

Franel National contribution to the Fundamental Rights Report 2024

Slovenia

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1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

In Slovenia, setting the maximum retail price of electric energy in July 2022 was among the first measures introduced by the government to reduce the rising costs of living and energy. According to the government, electricity prices on the energy exchanges have been considerably higher than compared to the past, while potential disruptions in the supply of natural gas could lead to a further increase in natural gas prices, and as a result, electricity prices. In addition, prices for households also vary considerably between suppliers, with the difference between the most favourable and the most expensive provider being more than double. In some cases, there was also a noticeable trend for suppliers to introduce more expensive tariffs for new customers, while keeping them lower for old ones. Because of the large differences in prices, suppliers are preparing for possible large influxes of new customers who were previously with more expensive suppliers or with those suppliers who have ceased to operate. For these reasons, the government have set the maximum electricity prices, excluding VAT, for households and for consumption in common areas of multi-apartment buildings and common areas in mixed multi-apartment and commercial buildings as follows: fixed single rate (0.09800 €/kWh), dual tariff rate (higher rate – 0.11800 €/kWh; lower rate – 0.08200 €/kWh). The measure initially captured the period from 1 September 2022 to 31 August 2023.¹ According to the government, when combined with other measures, namely reduced value added tax for electricity (the tax rate was lowered from 22 to 9.5 %),² reduced

¹ Slovenia, The Decree on the determination of electricity prices ([Uredba o določitvi cen električne energije](#)), 14 July, 2022, and subsequent modifications.

² Slovenia, The Act Determining intervention measure in the field of value added tax for mitigating of rising the energy prices ([Zakon o nujnem ukrepu na področju davka na dodano vrednost za omilitev dviga cen energentov](#)), 23 August 2022.

excise duty for 50 %, ³ and halved contributions for supporting production of electricity from high-efficiency cogeneration and from renewable energy sources, ⁴ an average household should be able to lower its annual electricity bill between 15 to 30 % (from € 110 to 334), while annual savings of those with the most expensive supplier could reach 56 % (up to € 1000), taking into account published suppliers' market prices, which should be valid from 1 September 2022. ⁵ In April 2023, the government extended the measure of specified maximum retail electricity price by the end of 2023. ⁶ In October 2023, the government fixed the maximum price of electric energy at the same rate for another year, from 1 January to 31 December 2024. In this period, this price shall apply to 90 % of actual monthly consumption, while to the remaining 10 % of actual monthly consumption contract prices apply. ⁷ In November 2023, the government absolved households of paying contributions for supporting production of electricity from high-efficiency cogeneration and from renewable energy sources. This temporary measure shall apply from 1 November 2023 until the end of 2024. ⁸ According to the government, an average consumer should save around € 76 per year. ⁹

³ Slovenia, The Decree determining the amount of excise duty on energy products and electricity ([Uredba o določitvi zneska trošarine za energente in električno energijo](#)), 21 July 2022, and subsequent modifications.

⁴ Slovenia, The Decree on the method of determining and calculating the contribution for ensuring support for the production of electricity from high-efficiency cogeneration and renewable energy sources ([Uredba o načinu določanja in obračunavanja prispevkov za zagotavljanje podpor proizvodnji električne energije v soproizvodnji z visokim izkoristkom in iz obnovljivih virov energije](#)), 25 November 2021, and subsequent modifications.

⁵ Slovenia, Government of the Republic of Slovenia (*Vlada Republike Slovenije*) (2022), '[8. redna seja Vlade Republike Slovenije](#)', press release, 14 July 2022.

⁶ Slovenia, The Decree on the determination of electricity prices ([Uredba o določitvi cen električne energije](#)), 13 April 2023.

⁷ Slovenia, The Decree on the determination of electricity prices ([Uredba o določitvi cen električne energije](#)), 19 October 2023.

⁸ Slovenia, The Decree amending Decree on the method of determining and calculating the contribution for ensuring support for the production of electricity from high-efficiency cogeneration and renewable energy sources ([Uredba o spremembi Uredbe o načinu določanja in obračunavanja prispevkov za zagotavljanje podpor proizvodnji električne energije v soproizvodnji z visokim izkoristkom in iz obnovljivih virov energije](#)), 16 November 2023.

⁹ Slovenia, Government of the Republic of Slovenia (*Vlada Republike Slovenije*) (2023), '[Znižanje stroškov električne energije za gospodinjske odjemalce](#)', press release, 17 November 2023.

The government, also in July 2022, in order to protect vulnerable groups, set the maximum permitted retail price of gas from gas system for protected customers, as defined in the Gas Supply Act (*Zakon o oskrbi s plini*),¹⁰ including household customers (i.e. a customer who buys gas for their own use in the household) and joint household customers (i.e. end customers who purchases gas for their own use for the purpose of supplying heat to households through individual and common parts of multi-apartment buildings through a common heating device owned or co-owned by these households). The price was set at 0.073 €/kWh, excluding VAT. The measure initially applied to the period from 1 September 2022 to 31 August 2023.¹¹ According to the government calculations, when combined with other measures, namely reduced value added tax for gas (the tax rate was lowered from 22 to 9.5 %),¹² reduced excise duty for 50 %,¹³ an average household customer who buys gas from cheaper suppliers should annually save somewhere from € 90 to 130 (about 10%), while those who have contracts with more expensive suppliers should save from € 170 to 675 (or from 13 to 37 %). The average joint household customer who has a contract with a cheaper supplier should save up to € 210 (10 %), those with contracts with more expensive suppliers will save up to € 1083 (up to 37 %).¹⁴ In April 2023, the government extended the measure by the end of 2023.¹⁵ In October 2023, the government further fixed the maximum price of natural gas from gas system. It set it at 0,05990 €/kWh, excluding VAT. The set price shall apply between 1 January and 30 April 2024, the latter being the planned end of the heating season.¹⁶

¹⁰ Slovenia, The Gas supply act ([Zakon o oskrbi s plini](#)), 15 December 2021, and subsequent modifications.

¹¹ Slovenia, The Decree on setting gas prices from the system ([Uredba o določitvi cen zemeljskega plina iz plinskega sistema](#)), 21 July 2022, and subsequent modifications.

¹² Slovenia, The Act Determining intervention measure in the field of value added tax for mitigating of rising the energy prices ([Zakon o nujnem ukrepu na področju davka na dodano vrednost za omilitev dviqa cen energentov](#)), 23 August 2022.

¹³ Slovenia, The Decree determining the amount of excise duty on energy products and electricity ([Uredba o določitvi zneska trošarine za energente in električno energijo](#)), 21 July 2022, and subsequent modifications.

¹⁴ Slovenia, Government of the Republic of Slovenia (*Vlada Republike Slovenije*) (2022), '[9. redna seja Vlade Republike Slovenije](#)', press release, 14 July 2022.

¹⁵ Slovenia, The Decree on setting gas prices from the system ([Uredba o določitvi cen zemeljskega plina iz plinskega sistema](#)), 13 April 2023.

¹⁶ The Decree on setting gas prices from the system ([Uredba o določitvi cen zemeljskega plina iz plinskega sistema](#)), 19 October 2023.

In January 2023, the government also set the maximum price of the variable part of heat from district heating systems, where heat is delivered to households as an economic public service. The price was set at 98.70 €/MWh and applied to the period from 1 January to 30 April 2023.¹⁷ According to the government, existing analysis shows that there was an increase in the price of heat from some district heating systems in the last two years, and the differences between the distribution systems in Slovenia were very large for various reasons. In some cases, there was a disproportionate increase in the price of heat. According to the government calculations, the set price should lower the heating prices in 18 (of 59) distribution systems across Slovenia, with estimated reduction in revenues for suppliers of about € 2.5 million.¹⁸

In August 2022, the National Assembly of the Republic of Slovenia (*Državni zbor Republike Slovenije*) passed the Act determining temporary measures to remedy the consequences of higher living costs of the most vulnerable population groups (*Zakon o začasnih ukrepih za odpravo posledic druginje za najbolj ranljive skupine prebivalstva*), which set out energy allowance, a one-off cash benefit for recipients of financial social assistance and income support (i.e. permanently unemployable persons, persons permanently incapable of work and unemployed older persons), respectively. The energy allowance was set at € 200 for single persons. Single parent families received additional € 118 for each child or € 59 for each child assigned to joint care, two-parent families received € 314, increased, as above, for € 118 or 59 for each child. Persons in marriage or cohabitation who are without children received € 314. The energy allowance was paid in November 2022 at the latest, or after the issuance of the first decision on financial social assistance or income support, valid at any time in the period from 1 August 2022 to 31 March 2023. In total, 74,552 individuals and families received the benefit in the total value of € 19.4 million. The law further laid down energy allowance for persons with disabilities in the amount of € 200. Similarly, the benefit is paid in November 2022 at the latest, or after the issuance of the relevant decision on the recognition of the status, based on which they were entitled to energy benefit at any time during the period from 1 August 2022 to 31 March 2023. The measure benefited 12,186 persons with disability and was worth € 2,437,200. According to the law, this benefit does not count towards a person's income when they apply for social assistance payment. No compulsory health insurance or income tax shall further be payable on this benefit. Finally, regardless of the relevant provisions of the Exercise of rights from public funds act (*Zakon o uveljavljanju pravic iz javnih sredstev*), no assets

¹⁷ Slovenia, The Decree on setting the price of heat from district heating ([Uredba o oblikovanju cene toplote iz daljinskega ogrevanja](#)), 24 January 2023.

