In its decision, the Constitutional Court did not assess the application practice of the contested provisions, as this was not the subject of the compliance proceedings. The 2023 Report also referred to draft amendment to the Criminal Procedure Code, however, it was not tabled for adoption in Parliament before the elections on 30 September 2023. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 7. The current amendments do not address this issue.

⁶² Reuters Press Agency/Daily SME (2023), The Constitutional Court accepted the President's proposal for further proceedings; This complaint is based on the fact that the Prosecutor General refused to provide the President with information on his decisions made under section 363.

⁶³ Art. 14 of the Criminal Procedure Code before its amendment by the Act No. 40/2024. The SPO was also competent to prosecute the crime of abuse of law.

⁶⁴ Former Section 24a of the Act No. 154/2001 Coll., on public prosecutors and candidates for the position of public prosecutor.

⁶⁵ Former Section 55d of the Act on the prosecution service.

Prosecutor General's Office⁶⁶, unless they filed a request to be placed in the regional prosecution offices⁶⁷. The transfer of former SPO prosecutors in various units within the PGO was done without their consent and in most of the cases not reflecting their expertise⁶⁸. Furthermore, consequently to their transfer and that of all their files to the premises of the PGO, the prosecutors did not have proper access to their files and in some cases missed legal and courts' deadlines for procedural acts before the court, and files were reassigned to other prosecutors with the risk of loss of expertise⁶⁹. The dismissal of the SPO and the consequent transfer of competence over high-level corruption cases to the PGO was not underpinned by an *ex ante* impact assessment⁷⁰. Due to the lack of legally binding safeguards to ensure continuity and effectiveness of investigations, including an effective handover of files, the SPO has been dissolved without adequate safeguards being put in place, risking to impact the efficiency of the prosecution system, as well as the ongoing cases.

Quality

The level of digitalisation of the justice system is advanced but the development of a new digital court management system faces setbacks. According to the 2024 EU Justice Scoreboard, the level of digitalisation of the justice system is advanced, especially as regards civil, commercial, and administrative cases⁷¹. Digital tools are broadly used in courts, including an electronic case management system, technology for distance communication and electronic case allocation. In 2023, the Ministry of Justice faced setbacks in its project to develop a new digital Court Management System⁷². Work on the connection between the information systems of the police and the prosecution service, aiming to allow the electronic exchange of documents, in a first stage, and of the whole investigation file, at a later stage, is progressing slowly⁷³. Digitalisation efforts are also supported by funding from the EU, including the Recovery and Resilience Facility⁷⁴.

Amendments to increase access to free legal aid are under preparation. Amendments to the Act on free legal aid, in preparation since 2022, are currently in an inter-ministerial review.

⁶⁶ As a result of the Act No. 40/2024 Coll., amending Act No. 300/2005 Coll. The Criminal Code, as amended, and other acts, Section 55(d)(3) of Act No 153/2001 to prevent interfering in the activities of the special prosecutors were abolished with effect from 20 March 2024 and were not replaced by other safeguards.

⁶⁷ There were two such requests, however, the former SPO prosecutors were not enabled to be placed in the regional prosecution offices.

⁶⁸ Written information provided by Slovakia in the context of the RRP in April 2024. Open letter from 11 prosecutors from the former Special Prosecutor's Office to the Prosecutor General from 22 April 2024.

⁶⁹ Open letter from 11 prosecutors from the former Special Prosecutor's Office to the Prosecutor General from 22 April 2024. Based on Article 8 of Order of the Prosecutor General No. 10/2024 it is the prosecutor of the former SPO who is responsible for meeting the legal deadlines in the ongoing cases, which were not finalised before 20 March, such as deadlines in detention matters, filing complaints and appeals against the decisions of the Specialised Criminal Court, or deadlines to annul decisions of police officers on the merit.

⁷⁰ Information received from the Government Office in the context of the country visit.

⁷¹ Figures 42 – 46, 2024 EU Justice Scoreboard.

⁷² A tender launched in June 2023 was cancelled in February 2024 and a new procurement procedure is to be launched by the Ministry shortly. Written input from the Ministry of Justice in the context of the country visit to Slovakia.

⁷³ Written input from the Office of the Prosecutor General in the context of the country visit to Slovakia.

⁷⁴ The Slovak Recovery and Resilience Plan plans investments into digitalisation and analytical capacities for the justice system, particularly under Component 15 of the Slovak Recovery and Resilience plan. Component 15 of the Slovak National Recovery and Resilience Plan. Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Slovakia, COM(2021) 339 final, pp. 127 – 133.

These amendments aim to bring free legal aid to a larger group of society, among others by increasing the income threshold for when people are entitled to legal aid, widening the eligibility of persons, introducing the possibility of waiving the fee for preliminary consultation, or reducing the minimum value of the dispute⁷⁵. At the same time, the fee for a preliminary consultation has slightly increased and a new fee for processing a request for legal aid in insolvency proceedings has been introduced to respond to the economic situation and the needs which emerged from practice⁷⁶.

Efficiency

The justice system continues to face challenges as regards its efficiency in administrative cases but is making progress. The trend in the estimated time for resolving administrative cases at first instance, was reversed in 2022 as compared to 2021 (648 days, compared to 679 in 2021 and 586 in 2020⁷⁷). Also, the rate of resolving administrative cases at first instance increased (to 93 % in 2022 from 80 % in 2021⁷⁸) while staying below 100 %, suggesting that the courts resolved fewer cases than the number of incoming cases. The available 2023 data⁷⁹, however, suggest a further drop in the clearance rate in the wake of the reform of the judicial map, particularly related to the drop in the number of decided cases in the months of transition when administrative cases were moved from regional courts to new administrative courts. This drop, however, is expected to be only temporary as positions in administrative courts are progressively being filled⁸⁰, which has been improving their functioning. At the same time, due to the criminal law reform, petty thefts ceased to be criminal offences and are classified as administrative offences instead. This is expected to create an additional caseload for the administrative courts⁸¹.

II. ANTI-CORRUPTION FRAMEWORK

The dedicated Department for Corruption Prevention of the Office of the Government as the central body for the corruption prevention coordination was closed on 1 June 2024, with tasks being distributed within the Office of the Government, which is structurally under the Prime Minister's Office⁸². The corruption prevention coordination competence has shifted to the State Security Division of the Office of the Government. A re-organisation is planned for the National Crime Agency of the Presidium of the Police Force⁸³, which has had so far, the exclusive competence for the investigation of corruption offences and the misuse of EU funds. Corruption crimes committed by the police itself and certain law enforcement agencies fall under the remit of the Bureau of Inspection Service⁸⁴. The Bureau of Inspection Service is also

⁷⁵ Input from Slovakia for the 2024 Rule of Law Report, p. 12.

⁷⁶ Ibid.

⁷⁷ Figure 8, 2024 EU Justice Scoreboard.

⁷⁸ Figure 12, 2024 EU Justice Scoreboard.

⁷⁹ Information received in the context of the country visit from the Ministry of Justice.

⁸⁰ Information received in the context of the country visit from the Ministry of Justice.

⁸¹ Information received in the context of the country visit from the Supreme Administrative Court.

⁸² There are no specific regulations, including selection or removal criteria, for the Head of the Government Office, who is appointed by the Government and is not independent, see UN CoSP, Implementation Review Group: State of the implementation of the United Nations Convention against Corruption – Executive Summary (4-8 September 2023), CAC/COSP/IRG/II/4/1/Add. 6, p. 3.

⁸³ As confirmed by the Slovak Minister of Interior in an interview with Štandard.sk (2024), Interview with the Minister of the Interior 'NAKA will no longer continue in the current form' ('NAKA v súčasnej podobe skončí'). See Euractiv, Fico's government mulls dismantling agency that handles corruption (11 January 2024).

⁸⁴ Cf. Article 4(3) of Act No. 171/1993 Coll. on the Police Force.

in charge of following up on police's whistleblower reports. The competences and cases of the Special Prosecutor's Office⁸⁵, which had the exclusive jurisdiction for investigations and prosecutions of corruption and other serious criminal offences under the substantive jurisdiction of the Specialised Criminal Court⁸⁶ until its dissolution, have been moved to the regional offices, while its specialised prosecutors for corruption cases have been integrated into the General Prosecutor's Office.

The perception among experts and business executives is that the level of corruption in the public sector is relatively high. In the 2023 Corruption Perceptions Index by Transparency International, Slovakia scores 54/100 and ranks 19th in the European Union and 47th globally⁸⁷. This perception has improved over the past five years.⁸⁸ The 2024 Special Eurobarometer on Corruption shows that 77% of respondents consider corruption widespread in their country (EU average 68%) and 35% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁸⁹. As regards businesses, 85% of companies consider that corruption is widespread (EU average 65%) and 63% consider that corruption is a problem when doing business (EU average 36%)⁹⁰. Furthermore, 31% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁹¹, while 9% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁹².

A new National Anti-Corruption Strategy 2024-2029 and a related Action Plan is in preparation for adoption⁹³. As the previous strategy, the new National Anti-Corruption Strategy will focus primarily on corruption prevention by incentivising individual ministries to define, adopt and update their own sectoral anti-corruption measures⁹⁴. It will be based on four pillars, including on corruption prevention legislation, capacity building, education,

⁸⁵ Act of the National Council of the Slovak Republic No. 458/2003 Coll. on the establishment of the Special Court and the Office of Special Prosecutor's Office.

⁸⁶ Act No. 291/2009 Coll. on the Specialized Criminal Court.

⁸⁷ Transparency International (2024), Corruption Perceptions Index 2023. 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).

⁸⁸ In 2019, the score was 50, while, in 2023, the score is 54. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points) and is relatively stable (changes from 1-3 points) in the last five years.

⁸⁹ Special Eurobarometer 584 on Corruption (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

⁹⁰ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁹¹ Special Eurobarometer 584 on Corruption (2024).

⁹² Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

⁹³ Adopting a new strategy is a commitment in the Government Programme Statement of the Slovak Republic 2023-2027 (2023).

⁹⁴ Information received from Department for Corruption Prevention of the Office of the Government (hereinafter 'Office of the Government') in the context of the country visit to Slovakia. The previous National Anti-Corruption Strategy included several sectoral programmes adopted by ministries and other institutions, including the Ministry of Justice, of Economy, of the Interior, of Transport and Construction, of Environment, of Finance Sector, of Foreign and European Affairs, of Health, and of Labour, among others. The related action plans contained also primarily preventive elements, including on awareness-raising, education and corruption risk-management. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 12-13.

communication, and corruption risk management⁹⁵. Thematically, the strategy is planned to include measures on lobbying, asset declarations, and ethics of top executive officials⁹⁶. It will be done in the course of the Government's Programme Statement 2023-2027 and consultations, including intragovernmental and public consultations, are envisaged⁹⁷. The standard monitoring system of the previous strategy⁹⁸ remains in place, and consequently there will not be a dedicated, centralised evaluation system⁹⁹. A new Statute of the Council of Anti-Corruption Coordinators, who are placed in all ministries and other central authorities, was adopted on 2 May 2023¹⁰⁰. As previously reported, the Council coordinated corruption prevention work with the closed Department for Corruption Prevention of the Office of the Government¹⁰¹; yet it continues to serve as an advisory body for the Head of the Government Office.

The criminal law reform raises serious concerns regarding the robustness of Slovakia's legislative framework against corruption. The consequences of the criminal law reform¹⁰², which was suspended by the Constitutional Court for review¹⁰³, include lowering the penalties for corruption and corruption-related crime¹⁰⁴ and shortening the statutes of limitation periods

⁹⁵ Information received by the Office of the Government in the context of the country visit to Slovakia.

⁹⁶ Government Programme Statement of the Slovak Republic 2023-2027 (2023).

⁹⁷ Information received by the Office of the Government in the context of the country visit to Slovakia.

⁹⁸ With the performance of the tasks defined in the strategy being reported only according to their deadlines as inspected by the Office of the Government but not on their content.

⁹⁹ A non-public annual summary is compiled by the Office of the Government and submitted to the Government. The Government does not consider a central evaluation system, in an electronic or any other form as an improvement.

¹⁰⁰ Information received from the Government during the Member States' consultation.

¹⁰¹ See 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 12, footnote 102 (for 2022) and p. 11, footnote 104 (for 2021).

