



# FUNDAMENTAL RIGHTS AND THE RULE OF LAW

## **Report on the visit to Slovakia**

7-8 July 2022



European Economic  
and Social Committee



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Six members took part in the visit to Slovakia. The delegation met with several representatives of civil society, specifically civil society organisations (CSOs), the social partners, the media, the legal professions, as well as the Slovak authorities. The aim of this report is to faithfully reflect and reproduce the views of civil society.

### 1. Fundamental rights of social partners

The first issue of concern raised by participants at that session was what was presented as the reason for the **weakening of tripartite dialogue** in recent years. They explained that the tripartite dialogue at national level had been suspended for a few months in 2020 after a dispute on the topic of minimum wages. The union confederation walked out of the discussions in protest against the way it felt that the government had approached the issue. According to them, the amendment of the Act on Tripartite Consultations which followed that situation, led to the inclusion of trade unions that did not meet the previous criteria to join the tripartite dialogue, i.e. the threshold of representativeness of 100 000 members.

One participant considered that such a reform weakened social dialogue rather than reinforcing a plurality of views. One participant, however, encouraged moves towards the inclusion of minority social partners – not fitting the representativeness criteria – in the tripartite dialogue. It was also noted that, while it was considered that the tripartite dialogue had been weakened at national level, **social dialogue** was meaningful at sectoral and company or administration levels, with adequate mechanisms to discuss topics such as salaries. Trade union representatives overall regretted that the level of the minimum wage was below what would be needed to meet living costs.

Social partners also felt that they had not been properly involved in the preparation of the Slovak **national recovery and resilience plan** (NRRP). However, one participant appreciated that the government had organised informal consultations of the social partners (including minority organisations) during the COVID-19 crisis, while regretting, however, that such exchanges had not been replicated.

## 2. Freedom of association and assembly

One participant considered that **freedom of association** was well established in legal terms in Slovakia. However, this participant believed that access to funding for CSOs was very difficult at national level, as most of such available funding was project-based only. It was also felt that the process of allocating resources raised questions in terms of the criteria used in decision-making by the ministerial committees and potential conflict of interest.

Another participant mentioned the growing **pressure** on civil society organisations dealing with sensitive topics and playing a watchdog role. This trend had developed in recent years in the context of a polarisation of discussions on social media, and of the spreading of anti-civil society narratives. It was felt that the authorities' approach towards CSOs was based not on hostility but rather on a lack of understanding of how to collaborate with them. It was also felt that, despite the authorities' appreciation of the role played by civil society as service providers in addressing the consequences of the war in Ukraine, their roles as watchdogs or contributors to public debate was much less recognised. It was noted that the President of the Republic had a civil society background, which contributed to a more positive impression of civil society.

One participant felt that, in the same way as freedom of association, **freedom of assembly** was well established in Slovakia. Both freedoms were among the liberties gained following the revolution of 1989 and were therefore treated with caution. However, it was considered that freedom of assembly was disproportionately limited by the emergency decisions taken in the context of the COVID-19 pandemic. The participant considered it discriminatory that religious gatherings could be authorised while other gatherings were not. It was also considered problematic that public gatherings for protests were prohibited and dispersed by the police, while some sports events were authorised. Another participant felt that the quickly changing rules, decided centrally with immediate entry into force, complicated the planning of CSOs' activities.

## 3. Freedom of expression and freedom of the media

Participants considered that the legal protection offered for freedom of expression was good in Slovakia. Journalists could speak freely without censorship, but participants recognised that **self-censorship** on sensitive topics was also on the rise, in a context of polarisation of society which also affected the profession of journalism.

Investigative journalists still faced **pressure and threats**, although not to the extent of assassination as in the case of Ján Kuciak in 2018. A new trial was expected in that case, which was hoped could finally lead to the conviction of the people allegedly responsible for planning and organising the crime. The Slovak authorities explained that they treated media self-regulation and the protection of journalists as a priority. A constitutional act on freedom of the media was under development, which would entail measures in that area and addressed the protection of sources, the right of information, self-regulation for the profession, community media, etc. The passing of such a constitutional act would, however, require a qualified majority of the parliament and therefore a strong general political will which was still to be obtained. The Slovak authorities had also developed a project to train the police and the judiciary to better protect journalists' safety, notably during demonstrations, and against online threats.

