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MISSION REPORT

following the LIBE ad hoc delegation to Slovenia, Ljubljana, 13-15 October 2021

Committee on Civil Liberties, Justice and Home Affairs

Members of the mission:

Sophia in 't Veld	(Renew) (Leader of the mission)
Tineke Strik	(Verts/ALE)
Nicolaus Fest	(ID)
Konstantinos Arvanitis	(The Left)
Assita Kanko	(ECR)
Romana Tomc	(PPE)
Cyrus Engerer	(S&D)
Mikuláš Peksa	(Verts/ALE)

Introduction/ Summary of the mission

The delegation of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) to Slovenia was initiated upon recommendation of the Committee's Monitoring Group on Democracy, Rule of Law and Fundamental Rights (DRFMG). Since the beginning of 2021, the Group held two meetings dedicated to the situation in Slovenia, in particular as regards the situation of media freedom, ownership and pluralism, and the state of the judiciary system in Slovenia. These meetings involved exchanges with representatives of the European Commission on the first Commission's Rule of Law report and its specific country chapter, with journalists, representatives of the media and experts in this field, as well as with representatives of the Government that addressed also an invitation for a mission visit.

The objective of LIBE mission was to take stock of the latest developments in the country as regards the situation of the rule of law, media freedom and the fight against corruption, and to continue the discussions held in the LIBE-DRFMG remote meetings in 2021, around the situation of the rule of law and fundamental rights, including media freedom and pluralism, and the state of the judiciary system in Slovenia. Seven Members from the LIBE Committee and one Member from the Budgetary Control Committee (CONT) took part in this mission.

During their two-day visit, Members met with representatives of non-governmental organisations and journalists, as well as with representatives of academia, the President of the Court of Auditors Tomaž Vesel, the President of the Constitutional Court Rajko Knez, the Supreme State Prosecutor Mirjam Kline, the Data Protection Commissioner Mojca Prelesnik, the Chief Commissioner of the Commission for the Prevention of Corruption Robert Šumi, and the Human Rights Ombudsman Peter Svetina. They also exchanged with representatives of the Ministry of Justice and the Prime Minister's office, after the Prime Minister himself, and the Minister of Culture and of Justice refused to meet with the European Parliament Delegation.

Summary account of meetings

The Head of the delegation opened all meetings by recalling the objective of the *ad hoc* delegation, i.e. to assess the situation of the rule of law, media freedom and the fight against corruption in the country, as part of a long-term and continuous monitoring exercise.

Wednesday, 13 October 2021

15:30 – 17:00 Meeting with NGOs (NGOs active in the field of the protection of Rule of Law and/or with a general mandate)

The Members of the delegation had an exchange of views with:

- The Peace Institute, Iztok Šori, Director
- CNVOS, Goran Forbici, Director
- Amnesty International Slovenia, Nataša Posel, Director
- The Legal Network for the Protection of Democracy, Katarina Strnad Bervar

- Infokolpa, Miha Turk
- Civilna iniciativa Ilirska Bistrica, Borut Rojc

In the exchange, the NGO representatives presented the current challenges encountered in their working environment in Slovenia, and underlined in particular the following issues:

- The unprecedented attacks, in the form of public denigration campaigns from representatives of the government, directed at NGOs working on different issues: fundamental rights, environment or cultural issues;
- The shrinking of available public funding and public infrastructure for NGOs: with proposed cuts in the funding of cultural events, discontinued funding for migration NGOs and related activities, and attempts to block access to EEA grants for NGOs;
- Similar attacks against other independent institutions and critical voices in Slovenia (such as the Information Commissioner, the Court of Auditors, the media), in an attempt to undermine institutions and control mechanisms on which the rule of law is based,
- A constant very hateful rhetoric in media, and journalists, notably by government officials against independent, government-critical, media;
- Attempts by government to erode the Slovenian Press Agency, notably by withholding funding;
- The lack of efficient mechanism or legal avenues for addressing breaches of fundamental rights, as the Human Rights Ombudsman can only bring a complaint before the Constitutional Court, where proceedings are very long;
- The excessive use of governmental decrees since the beginning of the pandemic, often not published in the Official Journal and with no parliamentary scrutiny, for matters not related to the pandemic situation; and the fact that decrees can only be challenged before the Constitutional Court, which faces an important backlog;
- The situation of the Roma community living in settlements with no access to water, and sometimes no electricity;
- The systemic denial of the right to asylum, with more than 28 000 people expelled since 2018, mostly to Croatia where they face push backs to Bosnia and Herzegovina; one participant was subject twice to criminal prosecutions for offering free legal aid to foreign asylum seekers;
- One participant emphasised the multiplication of controversial incidents such as damage to property in the regions of transit for migrants, and stressed that insecurity was growing in these regions.

In the following exchange, Members raised questions relating to the EU funds involved in financing cultural activities, the role of the national Human Rights Ombudsman, whether the attacks against media were isolated incidents or more systematic. The question of non-compliance with court's decisions was raised, as well as the use of guidelines on the use of force by the police in reference to police violence during protests. One Member stressed that the protests were violent, and noted the good records in the last index of sustainability for civil society in Slovenia. Particularly, the Member pointed out that revenues of civil society organisations increased in 2020 compared to 2019, and that the government implemented several supportive measures such as the partial reimbursement of fixed costs.