¹⁸ Slovenia, Ministry of Infrastructure (*Ministrstvo za infrastrukturo*), '[Uredba o oblikovanju cene toplote iz daljinskega ogrevanja – predlog za obravnavo](#)', 24 January 2023.

other than savings and securities count towards assessing the material situation of the applicant and persons considered in addition to the applicant. This applied to all application for financial social assistance or income support submitted in the period from 1 October 2022 to 28 February 2023. Financial social assistance or income support granted based on this exception is granted for a certain period of time depending on the circumstances of the applicant, but not beyond 31 March 2023.¹⁹

In September 2022, the National Assembly adopted the Act determining temporary measures to mitigate the impact of the cost-of-living crisis for the beneficiaries of child benefit (*Zakon o začasnih ukrepih za omilitev posledic dražinje za upravičence do otroškega dodatka*). The law set out the so-called dearness allowance for children, paid to families in addition to child benefit. Families with decision on child benefit valid from 1 October to 31 December 2022, as well as foster parents with whom a foster care contract was concluded for at least one day in the mentioned period were eligible for dearness allowance. The benefit was paid in November and December 2022, and in January 2023. Parents in the first income bracket, with up to € 200.78 per person per month, received € 122.79 for each child, while those in the eight income bracket, with between € 914.72 to 1,104.33, received € 21.36 or 24.58 per child, the latter if the child was enrolled in secondary schooling. According to the law, this benefit did not count towards a person's income when they apply for social assistance payment, and no compulsory health insurance or income tax was payable on this benefit. It was also exempt. The allowance was also exempt from enforcement under the law governing enforcement and insurance, from tax enforcement under the law governing tax procedures, and from the bankruptcy estate in bankruptcy proceedings under the law governing financial operations, insolvency proceedings and forced termination.²⁰ The measure, which is according to the government aimed at mitigating the effects of rising

¹⁹ Slovenia, The Act determining temporary measures to remedy the consequences of higher living costs of the most vulnerable population groups ([Zakon o začasnih ukrepih za odpravo posledic dražinje za najbolj ranljive skupine prebivalstva](#)), 31 August 2022. For more information, see also the government web page related to [measures countering price increases aimed at vulnerable groups](#).

²⁰ Slovenia, The Act determining temporary measures to mitigate the impact of the cost-of-living crisis for the beneficiaries of child benefit ([Zakon o začasnih ukrepih za omilitev posledic dražinje za upravičence do otroškega dodatka](#)), 23 September 2022. For more information, see the government web page related to [measures countering price increases aimed at vulnerable groups](#).

costs on children as the most vulnerable population group, is estimated the measure to be worth € 63 million.²¹

In October 2022, the parliament passed the Intervention measures in education act (*Zakon o interventnih ukrepih v vzgoji in izobraževanju*). The law froze the following prices in the school year 2022/2023: the price of break-time snacks in elementary and secondary schools remained the same as in the school year 2021/2022 (€ 0.90 and 2.73, respectively); residence hall fees for students in secondary schools and higher vocational education were kept at January-August 2022 level (€ 239.8); university students staying in subsidised student accommodation pay fees as set at 1 June 2022 (the price depends e.g. of the number of beds and available space in a room; the average price, for example in Ljubljana Student Dormitory (*Študentski dom Ljubljana*) facilities was € 77.25). According to the law, additional funds from the state budget should be available to schools, residence halls and student dormitories for smooth implementation of activities.²² The government estimated that € 18,055,000 should be spent on these measures. According to the government, due to high prices of accommodation and food-related costs, it was necessary to adopt such a law.²³

In November 2022, the parliament adopted the Act determining emergency measures to increase pensioner income and limit the increase of social care fees (*Zakon o nujnih ukrepih za povečanje prihodkov upokojencev in omejitev dviga oskrbnin na področju socialnega varstva*). Recipients of pensions and allowances from disability insurance received their benefits increased by 4.5 % in November and December 2022. In addition, to prevent sudden fee rise in institutional care settings for, respectively, older people and adults with psychosocial and physical disabilities, certain material costs of these facilities in 2023 and certain costs related to workforce from 1 October 2022 to 30 June 2023 were funded from the state budget.²⁴ Estimated costs of these measures for the

²¹ Slovenia, Government of the Republic of Slovenia (*Vlada Republike Slovenije*) (2022), '[Predlog Zakona o začasnih ukrepih za omilitev posledic druginje za upravičence do otroškega dodatka](#)', 15 September 2022.

²² Slovenia, The Intervention measures in education act ([Zakon o interventnih ukrepih v vzgoji in izobraževanju](#)), 6 October 2022.

²³ Slovenia, Government of the Republic of Slovenia (*Vlada Republike Slovenije*) (2022), [Predlog Zakona o interventnih ukrepih v vzgoji in izobraževanju](#), 22 September 2022.

²⁴ Slovenia, The Act determining emergency measures to increase pensioner income and limit the increase of social care fees ([Zakon o nujnih ukrepih za povečanje prihodkov upokojencev in omejitev dviga oskrbnin na področju socialnega varstva](#)), 11 November 2022.

national budget were € 57.2 million, 22 million of which were expected to be allocated for increased pensioners' receipts.²⁵

In general, to provide for uninterrupted functioning of public law entities, including education and social care institutions amid rising costs, including of energy the government set the maximum retail price of electricity, gas and district heating delivered to these institutional settings in 2023. The maximum price of electricity is set as follows: fixed single rate (0,18600 €/kWh), dual tariff rate (higher rate – 0.20700 €/kWh; lower rate – 0.14850 €/kWh).²⁶ The price of gas is set at 0.095 €/kWh,²⁷ while the price of gas required to produce heat is €0.079/kWh.²⁸

Although not a measure specifically tailored to swiftly address the current rising costs of living and energy, but rather a regular development, the yearly adjustment of social benefit payments in accordance with the Act regulating adjustments of transfers to individuals and households in the Republic of Slovenia (*Zakon o usklajevanju transferjev posameznikom in gospodinjstvom v Republiki Sloveniji*) took place in March 2003.²⁹ The adjustment increased the amount of various benefits by 10.3 %, the same as was the increase of consumer prices in 2022 calculated by the Statistical Office of Slovenia. The

²⁵ Slovenia, Government of the Republic of Slovenia (Vlada Republike Slovenije) (2022), [Predlog Zakona o nujnih ukrepih za povečanje prihodkov upokoencev in omejitev dviga oskrbnin na področju socialnega varstva](#), 27 October 2022.

²⁶ Slovenia, The Decree on determining the price of electricity for certain legal entities under public law, for providers of publicly valid education programmes and for providers of social welfare services, social welfare programmes and family support programmes ([Uredba o določitvi cene električne energije za nekatere pravne osebe javnega prava, za izvajalce javno veljavnih programov vzgoje in izobraževanja ter za izvajalce socialno varstvenih storitev, socialnovarstvenih programov in programov v podporo družini](#)), 22 December 2022.

²⁷ Slovenia, The Decree on determining the price of natural gas from the gas system for certain legal entities under public law, for providers of publicly valid education programmes, for providers of social welfare services, social welfare programmes and family support programmes ([Uredba o določitvi cene zemeljskega plina iz plinskega sistema za nekatere pravne osebe javnega prava, za izvajalce javno veljavnih programov vzgoje in izobraževanja, za izvajalce socialno varstvenih storitev, socialnovarstvenih programov in programov v podporo družini](#)), 22 December 2012.

²⁸ Slovenia, The Decree on setting gas prices from the system ([Uredba o določitvi cen zemeljskega plina iz plinskega sistema](#)), 21 July 2022, and subsequent modifications.

²⁹ Slovenia, The Act regulating adjustments of transfers to individuals and households in the Republic of Slovenia (*Zakon o usklajevanju transferjev posameznikom in gospodinjstvom v Republiki Sloveniji*), 26 October 2006, and subsequent modifications.

adjustment applies to e.g. financial social assistance, child benefit, foster care payments, disability allowances and various other benefits.³⁰

In May 2023, in an attempt to deal with the rising food prices, the government adopted the Order on the mandatory regular sending of data on the prices of agricultural products or food products (*Odredba o obveznem rednem pošiljanju podatkov o cenah kmetijskih pridelkov oziroma živilskih proizvodov*). With the measure, the government aims to monitor, analyse and control the price movements of agricultural crops and food products (e.g. wheat, flour, bread, meat, milk, dairy products, eggs, fruit and vegetables). It obliges actors in the agricultural and food industry (i.e. producers, intermediaries, manufacturers and traders) to monthly report to the government about purchase or selling price, quantities purchased or sold and the origin of the relevant items. The measure applies across food supply chain, namely to micro-enterprises (annual turnover between € 250,000 (500,000 initially) to 2,000,000), small enterprises (annual turnover between € 2 million and 10 million), medium-sized enterprises (annual turnover between €10 million and 50 million) and large enterprises (annual turnover of more than €50 million).³¹ The measure should enable the government to seek effective ways to control prices in the food supply chain in an intensive dialogue with key stakeholders in the food industry.³² A similar regulation, applicable from 1 January 2024, was adopted in December 2023.³³ For its biennial report on the social situation in Slovenia, the Social Protection Institute of the Republic of Slovenia (*Inštitut Republike Slovenije za socialno varstvo*) asked in January 2023 six humanitarian and non-governmental organisations about their experiences regarding certain aspects of the

³⁰ Slovenia, The Decision on the adjusted transfers determined in nominal amount and on the percentage of adjustment of other transfers to individuals and households in Republic Slovenia ([Sklep o usklajenih višinah transferjev, ki so določeni v nominalnih zneskih ter o odstotku uskladitve drugih transferjev posameznikom in gospodinjstvom v Republiki Sloveniji](#)), 17 February 2023.

³¹ Slovenia, The Order on the mandatory regular sending of data on the prices of agricultural products or food products ([Odredba o obveznem rednem pošiljanju podatkov o cenah kmetijskih pridelkov oziroma živilskih proizvodov](#)), 31 May 2023, and subsequent modifications.

³² Slovenia, Agency of the Republic of Slovenia for Agricultural Markets and Rural Development (*Agencija Republike Slovenije za kmetijske trge in razvoj podeželja*), Ministry of the Economy, Tourism and Sport (*Ministrstvo za gospodarstvo, turizem in šport*), Ministry of Agriculture, Forestry and Food (*Ministrstvo za kmetijstvo, gozdarstvo in prehrano*) (2023), '[Od 1. julija kontrola cen kmetijskih pridelkov oziroma živilskih proizvodov](#)', press release, 31 May 2023.

