

RULE OF LAW REPORT 2021:
SLOVENIA

The European Commission has on 1 February 2021 launched a second targeted consultation in order to prepare its annual Rule of Law Report. The Report monitors significant developments, both positive and negative, relating to the rule of law in all Member States. It is part of the comprehensive European rule of law mechanism announced in the Political Guidelines of President von der Leyen. This mechanism will act as a preventive tool, deepening dialogue and joint awareness of rule of law issues. It covers four pillars: the justice system, the anti-corruption framework, media pluralism and other institutional issues related to checks and balances. The latter being the issues covering most of the topics presented by civil society organisations.

The Consultation ran until 8 March 2021 and was addressed at organisations working on rule of law related issues, in particular regarding justice systems, anti-corruption framework and media pluralism, such as European networks and associations, NGOs and civil society organisations, national associations (for example judges' associations, journalists' federations), and any other relevant stakeholders. The Commission invited stakeholders to provide written contributions to the Report, with the aim of feeding the assessment of the Commission with factual information on developments on the ground in the Member States.

The present compilation brings together contributions of various non-governmental organizations and networks from Slovenia: its purpose is to provide collected information, data and observations of Slovenian non-governmental organizations on topics related to the content of the annual report.

Collected and edited by: Pravna mreža za varstvo demokracije (Legal Network for the Protection of Democracy)¹

Contributions partners:

- ⇒ Legebitra²
- ⇒ Mirovni inštitut (The Peace Institute – Institute for Contemporary Social and Political Studies)³ in cooperation with Civil Liberties Union for Europe
- ⇒ Pravno-informacijski center nevladnih organizacij – PIC (Legal-informational centre for NGOs, Slovenia)⁴

¹ <https://pravna-mreza.si/>

² <https://legebitra.si/en/>

³ <https://www.mirovni-institut.si/en/>

⁴ <http://pic.si/about/>

- ⇒ SLOGA – NGO Platform for Development, Global Education and Humanitarian Aid⁵
- ⇒ Amnesty International Slovenia⁶

⁵ <http://www.sloga-platform.org/about-us/>

⁶ <https://www.amnesty.si/#>

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JUSTICE SYSTEMS

Training of justice professionals

Prepared by: Amnesty International Slovenia

Amnesty International Slovenia does not have direct experience in this regard, however we would like to share experience of others working in this field that we know of. In recent years the Judicial Training Center has been offering trainings on topics related to domestic violence, but these trainings are not mandatory for all judicial employees working in this field, non-governmental organizations are not involved and they do not cover the topics about obligations arising from the Istanbul Convention. Employees attend trainings according to their interests.

As far as Amnesty International is concerned, we have not been invited or included in any trainings on Human Rights topics within the judicial system; this is in contrast to our (past, not from 2020) experiences where we've had engagement and cooperation with the Police.

Length of proceedings

Prepared by: Amnesty International Slovenia

In the past, Slovenia was found guilty at the European Court of Human Rights of violating Human Rights in regard to the lengths of proceedings (ECtHR case *Lukenda v Slovenia*, 2005). After this conviction, attempts were made to address the issue, and the situation has improved significantly since. It must be noted that the effects of the judicial-system lock down due to the Coronavirus disease have not been analyzed yet. The courts in Slovenia were de facto closed and non-operational for non-essential cases for approximately 4 months; it's reasonable to expect that this will have effects regarding length of proceedings.

In practice, before the Coronavirus epidemic and lockdown, the Procedures at Administrative court lasted approximately a year, but Amnesty Slovenia has cases pending at the Administrative court from 2018. Due to a recent decision that the Administrative court needs to execute hearings, we estimate this will prolong the time needed to reach a decision.

Similarly, the proceedings at the Constitutional court are lengthy as well, which is due to the fact that in some cases the Constitutional court is the only court-of-redress available (say, during the Coronavirus lockdown, to assess epidemic-fighting-measures of the authorities).

AIS has no relevant information on the length of proceedings at other (regular) courts. In the latest juridical magazine *Pravna praksa*, an author estimates that the normal length of proceedings is 2 years or 5 years if the second instance overturns the decision and returns the case to the first instance court⁷.

Quality

Prepared by: Legal-informational centre for NGOs, Slovenia

The weakening of access to justice in Slovenia in 2020

In Slovenia, the beginning of the Covid pandemic in March 2020 coincides with the change of government – the prime minister resigned and a new coalition and government was formed. In the last period prior to this change environmental NGOs established continuous communication with The Ministry of the Environment and Spatial Planning. This was in the form of a special council of 11 environmental NGOs representatives who communicated with the minister. They were appointed by all interested environmental NGOs in a democratic process. Legislative regulation was not perfect but it enabled more and more environmental NGOs to gain the status of acting in public interest, which was the condition for access to justice in certain procedures. **There were 30 NGOs with the status in the area of environmental protection, 47 in the area of nature conservation and 11 in the area of spatial planning, at the time.**

Under the new government the position of environmental NGOs and access to justice has seriously deteriorated. The process is still ongoing. What happened?

⁷ *Pravna praksa* nr. 9/2021, Boštjan Udovič, Pasti zasebnega oddajanja stanovanj v najem

1. In April the **Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigating its Consequences for Citizens and the Economy**⁸ set specific provisions for environmental impact assessment (EIA) procedures and access to justice for NGOs (integral permit = building permit and environmental consent). **The new additional conditions for NGOs** to gain the status in public interest in the area of environmental protection and nature conservation were set (regarding number of members and employees) and these conditions should already be **fulfilled for the last two years for an NGO to be a party in the (integral) EIA procedure**. Out of 77 NGOs with the status in public interest in the area of environmental protection and nature conservation, we managed to collect data for 56. Only 9 NGOs or 16% of all of them met the new conditions. **The NGOs that don't fulfill these conditions would drop out of the currently ongoing procedures**, where they were already a party. More information is available on the [webpage of Justice & environment](#) (in Slovene language [here](#)). There was also a provision that a **construction can begin immediately after the integral permit is final in the administrative procedure** (there is only one instance of this procedure), regardless of the possible procedure at the Administrative Court. The provisions of the whole intervention act were meant to be valid only during the Covid crisis and they expired at the end of May, but the next act on intervention Covid measures has extended the validity of (only) these **environmental provisions till the end of 2021**⁹. Three NGOs **challenged the act at the Constitutional Court** in the beginning of May; in July, the Court **suspended the implementation of the challenged provisions** until the final decision is adopted (more info in Slovene language [here](#)). The Court didn't reach the final decision yet. The only provision that is still valid from this "Covid intervention act" and the Constitutional Court didn't address, is the shortening of the deadline for filing a suit to the Administrative Court against an integral permit – **from the usual 30 days, to 15 days**.

