

**LIBERTIES**

**RULE OF LAW REPORT**

**2024**

**SLOVAKIA**

**#ROLREPORT2024**



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## **FOREWORD**

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2024 report includes 19 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2024 here](#)**

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# SLOVAKIA

## **About the authors**

VIA IURIS



VIA IURIS is a non-partisan, not-for-profit organisation, officially registered in Slovakia as a civic association since 1993. Its main office is situated in Banská Bystrica (Central Slovakia), and a regional office is located in the capital city, Bratislava (Western Slovakia). We operate on a national level. Our mission is to use the law as an instrument of justice, create systematic solutions, and promote the equal application of law for all. Our activities can be categorised into three pillars:

- **Citizen:** Our aim is to promote effective public participation in decision and policymaking. Citizens should be able to participate effectively in various impact assessments and permission procedures on decisions and policies affecting their lives, such as the building of public and private infrastructure. They ought to have access to information and access to justice in matters of public interest, such as environmental protection and accountability of state institutions and municipalities. We support and provide assistance to people who are threatened while advocating for issues of public interest.
- **Civil society:** Authentic civil society, as one of the cornerstones of freedom and democracy, is jeopardised by non-systemic legislative proposals, populist statements of politicians and disinformation campaigns spearheaded by conspiracy media. Our role is to defeat myths about NGOs, critically analyse civil society and protect the legislative environment so that, in the future, Slovak citizens have the right to freely express, associate and actively participate in and control the administration of public affairs.
- **Rule of law:** VIA IURIS aims to promote systematic measures to strengthen the political independence of courts, public prosecution and the police. These institutions are fundamental elements of the rule of law and are crucial in securing equality before the law and enforcing justice. They ought to guarantee the exercise of public power via elected officials in compliance with public interest, not the private interests of oligarchs. They have to guarantee that everyone is held accountable for overstepping the law, even politicians.

## **Key concerns**

The problematic elements of the judicial system already identified in the EU Commission's 2023 report remained unchanged - the power of the Prosecutor General under Section 363 of the Criminal Procedure Code to quash decisions of prosecutors and police, the problem of removability of non-judicial members of the Judicial Council of the Slovak Republic, the crime of "Abuse of law" under Section 362a of the Criminal Code.

The new government is intervening in the judicial system through proposals to abolish the Special Prosecution Office and extensive changes to the Criminal Code.

There are several other pending legislative amendments representing a serious risk of creating a legal environment conducive to corruption, including the highly damaging draft amendment of criminal acts currently under discussion, which lowers the standard of protection against socially harmful behaviour. No progress has been made in terms of adopting legislation regulating lobbying or strengthening legislation on conflict of interest and asset declarations.

In 2023, the financing of the public media RTVS - Slovak Radio and Television - was changed: instead of the abolished concession fees, RTVS will be financed from the state budget. In the approved budget for 2024, RTVS will already receive less money. Another threat to the independence of RTVS is the government's announced

plan to split RTVS into two separate parts - Slovak Television and Slovak Radio.

No progress has been made in the process to establish legislative and other safeguards to improve the physical safety and working environment of journalists, including the reform of defamation law. Instead of strengthening the rules and mechanisms to enhance the independent governance and editorial independence of public service media, they have been weakened.

There is a regular abuse of the fast-track legislative procedure for government draft laws, where there is no objective and legal reason to do so. This persistent problem has been exacerbated by the arrival of the new government. The National Council approved an amendment to the Competence Act, which includes changes to the rules on the process of the selection of the position of chairman in certain mainly checks and balances institutions, which interferes with the principle of the separation of powers and poses a threat to the independence of these institutions and their watchdog function towards the government.

The civil sector is under constant threat due to attacks on NGOs from those in positions of power, but after the parliamentary elections in September 2023 and the entry into office of a new government that is openly opposed to the civil sector, the situation has worsened, and the civil sector finds itself in a climate of insecurity and threat.

Instead of increasing protection for the LGBTI+ community and their rights, there has been a decrease. Moreover, the LGBTI+ community continue to be stigmatised within public discourse, influenced by statements made by representatives of some political parties.

Plan for Creating an Enabling Environment for Civil Society has not yet been brought. The level of participation and access to decision-making for the interested public remains unsatisfactory. There were cases of criminalisation and SLAPPs against civil society organisations and activists.

The persisting lack of efficient investigation into human rights violations continues to undermine the rule of law. No progress has been made in revising the Criminal Procedure Code and the Law on the Office for the Suppression of Corruption and Organised Crime.

### **State of play** (versus 2023)

-  Justice system
-  Anti-corruption framework
-  Media environment and freedom of expression and of information
-  Checks and balances
-  Enabling framework for civil society
-  Systemic human rights issues

#### Legend

**Regression**    **No progress**    **Progress**



## **Justice system**

### **Key recommendations**

- **Amendment of § 363 of Act No. 301/2005 Coll. Criminal Procedure Code**

We recommend specifying the legislative regulation of Section 363 of Act No. 301/2005 Coll. Criminal Procedure Code, which allows the Prosecutor General to annul decisions of police officers and prosecutors in preparatory proceedings (investigate phase) which violate the law or which are the result of proceedings in which the law has been violated, in order to make its use more transparent, more predictable, and at the same time to preserve the extraordinary nature of this remedy.

Section 363 of the Criminal Procedure Code should at least provide an exemplificatory list of the types of decisions of a prosecutor or police officer that the Prosecutor General may overrule through this provision.<sup>1</sup> At the same time, the regulation of this provision should also include a qualitative requirement for a decision that can be overruled, namely that it should be a decision that constitutes a substantial error that could have affected the outcome of a case. In particular, it should be a final decision in the preparatory phase of criminal proceedings. The possibility of quashing the charge order issued by the police under Section 363 should be regulated more strictly, and it should be done only on serious substantive or procedural grounds, which could not be rectified at all or only with difficulty during the criminal proceedings. We also recommend shortening the time limit for submitting a petition<sup>2</sup> under Section 363 and also the time limit for the Prosecutor General to decide to quash a decision.<sup>3</sup>

In particular, the proposed changes are intended to enhance legal certainty through increased transparency and predictability of the Prosecutor General's actions.

- ***Reform of the prosecutor's office***

We recommend adopting measures that will contribute to increasing the transparency of the prosecutor's office, improve the accountability of the Prosecutor General, and strengthen public scrutiny. We consider the current model of the Slovak prosecutor's office to be functional and in line with European standards regarding its creation and functioning, therefore we recommend maintaining this model and specifying provisions that will meet the above objectives.

Thus, we propose, particularly in respect of the framework for reforming the public prosecutor's office, the following suggestions:

- 1 In particular, these should be decisions that bring criminal proceedings to an end, e.g. a decision on suspension of criminal prosecution, a decision on conditional suspension of criminal prosecution, or a settlement.
- 2 According to the section 364 par. 1 of the Criminal Procedure Code, a petition/a motion to quash the decision under the section 363 can be submitted by:
  - the accused (charged) in favour of him/herself
  - persons who could appeal in favour of the accused (e.g. relatives)
  - the aggrieved against the accused
  - "the interested party" (a person from whom a thing or a part of property may be or has been confiscated).
- 3 The current time limit for submitting a motion to quash a decision under the Section 363 is three months after the decision has become valid. The Prosecutor General has the time limit of six months after a decision has become valid to decide whether to quash the decision under the Section 363 of Criminal Procedure Code.

- Strengthen the autonomy of individual prosecutors and their responsibility for the criminal cases they handle.
- Modify the position of the Prosecutors' Council, the highest executive body of the self-government of prosecutors whose main mission is to protect the interests of the members of the prosecution from within, by changing its composition to allow its members also include persons from outside the prosecution service, and additionally by modifying its competences in order to strengthen its position, particularly its capacity to balance the power of the Prosecutor General within the prosecution service.
- Increase the professionalism and credibility of the prosecution service by introducing a requirement for everyone to undergo a selection procedure, including prosecutors in waiting, who can currently become prosecutors without a selection procedure, requiring only appointment by the Prosecutor General.<sup>4</sup> In the context of selection procedures, we propose placing greater emphasis on the moral qualifications and integrity of the candidate for the post of prosecutor.
- Simplify the process for initiating disciplinary proceedings against the Prosecutor General, which is currently available only to the President, and three out of five members of the National Council.
- Introduce random electronic allocation and reassignment of cases to individual prosecutors in the same way as files are allocated in courts, thereby increasing guarantees of objectivity, strengthening the principles of a fair trial and reducing the risk of corrupt behaviour.<sup>5</sup>

- ***Ethical rules for judges***

We recommend the adoption of new (more elaborate) rules on judicial ethics or a review of the wording and effectiveness of the current ones so that they provide answers to specific life situations. Moreover, the ethical rules should reflect the genuine will of judges to uphold the values and principles set out therein, thereby ensuring compliance. The ethical rules will only be respected by judges if they committed to upholding them.