³³ Slovenia, The Order on data collection in the food supply chain ([Odredba o zbiranju podatkov v verigi preskrbe s hrano](#)), 21 December 2023.

situation of vulnerable individuals and population groups with whom they came into direct contact or offered them assistance in 2022. Amongst others, the questionnaire asked about the impact of inflation (i.e. rising costs of energy, food and services) on the situation of these persons. The six organisations involved were the Slovenian Association of Friends of Youth (*Zveza prijateljev mladine Slovenije*), Slovene Philanthropy (*Slovenska Filantropija*), Caritas Slovenia (*Slovenska karitas*), Slovenian Red Cross (*Rdeči križ Slovenije*), Slovenian Federation of Pensioners' Organisations (*Zveza društev upokojencev Slovenije*) and the Association for help and self-help of the homeless 'Kings of the streets' (*Društvo za pomoč in samopomoč brezdomcev Kralji ulice*). The majority of respondents believed that price increases affected all social groups, but in their opinion, individuals and families who had already been in vulnerable situations and with low incomes felt them greatly. For example, those 'on the border', namely those who previously somehow managed to get through the month, and those who may have been beneficiaries of NGO assistance years ago but later their situation improved, now found themselves on the brink again or, due to the general cost of living, were again asking for assistance. Persons and families applying for assistance for the first time or again after a long period of time needed a lot of encouragement, information, psychosocial support and counselling. The questionnaire further asked about the effects of government measures adopted to alleviate the deterioration of living condition of affected individuals, namely the previously mentioned energy allowance, dearness allowance for children and temporary derogation of the relevant provisions of the law governing rights from public funds which provided that no assets other than savings and securities count towards assessing the material situation of the applicant for social assistance payment and persons considered in addition to the applicant. In general, the responding organisations welcomed all the mentioned government measures to mitigate the crisis in 2022. They considered any help useful but warned that these measures were one-off or short-term measures, certainly beneficial for overcoming the crisis, but did not represent a long-term solution for the situation of vulnerable individuals. They also maintained that the measures covered the most vulnerable groups of the population, but overlooked, for example, employees who are just above the thresholds for obtaining various rights from public funds, or persons who have high loans, the repayment of which made it very difficult for them to make ends meet.³⁴ The report is yet to be made public.

In their 2023 annual report, covering developments in 2022, the Human Rights Ombudsman (*Varuh človekovih pravic*) reports that they dealt with a complaint regarding the Act determining temporary measures to mitigate the impact of the cost-of-living crisis for the beneficiaries of child benefit. The complainant, an unemployed

³⁴ Information was provided by the Social Protection Institute of the Republic of Slovenia (*Inštitut Republike Slovenije za socialno varstvo*) upon request (email, 18 October 2023).

mother of four aged 15, 18, 20 and 25, all in schooling, argued that the law was unfair schooling children who reached the age of maturity, compared to younger children, including schooling children for no justified reasons. She explained that her family was in the first income bracket but was entitled to the dearness allowance for one child. The Ombudsman also saw no apparent reasons for different treatment of minor and adult pupils and students whose parents were obliged to support them and asked the Ministry of Labour Family, Social Affairs and Equal Opportunities (*Ministrstvo za delo družino, socialne zadeve in enake možnosti*) about the reasons for such differentiation. The ministry explained that according to the Convention on the Rights of the Child, a child means any human being under the age of 18, that children up to the age of 18 enjoy special protection and care under the Constitution, and that the state pays special attention to children. The ministry further informed the Ombudsman that during the period of dearness, socially vulnerable families who were entitled to child benefit were helped with the dearness allowance, and that the child benefits were also intended only for families with children up to 18 years of age. As regards discrimination, the legislature limited the right to a dearness allowance to children up to 18 years of age who are a constitutionally specially protected category. The Ombudsman, however, did not find such reasoning to be very convincing. It in no way addressed the parental duty to support a child up to the age of 26, as derived from Article 183 of the Family Code, from which it also undoubtedly followed that the term child is under certain conditions also used for human beings between the ages of 18 and 26. Thus, the Ombudsperson have not changed the initial position that the actual positions of minor and adult children, whose parents are obliged to support them, were essentially the same as regards effects of rising costs of living, and that the distinction in entitlement to the dearness allowance is only based on the age of the children. They established that regarding this kind of differential treatment, there was also no legitimate goal that should be pursued with such an arrangement. According to the Ombudsman, the drafter of the legislation failed to provide any factual circumstance, or difference between the children, apart from children's age, that would justify differential treatment of their families in terms of entitlement to the dearness allowance.³⁵

Slovenian national equality body, the Advocate of the Principle of Equality (*Zagovornik načela enakosti*) reports that it received no discrimination complaints or requests for counselling in relation to measures mitigating price increases in 2022. In 2023, the body also saw no discrimination complaints in relation to adopted measures but received two requests for counselling, one related to the Act determining temporary measures to remedy the consequences of higher living costs of the most vulnerable population groups and one in relation to the Decree on setting the price of heat from district

³⁵ Varuh človekovih pravic (2023), [Letno poročilo Varuha človekovih pravic Republike Slovenije za leto 2022](#), Ljubljana, Varuh človekovih pravic, pp. 234-237.

heating. In both cases, the Advocate explained the persons concerned that no discrimination took place.³⁶

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

Slovenian authorities do not report adoption of policy documents specifically dealing with the rising costs of living and energy.³⁷ An overview of existing documents, such as, for instance, the Resolution on the national social assistance programme 2022-2030 (*Resolucija o nacionalnem programu socialnega varstva za obdobje 2022–2030*),³⁸ the Action programme for persons with disabilities 2022–2030 (*Akcijski program za invalide 2022–2030*)³⁹ or the National programme of measures of the Government of the Republic of Slovenia for the Roma for the 2021-2030 period (*Nacionalni program ukrepov Vlade Republike Slovenije za Rome za obdobje 2021-2030*) have not been

³⁶ Information was provided by the Advocate of the Principle of Equality (*Zagovornik načela enakosti*) upon request (email, 2 October 2023).

³⁷ Information was submitted, upon request, by e.g. the Ministry of Solidarity-Based Future (*Ministrstvo za solidarno prihodnost*) (email, 12 October 2023), Ministry of Agriculture, Forestry and Food (*Ministrstvo za kmetijstvo, gozdarstvo in prehrano*) (email, 5 October 2023, response dated 29 September 2023), Ministry of the Environment, Climate and Energy (*Ministrstvo za okolje, podnebje in energijo*) (email, 3 October 2023, response dated 2 October 2023), Ministry of Higher Education, Science and Innovation (*Ministrstvo za visoko šolstvo, znanost in inovacije*) (email, 29 September 2023, response dated 27 September 2023), Ministry of Education (*Ministrstvo za vzgojo in izobraževanje*) (email, 28 September 2023) Office of the Government of the Republic of Slovenia for the Support and Integration of Migrants (*Urad Vlade Republike Slovenije za oskrbo in integracijo migrantov*) (email, 29 September 2023) and the Government of the Republic of Slovenia Office for National Minorities (*Urad Vlade Republike Slovenije za narodnosti*) (email, 27 September 2023, response dated 25 September 2023). Ministry of Labour, Family, Social Affairs and Equal Opportunities (*Ministrstvo za delo, družino, socialne zadeve in enake možnosti*) failed to provide information by the time of submission of this report.

³⁸ Slovenia, The Resolution on the national social assistance programme 2022-2030 ([Resolucija o nacionalnem programu socialnega varstva za obdobje 2022–2030](#)), 23 March 2022.

³⁹ Vlada Republike Slovenije (2021), [Akcijski program za invalide 2022–2030](#), Ljubljana, Vlada Republike Slovenije.

subject to specific modifications with a view to the rising costs of living and energy.⁴⁰ One of the most recent document, National action plan of the Republic of Slovenia for the Child Guarantee 2022-2030 (*Nacionalni akcijski načrt Republike Slovenije za jamstvo za otroke 2022–2030*), adopted in April 2023, also include no specific reference to the inflationary pressures and cost-of-living crisis.⁴¹

Table 1 – Promising practice

Promising practice	
Title (original language)	Veriga dobrih ljudi
Title (EN)	Chain of good people
Organisation (original language)	Zveza prijateljev mladine Ljubljana Moste-Polje
Organisation (EN)	Association of friends of youth Ljubljana Moste-Polje
Government / Civil society	civil society
Funding body	donations
Reference (incl. URL, where available)	www.verigadobrihljudi.si/ ; for more information see also the organisation’s activity reports on www.zpmmoste.net/nase-delo/ .
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018 – ongoing
Type of initiative	empowerment programme – assistance to children and families in need
Main target group	children and families
Indicate level of implementation: Local/Regional/National	national

⁴⁰ Vlada Republike Slovenije (2021), [Nacionalni program ukrepov Vlade Republike Slovenije za Rome za obdobje 2021-2030](#), Ljubljana, Vlada Republike Slovenije.