⁸ Zakon o spremembah in dopolnitvah Zakona o interventnih ukrepih za zajezitev epidemije COVID-19 in omilitve njenih posledic za državljane in gospodarstvo (ZIUZEOP-A), Official Gazette RS 61/2020, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-0901?sop=2020-01-0901> – Article 42 referring on the integral procedure regulated in the Building Act

⁹ Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic (Zakon o interventnih ukrepih za omilitve in odpravo posledic epidemije COVID-19 (ZIUOOPE)), Official Gazette RS 80/2020, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-1195?sop=2020-01-1195> – Article

2. In the beginning of June, the amendments to **Nature Conservation Act**¹⁰ were adopted with two major changes of the position of nature conservation NGOs:
- ⇒ **new, additional conditions for gaining the status in public interest** in this area were introduced – the associations should have at least 50 active members, the institutions should have 2 full time employees with suitable education and experiences. But there was also a provision for NGOs to adapt to these conditions in the period of 6 month;
 - ⇒ **access to justice was almost deleted: previously the association with this status had the right to act in the interest of nature conservation in all administrative procedures and judicial proceedings** (this regulation was valid from 1999). **Now**, they can act in the interest of nature conservation in administrative procedures and judicial proceedings **as the law stipulates. But the Nature Conservation Act doesn't contain any other provisions about access to justice.**
3. Additionally, the new versions of three major acts are in the process of adoption (not adopted yet):
- ⇒ **the new Building act**¹¹ (public consultation was in August)¹² that introduces the same **additional conditions** for NGOs to be a party in the integral procedure (EIA and construction permit) as in the Nature Conservation Act;
 - ⇒ **the new Spatial Planning Act**¹³ (public consultation was in October)¹⁴ deleted the only **provision about access to justice – Article 58, but it was deleted after public consultation.** The Article 58 includes A2J regarding the spatial plans/acts for all individuals affected by the plan, and also to all NGOs with the status in public interest in the fields of environment

¹⁰ Zakon o spremembah Zakona o ohranjanju narave (ZON-E), Official Gazette RS 82/2020, <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-1235?sop=2020-01-1235> – Article 3, referring on the Article 13

¹¹ Still valid is the Building Act (Gradbeni zakon), Official Gazette RS [61/17, 72/17 – popr.](https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1235?sop=2017-01-1235), [65/20](https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-1235?sop=2020-01-1235) in [15/21](https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-1235?sop=2020-01-1235) – ZDUOP), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7108>.

¹² Published on

<https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=11546>.

¹³ Still valid is the Spatial Planning Act (Zakon o urejanju prostora), Official Gazette [61/17](https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1235?sop=2017-01-1235), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7341>.

¹⁴ Published on

<https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=11662>.

protection, nature conservation, spatial planning and cultural heritage. The scope of the challenge is narrowed mostly to land use. The Article is in force since 2018. After the deletion of this Article, the only access to justice will be (again) only the Constitutional Court.

⇒ **the new Environmental Protection Act**¹⁵ (in public consultation in January 2021)¹⁶ proposes **several crucial reductions of A2J for NGOs**. The **new additional conditions for gaining this status were set** as in the Nature Conservation Act. On the other side, **the right for NGO to be a party in certain procedures is deleted** (Environmental impact assessments, Environmental permits - IED permit and Environmental liability procedure). For affected individuals, the right to be a party remains. The NGO **will only have the right of filing a complaint at the end of the procedure or challenging it** at the Administrative Court.

Conclusion: The new formal criteria for NGOs to gain the status in public interest are set unnecessarily high. Many of the NGOs will not meet the new criteria. The access of justice rights of NGOs, some of them established 20 years ago, are being revoked or limited. This presents a serious regression of this right in Slovenia.

¹⁵ The valid is the Environmental Protection Act (Zakon o varstvu okolja), Official Gazette RS, št. [41/04](#), [17/06](#) – ORZVO187, [20/06](#), [49/06](#) – ZMetD, [66/06](#) – odl. US, [33/07](#) – ZPNačrt, [57/08](#) – ZFO-1A, [70/08](#), [108/09](#), [108/09](#) – ZPNačrt-A, [48/12](#), [57/12](#), [92/13](#), [56/15](#), [102/15](#), [30/16](#), [61/17](#) – GZ, [21/18](#) – ZNOrg, [84/18](#) – ZIURKOE, [158/20](#); <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1545>.

¹⁶ Published on <https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=11911>.

MEDIA ENVIRONMENT AND FREEDOM OF EXPRESSION AND OF INFORMATION

Prepared by: Peace institute in cooperation with Civil Liberties Union for Europe

Media regulatory authorities and bodies

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

The draft version of the amended Audiovisual Media Services Act expecting to transpose the revised Audiovisual Media Services Directive contains specific provisions on independence of the media regulatory authority, as requested by the Directive, but the document is, in February 2021, still in the procedure of consultations within the government.¹⁷

However, the governing structure of the Agency is regulated by another act – the Electronic Communication Act – and the risks for independence of the regulator arising from the procedure of appointment of the Director of the Agency will remain until the governing structure of the Agency and the appointment procedure for Director as individual decision-making body is changed in a way to take from the government the power of appointment.

Additional risks for independence of the media regulatory authority arose in 2020, from the initiative of the Government to merge eight regulatory agencies in two super-agencies, which was presented as a way to streamline public administration.

¹⁷ See <https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov/predlog-predpisa.html?id=11475>

One of the two super-agencies is envisaged as an agency for market and consumers which would absorb several existing agencies, including AKOS. The new super-agency would regulate the following markets - energy, telecommunications, postal services, media and audiovisual services, and all forms of transport, while also supervising mergers and takeovers and competition and consumer protection. Major Slovenian regulators have voiced opposition to plans to merge eight independent agencies into two super-agencies. As reported by the national press agency, STA, the Agency for Communication Networks and Services (AKOS) said the merger did not ensure regulatory independence. "The proposal is incompatible with multiple EU directives, in particular in the sense of ensuring the independence of the regulatory authority, a demand of directives in all areas covered by the agency," AKOS director Tanja Muha told the press.¹⁸

The enforcement powers of the agency include warnings and fines, but the AKOS role as regulatory authority in the field of radio and television remains highly invisible and passive in terms of using the existing regulation and powers to challenge the controversial practices not only related to the market, but also in terms of content regulation such as hate speech, or to play more active role in the field of promotion of media literacy. This can be partly assigned to lack of sufficient capacities in terms of staff in the departments related to implementation of media regulation. But, even more, lack of ambition to build strong capacities, take stronger position, challenge the controversial practices and gain public reputation in this field seems to be connected with the internal policy of the Agency leadership to keep a 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, being part of the Inspectorate for Culture and Media, a body under the responsibility of the Ministry of Culture, which handle the 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.

There is a self-regulatory body on national level with long tradition and good reputation, operating within the Slovenian Association of Journalists, called "Journalists' Court of Honour"¹⁹. It includes representatives of journalists and the

¹⁸ See

<https://www.total-slovenia-news.com/politics/7084-main-regulators-oppose-govt-merger-plans-say-will-reduce-in-dependence-competition>

¹⁹ See <https://razsodisce.org/>

public, handling complaints and taking decisions based on the Code of Ethics and publicly announced on a regular basis. The self-regulatory body is co-founded by the Association and Union of Journalists, and appointed by their representative bodies. In addition, an Ombudsman of public media RTV Slovenia²⁰ exists, which is very operational and reputable. It handles more than 2,500 complaints in 2020, based on Professional Standards and other self-regulatory documents of RTV Slovenia. It is appointed by the governing body of RTV Slovenia – Programming Council – for a mandate of five years, and its independence is guaranteed by internal rules.

Transparency of media ownership and governmental interference

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.