¹⁰² Amendments to the Criminal Code and other related acts (Act No. 40/2024 Coll.) amending Act No. 300/2005 Coll., the Criminal Act, as amended, and amending and supplementing certain other acts. European Public Prosecutor's Office (18 December 2023), Statement regarding the legislative amendments proposed by the Slovak Government, see EPPO (2023), Statement regarding the legislative amendments proposed by the Slovak government. Contribution to the 2024 Rule of Law Report by Zastavme Korupciu/ Via Iuris/ Transparency International, The threat to the stability of democracy and the rule of law in Slovakia; by ENNHRI, p. 15; by Civil Liberties Union for Europe; by the Slovak National Centre for Human Rights, pp. 2 et seq. Transparency International (8 February 2024), Transparency International (2024), 'The approved amendments to the criminal code weakens the rule of law and the fight against corruption'. Denník Postoj (8 January 2024), Pellegrini introduces the change in criminal codes, the amendment was tailor-made for their people, according to ex-minister Karas; SME News (8 February 2024), Protests and obstruction did not work, parliament approved new criminal codes. Euractiv (2 February 2024), Opposition to Slovakian PM's proposed criminal reforms grows; Since December 2023, the European Commission has informed Slovakia in several meetings about its concerns about potential breaches of EU law protecting the financial interests of the Union and the EU's anti-corruption legislation.

¹⁰³ On 11 March 2024, together with the amendments to the criminal and criminal procedure law, the decision of the Constitutional Court was published in the Official Journal as No. 41/2024 Coll. The Court suspended the effectiveness of Article I, Article II, point 39, Art. II, point 134 in the part relating to Article 567t(4) and Article XVII of the Act of 8 February 2024 amending Act No. 300/2005 Coll., the Criminal Act, as amended, and amending certain other acts. For the remaining parts, including the abolishment of the Special Prosecutor's Office as a specialised body to fight high-level corruption, the Constitutional Court did not grant the motions to suspend the entry into force of the act.

¹⁰⁴ Public sector corruption amendments include: section 329 of the Criminal Code, the sanction level would be lowered from 3-8 to 1-5 years; section 330, from 5-12 to 3-8 years; for section 333 from 5-12 to up to 2 years; section 334, from 2-5 to 1-5 years; section 336a, for aggravating circumstances, from 5 to 3 years; section 336a, from up to 1 year to up to 6 months; section 336c for aggravating circumstances from 8 to 7 years;

within which corruption-related crimes could be brought to justice¹⁰⁵. On 28 February 2024, the Constitutional Court decided to accept the proposals to initiate proceedings on the compliance of the act with the constitution and to suspend the entry into force originally planned for 15 March 2024 of some parts of the reform¹⁰⁶. The temporary suspensive effect extended to the lowered corruption penalties, the shorter statute of limitation periods for corruption prosecutions, and the new rules on suspects that cooperate with corruption investigators and prosecutors until the court's decision on the merits. The Constitutional Court ruled on the matter on 3 July 2024¹⁰⁷. When the relevant provisions enter into force, several currently ongoing corruption cases related to high-level officials, politicians and businessmen closely affiliated to politics risk being irretrievably affected¹⁰⁸, with approximately 30% of cases of the Special Prosecutor Office risking to be discontinued due to the new, shorter statutes of limitation¹⁰⁹. Furthermore, due to the newly introduced waiver of punishment, penalties (including imprisonment) for corruption crimes can be avoided if the perpetrator compensates the damage caused¹¹⁰, potentially resulting in impunity for corruption-related crimes. In terms of criminal procedure, the reform introduces the possibility to retrospectively withdraw already agreed plea bargains of suspects who have cooperated with the police and to review future plea bargains¹¹¹. The scale and potential consequences of the amendments on Slovakia's fight against corruption would have merited a thorough debate and wide consultation under ordinary

section 336d, from up to 2 years to up to 1 year; section 336, from 3-8 to 1-5 years; section 326, from 2-5 years to 6 months to 3 years. Other corruption- and EU funds related crimes: section 225, from 1-5 years to 6 months to 3.5 years; sections 261-263, from 12 to max. 10 years; and sections 266-268, from 12 to 10 years as maximum sanction level.

¹⁰⁵ Public sector corruption amendments include: section 329 of the Criminal Code, the prescription period is shortened from 10 to 5 years; section 330, from 20 to 5 years; section 333, from 10 to 3 years; section 334, from 10 to 5 years; section 336c, from 5 to 3 years; section 336, from 10 to 3 years; section 336, from 5 to 3 years; section 326, from 5 to 3 years; and section 344, from 10 to 5 years.

¹⁰⁶ On 11 March 2024, together with the amendments to the criminal and criminal procedure law, the decision of the Constitutional Court was published in the Official Journal as No. 41/2024 Coll. The Court suspended the effectiveness of Article I, Article II, point 39, Art. II, point 134 in the part relating to Article 567t(4) and Article XVII of the Act of 8 February 2024 amending Act No. 300/2005 Coll., the Criminal Act, as amended, and amending certain other acts. For the remaining parts, including the abolishment of the Special Prosecutor's Office as a specialised body to fight high-level corruption, the Constitutional Court did not grant the motions to suspend the entry into force of the act.

¹⁰⁷ Judgment of the Constitutional Court of the 3 July 2024, case PL. ÚS 3/2024.

¹⁰⁸ According to Article 50(6) of the Constitution, 'the criminality of the act shall be judged and punishment imposed according to the law in force at the time when the act was committed. The later law shall apply if it is more favourable to the offender' (i.e. *lex mitior*). Several corruption cases risk either not being opened before the court or closed with no possibility to reopen them for the same crime due to the shorter, new prescription periods, even if enforced only for one day. See Denník N (29 January 2024), The cases of Vyboh and Haščák will be forever time-barred if the Criminal Code is amended even for one day; See also Zastavme Korupciu, The largest database of corruption cases in Slovakia, www.kauzy.sk.

¹⁰⁹ See the Special Prosecutor Office's Facebook entry of 19 January 2024. According to the Government, the reported data is not based on the analysis of cases.

¹¹⁰ New section 40(3) of the Criminal Code: (3) Where damage has been caused or benefit obtained by the offence, the punishment of the offender under subsection (1)(a) or (b) may be dispensed only if the offender has surrendered the proceeds of the offence and has paid for the damage caused by the offence or has entered into an agreement with the victim on compensation for the damage or on a method of remedying the consequences of the offence or on other compensation.

¹¹¹ New to section 371 of the Criminal Procedure Code: (2) The Minister of Justice shall also bring an appeal if the court has, by judgment, approved a plea agreement which is not reasonable or fair in view of the serious breach of the substantive provisions of the law. For more information on the amendments to Slovakia's institutional set-up to repress corruption, see in the next paragraph in this section.

legislative procedure¹¹². Doubts remain also regarding the justification underpinning the reform to amend the provisions relating to corruption, risking not to be based on a robust evidence-base¹¹³.

There has been no progress to limit the Prosecutor General's powers to annul corruption investigations and prosecutions, limiting the promotion of a more robust track record against high-level corruption¹¹⁴. The 2023 Rule of Law Report recommended to Slovakia to “[...] ensure the objectivity of prosecutorial decisions, including by continuing to advance the legislative amendments to restrict the power of the Prosecutor General to annul prosecutorial decisions with a view to promoting a robust track record of high-level corruption cases [...]”¹¹⁵. In 2023, the Prosecutor General continued to use his powers under Section 363 of the Criminal Procedure Code to annul final police and prosecutor decisions in corruption investigations as a remedy for a breach of law¹¹⁶. As previously reported, this power resulted in the closure of

¹¹² The reform, combined with the reorganisation of the National Crime Agency NAKA (see below) and the dissolution of the Special Prosecutor's Office (see pillar I above), carry the risk of promoting a more robust track record against high-level corruption, with the potential to limit the effectiveness in fighting corruption, at a time when state action had started showing positive results in high-level corruption cases, investigations and indictments. See Special Prosecutor's Office (20 December 2023), Report on the activities of the Special Prosecutor's Office and the findings of the Special Prosecutor's Office on the state of legality for the year 2022. Transparency International (6 December 2023), The dissolution of the Special Prosecutor's Office comes at a time when it has real results, reporting that ‘of the 288 corruption cases decided by the Specialised Criminal Court between 2020 and 2022, one quarter of the decisions concerned public figures. Not only medical and police officers, but also representatives of the judiciary and high-ranking civil servants fell into this category. Compared to the past, higher bribes – over EUR 5 000, which make up a fifth of decisions – are also more punished’. Procedurally, the decision to pass the reform in accelerated procedure has evoked criticism for the lack of expert and public consultation and limited possibility of parliamentary debate. Under accelerated procedure, consultations are not required by law. See European Public Prosecutor's Office (18 December 2023), Statement regarding the legislative amendments proposed by the Slovak Government, noting that the speed with which the Slovak Government intends to proceed with [the criminal law] amendments casts serious doubts as to its compliance with its obligations of sincere cooperation (Article 4(3) TEU); European Parliament (2024), Resolution of 17 January 2024 on the planned dissolution of key anti-corruption structures in Slovakia and its implications for the rule of law, 2023/3021(RSP), recitals E. and I, emphasising that the unjustified accelerated legislative process, particularly regarding the proposed amendments to the criminal code and the dissolution of the Special Prosecutor's Office, which threatens the integrity of judicial processes, undermines the EU's fight against fraud and jeopardises the protection of the EU's financial interests and the natural environment in Slovakia. Euractiv (2 February 2024), Opposition to Slovakian PM's proposed criminal reforms grows. Transparency International (8 February 2024), The approved amendments to the criminal code weakens the rule of law and the fight against corruption.

¹¹³ No ex-ante assessment of the reform's potential impact for Slovakia's effective fight against corruption was conducted, according to information received by the Government Office in the context of the country visit. Furthermore, the invoked rulings of the European Court of Human Rights do not serve to justify the amendments at least regarding corruption and corruption-related provisions. For example, concrete links between the general prison overcrowding and the actual amount of corruption offenders in prison was not established. Also, the Court's ruling regarding more oversight over agreements of the police/ prosecutors with cooperating suspects cannot be interpreted as rendering the institute of cooperating suspect de facto ineffective.

¹¹⁴ See section II above.

¹¹⁵ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

¹¹⁶ Input from Slovakia for the 2024 Rule of Law Report, p. 7, reporting that in criminal cases the extraordinary intervention in cassation by the Prosecutor General was considered in eight criminal cases, and the resolution on indictments in five cases from January-November 2023. From January 2021 to September 2023, a total of 29 cases of the Special Prosecutor's Office have been identified where section 363 was used by the Prosecutor General in politically sensitive cases involving high-level officials and businessmen, see Denník N (12 September 2023), We have uncovered how Zilinka uses paragraph 363 in favour of prominent people. According to the Government, the Prosecutor General applied section 363 in two corruption cases between July 2023 until 6 February 2024.

investigations against several high-profile defendants held in pre-trial detention for corruption allegations without the possibility of a remedy against the annulment¹¹⁷, which triggered calls for more transparency of the process¹¹⁸. The initial legislative steps previously reported upon, which aimed to accelerate criminal proceedings and reduce pre-trial periods, and to limit the discretionary powers of the Prosecutor General to annul final decisions of public prosecutors or police officers to prosecute corruption cases¹¹⁹, remained at the level of parliamentary readings without adoption at the end of the last parliamentary mandate and were thus abandoned¹²⁰. Section 363 may be revisited in the planned re-codification exercise in 2025-2026 depending on future intragovernmental consultations¹²¹. However, due to the dissolution of the Special Prosecutor's Office, the Prosecutor General will now be able to reassign high-level corruption cases and give instructions even at an earlier investigatory stage than the final decision of investigators and prosecutors in high-level corruption investigations and prosecutions, as required by Section 363 of the Criminal Procedure Code¹²². Against this background, combined with the envisaged police reorganisation and the dissolution of the Special Prosecution Office, there has been no progress on the implementation of the recommendation made in previous years, and the situation seems to have been further exacerbated.