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4 “Prosecutors in waiting” are the prosecutor “trainees” or “associates” who have to pass exams to become prosecutor trainees. After fulfilling the period of three years of serving in this position, they are entitled to take a professional examination. If they pass the exam, the Prosecutor General shall appoint them to the prosecution office. They are no “selection procedures” for the individual prosecution positions.

5 The proposals for the reform of the prosecutor’s office are part of our recommended [Proposals for Strengthening the Rule of Law in Slovakia](#).

## ***Judicial independence***

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### ***Appointment and selection of judges, prosecutors and court presidents***

The selection procedure for the office of judge is conducted by the Judicial Council of the Slovak Republic. The Judicial Council is composed of nine judicial members elected among the judges, and nine non-judicial members elected by the National Council and appointed by the government and the president. During the selection procedure, the Judicial Council examines the prerequisites of judicial competence of candidates for the office of judge. The procedures continue to be publicly available through the online live stream of the Judicial Council meetings (available on the Judicial Council website), with subsequent access to the audio recordings of the Judicial Council meetings also published on the Judicial Council website. There was no change introduced in these proceedings last year.

### ***Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors***

Having taken effect since 1 June 2023, the reform of the judicial map created three first instance administrative courts, thus making the administrative judiciary separate from the general courts. The reform and the creation of the administrative courts did not change the process of filling the newly created judicial

positions (e.g. by transferring judges without their consent, etc.) - the standard selection procedures by which the new administrative courts are gradually filled have been maintained.

However, it should be noted in this context that the newly created administrative courts are not yet fully staffed, which, while not hindering the overall functioning of these courts, may cause problems for their performance. The former Minister of Justice, who introduced this reform in August 2023, stated that she expects these courts to be fully operational within the next two years.<sup>6</sup> However, the selection process for the courts continues to be conducted in the standard manner and at the standard speed.

### ***Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)***

Since the adoption of the amendment to the Constitution of the Slovak Republic in 2021, which introduced the possibility for the National Council, the government and the president to dismiss at any time and without any reason members of the Judicial Council who are not judges and who were elected or appointed by these branches of power, there has been a debate among the professional public about the independence of the Judicial

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6 TASR, The administrative court in Banská Bystrica is already functioning, but it lacks several judges, 16 January 2024.

Council. One current opinion holds that if non-judicial members are removable at any time, this exposes the Judicial Council, and therefore the entire judiciary, to the risk of political influence through the introduction of persons who will collaborate with the respective nominating branch of state power. This part of the spectrum of opinions is based on the view that the Judicial Council, as a body of judicial legitimacy, should be absolutely independent of (political) power, in the same vein as the judiciary itself is. On the other hand, the alternative opinion holds that the Judicial Council, by its very nature, cannot (and should not) be independent in the same way as judiciary itself because it is composed of judicial members elected by the judges and non-judicial members elected and appointed by the government, the National Council and the president to implement a kind of judicial politics; it is supposed to be a “bridge” between the three branches, and through the non-judicial members, the democratic legitimacy of the people is supposed to pass through the Judicial Council via its competences in relation to the judiciary, and reach the individual courtrooms.

It seems that the nature and role of the Judicial Council in Slovakia is not yet settled. This unclear nature inevitably leads to tension not only within the Judicial Council between its individual members, who are clearly divided into judicial and non-judicial counterparts (nine members on each side), but also outside it.

Thus, the independence of the Judicial Council may or may not (given the prism through which we view the Judicial Council) be called into

question precisely through the ability to dismiss its non-judicial members at any time and without cause. The nature of the government and the context in which the government has acquired power and pursues its policies is also an important factor in this assessment. After the early elections in September 2023, which were won by the SMER - SSD party led by Róbert Fico, there was, in fact, an immediate replacement of the members of the Judicial Council appointed by the previous government. The new government did so even before it had gained confidence in the National Council. The members were dismissed without any reason given, relying on the aforementioned ‘controversial’ wording of the Slovak Constitution. Immediately after the dismissal, the members of the Judicial Council announced that they would appeal to the Constitutional Court with a complaint about the violation of their right to remain in elected/appointed office.<sup>7</sup>

In this specific case, we consider problematic not the replacement of the members of the Judicial Council itself, which is after all allowed by the Constitution and which is also legitimate in principle (and in the context of the Constitution of Slovak Republic), but the manner in which the government took this step - immediately after assuming power and, in particular, before gaining the confidence of the National Council. It is therefore questionable whether such a replacement of the members of the Judicial Council, and the newly appointed members themselves, enjoy sufficient democratic legitimacy.

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7 For more context on the dismissal of Judicial Council’s members, see e.g. <https://balkaninsight.com/2023/11/10/democracy-digest-self-styled-czech-patriot-uses-demo-donations-to-buy-gold-bars/>

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**Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges***Disciplinary regime of judges and prosecutors*

After the establishment of the Supreme Administrative Court of the Slovak Republic in 2021, disciplinary proceedings of legal professions (judges, prosecutors, notaries and executors) have been transferred from previous bodies, with the above-mentioned jurisdiction over particular professions, to the Supreme Administrative Court. At the same time, the powers of the Judicial Council in the disciplinary field in relation to judges were strengthened - the Judicial Council's power to investigate judges' assets was strengthened and, in the event of failure to prove the legal way of acquiring a judge's assets, the Judicial Council may refer the judge for disciplinary proceedings before the Supreme Administrative Court. The Judicial Council used this enhanced power for the first time ever in 2023 against a judge who failed to clarify the origin of his assets, which did not correspond to a significant extent with his documented income.<sup>8</sup>

The Supreme Administrative Court of the Slovak Republic is also a disciplinary court for prosecutors. In disciplinary proceedings before the Supreme Administrative Court, the disciplinary chamber always includes representatives of the legal profession from which the disciplinary defendant is a representative. However, in the case of prosecutors' disciplinary proceedings, the Supreme Administrative Court expressed doubts about the compatibility of such a regulation with the right to a fair trial (right to an independent and impartial court) and with the independence and impartiality of the courts, and on 13 January 2023 the Court submitted a proposal to the Constitutional Court to assess the compatibility of this regulation with the Constitution. The Supreme Administrative Court argued that since the prosecutor's office is a hierarchical body in which prosecutors are in a relationship of superiority and subordination to each other and which is headed by the Prosecutor General, to whom all prosecutors are subordinate, the composition of the disciplinary chamber, which in this case is part of the judicial power, does not guarantee its independence, since its prosecutorial members remain subordinate to their superior prosecutors and, at the same time, to the Prosecutor General. And an aspect of the relationship of superiority and subordination is

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8 More information about the case available from the statement of the chairman of the Judicial Council of Slovak Republic for the press agency SITA: <https://sita.sk/mazak-prehovoril-o-disciplinarke-voci-sudcovi-chalupkovi-ktory-nevedel-vysvetlit-670-tisic-eur/>; Reaction of Via Iuris to the above-mentioned actions of the Judicial Council available at - [https://www.linkedin.com/feed/update/urn:li:activity:7031965698943795201?updateEntityUrn=urn%3A%3Afs\\_feedUpdate%3A%28V2%2Curn%3A%3Aactivity%3A7031965698943795201%29](https://www.linkedin.com/feed/update/urn:li:activity:7031965698943795201?updateEntityUrn=urn%3A%3Afs_feedUpdate%3A%28V2%2Curn%3A%3Aactivity%3A7031965698943795201%29;); Documents of the Judicial Council related to this case available at: <https://zasadnutia.sudnarada.sk/konanie-vo-veciach-majetkovych-pomerov-sudcu-na-zaklade-podnetu/>.

the authority of superior prosecutors (and the Prosecutor General) to impose instructions on subordinates and the obligation of subordinate prosecutors to carry out those instructions. This may put pressure on prosecutors who are part of the disciplinary chamber that is trying a disciplined prosecutor.