An online database (“Erar”²¹) serves as an instrument of general transparency of transactions from the state budget. It is updated regularly with data on all transactions from the state budget, and it allows for searches based on state bodies and recipients. It also allows to obtain certain data on transactions between state bodies and media, but if it is the advertising agencies that are recipients of the funds from state bodies, the media as a final beneficiary of the advertisements are not listed in the online tool in relation to such transactions 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 engaging as an intermediary particular advertising agencies owned by businessmen close to the political grouping in power in order to channel the funds for advertisements in the media close to that political grouping.²² The recent circumstances in Slovenia are particularly raising the issue of potential political instrumentalisation of the state advertising, since the ruling party, SDS, co-owns a number of media, where advertisements of the government bodies and publicly owned companies are disseminated. The observers raise the issue particularly because the same media affiliated to the ruling party and carrying the advertisements of the

²⁰ See <https://www.rtvlo.si/varuh>

²¹ See <https://erar.si/>

²² See http://mediawatch.mirovni-institut.si/eng/you_call_this_a_media_market.pdf

state bodies and public companies, are accused of spreading hate speech and smear campaigns against individuals and organisations critical to the government or the ruling party.²³

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 beneficiary owners are often hidden and are subject of journalistic investigations.²⁴

Municipality owned media lack transparency and are often used for promotion of political interests of mayors.²⁵

At the same time the ruling political party, SDS, is involved in ownership of a media group, co-owned by the Hungarian businessmen close to the Hungarian ruling party and Prime Minister Orbán. This model of ownership and financing of the media group, involving directly or indirectly ruling parties of Slovenia and Hungary, has been investigated by journalists²⁶ but also by law enforcement authorities²⁷ and has also been discussed by a parliamentary body²⁸ in light of concerns of lack of transparency and possible irregularities.

The situation of the Slovenian Press Agency (STA) is another issue of concern. It is, in a substantive part, funded from the state budget. The current government has been cutting funds to the press agency to exert pressure on its management and newsroom, and is gradually threatening to starve and dismantle the agency.²⁹ In addition to that, in 2020, the Government drafted the media regulation according to which the appointment of the members of the governing body (responsible for appointment of the agency's director) would be changed in a way to give the appointment power to the government instead of the parliament. The attempt to launch a quick change of the

²³ See <https://www.dsavic.net/2020/05/18/slovenska-vojska-v-sluzbi-madzarskega-sovrastva/>

²⁴ See <https://podcrto.si/oznaka/medijsko-lastnistvo/>

²⁵ See <https://podcrto.si/povzetek-preiskave-kako-zupani-zlorablajo-obcinska-glasila/>

²⁶ See <https://podcrto.si/povzetek-preiskave-medijski-sistem-sds/>

²⁷ See <https://www.delo.si/novice/slovenija/npu-preiskuje-financiranje-medijev-blizu-sds/>

²⁸ See

<https://www.dz-rs.si/wps/portal/Home/deloDZ/seje/evidenca?mandat=VIII&type=dt&uid=77CE9697A6AoA609C125851300368F92>

²⁹ See <https://www.euronews.com/2020/12/02/slovenia-criticised-for-cutting-funding-to-national-press-agency>

regulation, including such provision, failed. It is not clear when the new version of the media regulation changes will be released by the Ministry of Culture. Meanwhile, the Government proposed a measure according to which the national state agency STA would be among the public companies folding into the emerging National Demographic Fund, a new overarching state fund designed to pool all state assets. The regulation foresees the fund replacing the state as the founder and sole shareholder of the STA, a solution which raises concern of the STA staff, asking if it is "another manoeuvre to undermine the agency's independence or at least put it into uncertainty".

Public service media RTV Slovenia is under threat of diminishing its funding since the Government drafted the media regulation changes, in 2020, intending to use significant part of RTV Slovenia's income (from the license fee paid on monthly basis by households) for channelling it to other media, including competing private broadcasters. The 2020 government attempt to quickly close the public consultation on draft regulation and proceed with the adoption of the amendments did not succeed. The new version of the amendments to the media regulation has not been published yet. Meanwhile the ruling party and Prime Minister are conducting a campaign against the public media RTV Slovenia, including a leaflet sent by the party to households across Slovenia, in February 2021, where it is suggested that the funds spent for RTV Slovenia operations could be rather used for other purposes.

Sufficient level of trust in public service media and commercial media

There is a significant level of trust in the media in Slovenia, particularly traditional media, such as television and radio. Still, there is also an increasing level of distrust that raises concern.

Public service media enjoy a high level of trust in comparison to other institutions. There was a public opinion research conducted by Valicon agency, in April 2020, as a part of longitudinal research. RTV Slovenia, a public service media, was reported among 9 institutions and sectors in Slovenia which gained trust (more answers of trust than distrust), the other trusted institutions and sectors included the health system, health workers, police, institute of public health, etc.³⁰

³⁰ See <https://www.rtvlo.si/slovenija/anketa-velik-porast-zaupanja-v-zdravstveni-sistem-in-rtv-slovenija/521138>

Another public opinion research was conducted in April 2020 by Mediana agency measuring the trust in the media during the Covid-19 epidemic. The findings are presented according to media types and television enjoys the highest level of trust, but it is approx. 50% of the respondents expressing trust into television, 48% in radio, 40% in newspapers, 25% in online news media and 18% in social networks.³¹

Framework for journalists' protection

In regulations and in the case law, there are provisions and decisions setting standards which allow journalists to protect their sources, and avoid prosecution for publishing confidential information of public interest.

The environment for work of journalists in Slovenia has been increasingly hostile. The Slovenian Association of Journalists recently released a monitoring report on attacks on journalists "From physical violence and threats, to defamations, online harassment and systemic pressures", highlighting also the common practice of police to underestimate verbal and online attacks and discourage journalists from reporting the attacks to the police.³² The hostility towards journalists critically reporting about the government, particularly towards the journalists of public media RTV Slovenia, is increasingly connected to the rhetoric and campaigns of the ruling party and Prime Minister. Online harassment is often used against critical journalists and media, but there is also misuse of legal provisions to frighten journalists such as numerous charges against the same critical media or journalists by the same plaintiff, so called SLAPP (Strategic Lawsuits Against Public Participation): one recent example are the 39 lawsuits by Rok Snežič against three journalists of *Necenzurirano*.³³

In 2020, there was a physical attack on a photojournalist during the anti-government protest, resulting in hospitalisation of the reporter. The police investigation led to identification and prosecution of the attacker.³⁴

³¹ See <http://mm-arhiv.si/novice/mmediji/17967/mediana-zaupanje-slovencev-v-klasicne-mediije-je-visoko>

³² See https://novinar.com/wp-content/uploads/2021/01/Zakljucno-porocilo_Spremljanje_napadov2.pdf

³³ See <https://www.mappingmediafreedom.org/country-profiles/slovenia/>

³⁴ See <https://siol.net/novice/slovenija/26-letni-osumljeni-napadalec-s-protestov-stari-znanec-policije-542051>

Freedom of expression and of information

Access to public interest information (freedom of information) is provided for by the law with the Information Commissioner playing the role of an appeal body, and often being a last resort for journalists to provide public interest is protected in disclosing public interest information. There are negative developments in this field arising from the new practices of the judiciary (prosecutors and courts) to withhold information claiming that they can be accessed based on legal interest only, referring to the decision of the 2020 Supreme Court in a precedential case, and ignoring the provisions of the Access to Public Information Act.