Participants in the session on freedom of expression also felt that public trust in mainstream media was decreasing, as illustrated by the fact that more and more people questioned information in recognised media outlets, with reference to conspiracy theories. Participants expressed concerns with regards to measures taken to address **disinformation**, which could affect freedom of expression. It was explained that the law forbidding conspiracy websites had been adopted as a response to the Ukraine war, and had been drafted very quickly without any genuine debate. It was felt that there was no real clarity concerning the exact criteria used to blacklist a website based on disinformation activities. The police had published a list of websites considered to promote disinformation, a method regarded as entailing risks of error in the future.

Participants reflected upon whether a stricter definition of the **profession of journalist** was needed, pointing, on the one hand, to the fact that many propagators of fake news were hidden behind the practical title of "civic journalism", while also seeing a risk in overly strict definitions and distinctions. It was also remarked that disinformation and hate speech (for example against groups such as Roma people) also sometimes stemmed from the mainstream media, in the context of fierce competition for readership which encouraged tabloid-type methods. Support for quality journalism was seen as the best method of addressing such trends.

One participant argued that, while the previous approach to freedom of expression was too loose, as illustrated by the absence of protection offered to journalist Ján Kuciak when he was threatened before his assassination, the current approach was too intrusive. The investigation of content regarded as **extremist** had been entrusted to the national crime agency, which was considered too high a level, especially as it made it act on many misdemeanours or verbal abuse, including jokes.

Some participants appreciated the pluralistic aspect of the procedure for electing the director of **public TV and radio**, as several candidates had appeared at the hearings before the verification committee. However, other participants expressed their reservations with regards to that process, as they considered that it had resulted from the decision of the prevailing political majority through a vote in parliament. Another threat to the independence of the public broadcaster was the multiplication of short-term contracts for employees, which could allow the management to get rid of journalists distancing themselves from the company line. Overall, the working conditions of journalists had worsened in recent years and private, freelance, or public media journalists benefitted from various levels of protection. The Slovak authorities announced that the new director of the public broadcaster would soon be in place, which would represent an opportunity to address issues such as the prevalence of short-term contracts for staff. They also acknowledged the challenge of under-financing of public broadcasting.

Participants considered that the reform of the **Press Code** in 2019 mostly benefitted politicians rather than journalists, whose proposals were largely ignored. A source of concern was the amendments that granted politicians an extensive right of reply on any type of content entailing allegedly false statements of fact. It was feared that this provision, which stemmed from a wish by the former Prime Minister to tone down media monitoring of political life, could lead to similar abuses as in the 1990s, when some politicians managed to eliminate certain media through court decisions based on libel. The Slovak authorities considered that the present form of right of reply did not in fact represent a real risk for media because practice had shown that they had not been overwhelmed with such submissions.

Concerning the question of **media diversity**, some participants feared that Slovakia could follow a similar trend to its neighbours, that is to say a tendency for politicians to own or control media both at national and local level, in order to ensure self-promotion, particularly around elections. External influence over media was not limited to political influence in the strict sense, and the example was given of organised crime having sought to infiltrate journalist organisations. Russian influence was also proven, as in the case of an attempt to bribe a conspiracist journalist which pre-dated the war in Ukraine. Concerning the plurality of the media, the Slovak authorities spoke about recent legislation that would increase the transparency of media ownership and financing.

#### **4. The right to non-discrimination**

It was explained that action in the area of anti-discrimination was based upon the **Anti-Discrimination Act** and that the Slovak National Centre for Human Rights assessed individual cases based on legislation, providing legal aid and representing victims in court. The Slovak authorities explained that the Slovak National Centre for Human Rights had recently benefitted from an increase in funding and staffing.