The risks to promoting a more robust track record against high-level corruption have become more imminent due to a continued lack of coordination among corruption investigators and prosecutors. The 2022 and 2023 Rule of Law Report recommended to Slovakia to “improve the coordination among the different law enforcement entities [...] with a view to promoting a robust track record of high-level corruption cases”¹²³. In 2023, investigations on charges of bribery, procurement fraud and other crimes were opened against

¹¹⁷ For example, on 31 August 2021, Article 363 of the Code of Criminal Procedure was invoked to annul corruption charges against a former director of the Slovak Secret Service (SIS) and four other individuals held in custody. Euractiv (2021), Prosecutor General dismisses high-level corruption charges; Notably, Article 363 of the Criminal Code of Procedure was considered controversial already before it was used in high-level corruption cases, due to which the government committed itself to explore narrowing down this provision in April 2020. Information received from Transparency International in the context of the country visit to Slovakia. See also Zastavme korupciu interview, actuality.sk, Let's stop corruption: Žilinka can go to court using Section 363 (25 January 2023).

¹¹⁸ Transparency International (2021), The cancellations call for a clear justification in front of the public. The legality of the criminal charges had previously been upheld by the Supreme Court and the Constitutional Court, see 2023 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 14 (for 2023) and p. 15 (for 2022).

¹¹⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 13-14.

¹²⁰ Input from Slovakia for the 2024 Rule of Law Report, p. 5.

¹²¹ Information received from the Ministry of Justice in the context of the country visit.

¹²² Although the Special Prosecutor Office is formally part of the Prosecutor General's Office, the Special Prosecutor Office dealing with sensitive cases was created to provide a high degree of autonomy. The Special Prosecutor's Office dissolution and the consequent transfer of competence over high-level corruption cases to the Prosecutor General was not justifiable by a lack of effectiveness. On the contrary, a recent analysis of the Special Prosecutor's Office data indicates that 95 percent of the corruption cases sent to the Specialised Criminal Court by the Special Prosecutor's Office between 2020-2022 ended in successful convictions of corruption crimes. Transparency International (2023), The dissolution of the Special Prosecutor's Office comes at a time when it has real results, reporting that “of the 288 corruption cases decided by the Specialised Criminal Court between 2020 and 2022, one quarter of the decisions concerned public figures. The Chief of the Special Prosecutor's Office offered to the Government to step down as an alternative to the abolishment of the entire specialised office, information received from the Special Prosecution Office. Alternative measures were however not considered according to information received from the Special Envoy of the Slovak Government.

¹²³ 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

high-ranking public officials¹²⁴, including members of Parliament, state agencies and other individuals closely connected to politics, while some high-level corruption defendants were indicted in cases from previous years¹²⁵ or entered plea bargains¹²⁶. Charges were brought again, also in 2023, in at least one case that had previously been annulled by the Prosecutor General on the basis of Section 363 of the Criminal Procedure Code¹²⁷. In 2023, the National Crime Agency recorded 241 (compared to 292 in 2022) new cases of corruption¹²⁸. The number of individuals convicted for corruption offences remained the same with 118 convictions in 2023¹²⁹. Foreign bribery remains an area with low enforcement levels, with one case being reported¹³⁰. The level of human and financial resources for corruption cases within the police and the prosecution service, as well the availability of technical equipment, are not considered

¹²⁴ See The Guardian (29 June 2023), Slovakian anti-corruption official arrested in corruption inquiry – Head of Agricultural Payment Agency held in investigation into alleged misuse of EU and state funds; The Slovak Spectator (11 August 2023), Police detain ex-top cop Gaspar again; The Slovak Spectator (26 October 2023), Charged ex-minister elected presiding officer of parliament; The Slovak Spectator (11 December 2023), New charges against ex police chief, oligarch and others; News agency SME.sk (19 February 2024), Gašpar sent me for a bribe directly to Bödör, Slobodak described. The trial of the oligarch began before the statute of limitations. See also Prosecutor-General (20 December 2023), Report of the Prosecutor General of the Slovak Republic on the activities of the Prosecutor's Office and the findings of the Prosecutor's Office on the state of legality in the Slovak Republic.

¹²⁵ For example, Denník (19 March 2024), The Special Prosecutor's Office indicted the head of the government office (and two former managers of the state-owned company MH Management for collusion in public procurement and breach of duty in managing foreign property).

¹²⁶ According to the input from Slovakia for the 2024 Rule of Law Report, p. 36, plea bargains were concluded with 42 suspects or accused. The Slovak Spectator (22 August 2023), Judge approves infamous ex-top police official's plea deal.

¹²⁷ Information received from Special Prosecutor Office in the context of the country visit to Slovakia. New charges can be brought by investigators by providing new evidence different from the original case. See also 2023 Rule of Law Report, Country chapter on the rule of law situation in Slovakia, p. 14. See also Reuters (24 November 2022), Slovak police renew bribery charge against central bank governor Kazimir – lawyer; Press Agency SITA, Kažimír is charged again. This is the same act for which his prosecution was cancelled by Žilinka (24 November 2022). See also, SME.sk (29 November 2022), The arguments of Žilinka's office are denied by courts and witnesses.

¹²⁸ This figure only indicates crimes under the competence of the National Crime Agency, excluding other corruption offences classified under the Criminal Code and other specific legislation. There is no comprehensive, public annual report summarising and evaluating the agency's results. Analyses, statistical surveys and annual reports of its branches are produced in-house on an annual basis, for data comparison and crime and security trend identification, yet only for internal management purposes. The latest publicly available annual report is from 2017 (for the year 2016), see https://www.minv.sk/swift_data/source/policia/naka_opr/opr/inf_o_cinnosti_naka/Informacia%20o%20cinnosti%20NAKA%20P%20PZ%20za%20rok%202016%20public.pdf. The Ministry of Interior publishes monthly crime statistics online. The Government programme contains a commitment to develop a police information system for the public, including crime statistics in an up-to-date format.

¹²⁹ Crimes included in the statistics are passive corruption (section 328), active and passive corruption – procurement of items of general interest (sections 333 and 329), trading in influence (section 336), sports corruption (section 336b), see input from Slovakia for the 2024 Rule of Law Report, p. 36, noting that this is data from January to November 2023.

¹³⁰ This case risks being time-barred if the proposed amendments to the Criminal Code and other related acts entered into force; information received in the context of the country visit from the Office of the Prosecutor General/ Special Prosecutor Office in the context of the country visit. For previous years, see also Transparency International, *Exporting Corruption* (2022), p. 72, referencing little to no enforcement in foreign bribery cases and as main weaknesses jurisdictional limitations; a failure to hold companies responsible for subsidiaries, joint ventures and agents; political interference in enforcement and a lack of independence; a lack of public awareness; and a lack of resources, skilled investigators and prosecutors to make and process mutual legal assistance (MLA) requests.

fully adequate to carry out their tasks, particularly for complex high-level corruption cases¹³¹. Shortages of specialised police investigators and financial data analysts for corruption-related crimes have been highlighted by several stakeholders, including the EPPO, since they continue to pose a significant obstacle to the effective investigation of corruption-related crimes in practice¹³². Coordination between the relevant anti-corruption entities, among different law enforcement agencies as well as between the prosecution service and the police, continue to present significant obstacles to the effective prosecution of corruption¹³³. The Government plans to significantly reorganise NAKA so that it is integrated as a regular anti-corruption police unit into the organised crime department instead of being a specialised agency. NAKA police officers who are specialised in corruption investigations would be transferred to the thematic regional police offices of the new anti-corruption unit¹³⁴. The Government justifies the significant re-organisation and change in mandate of the specialised NAKA police as necessary to enhance the efficiency of the police to tackle crime, including high-level corruption cases¹³⁵. The Government envisages to reduce the scope of its competence¹³⁶. The scope of competence of the new anti-corruption unit is defined by law on the basis of the severity of the crime, and given that with the criminal law reform corruption penalties have been lowered, less corruption cases will fall in the remit of this new unit and more corruption cases will go to a lower level district directorates of the police force¹³⁷. As part of the changes, a new analytical hub within the new anti-corruption unit will be created. The analytical hub will be tasked to register and select incoming corruption reports by citizens or the police, with most corruption cases being transferred to district police in the future¹³⁸. The Government also

¹³¹ Information received from the Office of the Prosecutor General/ Special Prosecutor's Office/ Association of Judges/ NAKA in the context of the country visit on the level of resources for prosecutors and police, particularly highlighting shortages regarding technical equipment and operative police officers.

¹³² Information received from the EPPO/ Whistleblower Protection Office in the context of the country visit to Slovakia. See contribution from the EPPO for the 2023 Rule of Law Report, p. 4.

¹³³ Information received from the Special Prosecutors' Office in the context of the country visit to Slovakia, noting that coordination between the Office and the National Crime Agency was at an adequate level in 2023, while there is a dependence on and lack of cooperation with other police bodies, when it comes to information technologies that the National Crime Agency does not have in its remit. Cooperation has reportedly not improved with the Intelligence Service, military intelligence and other similar bodies. See also BIRN (13 December 2023), Exiled in Bosnia: Corrupt and accused Slovak police officers find comfort abroad.

¹³⁴ Information received from the Government, indicating that the NAKA's Bratislava regional office is planned to be merged with the regional office West, while the regional office West, Centre and East continue to exist.

¹³⁵ According to information received from the Police President in the context of the country visit to Slovakia, the reorganisation of the National Crime Agency's is a measure to increase efficiency with the goal for lower-level police entities to deal with cases, as currently around 40% of complaints are reportedly dismissed or suspended. See in this context also Government Programme Statement of the Slovak Republic 2023-2027 (2023). See Transparency International (6 December 2023), The dissolution of the Special Prosecutor's Office comes at a time when it has real results, reporting that 'of the 288 corruption cases decided by the Specialised Criminal Court between 2020 and 2022, one quarter of the decisions concerned public figures. Not only medical and police officers, but also representatives of the judiciary and high-ranking civil servants fell into this category. Compared to the past, higher bribes – over EUR 5 000, which make up a fifth of decisions – are also more punished'. See for public statement of the Minister of Justice on the abolishment of the National Crime Agency, Euractiv (11 January 2024), Fico's government mulls dismantling agency that handles corruption. For more information on the abolishment of the Special Prosecutor's Office, dealing with the corruption cases of the National Crime Agency, see above on section 363 of the Criminal Procedure Code.

¹³⁶ Information received from the Ministry of Interior/Police President in the context of the Member State consultation.

¹³⁷ Written contribution from NAKA and Police Force in the context of the country visit to Slovakia, p. 8.

¹³⁸ This is referred to as 'selective jurisdiction' by the Government. Under specific conditions, the NAKA already applies the so-called selective jurisdiction: 'if the operational and investigative activity or the investigation

envisages to reduce the staff of the new anti-corruption unit¹³⁹. There have been reports of political appointments, temporary suspensions and abolishment of key police positions¹⁴⁰. The temporary suspensions of police officers, despite their protected whistleblower status¹⁴¹, were challenged before the courts¹⁴². As previously reported, the Ministry of Interior continues to register a low interest of citizens in cooperating with the police due to the lack of trust in successful criminal proceedings and possible repercussions for the crime-reporting individual in the course of the proceedings¹⁴³. The effectiveness of investigations continues also to be hampered by the lack of a secure, central electronic information exchange system and central access to databases that hold relevant information for the police and the prosecution¹⁴⁴. Against this background, there has been no progress regarding the implementation of the recommendation made in previous Rule of Law Reports.

The Government withdrew legislative amendments to Slovakia's whistleblower protection law submitted to Parliament in fast-track procedure in reaction to significant criticism. On 1 July 2023, amendments to Slovakia's Whistleblowing Act¹⁴⁵ transposing the

carried out by the substantively competent unit so requires, due to the manner of commission of the offence, its seriousness and scope, the procedural parties or other important interest', see Article 3(5) Regulation of the Minister of the Interior, No. 175 of 30 December 2010, on the definition of the competence of the units of the Police Force and the units of the Ministry of the Interior in the detection of criminal offences, in the identification of their perpetrators and on the procedure in criminal proceedings, as amended.

¹³⁹ The Government reported plans to transfer several police officers from the NAKA, however without reducing the number of police officers specialised in the investigation of corruption crimes.