Freedom of expression is under threat mainly in the context of right to assembly and association i.e. right to protest. Since April 2020, the regular peaceful protests have been organised mostly in the form of cycling protests to request the resignation of the government for claims of corruption and for curbing democratic standards in the country. The protestors have been on a weekly basis exposed to the intimidation and sanctions by the police for expressing views, holding papers with messages against the government, performing street performances etc. The police is justifying the restrictive measures referring to the government orders and laws adopted with purpose to counter the epidemic, but there is disproportion in the way how other kinds of gatherings of people are treated favourably in comparison with gatherings or individuals cycling or walking if the person expresses views by holding certain messages or signs. The Legal Network for Democracy Protection has been established recently by a group of non-governmental organisations and lawyers to provide legal support to hundreds of protestors experiencing intimidation and sanctions, and to enter into legal cases against police for violating freedom of peaceful assembly and freedom of speech, and for using disproportional measures.³⁵

Self-censorship is increasing practice among journalists under attack, particularly on a 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 recently by the Slovenian Association of Journalists. Journalists exposed to online attacks and harassment react also by closing their social media accounts and retreating from online communication to protect their own safety and mental health. Female journalists are particularly harassed, with the term “presstitute” being commonly used in social media and comment sections to libel

³⁵ See <https://pravna-mreza.si/>

female journalists³⁶ particularly since the today's Prime Minister used a label "washed-up prostitutes" for two journalists of public television, in 2016, when being the opposition leader. In 2020, the Supreme Court decided to quash a ruling that ordered today's Prime Minister to pay damages for that. The Court ruled that his tweet falls under the category of "highly protected political expression" and that freedom of political expression prevails. The Slovenian Association of Journalists condemned such Supreme Court ruling, saying it has a fear-provoking effect on journalists. They asked "to whom journalists to turn for protection of their basic human and professional rights" after such a decision of the Supreme Court.³⁷

³⁶ See https://novinar.com/wp-content/uploads/2021/01/Zakljucno-porocilo_Spremljanje_napadov2.pdf

³⁷ See <https://www.delo.si/novice/slovenija/sodba-vrhovnega-sodisca-ima-na-novinarje-zastrasevalni-ucinek/>

TRANSPARENCY

Prepared by: Legebitra

Working group for the preparation of new legislation on legal gender recognition

Civil society continues to be excluded from the legal gender recognition working group, which was set up by the Ministry of labour, family, social affairs and equal opportunities in 2019. They did however send analysis of the field and asked for input. This request was sent only to one CSO, a trans specific TransAkcija Institute. However, they have included a coalition of CSOs and legal experts to prepare the input. Despite efforts by NGOs to be included in the work of the working group the request is being denied.

Call for funding of projects supporting vulnerable groups in the epidemic

Slovenian Ministry of labour, family, social affairs and equal opportunities held an open call for funding of projects supporting vulnerable groups in the epidemic³⁸. The call was funded through European Social Fund.

There were 135 project applications and 17 of them received funding. Due to the claims of corruption the current minister Janez Cigler Kralj (NSI – Christian Democrats) is facing a vote of no confidence. One of the allegations is that he has influenced the selection criteria so an anti-human rights Institute Iskreni, that he co-founded, received the grant. No LGBTI organisations or projects that specifically target LGBTI people were awarded the grant.

Views expressed by the Institution Iskreni are also:

- ⇒ Through the articles in the webpage they claim that homosexuality is a disease and are organising events with speakers who are claiming that homosexuality³⁹ can be cured through reparative therapy.
- ⇒ They want to criminalise abortion⁴⁰ and are against any kind of contraception.⁴¹

³⁸

<https://www.gov.si/zbirke/javne-objave/javni-razpis-za-sofinanciranje-projektov-za-pomoc-najbolj-ranljivim-sku-pinam-prebivalcev-zaradi-epidemije-covid-19-in-zmanjsevanju-njenih-posledic/>

³⁹ <https://www.iskreni.net/ozdravljeni-gej-vznemirja/>

⁴⁰ <https://www.iskreni.net/pred-splavom-resenih-ze-vec-kot-4000-otrok/>

⁴¹ <https://www.iskreni.net/imam-se-toliko-rada-da-nikoli-nisem-jemala-kontracepcijskih-tabletk/>

- ⇒ They want to end obligatory vaccination of children for diseases such as diphtheria, tetanus, whooping cough, polio, hepatitis B, measles, mumps, rubella ...⁴²

Issue was raised due to the fact that he co-founded the institute from which he resigned as a co-founder one day before he was appointed to the position of the minister; and that the European Union funds are being used to fund “conservative” organizations.

The minister also acted with integrity, when he resigned from the official structure of the Institute Iskreni on the day he passed his confirmation hearing in the National Assembly of the Republic of Slovenia.

The problem arose when two people employed directly at the Cabinet of the Minister⁴³ were part of the selection committee, one of them even being the presiding person. All of this was revealed on political a debate on a TV show called Tarča produced by Slovenian public TV broadcast service that was aired live on 28th January 2021⁴⁴. Some highlights:

- ⇒ 19th June 2020 – The call was published (data from the ministry’s website)
- ⇒ 20th July 2020 – The application deadline (data from the ministry’s website)
- ⇒ 21th July 2020 – Opening and review of the applications (data from the ministry’s website)
- ⇒ 11th September 2020 – Notice by the ministry, that the selection procedure will be prolonged due to a high number of applications and demanding content of the applications (data from the ministry’s website)
- ⇒ 10th November 2020 – The ministry wrote that the applications have already been assessed (data about email was revealed on Tarča TV political debate)
- ⇒ 8th December 2020 – One month after the applications were assessed the member of the selection committee asked other members to assess some additional applications, reassess the already assessed applications and also evaluate the call (revealed on Tarča). When asked by the journalist about the procedure, they withhold the information about the evaluation of the call and

⁴² <https://www.iskreni.net/obvezno-cepljenje-otrok-prisluhnimo-drug-drugemu/>

⁴³ In Slovenian public administration there are strict rules to be followed on employment procedures. They are also very lengthy. Therefore, as in other countries and institutions the minister is allowed to employ some people in his cabinet based on his trust, without any public calls, procedures.

⁴⁴ <https://www.rtvlo.si/slovenija/tarca-je-financiranje-nevladnikov-povezano-s-tem-kdo-je-na-oblasti/550563>

re-assessment – they only said that the evaluation of the applications was carried out until the second half of December 2020.

- ⇒ In addition, it was revealed that Zveza prijateljev mladine Slovenije (Slovenian Association of Friends of Youth) had the same number of points as Institute Iskreni, but lost 4 points in the second assessment procedure and therefore did not get funded⁴⁵.
- ⇒ 6th January 2021 – Data on grantees and members of the committee was published (data from the ministry's website)

All facts mentioned above raise major concerns that the assessments of the applications have been influenced by the people closest to the minister and thus, raise doubts about the selection criteria.

⁴⁵ <https://www.24ur.com/novice/slovenija/razpis.html>

OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Process for preparing and enacting laws

Prepared by: Peace institute in cooperation with Civil Liberties Union for Europe

In Slovenia, the National Assembly of the Republic of Slovenia adopted in 2009 the Resolution on Legislative Regulation.⁴⁶ The document was adopted with the aim of improving the standards when 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 Slovenia⁴⁷ were later also amended to include the provision related to the minimum period for public consultations. 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 until 15 February 2021, the current government did not respect provisions concerning public consultations in 67% of the cases. The former government, in office from 13 September 2018 until 13 March 2020, did not respect the relevant provisions in 60% of the cases.⁴⁸

The counter of breaches of consultation deadlines⁴⁹ shows that in the mandate of this Government the minimum 30-days consultation deadline was breached in 66% of cases, even more, for 43 out of 430 regulations passed in this mandate, there was no public consultations and for further 44 the consultation deadline was not published.

In this regard, especially problematic are all laws with anti-covid measures, so far 8 of them. All of them passed in emergency procedure, having no public consultations at

⁴⁶ Full text available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5516>

⁴⁷ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL32>

⁴⁸ For more information, see the related webpage of the NGO in question on <https://www.cnvos.si/stevec-krsitev/> (accessed on 22 February 2021).

⁴⁹ CNVOS, <https://www.cnvos.si/stevec-krsitev/>

all, some of them only sporadically communicated mostly with business organizations, such as the Chamber of Commerce.