In his exchange with the Members, the President of the Court of Auditors referred to the intention of the Government not to finance the public space which is leading to its systematic erosion and of imminent bankruptcy as in the case of the Slovenian Press Agency, which has led him and the heads of other independent institutions to issue a public statement on the need to preserve the independence of institutions as enshrined in the Slovenian Constitution. Mr Vesel noted the government attacked him practically when the Court of Auditors started its official audit to look into government procurement of protective equipment during the pandemic. He stressed the complexity of that particular audit, which exposed irregular procedures, and suspected potential links to criminal offences. This audit was well received by the general and specialised public in Slovenia. The President of the Court of Auditors also faced criminal charges, filed by the Committee on Home Affairs of the National Assembly - which were later dismissed by the court.

Mr Vesel stressed he was still able to conduct his work independently, but noted that the attacks directed at him personally also have an impact on the independence of the institution he represents, as it led in practice to discrediting the findings of the Court of Auditors even before it concluded its work. He underlined that despite the erosion of confidence in public institutions, the institutions nevertheless function properly.

He further clarified his previous role with the FIFA Commission, at the request of one Member, noting that his appointment in the team which conducted an audit had been made in full conformity with the law, and that he declared all income generated by this activity and paid the due taxes.

The Members of the delegation had an exchange of views with:

- Marko Milosavljević, Professor of journalism and media policy at the University of Ljubljana
- Žiga Turk, Professor at the University of Ljubljana ¹
- Matej Avbelj, Professor of European Law at the New University, Ljubljana

In this exchange, some professors stressed that Slovenia is a young democracy, still suffering from the long-lasting effects of its former totalitarian system. In their view, pluralism in the private and public sectors, the media and civil society, was still problematic in Slovenia with constant attempts to preserve the status quo. Some stressed that the government had no real influence on media or civil society, as they consider that large majority of media allegedly sides with the political opposition. All pointed at the extreme polarisation in the public debate as one of the core issues. One professor noted that the media in Slovenia is facing a number of problems, with a complex history involving a variety of stakeholders; therefore, the claim that the previous regime maintained its monopoly over the entire sector was rather simplistic. He raised the issue of hate speech online, sexist hate tweets against political opponents or anyone

¹ Former Minister of Science, Education, Culture and Sports during 2011 -2013.

with an opposing view, noting that the situation had dramatically deteriorated in the recent past.

Members questioned the relevance of the reference to the past communist heritage to address the issues currently at stake in the country; the question was raised as to whether the government should not safeguard the public space for freedom of opinion. Members asked about the situation of the public news press agency (STA) on the verge of collapsing due to lack of public funding, as well as about the alleged increase of Hungarian funded news platforms in Slovenia, which would promote an anti-migrants, and anti-EU rhetoric.

One participant stressed that the majority of media owners were well known, considering they are not professional media investors as such, but rather investors who see media as an additional industry or a source of political influence. He further noted that there are a number of Hungarian-owned media outlets, which entered on the Slovenian market in the last few years. Another noted the intolerance towards the new government started even before it was formed; he underlined that most mainstream media were against the current government and reiterated that hateful messages were coming from both sides of the political spectrum.

18.45 - 19.45 Meeting with the President of the Constitutional Court, Rajko Knez

The President of the Constitutional Court noted that while its decisions are sometimes criticised, the Constitutional Court was independent and autonomous. He pointed at the impossibility, over the past year, to have a majority vote in Parliament to replace one constitutional judge, whose term was expired.

He noted that it was very important for the composition of the Court that this constitutional judge would still be conducting the work, as over sixty per cent of the judges had been replaced when he was elected President. In order for a new judge to be nominated an absolute majority of 47 votes is needed in Parliament. The President of the Constitutional Court noted that this procedure bears the risk of losing potentially good candidates, as the uncertainty of the vote in Parliament is not attractive for them. This could become an issue as Slovenia is a small country and it may become more and more difficult to find good candidates.

In answer to a question relating to access to justice, Mr Knez indicated that everybody can submit an issue to the Constitutional court and request a review of the constitutionality of a legislation. He confirmed the record number of cases brought before the Constitutional Court.

Members asked about the Constitutional Court decision on collective expulsion of migrants, which was never complied with, and how the government could comply with the Court's decision. The President of the Constitutional Court noted that there was a constitutional complaint currently relating to this issue, on which a decision was expected shortly. He stressed that two years ago, the Court rejected part of the Legislative Act on Foreigners, on whether the potential return of foreigners should be carried out in line with ECHR standards.

Asked about the primacy of EU law, the President of the Constitutional Court noted that it was never put in question by Slovenian Courts, which are bound by Article 3 a of the Constitution.

Mr Knez noted that on average, 10 Constitutional Court's decisions per year are not implemented in the requested timeframe; last year the number went from 10 to 20, with some decisions relating to anti-corona measures.

