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**2021 Rule of Law Report  
Country Chapter on the rule of law situation in Slovenia**

*Accompanying the*

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

**2021 Rule of Law Report  
The rule of law situation in the European Union**

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## **ABSTRACT**

The Slovenian justice system has seen some positive developments, including on issues raised in the 2020 Rule of law Report. In particular, the Constitutional Court ruling declaring as unconstitutional the rules governing parliamentary inquiries for lack of safeguards on judicial independence provides an important protection for judges. The judiciary initiated a discussion on improving the framework for disciplinary proceedings regarding judges. Appointments of state prosecutors are unjustifiably delayed and the failure to timely nominate European Delegated Prosecutors raises concerns. Challenges in proceedings relating to economic and financial crime cases remain. The COVID-19 pandemic exposed the need to accelerate improvements to electronic communication tools. Access to court and prosecution documents has become a sensitive matter leading to a Supreme Court judgment and a legislative amendment.

The legal and institutional framework for preventing and fighting corruption continues to improve. Legislative amendments have improved the independence, organisation and functioning of the Commission for the Prevention of Corruption although its human resources remain limited. The same amendments have also strengthened the legal framework on lobbying, protection of whistleblowers and declaration of assets. Nevertheless, concerns remain over the effective enforcement of the anti-corruption rules, e.g. on conflict of interest and whistleblowers. Furthermore, the previous strategy has largely been implemented but some actions remain pending and no new plan has been adopted. Although the number of prosecutions has increased, challenges remain, notably as regards the capacity for effective investigations, and the low number of convictions for corruption cases, especially for high-level instances. A series of risk-assessments during the COVID-19 pandemic were launched by the Government, particularly concerning the risk of corruption in public procurement.

The situation of media freedom and pluralism has been deteriorating. The independence of the media regulator is ensured by law but challenges remain regarding resources for its broad spectrum of tasks and commitment to further strengthen its independence. A revision of the media and audiovisual services laws is still pending. Some concerns are still present on these drafts, however certain amendments proposed to the media law in 2020 could improve media ownership transparency. Allocation of state advertising is not regulated and is often non-transparent, especially in case of local media. Obtaining access to public information remains lengthy for the public and journalists. Online harassment of and threats against journalists are a growing source of concern, and several lawsuits against journalists with intimidating effects have been reported. Concerns have been raised by national and international stakeholders following the refusal by the authorities to finance the Slovenian Press Agency for 2021. No specific measures for the media sector have been taken relating to COVID-19 pandemic; but journalists could access general relief measures.

Slovenia has not declared a state of emergency during the COVID-19 pandemic. The Communicable Diseases Act, amended four times since the beginning of the pandemic, has been the basis for the adoption of restrictive measures. Parliament continued to function, after quickly amending its Rules of Procedure to allow for online sessions. Financial independence of certain independent bodies has been protected by a Constitutional Court judgment. The Constitutional Court improved its efficiency, raised in the 2020 Rule of law Report, and played an active role in reviewing COVID-19 measures. To discuss the rule of law, the President of the Republic convened a first-ever meeting of all three branches of government. The civil society had to cope with several challenges affecting the enabling environment for non-governmental organisations.

## I. JUSTICE SYSTEM

The Slovenian justice system has three levels, with Local and District Courts (dealing with civil, commercial and criminal cases) and Labour Courts and an Administrative Court at first instance<sup>1</sup>, five Higher Courts at second instance (dealing with appeals to first instance courts decisions) and the Supreme Court at third instance (dealing with appeals to certain judgments of Higher Courts and of the Administrative Court). The Constitution provides for a Judicial Council, a *sui generis* body outside of the three branches of Government, which is tasked with protecting the independence as well as promoting and ensuring the accountability, efficiency and quality of work of the judiciary<sup>2</sup>. Candidate judges are selected by the Judicial Council and then proposed for appointment by the National Assembly (*Državni zbor* - the first chamber of Parliament)<sup>3</sup>. If the Judicial Council selects a candidate who has already been elected to judicial office, the candidate is promoted to the new judicial position by the Council itself. The State Prosecution, while being part of the executive power, is an independent authority, with the main powers regarding the career of state prosecutors and its functioning resting with the State Prosecutorial Council and the Prosecutor General. The State Prosecutorial Council is an independent and autonomous state body that performs the tasks of self-governance of the State Prosecution and participates in ensuring the uniformity of prosecution and safeguarding the independence and autonomy of state prosecutors. The Slovene Bar Association is an autonomous and independent body. It is responsible for supervising the professional activities of lawyers and deciding on disciplinary measures regarding its members<sup>4</sup>. Slovenia participates in the European Public Prosecutor's Office (EPPO)<sup>5</sup>.

### Independence

**The level of perceived judicial independence has been continuously improving.** The level of perceived judicial independence has further improved and is average among the general public (47% fairly and very good), and has, in 2021, also increased to average among

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

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

<sup>3</sup> As guaranteed by the Constitution, the majority of members of the Judicial Council are judges, elected by their peers. The remaining five members are representatives of other legal professions, elected by the National Assembly based on the nomination of the President of the Republic. The primary responsibility of the Judicial Council is the selection of candidate for judicial offices. Since the initial re-election of judges after the independence of Slovenia in 1990s, the Parliament has rejected a candidate judge for first appointment only once. It should be noted a candidate judge, who is not appointed, cannot request judicial review against the decision of the Parliament and the Parliament has no obligation to state reasons for rejecting the appointment.

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

<sup>5</sup> More on the issues regarding the nomination of European Delegated Prosecutors, see the Independence section below.

companies (43%), showing a positive trend for the third year in a row, after no clear trend in 2016 and 2017<sup>6</sup>.

**Appointments of state prosecutors are unjustifiably delayed and failure to timely nominate European Delegated Prosecutors raises concerns.** The Government is in charge of appointing a new state prosecutor on the proposal from the Minister of Justice, following a public vacancy and the selection of the candidate by the independent State Prosecutorial Council<sup>7</sup>. The Government is required by law to issue a decision on appointment or non-appointment to all eligible candidates who applied for appointment or promotion<sup>8</sup>. The unsuccessful candidates have the right to request judicial review before the Administrative Court, which has to decide within 30 days<sup>9</sup>. Since the end of July 2020, the State Prosecutorial Council has submitted the names of 29 candidates to the Minister of Justice, who has then proposed them to the Government for first appointment or promotion. Until June 2021, only 14 of these have either been appointed or promoted, while there are no clear reasons for not taking decisions on the remaining 15 candidates<sup>10</sup>. The nomination of the European Delegated Prosecutors of the EPPO has also been delayed, raising concerns that the national procedure has not been properly followed<sup>11</sup>. In December 2020, the State Prosecutorial Council submitted the names of the two candidates to the Minister of Justice,

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<sup>6</sup> Figures 48 and 50, 2021 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%). Also the share of general public and companies stating the reasons for the perceived lack of independence of courts and judges has decreased compared to 2020. Figures 49 and 51, 2021 EU Justice Scoreboard.

<sup>7</sup> State Prosecution Service Act, articles 28-36. If the Minister of Justice disagrees with the candidate, selected by the State Prosecutorial Council, the minister can send a reasoned request to the Council to collect and take into account additional information, to amend their reasoning or to issue a new opinion on the selection of candidate. The State Prosecutorial Council can decide, with a two-thirds majority vote, to demand from the Minister to propose to the Government for appointment the candidate it selected initially (art. 33). The Government also decides, on proposal from the State Prosecutorial Council, regarding the promotion of an existing state prosecutor to a higher position. State Prosecution Service Act, art. 37. For example, promotion following a public vacancy from the position of a local state prosecutor to the position of the district state prosecutor.

<sup>8</sup> The Administrative Court, in a 2014 case concerning the promotion of a state prosecutor where the Government rejected the promotion and only issued a written negative decision to the concerned State prosecutor more than a year after it made its decision, clarified that such a decision of the Government must contain reasons for rejecting the candidate. According to the Administrative Court, the reasons are necessary to “verify if the Government decided not to appoint the candidate due to public interest, and not out of some other considerations.” Judgment of the Administrative Court of 22 July 2014, UPRS I U 971/2014.

<sup>9</sup> State Prosecution Service Act, art. 34(2).

<sup>10</sup> It should be noted that normally the appointment and promotion procedure takes, at Government level, a few months or even weeks. Furthermore, some candidates submitted to the Government early 2021 have already been appointed, while other candidates have been waiting since summer 2020. It is to be noted that in 2020, the discrepancy between the filled positions of state prosecutors (201,75 FTEs) and those possible according to the human resource plan (240), was the highest since 2015, and that the lack of state prosecutors, sometimes reaching between 30% and 40% in some territorial units, starts to adversely affect their work. It is feared that without filling the available positions unresolved criminal notifications will increase. Supreme State Prosecution Office, 2020 Report, April 2021, pp. 234, 237-239.

<sup>11</sup> On 15 February, 29 April and 23 June 2021, the Commission sent letters to the Minister of Justice expressing some concerns regarding the finalisation of the pending national procedure for the nomination of the two European Delegated Prosecutors, and deeply regretting the delay in submitting the names of the selected candidates to the EPPO. In her reply to the first two letters, the then Minister of Justice explained that everything within her power had been done and that it was from then on for the Government to send the selected candidates’ names to the European Public Prosecutor’s Office. On 9 July 2021, the European Chief Prosecutor expressed grave concerns in a letter to the Minister of Justice.

and the Government did not put the item on the agenda of its sessions, despite the legal obligation to only take note and transmit the names to the European Public Prosecutor's Office<sup>12</sup>. On 27 May 2021, the Government declared the selection procedure as unsuccessful and instructed the Minister of Justice to publish a new vacancy, which was released on 9 July<sup>13</sup>. According to the Council of Europe recommendations, the recruitment of public prosecutors must be carried out according to fair and impartial procedures embodying safeguards against any approach representing interests of specific groups, and their promotions are governed by known and objective criteria, such as competence and experience<sup>14</sup>.

