



FUNDAMENTAL RIGHTS
AND THE RULE OF LAW

Authorities' observations on the report on the visit to Slovakia

7-8 July 2022



European Economic
and Social Committee

1. On fundamental rights of social partners

The amount of minimum wage is based on an agreement between unions and employers. If they do not agree in the relevant time on the amount of the minimum wage, the amount should be negotiated at the meeting of the Economic and Social Council of the Slovak Republic. If an agreement is not reached at this meeting, the amount is determined by law (57% of the average wage calculated for 2 years prior to the year for which the amount of minimum wage is calculated).

The situation of negotiations between the unions and the employers was deadlocked in 2020 and at the tripartite negotiation, the Minister of Labour asked whether and which social partners were still willing to negotiate the amount of the minimum wage. Only the employers showed interest and the unions refused further negotiations and insisted on their proposal of the amount of the minimum wage. Understandably, the Slovak government negotiated only with the employers who expressed an interest in a compromise.

The statement on the weakening of social dialogue is not entirely clear for the following reasons:

- a) The findings presented in the report apply to part of 2020, as for the rest of 2020, 2021 and 2022, the tripartite meetings continued to take place regularly and the tripartite dialogue functions without visible problems.
- b) Supplementing the tripartite with one member on the side of trade unions (on the employers' side there are four entities) could not disrupt the social dialogue, since each side has seven members. The Confederation of Trade Unions of the Slovak Republic (KOZ SR) has six members, and the Common Trade Unions of Slovakia (SOS) has one member in the tripartite. Another union did not even apply to the tripartite (although it exists). Moreover, the Common Trade Unions of Slovakia (SOS) have relevant coverage, e.g. in selected industrial enterprises of the Slovak Republic (e.g. Volkswagen, Jaguar - where their organisations are the dominant majority), and thus it is difficult to talk about any fictitious or government employee unions. From the abovementioned, it may appear that there is a dispute between the main union and the minority union, since some of the members (in some cases also in key companies), transferred to a different union (e.g. in Volkswagen Bratislava, the trade union that belonged to the main trade union lost the majority of members and thus lost its influence).
- c) The creation and any amendments of the Act no. 103/2007 Coll. on tripartite consultations at the national level and on the amendment of certain laws (the Tripartite Act) were strictly based on the ILO's Convention on Tripartite Consultations (no. 144 of 1976). Art. 1 of the Convention states that "In this Convention the term representative organisations means the most representative organisations of employers and workers enjoying the right of freedom of association." The Convention does not use the singular form, but the plural form when referring to representative organisations, and these are the most representative organisations. The Convention does not establish either the number of such organisations or the criterion on the basis of which representativeness will be determined. The Slovak Republic has determined such a criterion as 100 000 members (for a group of employers with at least 100 000 employed employees, for trade unions at least 100 000 employed members). If there

are less than three organisations on one side of the tripartite that meet the given criterion, this side can be supplemented by other entities if they apply. It should be noted that it is much easier for employers to meet the 100 000 employee criterion because it is based on factual status (i.e. number of employees) while in the case of unions the criterion is based also on membership (and interest in membership). From this point of view, we perceived a gradual decline in the membership base.

To sum up, there are four unions on the employers' side, which express different interests from the perspective of different sectors, and thus the discussion is broad-spectrum and balanced (e.g. some proposals in one sector may be problematic in another sector). In this regard, it seemed appropriate to transfer the plurality to the side of the trade unions as well (the Act no. 103/2007 Coll. is from 2007 and follows the previous Act de facto from 1990, the change was made in 2020, i.e. after 30 years and it is also up to the legislator to evaluate whether the tripartite fulfils its purpose).

2. On freedom of expression and freedom of the media

We would like to note that there is no evidence or legal means for state censorship. If the report is referring to coverage of war by the PBS (that government has no direct influence) it should have been stated so.

Furthermore, it is concerning that the report omits or marginalises any positive efforts regarding media pluralism despite the fact that they are made public, and the European Commission was regularly informed about these, including the substantial changes in media legislation that is already in force. Just as an example we would like to point out, introduction of community media, definition of media market, setting up co-regulation mechanism and protection of journalistic sources that is *expressis verbis* enshrined in legislation, which is not a common feature especially in the region.

The same can be said about the Slovak government's initiatives regarding protection of journalists and support for anti-SLAPP legislation (Ministry of Culture and Ministry of Justice) which is not mentioned in the report. In addition, we would like to point out that it was Slovakia that initiated the inclusion of priorities regarding protection of journalists into the Council conclusions during the French Presidency.