With regard to the complaints brought to the Constitutional Court in relation to certain Covid measures, the Court ruled on 150 out of 772 cases brought, among which three cases (with 6 associated cases) were declared unconstitutional, either for a breach of the principle of proportionality, or for a lack of legal basis. The President of the Court stressed that many other cases were still pending and could fit into the same box, as many governmental decrees are problematic as they lack a clear legal basis. If no attempt is made to implement the decisions, the Court can repeal articles or the entire act. The President pointed out that no *lex specialis* for covid measures had been introduced.

He noted that the Court's decisions are often criticised in social and traditional media, stressing that some of the criticism would cross the line. The approach is to provide argumentation and explanation of their decisions, not to respond to this criticism, adding that it still takes place within the boundaries of what he and his colleagues can accept.

Thursday, 14 October 2021

08.30 - 11:00 Meeting with journalists and press freedom organisations:

The Members of the delegation had an exchange of views with:

- Petra Lesjak Tušek, President of the Slovenian Association of Journalists
- Barbara Štrukelj, Editor-in-chief, Slovenian Press Agency (STA)
- Lenart J. Kučič, Investigative journalist, Pod črto
- Primož Cirman, journalist, Necenzurirano
- Rok Čakš, journalist, Domovina.je
- Jože Možina, investigative journalist RTVSLO
- AKOS - The Agency for communication Networks and Services of the Republic of Slovenia - Tanja Muha, Director and Tomaž Gorjanc, Head of the sector for media regulation

The meeting with the journalists focused on the situation of media and of journalists in Slovenia, and the situation of the STA in the context of the delaying of its funds by the government. The intervenants concurred that the Slovenia media was polarised left/right, and that the existing legislation on media should have been updated to allow for an enhanced transparency with regards to media financing, and to ensure safeguards against political interference in media. They deplored the attacks on journalists, the hate speech and the misuse of social platforms, especially by government representatives against journalists.

Most of the questions focused on the government delaying the STA financing even in spite of the recent Supreme Court ruling, media concentration, and the (mis)use of social media.

The replies pointed to the fact that the Slovenian media market was rather small, and therefore public funding was very important; state advertisement was always a significant part of income, thus exposing media to constant attempts of political interference and manipulations.

Specifically on the STA, most of the interlocutors considered that further delays in financing would threaten not only its autonomy (guaranteed by the STA law of 2011) but also its presence in the Slovenian media landscape due to imminent bankruptcy risk. The agency suffered significant damage as journalists started to quit due to the financial uncertainty. They

emphasised the need for the government to observe the recent Supreme court ruling and to release the funds immediately without further conditions (the latest being the conclusion of a new public service agreement between the government and the STA under questionable conditions).

AKOS - The Agency for communication Networks and Services of the Republic of Slovenia, clarified its competencies in the area of electronic media. Following several questions raised by the members of the delegation on media concentration in Slovenia, it was explained that AKOS had no possibility to assess it. AKOS competence was limited to an intervention as part of the procedure of acquisition of 20% of the shares of a media outlet. AKOS would also provide an opinion in case of mergers to the Ministry of Culture, but has no possibility to assess media concentration. The Ministry of Culture holds all information about media ownership, but in terms of real supervision of the financing of media, data is scattered with several Ministries having some competences linked to supervision (including Ministry of Finance and the Ministry of Social Affairs). The proposed new Act on Audiovisual Services envisaged an article on media concentration, and should bring an increase transparency into this area, but it is not clear when/if that act were to be adopted. The AKOS representatives also underlined that data on advertising revenue and financing of media outlets is often missing, and that more transparency would be needed in this regard.

11.15 - 12.00 Meeting with Mirjam Kline, Supreme State Prosecutor, Former President of the Association of Public Prosecutors of Slovenia

Ms Kline referred to the delay in the appointment of the Slovenian EPPO delegated prosecutors, considering that the overall situation induced mistrust in the State Prosecutor Office. She explained that the procedure for the selection was followed. The government refused to appoint them on grounds that the procedure did not require that applicants speak two foreign languages, and that there should be three candidates per place. She reminded that the government did not have any reservation when the procedure was launched, and that knowledge of foreign language was not a criterion because the two delegated prosecutors should work in Slovenian. She recalled that the administrative Court confirmed that the selection procedure was legal, thus the government should complete the procedure and appoint the EPPO delegates, and no further calls for applications are valid. Replying to question, Ms Kline said that the number of pending cases to be handled by the EPPO delegated prosecutors ranged between 25 to 30, and even if she could not assess fully the potential damage to the EU budget she noted that the total value of the eight cases sent to the EPPO so far was more than 5 million euros.

She noted that the situation of the national prosecutors was not particularly positive either, with 15 state prosecutors selected and waiting to be appointed. Out of 258 prosecutors' posts, only 206 are currently occupied. Prosecutors were under increased pressure due to increase workload and the fact that posts are not filled on time is extremely problematic. To questions about the capacity of the institution to conduct its work independently, Ms Kline stressed that the State Prosecution Service Act, in its articles 16 and 17 clearly ensure that the government cannot interfere in the selection of prosecutors but only appoints the selected candidates. She expressed strong reservations about intended amendments to the Act on the organisation and work of the police that would allow the police to direct the prosecutors in their criminal investigations, a dangerous path to take, as normally this should be the other way around.