⁴¹ Vlada Republike Slovenije (2023), [Nacionalni akcijski načrt Republike Slovenije za jamstvo za otroke 2022–2030](#), Ljubljana, Vlada Republike Slovenije

Promising practice	
Brief description (max. 1000 chars)	<p>The programme is based on four pillars aimed at assisting families with young children in need and at empowering them to escape from the grip of poverty. The first pillar involves financial and material assistance for settling living expenses and debts, thus preventing execution of enforcement instruments and additional costs. In addition, the programme offers legal assistance to families in need, as financial distress is often associated with legal and bureaucratic procedures, and many people give up on applying for the institutional and financial assistance that is available in Slovenia. This assistance particularly focuses on housing issues and available financial and other assistance from public institutions. The third pillar involves psychosocial assistance and therapeutic support, while the last part of the programme is aimed at strengthening beneficiaries' competences, such as management of financial resources, economic management of the household, parental competences, and digital and functional literacy. In the recent period, more and more working families have been included in the programme. The share of dysfunctional families decreased, while problems of family debts and hardships and housing issues, which were consequences of price increases and raising costs were particularly observed and dealt with, amongst others. Cases of family violence were also observed. The year 2022, the last year for which the data are available, saw 1,307 beneficiaries included in the programme, 720 of whom were children. In total, 2,506 hours of therapy were provided, in 840 cases, legal assistance was offered, while 1,342 packages of material assistance were also delivered.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	<p>In general, any element or pillar on which the programme is based can be separately transferred, but it would be most beneficial if the programme is delivered a whole.</p>
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	<p>The programme is now half a decade old, is well-supported, including by media, and is very visible in public.</p>

Promising practice	
Give reasons why you consider the practice as having concrete measurable impact	The programme delivers concrete help to its beneficiaries. As reported above, the year 2022, the last year for which the data are available, saw 1,307 beneficiaries included in the programme, 720 of whom were children. In total, 2,506 hours of therapy were provided, in 840 cases, legal assistance was offered, while 1,342 packages of material assistance were also delivered.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	The elements of the project are fairly easily transferable to other settings, although it is perhaps the project, as a whole, that could be harder to replicate in other settings.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice	/
Explain, if applicable, how the practice provides for review and assessment	Monitoring of the implementation of the programme and the use of funds is carried out by the programme Monitoring Committee, as well as by monitoring bodies of the Association of friends of youth Ljubljana Moste-Polje.

2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights defenders and journalists	Several stakeholders have indicated an improvement with respect to the general attitude of the new Government, which is in office from 2022, towards the media community and the possibility for media outlets and journalists to work in a less hostile environment. ⁴² However, civil society organisations still reported concerns about the attacks stemming from the political parties owned media. ⁴³ There is a proliferation of

⁴² European Commission (2023), [2023 Rule of Law Report](#), SWD(2023) 824 final, Brussels, 5 July 2023.

⁴³ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>misinformation and slander aimed at discrediting civil society organisations and high-profile individuals who publicly express criticism of certain political views.⁴⁴ The articles in media that are owned by political parties often contain fabricated and false claims, which severely damage the reputation and honour of critical voiced individuals. The attacks also spread via social networks, with prominent political and other representatives of the authorities actively participating in the dissemination of false accusations, which creates an environment where lies and defamatory accusations spread unchecked despite any successful legal action to correct or retract defamatory articles. The Legal Network for the Protection of Democracy (<i>Pravna mreža za varstvo demokracije</i>) offered an example of an article published at a portal “Prava.si” titled “Intelligence tip from abroad: Vuk Ćosić heavily involved in the FOTOPUB affair?! Ćosić's actions defended by the lawyer of the 8. March Institute?!”. The article attacks the artist and activist Vuk Ćosić and implies that he is a sexual predator and uses a highly problematic method of discrediting the target by referring to unverifiable “intelligence tips from abroad”, which practically does not allow for any counter-evidence. The example shows a new way of attacking political and opinion opponents in the media together with extensive sharing of content via online social media services. There have been several attacks on LGBTQI+ community,⁴⁵ e.g. several attacks took place in connection with the Pride Parade in Ljubljana, as well as the Pride Parade in Maribor. Participants in the cultural and political programme of the Pride Parade in Ljubljana were pelted with eggs in Congress Square. One of the perpetrators filmed the event and streamed it on social media, while his supporters applauded him and wrote about the different ways in which</p>

⁴⁴ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023. A similar report was received from the 8th of March Institute (*Inštitut 8. marec*), which mentioned verbal abuse and attack on the director of the Institute on the street and subsequent police intervention and criminal prosecution. Slovenia, The 8th of March Institute (*Inštitut 8. Marec*), correspondence from 21 December 2023.

⁴⁵ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>members of the LGBTQI community could be killed.⁴⁶ In several cases, people who were attacked and intimidated called the police, but the police did not appropriately respond to the violence, even in the cases where officers were standing nearby, only a few metres away.⁴⁷ At the Pride Parade in Maribor, there was also violence that led to police intervention and one person having to seek help at an emergency room.⁴⁸ LGBTQI+ organisations and their venues and LGBTQI+ friendly café <i>Pritličje</i> were also targeted.⁴⁹ Similar intolerance toward LGBTQI+ members was expressed at the LGBTQI+ film festival in Ljubljana, when the Advocate of the Principle of Equality Mr. Lobnik responded to the attack on the LGBTQI+ community at the opening of the festival on 10 December 2023.⁵⁰</p>
<p>Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights</p>	<p>The NGO⁵¹ reported an example of silencing critical voices with SLAPP actions, an example of a businessman Rok Snežič, a financial consultant of the right-wing politicians,⁵² and who served a prison sentence at the same premises and time with the former prime minister,⁵³ has filed 51 criminal cases against journalists of the <i>necenzurano.si</i> portal.</p>

⁴⁶ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023. Slovenia, The 8th of March Institute (*Inštitut 8. marec*), correspondence from 21 December 2023.

⁴⁷ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

⁴⁸ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

⁴⁹ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

⁵⁰ Slovenia, Advocate of the Principle of Equality (*Zagovornik načela enakosti*), correspondence from 20 December 2023.

⁵¹ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023. Slovenia, The 8th of March Institute (*Inštitut 8. marec*), correspondence from 21 December 2023.

⁵² Slovenia, Cirman, P., et al (2020), '*Rok Snežič: Sem svetovalec Janeza Janše*', *Necenzurirano.si*, 15 May 2020.

⁵³ Slovenia, A., Č., et al (2014), '*Janša si zaporniško sobo deli še z dvema obsojencema in tvita*', *RTV Slovenija MMC portal*, 24 June 2014.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
defenders (including SLAPPs - strategic lawsuits against public participation)	<p>One NGO⁵⁴ reported an example of unsubstantiated report of the young members' branch of the right-wing party to the Court of Audit of the Republic of Slovenia (<i>Računsko sodišče RS</i>) due to disagreement with initiating and succeeding with a referendum on the Water Act (<i>Zakon o vodah</i>). The Court of Auditors found no irregularities in the financing of the 8 March Institute's referendum campaign on the Water Act (March 2023), but the attacks on the NGO continued.</p> <p>The Bar Association of Slovenia (<i>Odvetniška zbornica Slovenije</i>) expressed concerns about the SLAPP actions and supports a legal regulation of such abuse of law. SLAPP actions are, the Bar claims, an abuse of the legal system since, through harassment and exhaustion of the defendant, SLAPP actions have a negative impact on the freedom of expression, both of the defendant himself and of civil society.⁵⁵</p> <p>The Ministry of Justice (<i>Ministrstvo za pravosodje RS</i>) considers that unfounded or abusive legal proceedings against public participation are currently a widespread phenomenon⁵⁶ and is considering adopting a new law to implement the proposed Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (SLAPP) (COM(2022) 177 final, from 27 April 2022). The Ministry supports the objectives of the proposed Directive and actively participates in the negotiations. At the Ministry, they believe that the issue of SLAPP actions should be dealt with in a comprehensive manner, and they are therefore looking at the possibility of drafting a new law which would cover both national and cross-border cases and thus also meet the requirements of the Recommendations of the European Commission 2022/758 from 27 April 2022.⁵⁷ A single point of contact is also foreseen to take care of the other elements of the Recommendations, thus ensuring the</p>

⁵⁴ Slovenia, The 8th of March Institute (*Inštitut 8. marec*), correspondence from 21 December 2023.

⁵⁵ Slovenia, The Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), correspondence from 27 September 2023.

⁵⁶ Slovenia, Ministry of Justice of the Republic of Slovenia (*Ministrstvo za pravosodje RS*), correspondence from 27 September 2023.

⁵⁷ Slovenia, Ministry of Justice of the Republic of Slovenia (*Ministrstvo za pravosodje RS*), correspondence from 27 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	implementation of the whole package of proposed legislation. ⁵⁸
Lack of media freedom a/o media pluralism; disinformation (incl. online)	x
Foreign interference	x
Lack of (processes for) transparent, accountable, democratic and pluralistic participation in law and policymaking; incl. access to information	<p>The Bar Association of Slovenia (<i>Odvetniška zbornica Slovenije</i>) reported that they are usually invited by the competent ministries as an expert stakeholder to give its views in legislative proceedings and are thus involved in the process of expert coordination of proposals and amendments to legislation.⁵⁹ However, it is often the case that the Bar Association is not involved in presenting its views in the legislative process and is not specifically informed about the adoption of new legislation even in the regulation of areas where the Bar’s contribution would be meaningful and can contribute to the quality and integrity of regulation. The Bar Association representatives also pointed out to situations where they are formally invited in the legislation process but are given an extremely short (“unrealistic”) time to prepare a response to the voluminous legislative material, with an impression that the aim of such invitations is <i>de facto</i> to evoke the legal profession entirely from participating in the legislative process.</p> <p>Civil society organisations similarly reported on the lack of participation (or an adequate participation process) in law and policy-making.⁶⁰ One aspect of inadequate participation is the fact that a large number of laws are adopted under the abbreviated or urgent procedure when there is no need to do so. This way of adopting laws severely limits the possibility for stakeholders, both extra-parliamentary parties and the</p>

⁵⁸ Slovenia, Ministry of Justice of the Republic of Slovenia (*Ministrstvo za pravosodje RS*), correspondence from 27 September 2023.

⁵⁹ Slovenia, The Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), correspondence from 27 September 2023.