As to the access to information, up until 2020 in Slovenia access to draft legislation, draft Government decisions and final Government decision was completely opened as the Secretariat published everything on Government's website in due time. In the last year, many decisions were not published at all (they were provided upon request), which severely reduced public access to information.

COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

Biggest challenges of anti-covid legislation:

- ⇒ Passed in emergency procedures, without public consultations,
- ⇒ Almost all anti-covid laws include "intruders", namely, articles that regulate issues not related to the pandemic. E.g. approving accreditation for faculty to some private faculty that does not fulfil general criteria set in the specific law, suspending the Single Price for Books Act, changing criteria for environmental NGOs working in public interest in order to prevent them to participate in Environmental Impact Assessment procedures, trying to change the Law on NGOs and abolish the NGO fund
- ⇒ Based on the Communicable Diseases Act, the Government has in the last year passed many decrees restricting several different fundamental freedoms, at the beginning even without any justification and end date (the latter was changed due to the Constitutional Court's ruling).

Untransparent legislative process

Prepared by: Amnesty International Slovenia

The legislative drafting within the ministries has become increasingly hidden from the public. Starting with the epidemic in March 2020, draft laws are often not presented to the public, not sent for a public debate. Often, the first time a draft law is made public is when it is already approved by the government and sent to the Parliament for adoption.

One of the examples happened in mid-2020 when the government gave just 5 days for public discussion on changes of 3 major laws (State press agency, National radio and TV and on media); after uproar this was later prolonged.

Similarly, the Governmental strategy for using the EU Recovery mechanism was flagged as “internal” and thus classified as a confidential document (distributing could result in criminal prosecution). It has only been de-classified after this caused problems for a discussion in the Parliament (well after it was drafted and finalized at the Government).

Additionally, draft legislation on interim-coronavirus measures is even more hidden from public scrutiny because of the fact that intervention laws amend previous amendments without clearly presenting changes on edited valid legislation. So, the latter legislation amends previous interim legislation which amended even previous legislation, creating utter confusion. Except for lawyers, this effects in the public not being able to follow and/or comment changes. In time, edited text of valid legislation is published online.

Enabling framework for civil society

Prepared by: SLOGA – NGO Platform for Development, Global Education and Humanitarian Aid

In 2013, the Strategy for the Development of NGOs and Volunteering until 2023⁵⁰ was adopted, with its main aims being the establishment of supportive, enabling environment for development of NGOs, including long-term funding for NGOs, to strengthen the role of NGOs in policy formulation and policy implementation processes. The NGOs Act⁵¹ (2018) outlines the enabling environment for NGOs, to strengthen the contribution of NGOs to social well-being, cohesiveness, solidarity, democratic pluralism and sustainable development. The Act also defines the horizontal NGO network (CNVOS), regional NGO hubs and thematic NGO networks as subjects of a supportive civil society environment. With the exemption of three thematic NGO networks, the majority of them do not have long-term, programmatic public funding ensured. The challenge of limited financial and human resources is

⁵⁰ Available at:

<https://www.gov.si/assets/ministrstva/MIU/SNVO/Prostovoljstvo/b54fd6b72e/Strategija-razvoja-NVO-in-prostovoljstva.pdf>.

⁵¹ Official Gazette of the Republic of Slovenia, Nr. 21/18.

identified also by the CIVICUS Monitor⁵², while the European Union Agency for Fundamental Rights in its report “Civic Space – Experiences of Organisations in 2019” identifies the challenge of the lack of core funding.⁵³

In the field of international development cooperation, development NGOs (NGDOs) are recognized by relevant bodies as a partner in planning, implementing and monitoring the development cooperation and humanitarian aid policies, as well as in awareness raising and global (citizenship) education. To further strengthen and coordinate the collaboration, Ministry of Foreign Affairs, the Guidelines on Cooperation between the Ministry of Foreign Affairs of the Republic of Slovenia, NGOs and the Network of NGOs in the field of International Development Cooperation and Humanitarian Aid⁵⁴ have been developed in 2013, certainly representing a good practice.

Recommendation:

Vital and well-developed civil society represents a crucial part of democratic societies, therefore Slovenia should ensure adequate and sustainable programmatic funding for civil society support mechanisms and capacities i.e. for thematic NGO networks, to promote further development of the civil society sector and strengthen the civic dialogue. Empowered civil society is crucial for full implementation of the “Leaving No-one Behind” principle of the 2030 Agenda for Sustainable Development and specifically of the Goal 16 “to Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.

The implementation of fundamental freedoms of expression, association and peaceful assembly

With different decrees gatherings were restricted throughout the year. The severity depends on the current pandemic situation. If such restrictions are rather commonly used, three things are standing out in Slovenia:

⁵² Available at: <https://monitor.civicus.org/updates/2017/01/01/slovenia-overview/>.

⁵³ Available at: <https://fra.europa.eu/en/publication/2020/civic-space-experiences>.

⁵⁴ Available at:

https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/multilateral/razvojno-sodelovanje/e97207a3df/Smernice_za_sodelovanje_z_NVO-na-podrocju-MRS.pdf.

Exploitations of decrees for punishing protesters: when all gatherings were completely forbidden, people decided to express their dissatisfaction with the Government individually, for example by putting feet cut out of paper on the ground of Republic square in front of the Parliament or by walking with an umbrella with some anti-Government sign or sentence. Even though all such exercises were done *individually*, they still got fined. They disputed their sentences at the court.

Many peaceful protesters (e.g. those sitting in front of the entrance of the Ministry of Environment or those sitting on the Republic square reading the constitution) were removed by the police, sometimes violently,

Even when gathering up to 10 people were allowed (e.g. from the end of February), gatherings are not allowed for public celebrations, public gatherings and weddings. In other words, even though up to 10 people can gather, they can not gather for protesting. Concerns about the situation are expressed all the time by civil society, academia, political parties, etc., more and more often also by international organisations and institutions.

The framework for civic organisations' financial viability and sustainability

Slovene NGOs are included in the support and recovery measures under the same conditions as companies, thus a set of different support measures is available for them. Additionally, some measures are available for NGOs – social service provisions, sport organizations, fire brigades. Due to these measures, the amount of public funding for NGOs in 2020 was a bit higher than in 2020 (source: ERAR). However, we cannot neglect the fact that the director of the Government Communication Office abolished all NGO contracts for 2020, projects that dealt with migrants, media literacy, fake news, etc. Although the tender amount is rather low (cca. 100.000 EUR), the level of communication and action of the Government Office (it was the only one that did not recognize the pandemic as the vis maior and allowed delays in the project implementation, thus finally being able to abolish the contracts due to delays) can set a dangerous trend. Similarly, the Ministry of culture abolished the already published calls for proposals for cultural projects 2020 in decreasing the budget for 8 millions of euros, which resulted in “Tuesday protests” of cultural workers and NGOs. Cultural organizations are also the ones that were hit the most with the restrictive measures as they could only implement their activities during the summer of 2020 in a limited way. And while there are general criteria made for the private entities to be eligible for

the reimbursement of utilities costs, exception of this criteria was made for sports organizations, but not for culture organizations.

One of the “intruders” in the draft anti-covid law no. 7 was also abolishment of the NGO fund. The fund was introduced in 2018 to provide a systemic source of funding for professionalisation and development of non-governmental organisations. In 2019, for the first time, the grants from the NGO fund were allocated to the projects of dozens of NGOs from different fields, selected based on public tender procedure, administered by the Ministry of Administration. However, in December 2020, the Government in Slovenia proposed abolishing the NGO fund, effectively cutting the access to development grants and sustainability of jobs for humanitarian, volunteer, sports, cultural, human rights and other non-governmental organisations.