12.00 - 12.45

Meeting with Mojca Prelesnik, Data Protection Commissioner

The mandate of the Information Commissioner in Slovenia is two-fold: it is an appeal body as regard access to public information and data protection, and an inspection body on the implementation of the Data Protection Act. Ms Prelesnik noted an increase in the number of cases due to the non-response /inadequate responses to requests by public authorities in the past years.

The number of cases related to the anti-corona measures are also on the rise. The high number of governmental decrees (more than 2000 adopted so far) to deal with coronavirus measures raises concerns as regards the lack of scrutiny and the absence of sunset clause. The proportionality of these acts also needed to be assessed and ensured, to safeguard data protection. The Information Officer referred to one current case brought to the Constitutional Court concerning the use of the COVID application, for which there is no proper legal basis according to her. She stressed that the use of decrees did not imply per se an increase in the collection of personal data, as any legislative or secondary act introduces a new collection of data. The main issue was that a decree could not be a legal basis for regulating in this area. Unlike for legislative acts, on which the Information Commissioner can issue opinions, her role in relation to decrees is limited, as there is no mandatory consultation. She did not observe a systematic infringement as regards access to information or data protection, but as regards data protection, the problem was that it should be regulated by parliamentary acts. She noted that Slovenia was the only Member State not having implemented the GDPR.

A question was asked concerning the fines issued to people taking part in the protests, without any prior notification. Ms Prelesnik noted that she was competent to check the use of biometric control and noted the application used was not problematic per se, but that according to the legislation in force it should be used only in relation to investigations linked to criminal charges. In reply to a question concerning her investigative power, the Commissioner stressed that her office issued many opinions, and turned to the Ombudsman to address constitutional issues before the Constitutional Court.

In relation to the open letter Ms Prelesnik co-signed with the President of the Court of Auditors, expressing concerns about government pressure on independent institutions, she explained that she had never experienced so much personal defamation and insults, and did not think any Data Protection Commissioner was ever exposed to such level of smearing in the public sphere. She voiced her regret that after the publication of the open letter, the situation did not improve; instead, the annual report of the Data Protection Commissioner was rejected by the competent Parliamentary Committee in the National Assembly, with one MP asking for her resignation.

Ms Prelesnik pointed at the daily personal attacks coming from the highest level in government, also through pro-government media, publishing insulting statements about her role as DPO, with a chilling and delegitimizing effect on the institution she represented.

15.15 - 16.15 Meeting with State Secretary Zlatko Ratej on behalf of Marjan Dikaučič, Minister of Justice and Katja Triller Vrtovec, State Secretary in the Prime Minister's Office

In his introductory remarks, the Justice State Secretary stressed that the Slovenian Presidency was putting a lot of emphasis on the Rule of Law, as one of the key pillars of democracy. He mentioned the successful reduction of court's backlogs, therefore reducing the length of court's proceedings, as well as the need to make judicial systems accessible for all, including children. He noted the Ministry of Justice was in the final stage of establishing contact points for the Citizens, Equality, Rights and Values Programme, and welcomed the increased funding for this programme, triggering many applications from civil society organisations.

Members raised questions relating to the implementation of judgments, concerning the STA funding, the prohibition of collective expulsions and the appointment of the EPPO delegated prosecutors. Members also highlighted the recurrent attacks on social media platforms against journalists or other public figures issuing critical voices and asked what the Ministry of Justice could do about it. Other questions related to the deterioration of media freedom and pluralism outlined in the Commission's Rule of Law report for 2021, the government stance concerning the non-funding of the STA, the understaffing and workload of State Prosecutors and the current practise of governing by decree. Concerning the non-appointment of the EPPO delegated prosecutors, Members underlined that other Member States went through difficult appointments and that the situation in Slovenia started to look as obstruction, requiring a swift solution, especially at a time when the EU was about to disburse considerable amounts to Slovenia through the Resilience and Recovery Facility. The question of the upcoming hearings in the Council on the Article 7 procedures against Poland and Hungary was also raised, as well as the question of potential conflict of interests for the Minister of Justice, who is currently under prosecution.

In his reply, the Justice State Secretary noted that a free and pluralist media was the basis of democratic debate, therefore stressing that maintaining the independence of STA was crucial, and that laws had to be respected. He further said that the supervisory body of the news agency should also act responsibly, and stressed that the Ministry of Justice was not directly responsible for this question. He referred to a draft recast of the State Prosecutor Act, to accelerate the appointments of the remaining State Prosecutors. On the appointment of the EPPO delegated prosecutors, he stated that it was in the interest of the Ministry of Justice to conclude this process as soon as possible so that Slovenia can become an active member of EPPO. The Justice State Secretary confirmed the increase of attacks and direct threats towards politicians and those with different views, and an increase in the use of social media where inappropriate communication replaces appropriate communication. He stressed the need to fight against hate speech, hate crimes and the spread of intolerant content on the web. On the implementation of court rulings, the Ministry of Justice State Secretary noted that the role of the Justice Ministry was quite limited.