The Constitutional Court did not grant the application of the Supreme Administrative Court.<sup>9</sup> In its ruling of 14 June 2023, the Court stated that prosecutors in the position of associate judges in the disciplinary chambers do not exercise the powers and tasks of the prosecution, but of the court or, in this case rather, disciplinary court. Their independent functioning in these disciplinary chambers is guaranteed by a number of legal institutional, personal and procedural guarantees, which are, moreover, covered by the prohibition of arbitrariness and abuse of power in the sense of the principle of the legitimacy of public authority immanent to the rule of law and enshrined also in the Constitution of the Slovak Republic. The Constitutional Court considered the concerns of the Supreme Administrative Court to be “an absolutization of the hypothesis of certain aspects of abuse of power in the system of the prosecutor’s office, stemming from

its hierarchical structure and, on that basis, the presumed exercise of a distorting influence on the independent decision-making of associate judges in disciplinary proceedings”.<sup>10</sup> Moreover, the Constitutional Court stated that the participation of prosecutors in disciplinary proceedings against prosecutors is essential for a thorough and professional assessment of the prosecutor’s misconduct in office, and therefore dismissing that participation would negate the purpose of the participation of associate judges from the relevant legal profession in the disciplinary chambers of the Supreme Administrative Court.

#### *Criminal liability of judges for the crime of ‘abuse of law’*

In 2023, there was the first and so far only conviction of a judge for the crime of ‘Abuse of law’ under Section 326a of Act No. 300/2005 Coll. Criminal Law.<sup>11</sup> The case concerned a judge who was taken into custody in 2020 as part of the large-scale police action called ‘Storm’, during which 13 judges and several other lawyers were taken into custody on suspicion of corrupt conduct. The judge was the first to confess to the acts she was accused of, she cooperated with law enforcement authorities, and is the

9 Decision of the Constitutional Court of the Slovak Republic, No. PL. ÚS 2/2023 from 14 June 2023, available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2023/292/20230719#>

10 See point 99 of the Constitutional Court’s decision in [Proposals for Strengthening the Rule of Law in Slovakia](#).

11 The wording of the crime ‘Abuse of law’ according to the section 362a of the Slovak Criminal Code (Act No. 301/2005 Coll.) available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/300/20231020#paragraf-326a>

first person from this police action to be legally convicted.<sup>12</sup>

There has been no amendment adopted to the ‘Abuse of law’ crime under Section 326a of the Criminal Code. The conditions of this offence are formulated too vaguely,<sup>13</sup> which does not correspond to the requirement of legal certainty as one of the key elements of the rule of law. This is all the more serious in the context of criminal law, where the element of legal certainty is reflected in the fundamental criminal law principle of *nullum crimen sine lege*. Criminal offences should be constructed in an intelligible and clear manner, without undue doubt as to their interpretation, so that the addressees of the law know which conduct may be punished. The ‘Abuse of law’ crime is also individual to its specific subject, which is the judge. It is precisely the legal uncertainty created by the vague wording of the conditions of this crime, coupled with its special subject, which raises concerns about its potential abuse. However,

these concerns have not yet been confirmed in practice.

The ‘Abuse of law’ crime was also discussed by the Judicial Council of the Slovak Republic, which, at its meeting on 16 February 2023, approved a resolution recommending the Ministry of Justice to withdraw the above-mentioned section from the Criminal Code and thus to abolish this crime altogether.<sup>14</sup> No such effort has been announced on the part of the Ministry of Justice. The new current government has committed itself in its Government’s Programme Statement, as a medium-term priority in the field of national criminal policy, to consider repealing or substantially amending this crime,<sup>15</sup> but that commitment is not part of the government’s published plan of legislative tasks for its next term in office.<sup>16</sup>

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12 Because of her cooperation with the law enforcement authorities, the judge was sentenced to a suspended sentence of 2 years’ imprisonment, together with a ban on exercising the function of a judge for a period of 4 years. The judgment No. 4T/1/2023 is available at: <https://www.justice.gov.sk/sudy-a-rozhodnutia/sudy/rozhodnutia/3af3dea1-4fe1-4c3f-b8d6-f677e94d671e:26ed92f3-d277-4bc2-b32a-a5c6de3e73b3/>

13 According to the section 326a par. 1 of the Criminal Code, the crime of ‘Abuse of Law’ reads as follows: “Whoever as a judge, an associate judge or an arbitrator of an arbitral tribunal arbitrarily applies the law and therefore harms or favours another, shall be punished by imprisonment for one to five years.” The problematic vague term “arbitrarily applies the law” lacks a settled interpretation and is susceptible to multiple variations of an interpretation.

14 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, available at: <https://zasadnutia.sudnarada.sk/data/att/12514.pdf>

15 [Programme Statement of the Government of the Slovak Republic](#), pg 65.

16 [The Slovak government’s Legislative Task Plan](#).

### ***Independence/autonomy of the prosecution service***

The government approved a draft amendment to the Criminal Code, which also includes a systemic modification of the prosecutor's office, namely the abolition of the Special Prosecution Office, which, as part of the prosecution, is its specialised branch. The Special Prosecution Office deals with the most serious crimes that fall within the competence of the Specialised Criminal Court and for this purpose it is endowed with a certain degree of autonomy - it is headed by a Special Prosecutor. Although subordinated to the Prosecutor General, he is not allowed to give instructions to either the Special Prosecutor or the prosecutors of the Special Prosecution Office, nor is he allowed to carry out tasks for the Special Prosecutor or the prosecutors of the Special Prosecution Office.

With the abolition of the Special Prosecution Office, according to the proposal, the prosecutors of the Special Prosecution Office are to come under the General Prosecutor's Office and the cases that were under the jurisdiction of the Special Prosecution Office will be under the jurisdiction of the regional prosecution offices. Live cases that are still pending are also to be transferred to the regional prosecution offices, but the Prosecutor General has publicly stated that he will use his powers to ensure that these cases remain with their original prosecutors.

The proposal to abolish the Special Prosecution Office has sparked a huge wave of opposition from both professionals and the general public. The problem is not the systemic change of the prosecution office, which in principle

is perfectly legitimate, but the way in which it is taking place and the context in which it is taking place. The amendment to the Criminal Code, of which the abolition of the special prosecution office is a part, was submitted to the National Council, together with a proposal to discuss it in a fast-track legislative procedure. The proposal has not been the subject of any wide-ranging debate, has not been the subject of an inter-ministerial comment procedure and, in fact, none of the statutory grounds for a fast-track legislative procedure have been met. The abolition of the Special Prosecution Office is mainly a political and power tool of the current government and is the result of mutual animosity and personal antipathy between the current Special Prosecutor and some high-ranking officials and politicians of the current government.

The government has been strongly criticised for this intention, not only by persons from within the prosecution (individual prosecutors, the Council of Prosecutors as a self-governing executive body) and representatives of other legal professions, but also by the European Public Prosecutor's Office (EPPO), which on 18 December 2023 sent a letter to the European Commission containing concerns expressed by the European Chief Prosecutor about violations of the general regime of conditionality for the protection of the budget of the European Union ("Conditionality Regulation") pointing at recent legislative amendments proposed by the Slovak government concerning the Criminal Procedure Code, the Criminal Code, the Act on the Public Prosecution Office and the Act on the Whistleblowers Protection. The European Chief Prosecutor concluded that, "based on a thorough analysis of the

combination of the proposed amendments, they constitute a serious risk of breaching the rule of law in the meaning of Article 4(2)(c) of the Conditionality Regulation.”

Moreover, in the whole context of proposed amendments to the above-mentioned acts, he stated that,

*“the speed with which the Slovak government intends to proceed with these amendments casts serious doubts as to its compliance with its obligation of sincere cooperation (Article 4(3) TEU). Finally, given that the proposed amendments would decrease the criminal law deterrence as regards offences falling under the competence of the EPPO, the Slovak government’s intention to fulfil its duty to effectively protect the Union budget (Article 325 TFEU [Treaty on the Functioning of the European Union]) is also put into question.”<sup>17</sup>*

In addition to professional criticism, civil society is reacting to the government’s actions with mass protests across the country<sup>18</sup> and various signature campaigns<sup>19</sup> calling on the government to abandon its plan to abolish the Special Prosecution Office and refrain from interfering in the rule of law.