Participants felt that **access to funding** for CSOs working in fields such as discrimination or anti-extremism (e.g. remembrance of the Holocaust) was insufficient, and they explained that, in their case, most of their funding came from the EU or European States. On their side, the Slovak authorities explained that several schemes were available for CSOs, including on topics such as LGBTIQ people and gender. Specific funds were, for example, available to assist victims of crimes, which were particularly relevant for LGBTIQ CSOs.

Concerning **LGBTIQ rights**, participants regretted the absence of a legal recognition of same sex couples and their families, which had consequences on daily life, for example concerning heritage. They appreciated that LGBTIQ Pride demonstrations gathering thousands of people could generally take place without major incidents, and with the support of the Bratislava and Košice municipalities. However, there were also instances of aggressive counter-demonstrations. Participants also underlined that there was no legal recognition of the gender of transgender people without forced sterilisation and that there was a lack of medical and psychological support for transgender people in transition. There were also examples of verbal attacks on transgender people by politicians. Participants pointed to draft legislation proposed in the parliament to ban rainbow flags on state-owned buildings. Concerning the absence of same-sex partnerships, the Slovak authorities pointed to the possibility to grant rights to LGBTIQ people in the wider context of future legislation that would increase the rights of unmarried couples in areas such as inheritance or access to healthcare. They also pointed out that the Ministry of Health had worked on a possible easing of the change of sex on the ID cards of transgender persons, but that there had been no political will in the parliament to move the matters forward.

Participants appreciated that relevant CSOs had the opportunity to comment on the national action plan for the development of quality of life for **persons with disabilities**, which was under preparation. They also appreciated positive developments such as the fact that building certification now included criteria on accessibility. However, they pointed to a number of long-term challenges, such as the fact that social facilities for people with disabilities were not legally regulated, which did not help

investigations in the event of human rights infringements. There was also only a very partial acceptance of people with disabilities in the domain of employment and inadequate access to buildings was still widespread.

Participants also pointed to the question of participation in public life, appreciating the possibility now offered for people with disabilities to have a personal assistant in the voting station, but regretting that postal voting was not used as a solution to facilitate their voting rights.

Participants explained that the Constitution offered overall protection to people without a **religion**, which represented up to a third of the population of the country. However, they regretted that no specific legislation was in place to offer better funding and access to public media to organisations proposing a humanistic spiritual vision. They felt that the imbalance was too large between the treatment of registered churches, which legally received hundreds of millions of euros of public funding, and CSOs working on non-religious humanistic grounds, which mostly had to fund themselves. They also underlined the strong influence of the Church on political and social life, and on the teaching curricula. On that last point, the Slovak authorities clarified that pupils were offered a choice between religious and humanistic ethical teaching at the beginning of each school year.

Participants appreciated that some progress concerning **gender** issues had been made under the previous government, giving the example of the setting-up of parental leave for men. However, they regretted that a gender equality scheme had been set aside by the current Ministry of Labour, Social Affairs and Family and that cooperation on gender issues was very difficult. For example, it was indicated that the Ministry would not consider a CSO-led gender audit of public service. It was also explained that access to pre-school was extremely difficult because of the limited number of places and the high cost of private pre-schooling, which placed the family-related burden on women. The Slovak authorities explained that the Ministry of Labour, Social Affairs and Family was providing funding on gender issues and that action plans had been put in place concerning equality between women and men and the elimination of gender-based violence. An action plan on the employment of women was under preparation, which would increase childcare opportunities and educational opportunities in fields such as allowing women to gain skills adapted to the current labour market.

Participants considered that discrimination against **Roma people** was deeply rooted in socio-economic marginalisation. There had been legislative efforts to address the situation but the segregation of Roma pupils was for example still a harsh reality – Roma children being generally placed in special schools along with children with mental disabilities. It was explained that the authorities had only recently presented official excuses for the unlawful sterilisation of Roma women during the communist period, and that a compensation scheme was being put in place – which the Slovak authorities confirmed. The authorities also explained that upcoming legislation on pre-schooling should be an important way of addressing the above-mentioned school segregation.