¹⁴⁰ News agency SME.sk (27 October 2023), Minister Šutaj Eštok temporarily suspended six police officers around Ján Čurilla. A new Chief of Police for the Inspection Service Office of the Ministry of Interior, in charge of investigating police internal corruption, was appointed, whose prosecution was twice annulled by the Prosecutor General's Office, see Denník N (2 November 2023), Zurian was promoted as director of inspection by Shutaj Eshtok; Daily Aktuality (2 November 2023), Candidate for Chief of Police Inspection Zurian: I want to end the war in the police, I will set up a new team. Denník N (14 February 2024), Who is Pavol Gašpar, whom the government unexpectedly proposed as the head of SIS? Only the president can stop it.

¹⁴¹ News agency SME.sk (27 October 2023), Office for Whistleblower Protection questions off-service status of Čurilla; Press release by the Whistleblower Protection Office in reaction to the draft amendment to the Whistleblower Protection Law (15 December 2023).

¹⁴² The Minister's decision to suspend was challenged by police officers first at the Bratislava IV Municipal Court and then the Regional Court in Bratislava, requesting the issuance of an urgent measure on the grounds of their protected status as whistleblowers and relying on the fact that the Minister had not sought the previous approval of the Office for the Protection of Whistleblowers. Denník N (6 Feb 2024), The regional court upheld the Minister's decision. Two police officers cannot return to work, noting that a civil court cannot decide on an urgent measures. Only administrative courts can decide whether the Ministry of Interior acted lawfully. See also the statement of the Whistleblower Protection Office (February 2024). In the meantime, the Minister of Interior has filed a criminal complaint against the decision of the Special Prosecutor Office to grant whistleblower protection statuses to the National Crime Agency police officers, see News agency Teraz.sk (27 November 2023), Eštok filed a criminal complaint for providing protection to the Čurillas.

¹⁴³ See 2023 Rule of Law Report, Country Chapter on the rule of law situation, p. 16 and footnote 125.

¹⁴⁴ Information received from the National Crime Agency in the context of the country visit to Slovakia, particularly with a view to the lack of direct access to data of central tax offices, where information needs to be requested in writing causing delays in investigations. According to the Ministry of Interior, the set-up of reliable, efficient and secure means of communications is essential to exchange information on corruption investigations in a targeted, timely and safe manner.

¹⁴⁵ Law amending Act No. 54/2019 on the Protection of Whistleblowers of Anti-Social Activity and on Amendments and Supplements to Certain Acts and amending Act No. 327/2005 on the provision of legal aid to persons in material need and amending Act No. 586/2003 on advocacy. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 16.

related EU Directive¹⁴⁶ entered into force¹⁴⁷. Following elections, the new Government submitted further draft amendments to the Whistleblower Protection Act to Parliament within the same year, on 6 December 2023¹⁴⁸. Despite the wide-ranging legislative changes proposed to the act, they were submitted in a fast-track legislative procedure¹⁴⁹. A wide range of stakeholders¹⁵⁰, as well as the European Commission, raised serious concerns regarding, among others, the exclusion of police officers from the whistleblower protection regime in the future, and the possibility to review and to revoke retroactively already granted protection to members of the police force¹⁵¹. The Government withdrew the proposed amendments on 21 February 2024¹⁵², announcing its intention to reintroduce amendments in ordinary legislative procedure at a later stage¹⁵³. In 2023, similarly to the previous year, Slovakia's Whistleblower Protection Office processed a total of 173 reports, out of which 71 were eligible whistleblowing reports concerning a work-related context (compared to 39 in the previous year), including 33 corruption-related cases (compared to 13 in the previous year)¹⁵⁴. As in previous years, active reporting enabling the detection of corruption and other crimes remains low¹⁵⁵, especially in

¹⁴⁶ Directive 2019/1937 of 23 October 2019 on the protection of persons who report breaches of Union law.

¹⁴⁷ Some of its provisions concerning internal whistleblowing systems and sanctions entered into force on 1 September 2023. See also input from Slovakia for the 2024 Rule of Law Report, p. 30.

¹⁴⁸ Proposed Amendments to Act No. 54/2019 Coll. on the Protection of Whistleblowers as amended by Act No. 189/2023 Coll. The bill and the proposal for an accelerated legislative process were originally submitted to the cabinet by the head of the Government Office, but in January 2024 the cabinet decided that both should be listed by the Minister of Interior, see Press release of the Ministry of Interior (20 February 2024).

¹⁴⁹ According to Slovak law, such fast-track legislative procedures do not require prior consultation of experts or the public nor a substantive debate in Parliament. See for more details above in this text.

¹⁵⁰ See European Public Prosecutor's Office (18 December 2023), Statement regarding the legislative amendments proposed by the Slovak government. European Parliament resolution of 17 January 2024 on the planned dissolution of key anti-corruption structure in Slovakia and its implications for the rule of law (2023/3021(RSP)); European Parliament resolution of 17 January 2024 on the planned dissolution of key anti-corruption structure in Slovakia and its implications for the rule of law (2023/3021(RSP)) Whistleblower Protection Office, Press release (15 December 2023), Interference with the law on whistleblower protection will bring legal uncertainty, obstruct investigations and deter whistleblowers. See also the letter of 27 civil society organisations sent to Slovakia's Minister of Justice, Minister of Interior, Speaker of Parliament and all members of the Parliament, as published for example here: ARTICLE19 - Global Campaign for Free Expression (9 January 2024), Slovakia: Reject proposed changes to whistleblower legislation. Government Accountability Project/ European Whistleblowing Institute (22 December 2023), Memorandum regarding breaches of EU law by the proposed Amendment to Act no. 54/2019 Coll. on the Protection of Whistleblowers as amended by Act No. 189/2023 Coll.

¹⁵¹ Notably, the retroactive revoking was not limited to police staff only, but to apply horizontally to all whistleblowers, risking to seriously undermine Slovakia's corruption prevention system and enforcement of Union law in general.

¹⁵² Ministry of Interior – Press release (20 February 2024), The Minister of the Interior will submit a proposal to the Government to withdraw the amendment to the Act on the Protection of Whistleblowers.

¹⁵³ The Slovak Spectator News Digest (20 February 2024): Minister's plan to rewrite whistleblowing bill again.

¹⁵⁴ See written contribution by the Whistleblower Protection Office in the context of the country visit in Slovakia, the cases related to bribery (5 reports), abuse of authority (10 reports), public procurement (5 reports), unauthorised use of public funds or property (8 reports), and conflict of interest (5 reports). The Office's mandate focuses on the reporting of breaches of law and the protection against retaliatory measures based on the principles of confidentiality and anonymity. The target audience for the Office is both the public and the private sector. The Office is accountable to the Parliament, providing annual reports. See also Report on the activities of the Office to protect whistleblowers for the year 2023 (January 2024), <https://www.oznamovatelia.sk/aktivita-uradu-prehľad-za-rok-2023/>.

¹⁵⁵ Input from Slovakia for the 2024 Rule of Law report, p. 41, indicating that the low level of reporting of corruption presents the biggest obstacle to the detection of corruption.

areas where the private sector engages with the state¹⁵⁶. Apart from these practical challenges, there were reportedly incidents of discrediting of the Whistleblower Protection Office by high-level Government public official's public reported¹⁵⁷.

There has been no progress yet to regulate lobbying activities. The 2023 Rule of Law Report recommended to Slovakia to “introduce proposals to regulate lobbying [...]”¹⁵⁸. According to the 2023-2027 Programme Statement of the new Government, lobbying legislation shall be proposed during its mandate to regulate the contacts of public officials with persons representing the interests of individuals or organisations to strengthen transparency in the decision-making process¹⁵⁹. The Government Office has been assigned with the task of proposing the lobbying bill, but there is no indicative timeline available yet¹⁶⁰. Considerations within the Government range from proposing a binding law to non-binding rules on lobbying¹⁶¹. Since 2020, Slovakia has reiterated and postponed its commitment to adopt new lobbying rules¹⁶² and consequently, lobbying remains unregulated. Against this background, there has been no progress yet regarding the implementation of the recommendation made in the previous years.

There has been no progress to reform Slovakia's conflict of interest rules. The 2023 Rule of Law Report recommended to Slovakia to “[...] strengthen the legislation on conflicts of interest [...]”¹⁶³ concerning members of Parliament, judges, prosecutors, public officials, and civil servants. Some conflicts of interest aspects are regulated in sectoral acts¹⁶⁴ and, ethical

¹⁵⁶ High-risk corruption areas in this context are in particular bribes from entrepreneurs to public officials for the provision of subsidies, non-refundable financial contributions, and lucrative contracts, among others. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 17.

¹⁵⁷ Statement of the head of the Government Office asking the Whistleblower Protection Office not to jeopardise the political independence of the Office [through public statements] and to politicise the office in a similar way as the Special Prosecutor Office [which was abolished on 20 March 2024 on these grounds], see the Government Office's response to the Whistleblower Protection Office's analysis of the proposed amendments, as reported on Press Agency SITA (15 December 2023), According to Gedra, the amendment to the Act on the Protection of Whistleblowers improves the provisions so that the institute cannot be abused. For the Whistleblower Protection Office's analysis of the proposed amendments, see its press release (15 December 2023), Interventions in the Whistleblower Protection Act will bring legal uncertainty, thwart investigations and deter whistleblowers. See also in this context Whistleblower Protection Office (January 2024), Nonsense about our office – we refute hoaxes.

¹⁵⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

¹⁵⁹ Government Programme Statement of the Slovak Republic 2023-2027 (2023).

¹⁶⁰ Lobbying used to be the competence of the Office of the Deputy Prime Minister, who will reportedly not deal with the new lobbying rules, see input from Slovakia for the 2024 Rule of Law Report, p. 30.

¹⁶¹ Information received from the Government Office in the context of the country visit to Slovakia.

¹⁶² Cf. 2020, 2021, 2022, 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 8 (for 2020), p. 13 (for 2021), p. 16 (for 2022), and p. 17 (for 2023).

¹⁶³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

¹⁶⁴ See, for public officials, Constitutional Act no. 357/2004 on the protection of the public interest in the performance of the functions of public officials, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/357/>; civil servants, Act no. 55/2017 on public service, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2017/55/>; for the police, see Act no. 73/1998 on the civil service of members of the Police Force, the Slovak Information Service, the Prison and Judicial Guard Corps of the Slovak Republic and the Railway Police, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1998/73/>; for judges, see Act no. 385/2000 on Judges and Judicial Panel Members and on Amendments to Certain Laws, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2000/385/>. Detailed recommendations, including on expanding the definition of conflicts of interest and the scope of incompatibilities can also be found in UN Conference of the State Parties to the United Nations Convention against Corruption, Implementation Review Group (5 July 2023), State of implementation of the United Nations Convention against Corruption – Executive Summary: Slovakia, CAC, CAC/COSP/IRG/II/4/1/Add.6, p. 10.

codes and guidelines exist for judges, prosecutors and members of the financial administration¹⁶⁵. The Civil Service Council, as a collective body, is responsible for the oversight of the principles of civil service and the respect of the non-binding Code of Ethics of Civil Servants¹⁶⁶. For high-level public officials, some regulations are in place¹⁶⁷, but no Code of Ethics yet¹⁶⁸. The Government committed to adopting such a Code of Ethics to promote ethics and integrity¹⁶⁹. To do so, Slovakia reports to have identified the scope of high-level public officials at risk to corruption¹⁷⁰. As regards gifts and other benefits, there are general rules in place and some Ministries have dedicated rules but there isn't a detailed uniform policy with appropriate practical guidance for the Government in place, including as regards reporting and publication requirements¹⁷¹. There is no intention of the Government as previously envisaged, to extend the personal scope of the future Code of Ethics for members of the Government and government officials to members of the Parliament¹⁷², although this was previously considered and no such Code of Conduct currently exists for members of Parliament¹⁷³. Post-employment restrictions for high-ranking officials to prevent revolving

¹⁶⁵ No modifications were introduced to the Code of Conduct for the judiciary and the prosecutors' code of conduct has not been reviewed in 2023. See in this context the recommendation of the Ethics Commission of the Prosecutor's Office, Information on the activities of the Ethics Commission of the Prosecutor's Office in 2022, <https://www.genpro.gov.sk/extdoc/14471>.

¹⁶⁶ Input from Slovakia for the 2024 Rule of Law Report, p. 27.