### **Significant developments capable of affecting the perception the general public has of the independence of the judiciary**

Prosecutions in major corruption cases in the judiciary remain ongoing and are at various stages of the process. An exception is the case of the convicted judge mentioned above, which resulted in a final conviction.

In the summer of 2023, information about the relationship between a well-known journalist and a prominent judge of the Specialized Criminal Court became public. The information about their close relationship raised heated discussions and questions about the ethical standards of judges in their relationship with journalists.<sup>20</sup> Despite the fact that the judge in question attended a meeting of the Judicial Council in which she explained her relationship with the journalist in question, the Judicial Council was not able to adopt any opinion in which it would express its view on the ethical standards of judges in their relationship with journalists. The inability of the Judicial Council to reach consensus in relation to important issues of judicial independence and credibility has become the rule rather than the exception (see also below on the case described in the

17 The European Chief Prosecutor’s letter addressed to the European Commission, [Statement regarding the legislative amendments proposed by the Slovak government](#), 18 December 2023.

18 SME, [There were even more of them, From Prague to Prešov more than 35 thousand people protested against Fico, Pellegrini and Danko](#), 11 January 2024.

19 A [signature campaign](#) initiated by NGOs and a [signature campaign](#) initiated by the opposition political party Progressive Slovakia

20 The item on the agenda of the Judicial Council’s meeting, [“Opinion of the Judicial Council of the Slovak republic on ethics of judges in their relations with journalists”](#) on its 10th meeting, 17 October 2023. The judicial council did not adopt any of the proposed resolutions.

‘other’ section). The absence of a clear position of the Judicial Council as a body of judicial legitimacy and the inability of the Council to collectively stand up for judges and the judiciary, or conversely, to condemn obviously harmful conduct in the judiciary when necessary, are not conducive to public confidence in the judiciary. The above is a manifestation of the internal division of opinion and a split of the members of the Judicial Council.

### **Other**

In November 2023, the new Minister of the Interior verbally attacked a judge of the Bratislava IV Municipal Court, expressed suspicion that he might have committed a crime of ‘Abuse of law’ and threatened him with possible disciplinary prosecution, all because the judge had issued an urgent measure in a case in which the Minister of the Interior had a certain legal or political interest.<sup>21</sup> The Judicial

Council discussed the incident at its meeting on 14 November 2023, but, as in the case described above, was unable to find a consensus and was unable to issue a clear, consensual and condemnatory opinion in defence of the judge concerned.<sup>22</sup>

## **Quality of justice**

### **Accessibility of courts (e.g. court fees, legal aid, language)**

On 19 December 2023 an amendment to Act No. 71/1992 Coll. on Court Fees was approved, which increased some court fees set at a fixed amount. The amendment was adopted as part of the so-called ‘Consolidation measures’, i.e. acts adopted in connection with the increase in public debt and the deteriorating state of public finances. The amendment will be effective from 1 April 2024.<sup>23</sup>

21 This was a case of criminally prosecuted police officers who were under the protection of the Whistleblower Protection Office, which protected them from termination or other adverse actions by their employer, or in this case, the Service. The Minister, as head of the interior affairs and the police force, suspended these police officers, disregarding the Whistleblowers Protection Office’s decision to grant whistleblower protection - the Minister should have sought the Whistleblowers Protection Office’s approval for this action prior to making his decision. As he failed to do so, the police officers concerned have taken the matter to the courts with applications for urgent measure. Different courts (and different judges) issued several of them. One of them was the judge in question.

22 The judicial council discussed two alternative resolutions in this case, but did not adopt either of them. The first proposed resolutions available at: <https://zasadnutia.sudnarada.sk/a-nepripustne-zasahy-politikov-a-advokatov-proti-konkretnym-sudcom-ako-reprezentantom-jednej-z-troch-moci-v-state/> and the second available at: <https://zasadnutia.sudnarada.sk/b-stanovisko-sudnej-rady-slovenskej-republiky-k-medializovanym-utokom-na-rozhodovaci-cinnost-sudcu-mestskeho-sudu-bratislava-iv-michala-kubisa-vo-veci-tohto-sudu-sp-zn-16cpr22023-45/>

23 For more information see the adopted and promulgated act No. 530/2023 Coll. amending certain acts in connection with the improvement of public finances (so-called “Consolidation measures”) available at: <https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=537563>

***Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems during the COVID-19 pandemic)***

The EU Recovery and Resilience Plan under the ‘Efficient Public Administration and Digitisation’ component foresees the implementation of the ‘Centralised Court Management System’ project, which is intended to completely replace the current court information system. This project was advanced in 2023 with the launch of a tender for its implementation.<sup>24</sup>

***Geographical distribution and number of courts/jurisdictions (‘judicial map’) and their specialisation***

On 1 June 2023 a new judicial map came into force. The changes brought about by the reform of the judicial map are the reduction in the number of courts and the consequent increase in the size of the judicial districts, which will allow room for greater specialisation of judges in specific domains of law. The specialisation of judges should in turn lead to an increase in the quality and speed of decision-making, which should ultimately have a positive impact on citizens’ confidence in the judiciary and the administration of justice in Slovakia.

The new judicial map has been in force for only a few months, therefore the impact on the pursued objectives and its effectiveness can only

be assessed in time. The new judicial map has temporarily slowed down the performance of the courts, but this is understandable given the scope of the reform and the necessary technical steps involved (e.g. transfer of files).

From 1 June 2023, as part of the new judicial map, new administrative courts with seats in Bratislava, Banská Bystrica and Košice, which together with the Supreme Administrative Court of the Slovak Republic constitute a separate part of the judiciary specialized exclusively in administrative law, have started to operate. The competence and jurisdiction of the administrative courts is regulated by Act No 162/2015 Coll., the Administrative Court Procedure Code.<sup>25</sup> Administrative courts operate where previously administrative colleges of the relevant regional courts operated. Thus, this change has not led to substantial changes in the competence of the administrative courts. Jurisdiction has been adjusted in relation to the number of administrative courts, which is now three, whereas previously there were eight regional courts dealing with administrative matters.

***Other***

The use of the power under Section 363 of the Criminal Procedure Code by the Prosecutor General remains problematic. The Prosecutor General has faced criticism for controversially using the power to intervene in special prosecution cases and exonerate persons in cases

24 Documents regarding the tender available at website of the Public Procurement Office: <https://www.uvo.gov.sk/vyhladavanie/vyhladavanie-dokumentov/detail/3308995?cHash=c6c8073d59cd740c47f001ba38c285c4>

25 [Sections 8–17 of the Administrative Court Procedure Code](#)

involving high-ranking politicians and state officials.<sup>26</sup>

Due to the ongoing controversy, in the spring of 2023 the President requested from the Prosecutor General all decisions of the Prosecutor General's Office both granting and not granting applications under Section 363 of the Code of Criminal Procedure. The President substantiated her request on her constitutional duty to "ensure the orderly functioning of constitutional organs" in connection with her appointment and oversight powers vis-à-vis the Prosecutor General.<sup>27</sup> The Prosecutor General did not grant the President's request, arguing that the Constitution does not authorize the President to assess the quality of the Prosecutor General's constitutional authority and does not impose a duty on the Prosecutor General to cooperate with the President. In September 2023, the President appealed to the Constitutional Court with a request to interpret the constitutional articles at issue and to answer the question whether the Prosecutor General is obligated to comply with such a request.<sup>28</sup> The Constitutional Court has accepted the request, but has not yet issued an interpretation.

The President is entitled to initiate disciplinary proceedings against the Prosecutor General,

and if the Prosecutor General commits an act which, according to the decision of the disciplinary court, is incompatible with the performance of the office of Prosecutor General, the President would recall him from office on the proposal of the National Council, i.e. the parliament.