The dialogue between civic organisations and governing bodies

At the beginning of the pandemic, the Government established several working groups that were intended to work on support and recovery measures, one of them was called “a working group for the opposition parties and NGOs”, the groups mostly consisted of hand-picked humanitarian NGOs and it met only once.

The dialogues worsened, for example, also between the Ministry of culture and NGOs as the minister abolished a dialogue group with NGOs that for years has been a primary forum for the discussions on all open issues between the ministry and cultural organisations.

Although 2020 was also a crucial year for the programming of the European Cohesion policy, the Government changed the approach and completely neglected the partnership principle with the abolishment of the broader working group for programming, part of which were representatives of NGOs, trade unions, municipalities, etc. as a result, stakeholders are not part of the programming any more. Furthermore, the new Government also changed the composition of the Monitoring committee of the European Cohesion Policy. It reduced the number of members and what is more important, the NGO representative appointed by the NGOs was excluded from the monitoring committee, instead the Government directly just appointed some NGO to be part of the monitoring committee.

Safe space

Civil society has been continuously smeared by the prime minister, other ministers, MPs and other members of the leading political party, especially on social media. For such campaigns, SDS usually distorts data on public funding, stating concrete organizations that got the most money and how much they got, usually, the list is wrong, contains advocacy organizations, organizations dealing with migrants, while in reality the most public funding goes to NGOs with private schools and social service provided (the data is publicly accessible on ERAR). Such (wrong) data was used also by the prime minister in the Parliament during his speech on the occasion of the vote of non-confidence and shared not only by the Facebook and Twitter profiles of SDS, but also by the official Governmental social media profiles. Furthermore, a very suggestive question on the uselessness of NGOs was included in the questionnaire that SDS sent out to all households in Slovenia.

Freedom of assembly

Prepared by: Peace institute in cooperation with Civil Liberties Union for Europe

Since April 2020, informal Friday anti-government protests (particularly the so-called “bicycle protests” in Ljubljana), including against its handling of the purchase of the protective equipment and its role in downturn of environmental and democratic standards during the epidemic, have been a regular feature of public life in Slovenia. On several occasions, concerns were raised over the excessive use of police powers physical force. Amnesty International Slovenia, for example, called on police authorities to inspect the matter.⁵⁵ On 19 June, for example, the police stopped random people who were supposedly going to join a protest and completely blocked access to the Republic Square in Ljubljana – an historical precedent, as this site carries high symbolic value in Slovenia. The national Human Rights Ombudsman has dealt with police procedures for establishing the identity of individuals during the protest in question, involving 69 cases. The body established that the question remained whether the measures of establishing identity in these cases were actually carried out in a

⁵⁵ See <https://www.amnesty.si/navedbe-o-prekoracitvi-policijskih-pooblastil-je-treba-preiskati.html>; <https://www.amnesty.si/odziv-na-ravnanje-oblasti-protesti>

lawful manner and did not represent an encroachment on the rights to privacy and personality rights.⁵⁶

In the course of these 2020 protests, the most common tool to restrict the right of the people to assembly seemed to be the imposition of fines on the basis of various government orders to curb the spread of the coronavirus and to provide for physical distancing, but also some other regulations. Since March 2020, for example, depending on the epidemiological situation, variably restrictive measures relating to assembly of people in public places and public surfaces were imposed (e.g. in certain periods gatherings were fully banned, while in periods of more favourable situation gatherings of up to 500 people were allowed). As noted, fines were often imposed despite peaceful protests and protesters respecting physical distancing. For instance, in the period of stricter measures, individual protesters or family members left their paper footprints with messages in front of the parliament, and some of them faced fines for violating ordinance on the prohibition of gatherings. When more people were allowed to assembly, some participants in protests received fines for writing protest slogans on the streets with chalk. Later in the year, for example, when the epidemiological situation deteriorated, car protests were held and fines were issued for protest honking in front of the parliament on the basis of the law governing road traffic.⁵⁷

At the time of writing, namely from 12 February 2021, gatherings of up to 10 people are allowed, but public assemblies, namely organised assemblies of persons for the purpose of expressing opinions and standpoints on questions of public or common importance in open or enclosed places where access is open to anyone, as defined in the law governing public assemblies⁵⁸, are still fully banned. Groups of people can thus come together for certain reasons, but these do not include voicing their opinions on public matters.

⁵⁶ See

<https://www.varuh-rs.si/sporocila-za-javnost/novica/policijski-postopki-ugotavljanja-identitete-ob-protestu-19-6-2020-v-ljubljani/>

⁵⁷ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5793>

⁵⁸ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1455>

Restriction of the right to protest – Legal Network for the Protection of Democracy

The constitutionally protected right to peaceful assembly for the purpose of expressing views on public affairs is very limited throughout the epidemic and is completely prohibited in the period after the declaration of the epidemic in the second wave. The right to protest entails constitutionally protected rights to freedom of expression and the right to peaceful assembly.

The first collective restriction was introduced two days before the outbreak (12 March 2020) and on 20 October 2020 an explicit ban on rallies across the country was introduced. Since then, the ban on rallies has remained virtually unchanged until 12 February 2021 when a new decree banned the gathering of over ten people and rallies (gatherings for the purpose of public expression of views) are still not allowed. During the epidemic the government for various purposes, e.g. public events, religious ceremonies and other cases of cultural, religious or economic association of people, prescribed the ways in which these should be carried out in such a way that measures to prevent the spread of infections are still respected during implementation. The government though did not look for ways to implement peaceful rallies in order to express political views.

By amending the law, the state in October 2020 awarded to the police the power to sanction violations under the Infectious Diseases Act, which is the legal basis for prescribing measures during an epidemic. In the period from 24.10.2020 to 18.2.2021, the police imposed as many as 3,761 sanctions for public gatherings. The Legal Network for the Protection of Democracy, a civil initiative of NGOs and lawyers set up to provide legal assistance to people who find themselves in legal proceedings to defend human rights and democratic values, has dealt with more than 200 requests for legal aid from individuals in less than a month. More than one of the cases were related to protests. At the same time, representatives of the network point out that the police use various methods to identify people attending rallies; many people are not identified on the spot at all, but receive a fine by mail, as police claim to have identified them from previous proceedings. However, the persons identified on the spot were not explained why, but only a payment order was sent to them after the event. The government plans to amend the Misdemeanors Act, which is supposed to legislate a

simplified procedure for imposing fines by the police, i.e. without providing for the possibility of a statement and contradictorial proceedings.

The Legal Network for the Protection of Democracy⁵⁹ submitted a request for constitutional review of the Government' Decree prohibiting protests.