¹⁶⁷ See Constitutional Act No. 357/2004 Coll. on the protection of the public interest in the performance of the functions of public officials, as amended, applying to the president, members of parliament, members of the government, heads of other central bodies of state administration, state secretaries, general secretaries of service offices. According to the Constitutional Act, 'a public official is obliged to promote and protect the public interest while performing his duties. When performing his function, a public official must not prioritize his personal interest over the public interest'.

¹⁶⁸ The Code of Ethics for Civil Servants is not obligatory for all ministries and central authorities yet, even if it concerns particularly vulnerable high-level positions. See input from Slovakia for the 2024 Rule of Law Report, p. 27, noting that each institution identifies their corruption risks in their own way. A methodology to identify corruption risks and positions at risk is provided for by the Government Office, but it is not mandatory.

¹⁶⁹ Government Programme Statement of the Slovak Republic 2023-2027 (2023). See in this context also the recommendations made by GRECO on the introduction, proper monitoring and enforcement of a Code of Ethics for persons with top executive functions (ministers, state secretaries, political advisors and senior civil servants closely associated with decision-making), Greco, 5th Evaluation Round – Second Compliance Report (17 April 2024), Slovakia, GrecoRC5(2023)9, paras. 24-27 p. 5.

¹⁷⁰ Information received from the Government in the context of the country visit to Slovakia. See in this context also UN Conference of the State Parties to the United Nations Convention against Corruption, Implementation Review Group (5 July 2023), State of implementation of the United Nations Convention against Corruption – Executive Summary: Slovakia, CAC, CAC/COSP/IRG/II/4/1/Add.6, p. 4.

¹⁷¹ See Constitutional Act no. 357/2004 Coll. On the protection of the public interest in the performance of the functions of public officials, as amended. However, detailed rules on gifts exist in four Ministries but not across the entire Government, while different thresholds apply to different categories of civil servants and public officials, see UN Conference of the State Parties to the United Nations Convention against Corruption, Implementation Review Group (5 July 2023), State of implementation of the United Nations Convention against Corruption – Executive Summary: Slovakia, CAC, CAC/COSP/IRG/II/4/1/Add.6, p. 5. See in this context also Greco, 5th Evaluation Round – Second Compliance Report (17 April 2024), Slovakia, GrecoRC5(2023)9, pp. 2-4, concluding that regarding recommendation viii, a uniform development was missing throughout the entire Government.

¹⁷² Information received from the Government Office in the context of the country visit to Slovakia, noting that the Parliament's own initiative would be key in this context. In turn, preparations had been undertaken by the Ministry of Justice and the Parliament under the previous Government, yet no proposal was presented.

¹⁷³ Cf. also UN Conference of the State Parties to the United Nations Convention against Corruption, Implementation Review Group (5 July 2023), State of implementation of the United Nations Convention against Corruption – Executive Summary: Slovakia, CAC, CAC/COSP/IRG/II/4/1/Add.6, p.4.

doors is not comprehensively regulated¹⁷⁴ and the Government has not made any commitments to introduce post-employment rules in the Government programme¹⁷⁵. The establishment of an Office for the Protection of Public Interest, which would oversee conflicts of interest along with violations of codes of conduct and lobbying¹⁷⁶, most asset declarations of public officials and other civil servants¹⁷⁷, and tax declarations, is no longer envisaged at this stage¹⁷⁸. Against this background, there has been no progress regarding the implementation of the recommendation made in the 2023 Rule of Law Report.

There has been no progress yet to improve Slovakia's asset declaration system. The 2023 Rule of Law Report recommended to Slovakia to “[...] strengthen the legislation on [...] asset declarations”¹⁷⁹ concerning members of Parliament, judges, prosecutors, public officials, and civil servants.¹⁸⁰ For the time being, the system of asset declarations for members of Parliament, judges, prosecutors, public officials, and civil servants remains decentralised and fragmented¹⁸¹. The Parliamentary Committee responsible for the publication of asset declarations of members of Parliament reports that the declarations of all members were submitted on time until the end of April 2023 and published in November 2023¹⁸². The new Government committed in its Programme Statement to seek constitutional and legal consensus¹⁸³ for the introduction of single rules for the submission of asset declarations of all

¹⁷⁴ They are partially covered under Constitutional Act no. 357/2004 on the protection of the public interest in the performance of the functions of public officials. However, as also Greco concludes, the recommendations have not been implemented yet to broaden post-employment restrictions in respect of ministers and state secretaries and to lay such down for advisers and senior civil servants involved in top executive functions, while also broadening rules on persons with top executive functions to expressly prevent lobbying activities towards the government for a lapse of time after they leave government, see Greco, 5th Evaluation Round – Second Compliance Report (17 April 2024), Slovakia, GrecoRC5(2023)9, recommendation ix, paras. 24-27, p. 5.

¹⁷⁵ Government Programme Statement of the Slovak Republic 2023-2027 (2023). Slovakia may address the Greco recommendations to broaden post-employment restrictions in respect of ministers and state secretaries and to lay down restrictions for advisors and senior civil servants involved in executive functions in the future Code of Ethics for persons in top executive functions, which would however be non-binding guidelines. See Greco, 5th Evaluation Round – Second Compliance Report (17 April 2024), Slovakia, GrecoRC5(2023)9, recommendation ix, p. 5.

¹⁷⁶ Noviny Plus, MP Vetrák is preparing a "whip" to control MPs' property of deputies (5 August 2022).

¹⁷⁷ Municipal deputies and members of the National Council were envisaged to be subject to such oversight.

¹⁷⁸ Information received from the Government Office in the context of the country visit to Slovakia. As previously reported, the preparation of an amendment to the Slovak Constitution had been announced by the Constitutional and Legal Affairs Committee of Slovakia's Parliament in August 2022, to be able to regulate conflicts of interest and tax returns of public officials. The bill provided for the establishment of an Office for Protecting Public Interest by the end of the last parliamentary term, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 18.

¹⁷⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

¹⁸⁰ Information received from the Government Office in the context of the country visit to Slovakia.

¹⁸¹ 2023, 2022 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 18 (2023), p. 16 (for 2022) and p. 14 (for 2021). See also input from Slovakia for the 2024 Rule of Law Report, p. 29, indicating that there are eight different norms in the current legislative framework for asset declarations for different categories of obliged persons, all requiring to provide different amounts of information and different disclosure levels.

¹⁸² Written contribution received from the Administration of the Slovak National Council in the context of the country visit, p. 1. The Committee had reduced the time between submission and publication of declarations in 2022, following significant delays in 2020 and 2021. Cf. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 18.

¹⁸³ The introduction of an electronic asset declaration system requires several legal amendments, including an amendment of the Constitutional Act No. 357/2004 Coll. on Public Interest Protection in the Performance of Office of Public Officials, requiring a 3/5 majority in Parliament.

public officials with particular emphasis on their digitalisation¹⁸⁴. The analysis and recommendations¹⁸⁵ for Slovakia's asset declaration system carried out by the Government Office's Department for Corruption Prevention in March 2023¹⁸⁶ has gone through the legislative procedure but was not endorsed before the end of the last mandate of the last Parliament due to its status as interim government. A new complementary analysis, specifically on the electronic submission system, will be prepared by the end of 2024¹⁸⁷. Its introduction will be one of the priorities of the Action Plan under the new National Anti-Corruption Strategy for the years 2024-2029. Against this background, since there is so far only a commitment for further action, there has been no progress regarding the implementation of the recommendation on asset declarations made in the 2023 Rule of Law Report.

The Government plans to reform the legislative framework on the functioning of political parties, raising questions as to its need and proportionality. The main law regulating the financing of political parties is the Act on Political Parties and Movements¹⁸⁸. It allows for donations to political parties of up to EUR 300 000 per calendar year, while donations from foreign entities and anonymous donors are banned¹⁸⁹. The Government intends to modify the main law with the aim to ensure that public funds earmarked for political party operations are exclusively used for that purpose¹⁹⁰. Since such a new legal obligation would be open to audit controls, it carries the risk of excessive access by the Government to information on the internal operations of political parties, when comprehensive transparency requirements on political parties' finances are already in place¹⁹¹. Amendments to the criminal offence of electoral corruption in political party finance have not entered into force, as previously planned for 1 April 2024¹⁹². Regarding party campaign finance, previously anticipated risks of circumvention of transparency obligations have reportedly materialised in practice during the

¹⁸⁴ Programme Statement of the Government of the Slovak Republic, 2023-2027.

¹⁸⁵ It was recommended to prepare a legislative proposal to unify and streamline Slovakia's fragmented asset declaration rules and to amend the Constitutional Act, in order to introduce an electronic asset declaration system, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 18. The analysis further recommended the monitoring and thorough verification of the content of asset declarations and their disclosure, as confirmed by the input from Slovakia for the 2024 Rule of Law Report, p. 29.

¹⁸⁶ Analysis of the current system of submitting the asset declarations and proposal for its improvement, LP/2023/134, <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2023/134>.

¹⁸⁷ Challenges, as reported by the Government Office, will be to effectively connect the different registers and to ensure data protection and the processing of a large amount of data.

¹⁸⁸ Act 85/2005 on political parties and political movements, largely reflecting GRECO recommendations.

¹⁸⁹ Failure to comply can result in a fine by the State Commission on Election and Control of the Financing of Political Parties in the amount of double the income from the donation or the gratuitous service.

¹⁹⁰ Government Programme Statement of the Slovak Republic 2023-2027 (2023).

¹⁹¹ Parties are already required to report on their finances annually to the State Commission for Elections and Control of Funding for Political Parties, which are made publicly available. The reports are overseen by the National Council of the Slovak Republic and must reveal financial information in relation to election campaigns and donors' identity, see section 22(5) of the Act 85/2005 on political parties and political movements of 2005, as amended in 2019.

¹⁹² The Ministry of Justice of the previous Government had carried out a public consultation on the amendments until December 2022, with a planned entry into force by 1 April 2024, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 19. See also the resolution of the Parliament's Constitutional Committee (Amendment No. 29). The amendments to Act. No. 300/2005 Coll. Criminal Code aimed to criminalise active and passive bribery in the electoral context, including more regular and serious cases beyond the scenario of one bribe for one vote, by introducing Section 336(1)(e) to the Criminal Code, and more severe penalties recognising the social impact. The National State Commission for Elections considered the proposed amendments to respond to challenges arising in electoral practice, suggesting an extension to municipal and regional elections.

2023 pre-election campaigns¹⁹³ with untransparent campaign funding channelled through party-affiliated companies¹⁹⁴.

Several reforms to address corruption in the agricultural sector remain pending. There were no considerable efforts to speed up the reforms initiated¹⁹⁵ to prevent corruption schemes such as those that occurred between 2016-2020 in the agricultural sector¹⁹⁶. Indeed, the legislative amendments to prevent corruption regarding such schemes are still pending¹⁹⁷. The statistical data of the Slovak Land Fund shows progress on the number of lease contract application files treated per year however, additional efforts need to be done to decrease the backlog¹⁹⁸. In 2023, the Slovak Land Fund and the Agricultural Paying Agency signed a Memorandum on Cooperation to improve the effectiveness and efficiency of the control mechanisms¹⁹⁹. Lease contracts signed by the Slovak Land Fund are now published however, it appears that no steps were taken since 2022 to geo-localise the parcels leased and link lease contracts with the cadastre, which makes searches and monitoring of free and leased land difficult. The Land Fund did not notify the European Commission about any progress on the requested clarification of internal procedural rules to ensure more legal certainty for applicants and those who lease land. The large-scale fraud case concerning EU funds involving the

¹⁹³ Transparency International (29 June 2023), Smer is not pretending anything: it has sent a million euros from a transparent account to its own agency. Stakeholders had already raised concerns about the possible circumvention of transparency obligations during election campaigns, when candidates and political parties hire public relations agencies in support of their campaign activities, as their campaign services are not published in detail but only under one single budget item, see for example 2023 EU Rule of Law report, p. 19. For more details, see Transparency International, 'Every third euro in the election campaign went through the agency' (3 April 2020).

¹⁹⁴ The National State Commission for Elections and Control of Funding of Political Parties considered that the legislation in force on the financing of the electoral campaign, including section 15 of the Electoral Campaign Act, is in principle satisfactory, as previously reported, see 2023 Rule of Law Report, Country chapter on the rule of law situation in Slovakia, p. 19.