On the issue of the non-appointment of State Prosecutors², the State Secretary of the Prime

² Article 71 (č) of the State Prosecution Service Act (ZDT-1) states that the State Prosecutorial Council makes a list with 3 candidates for the position of the European prosecutor from Slovenia. In our case this position is currently filled by Jaka Brezigar - <https://www.eppo.europa.eu/en/slovenia>.

However, Article 71 (d) of the State Prosecution Service Act (ZDT-1) which describes the procedure for the

Minister's Office indicated that the State Prosecution Office functioned well, and quoted the Council of Europe's findings, showing that the average number of public prosecutors in the Member States was lower than in Slovenia.

As regards the EPPO appointment, she noted that other Member States did not participate in the EPPO and could surely ensure the protection of EU funds; Slovenia wants to join the EPPO but must do so in accordance with national legislation. She indicated that 3000 cases had already been opened by the EPPO, which was already facing a significant backlog.

The Chair indicated that questions would be addressed in writing to the Minister of Justice and the Prime Minister's cabinet, and the State Secretaries agreed to follow up in writing.

17.00 -18.00 Meeting with Robert Šumi, Chief Commissioner, Commission for the Prevention of Corruption

Mr. Šumi presented briefly the commission, which had 42 officials and was expected to have ten new posts in 2022. He estimated that the number of posts would be enough for the current workload although during the Covid pandemics the number of cases increased significantly - 728 recorded in 2021 only. Replying to questions as to reasons of the significant increase, he considered that it was triggered both by the change in government and by the Covid crisis. However, he argued that the quality rather than the quantity of cases was important. He also added that the number of submissions against members of the government in office was not necessarily higher than the similar submissions against members of the previous governments. He confirmed that the investigation into the acquisition of medical protective equipment showed several transparency related concerns with certain companies being favoured by the others, but noted that there some of them could be due to the need to react fast under those extreme circumstances. Similar problems have been encountered in this area elsewhere in EU as well. He explained though, that the public procurement was not regulated sufficiently in Slovenia to ensure a fair and transparent level playing field. (e.g. no inspection body exists). Replying to questions on the whistle-blowers rules in Slovenia, he noted that even if the rules existed, in practice the whistle-blowers would not be fully protected, and therefore many are reluctant to agree that their submissions be forwarded to the competent authorities mostly because they feared that their identity would be revealed. More was to be done to raise awareness about the rules in force in this area.

On GRECO recommendations not being sufficiently implemented, Mr. Šumi considered that in his opinion, the intention to implement them was there, but indeed not done yet. It was difficult to say if this passivity was intended. On his cooperation with the prosecutors and the police, he felt that so far both pursued the investigations, but indeed if the prosecutors were to lack staff and take time to react, it would become difficult to raise awareness about integrity.

He acknowledged that he was subject to constant media attacks, regardless of the outcome of the investigations, and he continued to investigate the cases submitted and to inform the public

delegated prosecutors does not fix a number of candidates which the State Prosecutorial Council has to propose. It does not say that the number of candidates should be equal or bigger than that of available places. It says that the State Prosecutorial Council prepares the proposal and then sends it to the ministry of justice and the government to take note of it.

about their outcome. He admitted that their work naturally causes division.

Friday, 15 October 2021

8.15 - 9.00 Meeting with Peter Svetina, Human Rights Ombudsman

In his exchange with the Members, the Ombudsman gave an overview of his role, mandate and working methods, addressing initiatives to the Prime Minister and recommendations to other national bodies. He stressed that with his recommendations and initiatives, he managed to amend problematic decrees within a few weeks, whereas a claim to the Constitutional Court could take up to five years to be concluded.

Asked whether he had any relation to any political party, the Ombudsman stated that he was the only official elected three years ago with 100% support. He said he had not experienced any direct pressure, but acknowledged that political parties tend to put pressure through social media, with critics focused on the person who made the decision rather than on the decision itself. In relation to the letter he co-signed with other representatives of independent institutions, he insisted that the letter was meant as a statement reminding of the need to avoid undue pressure on independent institutions, not pointing in particular at the current government.

Asked about the situation of the Slovenian Press Agency (STA), the Ombudsman stated he called many times on the government to fund the STA in accordance with the applicable law. Members also raised questions about the Constitutional Court ruling of 2019 on illegal pushbacks and the right to asylum, and about the situation of protesters fined without any prior identification or notification.

On the pushback issues, the Ombudsman rejected the claim of some NGOs that he had not been active; he explained that a complaint had been brought against the former Aliens Act in 2017. Concerning the new law adopted by government, the Ombudsman asked the European Commission whether this new Act was in line with European standards, and was still waiting for a reply. He did not want to go to the Constitutional Court due mainly to its growing backlog, but was investigating other avenues. On the right to asylum in general, the Ombudsman referred to several cases where he pointed at breaches of the individual right to asylum. Concerning the fines given in relation to some protests, he noted that the government did not use any kind of facial recognition technology but nevertheless some individuals who did not intend to participate to the protests received fines for being simply in the area of the protest, and that this was not in line with human rights standards.

Concerning the *ad hominem* attacks on Twitter, the Ombudsman noted he decided to quit Twitter as he was facing too many personal attacks, which could ultimately influence his decisions or his mental health.