## ***Fairness and efficiency of the justice system***

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### ***Length of proceedings***

The European Commission's EU Justice Scoreboard report for 2023 shows that compared to the previous year 2022, the estimated time needed to resolve civil, commercial and also administrative cases, at all court instances has increased, which means a decline in the efficiency of the Slovak justice system.<sup>29</sup> The 2023 report, however, reflects on the data obtained for 2021, which means that the COVID-19 pandemic also had an impact on the decline of the efficiency of the justice system. Increasing the efficiency is one of the objectives of the reform of the judicial map, the achievement of which we will only be able to evaluate in the coming years.

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26 For more context see e.g. VerfBlog, [General Prosecutor, the Supreme Leader of the Slovak Republic?](#), 2 September 2021

27 Art. 101 par. 1 in conjunction with Art. 102 par. 1 s) and t) of the Constitution of Slovak Republic. See at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/>

28 [Press release of the Constitutional Court of Slovak Republic No. 82/2023](#) regarding the information on accepting the motion for further proceedings.

29 See Figures 5 – 9 of the [EU Justice Scoreboard 2023](#) for comparison with Figures 6 – 10 of the [EU Justice Scoreboard 2022](#).

## Anti-corruption framework

### Framework to prevent corruption

#### Rules on preventing conflicts of interest in the public sector

There has still been no progress in the legal regulation of lobbying, although the debate on the topic has been in the public space for a long time. In its Programme Statement, the new government commits itself to,

*“strengthen transparency and prepare anti-corruption legislation to regulate public officials’ contacts with persons representing the interests of individuals and organisations” and to “comprehensively support the conduct of a comprehensive analysis of the application problems with the implementation of the Constitutional Act on the Protection of Public Interest and propose the adoption of the necessary changes to the legislation.”<sup>30</sup>*

#### Measures in place to ensure whistleblower protection and encourage reporting of corruption

On 6 December 2023 the government approved and submitted to the National Council the draft amendment to Act No. 54/2019 Coll. on the Whistleblower Protection Act,<sup>31</sup> which brings about a reduction in whistleblower protection

and changes that may discourage people from reporting corrupt conduct.

The draft amendment allows for retrospective review of protected whistleblower statuses already granted, with the possibility of revocation, which exposes whistleblowers to legal uncertainty, strengthens the position of employers to the detriment of employee whistleblowers by introducing a review mechanism for the grant of protection that can be requested by the employer, and changes the definition of a qualifying disclosure by introducing a ‘necessity’ condition - only disclosures that are necessary to clarify a serious anti-social activity or necessary to identify or convict the perpetrator are to be considered as such. In addition, the draft amendment also provides for the obligation to state the reasons for granting protected whistleblower status, which directly contradicts the purpose of granting protection.

The draft amendment also completely exempts members of the police force from the protection of the Act. Moreover, it acts directly retroactively against those police officers who have protected whistleblower status by revoking that status and removing the protection altogether.

All of these changes, if adopted, are likely to act as a deterrent to potential future whistleblowers and send a signal that it is easier and

30 [Government’s Policy Statement of the Government of the Slovak Republic](#), page 70.

31 See the [draft amendment to Act no. 54/2019 Coll. the Whistleblower Protection Act](#) submitted to the parliament the National Council.

more certain to remain silent about anti-social activity. Rather than fostering courage, they expose whistleblowers to greater uncertainty and make it more difficult for them to pursue justice.

The draft amendment is so far only a threat, but given that it is a government proposal, it is expected to be adopted in the National Council.

## ***Investigation and prosecution of corruption***

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### ***Criminalisation of corruption and related offences***

The government's draft amendment to the Criminal Code, which also includes the abolition of the Special Prosecution Office, radically reduces the rates of imprisonment sentences, especially in cases of property and economic crime, including corruption offences. The reduction of imprisonment sentence rates, the raising of the minimum amount of damages (as a condition for qualifying an act as criminal) and the preference for alternative punishments, together with the shortening of limitation periods and the proposed procedural amendments to the Criminal Procedure Code, amount to a radical devaluation of the punishment of corruption and other crimes, reaching the level of 'threatening the internal security of the country'.<sup>32</sup> These changes, but especially the changes in the level of penalties, create a risk that the

criminal law will not have a sufficient deterrent and preventive effect in relation to the commission of crimes (not limited to corruption).

The amendment to the Criminal Code (and related laws), as mentioned in the previous section, was submitted to the National Council without prior discussion, together with a proposal to discuss using the fast-track legislative procedure. This means that the draft amendment was not discussed with any stakeholders, experts, practitioners, public authorities that will be affected by the changes in practice (especially prosecutors or police investigators), nor the public.

### ***Effectiveness of investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including with regard to the implementation of EU funds***

Ongoing investigations into corruption (and other) crimes will be severely compromised following the adoption of the amendment to the Criminal Code described above, in the context of one of the fundamental criminal law principles of the application of the later more favourable law. Moreover, the current government is also implementing personnel changes in the leadership of key bodies with powers to investigate and prosecute crime. In December 2023, it appointed a new police president, who

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32 The interview with the former Minister of Justice V. Karas analysing the proposed amendments of the criminal acts. Dennik N, 12.1.2024. Available at: <https://dennikn.sk/3768293/za-opakovanu-kradez-vina-ma-byt-vazenie-za-kradez-auta-podmienka-varuje-exminister-karas/?ref=list>

subsequently implemented personnel changes in the National Criminal Agency (“NAKA”), which is the branch of the police specialised in combating the most serious forms of crime (including corruption); there has also been a replacement of the director of the Office of Inspection Service (so-called “Police inspection”), which is the branch of the police authorised to investigate criminal offences committed by members of the police force.

As a result of these personnel replacements, together with the changes in the criminal acts (i.e. the lower severity of punishment) and the abolition of the Special Prosecution office (i.e. the elimination of the unit with a prosecutorial specialisation in the most serious crimes), the investigation of these crimes is in jeopardy.

## **Media environment and media freedom**

### **Pluralism and concentration**

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#### **Levels of market concentration**

The level of concentration in the media market increased in 2023 after News and Media Holding bought the most widely read tabloid magazine *Nový čas* and the related portal *cas.sk*. The publishing house, owned by the financial group Penta, is the largest publisher of print titles on the Slovak market. In addition to *Nový čas*, the publishing house is also owner of the second most widely read tabloid *Plus 1 deň*. Due to its volume, the transaction was not subject to the control of the Anti-monopoly Office.<sup>33</sup>

### **Transparency of media ownership**

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#### **Rules governing transparency of media ownership and public availability of media ownership information, and their application**

The Ministry of Culture of the Slovak Republic is obliged to create a publicly accessible register of information and data on media providers, services and products within 30 months of the adoption of the new media laws. According to the Ministry’s website,<sup>34</sup> it has not yet published such a list. There has been no progress on the above matter in 2023.

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33 [Denník N, Penta publishing buys the daily newspaper Nový čas and the website cas.sk](#), 10 October 2023.

34 [Lists and Registers maintained by the Ministry of Culture](#).

## **Public service media**

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### **Independence of public service media from governmental interference**

In 2023, the financing of the public media RTVS - Slovak Radio and Television was changed.

On 17 February 2023, the National Council of the Slovak Republic approved a law on the abolition of the payment of the RTVS fee, i.e. the so-called 'concession fees'. The amendment entered into force on 1 July 2023.

Under the original funding regime, every natural person registered with an electricity supplier, as well as employers who employ three or more employees in an employment or similar employment relationship, were obliged to pay the concession fee directly to the RTVS. This obligation ended on 30 June 2023.

An amendment to Act No. 532/2010 on Radio and Television of Slovakia, adopted by the National Council on 20 June 2023, introduced a new mechanism of public funding for public radio and television from public sources. The eligible contribution for RTVS will be provided annually from the state budget, amounting to 0.17% of GDP.

On 19 December 2023, the so-called 'Consolidation measures'<sup>35</sup> were adopted by the

National Council. Under this framework, the contribution to RTVS from the state budget was reduced from the original 0.17% of GDP to at least 0.12% of GDP.

The change in the financing of the public service media by linking it to the state budget poses a threat of increasing the risk of interference with the content and functioning of the public service media, especially regarding news, by representatives of the government.