¹⁹⁵ Amendments have been proposed to Act No. 330/1991 Coll. on Land Modifications, Arrangement of Land Ownership, Land Offices, Land Fund and Land Communities, to Act No 504/2003 Coll. on the lease of agricultural land, agricultural enterprise and forest land and on the amendment of certain acts, and to Government Regulation No 238/2010 laying down details on the conditions of lease, sale, exchange, and acquisition of real estate by the Slovak Land Fund, as amended.

¹⁹⁶ The National Crime Agency detained several high-ranking officials of the Land Fund allegedly involved in corruption schemes between 2016 and 2020, see 2023 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 17.

¹⁹⁷ Proposals were made by the Ministry of Agriculture and Rural Development of the Slovak Land Fund. The Slovak Land Fund is in charge of the management of agricultural land under State ownership or land without a known private owner. These parcels cover approximately 20% of all agricultural land in Slovakia and are in majority eligible for EU direct payments grants. See written contribution from the Land Fund in the context of the country visit to Slovakia, p. 1, currently preparing a joint position together with the Agricultural and Food Chamber (SPPK) to foster the proposals for amendments Act No. 330/1991, Act No. 504/2003, and Government Regulation No. 238/2010.

¹⁹⁸ The number of files handled concerning requests for lease contracts was 5.134 in 2023 (compared to 4.508 in 2022), the backlog decreased from 5.676 in January 2022 to 2.954 in December 2023, written input from Slovak Land Fund. Previous OLAF concerns concerned the lack of a complete central digital depository of EU payment-related documentation in the agricultural sector, guaranteeing the accessibility and storage of information for transparency and control, including, among others, the publication of lease contracts signed by the Slovak Land Fund that allow interested parties to monitor free and leased land and thus contributing to corruption prevention.

¹⁹⁹ To help prevent corruption schemes in Slovakia's agricultural land management system, the European Anti-Fraud Office has issued several financial and administrative recommendations, including on more transparency and better coordination between the Land Fund and the Agricultural Paying Agency. See European Anti-Fraud Office, OLAF closes cases on EU agricultural funds in Slovakia (21 January 2021), and also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, pp. 17-18.

Agricultural Paying Agency previously reported upon is still pending in court²⁰⁰, with further arrests having taken place²⁰¹. Overall, agriculture continues to rank among Slovakia's high-risk corruption areas²⁰².

Proposed public procurement reforms risk undermining effective prevention and oversight in the high-risk area of public procurement. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 45% of companies in Slovakia (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years²⁰³. Proposed amendments to the Public Procurement Act²⁰⁴, submitted for consultation in February 2024, aim to simplify public procurement rules²⁰⁵, risking however to revert the newly introduced professionalisation for contracts below the EU threshold that has been in force since 1 April 2024²⁰⁶. Furthermore, contracts with a value of up to EUR 50 000 would be excluded from the scope of the Public Procurement Act, reducing the possibilities for effective control and oversight by the Public Procurement Office²⁰⁷. The lack of prior publication requirements for the tender notice raises concerns about transparency²⁰⁸, and as such about effective safeguards against corruption and

²⁰⁰ Information received from the Ministry of Interior/ Police National Crime Agency/ Police President in the context of the country visit to Slovakia, with the police indicating that more financial experts will be hired to better investigate such agricultural schemes in the future. See Euractiv, Audit reveals large-scale fraud of EU funds in Slovak agricultural paying agency (19 March 2021).

²⁰¹ Euractiv (23 June 2023), Slovak officials hired to fight farm subsidy fraud arrested for fraud; The Guardian (29 June 2023), Slovakian anti-corruption official arrested in corruption inquiry.

²⁰² Together with Government procurement and investments, infrastructure and construction (in particular green renovation of buildings), agriculture, environment (especially projects related to tackling climate change), healthcare, state IT contracts and corruption at the level of local and municipal government, see Input from Slovakia for the 2024 Rule of Law Report, p. 34.

²⁰³ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 18 percentage points above the EU average.

²⁰⁴ Prepared by the Ministry of Investments, Regional Developments and Informatisation. LP/2024/51 Act amending and supplementing Act No. 343/2015 Coll. on Public Procurement and on Amendments and Supplements to Certain Acts, as amended, and amending certain acts, <https://www.slov-lex.sk/legislativne-procesy/-/SK/dokumenty/LP-2024-51>.

²⁰⁵ Explanatory memorandum to the Act amending and supplementing Act No. 343/2015 on Public Procurement and on Amendments and Supplements to Certain Acts, as amended, and amending certain acts.

²⁰⁶ Act No. 395/2021 amending Act No. 343/2015 on public procurement. See also The Slovak Spectator (15 November 2023), Changes to the Public Procurement Law – Take Six. Overall, the draft amendments introduce significant modifications, particularly to low value tenders, which present approximately half of all tenders publicly announced, which would no longer require the participation of the newly introduced expert guarantor for all contracts below the EU thresholds, see section 184b of LP/2024/51 Act amending and supplementing Act No. 343/2015 Coll. on Public Procurement and on Amendments and Supplements to Certain Acts, as amended, and amending certain acts. Slovakia's RRP provides under reform 3 that in simplifying and shortening public procurement procedures, control procedures need to be improved, and transparency increased in particular by setting up a single, public electronic platform for the entire procurement process, including for below-threshold and low-value contracts. All changes, particularly as proper safeguards such as transparency requirements, review procedures and the separation of tasks and competences are concerned, shall fully comply with EU law.

²⁰⁷ The amendments will raise the limit for small-scale contracts from EUR 10 000 to 50 000, abolishing the category of low value contracts below 10 000 as the simplest method of public procurement.

²⁰⁸ Contracting authorities would only be obliged to publish ex-post the awarded contract. For more details, see Zastavme korupciu (23 February 2024), Let's Stop Corruption collects signatures on public procurement amendment.

favouritism²⁰⁹. Moreover, a separate bill on emergency measures for strategic investments amending the Public Procurement Act²¹⁰, submitted to Parliament in February 2024, raises questions related to risks to the independence of the Public Procurement Office²¹¹ due to the newly created possibilities to exert direct political influence over large-scale investment procurements through the creation of a new post of Vice-Director in charge of such specific procurements²¹². The exemption from standard public procurement procedures without robust safeguards for the Vice-Director's decision-making procedure pose corruption risks for large-scale investment tenders with a value above EUR 100 million. Notably, Government procurement in the infrastructure and construction sectors feature amongst the highest corruption prone areas in Slovakia²¹³. Overall, stakeholders do not perceive the planned amendments of the Public Procurement Act and the new bill on strategic investments as addressing the actual challenges at stake in practice, including systemic misuse of tenders and the level of professional expertise affecting the quality of public tenders²¹⁴.

²⁰⁹ For tenders below the new national threshold of EUR 50 000, direct awards are possible without prior publication, while for those above the national threshold up to EU thresholds, at least three bids are required, yet again without prior publication of the tender notice, negatively impacting also the monitoring by third parties, relevant for the detection of irregularities, fraud, and corruption. Appeals against tender conditions set by the contracting authority cease to be possible, including for construction contracts below the threshold, where no objections can be filed for contracts of a value between EUR 800 000 to EUR 1 500 000 and, for goods and service, of a value between EUR 140 000 to EUR 221 000. Penalties for violations of the law will be lowered from 5% to a range of 0.1% to 5%, see section 182 of the Act amending and supplementing Act No. 343/2015 on Public Procurement and on Amendments and Supplements to Certain Acts, as amended.

²¹⁰ As prepared by the Ministry of Transport, the Law on Emergency Measures for strategic investments and for the construction of the trans-European Transport Network and amending certain acts, <https://www.slovlex.sk/legislativne-procesy/-/SK/dokumenty/LP-2024-10>. Accordingly, except for road and rail infrastructure construction projects, any project of more than EUR 100 million can be labelled as a strategic investment.

²¹¹ See Comments on the draft law on extraordinary measures for strategic investments and for the construction of the trans-European transport network by the 25 civil society organisations (2024).

²¹² The Public Procurement Office has a status as an independent state entity by law. State bodies, territorial self-administration bodies, other public authorities or other persons may not influence the Office in the exercise of its powers. The act would empower Vice-Director to be its statutory representative. He would be nominated by the Head of the Government Office and appointed by the Government, thus creating a position able to exert political influence over public procurement tenders. The Public Procurement Office was not consulted in the drafting of the act, which will amend the Public Procurement Act, see [Aktualita.sk](https://aktualita.sk) (17 January 2024), The problem with Raz's bill is political influence, says the head of the Public Procurement Office.

²¹³ Input from Slovakia for the 2024 Rule of Law Report, p. 34, referencing also agriculture, environment (especially projects related to tackling climate change), healthcare, Government procurement and investment, state IT contracts and corruption at the level of local and municipal government as corruption high-risk areas. Information received from the Ministry of Interior/ NAKA/ Police President/ Office of the Prosecutor General/ Special Prosecutor Office/ Transparency International/ Zastavme korupciu in the context of the country visit to Slovakia.

²¹⁴ See Comments on the draft law on extraordinary measures for strategic investments and for the construction of the trans-European transport network by the 25 civil society organisations (2024), <https://api.mojapeticia.sk/media/campaign/attachment/34f318f9-54b2-48a8-bcfb-39fcc15be579.pdf>. Rather than the length of the proceedings that the Government refers to in the simplification efforts, stakeholders point to challenges in the application of law remain in practice, including the systemic misuse of public tenders and the lack of professional expertise in public tendering resulting in the poor preparation and management of tenders, including in particular in smaller towns and villages.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Slovak Constitution enshrines the right to express opinions, the right to search for, receive and disseminate ideas and information as well as the right of access to information²¹⁵. The Media Services Act is aimed at ensuring plurality of information²¹⁶ while the Publications Act establishes rules relating to the press, news media portals, press agencies, the media register and to journalists²¹⁷. The right to access information finds legal expression in the Freedom of Information Act²¹⁸. The Act on Slovak Television and Radio and amending certain acts has repealed the previous Act on Radio and Television Slovakia and provides the framework regulating the public service broadcaster²¹⁹. The distribution and allocation of state advertising remains unregulated²²⁰.

A legal framework and autonomous budget permit the Council for Media Services to operate autonomously. The Council disposes of its own budget and the allocated resources continue to be considered adequate for the accomplishment of its tasks while clear rules on the appointment and dismissal of the Council's members are established by law. The Council is composed of members who are elected and may be dismissed by the National Council of the Slovak Republic after a public hearing of the candidates. The Media Pluralism Monitor 2024 confirms that the independence of the Council is overall guaranteed and therefore presents low risk though purely political nominations are possible given that the selection of candidates remains solely in the hands of the Parliament²²¹.

The Media Services Act and Publications Act jointly ensure transparency of media ownership. Under this legislation all media outlets, whether broadcast, print, online or other, are obliged to make information about their ultimate beneficial owners available via a public register. For this reason, the Media Pluralism Monitor continues to consider this to be a low-risk area²²². Under the provisions of the Media Services Act, the Council for Media Services performs a market analysis of the media landscape with a view to assessing risk of disruption to media plurality. It withholds its consent to a market operation if it concludes that a particular operation would lead to a 'decisive interference' with media plurality in the country²²³.

There has been no progress to enhance the autonomy of public service media. The 2023 Rule of Law Report had concluded that by rendering the election process of the public broadcaster's director-general public, the relevant Slovak legislation²²⁴ had gone some way to implementing the recommendation to "strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media"²²⁵. However, stakeholders' concerns increased in relation to the fragile financial situation faced by the public

²¹⁵ Article 26 of the Slovak Constitution. Slovakia ranks 29th in the 2024 Reporters without Borders World Press Freedom Index compared to 17th the previous year.

²¹⁶ Act No. 264/2022 Coll. on media services and amending certain acts (Media Services Act) of 22 June 2022 transposes Directive 2018/1808 on audiovisual media services.

²¹⁷ Act No. 265/2022 Coll. on publishers of publications and on the media and audiovisual register of 22 June 2022.

²¹⁸ Act No. 211/2000 Coll. on free access to information.

²¹⁹ Act No. 157/2024 Coll. on Slovak Television and Radio and amending certain acts.

²²⁰ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 10.

²²¹ Media Pluralism Monitor 2024 report on Slovakia, p. 13.

²²² Ibid. p. 15.

²²³ Article 101 of the Media Services Act.