9.15 - 10.30 Meeting with the Members of the National Assembly of the Republic of Slovenia:

The Members of the delegation had an exchange of views with the following Members of Parliament, both from the government majority and from the opposition:

- Blaž Pavlin, Chair of the Committee on Justice
- Marko Pogačnik, Chair of the Committee on EU Affairs
- Nik Prebil, Deputy Chair of the Committee on EU Affairs
- Violeta Tomić, Chair of the Committee on Culture
- Nataša Sukič, Chair of the Commission for Petitions, Human Rights and Equal Opportunities

The main issues discussed during this session were such as the excessive use of force by the police against protesters in the anti-corona protests, the increasing use of decrees adopted without any parliamentary scrutiny, the withholding of the funding of the Slovenian Press Agency (STA), despite very clear legal provisions in the Anti-Corona legislation and a recent Constitutional Court's ruling, as well as the delayed appointment of the EPPO delegated prosecutors and the increasing attacks against NGOs. One Member of Parliament noted the special attention given by the current government to vulnerable groups, as well as the exceptionally high economic growth and low unemployment rate in Slovenia, while another deplored the unnecessary use of force by police against demonstrators and to which bystanders fell victims as well. Overall, the discussion showed strong polarisation of opinions between political parties in the Parliament.

In the following debate, Members of the delegation pointed at the need to address current challenges beyond the traditional left and right wing divide, such as the , the ruling by decree, the attacks against the media, the Court of Auditors and the Anti-corruption Head, and the revision of the Media Law as well as the need to ensure a peaceful debate

Some Members of Parliament noted that decrees were primarily related to the current pandemic, and stressed that the Constitutional Court had overruled only a few decrees for a lack of sufficient legal basis. They stressed that additional funding was granted to the Anti-corruption Commission, enabling it to conduct its work more efficiently. On the STA funding, it was noted that the proceedings were still pending; on the appointment of the EPPO delegated prosecutors it was stated that the administrative court did not rule on substance but asked the government to initiate a new procedure. One Member also stressed that Slovenia was respecting the rule of law, as a Member of NATO and of the OECD.

Other Members of Parliament noted that if decrees could be used in relation to the pandemic, they could not include, as some did, unrelated provisions (such as the financing of a new private university without any accreditation); they stressed the nomination of the EPPO delegated prosecutors was blocked by the government, which was also responsible for the prospective collapse of the STA.

10.40 - 10.55 Meeting with the President of the National Assembly of the Republic of Slovenia, Igor Zorčič

Members sought the views of Mr Zorčič on the need to govern by decree, the implementation of the Constitutional Court rulings and the impact of the toxic attacks in media on the activity of the independent institutions. Mr Zorčič explained that decrees are a legal instrument, and its use was justified by the Covid pandemics, but indeed probably, a discussion would be needed

about the need to continue using it. He suggested that future amendments to the provisions regulating the use of the decree would be an opportunity to ensure that acts adopted by decrees could be debated in Parliament. He explained that the use of decree by the government was also linked to the fragile majority in the Parliament (the governing coalition itself having only 38 seats out of 90). On the non-enforcement of the Constitutional Court rulings on the withholding of the funding for the national press agency (STA) and the delayed appointment of the EPPO delegated prosecutors, Mr Zorčič replied that a vote of non-confidence in the government would be the step to take, but it had not happened.

11.00 - 11.45 Meeting with the President of the National Council of the Republic of Slovenia, Alojz Kavsca and Bojana Potočan, Member of the National Council

In their exchange, Members asked about the role of the National Council in the adoption of decrees, the views of the National Council concerning the recent ruling of the Polish Constitutional Court on the primacy of EU law, the delayed appointment of the EPPO delegated prosecutors and the STA funding, as well as the recent adoption of a two-year budget.

The representatives of the National Council presented the main features of the National Council's mandate, as the second chamber of the Slovenian Parliament. They explained that the National Council can propose legislation and deliver opinions on all bills, but not on decrees, which are issued by the executive branch to implement laws. The National Council can ask the Constitutional Court to review the constitutionality of legislative acts but not of decrees; it can ask questions but cannot interfere with the executive and judicial levels. The National Council can also exercise a suspensive veto on a legislative act as a whole, but not on a specific provision. The representatives of the National Council highlighted that they had provided a positive opinion on the appointment of the EPPO delegated prosecutors, and that they had called on the STA and the government to resolve their conflict and provide for the appropriate funding of the news agency.

Concerning the Polish ruling on the primacy of EU law, the President of the National Council stated that some questions relating to subsidiarity should be discussed as part of a broader dialogue with all EU Member States, not exclusively in relation to one specific Member State. He noted that a hearing could be organised at the National Council on this issue. In relation to the adoption of a two-year budget before elections, the President of the National Council noted it was not unusual in Slovenia, but rather the practice to prevent a lack of funds during the post-election transition phase. The President finished by expressing his interest in future engagement with the European Parliament.