Smear campaigns and other measures capable of affecting the public perception of civil society organisations

Individuals, NGOs and other informal groups critical of the political situation in the country are often subject to smear campaigns. These target for example NGOs working in the fields of environment protection, culture, human rights and non-discrimination, and LGBTI rights. Prominent individuals among protesters as well as other prominent individuals critical of the government are equally targeted. Such campaigns include depicting NGOs as parasites, spreading misinformation about their operations and financing, including deliberately creating misconceptions about the organisations' functioning and strength-; publishing hostile and insulting articles about organisations, their founders and staff in attempts to compromise their public image and legitimacy. Serial publication of offensive, false, manipulative and hostile content about critics of the government, including among protesters, is also becoming common practice. Such campaigns are often carried out through media and other communication channels close to the major party in the current government coalition.⁶⁰

A recent example of a smear campaign is the alleged 2021 consultation with voters by the major government party in February 2021. A questionnaire was sent to Slovenian households. It is also available on the party's website. One among the ten questions reads as follows: "From 2009 to 2019 inclusive, 31,841,020 EUR were allocated from the budget of the Republic of Slovenia for the renovation of homes for the elderly, and we did not build any new ones. At that time, only 35,672,609 EUR 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

⁵⁹ <https://pravna-mreza.si/>

⁶⁰ For more information, see

https://www.mirovni-institut.si/wp-content/uploads/2021/01/Znacilnosti_napadov_na_civilno_druzbo_-porocilo.pdf

Ljubljana, received as much as 70,481,020 EUR from the budget. This order of funding seems to me to be: a) fully appropriate, "non-governmentals" 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."⁶¹

Access and participation to decision-making processes

In April 2020, the Slovenian parliament adopted the Intervention Measures to Contain COVID-19 Epidemic and to Mitigate its Consequences for Citizens and Economy Act⁶², the second piece of legislation in the series of the so-called anti-corona stimulus packages adopted in the year in question. Among others, it amended provisions regulating the issuance of building permits under the Building Act⁶³. The amendment was adopted to allegedly improve the issuance of these permits and to boost the economy during the COVID-19 pandemic. The package also included new provisions relating to the involvement of NGOs with the authorised status of organisations in the public interest in the field of environment protection in the building permits issuance procedures. It set out a new threshold as regards their access to these proceedings. Taking into account their legal status, these NGOs must meet the relevant requirements for the year when the relevant procedures start as well as for the preceding two years (e.g. associations shall have 50 active members with paid membership fees in the mentioned period, institutes must employ at least three full-time staff achieving level 7 of the Slovenian qualification framework, while foundations shall have at least 10,000 EUR in assets every year in the period in question). Following submission of the draft law to the parliament, more than 50 NGOs protested the amendments. They noted that the amendment had the retroactive effect, that is – to be involved in current proceedings, the NGOs needed to meet the set conditions including in the two preceding years when such criteria were not in place. They also stressed the fact that the threshold set by the law is too high for practically all Slovenian NGOs with the authorised status of organisations in the public interest in the field of environment protection, effectively excluding them from the relevant proceedings and thus violating provisions of the Aarhus Convention.⁶⁴ In

⁶¹ For more information, see <https://www.sds.si/posvet2021>

⁶² Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8190>

⁶³ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7108>

⁶⁴ For more information on the concerns raised, see e.g.

<https://www.cnvos.si/novice/2509/izjava-nevladnih-organizacij-glede-42-clena-novega-proti-koronskega-zakona/>

spite of the protests, the parliament eventually adopted the amendment. As provisions of the second anti-corona stimulus package were valid until the end of May 2020, the parliament extended the measure by the end of 2021 in the so-called third anti-corona stimulus package⁶⁵. Three NGOs have submitted a request for constitutional review of the amendment, and the Constitutional Court of the Republic of Slovenia suspended its application until it decides on the matter. The court is yet to rule on the issue.⁶⁶

Access to funding, including tax regulations

Historically, in terms of the percentage of GDP, Slovenian NGOs have access to fewer funds, compared to many of their international counterparts. According to the data published by the Centre for Information Service, Co-operation and Development of NGOs, in 2019, for example Slovenia allocated only 0.77% (0.73% in 2018) of its GDP to non-governmental organisations, while in 2013 the global average was 1.38%, and the EU countries allocated an average of 2.20% of GDP to their non-governmental organizations in 2013.⁶⁷

In December 2020, in the course of drafting the so-called seventh anti-corona stimulus package, the government moved to effectively abolish the Fund for the development of non-governmental organisations. Since 2007, personal income taxpayers may give 0.5% of their personal income tax for publicly beneficial purposes. By 2018, however, if taxpayers failed to make a donation, the relevant percentage of their taxes was not allocated and remained in the state budget. To counter this, the Act on Non-governmental Organisations⁶⁸ was passed in 2018. According to the act in question, if taxpayers failed to make donations, the relevant percentage of their taxes shall now go to the fund. This fund shall provide resources for projects and programmes providing the support environment and promoting the development of non-governmental organisations, amongst others. In the draft submitted to the parliament in December, the government proposed an increase in donations a personal income taxpayer can give for publicly beneficial purposes, from 0.5 to 1% of

⁶⁵ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8206>

⁶⁶ For more information on the case, see the court's webpage on <https://www.us-rs.si/zadrzanje/zadrzanje-izvrsevanja-2-clena-zakona-o-interventnih-ukrepih-za-omilitve-in-odpravo-posledic-epidemije-covid-19-v-zvezi-s-cetrnim-odstavkom-100-d-clena-100-e-in-100-f-clenom-ter-drugim-ods-tavkom-100/>

⁶⁷ For more information, see the webpage of the Centre for Information Service, Co-operation and Development of NGOs on <https://www.cnvos.si/nvo-sektor-dejstva-stevilke/javno-financiranje-zbirni-podatki/>

⁶⁸ Available at <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7129>

their income tax. At the same time, however, the money of those taxpayers who failed to make donations shall not go to the fund, as the fund was to only be financed from the state budget or other donors. In spite of the increase in the size of possible donations by taxpayers, which was welcomed, the motion was seen as another attack on NGOs by the biggest party in the current government coalition, as the fund represents the only systemic source of funding for non-governmental organisations. It was further stressed that taxpayers' donations, if any, tend to be dispersed and mostly function as an instrument of support for local NGOs (e.g. in 2019, 5,394 organisations received an average 913 EUR, with almost 800 organisations receiving less than 5 EUR), while the fund provided rather generous financing of individual projects.⁶⁹ Following considerable mobilisation by civil society⁷⁰, the fund stood, as the parliament did not back the government proposal effectively abolishing the NGO fund.

⁶⁹ For more information, see

<https://www.cnvos.si/novice/2687/sds-ov-pogrom-nad-nvo-v-pkp7-ukinitev-sklada-za-nvo/>

⁷⁰ See e.g. https://www.facebook.com/cnvos/posts/2911384182428213?_tn=-R

OTHER

Prepared by: Legebitra and Peace institute in cooperation with Civil Liberties Union for Europe

Eviction of NGOs at Metelkova 6 in Ljubljana

On 19 October 2020, the premises manager at the Ministry of Culture issued a proposal for an amicable termination of the lease to the non-governmental organisations operating at Metelkova Street No. 6 in Ljubljana. The ministry has threatened to take the case to the court and to enforce the eviction if the NGOs fail to vacate the building by 31 January 2021. In a public release, the ministry later stated, among other things, that the building was dangerous for occupants due to its dilapidation, and the ministry, as the owner, was obliged to renovate it. According to the ministry, it would be converted into a Natural History Museum. The ministry further stated that the funds for the renovation have been secured, and the renovation and conversion into a museum were already planned by the previous ministers.⁷¹ In their response, the occupants noted that the building had been for decades home to internationally renowned NGOs working in the field of independent cultural and artistic production, as well as involved in research and advocacy on behalf of marginalised groups. They stressed that the termination of the leases was issued on the day the COVID-19 epidemic and curfew were declared in Slovenia, and that no dialogue between the ministry and the NGOs took place before the termination document was issued. Similarly, no replacement premises were on offer. The organisations strongly protested the action of the ministry. It is seen as an attack on the civil society and independent culture intended to silence critical voices. According to the NGOs, the government in office and particularly its largest party have never hidden such intentions. The NGOs concerned stated that they did not intend to leave the building but intended to resist the attack on civil society, independent culture, and democracy. Various NGO associations, academic institutions and trade unions expressed their support to the occupants.⁷² Prominent members of the government and ruling political party are also claiming that progressive NGOs in the field of

⁷¹ For more information, see the ministry's webpage on

<https://www.gov.si/novice/2020-11-06-odziv-ministrstva-v-zvezi-s-stavbo-na-metelkovi-ulici-6/>

⁷² For more information, see the dedicated webpage on <https://www.mirovni-institut.si/metelkova6/>

human rights, many of whom are operating from Metelkova 6 are useless and are only draining the taxpayers money.⁷³

Forcible eviction of ROG

Area at ex-industry complex ROG, that served as a squatted social and cultural centre since 2006 was forcibly evicted on 19th January. This came after a few unsuccessful attempts by the Municipality of Ljubljana to empty the premises in order to begin construction work. Evictions happened without court order and people who gathered there to protest were stopped by exceeding force and teargas by the police and security forces.⁷⁴ Centre ROG was also one of the spaces where LGBTI events were held.