²²⁴ Amendments to Act no. 532/2010 Coll. on Radio and Television Slovakia.

²²⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 22-23.

service broadcaster²²⁶. Concerns had already been raised following the abolition of the household license fee which was replaced by funds allocated directly from the state budget²²⁷ and previously set at 0.17% of GDP (EUR 186 million). On 4 December 2023, the new administration lowered public broadcaster funding to “at least” 0.12% of GDP (EUR 131 million). Media associations claim that this decrease of the broadcaster’s annual funding creates pressure on it to secure alternative subsidies to make up for the shortfall, thereby further eroding its independence²²⁸. The authorities, on the other hand, emphasise that a compensation mechanism built into the law ensures that the public broadcaster would not, in effect, receive less funding than it did the previous year²²⁹. The 0.12% of GDP mechanism was introduced following the Prime Minister’s pledge to impose control over RTVS²³⁰. In July 2024, the Act on Slovak Television and Radio was adopted which repealed the current Act, dissolved RTVS, established a new institution named Slovak Television and Radio (STVR) and which has entailed, among others, the automatic dismissal of RTVS’ board. Stakeholders have raised various concerns about the implications of this development for the independence of the public service broadcaster²³¹. For these reasons, the Media Pluralism Monitor confirms that this remains an area presenting high risk²³². Therefore, no progress has been made on the recommendation made in the previous years²³³.

Despite some progress with regard to mechanisms aimed at improving the safety of journalists, there are increasing concerns in relation to reported worsening of their working environment. The 2023 Rule of Law Report had found that parliamentary developments with relevant bills meant that Slovakia had made some progress in advancing “with the process to establish legislative and other safeguards to improve the physical safety and working environment of journalists, including the reform of defamation law”²³⁴. However, neither the current Government’s Programme Statement nor the tabled draft amendments to the Criminal Code and other acts²³⁵ refer to the previously tabled bill aimed at strengthening the protection of journalists via amendments to the Criminal Code²³⁶. Furthermore, a motion proposing an amendment of the Constitution to strengthen provisions relating to media freedom was defeated in Parliament. On the other hand, as of September 2023, the Slovak police set up a protocol establishing regional contact points within the police force to provide support to journalists in cases of attacks or threats. Furthermore, in October 2023, the Platform for the Support of Press Freedom and the Protection of Journalists was established, bringing together representatives from ministries, the police, other public institutions, journalists, media owner

²²⁶ Information received from the Jan Kuciak Investigative Center, the Slovak Print and Digital Media Association and the Slovak National Centre for Human Rights in the context of the country visit to Slovakia.

²²⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 23.

²²⁸ Reporters without Borders (13 December 2023), Slovakia: RSF and its partners urge parliament and president to halt attempts to undermine the public broadcaster’s independence; International Press Institute (13 December 2023), Slovakia: Media freedom groups urge MPs to oppose cuts to RTVS budget.

²²⁹ Input from the Slovak Government for the 2023 Rule of Law Report.

²³⁰ Alert 278/2023, Council of Europe, Platform to promote the protection of journalism and safety of journalists.

²³¹ European Federation of Journalists (10 June 2024), Slovakia: Media freedom groups call on Parliament to reject public broadcasting bill.

²³² Media Pluralism Monitor 2024 report on Slovakia, p. 20-21.

²³³ According to the European Parliament’s Flash Eurobarometer: News & Media Survey 2023, 46% of respondents in Slovakia stated that they trust public TV and radio stations, below the EU average of 48%.

²³⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 23-24.

²³⁵ See above p.3.

²³⁶ The previously tabled bills concerned the introduction of aggravating circumstances in relation to crimes committed against journalists and amendments to the defamation regime.

associations and self-regulatory bodies²³⁷. A separate newly established, independent, platform dedicated to the safety of journalists in Slovakia published its first report in December 2023 documenting various forms of attacks and intimidation of journalists in 2023²³⁸. Since July 2023, the Council of Europe's Platform to promote the protection of journalism and safety of journalists published five new alerts which relate, respectively, to the denigration of journalists, verbal attacks on the Ján Kuciak Investigative Centre, hate speech against a journalist and the budgetary and legislative developments relating to RTVS²³⁹. The 2023 Mapping Media Freedom monitoring report flags denigration of and threats of violence against journalists among the most common press freedom violations in the country²⁴⁰. In light of these developments, MPM 2024 has increased its risk score from low risk to medium risk, highlighting the threats and intimidation faced by journalists, their precarious employment conditions and the lack of anti-SLAPP protections²⁴¹. Therefore, while there is some progress on the recommendation made in the previous years with putting new mechanisms in place to improve the safety of journalists, there are increasing concerns in relation to the reported worsening of their working environment.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Slovakia is a parliamentary republic with a unicameral parliament (the National Council) as the sole legislative body²⁴². The right to introduce legislative proposals belongs to the Committees of Parliament, individual members of Parliament, and the Government²⁴³. The Constitutional Court decides on the compliance of laws with the Constitution, constitutional acts, and international agreements, and ensures respect for fundamental and constitutional rights. Independent authorities also play a role in safeguarding fundamental rights, notably the Office of the Public Defender of Rights, the National Centre for Human Rights (which is the national human rights institution), the Commissioner for Persons with Disabilities, and the Commissioner for Children.

There has been no progress in ensuring effective public consultation in the law-making process, as major reforms proceed without effective stakeholder involvement. The 2023 Rule of Law Report recommended to Slovakia to “ensure effective public consultation and stakeholder involvement in the law-making process”²⁴⁴. Last year's Rule of law Report noted the lack of systematic involvement of stakeholders in the legislative process, as well as frequent use of the fast-track legislative procedure²⁴⁵. Despite the pledge made in the Government's Programme Statement to properly discuss draft laws with stakeholders²⁴⁶, they have reported a lack of consultations during law-making processes, including at expert level²⁴⁷. The newly elected Parliament has approved 12 laws from October to December 2023, 11 of which were

²³⁷ Input from the Slovak Government for the 2024 Rule of Law Report.

²³⁸ Bezpečná.Žurnalistika.SK.

²³⁹ Council of Europe, Platform to promote the protection of journalism and safety of journalists. The government replied to three of these alerts.

²⁴⁰ Media Freedom Rapid Response (2023), Mapping Media Freedom - Monitoring Report 2023, p. 32.

²⁴¹ Media Pluralism Monitor 2024 report on Slovakia, pp. 12-13.

²⁴² Article 72 of the Slovak Constitution.

²⁴³ Article 87 of the Slovak Constitution.

²⁴⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 2.

²⁴⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 24.

²⁴⁶ Programme Statement of the Government of the Slovak Republic, 2023-2027, p. 70, ‘support the recovery of the dialogue on social level during creation and approval of laws and other legal acts’.

²⁴⁷ Contribution from Civil Liberties Union for Europe for the 2024 Rule of Law Report, pp. 21-22 and 26 and contribution from ENNHRI, for the 2024 Rule of Law Report, p. 15.

adopted in a fast-track legislative procedure²⁴⁸. Among those adopted in such a procedure, were the amendments to the Criminal Code and other related acts adopted on 8 February 2024²⁴⁹. These amendments were prepared without proper stakeholder consultation, and without inclusion of experts or professionals in the field of criminal law, or an impact assessment²⁵⁰. The reasons put forward for the use of the fast-track procedure were challenged before the Constitutional Court²⁵¹. Moreover, the quality of law-making and the frequent changes in legislation remain a significant cause for concern as regards the effectiveness of investment protection among companies in Slovakia²⁵². There has therefore been no progress made on the recommendation in the 2023 Rule of Law Report.

On 1 January 2024, Slovakia currently had 29 leading judgments of the European Court of Human Rights pending implementation, an increase of five compared to the previous year²⁵³. At that time, Slovakia's rate of leading judgments from the past 10 years that remained pending was at 53% (compared to 51% in 2023) and the average time that the judgments have been pending implementation was 3 years and 3 months (compared to 2 years and 11 months in 2023)²⁵⁴. The oldest leading judgment, pending implementation for more than 11 years, concerns the excessive length of civil proceedings²⁵⁵. As regards the respect of payment deadlines, on 31 December 2023 there were 24 cases in total awaiting confirmation of payments (compared to 12 in 2022)²⁵⁶. On 1 July 2024, the number of leading judgments pending implementation had increased to 31²⁵⁷.

²⁴⁸ National Council of the Slovak Republic (2023); all of these bills were proposed by the Government, written input from Civil Liberties Union for Europe, p. 21.

²⁴⁹ Act No. 40/2024 Coll., amending Act No. 300/2005 Coll., Criminal Code and other related acts. Other acts adopted in a fast-track procedure are for example the Act No. 7/2024 Coll., amending Act No. 575/2001 Coll., on the Organization of Government Activities and the Organization of Central State Administration (Competence Act), or the Government's decisions Nos. 702/2023 and 703/2023 of 6 December 2023, proposing amendments to Act No 54/2019 Coll., on the protection of whistleblowers, to be adopted in a fast-track legislative procedure. The proposal was eventually taken off the Parliament's agenda.

²⁵⁰ Contribution from Civil Liberties Union for Europe for the 2024 Rule of Law Report, pp. 9-10, from ENNHRI, for the 2024 Rule of Law Report, pp. 446-447, the Association of Judges of Slovakia, pp. 18-19 and the Slovak Bar Association, p. 22.

²⁵¹ As described in pillar 1.

²⁵² In Slovakia, 48% of the surveyed companies perceive the quality of law-making and the frequent changes in legislation as a reason for the lack of confidence in the investment protection in Romania (compared to 43% in 2023). Figure 56, 2024 EU Justice Scoreboard. See also concerns presented publicly by the representatives of the business community under the Initiative for the Rule of Law.

²⁵³ 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.

²⁵⁴ 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 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 7.

²⁵⁵ Judgment of the European Court of Human Rights of 24 July 2012, *Maxian and Maxianova v. Slovakia*, 44482/09, pending implementation since 2012.

²⁵⁶ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 138.

²⁵⁷ Data according to the online database of the Council of Europe (HUDOC).

The National Preventive Mechanism is now functioning under the Ombudsperson's office, the Commissioner for Children, and the Commissioner for Persons with Disabilities. The National Preventive Mechanism (NPM) was established on 1 May 2023 with the amendment to the Act on the Public Defender of Rights²⁵⁸. Slovakia ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in Slovakia on 19 October 2023²⁵⁹. As reported in the 2023 Rule of Law Report, the new framework extends the competence of the Public Defender of Rights, who also holds a coordinating role, the Commissioner for Children, and the Commissioner for Persons with Disabilities to carry out systematic unannounced visits to places where persons deprived of their liberty are held, ascertain how those persons are treated and evaluate any potential ill-treatment²⁶⁰. Although the extended competence is accompanied by an additional budget, the Public Defender of Rights communicated its concerns over the proposed financial and human resources for this task in the context of insufficient resources for the Office overall, warning of a negative impact on the independence and the effectiveness of the NPM²⁶¹. During the first year of functioning, emphasis has been placed on the creation of dedicated teams, methodology and establishment of coordination among the three involved bodies. Several dedicated visits have been already carried out by the Public Defender of Rights as NPM, followed by recommendations, some of which have already been implemented²⁶².

The Slovak National Centre for Human Rights contributes with its projects to strengthening the rule of law culture. The Slovak National Centre for Human Rights (SNCHR), which is mandated as National Human Rights Institution and equality body accredited with B-status²⁶³, has built up initiatives and activities to strengthen and promote the rule of law culture in Slovakia. Building on a rule of law tracker as a tool for monitoring the rule of law situation, as already highlighted in the 2023 Rule of Law Report²⁶⁴, SNCHR started issuing and tracking own recommendations in this regard²⁶⁵. In autumn 2023, SNCHR organised a Rule of Law Festival in Bratislava and in the regions of Banská Bystrica and Košice, with representatives of state authorities, civil society, journalists and private sector, focusing on topics of space for civil society, protection of journalists and human rights structures and public policymaking²⁶⁶.

Initiatives to enhance participation in developing public policies continue. The national project for participatory policy making referred to in the 2023 Rule of Law Report²⁶⁷, was completed on 31 December 2023. Its results included the creation of sectoral councils at the Council of the Government for Non-Governmental Organisations and several ministries with the aim to build a long-term, structured dialogue between the representatives of central government bodies and civil society organisation experts. Further outcomes included the

²⁵⁸ Act 110/2023 Coll. amending Act No 564/2001 on the Public Defender of Rights, as amended, and amending certain other acts.