In addition, the current government has announced another plan for change in the functioning of RTVS, to which it also committed itself in its Programme Statement,<sup>36</sup> consisting in the division of RTVS into two separate media institutions - a separate public television and public radio. The change has not yet taken concrete form in the form of a legislative proposal. However, once it is put into practice, together with the changed funding regime, it may pose a further threat to the independence of the functioning of the public service media, as the division of RTVS inevitably entails changes in the director(s) and members of the control bodies of the public service media. The bodies of the current RTVS – the Director General and the Board – are elected and dismissed by the National Council (on the proposal of the competent committee of the National Council) by a simple majority of the present member of the National Council, so the ruling political power

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35 The adopted and promulgated [Act No. 530/2023 Coll.](#), amending certain acts in connection with the improvement of public finances.

36 The Manifesto of the Government of the Slovak Republic, page 52.

would have a substantial and direct influence on the selection of the persons.

## **Public trust in media**

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According to 2023 Reuters' Digital News Report, the general public trust in media declined from last year's 37% to 27% which, according to the report, 'reflects decades of interference by business and political leaders.'<sup>37</sup> The report further states that "TV stations, including the public broadcaster RTVS, tend to enjoy relatively high levels of trust, whereas digital-only brands are less trusted, even when they have high reach (e.g. Topky). However, one digital-only brand, Aktuality, stands out for its high reach and relatively high trust."<sup>38</sup>

Another report conducted by GLOBSEC - GLOBSEC Trends 2023 - points out an interesting paradox:

*"Slovaks further reaffirmed their proneness to believing disinformation in other areas too, with majorities agreeing with a narrative demonising LGBTI+ people and rejecting the notion that liberal democracy is good for their country. Paradoxically, despite only 37% of respondents trusting the media, nearly two thirds considered media outlets to be free, representing the largest gap between the two measurements in the region."<sup>39</sup>*

## **Safety and protection of journalists and other media actors**

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According to the 2023 Reporters Without Borders' World Press Freedom Index, which evaluates the environment for journalism, level of freedom of press and media in 180 countries around the world, the Slovak Republic moved up in the rankings from 27th place to 17th place.<sup>40</sup> Despite this positive progress, it can be concluded that journalists continue to work in a hostile work environment, mainly because of "the former prime minister Igor Matovic and the current one Robert Fico who have been among the sources of political attacks on the media, with the latter going so far as to launch baseless accusations of criminal activity against investigative journalists."<sup>41</sup>

### **Frequency of verbal and physical attacks**

As Reuters Institute's 2023 Digital News Report states,

*"verbal attacks on journalists by politicians from opposition and government parties continue. While some politicians defend press freedom, journalists and media organisations have been compared with organised crime syndicates and accused of corruption, media criticism has been likened to the Nazi propaganda machine, and*

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37 [Digital News Report 2023](#), Reuters Institute, page 97.

38 Ibid.

39 [GLOBSEC Trends 2023 Report](#), page 15

40 [Reporters Without Borders' World Press Freedom Index 2023](#), report for Slovakia.

41 Ibid.

*female reporters are labelled prostitutes. Early this year, the female presenter of an RTVS political discussion programme received credible death threats following verbal attacks against her by a leading politician.”<sup>42</sup>*

### **Smear campaigns**

The verbal attacks on journalists are part of a continuous smear campaign against journalists and the media by representatives of the current government, especially the strongest ruling party SMER-SSD and its chairman and current Prime Minister Robert Fico, and also by the SNS as its coalition partner. Attacks on journalists include, in particular, labelling them as enemies of the country, foreign agents, and accusing them of alleged bias against the ruling power (especially in the case of the media, which can be considered more ‘liberal’).

Part of the smear campaign is also the decision of the ruling party SMER-SSD not to communicate with selected opinion-forming media, including not answering journalists’ questions at press conferences and also the decision not to participate in political debates in some media (e.g. TV Markíza).<sup>43</sup>

One of the sharpest moments of this smear campaign was the Prime Minister’s announcement that he would not allow certain ‘enemy media’ to enter the Office of the Government of the Slovak Republic. Subsequently, he corrected his statement to the effect that he was cutting off all communication with these media.<sup>44</sup>

42 Digital News Report 2023, Reuters Institute, page 96.

43 [Press release of the Office of the Government of the Slovak Republic](#), 20 November 2023.

44 The ruling parties SMER-SSD and SNS describe the daily newspapers SME, Denník N, the online news portal Aktuality and the news television TV Markíza as ‘enemy media’. See for example the statement of the prime minister Robert Fico published on 13 November 2023 on his official Facebook account where he openly speaks about the “enemy media” and his decision to restrict their access to the Office of the Government of Slovak republic. The statement available at: <https://fb.watch/pOefOjEr9P/> (from the minute 5:11). The media in question are generally regarded as objectively critical and credible.

## Checks and balances

### Key recommendations

- *To refrain from the overuse and abuse of the fast-track legislative procedure and use it only where there are genuine grounds for its application, as provided for in the Act No. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic.*

### Process for preparing and enacting laws

#### **Framework, policy and use of impact assessments, stakeholders/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process**

In December 2022, the previous government, headed by former Prime Minister Eduard Heger, changed the wording of the Legislative Rules of the Government concerning public participation in the legislative process during the inter-ministerial comment phase of the legislative process (in the preceding phase the law submitted to the National Council). The change concerned two points: 1) comments within the commenting procedure can be submitted exclusively through the portal Slo-lex (an electronic system/website of the Collection of Laws and portal on which legislative intentions, legislative processes with the possibility of commenting, and information regarding the legislative activity of the state are published),

whereas previously it was also possible to submit comments via other formats e.g. in the form of paper sheets; and 2) support for mass comments (special instrument for public participation - if any amendment introduced by the public aka NGOs or individuals - gain support of 500 people, this amendment is considered as if it was submitted by public authority such as a ministry) can be collected exclusively through the Slo-lex portal, whereas previously it was also possible to collect support through various petition portals. These changes have made it significantly more difficult for the public to participate in commenting on legislation, as the process has been limited to the Slo-lex portal: the portal is not user-friendly and not well-structured, it is also inaccessible to a certain proportion of Slovak citizens - statistics show that approximately 14% of Slovak households do not have access to the internet and would therefore completely lose the opportunity to participate in the comment procedure.<sup>45</sup>

In response to these changes, in July 2023, the newly appointed interim government reversed

<sup>45</sup> VIA IURIS, together with a number of other NGOs, reacted to these changes by putting pressure on the government for several months to change this harmful regulation and addressed an appeal to the government to this end: <https://viaiuris.sk/aktuality/vlada-e-hegera-potichu-zmenila-pravidla-pripomienkovania-zakonov/>

the changes by adopting a resolution and modified the government's legislative rules to their original mode so that the public can continue to collect the public support of the amendments through portals other than Slov-lex.<sup>46</sup>

***Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)***

According to the statistics available on its website, the newly elected National Council in the IXth electoral term (i.e. from October 2023) has so far approved 12 bills by the end of December 2023, all of them proposed by the government. Of these, 11 were approved in the fast-track legislative procedure.<sup>47</sup> Statistically, therefore, of all the government bills, 91.67% were passed with the fast-track legislative procedure. By comparison, in 2020 (the first year of the pandemic), the National Council passed a total of 124 bills between March and December 2020, of which 59, or 47.58% of the bills, were passed through the fast-track legislative procedure. This means that the coalition is now passing laws in the fast-track legislative procedure even more recklessly than when it was justified by the global pandemic.<sup>48</sup>

The reasons for the fast-track legislative procedure are often insufficiently substantiated or proven, in some cases they are even completely absent or the grounds given do not meet any of the requirements for the fast-track legislative procedure provided for by law (Act no. 350/1996 Coll. on the Rules of Procedure of the National Council of the Slovak Republic).

In addition, the Government Legislative Rules state the obligation to carry out a comment procedure even if the discussion of a law is to be shortened. In such a case, the comment procedure is also shortened,<sup>49</sup> but it shall not be shorter than seven working days. This condition was not met in the case of the government bills in question, and therefore the public (general and professional), as well as state bodies and organisations, did not have the opportunity to comment on these bills.