We are aware of many deficiencies in the system but would like positives and efforts for positive changes to be reflected as well.

3. The right to non-discrimination

Regarding: "On their side, the Slovak authorities explained that several schemes were available for CSOs, including on topics such as LGBTQI people and gender. Specific funds were, for example, available to assist victims of crimes, which were particularly relevant for LGBTQI CSOs."

We would like to add that just the Ministry of Justice has two grant schemes, not mentioning grant schemes of other ministries and the Minority Culture Fund.

The Ministry of Justice operates grant schemes:

- a) For support and protection of human rights and prevention of all forms of discrimination (from this grant scheme, LGBTQI projects can and usually are supported).
- b) For providing help to victims of crimes (since December 2021, one victim support organisation received accreditation and provides help to a target group of LGBTQI victims of hate crimes, it also received funding for providing help to victims for 2022).

Regarding: "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..." We would like to clarify that the Ministry of Health worked on an amendment of documents that are submitted in the process of change of sex on the ID cards of transgender persons. These documents should not include information on sterilisation thus making the access for legal change of sex easier.

In respect of childcare possibilities, we would like to add that to further improve the work-life balance possibilities in the context of influx of Ukrainian refugees, the Ministry of Labour, Social Affairs and Family has introduced into the Social Services Act the so-called children's groups which allow for the creation of small, flexible childcare arrangements where responsibilities can be shared among multiple parents and are subsidised by the childcare allowance.

4. The rule of law

Regarding: "While the Commissioner for children had recently been set up,..." We would like to clarify that the post of commissioner for children was established in 2015 when the first commissioner was also elected for a term of six years. A new commissioner for children was elected in May 2022. Under the Act no. 176/2015 Coll., the term of the previous commissioner is extended until a new commissioner is elected.

In respect of judicial matters, as mentioned during the meeting with the representatives of the EESC FRRL group, the National Council of the Slovak Republic approved in April 2022 the reform of judicial map. The reform is regulated in the Act on new districts and seats of courts (<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/150/20220601>) and in the Act on administrative courts (<https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2022/151/20220601>). They both entered into force on 1 June 2022.

The main goal of the judicial map reform is to create a map of courts that would allow specialisation of judges in different branches of law thus enabling their further training, becoming an expert in one of the branches of law, decisions of higher quality and shortening the length of procedure.

The main changes to the current system are as follows:

1. A new **municipal court Košice** is established from 1 January 2023. The current district courts of Košice I – IV and Košice-okolie will merge into one municipal court which will inherit their agendas, personnel and buildings. The municipal court will have its chairman and vice-chairmen for different branches of law (criminal, civil, commercial and family). The merger of courts and their districts should allow specialisation of judges in different branches of law.

2. **Four new municipal courts in Bratislava** are established from 1 January 2023. The current district courts will transform into four new municipal courts. These municipal courts will be specialised in different branches of law and receive cases based on their causal competence - Bratislava I for criminal law, Bratislava II for family law, Bratislava III for commercial law and Bratislava IV for civil law. The current Bratislava V district court will merge into the new municipal Bratislava IV court. The municipal courts will be responsible for all cases in Bratislava region.
 3. The rest of the Slovak Republic will **be divided into 32 judicial districts, and 32 district courts** will be established from 1 January 2023. Compared to the current situation, districts of the courts will be bigger and the new courts will have more personnel and judges thus allowing their specialisation.
 4. **The number of regional courts will remain the same** – eight. The regional courts in Bratislava, Banská Bystrica and Košice will cover commercial law cases, the regional courts in Trnava, Žilina and Prešov will cover family law cases. All regional courts will continue to cover civil and criminal law cases. Administrative law cases will be covered by new administrative courts.
 5. **Three new administrative courts** are established from 1 January 2023. They will be in Bratislava, Banská Bystrica and Košice.
 6. The reform also covers the **possibility for online hearings, travelling of judges** to the place of former seat of district courts, changes of relevant legislation on competences of courts and where to submit a claim.
-



European Economic and Social Committee

Rue Belliard/Belliardstraat 99
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Published by: "Visits and Publications" Unit
EESC-2022-79-EN

www.eesc.europa.eu



© European Union, 2022

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of the photos/illustrations, permission must be sought directly from the copyright holders.



Publications Office
of the European Union



Print
QE-03-22-219-EN-C
ISBN 978-92-830-5814-4
doi:10.2864/832005

Online
QE-03-22-219-EN-N
ISBN 978-92-830-5812-0
doi:10.2864/74452

EN