⁶⁰ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>general public, to meaningfully participate in the law and policy-making processes. One example highlighted by CSOs⁶¹ was the adoption of an amendment to the law amending the Financing of Political Parties Act. The parliamentary parties consented to the content of the amendment, but a number of key changes were only introduced by amendments not previously published at the Committee meeting.</p> <p>Another manoeuvre to bypass the rights of the interested general public to participate in the law-making procedures and practised by both the Coalition and the Opposition is to interfere with or amend other laws that are not even the subject of a particular legislative procedure and not the subject of a decision, by means of amendments to the draft law (in the Committee's second reading), which contravenes the Rules of Procedure of the National Assembly (<i>Poslovník državnega zbora</i>).⁶²</p> <p>The concerns of the CSOs pointed to the lack of government transparency. Although the Rules of Procedure of the Government of the Republic of Slovenia (<i>Poslovník vlade RS</i>)⁶³ allow for verbatim notes to be taken at regular government meetings, whether they are transcripts of tape, video or other recordings, since 2015, no tape recordings of government meetings have been made, and since 2016, no recordings of government meetings have been produced. The absence of the existence of the recordings is problematic because it implies, among other things, the absence of individual accountability of decision-makers for specific harmful proposals.⁶⁴</p> <p>Moreover, the newly established Government in office from 2022 has not yet prepared a framework plan on normative activity, which is a document that enables the professional and the general public to plan advocacy activities and enables the Government itself to monitor the implementation of its own plan. This makes it even more difficult for the public to actively</p>

⁶¹ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

⁶² Slovenia, [Rules of Procedure of the National Assembly](#) (*Poslovník državnega zbora*), 19 April 2002.

⁶³ Slovenia, [Rules of Procedure of the Government of the Republic of Slovenia](#) (*Poslovník vlade RS*), 31 May 2001 with subsequent amendments.

⁶⁴ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	participate in the legislative process, as it is impossible to predict what legislation will change in the future. The Ombudsman noted also that a weakness of this and past governments is coordination between government departments, which is reflected in the slow progress in implementing Ombudsman's recommendations. ⁶⁵
Lack of election integrity (incl. electoral process, political campaigning and party financing)	x
Disproportionate use of law enforcement measures (surveillance, police violence, unlawful arrest etc.)	x
Corruption, including misuse of EU funds	x
Lack of (effective judicial protection by) independent and impartial courts	x
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection)	x

⁶⁵ Slovenia, Human Rights Ombudsman (*Varuh človekovih pravic*), Annual Report of the Human Rights Ombudsman for 2022, www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2022/Letno_poroc_ilo_VC_P_RS_za_let_2022.pdf, from May 2023. Similarly, Human Rights Ombudsman (*Varuh človekovih pravic*) in a press release from 11 October 2023: www.varuh-rs.si/sporocila-za-javnost/novica/v-drzavnem-svetu-o-porocilih-institucije-varuha-in-dpm-za-let_2022/

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of parliamentary oversight, lack of implementation of final court decisions by executive, etc.)	x
Other major developments threatening democratic values	<p>Remuneration in judiciary, state prosecution and lawyers affecting the quality of democracy and judicial protection:</p> <p>The level of remuneration of judges and state prosecutors, largely unchanged since 2012, raises concerns. In its decision from June 2023⁶⁶, the Constitutional Court of the Republic of Slovenia (<i>Ustavno sodišče RS</i>) declared the judges' salaries unconstitutional and contrary to the principle of judicial independence due to disrespecting the constitutional requirement of their stability. The Constitutional Court recognised as relevant the imbalance of the salary grades of the judiciary compared to those of the legislative and the executive branches and the delay in judges' salaries increase compared to the increase of the average salary in Slovenia. It found that the current regulation of judges' salaries under the Law on the Public Sector Salary System (<i>Zakon o sistemu plač v javnem sektorju</i>)⁶⁷ is contrary to the Constitution of the Republic of Slovenia (<i>Ustava Republike Slovenije</i>)⁶⁸ and gave Parliament six months to remedy the unconstitutionality. This judgement is in</p>

⁶⁶ Slovenia. Constitutional Court (*Ustavno sodišče*), [Decision no. U-I-772/21](#) (*Sklep št. U-I-479/22*), 1 June 2023.

⁶⁷ Slovenia. [Public Sector Salary System Act](#) (*Zakon o sistemu plač v javnem sektorju*), 7 May 2002 and subsequent modifications.

⁶⁸ Slovenia. [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991 and subsequent modifications.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>line with the previous similar decision from December 2020⁶⁹ in which the Constitutional Court found parts of the Public Finance Act (<i>Zakon o javnih financah</i>)⁷⁰ to be unconstitutional as they lacked safeguards on budgetary autonomy of certain independent bodies, such as the National Council (the second chamber of the Parliament), the Constitutional Court, the Human Rights Ombudsperson and the Court of Audit.</p> <p>The Bar Association of Slovenia (<i>Odvetniška zbornica Slovenije</i>) moreover underlined that evaluating the work of all actors in the justice system is very important since this has an impact on the quality of the services provided in the justice system.⁷¹ From the point of view of protecting the human rights and fundamental freedoms of their parties, the Bar points to the government's reluctance to increase the value of the lawyer's tariff and, furthermore, the fact that lawyers acting on a pro bono or ex officio basis must wait disproportionately long time for payment of legal fees.⁷²</p>

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

Promising legislative measure

Ministry of the Interior (*Ministrstvo za notranje zadeve RS*) ordered protesters and activists to cover the costs of policing unsanctioned events during Covid-19 crisis and the Ministry of Justice (*Ministrstvo za pravosodje RS*) under the new government in office from 2022 aimed to revoke these decisions in 2023. The parliament adopted the

⁶⁹ Slovenia. Constitutional Court (*Ustavno sodišče*), [Decision no. U-I-474/18-17](#) (Sklep št. U-I-474/18-17), 10 December 2020.

⁷⁰ Slovenia. [Public Finance Act](#) (*Zakon o javnih financah*) 16 September 1999 and subsequent modifications.

⁷¹ Slovenia, The Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), correspondence from 27 September 2023.

⁷² Slovenia, The Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), correspondence from 27 September 2023.

Act regulating issues relating to specific offences committed during Covid-19, addressing minor offence proceedings⁷³ that lacked a lawful or constitutional basis.

The Act implements the Constitutional Court decision⁷⁴ from 2021 in which the Court found the Government decrees prohibiting public protests and limiting the total number of participants to 10 persons to severely interfere with the right to freedom of peaceful assembly and annulled them. The Court decided that the measures were not necessary because less intrusive measures exist and that the Government had not ascertained whether such less intrusive measures are sufficient. The Government decrees completely prohibited public protests between 27 February and 17 March and between 1 April and 18 April 2021, and then limited public protests to up to 10 participants between 18 March and 31 March, as well as between 23 April and 14 May 2021. As the Government decrees had, in the meantime, ceased to be in force, the Constitutional Court merely established that they were inconsistent with the Constitution in part prohibiting all public protests or limiting them to a maximum of 10 participants.

The Act regulating issues relating to specific offences committed during Covid-19 provides for suspension of ongoing minor offence proceedings, reimbursement of fines and costs of proceedings paid, and automatic deletion of data from minor offence records. The new law puts an end also to proceedings relating to the performance of work in a general interest (an alternative sanction), proceedings relating to the execution of alternative imprisonment, and proceedings for the compulsory recovery of fines and the costs of criminal proceedings from the period of the Covid-19 epidemic, which were initiated on the basis of legal grounds that have been found to be unconstitutional.⁷⁵

Procedurally, the Act was adopted in September 2023,⁷⁶ then vetoed by the National Council of the Republic of Slovenia (*Državni svet RS*), the upper chamber of the Slovenian Parliament, and then adopted again⁷⁷ in the National Assembly (*Državni zbor RS*) on 18

⁷³ Slovenia, Ministry of Justice (2023), [Act on the regulation of certain issues relating to specific offences committed during the period of validity of the measures to prevent the spread of disease covid-19](#) (*Zakon o ureditvi nekaterih vprašanj v zvezi z določenimi prekrški, storjenimi v času veljavnosti ukrepov zaradi preprečevanja širjenja nalezljive bolezni covid-19*), 20 September 2023.

⁷⁴ Slovenia, Constitutional Court of the Republic of Slovenia (*Ustavno sodišče RS*), [Decision No. U-I-50/21](#) (*Sklep št. U-I-50/21*), from 17 June 2021.

⁷⁵ Ministry of Justice (2023), [‘Zakon o ureditvi vprašanj v zvezi z določenimi prekrški v času covid-19 sprejet v Državnem zboru’](#), 20 September 2023.

⁷⁶ Ministry of Justice (2023), [‘Zakon o ureditvi vprašanj v zvezi z določenimi prekrški v času covid-19 sprejet v Državnem zboru’](#), 20 September 2023.

⁷⁷ National Assembly Republic of Slovenia (2023), [‘786-IX Zakon o ureditvi nekaterih vprašanj v zvezi z določenimi prekrški, storjenimi v času veljavnosti ukrepov zaradi preprečevanja širjenja nalezljive bolezni COVID-19’](#), 5 May 2023.

October 2023.⁷⁸ The vetoers warned that the law was inadequate and inappropriate and that the solutions adopted were a violation of the rule of law and a bad example for the future. They also pointed out that epidemiological measures had to be taken to ensure human health and safety during the epidemic of Covid-19, they recalled.⁷⁹ The parliamentary opposition did not support the law, saying it undermines the rule of law. They also warned that the adoption of a law that interferes with pending criminal or even judicial proceedings could open the door to an avalanche of new requests of this kind.

Promising legislative measure

The Act on the Protection of Whistleblowers (*Zakon o zaščiti prijaviteljev*)⁸⁰ implementing the Directive on the Protection of Persons who Report Breaches of Union Law (Directive (EU) 2019/1937) ('the Whistleblowing Directive') was adopted on 27 January 2023. The Act broadens the scope of protection of whistleblowers and is expected to improve the detection of corruption. The first part of the Act requires taxable persons in the public and private sectors with more than 50 employees to set up reporting channels. Over 2,500 taxable persons will be required to set up an internal reporting channel, while external reporting will be dealt with by the 24 national supervisory authorities under their substantive competence. The second part of the Act prohibits retaliatory measures and regulates safeguards to assist whistleblowers. Whistleblowers will be protected against disclosure of their identity, as well as protection in the event of retaliation. Whistleblowers are thus provided with free legal aid, unemployment benefits, psychological support, judicial protection and interim injunctions in the event of retaliation.⁸¹ The Act aims to strengthen the civil society organisation, since the new regime also brings other innovations, such as that NGOs will be able to obtain the status of public interest organisations under certain conditions.

Potentially restrictive legislative measure

The Human Rights Ombudsman of the Republic of Slovenia (*Varuh človekovih pravic Republike Slovenije*) requested the initiation of the procedure for the review of the

⁷⁸ Tax-Fin-Lex (2023), '[Poslanci ponovno sprejeli zakon o povračilu glob zaradi neustavnih covidnih ukrepov](#)', 18 October 2023.

⁷⁹ National Council (2023), '[Državni svet je na 8. izredni seji sprejel tri predloge odložitnih vetov](#)', 27 September 2023.

⁸⁰ Slovenia, [The Act on the Protection of Whistle-blowers](#) (*Zakon o zaščiti prijaviteljev*), 27 January 2023.

⁸¹ Ministry of Justice (2023), '[Zakon o zaščiti prijaviteljev \(žvižgačev\) sprejet v Državnem zboru](#)', 27 January 2023.

constitutionality of the amended Financial Administration Act⁸² (*Zakon o finančni upravi*) at the Constitutional Court of the Republic of Slovenia (*Ustavno sodišče Republike Slovenije*). According to the newly adopted Article 18a, the Head of the Financial Administration (*Finančna uprava RS*) may use technical means or tracking devices that use the global positioning system (GPS) to collect data on the position and movement of goods. The measure may only be adopted on suspicion that the most serious violations of tax regulations have been committed.

According to the Ombudsman's assessment, such measures may lead to privacy infringements of persons transporting such goods. Prior judicial supervision of the measure is also not envisaged⁸³, and the length of the measure may be indefinite. The proposed amendment would deviate significantly from the arrangement of similar surveillance in other procedures, such as in criminal proceedings.⁸³ The Ombudsman also claims that the possibility of such broad surveillance could contribute to the perception in society that state authorities can monitor individuals in public places, which could also discourage people from exercising their freedom of expression and freedom of assembly and association. The Constitutional Court decided that enforcing the referred article could lead to harmful consequences, i.e. to violations of the Protection of Rights to Privacy and Personality Rights stipulated in Article 35 (*Varstvo pravic zasebnosti in osebnostnih pravic*) and Protection of Personal Data stipulated in Article 38 (*Varstvo osebnih podatkov*) of the Constitution of the Republic of Slovenia (*Ustava Republike Slovenije*)⁸⁴ that would be difficult to remedy. In balancing the harms, the Court decided that the consequences of infringing these rights would be significantly more severe than the consequences of suspending the enforcement of the contested provision. The Court suspended the enforcement of Article 18a of the Financial Administration Act until its final decision.

Promising policy measure:

⁸² Slovenia. [Financial Administration Act](#) (*Zakon o finančni upravi*), 31 March 2014 and subsequent modifications.

⁸³ Slovenia. Constitutional Court of the Republic of Slovenia (*Ustavno sodišče RS*), [Decision No. U-I-33/23-10](#) (*Sklep št. U-I-33/23-10*), 19 April 2023.

⁸⁴ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

Establishment of the Strategic Council on Hate Speech (17 March 2023): the Strategic Council on the Prevention of Hate Speech is established by the Prime Minister.⁸⁵ The Strategic Council is composed of representatives of the relevant ministries and representatives of civil society and the legal experts. The key tasks of the Strategic Council are to monitor hate speech in Slovenia and at EU level and to propose actions to prevent it; to advise on the development of policies, changes to regulations and other measures that will contribute to more effective prevention of hate speech; and to contribute to the development of proposals for systemic changes and a model for a network of campaigns and trainings at both regional and national level. The Advocate of the Principle of Equality, national equality body, was also involved in the Strategic Council. The body reported to the Strategic Council on their work on the prevention of hate speech in Slovenia.⁸⁶

Table 3 – Case law

Case law	
Deciding body (in original language)	Ustavno sodišče Republike Slovenije
Deciding body (in English)	Constitutional Court of the Republic of Slovenia
Case number (also European Case Law Identifier ECLI , where applicable)	U-I-479/22-63 ECLI: SI: USRS:2023:U.I.479.22
Parties	Dr. Peter Gregorčič, president of the RTV Slovenija Programme Council et al.
Decision date	26 May 2023
Web link to the decision (if available)	www.us-rs.si/odlocitev/?q=svoboda+izra%C5%BEanja&caseId=&df=&dt=&af=&at=&pri=1&vd=&vo=&vv=&vs=&ui=&va=&page=1&sort=&order=&id=118960

⁸⁵ Office of the Prime Minister (2023), '[Strateški svet za preprečevanje sovražnega govora](#)', 17 March 2023.

⁸⁶ Slovenia, The Advocate of the Principle of Equality (*Zagovornik načela enakosti RS*), email correspondence from 20 December 2023.

Case law	
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	Article 39 Freedom of expression (<i>Člen 39, Svoboda izražanja</i>) of the Constitution of the Republic of Slovenia (<i>Ustava Republike Slovenije</i>) ⁸⁷
Key facts of the case (max. 250 words)	In December 2022, the Act Amending the Radiotelevizija Slovenija Act (<i>Zakon o spremembah in dopolnitvah Zakona o Radioteleviziji Slovenija</i>) ⁸⁸ entered into force after being confirmed at the referendum held in November 2022. In January 2023, an initiative was launched by the president of the RTV Slovenija Programme Council (<i>Predsednik Programskega sveta RTV Slovenija</i>) ⁸⁹ , who considered the new rules unconstitutional as they would no longer allow Parliament to appoint members of the RTV governing bodies. The Act Amending the Radiotelevizija Slovenija Act replaces the two former governing bodies, the Programme Council and the Supervisory Council, whose majority of members was appointed by Parliament, with a new single Council, which is composed of representatives appointed by the RTV Slovenija staff, independent entities, and civil society organisations. On 16 February 2023, the Constitutional Court of the Republic of Slovenia (<i>Ustavno sodišče Republike Slovenije</i>) temporarily suspended, until the adoption of its final judgment, the implementation of the transitional provisions regulating the setting up of the new governing and management bodies of RTV Slovenija while allowing the continuation of the appointment procedures for the new Council. With a decision cited here, the Constitutional Court lifted the temporary suspension of the transitional provisions and allowed the Act Amending the Radiotelevizija Slovenija Act ⁹⁰ to fully take effect, including the possibility for

⁸⁷ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

⁸⁸ Slovenia, [Act Amending the Radiotelevizija Slovenija Act](#) (*Zakon o spremembah in dopolnitvah Zakona o Radioteleviziji Slovenija*), 27 December 2022.

⁸⁹ Slovenia, Constitutional Court (*Ustavno sodišče*), [Decision No. U-I-479/22](#) (*Sklep št. U-I-479/22*), 1 June 2023.

⁹⁰ Slovenia, [Act Amending the Radiotelevizija Slovenija Act](#) (*Zakon o spremembah in dopolnitvah Zakona o Radioteleviziji Slovenija*), 27 December 2022.

Case law	
	the new RTV Slovenija Council to be established, and, hence, implemented the referendum result.
The key legal question raised by the Court	The Constitutional Court of the Republic of Slovenia considered the possibility of the occurrence of irreparable harm to the institutional independence of RTV Slovenija if, in the course of the constitutional review process of the Act Amending the Radiotelevizija Slovenija Act, it would have assessed that it is inconsistent with the Constitution or in case the Constitutional Court would have to suspend the implementation of the transitional provisions, but then were to find that the Amendment is consistent with the Constitution. ⁹¹
Result of the case in terms of factual outcome and in terms of assessment of the legal question raised	<p>The RTV Slovenija, as a public institution of special cultural and national importance, is obliged to carry out its statutory mission based on the constitutionally protected right to freedom of expression (Article 39 of the Constitution of the Republic of Slovenia),⁹² which is crucial for the existence of democracy. The legislator must ensure the public service media's programmatic, organisational and financial independence. In the (then the newly established) Government's view, supported by several stakeholders, the proposed amended Act depoliticises the relevant governing and management bodies and aims to restore RTV Slovenija's independence from political actors. In particular, the amended Act replaces the two former governing bodies, the Programme Council and the Supervisory Council, whose majority of members was appointed by Parliament, with a new single Council, which is composed of representatives appointed by the RTV Slovenija staff, independent entities, and civil society organisations.⁹³</p> <p>On 16 February 2023, the Constitutional Court temporarily suspended the implementation of the new Act Amending the Radiotelevizija Slovenija Act (with tight majority) but only the transitional provisions which regulate the final constitution of the Council and, consequently, of the other new bodies of RTV Slovenia Article 23 (1) (2) (4) (5) and Articles 24 and 25 of the Act</p>

⁹¹ Slovenia, Constitutional Court (*Ustavno sodišče*), [Decision No. U-I-479/22 \(Sklep št. U-I-479/22\)](#), 1 June 2023.

⁹² Slovenia, [Constitution of the Republic of Slovenia \(Ustava Republike Slovenije\)](#), 23 December 1991, and subsequent modifications.

⁹³ European Commission (2023), [2023 Rule of Law Report](#), SWD(2023) 824 final, Brussels, 5 July 2023.