Neo-nazis and Riot Police spread fear at Metelkova

On 6th February a group of Neo-Nazis went to Metelkova street⁷⁵ – the autonomous zone and alternative venue that among others houses the only LGBTI Clubs in Ljubljana (Tiffany and Monokel). Neo-Nazis posed for pictures with signs: “Let's demolish Metelkova, too”⁷⁶. The Group wore yellow vests, because they try to present themselves as concerned citizens (as seen in France,) but they have been previously identified as Neo-Nazis and individuals also strongly connected with current ruling party⁷⁷.

8th February is the day of Culture in Slovenia – and because of COVID measures and government's closing down on culture⁷⁸, cultural workers marked the day with a public manifestation “A funeral of culture”. In the evening of the same day, around 30 members of Police special forces in full riot gear marched into Metelkova, firstly under explanation that they had been overseeing the mentioned manifestation/march that started at Metelkova street hours before. Later on, the explanation was changed – the Police special forces were checking if the clubs were closed⁷⁹. After that, a far right portal “exclusively published the real reason” – the news was shared and retweeted by Prime Minister – that the Police received a call from two LGBTI women under the

⁷³ <https://balkaninsight.com/2020/10/28/slovenian-ngos-facing-eviction-claim-jansa-wants-them-silenced/>

⁷⁴ <https://balkaninsight.com/2021/01/19/slovenia-evicts-alternative-culture-activists-from-squatted-factory/>

⁷⁵ <https://www.theguardian.com/cities/2015/jul/24/metelkova-ljubljana-abandoned-barracks-europe-squat>

⁷⁶ <https://www.mladina.si/204982/policija-rumeni-jopici-po-fotografiranju-pobegnili/>

⁷⁷ <https://necenzurirano.si/clanek/aktualno/neonacisti-med-rumenimi-jopici-790471>

⁷⁸ <https://www.nytimes.com/2021/01/27/arts/design/slovenia-janez-jansa-culture.html>

⁷⁹ <https://www.total-slovenia-news.com/politics/7761-protest-after-riot-police-enter-metelkova>

influence of drugs and alcohol, who were at LGBTI club Tiffany and Monokel, that they were afraid to go out, since there are people in yellow vests there and they claimed that Neo-Nazis returned (as two days before). Based on this call, the Police supposedly sent special forces to help, but it was established that people in yellow vests were only public utilities workers who were cutting trees. This was established as a lie and fake news produced to scapegoat the LGBT community after police denied receiving a mentioned call and the public company Snaga denied utility workers cutting trees there on Sunday.⁸⁰

The Police special forces operation at the autonomous zone Metelkova is seen as a gross misuse of police force and an uncalled for manifestation of repressive power of the police. The credibility of the police is rapidly declining since the current government took its position in March 2020 as the police is being instrumentalised by the current government to strengthen their position of power. The police are issuing fines to people who publicly (on the streets) protest the current government's authoritarian political moves by saying that the people are in violation of anti-covid measures even though it is clearly seen from footage that they are wearing masks and are at least two (2) meters from other people. The police are also issuing fines to people who were eating fast food, since they were not wearing masks, however it is clearly seen from footage and pictures that at the time they were eating they were alone on open public spaces⁸¹.

According to the EU LGBTI Survey II conducted by the European Union Agency for Fundamental Rights in 2020⁸², 93% of respondents from Slovenia reported that they did not report the last incident of physical or psychological hate motivated violence to the police or other authority, which is the second largest percentage in the EU. The declining credibility of the police, as described above could have a negative impact on the already low hate crime reporting rate.

On the positive side Legebitra, an LGBTI CSO, is currently implementing a project titled TRUST COOP – Building trust and cooperation between law enforcement and LGBTI community to improve response to LGBTI hate crime with the Slovene Police. The project is co-financed under the Rights, Equality and Citizenship Programme of the European Union (2014–2020)⁸³.

⁸⁰ <https://www.facebook.com/klubmonokel/posts/10158753171659933>

⁸¹ <https://www.mladina.si/201672/ne-zaupanje-javnosti/>

⁸² <https://fra.europa.eu/en/project/2018/eu-lgbti-survey-ii>

⁸³ <https://legebitra.si/en/projekti-in-programi/>

Access to territory and asylum procedure - PIC

The right to seek asylum is a constitutional right enshrined in Art. 35 of the Constitution of the Republic of Slovenia; the explicit right to claim asylum in Slovenia is stipulated in the International Protection Act. Slovene Border Police is not conducting any identification of persons in need of protection among migrants entering the Slovene territory.

The available statistics shows that in 2020 the police apprehended 14.592 migrants irregularly crossing the Slovenian border. According to the statistics only 4.008 individuals expressed their intention to apply for asylum.⁸⁴ The discrepancy in the number of irregular crossings and the number of people that actually enter the procedure for international protection supported by numerous reports on pushbacks⁸⁵ indicates that the lack of screening and identification mechanisms is one of the key issues when it comes to systematic pushbacks from Slovenia. Police records of procedures with apprehended migrants do not contain information, if such indicators were detected and if detected, whether the police informed the individual of the right to asylum and how the person responded. This issue was also highlighted by the Slovenian Ombudsman in his reports⁸⁶. Cases of unaccompanied minors being pushed back to Croatia were nonetheless reported. In practice, Centers for Social Services are not regularly involved in the procedure with unaccompanied minors by the police or do not respond and do not carry out their duties when informed of the procedure by the police. The Slovenian interior minister has also stated that they are aware that “people who are returned to Croatia end up in camps in Bosnia or Serbia”⁸⁷. Slovenia and the neighboring countries use the so-called readmission agreements as basis for return of migrants who allegedly did not seek asylum. Readmission agreements form a system outside the EU law and CEAS provisions and do not uphold the required procedural standards. The readmission agreements allow the return of migrants in informal procedures in which individuals are not issued a return decision, do not have the right to appeal and do not have the right to free legal aid nor representation. In practice the assessment of the principle of non-refoulement could be violated if the return from Slovenia is not conducted; therefore individuals in the

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https://www.policija.si/images/stories/Statistika/MejnaProblematika/IlegalneMigracije/2020/Januar-december_2020.pdf

⁸⁵ <https://www.borderviolence.eu/launch-event-the-black-book-of-pushbacks/>

⁸⁶ https://www.varuh-rs.si/fileadmin/user_upload/pdf/DPM/Letna_porocila_DPM/DPM_19.pdf

⁸⁷ <https://www.dnevnik.si/1042931634>

procedure do not have the possibility to argue the violation of the non-refoulement or challenge the decision of the police.