**The Constitutional Court declared the rules governing parliamentary inquiries unconstitutional for lack of safeguards on judicial independence.** As stated in the 2020 Rule of Law Report, in 2019, a Parliamentary Inquiry Committee opened an investigation to look into actions of prosecutors and judges in concrete criminal cases. However, the Constitutional Court later suspended the application of the Parliamentary Inquiries Act, on which the investigation was based, due to a risk to the independence of judges and prosecutors<sup>15</sup>. In January 2021, the Constitutional Court found the Parliamentary Inquiries Act and the Rules of Procedure on Parliamentary Inquiry to be unconstitutional, insofar as they lack procedural safeguards for ensuring the independence of judges when establishing a

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<sup>12</sup> The law provides a specific procedure for nomination of the European Delegated Prosecutors: the independent State Prosecutorial Council, following a public vacancy published by the Ministry of Justice, selects candidates for the post of European Delegated Prosecutors and submits them to the Ministry of Justice, which subsequently submits the names to the Government; then, the Government only "takes note" of the candidates selected by the Council, and transmits their names to the European Public Prosecutor's Office, which decides on their appointment. State Prosecution Service Act, art. 71.d.

Whilst the Conditions of employment of the European Delegated Prosecutors adopted by the EPPO College require "a satisfactory knowledge of the working language for the operational and administrative activities of the EPPO" (Art. 3), in February 2021, the Government proposed specifying the language criterion for selection of the European Delegated Prosecutors, requiring the knowledge of EPPO working language "at least at C1 level of the Common European Framework of Reference", which would be needed for effective work within the EPPO. The legislative amendments entered into force end March 2021, without specifying whether they apply retroactively to the on-going process for nomination of European Delegated Prosecutors. The State Prosecutorial Council clarified that the language conditions applied for selecting the two candidates already matched those required by the EPPO and were fulfilled by both candidates (both candidates also fulfilled the new condition). State Prosecutorial Council, Press release of 17 March 2021.

<sup>13</sup> The Government maintained that the Slovenian law expressly requires that the number of candidates is triple that of the approved national number of European Delegated Prosecutors and that, since the State Prosecutorial Council did not provide the Ministry of Justice with a sufficient pool of qualified candidates, the first selection procedure for the two European Delegated Prosecutors was, *ex lege*, devoid of any legal effect since its very beginning. Therefore, the Government called on the Ministry of Justice to put in place a new public call for candidates. Following the decision of the Government, the Minister of Justice resigned. In reaction, the Prosecutor General stated the Government's decision was unlawful and unconstitutional, and violates the independence of State Prosecution. State Prosecutor General, Statement of 26 May 2021. The State Prosecutorial Council stated that the selection was done in accordance with the law and that the Government's interpretation of the law is arbitrary, making the annulment and the new public call illegal. State Prosecutorial Council, Conclusions of 1 June 2021 and Statement of 9 July 2021. It was also raised in public debate that one of the candidates was involved in a confiscation procedure regarding the assets of a member of the current Government.

<sup>14</sup> CM/Rec(2000)19, paras. 5(a) and 5(b).

<sup>15</sup> The Inquiry Committee was established by the National Assembly on request of the National Council (*Državni svet*, the second chamber of Parliament). For more details on the Parliament's structure, see pillar IV. Other institutional issues related to checks and balances. The case was referred to the Constitutional Court by the Judicial Council and the State Prosecution.

parliamentary inquiry<sup>16</sup>. The Court stated that the judiciary is not completely excluded from parliamentary control exercised through parliamentary inquiries, as the Parliament can examine, for example, trends in the judiciary or historic events which are also subject of judicial proceedings. However, the Court stressed that the Parliament cannot impede judicial proceedings, or in any way influence judges in concrete proceedings, including through an *ex post* discussion about legality or adequacy of individual judgments. In addition, judges cannot be called as witnesses or suspects to a parliamentary inquiry regarding these issues concerning either an open or a closed court case, as this would violate judicial independence<sup>17</sup>. The Constitutional Court gave Parliament one year to remove the unconstitutional elements from the Parliamentary Inquiries Act. Until the established unconstitutionality is removed, the Judicial Council can request the Constitutional Court to check if a new parliamentary inquiry respects judicial independence. No legislative proposal has been tabled yet to address the established unconstitutionality.

**The judiciary initiated a discussion on improving the framework for disciplinary proceedings regarding judges.** In March 2021, the Judicial Council prepared an analysis of the legal framework on disciplinary proceedings in respect of judges and its implementation, and proposed changes<sup>18</sup>. Since 2018, the disciplinary proceedings have been under the competence of a Disciplinary Court<sup>19</sup>. From 2018 until March 2021, disciplinary proceedings lasted 194 days, on average. The Judicial Council identified a number of issues requiring improvement, such as: establishing a special disciplinary procedure instead of using criminal procedure, updating the list of disciplinary offences, revising the right of the Judicial Council to initiate disciplinary proceedings<sup>20</sup>, revising disciplinary sanctions to allow for more proportionality, and clarifying the limits on the length of suspension of a judge<sup>21</sup>. The

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<sup>16</sup> Judgment of the Constitutional Court of 7 January 2021, U-I-246/19-41.

<sup>17</sup> Judgment of the Constitutional Court of 7 January 2021, U-I-246/19-41, para. 77. In dissenting opinions, two Constitutional Court judges argued that there was a difference between the Parliament investigating suspicion of unlawful external pressure or abuse as a possible defect in the functioning of the judiciary or the prosecution service, which could strengthen perception of judicial independence, and questioning a court decision or even holding a judge to account, which would indeed be unacceptable.

<sup>18</sup> Judicial Council, Positions for adaptations and amendments of the legal framework governing disciplinary proceedings regarding judges, 4 March 2021.

<sup>19</sup> The Disciplinary Court is appointed by the Council for the Judiciary from among members of the Council itself and from among judges proposed by the Supreme Court. The Judicial Council appoints a disciplinary prosecutor from among candidates proposed by the Supreme Court to investigate alleged disciplinary offences. For a comparative overview of authorities involved in disciplinary proceedings regarding judges see Figures 49 and 50, 2020 EU Justice Scoreboard.

Since the establishment of the Disciplinary Court, 21 initiatives for disciplinary proceedings have been submitted, out of which 14 proceedings have started (all concerning first instance court judges); out of these, nine were finished while five are on-going. Two judges were suspended upon the start of the disciplinary proceedings, with one matter finalised, while the other is still pending. In four cases in total the Disciplinary Court found a violation (two reprimands, one lowering of salary and one disciplinary transfer were handed down), in other four cases judges were acquitted, and one procedure was stopped due to the withdrawal of the disciplinary proposal. Judicial Council, Positions for adaptations and amendments of the legal framework governing disciplinary proceedings regarding judges, 4 March 2021, pp. 2-3.

<sup>20</sup> In 2019, the Supreme Court requested a review before the Constitutional Court of constitutionality of the Judicial Council's right to initiate disciplinary proceedings, since some of its members are also members of the Disciplinary Court. The Judicial Council then decided to abstain from initiating any disciplinary proceedings until the Constitutional Court rules on the matter.

<sup>21</sup> It is to be noted that in one well-publicised case, in August 2020, a district court judge was temporarily suspended by the Vice-president of the Supreme Court upon the start of disciplinary proceedings against him. The judge appealed against the suspension to the Judicial Council. In 2018, the judge expressed his suspicions regarding alleged conduct of several other judges. The judge is also facing criminal charges for

Supreme Court supports the initiative of the Judicial Council to amend the legislation in order to increase the efficiency of disciplinary proceedings<sup>22</sup>. It is important that any potential reform of disciplinary proceedings is in line with EU law and takes in to account the Council of Europe recommendations<sup>23</sup>.

## Quality

**The COVID-19 pandemic exposed the need to accelerate the necessary improvements to electronic communication tools in the justice system.** The 2020 Rule of Law Report stated that while Information and Communication Technologies for case management are advanced, the electronic communication between courts and parties remains less developed<sup>24</sup>. In recent years, there has been some progress on expanding electronic communication. In a few areas, documents must be submitted to court in electronic form only, for example by public notaries and insolvency administrators (in the land registry, court registry cases and insolvency cases)<sup>25</sup>, and by debtors (in undisputed debt recovery)<sup>26</sup>. Since February 2021, social work centres must file applications in family law matters to court electronically, and the electronic auction system was launched irrespective of the sales method for all real estate, movable property and rights being sold in enforcement proceedings, insolvency-related proceedings, compulsory wind-up proceedings, non-litigious cases, criminal and misdemeanor offence proceedings<sup>27</sup>. In criminal, administrative, and civil and commercial litigious cases, efforts are on-going to upgrade the case-management system by the end of 2023 to allow for electronic communication<sup>28</sup>. Digital solutions to conduct and follow court proceedings remain limited particularly in criminal cases<sup>29</sup>. The use of digital technologies for secure remote work is lacking particularly in State Prosecution<sup>30</sup> and the lack of digitalisation on the side of the Police is contributing to delays especially in complex cases where criminal report

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defamation. A part of the reasoning of the suspension decision stated the need to keep a dignified and respectful attitude to other judges when publicly criticising them. Supreme Court (2020), Press release of 17 August 2020. In December 2020, the Judicial Council concluded there were no limitations for the criminal prosecution of the judge. In January 2021, a parliamentary commission proposed to the Parliament to allow initiating a criminal procedure against the judge, based on a criminal charge filed by one of the District State Prosecutor's Offices. Input from Slovenia for the 2021 Rule of Law Report, pp. 7-8.

<sup>22</sup> The Supreme Court considers that since the new framework was put in place in 2018, some issues were not addressed or were inadequately solved (e.g. one-instance procedure and possibility of appeal for both the accused and the disciplinary prosecutor, use of procedural rules), which can affect the efficiency of the procedure. Contribution from the Supreme Court for the 2021 Rule of Law Report, p. 1.

<sup>23</sup> CM/Rec(2010)12, paras. 66 and 69. According to EU law, the requirement of independence means that the disciplinary regime regarding judges must display the necessary guarantees in order to prevent that the regime is used as a system of political control of the content of judicial decisions. E.g. Court of Justice of the European Union, judgment of 24 June 2019, *Commission v. Poland*, C-619/18, ECLI:EU:C:2019:531, para. 77, judgment of 25 July 2018, *LM*, C-216/18 PPU, ECLI:EU:C:2018:586, judgment of 5 July 2016, *Ognyanov*, C-614/14, ECLI:EU:C:2016:514, and order of 12 February 2019, *RH*, C-8/19, ECLI:EU:C:2019:110.

<sup>24</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 3-4.

<sup>25</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 11.

<sup>26</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 3.

<sup>27</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 12.

<sup>28</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 11.

<sup>29</sup> Figure 45, 2021 EU Justice Scoreboard.

<sup>30</sup> Figure 41, 2021 EU Justice Scoreboard. The project "Effective justice" aims at centralising the IT infrastructure of the State Prosecutor's Office and enabling remote working for employees in the State Prosecution service. In order to provide adequate equipment for remote work, prosecution offices allowed employees to take home computer equipment and in some cases provided replacement laptops. Input from Slovenia for the 2021 Rule of Law Report, pp. 12-13.

arrives in paper form only. Considering that courts were dealing, for a period of more than four months since March 2020, more or less only with urgent matters<sup>31</sup>, the judiciary and the Ministry of Justice cooperated intensively to supply additional video conferencing equipment and succeeded in tripling the current capacities in 2020 with additional purchases planned in 2021<sup>32</sup>. The Supreme Court has informed the Ministry of Justice of the need to amend procedural laws in order to clearly prescribe conditions to establish the reliability of evidence in procedures that are conducted via videoconferences (such as the hearing of a witness)<sup>33</sup>.

**Access to court and prosecution documents was the subject of a Supreme Court judgment and a legislative amendment.** The 2020 Rule of law Report noted that publication of first instance court judgments remains limited, particularly in civil and commercial cases, and that machine readability of published judgments is relatively low<sup>34</sup>. The 2021 EU Justice Scoreboard shows no improvements in these two areas<sup>35</sup>. In May 2020, the Supreme Court delivered a precedential decision in a case involving the right to access to information from a criminal case file<sup>36</sup>. The Court held that the Criminal Procedure Act restricts the right to inspect a case file to persons with a legal interest (e.g. defendants and victims), and that the provisions of the Public Information Access Act do not apply to court and prosecution documents. Parliament responded by adopting an amendment to the Criminal Procedure Act which explicitly stated that the general access to documents regime under the Public Information Access Act applies<sup>37</sup>. In line with this amendment, a person whose request to court or prosecution documents (either in an open or closed case) would be denied by a judge or a state prosecutor, respectively, can appeal to the Information Commissioner<sup>38</sup>. According to the Supreme Court, this amendment has raised concerns about the appropriate balance of the right to public information on the one hand and the respect for the presumption of innocence of the defendants and the right of privacy of persons involved in criminal

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<sup>31</sup> In 2020, the President of the Supreme Court restricted the operation of courts due to the COVID-19 pandemic, ordering the halt of procedural deadlines and cease of performance of procedural acts and service of court documents in non-urgent cases (from 26 March 2020 to 31 May 2020, and from 16 November 2020 to 1 February 2021). Contribution from the Supreme Court for the 2021 Rule of Law Report, p. 5.

<sup>32</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 11. Emergency laws to address the COVID-19 pandemic included measures to regulate the occupation capacity of prisons to protect life and health of society, employees and inmates, measures to delay enforcements and temporary measures in insolvency procedures.

<sup>33</sup> Contribution from the Supreme Court for the 2021 Rule of Law Report, p. 4.

<sup>34</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 5.

<sup>35</sup> Figures 46 and 47, 2021 EU Justice Scoreboard. As a response to the findings in the 2020 Report and the EU Justice Scoreboard, the Ministry of Justice carried out a comparative legal analysis on publication of judgments and plans to prescribe by law the publication of at least judgments on merit that are important for legal certainty. Input from Slovenia for the 2021 Rule of Law Report, p. 13. In December 2020, two parliamentary committees asked the Government to propose a legal basis into the Public Information Access Act for the publication of all final judgments. Parliamentary Committee on the Interior, Public Administration and Local Self-Government and Committee on Justice, Conclusion of 14 December 2020.

<sup>36</sup> Judgment of the Supreme court of 27 May 2020, X Ips 4/2020. Input from Slovenia for the 2021 Rule of Law Report, p. 27.

<sup>37</sup> Criminal Procedure Act, art. 128 (as amended). Access to public information is regulated in a special law – Public Information Access Act. In addition, article 45 of the Mass Media Act specifically regulates the procedure for access to information for the media, namely by giving the media a special (more favourable) position in obtaining information of public nature from the bodies that fall within the scope of Public Information Access Act. Input from Slovenia for the 2021 Rule of Law Report, p. 27.

<sup>38</sup> In case the Information Commissioner (which is the independent data protection authority) rejects the appeal, for instance on the grounds of the protection of interests of a pending criminal procedure, the appellant can request judicial review before the Administrative Court.



procedure on the other hand<sup>39</sup>. The Ministry of Public Administration has established an inter-ministerial working group to examine the issue of access to court and prosecution documents and prepare proposals to regulate the matter in the Public Information Access Act.

**The Judicial Council and State Prosecutorial Council are benefitting from a slight increase in resources, but shortages remain.** The 2020 Rule of law Report found that providing adequate resources for the Judicial Council and the State Prosecutorial Council is an important condition for the independent and effective functioning of these self-governance bodies<sup>40</sup>. The Councils' low administrative capacity also influences the quality of process for selecting judges and state prosecutors, particularly in terms of the reasoning of issued decisions and opinions and thoroughness of interviews. From 2022, the Judicial Council will be able to employ two additional staff members, a minimal increase in available resources. However, no additional staff members are envisaged for the State Prosecutorial Council. The available budget of the Judicial Council is increasing, while the budget of the State Prosecutorial Council has stagnated<sup>41</sup>. It is to be noted that the overall budget for the justice system has been increasing for several years<sup>42</sup>.

## Efficiency

**The efficiency of the court system slightly decreased, and challenges in economic and financial crime court cases, identified in the 2020 Rule of law Report, remain.** In 2020, all courts received 11% fewer incoming cases and resolved 13% fewer cases, when compared to 2019. The total backlog of cases at the end of 2020 increased by 5%, compared to 2019<sup>43</sup>. The average length of proceedings at first instance courts rose to around 20 months in litigious civil cases and stagnated at 11 months in litigious commercial cases. In appeal, due to mostly written procedures, these types of cases were resolved more quickly, namely in around 2.4 months in civil and 3.4 months in commercial cases, on average. When dealing with more complex money laundering offences, the length of trials in first instance courts decreased to 876 days in 2019 (down from 1 132 days in 2018), on average, and remains among the highest in the EU<sup>44</sup>. In 2020, the average length in administrative cases at first instance increased to 13.7 months<sup>45</sup>.

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<sup>39</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 27.

<sup>40</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 2 and 4.

<sup>41</sup> Judicial Council's allocated budget: approximately EUR 612 000 (2019), EUR 606 000 (2020), EUR 647 000 (2021), EUR 777 000 (2022). State Prosecutorial Council's allocated budget: approximately EUR 185 000 (2019), and 200 000 (2020), EUR 195 000 (2021) and EUR 192 000 (2022).

<sup>42</sup> The allocated 2021 budget for the justice system 2021 amounts to nearly EUR 245 million for all court and State Prosecution offices, which is about 10% more than in 2020. Figures 29 and 30 in the 2021 EU Justice Scoreboard show that the budget actually spent for the justice system has been growing since 2016 in absolute terms, while in relative terms, as share of GDP, it has been stagnating, but remains among the highest in the EU.

<sup>43</sup> During the summer of 2020, the courts tried to make up for the lost time, as 40% more cases were resolved in June 2020, 23% more in July and 16% more in August 2020, compared to the same periods in 2019. In 2020, the average duration of proceedings slightly increased to 8 months for major (important) cases and decreased to 1,1 months for other cases (from 1,4 in 2019). Contribution from the Supreme Court for the 2021 Rule of Law Report, p. 5.

<sup>44</sup> Figure 21, 2021 EU Justice Scoreboard, presenting data for 2014, 2017, 2018 and 2019.

<sup>45</sup> Summary of the results of the Ministry of Justice inspection of the organization of functioning of the Administrative Court in Ljubljana and its departments in Maribor, Nova Gorica and Celje, Ministry of Justice, April 2021.

## II. ANTI-CORRUPTION FRAMEWORK

The key law setting up the institutional and legislative framework to prevent and fight corruption in Slovenia is the Integrity and Prevention of Corruption Act (IPCA). The Act was amended in November 2020, with new provisions on the organisation and functioning of the Commission for the Prevention of Corruption as well as rules on lobbying and protection of whistleblowers, among others. The same amendments also updated the rules on conflicts of interest, assets declaration, lobbying and ‘revolving doors’. The Commission for the Prevention of Corruption is an autonomous and independent state body responsible for the fight against corruption. The Commission cooperates regularly with the police and special prosecutor’s office, but retains supervisory and administrative investigative powers and is responsible for overseeing the implementation of provisions on conflicts of interest, integrity, asset declarations, gifts and revolving doors. The National Bureau of Investigation is a specialised criminal investigation unit for the detection and investigation of serious crimes, in particular corruption as well as economic, financial and organised crimes.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively low.** In the 2020 Corruption Perceptions Index by Transparency International, Slovenia scores 60/100 and ranks 11<sup>th</sup> in the European Union and 35<sup>th</sup> globally<sup>46</sup>. This perception has been relatively stable<sup>47</sup> over the past five years<sup>48</sup>.

**The Integrity and Prevention of Corruption Act was recently strengthened.** The Act was amended in November 2020, with provisions related to the appointment of the Chief and Deputy Commissioners of the Commission for the Prevention of Corruption. The amendments also define more clearly the different administrative investigation procedures before the Commission and the rules that apply to it when conducting these, as well as expedited minor offence proceedings, and other public law proceedings, including the procedural rights of investigated persons, and the possibility to appeal its decisions. These procedural rights have been inserted to respond to the judgments of the Administrative Court and Supreme Court, which highlighted deficiencies regarding rights of persons who are subject to administrative proceedings before the Commission. Integrity provisions related to gifts, lobbying and supervision of asset declarations have also been included<sup>49</sup>.

**By its time of expiration, the national anti-corruption strategy has largely been implemented, but some actions remain pending and no new plan has been adopted so far.** The implementation report of the third national strategy against corruption (2017-2019)<sup>50</sup>, adopted in April 2020, indicates that while a large share of actions have been implemented, others remain pending, notably actions in areas related to developing integrity tools in specific sectors (such as state property, foreign affairs, science, education and

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<sup>46</sup> Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. 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).

<sup>47</sup> In 2015 the score was 60, while, in 2020, the score is 60. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>48</sup> The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

<sup>49</sup> Input from Slovenia for the 2021 Rule of Law Report.

<sup>50</sup> The Programme of Government for strengthening Integrity and Transparency 2017-2019.

sports)<sup>51</sup>. The Ministry of Public Administration, which is responsible for monitoring the implementation of the strategy, reported that it is working on the implementation of the remaining actions, together with other public institutions (such as the Ministry of the Interior, the Ministry of Justice, the Ministry of Health, as well as the Commission for the Prevention of Corruption). A new anticorruption strategy post-2019 has not yet been proposed.

**The Commission for the Prevention of Corruption was strengthened, including its independence, although fully-fledged effectiveness remains to be reached.** The Commission remains the autonomous state body for the prevention of corruption. Following the amendments to the Integrity and Prevention of Corruption Act, the Commission has enhanced its independence through the new appointment procedure for its leadership: the chief Commissioner and its two deputies. The amendments provide new criteria for improving the transparency of the procedure for the appointment of the leadership. The amendments envisage a nomination committee (instead of the selection committee), which nominates the candidates and excludes candidates with a political background. Additionally, the nomination committee conducts a personal suitability assessment of the candidates. The President of the Republic now appoints the leadership based on a list of candidates presented by the nomination committee<sup>52</sup>. Concerning the administrative investigation procedure, the amended Integrity and Prevention of Corruption Act has clarified and strengthened the rights of the individuals under examination of the Commission, including the possibility to contest the decisions issued by the Commission. As regards resources, the Commission has, as of April 2021, a staff of 40 officials (i.e. the Chief Commissioner, two deputies and 37 public servants). However, full staffing remains to be completed<sup>53</sup>. The Commission plans to hire five additional officials per year in 2021 and 2022<sup>54</sup>. This is made possible because of an increase of financial resources of around EUR 200,000 per year since 2019. Nevertheless, due to general restrictions in public spending, the Commission was not allowed, until May 2021, to hire additional staff or redistribute resources despite having been allocated the necessary budget<sup>55</sup>. Despite these improvements, the Commission continues to experience some challenges linked to technical (i.e. data analysis) skills and resources<sup>56</sup>.

**Challenges remain with regard to the investigation of economic and financial crime and the leadership of the National Bureau of Investigation.** The resources available to the police (the number, seniority and specialization of police officers) remain a challenge that, according to the authorities, affects the quality and length of investigations, particularly in economic and financial crime cases. The lack of resources in some police districts also leads

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<sup>51</sup> Eighteen activities (out of 25) were fully implemented, four activities were partially implemented, and three were not implemented. Slovenian Government, Final Report on the Implementation of the Programme of the Government for strengthening Integrity and Transparency 2017-2019, 21 April 2020.

<sup>52</sup> Article 9a of the IPCA provides that the nomination committee is composed of five members: one member appointed by the ministry for public administration; one member appointed by a private-sector/non-profit organisation; one member appointed by the Parliament; one member appointed by the Judicial Council and one member appointed by the State Prosecutorial Council.

<sup>53</sup> In 2020, only 33 positions for officials were filled, out of 69 systematised in the management plan. Out of total 81 positions for all types of staff including the Chief Commissioner and the two deputies, only 41 were filled. Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, p. 62.

<sup>54</sup> Information from the Commission for the Prevention of Corruption.

<sup>55</sup> The Act on Execution of the Budget of Slovenia was amended in May 2021 and this general limitation on hiring new public officials in Slovenia was removed. Chief Commissioner stated that the Commission requires more independence regarding financial resources, which would ensure that the CPC is truly autonomous. Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, pp. 7-8.

<sup>56</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, p. 65.

to delays regarding requests by state prosecutors for follow-up investigations. Reports indicate allegations of political interference in investigating and prosecuting authorities, in particular in relation to the National Bureau of Investigation<sup>57</sup>, which is a specialised criminal investigation unit established in 2009 for the detection and investigation of serious crimes, in particular corruption as well as economic, financial and organised crimes. In October 2020, following an Administrative Court ruling on the illegality of the dismissal of the former Director, and pending an appeal process<sup>58</sup>, the Government launched a public competition for filling the position of the Director. In June 2021, there was still an acting Director in charge. The turnover of four different Directors in the last 14 months seems to have delayed the functioning of the National Bureau of Investigation<sup>59</sup>. Concrete results of the investigations by the Bureau into high-level corruption cases are lacking.

**While the number of prosecutions has increased, the adjudication of cases before courts remains low, especially regarding high-level corruption.** In 2020, the number of prosecutions of corruption cases increased compared to the previous year (298 in 2020, compared to 185 in 2019, i.e. an increase of about 62%)<sup>60</sup>. As regards courts, in 2020 there were only 15 adjudications in corruption cases (including two sentenced with imprisonment)<sup>61</sup>, none of which concerned high-level cases<sup>62</sup>. This represents a further decrease in the number of adjudicated corruption cases<sup>63</sup>. In some high-level cases, the courts have not held a court hearing for more than a year and a half<sup>64</sup>. The Specialized State Prosecutor's Office (SSPO) is competent to prosecute criminal offences related to corruption in the public and private sector. The SSPO directs the work of the National Bureau of Investigation (NBI), the General Police Directorate (GPD) and the Criminal Police Sectors (CPS) of regional police administrations. The SSPO relies on 28 state prosecutors, dedicated to handle a variety of criminal cases. A lack of skilled human resources (in particular state prosecutors) affects the prioritisation of high-level cases. The State Prosecution has also indicated shortcomings in relation to expertise on financial and data analysis. The examination of financial data is delegated to the Police or the Anti-money Laundering Office (financial investigation unit - FIU). However, due to the the lack of human and technical

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<sup>57</sup> OECD, Working Group on Bribery, Implementing the OECD Anti-Bribery Convention Phase 4 Report: Slovenia, 11 March 2021.

<sup>58</sup> The appeal concerns the question of whether it is admissible in the procedure of dismissal of director of the NBI to rely on Article 83, paragraph five, of the Public Administration Act given that Article 49 of the Organisation and Work of the Police Act provides the following guidance and reads as follows: "The Director of the National Bureau of Investigation shall be appointed and dismissed by the Director General of the Police. The Supreme Court is yet to reach a decision on the motion. Written contribution from the Government in the context of the country visit to Slovenia.

<sup>59</sup> Slovenian Police, press releases of 6 May 2020 (dismissal of previous Director and appointment of the first acting Director), 29 July 2020 (appointment of the second acting Director), 12 October 2020 (appointment of the third acting Director).

<sup>60</sup> Input from Slovenia for the 2021 Rule of Law Report.

<sup>61</sup> Input from Slovenia for the 2021 Rule of Law Report.

<sup>62</sup> For example, cases of grand corruption, with large monetary value, several suspects, or involving high-rank officials.

<sup>63</sup> In 2019, the courts handed down 21 convictions, 30% less than in 2018 (30), as well as nine acquittals (three in 2018) and one dismissal (two in 2018). 2020 Rule of law Report country chapter for Slovenia, p. 10.

<sup>64</sup> For example, in two criminal cases involving the Ljubljana mayor, the court hasn't held a court hearing for one year or has not organised the first court hearing for one year and a half since the indictment became final. Among the reasons for delays stated by court, overloaded judges and issues in management of cases were mentioned. RTV, Tarča: Pravosodje po meri politike, 3 June 2021.

resources in the police mentioned above, delays from the Police in finalising investigations<sup>65</sup> represent a challenge for the SSPO. Other challenges reported by the SSPO relate to institutional fragmentation (with similar roles allocated to different entities), the late detection of financial crimes, the lack of specialisation of judges, and shortcomings in electronic communication with the Police<sup>66</sup>.

**In addition to lacking expertise and resources, challenges in the prosecution of corruption arise due to the statute of limitation.** Apart from shortcomings in relation to expertise and resources in State Prosecution indicated above, according to the authorities<sup>67</sup> the statute of limitation presents an additional challenge for the prosecution of corruption. Statute of limitation for corruption offences is generally ten years<sup>68</sup>. There are no plans to amend the statutory limitation<sup>69</sup>. In addition, by decision of the President of the Supreme Court, the prosecution of all cases (including corruption cases) had been suspended during the COVID-19 pandemic, unless there was a risk that the alleged crime would be statute-barred in the next six months<sup>70</sup>.

**Declaration of assets was extended to additional categories of officials, but their publication remains a challenge.** The amended Integrity and Prevention of Corruption Act has expanded the list of persons required to file their asset declaration, in order to include national councillors and supervisors of state-owned enterprises, in addition to high-level, elected and appointed officials<sup>71</sup>. The Commission for the Prevention of Corruption is responsible for monitoring the financial declarations of public officials<sup>72</sup>, and has recently teamed up with the Ministry of Public Administration in order to launch a new electronic declaration platform. Due to human resources constraints of the Commission for the Prevention of Corruption, and in light of the number of declarations received (about 4 500 declarations and 4 300 other related submissions yearly<sup>73</sup>), verifications are performed on a random sample of the declarations. Examinations indicate that inaccuracy of declarations (incomplete or erroneous) is limited and trivial, with no need to submit criminal notifications to the State Prosecution<sup>74</sup>. In 2020, only three officials of the Commission worked on verification of asset declarations of 18 470 officials who are obliged to file the declarations,

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<sup>65</sup> Information from State Prosecution and Police indicates that investigations may in some cases last 5 years, including 2 years only for complex data analysis.

<sup>66</sup> State Prosecution receives criminal reports/notifications from Police almost exclusively in paper form, which hinders effective prosecution particularly in large and complex cases. Information received in the context of the country visit to Slovenia.

<sup>67</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 24.

<sup>68</sup> The statute of limitation for corruption offences is 20 years in the following cases: accepting bribery in the private and the business sector, offering bribery in the public sector, aggravated offences of abuse of power in the public and the business sector.

<sup>69</sup> Information from the Ministry of Justice.

<sup>70</sup> This exemption for court cases that would reach the statute of limitation was added in the Decision of the Supreme Court President of 13 November 2020.

<sup>71</sup> Such as professional high-level officials, non-professional mayors and deputy mayors, high-ranking civil servants, managers, persons responsible for public procurement, and civil servants. Article 44b of the IPCA provides that in case of suspicions that the declarant traded assets with family members, the CPC may extend supervision to their assets.

<sup>72</sup> Public officials are required to file two types of declarations: one full declaration (with the complete list of their assets), which is due at the beginning of their office or mandate, and one declaration for any changes to their assets, which is filed in case there is a modification in the type, number or value of their assets.

<sup>73</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, p. 30.

<sup>74</sup> Information from the Commission for the Prevention of Corruption and its Report for 2020, 20 May 2021, pp. 30-35.

which performed 16 supervisions regarding 923 natural persons and 67 courts<sup>75</sup>. While the amended Integrity and Prevention of Corruption Act has extended the list of officials that are obliged to declare their assets, it has also reduced the list of officials whose declarations will be published<sup>76</sup>. Despite the Commission for the Prevention of Corruption having started to improve its IT system and online platform in order to align with the publication requirement of the law, asset declarations of public officials have not yet been published.

**Provisions on preventing and managing the conflict of interests were strengthened, although their effective implementation remains a challenge.** Under the Integrity and Prevention of Corruption Act, any public officials who, prior to taking office, performed an activity or held an office that is incompatible with their current office, must cease to perform the activity no later than 30 days from the date of their election, appointment or the approval of their mandate. The amended Integrity and Prevention of Corruption Act has extended post-employment restrictions for public officers taking positions in the private sector. The Commission for the Prevention of Corruption can initiate a procedure for assessing the incompatibility of office if it considers that the performance of that activity is likely to present a disproportionate risk to the objective and impartial discharge of the duties of the office or jeopardise its integrity. In May 2021, the Commission sent an initiative to the Government to unify the regulation of conflicts of interests and violation of integrity for all officials, which would, according to the CPC, improve the supervision, equality of treatment of officials, and allowed procedures regarding integrity concerning former officials<sup>77</sup>. The CPC is currently processing high-profile cases related to alleged conflicts of interest<sup>78</sup>.

**Provisions on lobbying for public officers and elected persons continue to improve.** Officials and public employees at the national and local level must report contacts with lobbyists, to both their employer and the Commission for the Prevention of Corruption. The Commission processes and publishes the lobbying-related data on its webpage (called *Erar*)<sup>79</sup>, together with the information contained in the registry of lobbying. According to the amended Integrity and Prevention of Corruption Act, also the lobbyists (which now include interest groups, in addition to individual lobbyist), must publish an annual report.

**Transparency of public data, especially related to public expenditures, remains in place.** The webpage *Erar* is also used to publish data, other than lobbying-related data, on public administration, including public procurement transactions and information. It is currently estimated that *Erar* contains data on approximately 200 million financial transactions, from the year 2003 onward, by both the national government and local agencies. Chest (or *Skrinja*) is another administrative online platform for users to obtain data and reports on public sector wages<sup>80</sup>. In 2020, the Court of Audit audited the financial operations of 13 political parties

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<sup>75</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, p. 30-32.

<sup>76</sup> In addition, the publication only concerns declarations for changes in assets.

<sup>77</sup> Initiative of the Commission for the Prevention of Corruption, 20 May 2021.

<sup>78</sup> For example, on 12 May 2021, the CPC finalised the procedure regarding paid external activities of the President of the Court of Audit, finding no violations of the IPCA. In addition, in its decision, the CPC ruled that the side earnings of the Court of Audit President did not constitute profitable activity on his behalf nor was there any conflict of interest. Regarding the alleged permission referred to by both the former CPC president as well as the current Court of Audit president, the CPC stated that while it did not possess such a document, it cannot exclude its existence with certainty. Commission for the Prevention of Corruption, Press releases of 12 May and 24 May 2021.

<sup>79</sup> <https://erar.si/lobiranje/>

<sup>80</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021.

(for 2018 or 2019) and delivered six positive opinions and seven opinions with reservations, including recommendations on improving financial operations and increasing transparency (e.g. regarding loans, contributions)<sup>81</sup>.

**In 2020, ethics rules for members of the Parliament were adopted.** The Council of the President of the Parliament is responsible to monitor the implementation of the code of ethics<sup>82</sup> and, in case of misconduct, may issue sanctions<sup>83</sup>. Since the adoption of the code of ethics, one sanction for a minor breach was imposed on a member of Parliament<sup>84</sup>.

**Despite the existing legal provisions for the protection of whistleblowers, the effective enforcement remains overdue.** The Integrity and Prevention of Corruption Act has a chapter solely dedicated to the protection of whistleblowers. However, the number of whistleblowing reports and demands for protections under the Act remains low<sup>85</sup>. Also, although the Act indicates the possibility to nominate persons to receive reports of unethical or illegal conduct within the public institutions, it appears that this type of officials are either not nominated, or not fully operational<sup>86</sup>. Nevertheless, at least one high-profile case was initiated during the pandemic following information filed by a whistleblower<sup>87</sup>. According to the State Prosecution, the existing provisions in the Code of Criminal Procedure regarding protected witnesses cannot be applied to whistleblowers if these are also considered as suspects (e.g. in a corruption case).

**Several actions have been implemented during the COVID-19 pandemic aimed to assess, prevent and deter the risk of corruption, especially in public procurement.** During the COVID-19 pandemic, the Commission for the Prevention of Corruption has issued a series of guidelines in order to detect and deter the risk of corruption, in particular related to public procurement procedures. At the request of Parliament, the Court of Audit has concluded a nation-wide audit report on procurement of COVID-19 medical devices, which was issued in February 2021. The findings revealed 13 cases with suspicions of corruption, which were then transmitted to the prosecutor's office. In 2020, the National Review Commission for public procurement reported some cases of breach of the public procurement procedures, which led to opening new cases<sup>88</sup>. Since January 2021, it is possible

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<sup>81</sup> Court of Audit, Report for 2020, 31 March 2021, pp. 206-223.

<sup>82</sup> Pursuant to Article 24 of the Rules of Procedure of the Parliament, the Council of the President of the National Assembly adopted, at its 71<sup>st</sup> meeting of 12 June 2020, the Code of Ethics for Deputies of the National Assembly of the Republic of Slovenia.

<sup>83</sup> Namely, in the event of a minor violation, a reprimand shall be imposed on the deputy without public announcement; in the event of a serious violation, a reprimand shall be imposed on the deputy with public announcement on the website of the National Assembly; in the event of a repeated serious violation, a reprimand shall be imposed on the deputy with public announcement on the website of the National Assembly and a declaration of the violation at the next session of the National Assembly.

<sup>84</sup> RTV, *Prvi kršilec poslanskega etičnega kodeksa je Jani Ivanuša (SNS), dobil je opomin*, 9 June 2021.

<sup>85</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, p. 39, and information received in the context of the country visit to Slovenia.

<sup>86</sup> Commission for the Prevention of Corruption, Report for 2020, 20 May 2021, pp. 37-39, and information received in the context of the country visit to Slovenia.

<sup>87</sup> Input from Slovenia for the 2021 Rule of Law Report. The former Head of Legal and General Services at Slovenia's Commodities and Reserves Agency (CRA) reported that the Minister of Economy had personally intervened in favour of a EUR 8 million contract with a specific company and the proceedings regarding this case are on-going. OECD, Working Group on Bribery, Implementing the OECD Anti-Bribery Convention Phase 4 Report: Slovenia, 11 March 2021, p. 12.

<sup>88</sup> In 2020, National Review Commission had three such requests for review pending (out of a total of 206 cases), and 13 misdemeanor proceedings were initiated. Written contribution from the National Review

to file online requests for the review of public procurement procedures, whose decisions are also published online<sup>89</sup>. In this context, the Ministry for Public Administration started a public consultation process regarding the amendment of the public procurement act, and the Ministry of Health established a working group for the preparation of recommendations to amend procurement legislation for a more effective procurement of medical equipment<sup>90</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

In Slovenia, the legal framework for freedom of expression and information is established by the Constitution, while media plurality is ensured through specific secondary legislation. The media regulator, the Agency for Communication Networks and Services (AKOS), is an independent authority, which is legally and functionally distinct from the Government. The rules on transparency of media ownership require companies to declare to the competition authorities the ownership or management influence above a certain threshold. A considerable change in ownership requires also the agreement of the competent ministry. Legislation to transpose the Audiovisual Media Services Directive is pending<sup>91</sup>.

**The independence of the Agency for Communication Networks and Services is provided by law, but challenges remain regarding its resources and commitment to strengthen its independence.** Additional resources were granted to the Agency for Communication Networks and Services (AKOS) to fulfil its new tasks following the upcoming transposition of the Audiovisual Media Services Directive<sup>92</sup>. However, it is yet to be determined whether the additional resources are sufficient for the Agency to fully perform the broad variety of tasks it has been entrusted with<sup>93</sup>. The lack of safeguards against political interference also remains a concern<sup>94</sup>. Therefore, the Media Pluralism Monitor (MPM 2021) assesses the independence and effectiveness of the media authority at medium risk<sup>95</sup>. The status of AKOS is guaranteed by the Electronic Communications Act<sup>96</sup>, and the Agency draws its enforcement powers in the audiovisual media field from the Mass Media Act<sup>97</sup> and the Audiovisual Media Services Act<sup>98</sup>. In 2020, the Government proposed a revision of the Mass Media Act, envisaged to be completed by the end of 2021. The revision of the Audiovisual Media Services Act, which includes the transposition of the Audiovisual Media Services Directive, is still ongoing, and the Government plans to complete it by the end of 2021<sup>99</sup>. In June 2020, a public consultation on the revision of the Audiovisual Media Services Act was

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Commission for Reviewing Public Procurement Award Procedures in the context of the country visit to Slovenia. See also the 2020 report on the work of National Review Commission.

<sup>89</sup> Information received by the National Review Commission for Reviewing Public Procurement Award Procedures in the context of the country visit to Slovenia.

<sup>90</sup> Input from Slovenia for the 2021 Rule of Law Report.

<sup>91</sup> Slovenia ranks 36<sup>th</sup> worldwide in the 2021 Reporters Without Borders World Press Freedom Index (at the 18<sup>th</sup> place in the EU), dropping four places from the 32<sup>nd</sup> position last year. This means that the country is experiencing a deterioration of media freedom and journalist protection.

<sup>92</sup> AKOS, information provided during the country visit to Slovenia.

<sup>93</sup> The convergent regulator AKOS has tasks in telecommunications, electronic media, postal and railway services, is responsible for regulation of audiovisual media, radio services and online media (MPM 2021).

<sup>94</sup> AKOS is managed by the Director and the Agency's Council. Both are appointed by the Government based on a selection procedure, with the Director being proposed to the Government by the responsible minister. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 11.

<sup>95</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 11.

<sup>96</sup> Electronic Communications Act.

<sup>97</sup> Mass Media Act.

<sup>98</sup> Audiovisual Media Services Act.

<sup>99</sup> Input from Slovenia for the 2021 Rule of Law Report.



launched, a revision which included an explicit provision on the Agency's independence<sup>100</sup>. However, the current version of the draft act, which the Government submitted to the Parliament in March 2021, does not contain such provision<sup>101</sup>. Therefore, it is still doubtful whether the commitment of the authorities to strengthening the independence of the Agency will in fact achieve this result. In October 2020, the Government proposed a law to merge eight regulatory bodies, including AKOS<sup>102</sup>, into two agencies. This proposal raised concerns about the independence of the regulator<sup>103</sup>. In April 2021, the proposed law failed to receive the support in the Parliament and therefore its parliamentary procedure ended.

**Slovenia has specific provisions on transparency of media ownership, but concerns remain regarding the effective identification of the ownership structures.** Publishers or broadcasters are obliged to report whenever individual ownership or management stakes in the company reach 5% or more<sup>104</sup>. The information on media ownership is published in the Media Register, which is publicly available on the Ministry of Culture's website<sup>105</sup>. In July 2020, the draft amendments to the Mass Media Act were published by the Government, which would strengthen the regime on transparency of media ownerships by removing the minimum threshold of 5%, except for companies organised as joint stock companies<sup>106</sup>. This amendment, if adopted, would improve the transparency of media ownership. However, as noted by the MPM 2021, the ultimate beneficial owners are currently not always identifiable in the Register. The conclusion about media ownership transparency in Slovenia is therefore of medium risk<sup>107</sup>. A two-year study by investigative journalists has identified opaque integrated ownership structures, particularly in the case of multiple cascading owners, which makes it difficult to determine the final owner or the person exercising the influence over the media outlet<sup>108</sup>. As regards news media concentration, the Mass Media Act has a threshold of an ownership stake of more than 20 percent, to limit cross-media concentration, however the

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<sup>100</sup> Draft Article 39.a (independence of the agency) (1) The Agency is an organisationally, functionally and materially independent regulatory body separate from the Government of the Republic of Slovenia and from other public or private legal entities subjects. The Agency in connection with the performance of tasks under this Act and under the law governing the media, may not seek or take instructions from other authorities except when they are carrying out legal supervision of the work of the agency. (2) The Agency shall perform its tasks under this Act and the Act governing the media impartially, transparently and in accordance with the principles of this Act, while pursuing media plurality, cultural and linguistic diversity, consumer protection, accessibility, non-discrimination, the proper functioning of the internal market and the promotion of fair competition. [...].

<sup>101</sup> Draft amendments to the Audiovisual Media Services Act, 5 March 2021. The Electronic Communications Act (ZEKom-1) regulates, among others, the electronic communications networks and services, management of radio frequencies and spectrum, and contains provisions regulating the status of AKOS in this framework.

<sup>102</sup> Draft Act on the Public Agency of the Republic of Slovenia for the Market and Consumers and the Public Agency of the Republic of Slovenia for Financial Markets, October 2020.

<sup>103</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 12 and Agency for Communication Networks and Services, Response to the Draft Act on the Public Agency of the Republic of Slovenia for the Market and Consumers and the Public Agency of the Republic of Slovenia for Financial Markets, 2 October 2020.

<sup>104</sup> Mass Media Act, articles. 12 and 14.

<sup>105</sup> <https://rmsn.ekultura.gov.si/razvid/mediji>

<sup>106</sup> Draft Mass Media Act, amended Art. 12.

<sup>107</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 12.

<sup>108</sup> Written contribution from the Association of Journalists and Publicists in the context of the country visit to Slovenia. See also Pod črto, Kdo drži informacijsko pištolo: kaj smo ugotovili v preiskavi medijskega lastništva v Sloveniji, 18 January 2021. In the case of one print media, the study was unable to identify the final owner. (<https://podcrto.si/povzetek-preiskave-mladina-kot-primer-ranljivosti-medijev-v-sloveniji/>). The study also raised the issue of influence of media owners, either political or from economic interests, on editorial content, which is accentuated by the lacking transparency of media ownership.

MPM 2021 reports a lack of data and the absence of a regular analysis to be able to assess the situation<sup>109</sup>.

**Instances of political interference in media have been reported.** The MPM 2021 assessed the political independence of media in Slovenia to be at high risk. Concerns were raised about possible changes in the funding of the public service broadcaster as envisaged by draft amendments to the Mass Media Act and about pressure on the national press agency, which were considered by stakeholders as politically motivated<sup>110</sup>. In particular, following some delays in the payment of 2020 funding to the Slovenian Press Agency (STA), the Government Communication Office (UKOM) did not pay the agency's funding for 2021<sup>111</sup>. Upon request of the Slovenian authorities, on 29 April 2021, the European Commission stated that the EUR 2.5 million funding granted by Slovenia to the Slovenian press agency to fulfil its public service mission is fully in line with EU law<sup>112</sup>. However, these funds have not yet been disbursed<sup>113</sup>. Concerns have been raised by different stakeholders regarding the overall situation of media pluralism in Slovenia<sup>114</sup>.

**No progress has been noted regarding the governance over state advertising.** As reported in the 2020 Rule of Law Report, no transparent and clear set of principles are in place when advertising are distributed to media outlets by national, regional and local governments<sup>115</sup>. According to a recent investigation<sup>116</sup> and other sources<sup>117</sup>, this situation is particularly non-transparent for municipal media. Advertising by companies, in majority or fully owned by the state, also seems non-transparent as they often decline to share such information by invoking legal provisions protecting business secrets<sup>118</sup>. In 2020, the Government published recommendations for the implementation of advertising campaigns by ministries and government services, which suggested distributing funds among the media evenly, regardless of their performance on the media markets (MPM 2021). The distribution of support funds for media pluralism is considered to be transparent. Funds are granted by a commission

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<sup>109</sup> Combining advertising and radio and television activities or telecommunications and radio and television activities is not permitted. The Government has acknowledged this issue and the proposed amendments to the Mass Media Act will focus, among others, on transparency of media ownership and restriction of concentration in the media.