Case law	
	<p>Amending the Radiotelevizija Slovenija Act.⁹⁴ When deciding on temporary suspension, the Constitutional Court took into account that the final implementation of the new regulation in the event of possible later repeal would cause additional harmful consequences, including consequences for the newly established bodies of RTV Slovenija and the positions of those who would be appointed to them.</p> <p>Two of the nine Constitutional Court judges were excluded from the case. Due to the different views among the remaining seven judges (two of them decided not to vote at all), who are still ruling on the case, none of the discussed substantive decisions received the majority support of five votes. Therefore, on 26 May 2023, the Constitutional Court lifted the temporary suspension of the transitional provisions and allowed the Act Amending the Radiotelevizija Slovenija Act to fully take effect.⁹⁵ On 5 June 2023, the new Council held its first session in which it elected its new president and started the procedure for selecting and appointing the new collective management board. Considering that under this new regulation, the governing and managerial bodies are no longer directly appointed by Parliament, the possibility for any Government, through its parliamentary majority, to exert political influence on RTV Slovenija is expected to be significantly reduced.⁹⁶ The Constitutional Court similarly concluded in its final decision that the previous regulation allowed more political influence on the appointment of the Programme Council members than the new regulation.⁹⁷</p>
Deciding body (in original language)	Vrhovno Sodišče Republike Slovenije
Deciding body (in English)	Supreme Court of the Republic of Slovenia
Case number (also European Case Law Identifier ECLI , where applicable)	I Ips 3531/2019 ECLI:SI:VSRS:2023:I.IPS.3531.2019
Parties	Convicted journalist (Request for protection of legality)

⁹⁴ Slovenia, Constitutional Court (*Ustavno sodišče*), [Decision No. U-I-479/22](#) (*Sklep št. U-I-479/22*), 1 June 2023.

⁹⁵ Slovenia, Constitutional Court (*Ustavno sodišče*), [Decision No. U-I-479/22](#) (*Sklep št. U-I-479/22*), 1 June 2023.

⁹⁶ European Commission (2023), [2023 Rule of Law Report](#), SWD(2023) 824 final, Brussels, 5 July 2023.

⁹⁷ Slovenia, Constitutional Court (*Ustavno sodišče*), [Decision No. U-I-479/22](#) (*Sklep št. U-I-479/22*), 1 June 2023.

Decision date	5 January 2023
Web link to the decision (if available)	www.sodnapraksa.si/?q=297&database[SOVS]=SOVS&submit=i%C5%A1%C4%8Di&order=date&direction=desc&rowsPerPage=20&page=0&id=2015081111469087
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	Article 39 Freedom of expression (<i>Člen 39, Svoboda izražanja</i>) of the Constitution of the Republic of Slovenia (<i>Ustava Republike Slovenije</i>) ⁹⁸
Key facts of the case (max. 250 words)	In 2013, a journalist published several articles in an online medium accusing a (private) prosecutor that the Mayor of the Municipality of Maribor had employed the prosecutor at the municipality without due process; that the prosecutor was in charge of the mayor's shady dealings; that the prosecutor has already been charged once by the police for suspected business fraud, and that the prosecutor was involved in the bribery of the bank (<i>Deželna banka Slovenije</i>) representatives in selling an office building with the mayor. The District Court Slovenj Gradec found the journalist guilty of two offences of defamation under Article 160 (1) and (2) of the Criminal Code (<i>Kazenski zakonik, KZ-1</i>). ⁹⁹ In 2019, the Higher Court Maribor (<i>Višje sodišče Maribor</i>) ¹⁰⁰ partially upheld the defendant's appeal. It reversed the District Court's judgment in the decision on the legal classification by defining the offences as insult under Article 158 (1) of the Criminal Code. The convicted journalist filed a request for protection of legality to the Supreme Court of the Republic of Slovenia (<i>Vrhovno sodišče RS</i>), alleging violations of the substantive criminal law, fundamental breaches of the criminal procedure and violations of Article 22 (Equal Protection of Rights) and Article 39 (Freedom of Expression) of the Constitution of the Republic of Slovenia. ¹⁰¹ The Supreme Court upheld the request for legality protection, overturned the Higher Court Maribor judgment, and remanded the case back to the Higher Court Maribor for a new trial.

⁹⁸ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

⁹⁹ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹⁰⁰ Slovenia, Higher Court Maribor (*Višje sodišče Maribor*), [Judgement II Kp 3531/2019 \(Sodba II Kp 3531/2019\)](#), 13 April 2023.

¹⁰¹ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991.

<p>The key legal question raised by the Court</p>	<p>The offence of defamation under Article 160 (1) of the Criminal Code¹⁰² is committed by a person who alleges or discloses anything about someone which may be prejudicial to that person's honour or reputation; under Article 160 (2), the offence is committed by means of the press, radio, television or any other means of public communication, or at a public meeting. The Article 160 (4) stipulates that the offence is not punishable if the truth of the statement or reasonable grounds to believe in the truth of what was stated or disseminated are proven. However, the offence of insult under Article 158 (1) of the Criminal Code is committed by anyone who insults another person. But, under Article 158 (3), no punishment may be imposed if a person expresses himself or herself in a derogatory manner in a serious piece of criticism or in a journalistic work (and some other cases), provided that the manner of expressing such words or that the other circumstances of the case indicate that the expression was not meant to be derogatory. The applicant pleaded infringement of Article 372 (1) of the Criminal Procedure Act (<i>Zakon o kazenskem postopku, ZKP</i>)¹⁰³ claiming that the description of the acts did not fulfil all the statutory elements of the offence of insult under Article 158 (1) of the Criminal Code¹⁰⁴ or that it was not described that the convicted person had insulted the injured party. The applicant further complained that the Higher Court Maribor had committed an absolute fundamental violation of the provisions of criminal procedure laid down in Article 371 (11) (1) of the Criminal Procedure Act,¹⁰⁵ in that the grounds of the circumstances referred to in Article 158 (3) of the Criminal Code¹⁰⁶ were omitted from the judgment of the Court of First Instance, in so far as the circumstances referred to in Article 158 (3) were not mentioned. According to the Supreme Court the applicant rightly pointed out that a situation in which disputed, true facts or value judgments were given by a journalist in the exercise of his profession as a journalist is governed by the special provision of Article 160 (4) in conjunction with Article</p>
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¹⁰² Slovenia, [Criminal Code](#) (*Kazenski zakonik, KZ-1*), 20 May 2008, and subsequent modifications.

¹⁰³ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku, ZKP*), 29 September 1994, and subsequent modifications.

¹⁰⁴ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹⁰⁵ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

¹⁰⁶ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

	158 (3) of the Criminal Code, ¹⁰⁷ which excludes the unlawfulness of the conduct of a person who makes a derogatory statement about someone in the exercise of his profession as a journalist, provided that it is apparent from the manner of expression or other circumstances that he did not do so with a disparaging intent.
Result of the case in terms of factual outcome and in terms of assessment of the legal question raised	<p>The Supreme Court of the republic of Slovenia (<i>Vrhovno sodišče Republike Slovenije</i>)¹⁰⁸ had held in relation to the Article 158 (3) of the Criminal Code¹⁰⁹ that the non-incrimination of defamatory statements made in the exercise of the journalistic profession is established as a rule which may be derogated from only exceptionally, where it can be proved that the journalist made the defamatory statements with the intention of contempt and not with the intention of exercising the constitutionally guaranteed right to freedom of expression under Article 39 of the Constitution of the Republic of Slovenia.¹¹⁰ Only statements made with the sole intention of disparagement constitute an abuse of the right to freedom of expression and, therefore, do not enjoy protection.</p> <p>The Constitutional Court of the Republic of Slovenia (<i>Ustavno sodišče Republike Slovenije</i>)¹¹¹ already decided that the provision of Article 158 (3) of the Criminal Code¹¹² regulates the conflict between two protected legal values – freedom of expression on the one hand and honour and reputation on the other hand, where freedom of expression constitutes a direct expression of the individual’s personality in society and is a constitutive foundation of a democratic society. Freedom of the press helps create an impartial, informed public, which is why a public and open debate on matters of general interest is an indispensable component of a democratically organised political system (<i>Ustavno sodišče Republike Slovenije</i>).¹¹³ It is also evident from the case-law of the European Court of</p>

¹⁰⁷ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹⁰⁸ Slovenia, Supreme Court of the Republic of Slovenia (*Vrhovno sodišče*), [Judgement I Ips 297/2010](#), 23 June 2011.

¹⁰⁹ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹¹⁰ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

¹¹¹ Slovenia, Constitutional Court of the Republic of Slovenia (*Ustavno sodišče*), [Decision No. U-I-226/95](#), 8 July 1999.

¹¹² Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹¹³ Slovenia, Constitutional Court of the Republic of Slovenia (*Ustavno sodišče*), [Decision No. U-I-172/94](#), 6 October 1994.

Human Rights¹¹⁴ (ECtHR) that freedom of expression is one of the cornerstones of a democratic society and that freedom of the press is one of the essential rights, with the press having a duty to disseminate information in the public interest. The press must not be given excessive responsibilities, which would prevent it from fulfilling its role as a guardian of the public interest, and criminal sanctions should, therefore, only be imposed against journalists in exceptional cases where there is a pressing social need to do so. The press must not overstep the bounds of acting in the public interest. Journalists' statements are protected only if they act in good faith, based on accurate information and when they provide reliable and accurate information according to professional ethics. Reporting intended only to entertain people and sensationalise stories cannot enjoy the same strong protection of freedom of expression as reporting on facts in the public interest.

Where a journalist is alleged to have made a defamatory statement in the exercise of his profession, the court must continually assess, based on the provisions of Article 158 (3) of the Criminal Code,¹¹⁵ whether the conditions for criminalising such conduct are met, i.e. whether the perpetrator acted with a contemptuous intent. The existence of a contemptuous intent is a question of fact to be assessed in the light of the objective and subjective circumstances of a particular case.

In this case, the Higher Court Maribor, having legally reclassified the acts as a criminal insult, should have further assessed whether the conditions for excluding the unlawfulness of such conduct under the provision of Article 158 (3) of the Criminal Code¹¹⁶ were met, taking into account the case-law of the Constitutional Court,¹¹⁷ the Supreme Court¹¹⁸ and the European Court of Human Rights.¹¹⁹

The judgement of the Higher Court Maribor did not assess the defendant's contemptuous intent under Article 158 (3) of the

¹¹⁴ European Court of Human Rights (ECtHR), [Lombardo and Others v. Malta](#), no. 7333/06, 24 April 2007.

¹¹⁵ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹¹⁶ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹¹⁷ Slovenia, Constitutional Court of the Republic of Slovenia (*Ustavno sodišče*), [Decision No. U-I-226/95](#), 8 July 1999.

¹¹⁸ Slovenia, Supreme Court of the Republic of Slovenia (*Vrhovno sodišče*), [Judgement I Ips 297/2010](#) (*Sodba I Ips 297/2010*), 23 June 2011.

¹¹⁹ European Court of Human Rights (ECtHR), [Lombardo and Others v. Malta](#), no. 7333/06, 24 April 2007.

	Criminal Code ¹²⁰ , nor indicate whether there was a sufficient factual basis for the statement. Since the judgment of the Higher Court Maribor, despite the defence's claim that the convicted journalist committed the act in the exercise of his profession, failed to assess the decisive fact, namely whether the convicted person wrote the words in question with the intent to disparage a person according to Article 158(3), the judgment under appeal was tainted by an absolute fundamental violation of the criminal procedure rules as laid down in Article 371 (1) (11) of the Criminal Procedure Act. ¹²¹ The Supreme Court found that the application for protection of legality was well-founded and, per Article 426 (1) Criminal Procedure Act, ¹²² granted it, setting aside the judgment of the Higher Court Maribor and remanding the case back to the Higher Court Maribor for a new trial.
Deciding body (in original language)	Vrhovno Sodišče Republike Slovenije
Deciding body (in English)	Supreme Court of the Republic of Slovenia
Case number (also European Case Law Identifier ECLI , where applicable)	I Ips 42395/2020 ECLI:SI:VSRS:2023:I.IPS.42395.2020
Parties	Convicted person (Request for protection of legality)
Decision date	26 January 2023
Web link to the decision (if available)	www.sodnapraksa.si/?q=odlo%C4%8Dbe%20&submit=i%C5%A1%C4%8Di&order=changeDate&direction=asc&rowsPerPage=20&page=4456&id=2015081111464986
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	Article 39, Freedom of expression (<i>Člen 39, Svoboda izražanja</i>) of the Constitution of the Republic of Slovenia (<i>Ustava Republike Slovenije</i>) ¹²³
Key facts of the case (max. 250 words)	On 1 July 2020, the convict wrote a comment on an open Facebook profile that the prosecutor was an ustasha, i.e. a

¹²⁰ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹²¹ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

¹²² Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

¹²³ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

	<p>member of the Croatian nationalist and fascist movement during WWII.</p> <p>The District Court Murska Sobota found the convicted guilty of the offences of insult under Article 158 (2), in conjunction with Article 158 (1), of the Criminal Code (<i>Kazenski zakonik, KZ-1</i>)¹²⁴ and of defamation under Article 160 (2), in conjunction with Article 160 (1), of the Criminal Code¹²⁵ in a judgment from 29 March 2021.</p> <p>The High Court Maribor (<i>Višje sodišče Maribor</i>)¹²⁶ partially upheld the appeal of the convicted person and amended the judgment of the District Court by acquitting the convicted person of the offence of insult according the Article 358 (1) of the Criminal Procedure Act (<i>Zakon o kazenskem postopku, ZKP</i>).¹²⁷</p> <p>The convicted person filed a request for protection of legality to the Supreme Court (<i>Vrhovno sodišče RS</i>) on the grounds of violation of the criminal law and violation of the Constitution of the Republic of Slovenia, but the Supreme Court dismissed the application for protection of legality as unfounded according to Article 425 of the Criminal Procedure Act.¹²⁸</p>
<p>The key legal question raised by the Court</p>	<p>The post on Facebook was made because the prosecutor, the mayor of a Slovenian municipality, refused to call a referendum on renaming a municipal road. The convict explained that the mayor, with the help of the municipal council, renamed the street even though many citizens opposed it and wanted a referendum, which the mayor tried to prevent. The convict favoured the referendum and claimed and claimed that he made a public statement to protect his legitimate interests and the public interest. As the prosecutor did not want to call a referendum, the convict felt insulted and betrayed and showed disagreement with the contested Facebook post.</p> <p>In his application for protection of legality, the defendant alleged a violation of criminal law, because the act for which</p>

¹²⁴ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹²⁵ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

¹²⁶ Slovenia, Higher Court Maribor (*Višje sodišče Maribor*), [Judgement II Kp 42395/2020](#) (*Sodba II Kp 42395/2020*), 7 September 2021.

¹²⁷ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

¹²⁸ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

	<p>the defendant was prosecuted is not a criminal offence (Article 372 (1) of the Criminal Procedure Act).¹²⁹ The lower court erred in their assessment that on 1 July 2020, the defendant had written the word “Ustasha” in a comment on an open Facebook profile for the purpose of defamation, because the prosecutor could in no way consider the use of that word to be defamatory given his publicly open support of the Ustasha movement and clear advocacy of a revisionist interpretation of the movement, e.g. the prosecutor wrote a book on the Ustasha movement and attended a gathering of the so-called Ustasha a few years ago.</p> <p>The defence also argued that the court should consider the prosecutor’s status, who, as a public figure, must suffer more intense interference with his rights to honour and reputation. In such a case, the limits of the right to freedom of expression must be broader since the prosecutor is a public figure in the executive branch of the local government. The Court should have weighed all the affected constitutional rights, and not unduly prioritise the personality rights (Article 35 of the Constitution)¹³⁰ over the freedom of expression (Article 39 of the Constitution). The defendant claimed that for a criminal offence to be committed the offensive statements should have been particularly coarse, aggressive and insulting, but his were not, and hence the private prosecutor’s action interfered with the defendant’s right to freedom of expression as stipulated in the Constitution¹³¹ and Article 10 of the European Convention on Human Rights.¹³² The defendant concluded he did not act with the derogatory intent and the court should not have convicted him for the offence of Insult according to Article 158(3) of the Criminal Code.¹³³</p>
<p>Result of the case in terms of factual outcome and in terms of assessment of the legal question raised</p>	<p>Freedom of expression is subject to limitations which do not relate to categories of persons (<i>ratione personae limitations</i>) but to exhaustively enumerated legitimate aims (<i>ratione materiae limitations</i>) and are permissible if they are laid down by law; are necessary in a democratic society, and must be directed towards the aims defined in Article 10 of the</p>

¹²⁹ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.

¹³⁰ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

¹³¹ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

¹³² United Nations, [European Convention on Human Rights](#), 10 December 1948, an subsequent modifications.

¹³³ Slovenia, [Criminal Code](#) (*Kazenski zakonik Republike Slovenije*), 20 May 2008, and subsequent modifications.

European Convention on Human Rights.¹³⁴ The exercise of the right to freedom of expression is necessarily linked to duties and responsibilities and may, therefore, be subject to formal conditions, restrictions or penalties imposed by law and which are necessary in a democratic society. Freedom of expression most often comes into conflict with the right to personal dignity and the protection of personality (Articles 34 and 35 of the Constitution of the Republic of Slovenia),¹³⁵ which constitute the foundation and limit of the constitutional protection of honour and reputation. Therefore, in the event of a conflict between two equivalent rights, it is necessary to decide which is more important in a given situation and which needs adequate protection. Whether freedom of expression has crossed the line depends on a number of circumstances. The Constitutional Court of the Republic of Slovenia (*Ustavno sodišče RS*)¹³⁶, taking into account the decisions of the European Court of Human Rights (ECtHR), has determined the limits of the interference with freedom of expression by taking into account the following key criteria: contribution to a debate of general interest; the position of the person to whom the publication relates and the subject matter of the publication; the prior conduct of the person to whom the publication relates, and the content, form and consequences of the publication. Any interference must, therefore, be assessed in the light of the case as a whole, whether it was proportionate to the legitimate aims pursued and whether the reasons given by the national courts to justify the interference are relevant and sufficient.

The Supreme Court of the Republic of Slovenia (*Vrhovno sodišče RS*) had to assess whether the words written by the convicted person were such as to satisfy the required prohibited outcome “to insult” or whether the manner of committing the offence was such as to show contempt, disregard for another person’s dignity, ridicule, attribution of negative character traits, or the expression of a negative value judgement about another. In the Supreme Court’s view, the convicted person’s words were offensive and constituted a negative value judgment about the prosecutor. The words were rude, impolite, and undignified, as they were a blatantly offensive value judgment using offensive adjectives and nouns. Although the elected representatives must suffer more

¹³⁴ United Nations, [European Convention on Human Rights](#), 10 December 1948, and subsequent modifications.

¹³⁵ Slovenia, [Constitution of the Republic of Slovenia](#) (*Ustava Republike Slovenije*), 23 December 1991, and subsequent modifications.

¹³⁶ Slovenia, Constitutional Court of the Republic of Slovenia (*Ustavno sodišče*), [Decision no. Up-614/15](#) (*Sklep Up-614/15*) 21 May 2018.

intense interference with their honour and reputation, the offence of insulting a public figure is only considered to be committed in cases where the perpetrator makes a particularly crude, aggressive or insulting statement about that person. The words in the public Facebook post were not a serious criticism of the prosecutor's conduct as a mayor or merely exaggerated statements in a public political debate with the intention of criticising the work of a public official. From the manner of expression, it was clear that the statements were made solely with the intention of attacking the private prosecutor's personality and express contempt. The Supreme Court of the Republic of Slovenia found that the infringements alleged in the application for protection of legality were not present and, therefore, dismissed it on the basis of Article 425 of the Criminal Procedure Act.¹³⁷

¹³⁷ Slovenia, [Criminal Procedure Act](#) (*Zakon o kazenskem postopku*), 29 September 1994, and subsequent modifications.