Participants explained that the public perception of **asylum-seekers** from Ukraine was positive, which did not prevent cases of discrimination happening at the border, notably against Roma and transgender asylum-seekers, who had apparently been refused access to transport and accommodation. Transgender persons had issues with crossing the border because of the gender reference on their passport. In comparison with the general openness towards Ukrainian asylum-seekers, the 2015-2016 arrivals from outside the EU had been faced with negative narratives, including islamophobia. It was

also mentioned that the authorities at the time had also sought to select asylum-seekers, in order to accept only Christians.

## 5. The rule of law

Participants recognised that the institutional **rule of law framework** was firmly in place, while they pointed to a political culture which leaned towards a preference for direct and vertical ways of decision-making. They felt that the participation of civil society, including the social partners, was considered a necessary evil by authorities rather than offering a genuine added value for law-making. Participants also felt that the authorities had an excessively shallow approach to the rule of law mechanism exercise led by the European Commission, not taking proactive measures based on yearly reporting. They therefore appreciated that the European Commission Rule of Law Report would this year entail country-specific recommendations, which they hoped would help civil society in its watchdog role.

Participants appreciated the work of the institution of the **Public Defender of Rights**. However, they regretted a lack of political will to ensure that the vacant position be filled as soon as possible. The institution had also been the object of overtly critical verbal attacks by some politicians. While the Commissioner for children had recently been set up, it was remarked that the leadership positions of other regulatory bodies, such as the Data Protection Authority, had remained vacant for months. Participants supported appointment processes grounded in expertise rather than politics and they recommended ensuring that selection proceedings for the leadership of public regulatory bodies be more transparent, through public hearings involving a special committee open to CSOs – as was the case for the public procurement office.

One participant underlined progress made by the authorities in the area of **corruption**, with an increase of cases brought to court, including concerning high profile officials, which was a significant positive development. The participant also believed that the overall situation of the judiciary had stopped deteriorating, although important challenges remained.

According to participants, a major issue affecting the rule of law in Slovakia was the **length of judicial proceedings**. This represented most of the cases concerning Slovakia at the European Court of Human Rights. A participant remarked that the EU Justice Scoreboard put Slovakia on top of the clearance rate (meaning that the judicial system managed to close more cases than opened), but that this contradicted a general feeling of permanent backlog in the judiciary. Under-staffing and the lack of internal control mechanisms were presented as key reasons for that situation.

Participants considered that the **training of law enforcement bodies**, notably the police and the judiciary, should be improved with regards to human rights and discrimination. It was felt that judges in particular showed a lack of concrete understanding of what discrimination was, which prevented the identification and resolution of cases in that area, for example concerning women. The number of cases of discrimination taken up by courts was considered minimal. Participants also called for more human rights training in the education sector for teachers. The Slovak authorities explained that training was available in the judiciary on topics such as victims' rights, notably with the aim of preventing secondary victimisation, and family law, also including intra-family violence.

Participants regretted that law-making during the COVID-19 pandemic had been marked by unpredictable, contradictory, and non-transparent rules. A participant explained that only half of the laws passed under the **accelerated legislative procedure** were actually linked to the pandemic. The topic was also brought up in the session on the rights of social partners, where a participant explained that the practice had remained, seemingly to become the norm rather than the exception, resulting in the bypassing of the consultation of civil society, including the social partners. Another participant considered that such a development was one of the main rule of law challenges in the country, and called for a strict limitation of that accelerated legislative procedure to the original criteria for its use, that is to say, extraordinary crises, threats to fundamental rights, and grave economic situations.

Participants appreciated that an independent office for the protection of **whistle-blowers** had recently been put in place, but they also pointed to a lack of awareness-raising and encouragement to make use of this option, notably in public institutions. The Slovak authorities underlined that the national law on whistle-blowers pre-dated the EU directive, which explained why some minor gaps still existed in the legislation, which would soon be addressed by legislation to fully implement the directive.

END





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