Among the government bills that have been approved or are currently being discussed in the fast-track legislative procedure, there are also those that represent serious systematic and complex changes that require broad professional discussion of all entities that will be (especially in practice) affected by the changes. This can be demonstrated, for example, by the above-mentioned amendments to the criminals acts (and

46 Documents and the adopted amendment by the interim government available at: <https://www.slov-lex.sk/legislativne-procesy/-/SK/dokumenty/LP-2023-369>

47 [Brief overview of the legislative activity of the National Council of the Slovak Republic](#), 22 December 2023.

48 To make the statistics complete, in 2021 the National Council adopted 27 bills out of 168 (16 %) in fast track legislative procedure, in 2022 it was 21 out of 175 (12 %) and in 2023 it was 2 out of 107 (1,9 %). See more at [Brief summary of legislative activity of the National Council of the Slovak Republic in VIII. term of office](#).

49 Art. 13 par. 7 of [Government Legislative Rules](#).

related laws), which introduce a completely new concept of penal policy, dramatically reduces the penalties for certain offences, changes the limitation periods, introduces a preference for alternative sentences (which it is clear that the State will not be able to carry out) and, as we have already mentioned, abolishes the Special Prosecution Office. For many of these changes, the State and the authorities affected are neither prepared nor technically equipped.

### **Independent authorities**

On 29 November 2023, the government of the Slovak Republic approved the draft amendment to Act No. 575/2001 Coll. on the organisation of government activities and the organisation of the central state administration (the so-called Competence Act), in which the government proposes the establishment of a new Ministry of Sport, changes the legal status of some state institutions and also includes changes in the process of the selection of the heads of two state institutions - the Statistical Office of the Slovak Republic and the Office for Supervision on Healthcare. The law at the same times guarantees the independence of the chairpersons of these institutions.<sup>50</sup>

The draft law is to change the mechanism of selection of the chairpersons of these

institutions, who, according to the currently valid and effective legislation, are appointed and dismissed by the President of the Slovak Republic on the proposal of the government. The President derives this competence not only from the act itself, but also from the Constitution. The amendment changes this mechanism so that the appointment and dismissal of the chairpersons of these institutions shall be fully in the hands of the government, which brings the amendment into conflict with the constitutional regulation. In addition, the proposal adds a new vaguely worded reason for which the government will be able to dismiss the chairmen of these institutions, yet the amendment at the same time contradictory guarantees the chairmen they shall act independently of instructions from state authorities or other public authorities.<sup>51</sup> This does not provide a sufficient guarantee against arbitrariness of the government in its decision to change the chairmen.

This change interferes with the principle of checks and balances by giving full control of these independent institutions exclusively to the government, that is to say, to one branch of power, by removing the President from the process of creating their chairman positions.

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50 [The draft amendment of the Act No. 575/2001 Coll. on the organisation of government activities and the organisation of the central state administration](#), adopted on 29 November 2023 by the government, or see the version adopted by the National Council (which has been vetoed by the president).

51 The amendment introduces a guarantee of independence only in the case of the Statistical office, since the legislation currently in force already provides for this guarantee (in the same wording) in the case of the Office for Supervision on Healthcare.

The amendment bill was passed by the National Council but was vetoed by the President for the reasons stated above.<sup>52</sup> The National Council overrode the presidential veto on 16 January 2024.

## ***Electoral framework***

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### ***Enabling environment for the exercise of the right to vote: voter registration systems, accessibility of polling stations, remote/e-voting arrangements, threats and intimidation***

In 2023, there were two amendments to Act No. 180/2014 Coll. on the exercise of the right to vote (“Electoral Act”):

1. The amendment adopted in November 2022 with effect from 1 March 2023 simplified the possibility of remote voting by post from abroad - the change means that applicants to vote by post no longer have to communicate with the municipality of their permanent residence, but all applications are addressed through the information system for voting by post to one place, which is the Ministry of the Interior. Access to the election is also facilitated, for example, by the fact that the voter can obtain the ballot paper from the website of the Ministry of

the Interior.<sup>53</sup> Originally, this amendment proposed the extension of the possibility of voting remotely by post also for presidential elections, but this change was not approved.

2. The amendment adopted in May 2023 strengthened the transparency of elections by introducing the obligation to publish the minutes of both precinct and district electoral commissions on the voting process and results in a specific precinct on the website of the municipality (in the case of a precinct) or on the website of the Statistical Office (in the case of a region).<sup>54</sup>

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52 In addition to the aforementioned reasons, the President considered the use of the fast-track legislative procedure, which was used in this case as well, to be problematic. The act vetoed and reviewed by the president available at:

<https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=538041>

53 Act no. 468/2022 Coll. amending Act no. 180/2014 Coll. on the conditions for exercising the right to vote available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/468/20230301.html>

54 Act no. 170/2023 Coll. amending Act no. 180/2014 Coll. on the conditions for exercising the right to vote available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2023/170/20230604.html>

## Civic space

### ***Freedom of association***

***Financing framework for CSOs, including availability of and access to public funding, rules on fundraising, rules on foreign funding, tax regulations (e.g. tax advantages for organisations with charitable or public benefit status, eligibility to receive donations via citizens' allocation of income tax to charitable causes, eligibility to use public amenities at low or no cost, etc.)***

In November 2023, the government announced a change to the 2% personal income tax assignment.

The assignment of 2% of taxes is a financial instrument that provides part of the funding for public non-profit organisations registered in the list of beneficiaries. Any working individual who has paid a personal income tax can assign 2% of the sum to the organisation of his or her choice. In this context, the government has decided to use the 2% to fund the so-called “parental pension”. This kind of social allowance is a de facto contribution to the pension and its financing consists in giving part of the tax paid to the person who raised the taxpayer and who is a pension receiver. Under the government’s announced plans, the change would be that the working person or taxpayer would

have to choose whether to give 2% of their tax to a chosen organisation or to their parents in retirement.

The change would therefore present working citizens with a ‘moral’ dilemma - to support an organisation (which, for example, helps sick children) or their parents?

This was the way the government wanted to pursue its intention to restrict funding for NGOs, which the government has long labelled as “enemies” and “foreign agents”. The proposal to change the funding of NGOs was one of the most imminent attacks on the civil society sector yet, taking the form of concrete ‘action’, albeit only in the form of announced plans.<sup>55</sup> The government’s intention though has not been presented in the concrete form of a legislative proposal. Finally, in December 2023, the government announced that the tax assignment system for now remains unchanged.

Another, this time concrete, intervention into the funding of NGOs was the decision of the current Minister of Culture in November 2023 that the Ministry of Culture would not continue the disinformation subsidy programme provided to projects aimed to develop and support media education and the fight against disinformation.<sup>56</sup> Within the ongoing programme, it was

55 Note that for some NGOs this financial source constitutes the vast majority of their funding and thus any change can affect their operation to a significant extent.

56 For more information on the projekt [Programme 5 – Promotion and development of media education and the fight against disinformation for 2023](#).

necessary to spend the funds earmarked for this purpose by the end of 2023, which, however, in the opinion of the Minister of Culture, could not be achieved and therefore she decided to change the purpose of these funds to co-finance the reconstruction of the roof of the building of the Slovak Philharmonic. The Minister justified her decision, among other things, by the composition of the evaluation commission that evaluated the projects, pointing out that some of its members are associated with some liberal political parties or are part of NGOs and therefore the money from the projects should have ended up in “progressive NGOs”.<sup>57</sup> In the context of the current government of which the minister is part of, this decision can be seen as yet another manifestation of the current government’s cultivation of a hostile environment towards the civil sector or its specific parts.

## ***Attacks and harassment***

### ***Intimidation / negative narratives / smear campaigns / disinformation campaigns***

NGOs and the civil sector are a continuous target and object of smear campaigns and negative narratives by (not only) the current ruling parties, which have been trying for a long time to discredit NGOs and influence public opinion to regard some organisations as ‘foreign agents’, who act against the interests of the Slovak Republic and through which the events in Slovakia are influenced by ‘enemy foreign countries’ (especially the Western countries, and the

USA). These narratives create an image and a feeling of an ‘enemy’ in the discourse, against which society and the state need to be fought and protected. The civil sector and NGOs are repeatedly associated with the person of the American businessman G. Soros, which also feeds conspiracies about the harmful and subversive activities of NGOs in Slovakia. The same terms ‘foreign agents’, ‘enemy NGOs’, ‘Soros’ NGOs’ and very often ‘political NGOs’ or even ‘government of NGOs’ are repeatedly used in the discourse on NGOs.

At the time and in the context of the announced change of the 2% tax assignment mechanism (see described in the previous section), NGOs began to be divided by government officials’ rhetoric into NGOs that are ‘valuable’ and those which are not, the latter which comprises mainly of NGOs that the government also refer to as ‘political’, i.e. those about which it has created narratives depicting how they influence events in Slovakia and have an impact on Slovak politics through their connections to foreign countries. Such NGOs should have been weaned off the 2% funding option in the first place because they are allegedly sufficiently funded from abroad. On the contrary, ‘noble’ organisations, which are mainly devoted to health and social services, were to be financially assisted by the state even after the eventual abolition of the 2% funding mechanism. The above narratives aim to divide and destabilise the civil sector and create chaos and hostility

57 The word “progressive” is considered a pejorative in this context. [Press release of the Minister of Culture M. Šimkovičová, 21 December 2023.](#)

in the public towards the unwanted parts of the NGO sector.<sup>58</sup>

### **Verbal attacks**

Repeated verbal attacks on specific NGOs are also part of smear campaigns in the context of the narratives described above. In 2023 (in the run-up to the snap elections, when the current prime minister was a candidate), the current Prime Minister made several direct comments about organisation Via Iuris, which he links to G. Soros and claims that the organisation is financed by him. He made the above claims publicly at his press conferences in May 2023<sup>59</sup> and also made the same statement in a political discussion programme on the public broadcaster RTVS.<sup>60</sup>

A manifestation of the escalating rhetoric in the public space in relation to the NGO sector was the recent anonymous verbal attack on an

activist from the Aevis Foundation (an environmental NGO) in October 2023, in the form of direct intimidating threats.<sup>61</sup>

### **Public participation**

#### **Rules on access to and participation in consultations and decision-making processes**

It is also the case for dialogue with civil society as well as its access to and participation in consultations and decision-making processes that the above-mentioned use (even abuse) of the fast-track legislative procedure prevents the public and civil society from having the opportunity to be involved in legislative and decision-making processes. The fast-track legislative procedure does not include an inter-ministerial comment procedure, which de facto excludes civil society from the debate on draft laws.

58 Programme Statement of the Government of the Slovak Republic on page 5 says: *“The Government is particularly concerned about the standardisation of the democratic political system and healthy competition between political parties. 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 financially support NGOs carrying out public benefit activities, for example in the social, humanitarian, environmental, educational, educational, sporting, etc. fields.”*

59 At the press conference in question R. Fico declared that “Via Iuris is totally financed from Soros’ resources.” (the press conference streamed on Facebook available at: <https://fb.watch/pB2iolIzmm/>, approx. 1:15). This claim is not based on truth.

60 In the discussion, Róbert Fico again named the Via Iuris organisation and the Stop Corruption Foundation, and claimed that they were demonstrably financed by G. Soros. See more at: <https://www.rtvsk.sk/televizia/archiv/12354/404126#879>, approx. 15:35.

61 The activist was threatened and told to be careful where she walks and what she does, and to make sure her car doesn’t burn down. See more at RTVS, [An activist from the eastern Slovakia has been the target of direct threats. Attacks on NGOs has been escalating](#), 29 October 2023.

## **Disregard of human rights obligations and other systemic issues affecting the rule of law environment**



### **Systemic human rights violations**

#### **Widespread human rights violations and/or persistent protection failures**

*Inadequate protection for the LGBTI+ community remains*

Following the murder of two members of the LGBTI+ community on Zámocká Street in Bratislava on 12 October 2022, efforts to increase protection for the LGBTI+ community and to raise the standard of their human rights and freedoms have remained at a minimal level. In January 2022, the then Minister of Justice V. Karas introduced a legislative proposal to regulate the mutual rights of unmarried couples, which was intended to cover LGBTI+ couples as well. The proposal was a sort of weaker alternative to the requirement for the enactment of registered partnerships, which would allow unmarried persons to designate each other as their ‘confidant’ by declaration before a Notary. Under such an arrangement, these persons could e.g. keep each other informed of their health status, receive certain social allowances

or become guardians for their children. The proposal made no provision for inheritance rights or joint ownership. The LGBTI+ community considered the proposal insufficient and degrading. The draft bill was introduced in the National Council in April 2023, but withdrawn by the government in May 2023.<sup>62</sup>

On 3 September 2023, in a political discussion show ‘Na telo’ broadcast live on TV Markíza, the chairman of the Christian Democratic Movement Party responded to the moderator’s question comparing the seriousness of the problem of corruption and the alleged problem of the existence of LGBTI+ “ideology” by saying that both of these phenomena are “the misfortune of the country” and “are plagues that are destroying the country.”<sup>63</sup> This statement of the leader of a political party that is now part of the National Council is emblematic of how insensitive public discourse is in relation to the LGBTI+ community. Instead of providing the necessary systematic support and appealing for increased protection for LGBTI+ people, high-ranking politicians often speak in the public space in exactly the opposite manner, promoting the harmful stigma that is associated with people from the LGBTI+ community.

62 The text of the draft amendment, other documents and an overview of the legislative process available at: <https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=9386>

63 The chairman of KDH M. Majerský labelled LGBTI+ people as “plague”. Opposition parties demand an apology, 3 September 23.

The reduction in protection for LGBTI+ persons occurred on 21 November 2023, when the new Minister of Health announced that it would abolish the professional directive that regulated the unified procedures for the provision of health care in the case of gender reassignment and the procedures for administrative gender reassignment.<sup>64</sup> The directive was abolished on 22 December 2023.<sup>65</sup> The change has thus had a direct negative impact on transgender people in Slovakia.

The deteriorated attitude of Slovak society towards LGBTI+ people is also reflected in the 2023 GLOBSEC Trends report, which states that in 2023, up to 55% of people agreed with the statement that “LGBTI+ is an immoral and decadent ideology”, while in 2020, 49% of people agreed with this statement.<sup>66</sup>

### ***Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights***

At its meeting on 17 October 2023, the Judicial Council of the Slovak Republic discussed the Rule of Law Report of the European Commission, with one of the points of discussion being the status of implementation of European Court of Human Rights (ECtHR) judgments.<sup>67</sup> The Judicial Council discussed

with the representative of the Slovak Republic before the ECtHR the data, the current status and the reasons for the non-implementation of the ECtHR judgments. The following conclusions emerged from the discussion.

The Slovak Republic ranks among the average of all member states in the Council of Europe in the number of unimplemented judgments of the ECtHR.<sup>68</sup> According to the representative of the Slovak Republic before the ECtHR, the lack of implementation of these judgments is not due to structural or systemic problems, but rather to various circumstances in specific cases (often such circumstances are, for example, a change in national judicial practice, complicated legal and factual situation of the case, or more complicated communication between the authorities). However, according to the representative of the Slovak Republic before the ECHR, the implementation of ECHR judgments is based primarily on the legal awareness and respect for (judgments of) the ECHR by the state and all its authorities. According to the representative, the Ministry of Justice of the Slovak Republic has neither the competence nor the means to accelerate the implementation of the judgments, and the principle of the separation of powers must always be taken into account when potentially considering such instruments.

64 [Press release of the Ministry of Health of Slovak Republic regarding the abolition of the directive.](#)

65 [Bulletin of the Ministry of Health, Vol. 57-59, No. 71, point 47, 22 December 2023.](#)

66 [GLOBSEC Trends 2023 Report, page 75.](#)

67 [10th meeting of the Judicial Council of Slovak Republic, No. 2, Rule of Law Report 2023, 17 October 2023.](#)

68 [As of October 2023, the backlog of ECHR judgments stood at 12%.](#)

## ***Fostering a rule of law culture***

### ***Efforts by state authorities***

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VIA IURIS is not aware of any activities or initiatives of this kind.

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## Contacts

### *Via Iuris*

VIA IURIS is one of the oldest civil society organizations in Slovakia. Since its foundation in 1993, VIA IURIS's mission is to make Slovakia a country where people are not powerless against the powerful and before the law, we are equal. Within its mission, VIA IURIS promotes rule of law, supports civil society and defends civic rights.

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### *The Civil Liberties Union for Europe*

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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