12.15 - 13.00 Meeting with Andrej Grah Whatmough, General Director, RTV Slovenia

In the exchange with the Members of the delegation, the General Director noted the following:

- The founding law of RTV Slovenia provides for a specific management structure and independent funding of the national RTV;
- As director-general, he has direct competences and was involved in the adoption of guidelines on employees duties when on social media; one of the main current challenges is to protect

journalists from verbal attacks in the public sphere (which RTV did through press communiques);

- In relation to funding, he noted he would strive to rationalise the funding of RTV Slovenia to the best possible extent, and stressed that he managed to keep the loss to 4 million euros (when the forecast was 10 million euros).

Asked to comment on the composition and mandate of the supervisory body, he presented the intertwined competences of the supervisory authority, composed of three bodies: the Workers Council, the Supervisory Board (responsible for financial and operational questions), and the Programming Council. He explained that this intertwining of competences provides for institutional autonomy, since none of the three bodies had an absolute role. He also clarified that the role of the Director General in the content of the programs, was limited to systemic problems linked to the general publishing, and that the Editorial Directors were the ones who had specific competencies in this area.

In the following debate, Members raised questions relating to the appointment of the Members of the Supervisory body by political parties, the inclusion of important topics, such as climate change and digital transition, in the programming, as well as the general director's role in the appointment and dismissal of journalists.

In his replies, the general director stated that he had no power to intervene in the programming decisions, except ex-post; he clarified it was for the Programming Council to identify any discrepancy in the programming. In relation to the ongoing court case brought by the unsuccessful candidate for the post of general director on grounds of lack of managerial experience, he noted that he was appointed in January 2021, after having been a Member and subsequently the Chair of the Supervisory Board since 2015. As to the questions linked to the dismissal of a director, he explained his competence in relation to the appointments and dismissals of employees (the Director general can propose the dismissals or appointments to the Programming Council, and could only act on his own if the Council is unable to meet within 15 days of receiving the proposal, according to Article 16(4) of the Law on Radio television Slovenia). This was the case for the above-mentioned dismissal of the director, as the decision was taken during the summer break, when the Council was unable to convene). Replying to Members, he noted that the 5 representatives of political parties in the Supervisory body were appointed by the National Assembly. He regretted the current situation of the Supervisory board, which was split and had appointed two different Chairs - with a risk to undermine its important oversight role concerning the use of public funds.

14.30 - 15.15

Press conference

The press release issued at the end of the mission is available on the European Parliament website: <https://www.europarl.europa.eu/news/en/press-room/20211011IPR14622/rule-of-law-in-slovenia-meps-conclude-their-first-mission-to-the-country>

Conclusions

As a follow up of this mission, the Members of the delegation reached the following key findings:

The delegation observed that the public institutions overall work well. At the same time, it expressed deep concern over the climate of hostility, distrust and deep polarisation in Slovenia, which eroded trust in and between various public bodies. Members noted that many of the interlocutors expressed concerns or described pressure on public institutions and the media by the government, including by smear campaigns, slander, criminal investigations as well as strategic lawsuits against public participation (SLAPPs). Members underlined that these attempts to discredit or intimidate institutions create a high risk of affecting their authority. They also stressed the importance of the independence of public bodies such the Information Commissioner's Office, Commission for the Prevention of Corruption, Court of Audit and Human Rights Ombudsman, as well as the need for their proper financing. Despite these challenging circumstances, the delegation had the impression that these public institutions were still able to produce tangible results.

At the time of the mission, with regards to the funding of the Slovenian Press Agency (STA), which was found to be under acute financial pressure and in risk of imminent bankruptcy, the delegation called on the government to fully implement the judgement by the Supreme Court, which is the result of the violation by the Slovenian Government to abide to the existing Slovenian legal framework when it comes to fund the Slovenian Press Agency, and take steps to allow its standard operation, including the resumption of financing without further delay³. The independence of the agency without political interference and stable financing is paramount for the public service it provides; and contributes to the plurality of media and information sources in the country, which is fundamental for any healthy democracy. The delegation also expressed concerns about the delays and, in some cases, reluctance to comply with other court rulings and called upon the government to ensure their swift implementation.

The urgent need for legislative reforms, proper implementation and more transparency in many areas, including the media law, the whistle-blower law, as well as the relevant provisions on media concentration, became apparent to the delegation. Members also questioned the ongoing practise of ruling by decree, especially with regard to the necessity and proportionality of such extraordinary measures at the stage of the pandemic at the time of the visit.

Furthermore, the delegation underlined that the delayed appointment of two delegated prosecutors to the European Public Prosecutor's Office (EPPO), as well as a number of public prosecutors in Slovenia, remains a serious concern and a major problem which urgently needs to be addressed. With the delayed appointment of EPPO prosecutors Slovenia is not only in breach of the EPPO Regulation, but could also be putting the integrity of EU budget at risk. The delayed appointment of number of public prosecutors in Slovenia could – if the situation persists or worsens – put at risk effective prosecution of crimes and with that judiciary, and undermining public trust in it.

The delegation finally expressed its regrets that neither the President of the Government of the Republic of Slovenia, nor any of his Ministers were available for a personal exchange of views. Moreover, the President of the Government attacked the mission and its participants in his public statements on social media. This unprecedented attack caused a rebuke by President Sassoli, and EUCO President Michel. Members indicated their intention to continue monitoring

³ After the mission took place, information was made available that the Slovenian Press Agency (STA) has signed an agreement with the country's government communication office which will allow it to access state funding this year;

the developments in Slovenia, and their openness to additional materials that several interlocutors agreed to send, to complement its monitoring activity.

The Delegation concluded in view of the worrying situation that continues monitoring should be needed, including all actions at the disposal of the European Parliament.

Annex I

Committee on Civil Liberties, Justice and Home Affairs (LIBE)

**LIBE ad hoc delegation to Slovenia, Ljubljana
13-15 October 2021**

Programme

Wednesday 13 October 2021

15.30 - 17.00	Meeting with NGOs (e.g NGOs active in the field of the protection of Rule of Law and/or with a general mandate) <ul style="list-style-type: none">• The Peace Institute, Iztok Šori, Director• CNVOS, Goran Forbici, Director• Amnesty International Slovenia, Nataša Posel, Director• The Legal Network for the Protection of Democracy, Katarina Strnad Bervar• Infokolpa, Miha Turk• Civilna iniciativa Ilirska Bistrica, Borut Rojc
17.00 - 17.45	Meeting with the President of the Court of Auditors, Tomaž Vesel
17.45 - 18.45	Meeting with academia <ul style="list-style-type: none">• Marko Milosavljević, Professor of journalism and media policy at the University of Ljubljana• Žiga Turk, Professor at the University of Ljubljana• Matej Avbelj, Professor of European Law at the New University, Ljubljana
18.45 - 19.45	Meeting with the President of the Constitutional Court, Rajko Knez

Thursday 14 October 2021

08.30 - 11:00	Meeting with journalists and press freedom organisations: <ul style="list-style-type: none">• Petra Lesjak Tušek, President of the Slovenian Association of Journalists• Barbara Štrukelj, Editor-in-chief, Slovenian Press Agency (STA)• Lenart J. Kučič, Investigative journalist, Pod črto• Primož Cirman, journalist, Necenzurirano• Rok Čakš, journalist, Domovina.je• Jože Možina, investigative journalist RTVSLO• AKOS - The Agency for communication Networks and Services of the Republic of Slovenia - Tanja Muha, Director and Tomaž Gorjanc, Head of the sector for media regulation
11.15 - 12.00	Meeting with Mirjam Kline, Supreme State Prosecutor, Former President of the Association of Public Prosecutors of Slovenia
12.00 - 12.45	Meeting with Mojca Prelesnik, Data Protection Commissioner
12.45 - 15.15	<i>Lunch/Break</i>
15.15 - 16.15	Meeting with State Secretary Zlatko Ratej on behalf of Marjan Dikaučič, Minister of Justice and Katja Triller Vrtovec, State Secretary in the Prime Minister's Office
16.15 - 17.00	<i>Break</i>
17.00 - 18.00	Meeting with Robert Šumi, Chief Commissioner, Commission for the Prevention of Corruption

15 October 2021

8.15 - 9.00	Meeting with Peter Svetina, Human Rights Ombudsman
9.15 - 10.30	Meeting with the Members of the National Assembly of the Republic of Slovenia: <ul style="list-style-type: none">• Blaž Pavlin, Chair of the Committee on Justice• Marko Pogačnik, Chair of the Committee on EU Affairs• Nik Prebil, Deputy Chair of the Committee on EU Affairs• Violeta Tomić, Chair of the Committee on Culture• Nataša Sukič, Chair of the Commission for Petitions, Human Rights and Equal Opportunities
10.40 - 10.55	Meeting with the President of the National Assembly of the Republic of Slovenia, Igor Zorčič
11.00 - 11.45	Meeting with the President of the National Council of the Republic of Slovenia, Alojz Kavsca and Bojana Potočan, Member of the National Council
12.15 - 13.00	Meeting with Andrej Grah Whatmough, General Director, RTV Slovenia
13.00 - 14.30	<i>Lunch</i>
14.30 - 15.15	<i>Press conference (Head of the delegation)</i>

Annex II

LIBE ad hoc delegation to Slovenia, Ljubljana

13-15 October 2021

List of participants in protocol order

OFFICIAL MEMBERS OF THE EUROPEAN PARLIAMENT

	Name	Group	Full Member/ Substitute	Country
1.	Sophia IN 'T VELD, Chair of the LIBE-DRFMG and of the delegation	Renew	Full Member (LIBE Committee)	Netherlands
2.	Tineke STRIK	Greens/EFA	Full Member (LIBE Committee)	Netherlands
3.	Nicolaus FEST	ID	Full Member (LIBE Committee)	Germany
4.	Konstantinos ARVANITIS	The Left	Full Member (LIBE Committee)	Greece
5.	Assita KANKO	ECR	Full Member (LIBE Committee)	Belgium
6.	Romana TOMC	EPP	Substitute (LIBE Committee)	Slovenia
7.	Cyrus ENGERER	S&D	Substitute (LIBE Committee)	Malta
8.	Mikuláš PEKSA	Greens/EFA	Substitute (CONT Committee)	Czechia