²⁵⁹ Act 448/2023 Coll.

²⁶⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 27.

²⁶¹ Contribution from the Public Defender of Human Rights for the 2024 Rule of Law Report, p. 22 and contribution from ENNHRI for the 2024 Rule of Law Report, pp. 17-18. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 27.

²⁶² Information received in the context of the country visit from the Public Defender of Rights.

²⁶³ Accreditation is provided by the UN Global Alliance of National Human Rights Institutions (GANHRI).

²⁶⁴ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 27.

²⁶⁵ Rule of Law Tracker and Slovak National Centre for Human Rights (2023); Contribution of ENNHRI for the 2024 Rule of Law Report, pp. 4-5.

²⁶⁶ Contribution of ENNHRI for the 2024 Rule of Law Report, pp. 3-4.

²⁶⁷ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Slovakia, p. 25.

creation of an index for monitoring and evaluating the state of open governance and participation, and a dedicated training programme for public administration staff²⁶⁸. The Office of the Plenipotentiary of the Government of the Slovak Republic for the Development of Civil Society, in cooperation with civil society organizations, developed the Action Plan of the Initiative for Open Governance for the years 2024-2026, which concerns, *inter alia*, increasing the participation of civil society in public policy-making²⁶⁹. In its Programme Statement for 2023-2027, the Government declared support to the participation of the professional community, the academic community, social partners, and the general public in the creation of public policies and law-making²⁷⁰, whilst also considering certain civil society organisations as attempting to influence the democratic political competition in a non-transparent way²⁷¹.

Amendments to the Competence Act widen the power of the Government to appoint and dismiss heads of certain independent bodies. On 16 January 2024, the Parliament approved, in a fast-track legislative procedure, amendments to the so-called Competence Act²⁷², which, among others, introduces changes to the process of selection of the heads of two independent institutions - the Statistical Office of the Slovak Republic and the Office for Supervision of Healthcare. The appointment and dismissal are now fully in the hands of the Government, compared to the previous regime, embedded in the Constitution, that the heads of these institutions are appointed and dismissed by the President of the Slovak Republic on the proposal of the Government²⁷³. The amendment has also widened the conditions under which the heads of these institutions can be dismissed before the end of their term. On 6 February 2024, the Government dismissed, before the end of their term, both the Head of the Statistical Office and Head of the Office for Supervision of Healthcare and replaced them with its own nominees. The amendment has been challenged before the Constitutional Court by the former President of the Republic²⁷⁴ and accepted by the Court for further proceeding, as well as by a group of Members of Parliament²⁷⁵. Stakeholders raise a concern that the change interferes with the principle of checks and balances by giving full control of these independent institutions exclusively to the government and poses a threat to the independence and impartiality of these institutions²⁷⁶. In a similar manner, the Government circumvented the

²⁶⁸ Information received in the context of the country visit from the Office of the Government Plenipotentiary for the Development of the Civil Society.; Input from Slovakia for the 2024 Rule of Law Report, p. 56.

²⁶⁹ LP/2023/492 Draft Action Plan of the Initiative for Open Governance for the years 2024-2026. The material was subject to public comments and approved by Slovak Government with its resolution No. 490/2023 in September 2023.

²⁷⁰ Programme Statement of the Government of the Slovak Republic, 2023-2027, p. 12, 68 and 70.

²⁷¹ Programme Statement of the Government of the Slovak Republic, 2023-2027, p. 5, which reads ‘The Government also recognises the role of non-governmental organisations. However, it cannot accept that politically oriented entities, often financed from abroad, influence democratic political competition in a non-transparent manner. The Government is ready to support financially NGOs carrying out activities of public benefit, for example in the social field, humanitarian, environmental, educational, training, sports, etc.’

²⁷² Act No. 7/2024 Coll., amending Act No. 575/2001 Coll., on the Organization of Government Activities and the Organization of Central State Administration, as amended.

²⁷³ Art. 102 of the Constitution of the Slovak Republic.

²⁷⁴ One of the reasons for the constitutional complaint is that the Government interfered by this amendment with her competences in cases of appointing independent bodies, as stipulated in Article 102 para 1 letter h) of the Slovak Constitution.

²⁷⁵ PL. ÚS 1/2024-30. Submission by the President of the Republic as registered on 30 January 2024 as 290/2024, PL. ÚS 1/2024. Submission by a group of Members of Parliament of 29 February 2024, 605/2024, PL. ÚS 4/2024.

²⁷⁶ Contribution from Civil Liberties Union for Europe for the 2024 Rule of Law Report, p. 2, 22-23; Contribution from ENNHRI for the 2024 Rule of Law Report, p. 18. Business associations also point out that frequent

President's powers to appoint the director of the Slovak Information Service ('SIS')²⁷⁷, by adjusting the SIS statute allowing for the Government nominee for the position of deputy director to have the competences of the director²⁷⁸.

The environment for civil society organisations deteriorated, particularly for those with the role of overseeing state activities, and in the area of human rights. The civil society space in Slovakia is considered as 'narrowed'²⁷⁹. Stakeholders reported that after the parliamentary elections in September 2023, the situation had worsened, describing a climate of insecurity intimidation, with a part of Civil Society Organisations (CSOs) labelled as enemies or foreign agents by politicians and representatives of the government, targeting organisations performing watchdog functions or active in the fields of human rights, including LGBTIQ rights, and gender equality²⁸⁰. In its Programme Statement for 2023-2027, the Government committed to introduce transparent rules for CSOs financing, creating a state agency for assistance to the non-profit sector, providing short-term and long-term grants to "the part of the civil society sector that is genuinely interested in improving life in the country [emphasis added]" and to facilitate the establishment of simple forms of civil society associations and simplifying the registration of other forms of non-governmental organisations²⁸¹. In October 2023, the Government announced its intention to enact legislation to label CSOs receiving financing from abroad as "foreign agents"²⁸². On 27 March 2024, Members of Parliament from Slovakia's ruling coalition party proposed amendments that would introduce a mandatory labelling of organisations receiving more than EUR 5,000 a year from a foreign natural or legal person as 'organisations with foreign support'. Funding from the European Union is excluded from the concept of foreign support²⁸³. Moreover, in November 2023, the Government announced a change in the criteria for the allocation of taxes on personal income, with the risk to considerably reduce funding for non-profit organisations across-the-board. After strong opposition by CSOs, the process was suspended and no formal steps were taken so far. Instead, targeted measures have been adopted to discontinue public financing to certain types of CSOs, notably LGBTIQ organisations, and activities such as projects to fight against disinformation, or for the protection of human rights²⁸⁴. On 27 June 2024, Parliament approved amendments on the Act to freedom of assembly and other acts²⁸⁵, in a fast-track legislative procedure,

changes in key professional positions in the public administration and public bodies, which are often subject to political nominations, have a negative impact on the quality of the activities of these bodies and undermines the stability of the business environment. Initiative For the Rule of Law (2023), p. 4.

²⁷⁷ SIS collects and provides the legally defined recipients with the information on the most critical threats to the constitutional system, internal order and security, as well as the information focused on the protection of foreign political and economic interests of the state. Decision of the Government No. 95/2024. <https://rokovania.gov.sk/RVL/Resolution/21462>.

²⁷⁸ Decision to amend the statute: No. 116/2024 of 22 February 2024.

²⁷⁹ Rating given by Civicus, <https://monitor.civicus.org/explore/slovakia-overview/>. Ratings are on five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²⁸⁰ Contribution from Civil Liberties Union for Europe for the 2024 Rule of Law Report, p. 2, 25-27, and Contribution from ENNHRI for the 2024 Rule of Law Report, p. 18-22. Also Slovak National Centre for Human Rights (2023b) and Slovak National Centre for Human Rights (2023c). Information received in the context of the country visit from Zastavme korupciu and Transparency International.

²⁸¹ Programme Statement of the Government of the Slovak Republic, 2023-2027, p. 70 and 74.

²⁸² Contribution from ENNHRI for the 2024 Rule of Law Report, p. 19.

²⁸³ Draft Section 6a of Parliamentary Bill No. 245, amending Act No. 213/1997 Coll., on non-profit organisations providing services of general interest and other related acts. The draft Section 6a does not mention Member States of the EU as an exception.

²⁸⁴ Contribution from Civil Liberties Union for Europe for the 2024 Rule of Law report, pp. 24-25, ENNHRI, p. 19. Also petition of about 80 non-governmental organisations, Slovak Press Agency (2024).

²⁸⁵ Draft amendments to Act No 84/1990 Coll., on the freedom of assembly and to other acts.

widening the grounds for limiting announced gatherings and increasing the powers of the Slovak Information Service for gathering and assessing information regarding threats to politicians²⁸⁶. According to the Government, these amendments aim to protect the right to a private life and decrease tension within Slovak society²⁸⁷, however they were criticised by the Prosecutor General, the Public Defender of Rights, the Judicial Council²⁸⁸, and the opposition²⁸⁹ on grounds of proportionality.

²⁸⁶ Bill No. 363, Government's proposal to adopt a fast-track legislative procedure for this amendment. Bill No. 364, Government Bill on Certain measures to improve the security situation in the Slovak Republic, RTVS (2024) Parliament approved Lex Assassination. Another package of changes should come in autumn, confirmed Tibor Gašpar. Government's Decision No 344/2024: <https://rokovania.gov.sk/RVL/Material/29673/1>. Government's Decision No 353/2024 approving a fast-track procedure, <https://rokovania.gov.sk/RVL/Resolution/21723/1>. The law entered into force as of 15 July 2024. CAS.sk (2024) Lex Assassination has come into force: What awaits top constitutional officials and new grounds for banning assemblies.

²⁸⁷ Aktuality.sk (2024), Increased competencies for SIS and security for the opposition. What does the Government plan to change, following Fico's assassination attempt?; Idnes.cz (2024), Lex assassination. Fico's Government wants greater protection, as well as annuity for life for politicians.

²⁸⁸ Ta3 (2024), Lex atentat did unite, however, the critics. Do we really need such changes to the legislation?; Press release of the Public Defender of Rights of 18 June 2024: *Vláde a Parlamentu odporúčam prijať vyššie záruky na ochranu ústavného práva na zhromažďovanie občanov. Z neplatenia pokút spravím trestný čin neodporúčam. ('I recommend to the Government and Parliament to adopt higher safeguards to protect the constitutional freedom of assembly of the citizens. I do not recommend to make not paying a fine a crime.')*. Slovak Judicial Council (2024), Decision No 191/2024 of 17 June 2024. Aktuality.sk (2024) Maroš Žilinka aj koalíční poslanci kritizujú lex atentát: pokuty aj sledovanie občanov chcú vyškrtnúť ('*Maroš Žilinka and the opposition Members of Parliament criticise Lex atentat: they want to strike out the fines as well as monitoring of the citizens*').

²⁸⁹ Noviny.sk (2024), Lex atentat: New measures face criticism and won't avoid to be amended.

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Annex II: Country visit to Slovakia

The Commission services held virtual meetings in February 2024 with:

- American Chamber of Commerce
- Association of Judges
- Government Office – Corruption Prevention Department
- Government Office - Plenipotentiary for Civil Society Development
- Investigative Centre of Jan Kuciak
- Judges For Open Judiciary
- Judicial Council
- Ministry of Culture
- Ministry of Interior
- Ministry of Justice
- National Centre for Human Rights
- National Union of Employers
- Office for the Protection of Whistleblowers
- Parliament administration (replies received in writing)
- Police National Crime Agency
- Praesidium of Slovak Police Force
- Prosecutor General’s Office
- Public Defender of Rights
- Slovak Bar Association
- Slovak Council for Broadcasting
- Slovak Land Fund (replies received in writing)
- Slovak Syndicate of Journalists
- Slovak Print and Digital Media Association
- Special Prosecutor’s Office
- Specialised Criminal Court
- State Commission for Elections and Control of Funding of Political Parties (replies received in writing)
- Supreme Administrative Court
- Supreme Audit Office
- Supreme Court
- Transparency International
- Via Iuris
- Zastavme korupciu

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

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders

- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU