LIBERTIES RULE OF LAW REPORT 2022

SLOVENIA

CIVIL LIBERTIES UNION FOR EUROPE

Foreword

This country report is part of the Liberties Rule of Law Report 2022, which is the third annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

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

The 2022 Report was drafted by Liberties and its member and partner organisations and covers the situation in 2021. It is a 'shadow report' to the European Commission's annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties' report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2022 Report includes 17 country reports that follow a common structure mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-two member and partner organisations across the EU contributed to the compilation of these country reports.

Building on the country findings, the 2022 Report offers an overview of general trends on the rule of law in the EU and compiles a series of recommendations to national and EU policy makers, which suggest concrete actions the EU institutions and national governments need to take to address identified shortcomings.

Download the full Liberties Rule of Law Report 2022 here

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About the authors

The Peace Institute – Institute for Contemporary Social and Political Studies is an independent, non-profit research institution founded in 1991 in Ljubljana, Slovenia, by individuals who believed in peaceful conflict resolution, equality and respect for human rights standards. The Peace Institute (PI) uses scientific research and activism aimed at creating and preserving a society capable of critical thought and based on the principles of equality, responsibility, solidarity, human rights and the rule of law.

The Institute develops interdisciplinary research, educational, advocacy and awareness-raising activities in four thematic fields: human rights and minorities, politics, media, and gender. Acting as a research and civil society organisation, it focuses mainly on Slovenia, but it is also participating in numerous cross-border collaborative actions and comparative research on EU level and in the region of South East Europe. The PI acts against discrimination, as an ally of vulnerable groups and in partnership with them. It has carried out projects in support and advancement of the rights of children, women, victims of crimes, defendants in criminal proceedings, Roma communities, "erased people", refugees and migrants, stateless people, LGBT communities, journalists and others.

Key concerns

Challenges affecting media are a persisting concern affecting the national rule of law framework. There is a continuing hostile environment for journalists in Slovenia incited by the actions and rhetoric of the government, particularly the ruling party and Prime Minister Janez Janša. Online harassment and smear campaigns are routinely directed against critical journalists and media, and the misuse of legal instruments to intimidate journalists is also becoming a common practice. Public service media, particularly the Slovenian Press Agency (STA), but also RTV Slovenija, have been the main targets of government pressure. STA was left without monthly payments of their public service operations from the Government Office for Communication (UKOM) for almost the entire year. The national online platform for reporting attacks on journalists and media registered more than 30 attacks in 2021, including physical attacks, threats and harassment. The media and telecommunication operations distributing TV programs within the state-owned Telekom Slovenije have also been misused for promoting the interests of the ruling party.

Like in 2020, the government often did not respect the relevant national provisions concerning the duration of public consultations in the process of adopting laws and regulations, thus preventing effective public participation in law and decision-making and negatively affecting the checks and balances system. In addition, the Human Rights Ombudsman established in 2021 violations by the Ministry of the Environment and Spatial Planning of the right to participation in public affairs on at least two occasions.

The year 2021 saw various attempts by the government and the ruling party to hamper the work of civil society organisations and restrict civic space. These included attempts to limit the exercise of the right to peaceful assembly and to protests and to restrict access to funding for NGOs. While such attempts were not necessarily always successful, they reflect a persistently hostile attitude of the government towards activists and civil society organisations, which are increasingly the object of misinformation and smear campaigns.

Systemic human rights violations of rights of migrants and asylum seekers also undermine the rule of law framework in Slovenia. Pushbacks of asylum seekers to Croatia are leading to a serious risk of people being subjected to torture and inhuman treatment. In 2021, only 19 people were granted international protection in Slovenia. The discrepancy in the number of irregular crossings and the number of people that actually apply for international protection, together with reports on documented pushbacks, indicate a systemic lack of screening and identification mechanisms. The situation of statelessness of persons illegally erased from the register of permanent residents of the Republic of Slovenia 30 years ago also remains unresolved, with more than half of the concerned persons left without any form of redress.

Against this background, civil society organisations and other non-governmental actors have been invested in initiatives aimed at increasing public participation, assisting people in the enforcement of their rights and supporting and protecting public watchdogs, with a view to strengthen the rule of law framework and foster a culture of rights.

State of play

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

Legend (versus 2020)

Regression: ↓
No progress: –
Progress: ↑

Media environment and freedom of expression and of information

Key recommendations

- Protecting public service media from government pressure and interference by countering such practices by various means (including legal), but also by changing the media legislation to introduce better safeguards (particularly related to the appointment and composition of the governing bodies at RTV Slovenija).

- Introducing sanctions for the government representatives involved in unlawful obstruction of financing of STA for almost all of 2021.

- Independent bodies (such as the Court of audit) and law enforcement to investigate investments, sales and all other elements of media-related business of the state-owned Telekom Slovenije, and to introduce sanctions for those involved in misuse of the company for political interests.

- Revision of the media legislation related to state subsidies to media to introduce better safeguards against political misuse of the subsidy schemes.

- Establishing clear criteria and increasing transparency of state advertising in the media (by state bodies, local governments and public companies) in the revised media legislation.

Media and telecommunications authorities and bodies

The legal framework for independence and enforcement powers of the media and telecommunication authority mostly remains the same as in 2020. **Changes to the Audiovisual Media Services Act were adopted by the Parliament**, in December 2021, transposing the Audiovisual Media Services Directive, **but the new law does not contain the provision on independence of the regulatory authority,**[1] despite such requirement being included in the Directive. As a result, the Directive has not been transposed entirely, with the national law failing to transpose a key provision introduced in the Directive with the purpose to increase legal safeguards for the national regulatory authority's independence.

The main media regulatory authority in Slovenia, the Agency for Communication Networks and Services (AKOS), serves as an independent regulatory body for several sectors, including telecommunications, postal services, railway traffic as well as radio and

1 The amended Audiovisual Media Services Act is available (in Slovenian language) here.

television. It is a body functionally separate from the government. For years, one of the main threats to independence of the regulator has been connected to the appointment of the Director – the highest (individual) decision-making body in the Agency – which is under direct control of the government. The collective body introduced in the form of the Agency's Council as a body supervising the work of the Agency in terms of annual plans and reports, which can also propose the Director's dismissal, is equally appointed by the government. One of the main instruments of independence of the regulator is its financing system, which is based on collection of spectrum fees, license fees, etc.

In 2020, the government proposed to merge eight regulatory agencies (including AKOS) in two super-agencies, with the alleged intention to streamline public administration. Such law, which would have created additional risks to the Agency's independence, was rejected by the Parliament in April 2021.[2]

The enforcement powers of the agency include warnings and fines. The prevailing attitude of AKOS, as the regulatory authority in the field of radio and television, has been over the past years to remain highly invisible and passive in terms of using the existing regulation and powers to challenge controversial practices. This, however, has slightly changed in 2021, in particular following a c**omplaint submitted to the authority by the Peace Institute in relation to hate speech in a television program.** After a more than 6-month procedure, the AKOS rendered in June 2021, for the first time, a decision declaring the violation of content regulation rules (Audiovisual Media Services Act) regarding incitement to hatred. This can be considered a positive development.[3]

This prevailing passive and largely invisible attitude towards the enforcement of media regulations can be partly attributed to the lack of sufficient resources and capacity of AKOS, due to shortages of staff in the departments related to implementation of media regulation. As we highlighted in our previous submissions to Liberties' Rule of Law Report, such an approach also reflects a lack of ambition to build strong capacities, take stronger positions, systematically challenge the controversial practices and gain public reputation in this field, and this seems to be connected with the internal policy of the Agency leadership to keep low profile in the politically sensitive field of media regulation.

In addition to AKOS, there is a "media inspector" in the system of regulation of media in Slovenia, integrated in the Inspectorate for Culture and Media, a body within the

2 For more information see: https://www.delo.si/novice/slovenija/poslanci-zavrnili-vladni-nacrt-o-zdruzitvi-regulatorjev/.

3 For more information see: https://www.mirovni-institut.si/akos-zakljucil-postopek-glede-sovraznega-govora-v-oddaji-faktor-na-tv3/ and https://www.sta.si/2920172/akos-tv3-mora-v-televizijskem-programu-prenehati-spodbujati-rasno-neenakopravnost.

Ministry of Culture. This inspector handles complaints related to certain provisions in the media regulation in compliance with the Inspections Act, the Minor Offences Act and the General Administrative Procedure Act.

A long-established self-regulatory body called Journalists' Court of Honour[4] operates within the Slovenian Association of Journalists and enjoys a good reputation. The body is composed of representatives of journalists and the public. It handles complaints and takes decisions based on the Code of Ethics, which are publicly announced on regular basis. The self-regulatory body is co-founded by the Slovenian Association of Journalists and the Slovenian Union of Journalists and appointed by their representative bodies.

The Ombudsman of public media RTV Slovenija[5] is also very operational and reputable. The Ombudsman handled more than 2,300 complaints in 2021, rendering decisions based on Professional Standards and other self-regulatory documents of RTV Slovenija. The Ombudsman is appointed by the governing body of RTV Slovenija – Programming Council – for a mandate of five years, and its independence is guaranteed by internal rules. In late 2021, the Programming Council, composed predominantly by pro-government members (appointed by the Parliament), did not re-confirm the mandate of the previous, highly professional and active Ombudsman, but rather appointed a new person for the position, with no experience or professional reputation, but supportive of the government.[6]

Pluralism and concentration

The level of **media market concentration is high.** Media group Pro Plus, with television programmes, VOD and online media,[7] dominates the market, but there are also dominant media groups in print and radio.

Section 9 of the Mass Media Act regulates the protection of media pluralism and diversity, including provisions on restrictions on ownership, concentration and associated persons. It also includes restrictions relating to incompatibility in the performance of radio and television activities, incompatibility in the performance of advertising activities and radio and television activities, and incompatibility in the performance of telecommunications activities and radio and television activities.[8] The act also clearly states that publishers

4 For more information see: https://razsodisce.org/.

5 For more information see: https://www.rtvslo.si/varuh.

6 For more information see: https://vezjak.com/2021/12/07/skoraj-zrusili-baskovica-nastavili-svojo-varuhinjo/.

7 For more information see: https://pro-plus.si/eng.html.

8 For more information see: https://rm.coe.int/iris-special-1-2020en-media-pluralism-and-competition-issues/1680a08455.

and operators fall under the regulations of competition protection. The procedures of authorities, competent for competition protection, referring to the concentration of media publishers and operators involve the Ministry for Culture, while those referring to the publishers of radio and television programs involve the Agency for Communication Networks and Services of the Republic of Slovenia. The act provides numerous mechanisms enabling the state to prevent illicit concentration while simultaneously including mechanisms allowing for proactive measures to finance content in the public's interest (through subsidies). The responsibility for media pluralism protection is de facto distributed among various agents participating in the procedures, meaning that regularly the accountability for decision-making is avoided by all involved.[9] However, **the implementation of the rules safeguarding pluralistic media market has been deficient.**

Despite the incompatibility in the performance of telecommunications activities and radio and television activities, specified in the law, Telekom Slovenije, a state-owned telecommunication operator, owned, between 2012 and 2021, a television channel. There are also private telecommunication operators with television channels in their portfolio. There have been some vague provisions in the Mass Media Act used as a justification for regulators not to act against such practices.

Media ownership of Telekom Slovenije, a state-owned company, in which the key personnel has been appointed, in 2020 and 2021, to reflect interests of the ruling party SDS, was partly sold in 2020. Its television channel was acquired by a Hungarian owner close to the ruling party in Hungary, an ally of the Slovenian ruling party. The programming content and editorial policy has changed accordingly. In 2021, Telekom Slovenije suspended the intended sale of the remaining media operations (in its subsidiary TS Media). According to media reports,[10] the Hungarians were also in play for TS Media, in addition to United Media, the media division of United Group. The latter owns the Slovenian mobile operator Telemach and is setting up a news portal under the N1 brand. The investigative news portal Necenzurirano recently reported, based on unofficial information, that United Group had the most favourable bid, of EUR 5 million, which was more than EUR 3 million more than had been offered by TV2 Media from Hungary.[11]

Telekom Slovenije, as a telecommunication/cable operator, in 2021 **prioritised in their scheme of the distributed television**

9 Ibid.

10 For more information see: https://www.investslovenia.org/news-and-media/business-news/telekom-slovenije-suspends-sale-of-ts-media.

11 For more information see: https://necenzurirano.si/clanek/aktualno/drzavni-telekom-se-brani-milijonov-ki-niso-madzarski-873203.

programs two televisions channels co-owned by the ruling party associates (Nova24 TV), placing them from earlier place 20 in the programing scheme to near the starting positions, while the most popular televisions channels of Pro Plus (POP TV and Kanal A) were pushed back to place 11 and 12.[12] This change by Telekom Slovenije has been seen by experts and reporters as an act not justified by any objective criteria, since Nova24 TV channels have neither significant audience nor quality programming of general interest to be given such prominence. Such a move should be rather understood as a promotion of the pro-government propaganda channels and a punishment for Pro Plus channels for providing critical, professional reporting. The multi-year contract between Pro Plus and Telekom Slovenije regarding distribution of their programs will expire soon, and some media reported about the possibility that Telekom Slovenije could entirely exclude Pro Plus television channels from their offer and not sign the new contract.[13]

Independent media also revealed that **Telekom Slovenije** has been **paying**, in 2020 and 2021, excessive **monthly fees for the distribution of the television channel Nova24 TV – owned by ruling party associates and the Hungarian co-owners.** When accounting for their reach and fees paid by other operators, amounts paid by state-owned Telekom Slovenije do not seem economically justified. This way, state-owned telecommunication company has been seemingly sustaining financially the television operations of the ruling party.[14]

In 2021, the government proposed a 6% levy on audiovisual media service providers, to be paid from their gross annual revenue, to finance a special fund for European audio-visual production. While this was approved in the first parliamentary procedure, it was eventually excluded from the final version of the Audiovisual Media Services Act. The government's proposal was seen as a **tool of the government to influence the media market by introducing financial burdens which would most significantly affect the market leader Pro Plus and their most popular television channels, which produce independent news and analyses.**[15]

In 2021, the annual state aid scheme, which provides **direct subsidies to media for their**

12 For more information see: https://www.zurnal24.si/slovenija/tako-telekom-pojasnjuje-zakaj-so-novo24-dvignili-med-prve-kanale-367950.

13 For more information see: https://n1info.si/novice/slovenija/bi-lahko-telekom-izlocil-pop-tv-in-kanal-a-iz-osnovne-programske-sheme/.

14 For more information see: https://necenzurirano.si/clanek/preiskovalne-zgodbe/novo-darilo-drzavnega-telekoma-televiziji-sds-931387.

15 For more information see: https://n1info.si/novice/gospodarstvo/nova-vladna-gorjaca-za-medije-pod-krinko-bruseljske-direktive/.

projects of content production, was used by the Ministry of Culture to finance mainly projects of the pro-government media, including those spreading hate speech and smear campaigns, while numerous professional media, including two daily newspapers and investigative outlets, but also radio stations with status of public interest media such as Radio Student, were rejected.[16]

Transparency of media ownership

As we highlighted in last year's country submission to Liberties' Rule of Law Report, there are no specific obligations of the state bodies or media to report on allocation of state advertising in order to provide transparency and safeguards against political interference.

As an instrument of transparency of transactions from the state budget, there is an online database ("Erar")[17] updated regularly with data on all transactions from the state budget. This allows a search of state bodies and recipients to obtain certain data on transactions between state bodies and media. The system is conceived in such way that, if the advertising agencies are recipients of funds from state bodies, the media as final beneficiary of the advertisement revenues are not listed in the database as recipient of subsidies from the state budget.

For a long period, there have been indications that various governments in Slovenia have influenced distribution of advertisements from state bodies and public companies to the media by engaging as an intermediary particular advertising agencies owned by businessmen close to the political grouping in power.[18] This has been done with the intention to channel the advertising funds to media close to that specific political grouping.

There is growing concern over the political instrumentalisation of state advertising – an issue which we already raised in last year's country submission to Liberties' Rule of Law Report. The ruling party, SDS, co-owns a number of media where advertisements of government bodies and publicly owned companies are disseminated without proper economic justification. This has also led to **public funds being used for funding hate speech and propaganda.** Research carried out in 2020 and 2021 by an independent journalist and researcher drew attention to how advertisements of state bodies and pubic companies disseminated by media affiliated to the ruling party are regularly spreading hate speech and smear campaigns against individuals and

16 https://insajder.com/slovenija/drzavni-denar-za-provladne-medije-na-ministrstvu-za-kulturo-zavracajo-ocitke-razdelitev

17 The online tool for following state budget transactions is available at: https://erar.si/.

18 For more information see: http://mediawatch.mirovni-institut.si/eng/you_call_this_a_media_market.pdf.

organisations critical to the government or the ruling party.[19]

There are provisions in the Mass Media Act obliging the media outlets to report media ownership above 5 percent in the Media Register administered by the Ministry of Culture, and also to annually publish the data on ownership and updates on the ownership changes in the Official Gazette. However, the register is not accurate, and the beneficiary owners are often hidden, as exposed by journalistic investigations.[20]

Public service media

Public service media, particularly STA, but also RTV Slovenija, have been the main targets of government pressure and harassment since the new government took power in March 2020. The situation worsened in 2021.

National press agency STA was left without monthly payments of their public service operations from the Government Office for Communication (UKOM) **for almost the entire year** (the STA's business plan envisaged EUR 169,000 in monthly costs for public service). The government office was adducing various false arguments for delaying the payments, and conditioning it with requirements harmful for editorial independence and for the established sustainability model of the agency. The STA director was forced by such circumstances to resign. The agency brought a lawsuit against the government office for not respecting the legal obligations to pay invoices for STA's public service, the outcome of which was expected in late 2021. Meanwhile, the new director of STA agreed to sign a new contract with UKOM, which paid the invoices, and as a result the lawsuit was dismissed. However, the Slovenian Association of Journalists and the STA staff warned that certain solutions in the new contract could indirectly affect the editorial autonomy and negatively affect the agency's finances, especially if these were permanent changes to the agency's business model. The staff also warned that the STA had paid a very high price for the one-year financial exhaustion: "*A number of excellent staff have left us, the agony has compromised the quality of the agency's service to the public, halted a number of development projects and, last but not least, has left us psychologically exhausted.*"[21]

On a positive note, while the government tried to achieve the financial exhaustion of

19 See sources in English by Domen Savič, an indepedent journalist and researcher: 1) https://eu.boell.org/en/2021/06/07/publicly-funded-hate-slovenia-blueprint-disaster and 2) https://eu.boell.org/sites/default/files/2021-07/Spreading_propaganda_Slovenia_Domen_Savi%C4%8D_FINAL.pdf?dimension1=democracy. See also 3) a series of his reports and analyses in Slovenian language in the project »Viewership of the Hate in Slovenia« (Gledanost sovraštva v Sloveniji) at https://www.dsavic.net/.

20 For more information see: https://podcrto.si/oznaka/medijsko-lastnistvo/.

21 For more information see: http://agency.sta.si/2963975/sta-signs-deal-on-public-service-with-ukom-valid-until-end-of-the-year.

STA, threatening to collapse the public media service, the crowdfunding campaign "zaobSTAnek" was organised twice by the Slovenian Association of Journalists. Supported by many media and civil society organisations, the campaign managed to collect from citizens and organisations more than 385,000 EUR. This significantly contributed to saving STA from bankruptcy and offered moral support to STA journalists and other workers, which helped them sustain the pressure.

Simultaneously, at the public service broadcaster RTV Slovenija, **the key personnel in the governing bodies (Programming Council**[22] **and Supervisory Council) and management was changed (Director General and Director of TV Slovenia**, with the exception of Radio Slovenia) to align management with the interests and preferences of the government and the coalition parties. This happened in parallel with the appointment of a new pro-government ombudsman, as mentioned above. The new management introduced changes in the TV news program at the start of 2022, provoking a protest by more than 100 journalists at TV Slovenia newsroom that was also reflected in the resignations of news editor and sub-editors. The new editorial team, mostly aligned with the political profile of the government, was appointed in late 2021. It is to be noted that RTV Slovenija is the biggest media organisation in the country: at RTV Slovenija, there are more than 2,200 employees and the annual budget is around 125 million EUR (while, by means of comparison, at STA there are fewer than 100 employees and the annual budget is around 4 million EUR).

While the government financial pressure cannot be exerted on RTV Slovenija to such extent as it is the case with STA, since RTV Slovenija is mostly financed by license fee paid by households, such pressure still exists. **The increase of license fee depends on the government** and the parliament, and has not been adjusted for years, causing problems of financial sustainability for RTV Slovenija. The current ruling party has been clearly advocating not only against increase of the license fee but also some leading representatives of the ruling party have been inviting citizens not to pay license fee at all.

Both public service media, STA and RTV Slovenija, managed, in 2021, to preserve their professional standards to a high degree. Numerous cases of potential violations of professional standards at RTV Slovenija were challenged in complaints submitted to the Ombudswoman, and some of them resulted with her calls for more professional debate inside newsrooms, for improved professional conduct and editorial decisions.[23]

22 For more information see: https://n1info.si/novice/slovenija/sds-si-v-programskem-svetu-rtvs-zeli-jozefa-jerovska/.

23 Monthly reports of RTV Slovenija Ombudsman for 2021 are available in Slovenian language at https://www.rtvslo.si/varuh/dokumenti/33/7296.

Online media

Online media ("electronic publications") in Slovenia are subject to the requirement of registering in the media register administered by the Ministry of Culture, ever since the Mass Media Act was adopted in 2001.[24] The registration is a condition for starting dissemination of programming content for any media in Slovenia. The requirement has not been misused for exerting pressure or restrictions by the government so far.

Among the five most visited online media news sites in Slovenia, according to the MOSS measurement tool,[25] four are of a commercial nature (with adequate financing patterns), and one is established by the public service broadcaster RTV Slovenija (financed predominantly by licensing fees paid by households, but also acquiring part of the budget from advertising). Among the four commercial online media, the most visited one is published by the dominant media group Pro Plus and the second most visited by a subsidiary of the state-owned company Telekom Slovenije.

Investigative online media, such as Pod črto and Oštro, are financed by donor support to their projects and by individual donations of their supporters. On the contrary, the investigative online portal Necenzurirano is mainly financed from commercial sources. All of them have been a target of attacks, hostility and harassment by the government parties' representatives and their propaganda tools.

Public trust in media

There have been systematic hostility and antagonism by Prime Minister Janez Janša and the ruling SDS party towards professional media and journalists in Slovenia. This has a detrimental impact in terms of public trust in media and leads to a significant level of polarisation of the public debate.

According to the report on an opinion poll of the Valicon agency that measured public trust in institutions and professions, respectively, and was released in March 2021, the trust in public service broadcaster RTV Slovenija increased in comparison to the previous year, but is still slightly "negative" according to the measurement methodology (i.e., there are more respondents who do not have trust in an institution or tend not to have trust, compared to those respondents who do trust very much or tend to trust an institution).

Among institutions, **RTV Slovenija came in 9th among 23 institutions**, one place above the European Commission, which was also included in the survey, while the media in general are positioned in 18th place. While this represents a slight decrease in comparison with 2020, public trust in both RTV Slovenija and media in general is substantially higher in 2021 in comparison with 2019 (a year prior to

24 For more information see: https://www.rtvslo.si/files/razno/mass_media_act.pdf.

25 For more information see: https://www.moss-soz.si/rezultati/.

the COVID-19 epidemic and the mandate of the current government).[26]

Findings on the public trust in professions show journalists positioned in 15th place among 24 professions. The level of trust in journalists slightly decreased in comparison with 2020, but is significantly higher than in 2019.[27]

Safety and protection of journalists and other media activists

There is a continuing hostile environment for journalists in Slovenia incited by the actions and rhetoric of the government, particularly the ruling party and Prime Minister Janez Janša.

Online harassment and smear campaigns are routinely used against critical journalists and media. Such attacks have also been directed at **public service media STA and RTV Slovenija and their journalists and (previous) managers, which were the targets of smear campaigns and online harassment** by the ruling party representatives and supporters, particularly online in the party's propaganda communication channels.[28]

The misuse of legal instruments to intimidate journalists is also on the rise, including through Strategic Lawsuits Against Public Participation (SLAPPs). Actions brought against Necenzurirano, an investigative portal systematically reporting about the misuse of power and financial misconduct of the ruling party, are an emblematic example. The 39 abusive lawsuits brought by Rok Snežič, a tax expert close to the Prime Minister, against three journalists of Necenzurirano **continued in 2021**, exerting continued pressure and severely affecting the human and financial resources of the investigative media outlet. In addition to that, Mr. Snežič submitted, in 2021, **false criminal charges to police and tax authorities against Necenzurirano**.[29]

In 2021, the Slovenian Association of Journalists – following their report on attacks on journalists, released in December 2020[30] – established an **online platform "Report Attack" for reporting attacks on media and journalists, registering 33 attacks by January 2022.**[31] These include several systemic measures threatening freedom and safety of

26 For more information see: https://www.valicon.net/sl/2021/03/valicon-ogledalo-slovenije-marec-2021-ii/.

27 Ibid.

28 For more information see: https://www.politico.eu/article/slovenia-war-on-media-janez-jansa/.

29 For more information see: https://necenzurirano.si/clanek/aktualno/kako-nas-zelijo-snezic-in-prijatelji-uniciti-919562

30 For more information see: https://novinar.com/wp-content/uploads/2021/01/Zakljucno-porocilo_Spremljanje_napadov2.pdf.

31 For more information see: https://novinar.com/prijavi-napad/.

journalists, as well as physical attacks. Among the most concerning incidents recorded, it is worth mentioning:

- Violence targeting TV cameramen and reporters perpetrated by demonstrators protesting against COVID-19 containment measures and the vaccination campaign. RTV Slovenija in particular was targeted by demonstrators which protested in front of RTV Slovenija headquarters for four months, storming the headquarters on 3 September 2021, and demanding air time to present their truth to the public, until the police intervened and removed the protesters from the newsroom studio.[32]

- Death threats and a smear campaign against a reporter publishing a story about neo-Nazi groups and their connections to the ruling party

- Use of tear gas by police against a veteran photographer during protests

- Legal actions against media or journalists by government institutions or politicians, including: criminal proceedings launched by the Government Office for Development and Cohesion Policy against the weekly magazine Mladina after it made public a draft plan for recovery and resilience from the epidemic; a lawsuit filed by a member of parliament against the then editor-in-chief of the TV Slovenia news program, Manica J. Ambrožič, because his party, the Slovenian National Party-SNS, was not invited to the talk show Conversation with the opposition

- verbal attacks and threats to journalists and editors of RTV Slovenija, including discrediting messages by Prime Minister, but also verbal attacks on journalists of private media (such as Delo, POP TV, N1 etc.)

Self-censorship continues to be practiced among journalists under attack, particularly on local level, as it is emphasized in the monitoring report on attacks on journalists "From physical violence and threats, to defamations, online harassment and systemic pressures", published in December 2020 by the Slovenian Association of Journalists.[33] Journalists exposed to online attacks and harassment react also by closing their social media accounts and retreating from online communication to protect own safety and mental health. Women journalists are particularly harassed.[34]

32 For more information see: https://www.total-slovenia-news.com/politics/8837-anti-vaccine-protesters-break-into-rtv-slovenija-hq and https://europeanjournalists.org/blog/2021/09/06/slovenia-mfrr-calls-for-a-firm-response-after-storming-of-public-broadcaster-rtv/.

33 For more information see: https://novinar.com/wp-content/uploads/2021/01/Zakljucno-porocilo_Spremljanje_napadov2.pdf.

34 Ibid.

The protection of whistleblowers is not ensured in Slovenia. The EU directive has not been transposed yet. Such delays have been criticized by non-governmental organisations and by the Commission for the Prevention of Corruption.[35] The draft law was released by the Ministry of Justice for public discussion for a short time in late December 2021. The non-governmental organisations see **the draft law as insufficient for protecting whistleblowers.**[36] In 2021, the **Center the Protection of Whistleblowers was established** as a new non-governmental organisation in Slovenia. Among the founders is Ivan Gale, a whistleblower who disclosed alleged misconduct in purchasing protective equipment at the beginning of the epidemic, involving reportedly corrupt actions and relations of government representatives. In 2021, the Center reported that 10 people requested their protection and support.[37]

Freedom of expression and of information

Access to public interest information

Access to information of public interest (freedom of information) is provided for by law, with the Information Commissioner playing the role of an appeal body, and often being a last resort for journalists to make sure that the right to access and disclose public interest information is effectively protected.

Restrictions on freedom of expression

Freedom of expression has been under threat not only because of the hostile environment and attacks affecting media and journalists, as illustrated above, but also because of the restrictions imposed on the right to assembly and to protest. This has been the case since the start of regular peaceful protests, which have been continuously held on a weekly basis since April 2020. The report elaborates more on this issue in the section on civic space.

In 2021, the government proposed an amendment to the Protection of Public Order and Peace Act, according to which a person "arguing with, shouting at or behaving indecently towards a public official who is conducting their official duties, or to a high-level representative of the state, MP, member of the National Council or the government, a Constitutional Court or Supreme Court judge, or their family members" could face a fine of up to €1,000. When introducing the amendment, the government stated that "threats against MPs and other senior representatives of the state have intensified lately". The amendment followed several incidents when COVID-19 vaccine opponents verbally attacked MPs, and, most

35 For more information see: https://www.rtvslo.si/slovenija/zakaj-je-slovenija-zavrla-vecjo-pravno-zascito-zvizgacev-ki-jo-je-zapovedal-eu/604288

36 For more information see: https://www.dnevnik.si/1042980974.

37 For more information see: https://www.rtvslo.si/slovenija/zakaj-je-slovenija-zavrla-vecjo-pravno-zascito-zvizgacev-ki-jo-je-zapovedal-eu/604288.

prominently, an incident when anti-government protesters confronted PM Janša at a mountain hut and harshly criticised him.[38] The new legislation would have allowed fines to be handed out on the spot if the authorities detect such behaviour.[39] The government's proposal raised concerns for freedom of expression, and was seen as another atempt to restrict ongoing protests and silence government critics. Eventually, the amendment did not make it to the parliament for further procedure.

Online content regulation

Online media ("electronic publications") are subject to content regulation and to right to reply. The Mass Media Act also requires that **online media, if they publish sections with comments by readers/visitors, adopt rules and make them available to public.** "A comment that does not comply with the published rules must be withdrawn as soon as possible after the complaint or not later than one working day after the application", specifies Article 9, para 3 of the Mass Media Act as amended in 2016.[40]

There is no official evidence on the level of implementation of the obligations related to the comment sections of online media. The 2020 report of the Culture and Media Inspectorate does not mention any relevant complaint or case related to that obligation. **There is also a self-regulatory instrument related to hate speech in online media**, developed in cooperation between Spletno oko (a hot line for reporting hate speech and child pornography online operating within the Faculty of Social Sciences at the University of Ljubljana) and several online media.[41]

In the research **report on hate narratives in online media and communication in Slovenia**, published in 2021, the Peace Institute has identified numerous cases of hate narratives targeting refugees, political opposition and journalists, particularly in the online media and communication under control of the ruling party.[42]

38 For more information see: https://www.euractiv.com/section/politics/short_news/slovenia-could-introduce-fines-for-indecent-behaviour-against-public-officials/.

39 For more information see: https://www.rtvslo.si/slovenija/od-500-do-1000-evrov-kazni-za-zaljenje-poslancev-dz-ja-ali-clanov-vlade/592480.

40 For more information see: http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608.

41 For more information see: https://www.mirovni-institut.si/wp-content/uploads/2020/10/Behave_summaryENG_21-02-05.pdf.

42 For more information see: https://www.mirovni-institut.si/wp-content/uploads/2020/12/Sovrazni-narativi-v-spletnih-medijih-in-spletni-komunikaciji-s-CIP.pdf.

Checks and balances

Key recommendations

- The authorities should respect national provisions related to public consultations in the process of adopting laws and regulations.

Process for preparing and enacting laws

The National Assembly of the Republic of Slovenia adopted in 2009 a Resolution on Legislative Regulation.[43] The resolution was aimed at improving standards for drafting laws and regulations. Among other things, the resolution in question provides for minimum standards as regards public consultations, with a minimum period of 30 to 60 days budgeted for consultation with the public. The Rules of Procedure of the Government of the Republic of Slovenia were later also amended to include the provision related to the minimum period for public consultations.[44]

The Centre for Information Service, Co-operation and Development of NGOs established a violation meter, a mechanism to monitor the frequency of violations of provisions related to public consultations. This mechanism captures regulations for which the resolution stipulates a minimum time for public consultations. It also captures other acts for which such consultations are provided for in the government rules of procedure. After taking office on 13 March 2020, data gathered through this monitoring mechanism through 15 November 2021 reveal that **the current government did not respect provisions concerning public consultations in 68% of the cases**. The former government, in office from 13 September 2018 to 13 March 2020, did not respect the relevant provisions in 60% of the cases.[45]

In 2021, the Human Rights Ombudsman also established **violations by the Ministry of the Environment and Spatial Planning of the right to participation in public affairs** on at least two occasions. In March, the Ombudsman reported that the ministry submitted on 31 December 2020 draft of the new Environmental Protection Act for public discussion. The draft bill lacked explanatory memoranda, and the Ombudsman found that in this manner the public was not given an opportunity to effectively consider the content of the draft and, as a result, its participation in the process of adoption of the law was unjustifiably hampered.[46] In May, related to the procedure concerning draft amendments to the Water Act, the Ombudsman established

43 Text available at http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5516.

44 Text available at http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL32.

45 For more information, see https://www.cnvos.si/stevec-krsitev/.

46 For more information, see https://www.varuh-rs.si/obravnavane-pobude/primer/ucinkovito-zagotavljanje-pravice-do-sodelovanja-pri-upravljanju-javnih-zadev-zahteva-tudi-celostno-o/.

that the authorities only allowed for a short public discussion and importantly changed the draft after public consultations were concluded. According to the Ombudsman, this was contrary to the provisions of national legislation governing public participation as well as the relevant provisions of the Aarhus Convention.[47]

Enabling framework for civil society

Key recommendations

- The government and other responsible bodies, including the police, should proactively ensure the free and unhindered exercise of the right to protest.
- The responsible bodies in the government should provide financing mechanisms from public funds for NGOs on a continuous basis and on the basis of objective criteria, without any political interference.
- NGOs at Metelkova 6 building in Ljubljana should be provided with contracts to continue using the premises while the national and local governments should make available more such subsidied spaces to allow for the autonomous work of NGOs in various fields of public interest.

Regulatory framework

Freedom of assembly

Since April 2020, informal anti-government protests have been a regular feature of public life in Slovenia, particularly the so-called "Friday cycling protests" in Ljubljana against the government's downturn of environmental and democratic standards during the epidemic. These protests continued in 2021. In this period, there were various measures adopted by the government to curb the spread of the new coronavirus, including measures relating to public assemblies. These measures were often seen as excessive encroachments on the right to public assembly and freedom of expression, aiming primarily at limiting criticism of the government and to harshly punish those who violate the measures. In March, two petitioners requested review before the Constitutional Court of the constitutionality of a government ordinance banning public gatherings, and later expanded the challenge to another regulation limiting assemblies to a maximum of 10 people.

The Legal Network for the Protection of Democracy, a structure established by four

47 For more information, see https://www.varuh-rs.si/obravnavane-pobude/primer/razvrednotenje-pravice-javnosti-do-sodelovanja-pri-sprejemanju-okoljskih-predpisov/.

non-government organisations, provided support to the applicants. The network provided support because it considered necessary that existing regulation be examined with regard to its conformity with the Constitution, so that conditions under which constitutionally protected rights could be restricted and how, if at all, were clear.

The Constitutional Court assessed the proportionality of the ban on assemblies imposed from 27 February to 17 March and from 1 April to 18 April 2021 by several provisions of government decrees. The court also reviewed measures adopted in the period from 18 March to 31 March and from 23 April to 14 May 2021, when assemblies were limited to 10 participants. According to the court, it was not demonstrated that the general complete prohibition of public protests or the limitation to up to 10 persons was necessary. Similarly, the necessity of the full ban of unorganised public protests was also not demonstrated. The court found that the government failed to inspect the possibility of imposing milder measures known in comparable legal regulations, including the possibility to seek an agreement with organisers as regards the manner of carrying out a public protest as epidemiologically safely as possible. Indeed, the government had eased the measures in other fields on the basis of improved epidemiological situation. Finding that the government failed to demonstrate the necessity of the challenged measures, the court established that the challenged measures were not in compliance with the Constitution and annulled them. In its decision, the court stressed the special importance of the right to peaceful assembly and public protests in a free society. Among others, in relation to non-organised protests, it noted that, "Within the context of the right of peaceful assembly, non-organised (i.e. spontaneous) public protests are particularly important; their development has also been enabled by the development of new technologies and communication channels. At spontaneous public protests, participants gather without planning and without an organiser, in order to express opinions and positions on questions of public or joint importance."[48]

The Legal Network for the Protection of Democracy welcomed the court's decision but also expressed regrets that many who had been fined on the basis of unconstitutional regulations would not be reimbursed, since the court only abrogated the unconstitutional provisions but did not annul them.[49] **Since 8 November 2021, a complete ban on non-organised, spontaneous public gatherings has been again imposed by the government**, a measure

48 For more information, see https://pravna-mreza.si/vlo%C5%BEena-pobuda-za-presojo-ustavnosti-odloka-ki-prepoveduje-shode/ and https://www.us-rs.si/decision/?lang=en&q=U-I-50%2F21&caseId=&df=&dt=&af=&at=&pri=1&vd=&vo=&vv=&vs=&ui=&va=&page=1&sort=&order=&id=116659

49 For more information, see https://pravna-mreza.si/izjava-pmvd-ob-odlo%C4%8Ditvi-ustavnega-sodi%C5%A1%C4%8Da-o-neustavnosti-odlokov-ki-prepovedujejo-ali-omejuje-shode/.

which is hardly in line with the position of the Constitutional Court.[50]

The government has **also continued to restrict protests by introducing various repressive measures** implemented by the police, where the key personnel had been replaced on various levels.[51] The protesters attending regular weekly protests ("Friday cycling protests"), particularly those having more visible role in the protests, have been continuously fined by the police.[52] Video recording of the protests by a special police vechicle have been made on regular basis.

Particularly disproportionate use of repressive measures, including **massive use of tear gas and water canons against protesters**, occured **at the protests against COVID-19 containment measures** and vaccination held in Ljubljana on 5 October 2021.[53]

Financing framework

While the attempt by the government and the ruling party to abolish the fund for the development of non-governmental organisations, reported in our submission to Liberties' Rule of Law Report 2020, was eventually rejected in the parliament after the mobilisation of civil society,[54] the year 2021 saw another attempt to limit the access to funds for non-governmental organisations.

In June, the Centre for Information Service, Co-operation and Development of NGOs reported that the **Office of the Government** of the Republic of Slovenia for Development and European Cohesion Policy, led by a representative of the major government party, **introduced discriminatory conditions in a call under the Norway Grants and European Economic Area (EEA) Grants mechanism aiming to limit the access to such funds by NGOs.** According to this set of new conditions, NGOs established as associations must have 50 active members, namely, individuals who paid membership fees in the current year and the two preceding years, while NGOs set up as institutes must have at least three full-time staff achieving level 7 of the Slovenian qualification framework in the field in which the organisation is active. There are, on the other hand, no similar conditions in place for other applicants, such as, for example, private enterprises. The Centre for Information

50 For more information, see the text of this government regulation at http://pisrs.si/Pis.web/pregledPredpisa?id=ODLO2622.

51 For more information see: https://www.rtvslo.si/slovenija/zamenjava-v-vrhu-ljubljanske-policije-vodenje-zacasno-prevzema-janez-rupnik/595861.

52 For more information see: https://365.rtvslo.si/arhiv/studio-city/174840339

53 For more information see: https://www.dw.com/en/slovenia-police-disperse-protesters-ahead-of-eu-summit/a-59417845

54 For more information, see https://www.cnvos.si/novice/2687/sds-ov-pogrom-nad-nvo-v-pkp7-ukinitev-sklada-za-nvo/ and https://www.cnvos.si/novice/2692/sklad-za-nvo-ostaja/.

Service, Co-operation and Development of NGOs reported that donor countries were not informed about this. The organisation also reported that similar conditions were put in place in 2020 as an attempt to limit the participation of civil society organisations in procedures relating to the issuance of building permits, and that the Constitutional Court suspended the implementation of these provisions until it fully assesses their compliance with the Constitution. The government body claimed, among other things, that the criteria for NGOs would help the available funds grow because Slovenia had a responsibility towards that fund would be used efficiently. It further stated that these conditions were allegedly introduced with the consent of the donors. Eventually, these discriminatory criteria were later abolished.[55]

Despite an increase in 2021, in terms of the percentage of GDP, Slovenian NGOs have had access to fewer funds over recent years, compared to their international counterparts. According to the data published by the Centre for Information Service, Co-operation and Development of NGOs, in 2020, Slovenia allocated only 0.90% (0.77% in 2019) of its GDP to non-governmental organisations. According to the latest available global data, the global average was 1.38% in 2013, and the EU countries allocated an average of 2.20% of GDP to their non-governmental organizations in the year in question.[56]

The De-Bureaucratisation Act, adopted at the beginning of January 2022, includes amendments to the Act on the Realisation of the Public Interest in Culture (ZUJIK), erasing the provisions which limit the power of the Minister of Culture in decision-making on funding cultural projects. These projects are proposed – within open calls for project proposals – by, among others, non-governmental organisations in the field of culture. According to the ZUJIK, the Minister of Culture had to follow the expert committee's recommendation which projects to fund. The Minister could object once, but when the expert committee issued the opinion for second time, the Minister had to follow it. Now, according to the De-Bureaucratisation Act, the Minister still receives recommendations from the expert committee, but can decide autonomously which projects should be funded. The Association of non-governmental organisations and individuals in the field of culture, has objected to such a provision, warning that it will result in diminishing the role of professionalism and increasing the level of political

55 For more information, see https://www.cnvos.si/novice/2844/sloveniji-grozi-blokada-34-milijonov-evrov-zaradi-diskriminatornih-pogojev-svrk-ki-izkljucujejo-sodelovanje-nvo-na-razpisih-norveske-islandije-in-lihtenstajna/ and https://www.norwaygrants.si/wp-content/uploads/Spremembe-razp.dok_.-9.9.2021.pdf.

56 For more information, see https://www.cnvos.si/media/filer_public/db/6e/db6ebaac-f2c9-46ab-9dc7-a63e-4294da38/analiza_obseg_javnega_financiranja_nvo_2020_1.pdf.

interference in decision-making process on funding the projects in the field of culture.[57]

At the same time, the 2022 state budget was amended in a way to increase the budget for culture, but **substantially decrease budget lines which are sources of funding for independent culture** (including **NGOs in the field of culture**) – from 6.4 million to 3.6 million EUR. The Association of non-governmental organisations and individuals in the field of culture made a statement saying the government's step should be understood as a continuation of the process of destabilizing the NGO sector in the field of culture, which began with the attempt to evict organizations from Metelkova 6 building in Ljubljana.[58]

In January 2022, the Ministry of Culture did not approve program financing for a number of established and internationally renowned NGOs in the field of culture, including numerous NGOs located at Metelkova Street 6 building.[59]

The **public funding for the projects of environmental NGOs has also been cut**. The environmental organisations decribe the situation as "probably the worst in a decade, or more". Gaja Brecelj, director of environmental organisation Umanotera, stated in this respect that "Under the current minister there have been no more project calls, and in the new state budget there are literally no funds for projects for this and the next year. From the Climate Fund, where environmental NGOs are also eligible, the funding has been cut down by 70%, leaving the budget only on what was in a call for proposals under the previous minister's mandate. No calls and no money for projects or programmes for environmental NGOs are being planned – this is the official information we received from the ministry".[60]

Attacks and harassment

Administrative and legal harassment

As reported in our contribution to Liberties' 2020 Rule of Law Report, around **20 non-governmental organisations operating at Metelkova Street** 6 in Ljubljana received a proposal, in October 2020, for an amicable termination of the lease from the building manager of the Ministry of Culture and an order to vacate the building by 31 January 2021, failing which they would take the case to court and enforce the eviction at the expense of the NGOs concerned.

57 For more information see: https://monitor.civicus.org/updates/2022/01/11/independence-rtv-slovenija-under-threat-culture-and-environmental-csos-face-funding-cuts/

58 For more information see: https://www.delo.si/kultura/razno/vec-denarja-za-kulturo-a-ne-za-vse/.

59 For more information see: https://www.24ur.com/novice/slovenija/brez-sredstev-ministrstva-ostali-gledalisce-glej-gala-hala-carmina-slovenica-in-laibach.html.

60 For more information see: https://monitor.civicus.org/updates/2022/01/11/independence-rtv-slovenija-under-threat-culture-and-environmental-csos-face-funding-cuts/.

In response, the internationally renowned NGOs occupying the building – which include the Peace Institute and other human rights organisations like the Legal Information Centre, as well as numerous NGOs engaged in independent cultural and artistic production – noted that the termination of the leases came to their addresses "unannounced and on the very day when the SARS-CoV-2 virus epidemic and curfew were declared." The organisations have therefore been strongly opposing the actions of the Ministry of Culture, informing it that they have no intention of leaving Metelkova 6 and that they "will resist with all possible means these attacks on civil society, independent culture, and democracy."[61]

In 2021, the **court procedure for eviction started on the initiative of the Ministry of Culture**. A decision on the eviction is expected for some of the organisations in early 2022. A court procedure has been introduced separately for each organisation with slightly different dynamics, resulting in significant legal costs to NGOs.

This eviction procedure has been one of the major attacks of the current government on NGOs among a number of hostilities against them, and an additional difficulty for these organisations in the circumstances of the COVID-19 pandemic. The search for offices on the commercial market will strongly affect the organisations and may lead to the collapse of some of them.[62]

As Tadej Meserko of the Association of non-governmental organisations and individuals in the field of culture reported to Civicus, "the eviction was discussed in parliament, in a special body for culture that issued a non-binding decision that the government should help the NGOs evicted to find new accommodation. But the government decided to sue all NGOs in the building instead. This is a long and expensive process, and it's taking a turn for the worse for the NGOs. Some of them received the order to leave the building by March 2022, but they can probably appeal this decision to postpone the deadline."[63]

In December 2021, the State Attorney's Office, upon instruction by the Ministry of the Interior, filed the first **lawsuit against one of the most prominent anti-government Friday protesters**, claiming the recovery of costs of police protection of a public gathering. The lawsuit adduced that the protester in question organised the protest and that according to the Public Assembly Act, when the police assistance is necessary at an event, the organiser shall reimburse all the costs incurred in connection with this event. According to the law, however, the police are also obliged to maintain public order at unorganised assemblies and to dedicate sufficient staff for

61 For more information see: https://www.mirovni-institut.si/en/metelkova6/

62 For more information see: https://monitor.civicus.org/updates/2022/01/11/independence-rtv-slovenija-under-threat-culture-and-environmental-csos-face-funding-cuts/

63 Ibid.

this task.[64] The lawsuit has been perceived as another government attempt to silence the protesters, with the affected protester stating that the lawsuit was aiming to intimidate those who express their opinion publicly and were a thorn in the side of the government. Indeed, the Legal Network for the Protection of Democracy noted that there was no legal basis for such proceedings. According to the organisation, most anti-government rallies since March 2020 have been spontaneous and unorganised. These events did not have an organiser, as defined by the current law on public gatherings. The organisation considers that such lawsuits do not fall within the rule of law framework and constitute a serious violation of the fundamental human rights and freedoms guaranteed by the Constitution.[65]

Smear campaigns

In 2021, the prime minister and the ruling party continued spreading **misinformation about non-governmental organisations** and discrediting their work. During this year, the privileged target of their attacks seemed to be organisations from **Metelkova Street in Ljubljan**a. In January 2021, for example, after unknown perpetrator(s) damaged a Ljubljana Cathedral fresco, there was a tweet by the PM claiming that, "[*i*]*ntolerance towards Christians and towards dissidents in general in Slovenia began to increase drastically in parallel with the emergence of @strankalevica (i.e. the Left, a polical party) and substantial state funding of so-called # NGOs from Metelkova 6, Ljubljana*." [66] In March, the PM stated at a press conference that "[o]ne of the goals that has been included in all coalition agreements for a long time is to regulate long-term care. The fact is that in the last 10-15 years Slovenia has not invested in long-term care for the elderly and that more money has been allocated for some non-governmental organisations on Metelkova than for the construction of homes for the elderly. There is a big shortage here, which, in the fight with the epidemic, has also greatly affected the victims." An online platform with a fact-checking component found that the PM manipulated the facts. They used known and accurate data but explained them in a misleading way, leading a distortion of the facts.[67]

The year 2021 also saw the major government party launching the so-called 2021 consultations with voters. As part of this consultation, a questionnaire was sent to Slovenian households which included highly suggestive questions,

64 The text is available at http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1455.

65 For more information, see https://www.delo.si/novice/slovenija/drzavno-odvetnistvo-terja-stroske-policije-na-protestih/ and https://www.delo.si/novice/slovenija/jenull-prejel-tozbo-zaradi-domnevne-organizacije-protesta/.

66 For more information, see https://twitter.com/jjansasds/status/1354028086812160000.

67 For more information, see https://www.gov.si/novice/2021-03-12-predsednik-vlade-janez-jansa-spopad-z-epidemijo-koronavirusa-je-vladi-vzel-80-casa-in-energije/ and https://www.ostro.si/si/razkrinkavanje/objave/iz-proracuna-vec-za-dolgotrajno-oskrbo-kot-za-nevladne-organizacije-na-metelkovi.

one of which was related to civil society organisations, formulated as follows: "*From 2009 to 2019 inclusive, 31,841,020 € were allocated from the Republic of Slovenia budget for the renovation of homes for the elderly, and we did not build any new ones. At that time, only 35,672,609 € were earmarked for the maintenance and construction of student dormitories. At the same time, the 20 best-funded so-called 'non-governmental organisations', mostly from Metelkova 6 in Ljubljana, received as much as 70,481,020 € from the budget. This order of funding seems to me to be: a) fully appropriate, 'non-governmentalists' are the most important; b) inappropriate, the essential needs of students and pensioners must be given priority; c) scandalous, because they are pointlessly spending our money.*" Interestingly, those who returned the questionnaire could participate in a prize competition.[68] In December, the PM commented on the 2022 parliamentary elections and stated in an interview that, "[t]hese elections will decide whether the money will go to the people who create it or to the NGOs at Metelkova 6 (…) who have not contributed any national achievement so far, but have spent tens of millions belonging to workers, entrepreneurs and pensioners." [69]

Disregard of human rights obligations and other systemic issues affecting the rule of law framework –

Key recommendations

- The pushbacks to Croatia must be stopped immediately as there is a serious risk of people being subjected to torture and inhuman treatment; an effective screening and identification mechanism must be put in place, since this is seen as one of the key issues when it comes to systematic pushbacks from Slovenia. It is equally necessary to strictly respect the right of access to international protection, and to inform persons about their rights, as provided for in the EU Asylum Procedures Directive.

- The state must urgently ensure that the persons who were illegally erased from public registries 30 years ago, who have been living in Slovenia for decades, arrange a permanent residence permit, so that their special position is acknowl-

68 For more information, see https://www.rtvslo.si/slovenija/sds-na-domove-vnovic-poslal-vprasalnik-o-prihodnosti-vprasanja-precej-sugestivna/570191.

69 For more information, see https://demokracija.si/fokus/intervju-janez-jansa-dokazali-smo-da-slovenija-zmore-vec/.

edged and their right to private and family life and their dignity is respected. The state must also provide such legal remedies to all individuals who, due to various circumstances, have long-term undocumented residence in the country, as required by international human rights standards and the case law of the European Court of Human Rights.

- Slovenia should assume its responsibility and immediately ratify the 1961 Convention on the Reduction of Statelessness.

Systemic human rights violations

Widespread human rights violations and persistent protection failures

In 2021, the police apprehended 10,067 migrants irregularly crossing the Slovenian border[70] and 5,301 of them applied for asylum, amounting to around 53%. Compared to 2020, this is a significant increase (in 2020, among the 14,592 migrants apprehended by the police in 2020, only 24% applied for asylum). Among those who applied for asylum, a large majority immediately left Slovenia, therefore a large majority of procedures were suspended. Still, in 2021 only **19 people were effectively granted international protection.**[71] As already reported in our submission to Liberties' 2020 Rule of Law Report, the discrepancy in the number of irregular crossings and the number of people that actually apply for international protection, coupled with reports on pushbacks, indicate that the lack of screening and identification mechanisms is one of the key issues when it comes to systematic pushbacks from Slovenia. This issue was also highlighted by the Slovenian Ombudsman in his 2021 report.[72]

The official statistics show that the number of asylum seekers has dropped in 2020 and then significantly increased in 2021. Representatives of NGOs explained that according to their information from the field this is only in part due to COVID-19-related restrictions and effects. This decline in 2020 is mainly related to the opening of a new route through Romania and Ukraine and to the effectiveness of **restrictions to access to asylum** through abuse of the readmission mechanism between Slovenia and Croatia. Due to the COVID-19 lockdown in April 2020, applications for international protection were not processed, causing a major backlog in both the lodging of the applications and first personal interviews that follow the lodging (where the applicants

70 For more information see: https://www.policija.si/images/stories/Statistika/MejnaProblematika/IlegalneMigracije/2021/December2021.pdf.

71 For more information see: https://www.gov.si/assets/vladne-sluzbe/UOIM/STATISTIKA/Januar-2022/Osebe-s-priznano-mednarodno-zascito-po-mesecih-2021-12.pdf.

72 For more information see: http://ennhri.org/wp-content/uploads/2021/07/Slovenian-National-Report.pdf.

have the opportunity to explain the grounds for their application in detail). The Ombudsman responded to this situation by issuing an opinion[73] where he stated that asylum procedures are urgent and should not be interrupted due to the COVID-19 preventive measures. The fact that applicants for international protection entering the territory of Slovenia are since April 2020 put into a 10 to 14 day quarantine should be a sufficient preventive measure to allow the procedures to continue regardless of the pandemic.

As mentioned, in 2021 there was a significant rise in the number of asylum applications filed. This is a result of the changed political decision of Croatia and changed praxis of the Croatian police at the Croatian-Slovenian border: when Slovenian police tried to return (push back) people to the Croatian side, the Croatian police would first ask them whether or not they want to apply for asylum in Slovenia. To avoid push-backs, the majority replied that they did wish to apply in Slovenia, after which the Croatian police denied their readmission. In such case, the Slovenian police were then forced to take them to the asylum center.

One of the main issues related to the asylum procedure is a lack of cooperation and the will of the authorities to consult with NGOs that offer support to asylum seekers. The International Protection Act does not guarantee free legal assistance at the first instance.

Regardless, from 2007 until 2020, asylum seekers had access to free legal assistance provided by an NGO based on a project financed by AMIF and administered by the Ministry of the Interior. The NGO employed several lawyers and even held an office inside the asylum home so asylum seekers could reach them on a daily basis. The employees of this NGO also held information sessions with asylum seekers prior to the lodging of the asylum application. During this information session, which was carried out either individually or in small groups, and with translators, they were informed about the procedure, their rights and obligations. The project of the mentioned NGO ended right after the government changed in March 2020, and since then there was no support for this purpose from the MoI. The NGO had to cut down severely on its assistance, as the very limited funds from UNHCR only allow it to offer very limited legal aid, mostly focusing on vulnerable groups such as families, unaccompanied children and single women. Thus, the in-person information sessions were discontinued and information has been since then provided through a video recording. The video is shown to asylum seekers in the waiting room, prior to their lodging of the application. Not only is this method inappropriate (the info video is screened in a busy waiting room, with no possibility to ask questions); the video is also not offering complete information, as the grounds for international protection are not explained. The lack of information and absence of legal aid have detrimental effects on the applicants' ability to succeed with their

73 For more information see: http://ennhri.org/wp-content/uploads/2021/07/Slovenian-National-Report.pdf.

applications and is causing a lot of frustration among asylum seekers.

Another issue is the length of the procedures. According to Article 47 of the International Protection Act, the decision should be made at the latest within six months from the lodging of the application, or in two months in accelerated procedures. However, in practice, these deadlines are mostly not respected and the duration of the procedure is seen as one of the biggest shortcomings of the Slovenian asylum system, also by the Ombudsman.[74]

Impunity and lack of accountability for human rights violations

February 2022 will mark 30 years since the authorities illegally erased 25,671 individuals from the register of permanent residents of the Republic of Slovenia. The erasure was not a mere administrative error but a systematic and deliberate removal of what was seen as an 'undesirable' part of the population, as confirmed in a decision of the European Court of Human Rights (Kurić and Others v. Slovenia). The consequences for the victims of the erasure did not disappear over the years, especially since the state decided to implement only the minimum measures required by the European Court of Human Rights. More than half of the erased did not receive any form of redress – neither the restitution of the illegally taken away status nor the financial compensation for the damage suffered. There are still some erased persons who have lived in Slovenia without regulated status since the erasure. The remedies available to them are very limited, do not acknowledge the injustice done to them and disregard their long stay in the country. Their distress is great, many of them are elderly and sick people, who, without permanent residence, cannot rely on social assistance services. The state must urgently ensure that these people, who have been living in Slovenia for decades, arrange a permanent residence permit, so that their special position is acknowledged and their right to private and family life and their dignity is respected. The state must also provide such legal remedies to all individuals who, due to various circumstances, have long-term undocumented residence in the country, as required by international human rights standards and the case law of the European Court of Human Rights. In addition to erasure, some individuals have also been affected by statelessness. The issue of statelessness is persistently ignored by the state, even when the victims are children. Slovenia should assume its responsibility and immediately ratify the 1961 Convention on the Reduction of Statelessness.

74 For more information see: http://ennhri.org/wp-content/uploads/2021/07/Slovenian-National-Report.pdf.

Fostering a rule of law culture

Contribution of civil society and other non-governmental actors

In March 2021, the National Assembly adopted amendments to the **Water Act** by means of an accelerated procedure. This prompted 11 non-governmental organisations, mostly environmental organisations, but also feminist groups, to set up the Movement for Drinking Water in an attempt to collect at least 40,000 signatures of voters for the National Assembly to call a legislative referendum on the amended law. The civil society organisations were concerned that adopted amendments threatened the safety of Slovenian waters. In particular, amended provisions allowing for construction of public use infrastructure (e.g. inns, business and administrative facilities, shops) on water land and coastal areas could limit public access to water and could increase the risk of contamination of surface and groundwater and, as a result, of drinking water. The civil society organisations collected a sufficient number of signatures and the referendum was called for July. The organisation further mobilised to bring sufficient numbers of voters to ballot boxes, as the Constitution stipulates that a law is rejected in a referendum when a majority of voters oppose it, provided that at least 20% of all qualified voters have voted against the law. The July referendum eventually saw the second largest turnout for a legislative referendum since independence (46.46% of all voters voted), with 86.75% rejecting amendments to the Water Act.[75]

In early 2021, Amnesty International Slovenia, the Legal Centre for the Protection of Human Rights and Environment, Today Is a New Day and the Institute for Culture of Diversity Open established the **Legal Network for the Protection of Democracy**. The structure provides legal assistance to individuals and organisations involved in legal proceedings due to non-violent public action. According to the initiative, the imbalance of access to finance and legal means between the state and individuals is substantial, so it is necessary to strengthen the position of those whose human rights are violated. Within the network, professional assistance is provided by highly qualified lawyers and law firms, and, until November 2021, the network of lawyers provided support in about one thousand cases. In May, the network set up a mechanism for monitoring protests. This tool, the first in the country, was established after protesters' claims that the police used excessive force and treated them selectively, contrary to the principle of equality. The monitoring is based on tools for monitoring assemblies made available by the Organization for Security and Co-operation in Europe.[76]

75 For more information, see https://zapitnovodo.si/ and https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2021-01-2844?sop=2021-01-2844.

76 For more information, see https://pravna-mreza.si/.

The Association of Slovenian Journalists, the Bottom Line, a non-profit media portal, and the Peace Institute, an NGO, continued the project "**Defending watchdog role of civil society and journalists in Slovenia**" in 2021. In this period, among others, an online platform for monitoring and reporting attacks on journalists was launched. A cartoon presenting the role of NGOs in society, which was produced in 2020, was on display in Slovenian urban centres such Maribor, Murska Sobota and Ptuj, after a similar exhibition was held in Ljubljana in 2020. In terms of capacity building, a workshop on how to deal with online harassment of journalist took place. Online discussion about how the right to protest was exercised and defended in Poland and France, and what could be lessons for Slovenia was also organised.[77]

In the second half of 2021, a number of civil society organisations came together in the **Voice of the People initiative**. With Slovenia entering a super election year in 2022, the initiative had been working for several months on demands related to, e.g., access to public healthcare services for all, freedom of media and culture, fair climate transition and the environment protection, more democracy and reform of the political system, global justice, rule of law and human rights. After receiving numerous comments and suggestions during the public discussion on the first list of demands, held in November and December 2021, the initiative elaborated a final document with more than 130 demands. In January 2022, the demands were presented to the political parties calling them to provide their answer on each demand in an online tool. All registered political parties were invited to the presentation of the demands, but the political parties of the government coalition did not respond to the invitation.[78] Based on the responses of the parties, an online tool shall be set up for voters to check the extent to which their personal political views are in line with those of the parties. The initiative shall organise a web-based campaign as well as field visits to encourage people to take part in the elections. The initiative's website shall record party commitments during the election year and provide all the necessary practical information so that voters can participate in the elections in an informed manner. There are more than 100 organisations involved in the initiative.[79]

77 For more information, see https://novinar.com/prijavi-napad/, https://novinar.com/drustvo-novinarjev-slovenije/projekti/pretekli-zakljuceni-projekti/zascita-nadzorne-vloge-civilne-druzbe-in-novinarjev-v-sloveniji-podaljsana-faza/ and https://www.mirovni-institut.si/projekti/zascita-nadzorne-vloge-civilne-druzbe-in-novinarjev-v-sloveniji-podaljsana-faza/.

78 https://www.24ur.com/novice/slovenija/glas-ljudstva.html

79 For more information, see https://glas-ljudstva.si/.

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The Peace Institute – Institute for Contemporary Social and Political Studies

The Peace Institute (PI) uses scientific research and activism aimed at creating and preserving a society capable of critical thought and based on the principles of equality, responsibility, solidarity, human rights and the rule of law.

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The Civil Liberties Union for Europe

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

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