<sup>110</sup> Information received in the context of the country visit to Slovenia.

<sup>111</sup> According to the Government, since previous legislative framework did not specify precisely what the public service of STA entails and how it differs from its commercial service, in June 2021 the Government Communication Office (UKOM) adopted a new Decree on the implementation of public service by the Slovenian Press Agency. The Government plans to abandon the automatic *ex ante* payments for a system of *ex post* payments.

<sup>112</sup> European Commission, Press release - State aid: Commission approves €2.5 million compensation to Slovenian Press Agency STA for its public service, 29 April 2021.

<sup>113</sup> Concerns have been raised by national (e.g. association of journalists) and international stakeholders (e.g. open letter of 16 March 2021 from the European Centre for Press and Media Freedom (ECPMF), European Federation of Journalists (EFJ), International Press Institute (IPI), OBC Transeuropa, and the Reporters Without Borders (RSF)) regarding the stability of funding of the Slovenian Press Agency.

<sup>114</sup> Faculty for Media (Prof. dr. Matevž Tomšič, Prof. dr. Borut Rončević, Doc. dr. Nuša Erman, Doc. dr. Tamara Besednjak Valič), Research of the media landscape, March 2021. Contribution from the Slovenian Union of Journalist for the 2021 Rule of Law Report, pp. 1-4.

<sup>115</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 16, 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p 12.

<sup>116</sup> Pod črto, Municipal newsletters: millions of euros of public money to promote mayors, 6 June 2019.

<sup>117</sup> Contribution from Reporters Sans Frontiers (RSF) for the 2021 Rule of law Report.

<sup>118</sup> These state-owned companies decline to share this information by invoking business secrecy law provisions

appointed by the Ministry of Culture, and the information on the allocated funding is published on the recipients' websites<sup>119</sup>.

**The economic conditions of media have worsened during the COVID-19 pandemic.** Economic uncertainty for the media sector has increased, also due to the Ministry of Culture's temporary suspension of payments for the annual tender for co-financing of media content that took place in 2020, even though the funds were later fully disbursed<sup>120</sup>. Some stakeholders<sup>121</sup> were concerned about the economic conditions of journalists, especially freelancers<sup>122</sup>. No specific measures have been taken to alleviate the impact of COVID-19 pandemic on media outlets. However, journalists could access the general support measures provided by the Government<sup>123</sup>. In 2020, the Ministry of Culture released the annual funds, through a competition, this year amounting to EUR 2.7 million with the aim of supporting media pluralism and diversity of media content<sup>124</sup>; however, some concerns were raised by stakeholders regarding possible risks of political influence over the distribution of such funds<sup>125</sup>.

**Journalists continue to face obstacles to access public information and documents, especially due to lengthy procedures.** The right to information is enshrined in the Constitution and regulated by the Access to Public Information Act. However, the process of obtaining public information is often long considering the involvement of all relevant authorities taking part in the process. While the Information Commissioner regularly intervenes when journalists are prevented from accessing public information and documents by state administration<sup>126</sup>, this frequent use of the appeal system considerably increases the Commissioner's workload<sup>127</sup>. In addition, the Administrative Courts, which review decisions of the Information Commissioner, do not prioritise such cases in practice, despite a legal obligation to do so<sup>128</sup>. This has led to delays in judicial review proceedings, which are comparable to regular cases<sup>129</sup>. The MPM 2021 attributed medium risk to the protection of

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<sup>119</sup> Reporters Sans Frontiers (RSF) – Contribution to Rule of Law 2021.

<sup>120</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 11.

<sup>121</sup> Contribution from the Slovenian Association of Journalists and Publicists for the 2021 Rule of Law Report, p. 4.

<sup>122</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 13.

<sup>123</sup> Written contribution from the Government in the context of the country visit to Slovenia and written contribution from the Association of Journalists and Publicists for the 2021 Rule of Law Report. To be noted that stakeholders raised concerns about economic conditions of freelance journalists. Written contribution from the Association of Journalists and Publicists for the 2021 Rule of Law Report. As stated by the Government, as part of general relief measures, also self-employed journalists have been receiving a universal basic income in the amount of EUR 700 monthly, and were also privy to complete write-off of their social and health care expenses since March 2020 and benefited from this form of aid until 30 June 2021, provided that they were not working.

<sup>124</sup> Written contribution from the Government in the context of the country visit to Slovenia.

<sup>125</sup> Information received in the context of the country visit to Slovenia.

<sup>126</sup> Reporters Sans Frontiers (RSF) – Contribution to Rule of Law 2021.

<sup>127</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p. 11.

<sup>128</sup> Summary of the results of the Ministry of Justice inspection of the organization of functioning of the Administrative Court in Ljubljana and its departments in Maribor and Nova Gorica and Celje, Ministry of Justice, April 2021.

<sup>129</sup> Summary of the results of the Ministry of Justice inspection of the organization of functioning of the Administrative Court in Ljubljana and its departments in Maribor and Nova Gorica and Celje, Ministry of Justice, April 2021. It is to be noted that one court case that was reviewing access to information decision by the Information Commissioner was found to be over two years old.

the right to information, compared to the low risk in the MPM 2020, due to the frequent misuse of the exceptions to the right to information and the lengthy procedures.

**Online harassment and lawsuits targeting journalists continue to increase, while physical attacks are rare**<sup>130</sup>. The freedoms of expression and information are enshrined in the Constitution, and relevant judicial mechanisms are in place. However, the MPM 2021 assessed the protection of freedom of expression to be at medium risk<sup>131</sup>. Some physical attacks against journalists were reported in October and November 2020, and February 2021, during protests – the perpetrators have been identified and are under investigation<sup>132</sup>. The Council of Europe’s Platform to promote the protection of journalism and safety of journalists published 12 alerts concerning Slovenia since October 2020. The alerts mainly relate to the harassment of journalists and lawsuits brought against journalists<sup>133</sup>. Several cases of lawsuits against journalists and media outlets with intimidating effects were registered during the last year<sup>134</sup>. Online harassment and threats against journalists, especially targeting female journalists, including from some politicians, continue to be numerous<sup>135</sup>. Furthermore, many perpetrators of online attacks remain anonymous, and journalists tend to report online harassment less frequently than physical threats<sup>136</sup>. As a positive development, following a judgment of the Supreme Court, the Supreme State Prosecution changed its legal opinion on the interpretation of Article 297 of the Criminal Code following the Supreme Court judgment<sup>137</sup>, allowing prosecution of offences perpetrated against journalists also according to this provision<sup>138</sup>.

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<sup>130</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 13.

<sup>131</sup> 2021 Media Pluralism Monitor, country report for Slovenia, p.10.

<sup>132</sup> Input from Slovenia for the 2021 Rule of Law Report.

<sup>133</sup> Council of Europe Platform to promote the protection of journalism and safety of journalists – Slovenia. At the time of writing, five of them have been addressed through a reply from the Slovene authorities.

<sup>134</sup> Council of Europe, CoE Commissioner for Human Rights issues a Human Rights Comment on SLAPPs, 27 October 2020.

<sup>135</sup> Contribution from the Peace institute in cooperation with Civil Liberties Union for Europe for the 2021 Rule of Law; Council of Europe, Commissioner for Human Rights, Memorandum on freedom of expression and media freedom in Slovenia, 4 June 2021; 2021 Media Pluralism Monitor, country report for Slovenia, p. 11, 20 and 22 .

<sup>136</sup> Information provided by the Supreme State Prosecution, April 2021.

<sup>137</sup> Information by the Supreme State Prosecution Office provided in the context of the country visit to Slovenia.

<sup>138</sup> As found in the 2020 Rule of Law Report country chapter for Slovenia, a narrow application of criminal law caused that online harassment or threats against journalists were rarely sanctioned. This relied on the previous legal interpretation by the State Prosecution, whereby public incitement to hatred had to be ‘concrete’, amounting to a ‘concrete danger for public order and peace’ to be prosecuted as a crime. In 2019, the Supreme Court clarified that there are two ways of committing the crime from Article 297 of the Criminal Code, either (a) by inciting or inflaming hatred and violence or intolerance in a manner that can endanger or disturb public order and peace, or (b) with threats, insults or verbal abuse. It stated that in the case that the conduct is carried out with threats, insults or verbal abuse, there is no requirement that there be any potential endangerment of public order and peace. It also clarified, however, that when the conduct is carried out in a way that can endanger or disturb public order and peace, there is no requirement that this endangerment is already immediate, but that it has only the potential to result in concrete endangerment. 2020 Rule of Law Report country chapter for Slovenia, p. 13.

#### IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Slovenia has a parliamentary system of government with an imperfect bicameral structure, where only the National Assembly (the first chamber of the Parliament), and not the National Council (the second chamber of the Parliament), adopts laws<sup>139</sup>. Draft legislation can be tabled by the Government, any member of the Parliament or at least 5000 ‘voters’. The Constitutional Court carries out *ex post* constitutional review, including in concrete cases on the basis of a constitutional complaint. In addition to the justice system and other bodies, the Human Rights Ombudsperson and the Advocate of the Principle of Equality are also in charge of the protection of the rights of individuals.

**The Parliament continued functioning during the COVID-19 pandemic.** In April 2020, an amendment to the Parliament Rules of Procedure removed the obstacles for online sessions of parliamentary committees and of the plenary<sup>140</sup>. Also due to these amendments, the Parliament worked normally throughout 2020 and adopted 78 laws, which is comparable to previous years. As examined in the 2020 Rule of Law Report, laws may be adopted in a shortened or an emergency procedure, which is decided by the Collegium of the President of the Parliament<sup>141</sup>. In 2020, 31% of all laws were adopted according to the regular procedure (30% in 2019), 32% of laws were adopted according to the urgent procedure (18% in 2019), and 27% of laws according to the shortened legislative procedure (31% in 2019). These data show that the combined share of urgent or shortened legislative procedure did not change substantially. Issues exist as regards the consultation of the civil society by the Government on draft laws. In particular, public consultations are either not carried out at all, are too short, or without any specified deadline for comments<sup>142</sup>.

**The Communicable Diseases Act, amended four times since the COVID-19 pandemic started, has been the basis for restrictive measures, as no state of emergency has been declared.** Numerous measures were adopted in the period between March 2020 and February 2021, mostly on the basis of the Communicable Diseases Act, which enforced temporary restrictions or prohibition of movement, public gatherings, use of certain services (certain business activities), public services (education, judiciary, administrative services), use of protective equipment, quarantine, and public passenger transport services. The measures were mostly adopted in the form of ordinances and orders, less frequently in the form of decisions and acts. Such measures were usually adopted by the executive branch of power, most frequently by the Government and rarely by individual ministers. On 3 June 2021, the Constitutional Court declared as unconstitutional part of article 39 of the Communicable Diseases Act, which empowered the Government to limit or prohibit freedom of movement or freedom of association<sup>143</sup>. The majority of measures were published in the Official Journal and those that were not, were assessed by the Constitutional Court from the viewpoint of

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<sup>139</sup> Constitutional Court of Slovenia, Judgment of 22 October 2008, U-I-295/07.

<sup>140</sup> Amendments to the Rules of Procedure of the National Assembly, 7 April 2020.

<sup>141</sup> During the shortened and emergency procedure, general debate does not take place and the second and third readings are held during the same session of Parliament. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, p. 15.

<sup>142</sup> CNVOS – NGO Umbrella Network, Online counter of violations of the Parliament Resolution on normative activity.

<sup>143</sup> The Constitutional Court gave Parliament two months to remove the unconstitutional elements from the Act. Judgment of the Constitutional Court of 13 May 2021, U-I-79/20-24.

constitutional provisions on the necessity of publication. Based on statutory powers, measures were also adopted by municipalities, but only in the field of their jurisdiction<sup>144</sup>.

**Financial independence of certain independent bodies has been ensured by a Constitutional Court judgment.** In December 2020, the Constitutional Court found parts of the Public Finance Act to be unconstitutional insofar as they prescribed the procedure to define the budget of the National Council (the second chamber of the Parliament), the Constitutional Court, the Human Rights Ombudsperson<sup>145</sup> and the Court of Audit<sup>146</sup>. This judgment emphasised the financial autonomy and independence of the four mentioned independent institutions, established by the Constitution. Previously, these bodies submitted their suggestions for budget to the Ministry of Finance, which was not obliged to follow the proposed amount. The Government and the Parliament are now required to guarantee the budget for these institutions without influencing its amount.

**The Constitutional Court improved its efficiency and played an active role in reviewing COVID-19 pandemic measures.** The 2020 Rule of Law Report found that due to an increase in constitutional complaints, the Constitutional Court's backlog and length of proceedings continued to rise<sup>147</sup>. In 2020, despite a large increase in incoming initiatives and requests for constitutional review (+55% compared to 2019) and with the incoming constitutional complaints decreasing (-26% compared to 2019), the Court resolved 26% more cases than in 2019<sup>148</sup>. For the first time since 2015, the Court was able to process almost all incoming cases. However, since the Court focused on older cases, the average length of proceedings increased to 530 days for constitutional review cases (nearly 500 days in 2019) and to 571 days for constitutional complaints (420 days in 2019). Since March 2020 until June 2021, the Constitutional Court received 188 cases related to COVID-19 pandemic measures, among which 185 initiatives and requests for constitutionality review and three constitutional complaints, and was able to already resolve 123 initiatives and requests and three constitutional complaints, delivering four judgments (one partial)<sup>149</sup>. In March 2021, the question of impartiality of Constitutional Court judges has been raised by Parliament, which invited the President of the Constitutional Court to discuss this matter. The President replied that it would not be in accordance with the Constitution if Parliament would discuss open cases before the Constitutional Court or would expect from the President to defend the Constitutional Court or himself in relation to the judgments delivered<sup>150</sup>.

**Human Rights Ombudsperson gained A-status accreditation and has been active in monitoring restrictive measures related to the COVID-19 pandemic.** In January 2021, the Human Rights Ombudsperson became an "A Status" national human rights institution, in

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<sup>144</sup> Input from Slovenia for the 2021 Rule of Law Report, p. 30.

<sup>145</sup> Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, p. 317.

<sup>146</sup> Judgment of the Constitutional Court of 10 December 2020, U-I-474/18-17. The deadline for the implementation of the decision is 23 December 2021.

<sup>147</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Slovenia, pp. 14-15.

<sup>148</sup> Constitutional Court, 2020 Report, 22 April 2021.

<sup>149</sup> 62 cases remain pending, out of which 20 have been accepted by the Constitutional Court and in seven cases the Court temporarily suspended the measures involved. Written contribution from the Constitutional Court in the context of the country visit to Slovenia.

<sup>150</sup> In March 2021, a few irregularities concerning the respect for impartiality have been reported, where the judges of the Constitutional Court failed to withdraw themselves. To be noted that Slovenia has been condemned previously for violating Art. 6 of the European Convention of Human Rights before the European Court on Human Rights regarding lack of non-recusal of Constitutional Court judges.

compliance with the Paris Principles, following efforts to gain this status since 2015. The GANHRI Sub-Committee on Accreditations recommended a proper formalisation and application of an appointment process of deputies as well as some other improvements in legislation<sup>151</sup>. The Ombudsperson played an active role in monitoring the COVID-19 pandemic measures by gathering all restrictive rules in force and presenting them in a consolidated and readable manner on its website<sup>152</sup>. The Ombudsperson also contacted the executive a number of times and was also involved in the drafting of the COVID-19 pandemic measures, in particular to ensure their compliance with human rights and fundamental freedoms<sup>153</sup>.

**To discuss the rule of law, the President of the Republic convened a first-ever meeting of the legislative, executive and judicial powers.** In October 2020, the President of the Republic gathered, for the first time, the highest representatives of all three branches of government to discuss the rule of law and the division of powers<sup>154</sup>. The meeting was attended by the President of the National Assembly, Prime Minister, President of the National Council, President of the Constitutional Court, President of the Supreme Court, Minister of Justice and the Prosecutor General. Such an initiative could contribute to foster a culture of dialogue and loyal cooperation between state institutions.

**The civil society space has been challenged.** In December 2020, Slovenia's civic space was downgraded to 'narrowed' also due to the restrictions adopted to cope with the pandemic, which had an impact on the enabling environment for the civil society<sup>155</sup>. Smear campaigns against non-governmental organisations, especially on social media, have been reported<sup>156</sup>. During the COVID-19 pandemic, the Ombudsperson found cases of laws, measures and practice that could negatively affect civic space and reduce human rights defender's activities<sup>157</sup>. Attacks to the civic organisations' financial and economic viability, including by reducing funds, have been noted<sup>158</sup>. It appears that civic society organisations dealing with migrants, media literacy, human trafficking are particularly concerned<sup>159</sup>.

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<sup>151</sup> Global Alliance of National Human Rights Institutions (GANHRI), Report and Recommendation of the Virtual Session of the Sub-Committee on Accreditation (SCA), 7-18 December 2020, pp. 22-24. Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, p. 316.

<sup>152</sup> Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, pp. 319, 320, 322, 334-339.

To be also noted that regarding the recommendations given by the Ombudsperson to the state authorities, mainly to the government but also to Parliament, courts and other bodies, the Ombudsperson noted in its last annual report that there were more than 200 recommendations that had not been implemented or only partially. Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, p. 319.

<sup>153</sup> Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, p. 340.

<sup>154</sup> Office of the President of the Republic, Press release of 13 October 2020.

<sup>155</sup> Contribution from the Fundamental Rights Agency for the 2021 Rule of Law Report - Legal environment and space of civil society organisations in supporting fundamental rights Slovenia, p. 1.

<sup>156</sup> Rating given by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed. CIVICUS, Government continues its attack on CSOs, 4 February 2021.

<sup>157</sup> Contribution from the European Network of National Human Rights Institutions for the 2021 Rule of Law Report, pp. 322-324.

<sup>158</sup> Contribution from European Civic Forum for the 2021 Rule of Law Report, p. 57.

<sup>159</sup> Contribution from European Civic Forum for the 2021 Rule of Law Report, p. 57.

## Annex I: List of sources in alphabetical order\*

\* The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.

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## **Annex II: Country visit to Slovenia**

The Commission services held virtual meetings in April 2021 with:

- Ministry of Justice
- Ministry of Public Administration
- Ministry of Culture
- General Police Directorate (Economic Crime division) and National Bureau of Investigation (NPU)
- Constitutional Court
- Supreme Court
- Judicial Council
- Court of Audit
- State Prosecutorial Council
- State Prosecution (Prosecutor General, Supreme State Prosecution Office, Specialised State Prosecution Office)
- Commission for the Prevention of Corruption
- National Review Commission
- Agency for Communication Networks and Services (AKOS)
- Human Rights Ombudsperson
- Parliament Secretariat
- Association of Journalists and Publicists (Ms Irena Zagajšek)
- Association of Journalists
- Faculty of Media (Full prof. Borut Rončević, Full prof. Matevž Tomšič)
- Union of Slovenian Journalists
- Pod črto
- Transparency International Slovenia
- Peace Institute
- National NGO umbrella network (CNVOS)
- Judges' Association
- Bar Association

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

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch

- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU