



FUNDAMENTAL RIGHTS  
AND THE RULE OF LAW

## **National developments from a civil society perspective, 2022**

November 2023



European Economic  
and Social Committee

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## Foreword

Dear reader,

Under the motto "*Stand up for democracy, Speak up for Europe*", I have decided to put the defence of democracy, fundamental rights and the rule of law at the centre of my mandate as President of the EESC.

In recent years, our Committee has witnessed serious challenges to democracy, freedom, fundamental rights and the rule of law on our continent.

Civil society has been at the forefront of the efforts to fight these trends, by reporting human rights abuses, advocating for legislative and policy reforms, and providing support to vulnerable groups. Social partners and Civil Society Organisations (CSOs) are the social fabric of Europe, and they play an essential role in forming a bridge between the people and decision-makers.

This report is the outcome of six country visits carried out by the members of the Fundamental Rights and Rule of Law group (FRRL) in 2022. The contributions collected during these visits help us understand the key developments in the area of fundamental rights and the rule of law in the visited countries, but also the daily reality facing civil society actors.

Generally speaking, civil society actors encountered during country visits have expressed a strong demand for better inclusion in decision-making at national and European levels. They have clearly shown that they are counting on the EESC and other EU institutions to provide concrete support to protect them against mounting pressure and attacks, reinforce their capacity to act, and facilitate opportunities to influence the making of public policies.

Building on the work of our FRRL group, we aim to reinforce our action in that direction and invite all actors to join us in that endeavour.

Oliver Röpke  
President of the European Economic and Social Committee

## Introduction

This report provides an overview of the country visits organised by the EESC Fundamental Rights and Rule of Law (FRRL) group in 2022. It deals with six country visits to Greece, Finland, Slovakia, Portugal, Sweden and Slovenia. The report follows the two previous synthesis reports, which covered respectively the first seven country visits in 2018-2019 to Romania, Poland, Hungary, Austria, France, Bulgaria and Italy<sup>1</sup>, and the seven following visits in 2020 and 2021 to Denmark, Germany, Ireland, Czech Republic, Spain, Cyprus and Lithuania<sup>2</sup>.

### *The EESC Group on Fundamental Rights and the Rule of Law*

The FRRL Group was created in 2018 as a horizontal body within the European Economic and Social Committee. It was tasked with enhancing the contribution of organised civil society to strengthening fundamental rights, democracy and the rule of law and responding to the shrinking civic space for civil society organisations. Its work is structured around an approach that covers areas considered particularly important and relevant to the work of the EESC: fundamental rights of social partners, freedom of association and assembly, freedom of expression and freedom of the media, the right to non-discrimination, and the rule of law<sup>3</sup>.

### *This report*

Besides other key activities, such as its work on EESC opinions and organising conferences and hearings, one of the main ways that the FRRL Group implements its mission of outreach to civil society is through country visits to all EU Member States, the first cycle of which will be achieved in early 2024.

For the FRRL Group, 2022 marked the full return of in-person country visits, after two years of challenges and restrictions due to the COVID-19 pandemic, which had led the group to hold some of its visits remotely. FRRL group Members therefore once again had the opportunity for direct exchanges with stakeholders and authorities, which allowed for better communications and greater engagement.

The 2022 country visits followed an established methodology, developed by the FRRL Group over the years: country visits last two consecutive days. A delegation of six Members of the EESC, equally representing the three EESC Groups (employers, workers and civil society organisations), meets with national stakeholders, which include social

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<sup>1</sup> EESC, Fundamental rights and the rule of law - National developments from a civil society perspective, 2018-2019, June 2020, [www.eesc.europa.eu/sites/default/files/files/qe-02-20-156-en-n.pdf](http://www.eesc.europa.eu/sites/default/files/files/qe-02-20-156-en-n.pdf). That report and the following one are available in the languages of the visited countries at <https://www.eesc.europa.eu/en/sections-other-bodies/other/ad-hoc-group-fundamental-rights-and-rule-law>

<sup>2</sup> EESC, Fundamental rights and the rule of law - National developments from a civil society perspective, 2020-2021, September 2022, [https://www.eesc.europa.eu/sites/default/files/files/qe-09-22-459-en-n\\_0.pdf](https://www.eesc.europa.eu/sites/default/files/files/qe-09-22-459-en-n_0.pdf)  
Because of the COVID situation, the visits to Denmark, Germany, Ireland, and Lithuania were virtual visits. The visits to the Czech Republic, Spain and Cyprus took place in person.

<sup>3</sup> For more information on the FRRL Group's work, see its web section: <https://www.eesc.europa.eu/en/sections-other-bodies/other/ad-hoc-group-fundamental-rights-and-rule-law>.

partners, CSO representatives, human rights institutions, media and legal professionals, to discuss the group's five key focus topics in five sessions.

Such discussions take place under the Chatham House Rule, meaning that the FRRL Group uses the information received, but neither the identity nor the affiliation of the participants is revealed in the country visit report arising from the discussions. After the exchanges with civil society organisations, the FRRL Group systematically meets with a delegation of representatives from the authorities to report issues relating to fundamental rights and rule of law in the country, raised during the previous sessions. After the visit, the government of the country visited is granted a right of response ("observations") and these replies are appended to the present report, which we hope can form the basis for dialogue.

As stated in the previous FRRL Group synthesis reports, all the views which form the content of the country reports and this synthesis report are relayed in good faith and do not represent the opinion of the EESC, nor its assessment of a situation. The objective of this report is not to offer legal or scientific evaluations but to convey the perspectives of civil society on trends relating to fundamental rights and the rule of law in Europe. Nothing should be deduced from the choice of the six countries included in this report. The only requirements for considering these countries together are to achieve a geographical balance and to choose from EU Member States that have not already appeared in previous FRRL reports.

While certain phenomena may be country-specific, other trends may be found in multiple countries. Therefore, the observation of a particular trend during a country visit cannot be taken as an indication that it is exclusive to that country. Conversely, if a trend is not mentioned in another country, this does not imply that the phenomenon is absent there. The country reports included here, together with the whole synthesis report, provide an insight into some of the major challenges perceived by civil society in Europe.

In addition to issuing the synthesis report, the FRRL Group has developed other ways to follow up on the country visits. Since June 2021, stakeholders encountered during the visits are invited to provide follow-up contributions through the dedicated page on the FRRL Group section of the EESC website<sup>4</sup>. Some of the national stakeholders encountered during the visits are also invited to the annual conference in autumn, to exchange further with all FRRL Group members. In addition, the next cycle of FRRL country visits will be built on the findings of the country visits held over the previous six years.

The FRRL Group intends to continue engaging with civil society organisations, social partners, authorities and institutions and other actors, at both national and European level, to identify and reflect on emerging trends, offer insights and provide opportunities for dialogue concerning the state of fundamental rights and the rule of law in Europe.

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<sup>4</sup> EESC, Fundamental Rights and the Rule of Law: trends in EU Member States, <https://www.eesc.europa.eu/en/sections-other-bodies/other/group-fundamental-rights-and-rule-law/frri-trends-eu-member-states>

## Fundamental rights of social partners

The session bringing together employers' and workers' representatives allows key issues to be discussed relating to **social partners' fundamental rights**, such as the legal framework for social partners, social dialogue, participation in decision-making and specific situations like the COVID-19 period.

### *Legal framework for social partners*

Social partners brought up the general situation regarding the legal framework applying to them, as well as more specific considerations.

- Participants in the country visits generally considered that the **general protection** offered to social partners was adequate and solid. Participants in *Greece* referred to explicit provisions of the Constitution concerning trade union rights like collective bargaining, freedom of association and the right to strike. In *Portugal*, participants mentioned both national law and the excellent national track record concerning ratification and implementation of the main International Labour (ILO) Conventions. Participants in *Finland* pointed to both a solid framework and a long tradition of tripartite dialogue, and participants in *Sweden* highlighted their national model of social dialogue, combining law with non-interference by the State.
- However, participants also assessed that the **concrete implementation of trade union rights**, like the right to strike, varied according to circumstances. In *Portugal*, some participants believed that there was a gap between the legal framework and the actual protection of trade union rights in companies. Some workers were reluctant to acknowledge their affiliation with a trade union, and pressures on trade unionists to limit strikes were also mentioned. In *Finland*, the right to strike was considered well protected, despite at least one example of an attempt to prevent union action through the threat to resort to temporary workers. In *Sweden*, participants explained that the right to strike would not apply when a collective agreement was in place ["peace obligation"].
- In some sessions, participants underlined actions needed to **ensure the concrete implementation of labour laws** on a daily basis. For example, in *Portugal*, the work of labour inspectors was considered essential in that domain, which called for more human resources. In *Sweden*, participants referred to the role played by regional safety representatives appointed by trade unions to supervise safety measures at different workplaces.

### *Developments in social dialogue*

In most sessions on the rights of social partners, participants pointed to **significant developments in social dialogue** over the recent years.

- In *Slovenia*, it was explained that the **model of collective bargaining** dated back to the 1990s and that the Acts regulating collective agreements and trade union representation needed to be reformed to prevent a potential long-term

weakening of social dialogue. In *Finland*, participants explained that the practice of social dialogue had evolved in recent years – drifting away from collective bargaining at national level towards sectoral or companies' levels. In *Portugal*, some participants pointed to challenges in the area of collective bargaining resulting from an update to the Labour Code in 2003, which had allowed for expirations to be set to previously open-ended agreements.

- In *Slovakia*, participants explained that the **tripartite dialogue** at national level had been suspended for a few months in 2020 after a dispute on the topic of minimum wages – while it continued in a more meaningful way at sectoral and company or administration levels. In *Greece*, social partners regretted their underrepresentation in trilateral social dialogue which, combined with a longstanding practice of submitting collective agreements to arbitration, meant that the authorities de facto had the last word.

### *Participation in legislative processes*

The assessment made by employers' and trade unions' representatives of the **involvement of social partners in legislative processes** varied significantly amongst between the countries visited.

- In *Finland*, social partners appreciated being involved in the **legislative process** from the upstream phase in the form of participation in governmental working groups, and not only on questions concerning labour and social legislation. In *Sweden*, social partners' involvement in the discussion of new legislation via expert groups or consultations with the authorities was considered to be a crucial aspect of the 'Swedish model'.
- In *Portugal*, formal channels for the involvement of social partners existed through the national **Economic and Social Council** and the publication of draft laws in the Labour and Employment Bulletin, but social partners considered that their participation in decision-making still needed to be improved. In *Slovenia*, the national Economic and Social Council also discussed all socio-economic and labour-related draft laws before transmission to the government. However, social partners perceived that social dialogue was treated as a way to inform them rather than as a proper consultation process.

### *Social dialogue as a factor of resilience*

As in the previous cycle of country visits, social partners underlined the importance played by social dialogue in facing **crises** like the COVID-19 pandemic and, in some instances, they regretted that such crises affected social dialogue.

- In *Greece*, participants felt that the consequences of the 2008 **financial crisis and austerity** policies had affected collective bargaining, public consultation, the ability of the social partners to influence political decisions, and democratic processes in general. In their view, the consequences of that crisis had been exacerbated by subsequent crises such as climate change, the reception of asylum seekers and the COVID-19 pandemic. Nonetheless, they also found that social

dialogue had proved useful during the COVID-19 crisis and led to appropriate solutions.

- In *Finland*, participants appreciated that a package to support employment in the context of the **COVID-19 crisis** was negotiated at the beginning of the crisis. Social partners also sought to learn lessons from that crisis to prepare tools to act against possible future crises of various kinds. In *Slovakia*, informal consultations of the social partners existed during the COVID-19 crisis, but were not systematic. In *Portugal*, participants considered that the fact that social dialogue was solid and covered a wide range of issues helped the country through the COVID-19 pandemic. In *Slovenia*, participants believed that the government had used the COVID-19 context as an excuse for accelerated law-making, bypassing meaningful consultations with the social partners. In *Slovakia*, *Slovenia* and *Portugal*, participants considered that they had not been sufficiently involved in the preparation of the National Recovery and Resilience Plan (NRRP).



## Freedom of association and assembly

Participants in the sessions on **freedom of association and assembly** raised topics related to participation in decision-making, the impact of the COVID-19 situation on freedom of assembly, and challenges concerning pressure on CSOs and access to funding.

### *Participation in decision-making*

Participants acknowledged the existence of more or less developed **processes of participation in decision-making** according to the country, and generally called for improvement, notably concerning timing and the possibility of genuinely influencing outcomes.

- In *Finland*, participants considered that CSO consultations ran in a smooth and efficient manner, although some participants had the feeling that the **timing** was sometimes unclear and that the timeframe offered for involvement of civil society had shortened in recent years. In *Greece*, participants acknowledged that public consultation of CSOs existed but they regretted that it was generally too quick to be meaningful.
- In *Portugal*, participants believed that CSO involvement in decision-making still needed to be stepped up despite genuine efforts by the authorities and the existence of the national Economic and Social Council and numerous committees opened to civil society contribution. According to participants, consultations were too often box-ticking exercises, conceived more as a formality than a possibility for participants to meaningfully **influence outcomes**. In *Slovenia*, participants explained that the right to participate in decision-making was guaranteed by law and every draft law had to be subjected to mandatory consultation. The implementation of such requirements had varied with successive governments.

### *Freedom of assembly, including during COVID-19*

Participants generally considered that freedom of assembly was well protected by law, but some also pointed to **concrete challenges** of various importance according to each country's situation.

- In *Greece, Slovakia* and *Slovenia*, participants criticised the **limitations or bans on protests during the COVID-19 period**, as well as the fining or arrests of protestors in that context. Participants pointed to the fact that sport or religious events were often authorised while demonstrations were not.
- In *Greece*, the legislative reform allowing the police to disperse peaceful assemblies on the grounds of an isolated act of violence was also criticised. It was also considered that the **obligatory regime of notification** allowed the authorities to ban assemblies on the basis of broad references to the protection of public order.

- In *Finland*, freedom of assembly was considered well-protected, although it was also felt that the police were sometimes puzzled by **new forms of activism**, such as non-violent disobedience led by climate protesters.

### *Pressure on Civil Society Organisations*

Participants testified regarding **various levels of rising pressure on CSOs** and about the spread of a climate of distrust against CSO activities, especially in some sensitive areas.

- In *Greece*, participants felt that civil society had been impacted by years of austerity measures, which were now combined with the rise of a **suspicious narrative against civil society**, in particular against organisations and individuals working with migrants, including asylum seekers. They pointed to the mandatory registry for CSOs working in the area of asylum and migration, which they felt entailed disproportionate requirements and could lead to deregistration if a deadline in the cumbersome registration procedure was not met. The impossibility for CSOs to refer explicitly to the Turkish and Macedonian minorities was also criticised.
- The gradual **polarisation of public debates** was often pointed to as the general context favouring growing pressure on CSOs dealing with sensitive topics and playing a watchdog role, for example in *Slovakia* and *Portugal*. In *Portugal*, cases of threats against CSO staff members working in areas related to migration, the integration of people with foreign origins and members of the Roma community, were mentioned. Attempts by some political parties to interfere into the CSO environment were also mentioned as a negative development.
- In *Finland*, participants underlined that in their national context, pressure on CSOs did not stem from the authorities but rather from the rise of **hate speech** from far-right groups. Hate speech particularly threatened progressive demonstrators, such as climate activists, ethnic or sexual minorities and women. In *Sweden*, it was considered that hate speech on social media particularly targeted young people, women and persons carrying religious symbols, and could have the effect of turning them away from civic action. In *Slovenia*, it was felt that the impact of verbal attacks and smear campaigns led by populist political forces was particularly important when such forces were in power.

### *Access to funding*

The **apparent growing difficulties for CSOs to access funding** was often presented by participants as the way in which the already mentioned growing climate of mistrust translates into public policy.

- In *Slovenia* and *Sweden*, participants were particularly concerned about the influence of **populist agendas** on the part of certain political forces associated with the government on the availability of funding for civic action.
- In *Greece*, it was believed that the most active and vocal CSOs had particular difficulties in benefiting from public funding. Access to public funding was also considered complicated for small and medium CSOs because of heavy financial

audit requirements. In countries like *Finland* and *Sweden*, where CSOs appreciated benefiting from a strong tradition of public funding, it was also felt that **reporting requirements** were increasingly demanding and sometimes too costly in terms of both time and money.

- Participants on several country visits, such as *Slovakia* and *Finland*, pointed to the risk that the emergence of issues such as COVID-19 and the war in Ukraine could **divert funding channels** from the usual recipients. The challenge for CSOs to keep an independent watchdog role and not be considered mere service providers in the context of public funding was also mentioned, for example in *Portugal*.
- **Other examples of challenges** that were mentioned were the preference of project funding rather than core funding by public funders (for example in *Slovakia*), the competition rather than collaboration created by the scarcity and centralisation of resources available for human rights CSOs (for example in *Portugal*), and the difficulty for some small CSOs working with vulnerable groups to open a bank account (for example in *Sweden*).

## Freedom of expression and freedom of the media

Participants in the session on **freedom of expression and media freedom** discussed the situation of media pluralism, the socio-economic situation of journalists, various forms of distortion of information, and various forms of pressure on journalists.

### *Media pluralism*

Participants generally considered that the regulatory framework for freedom of expression and media freedom was satisfactory, but they pointed to **several concerns in the area of media pluralism**, the economic model for media and the independence of public media.

- In *Slovakia*, the role of the parliament in selecting the director of **public service media** was discussed, as was the question of the influence of the political majority on such a choice. In *Portugal* too, it was considered that the scope of action of the national media regulatory authority was limited by the nomination process of its board, which was *de facto* in the hands of the two main political forces in parliament. In *Sweden*, participants expressed concern over a possible change of stance by the Swedish authorities with regard to freedom of the media, including the guarantees offered to the public service broadcaster.
- In *Greece*, participants regretted a trend towards **concentration of media** under the influence of businesspeople and the wider restructuring of the media sector following the various socioeconomic crises and the digital transformation. In *Slovakia*, some participants feared a tendency for politicians to own or control media at both national and local level in order to ensure self-promotion, particularly around elections. In *Finland*, where the media landscape was considered by participants to be particularly vibrant, it was also considered that the country was not exempt from the general trend towards media concentration, as social media had been pulling advertising revenue away from traditional media. In *Slovenia*, participants remarked that the level of political takeovers of newspapers, pressure on radio, television, and press agencies, and strategic litigation cases against journalists, varied according to what political forces were in power.
- In *Greece*, participants highlighted the **precarious economic situation of media outlets** in the face of the difficulty of accessing regular advertising revenue, which had repercussions on staff economic and labour conditions. Participants discussed the need to explore alternative funding models like grants from foundations supporting investigative journalism, subscriptions, or non-profit status. In *Portugal*, participants believed that the lack of funding in the media sector was leading to a crisis affecting quality and investigative journalism and favouring commercialism and sensationalism. The current economic model was considered unsustainable for the media, given recent developments such as increasing production costs, the scarcity newspaper delivery staff, and local 'news deserts' characterised not only by the disappearance of local media but also of media points of sale. In *Slovenia*, it was explained that the economic weakness of

media outlets made them prone to economic pressure through threats of litigation and loss of advertising revenues.

### *Socio-economic situation of journalists*

The socio-economic situation of journalists and its **influence on quality journalism** and access to information for all was raised in most visited countries.

- In *Greece, Slovakia, Slovenia, and Portugal* participants explained that the **working conditions** of journalists had severely deteriorated in recent years. Participants in *Greece* pointed to the consequences of austerity measures and the absence of collective bargaining in the media sector, which put media workers at the mercy of cancellable contracts. The multiplication of short-term contracts was also highlighted in *Slovakia*, where it was explained that private, freelance and public media journalists benefitted from different levels of protection. In *Portugal*, low remuneration was also criticised, and in *Slovenia*, the deterioration of working conditions was cited alongside the constant pressure faced by media workers inside and outside their outlets.
- Participants generally made a connection in between this increasing precariousness and **challenges to quality journalism**. In *Greece*, it was explained that many of the younger generation of journalists could only find employment opportunities in "news rooms", where they mostly reformatted existing information, instead of working in the area of investigative journalism. In *Slovakia*, it was pointed that many propagators of fake news were hidden behind the practical title of "civic journalism", which had developed over the years. In *Portugal*, participants indicated that the economic models created to cope with economic hardship in the media sector – for example paid subscriptions for quality online news – had become barriers to information for the majority of the population. In that context, participants recommended increased support for media literacy, including through awareness campaigns.
- **Access to information** was raised in several countries as a topic that concerned citizens in general and journalists in particular. In *Finland*, it was considered that the overall legal environment on freedom of expression offered solid protection, and that this also concerned the areas of access to documents or respect for source confidentiality. In *Sweden*, participants felt that access to information was generally very good, but some cases also existed of various authorities restricting free access to public records during the COVID-19 crisis. In *Greece*, the authorities' general reluctance to provide access to information was highlighted, in particular concerning sensitive issues such as migration and the arms trade. In *Portugal*, it was regretted that public authorities were not bound by the decisions given by the commission for access to administrative documents, which often led journalists to resort to courts instead.

### *Distortion of information*

None of the participants in the sessions on freedom of expression and media freedom referred to outright censorship imposed by authorities. However, many of these participants gave examples of **distortion of information under various forms** like

influence by the authorities or non-State actors, disinformation, fake news and self-censorship.

- In *Greece*, participants considered that the authorities had considerable **influence** over public TV and radio and that instructions on how to treat any matter involving them were sometimes circulated. In *Slovenia*, participants described how the national press agency had been the target of funding cuts by the previous government. They also explained how the governance of the public service broadcaster had been under political influence and that a referendum on the topic was planned for the end of 2022. In *Finland*, participants believed that the media was largely exempt from direct influence from politicians, which did not prevent isolated incidents.
- Participants explained how **self-censorship** was driven by invisible factors. For example, in *Greece*, it was considered that most journalists would not address issues seen as critical to the authorities. As in *Slovakia*, it was believed that the context of polarisation of society played a role in self-censorship, as there was a tendency to assimilate journalists with one or other side of official narratives on heated topics like migration. In *Slovenia*, participants explained that journalists felt that they were restricted as to what topics they could cover depending on who was the owner of their media outlet.
- Foreign influence was presented as a major, but not unique, source of the growing spread of **disinformation**. In *Finland*, participants pointed to Russia-connected attempts to interfere in public life through the intermediary of social media influencers using any possible topic (COVID-19, refugees, NATO membership) to spread fake news. In *Slovakia*, Russian influence and organised crime were mentioned as having sought to corrupt journalists or infiltrate journalist organisations. According to participants, proven Russian influence predated the war in Ukraine, as in the case of an attempt to bribe a conspiracist journalist.
- Participants, for example in *Slovenia*, supported legal updates to address the spread of misinformation, fake news and hate speech. However, participants were also wary that the **responses by the authorities could endanger freedom of expression**. In *Slovakia*, participants feared that the law forbidding conspiracy websites, which had been adopted as a response to the Ukraine war, had been drafted very quickly without any genuine debate. They also considered that the entrusting of the investigation of content regarded as extremist to the national crime agency was too radical, with the risk of mixing serious threats with misdemeanours or verbal abuse. In *Sweden*, participants feared that the authorities' proposal to limit public funding and only support media outlets that did not produce fake news could be misused. In *Greece*, participants took note with extreme caution of the 2021 law against fake news, which they believed entailed excessively vague criteria.

### *Pressure on journalists*

The increase of pressure against journalists was described in most countries visited in 2022. It took various forms, such as **verbal, legal, of physical threats**.

- The use of **strategic litigation against public participation (SLAPPs)** to silence journalists came up in most visited countries. The level of their prevalence seemed to vary from country to country – reference was made to occasional cases in *Finland* and *Portugal* and common occurrences in *Slovenia*, where individual investigative journalists active in the area of corruption told the delegation about dozens of SLAPPs taken against them. The SLAPP cases described were based on accusations such as defamation, tax evasion and money laundering. Some participants felt that the judiciary did not have a full understanding of the reality of the pressure exerted on journalists through SLAPPs.
- SLAPPs were not the only **legal threat** that could limit the work of journalists. In *Greece*, the example was given of an investigating journalist risking prison for having used leaks to report on alleged bribery involving a global pharmaceutical company. Another example concerned the surveillance of journalists through spyware installed by the national secret services. In *Finland*, it was explained that a journalist had been charged for reporting on security matters, allegedly because of the use of leaked classified information (it had later emerged that he had only used publicly available information). In *Slovakia*, participants considered that a reform of the Press Code benefitted politicians, who were granted an extensive right of reply on any type of content entailing allegedly false statements.
- While in *Slovenia*, participants mostly referred to smear campaigns, intimidation and bullying targeting journalists working for the public service broadcaster, participants in other country visits pointed out that pressure could go as far as **physical threats**, including threats to journalists' lives. In *Greece*, participants regretted the absence of a breakthrough in the investigation of the assassination of investigative journalist Giorgos Karaivaz in 2021. In *Slovakia*, participants expected a new trial concerning the assassination of Ján Kuciak, hoping that it could finally lead to the conviction of the people allegedly responsible for planning the crime.
- The rise of **hate speech** – a phenomenon that did not only concern journalists – was considered worrying. In *Finland*, participants felt that online hate speech was a major threat to freedom of expression, especially in the absence of a definition of hate crime and hate speech under the law, and given the low level of reporting to the police. In *Slovakia*, it was remarked that disinformation and hate speech were parallel phenomena, sometimes targeting the same groups, such as Roma people. It did not only exist online but also sometimes stemmed from the mainstream media, in the context of fierce competition for readership.

## The right to non-discrimination

Discussions with participants in the sessions on **the right to non-discrimination** concerned the general framework to address discrimination, as well as the particular challenges faced by groups like migrants, ethnic minorities, women, LGBTIQ people and persons with disabilities.

### *General framework on non-discrimination*

Participants in all visited countries appreciated that the **general framework on non-discrimination** was adequate. They also formulated recommendations for improvement.

- The existence of a number of **national strategies** concerning groups suffering discrimination was underlined in *Greece*. Participants called for the to be implemented more systematically and for funding to support activities in these areas. A similar demand was made in *Slovakia* in relation to the Anti-Discrimination Act, where more training for the police and judiciary were also advocated. Participants in *Finland* explained that all authorities had the obligation to promote equality notably through the development of equality plans, which some participants felt were sometimes too generic. In *Portugal*, participants appreciated that the National Strategy for Equality and Non-Discrimination represented a good basis for dialogue with authorities. In *Sweden*, participants regretted that the Discrimination Act did not cover all possible forms of discrimination, and that it did not have specific provisions on discrimination by the police. In *Slovenia*, participants appreciated that a vast legislative framework prohibited discrimination on any grounds, but they regretted the absence of an overall anti-discrimination strategy on top of sectoral ones.
- The essential role of **Ombud-institutions, National Human Rights Institutions and Equality Bodies** were underlined in all visited countries. In *Greece*, references were also made to the work of the Ombudsman in persistently promoting the principle of equal treatment in the public and private sectors. In *Slovakia*, it was explained that the Slovak National Centre for Human Rights assessed individual cases based on legislation, providing legal aid and representing victims in court. In *Finland*, participants regretted that the non-discrimination Ombudsman could not work on labour issues because its mandate did not cover employment matters or allow complaints concerning private employers to be dealt with. In *Sweden*, participants called for a reinforcement of the role and capacities of the equality ombudsman. In *Slovenia*, participants appreciated that the Equality Body had a far-reaching mandate, and wide-ranging tasks and powers beyond awareness-raising.

### *Migrants, including asylum-seekers*

The **rights of migrants, including asylum seekers**, raised major concerns in all visited countries.

- In *Greece*, participants strongly condemned alleged **pushbacks** at the Greek borders, and they regretted that the authorities had only set up an independent



border monitoring mechanism after international pressure. Participants also pointed to the breach of the obligation to provide individualised analysis of asylum claims and the detention of asylum seekers in poor conditions. In *Slovenia*, participants believed that alleged pushbacks at the border had decreased since the change of government and supported the approach by the new government to tear down the fence at the southern border.

- The influx of **asylum seekers from Ukraine** was discussed by participants in the 2022 country visits, often to highlight the positive reception by the national population and authorities, but also an unjustified difference in the way asylum seekers are treated in other countries. In *Slovakia*, participants compared the general openness of the population towards Ukrainian asylum seekers with negative narratives, including islamophobia, which people arriving in 2015-2016 from outside the EU had faced. In *Greece*, participants explained that the education sector sought to integrate Ukrainian asylum seekers into the local school system, and compared it to the more dire situation of child asylum seekers from other countries, who were often living in camps with less educational support. In *Finland*, it was stressed that Ukrainian asylum seekers were granted temporary residence, while other asylum seekers benefited from less support and faced daily hurdles, for example concerning the opening of a bank account.
- In all visited countries, participants believed that the **reception conditions** of migrants and numerous administrative burdens did not facilitate their integration into society, and that they hindered their rights and their access to services like healthcare or the opening of a bank account. For example, in *Finland*, it was considered that the parallel processes to get residence and work permits were burdensome and sometimes treated inconsistently by the administration. The situation of rejected asylum seekers was considered to be particularly dire in several countries. For example, in *Sweden* and *Slovenia*, it was believed that rejected asylum seekers became "invisible" inhabitants without any right of access to services, and that they faced destitution because of a lack of support for accommodation and other essential needs.
- **Structural discrimination** in society was also mentioned, for example in *Finland*, as was disproportionate targeting by the police, for example in *Greece*. Participants also regretted insufficient criminal provisions to address hate crime and hate speech against migrants, and also called for better training of the police and the judiciary, for example in *Portugal*.

### *Ethnic minorities, freedom of religion and belief*

Discrimination against **ethnic minorities**, including indigenous people and Roma people, were mentioned in some country visits, as was freedom of religion and belief.

- In *Sweden*, participants regretted that the country had not ratified the International Labour Organisation (ILO) Convention on indigenous peoples. They also expressed concerns with regard to a possible change of attitude by the Swedish authorities on topics like ethnic and racial profiling, conditions for Muslim minorities, the rights of disadvantaged children and funding of CSOs working in similar areas. In *Finland*, participants evoked workplace **discrimination**

based on ethnic background and practices of ethnic profiling by the police. They also regretted that the right of indigenous Sami to free, prior and informed consent was not fully implemented.

- The situation of **Roma people** was raised in several country visits to highlight their poor access to employment, education, health and housing. In *Greece*, it was remarked that Roma people had been particularly impacted by the COVID-19 crisis and they notably suffered from certain discriminatory lockdown restrictions. In *Slovenia*, the existence of a public representative body for the Roma communities was appreciated, although it was deemed not to be sufficiently representative. It was also remarked that discrimination was seriously underreported by Roma persons. In *Slovakia*, the topics of school segregation and the unlawful sterilisation of Roma women during the communist period were raised.
- **Freedom of religion and belief** was also mentioned in some country visits, like in *Finland*, where it was explained that self-determination to quit the religion assigned at birth was normally not possible before reaching the age of majority, or in *Slovakia*, where it was felt that an imbalance of treatment favoured religious views in the areas of public funding and access to the media, at the expense of non-religious humanistic views.

## Women

**Women's rights** were raised in all visited countries, notably in relation to the impact of the COVID-19 crisis, or concerning gender-based violence or sexual and reproductive rights.

- In several countries, participants considered that **COVID-19** had particularly impacted women, because of their overrepresentation in the health sector (as mentioned for example in *Finland*), or because they faced increased domestic violence (as raised for example in *Greece*). In *Finland*, it was remarked that the crisis highlighted long-term challenges such as labour market gender segregation, domestic violence and unequal domestic care.
- Participants in *Sweden* stressed the good level of reporting of **gender-based violence** compared to most other countries, but they regretted that lack of training of police and the judiciary on these topics led to a low number of convictions. Participants in *Greece* regretted that there were very few shelters for women fleeing domestic violence. In *Portugal*, participants considered that legislation on gender equality was rather modern, but they called for more capacity-building in the police, education, justice and health sectors, and more support for victims to report gender-based crimes.
- Concerning access to **sexual and reproductive rights**, participants in *Finland* remarked that the country had one of the most restrictive abortion laws in Europe, obliging those seeking an abortion to give justified healthcare reasons and to obtain the approval of two doctors before starting the process.

## *LGBTIQ people*

The rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people were raised in all visited countries.

- In *Slovenia*, participants appreciated that two landmark Constitutional Court decisions had led to legal equality in the areas of marriage and adoption for same-sex partnerships. In *Slovakia*, participants regretted the absence of legal recognition of same-sex couples and their families.
- In *Portugal*, participants appreciated that the legal **framework** concerning LGBTIQ people's rights had improved in recent years, but they regretted the absence of a specific framework to address discrimination. In *Finland*, the absence of a comprehensive LGBTIQ strategy was regretted. Despite an overall good framework, participants in *Sweden* felt that there was still substantial discrimination in Swedish law against rainbow families.
- Despite remarks about a general trend towards more societal openness, participants in several country visits, such as *Finland, Slovenia and Slovakia*, also referred to the rise of **hate speech** against LGBTIQ people. In *Slovakia*, it was considered that such phenomena stemmed particularly from politicians, and in *Slovenia* it was believed that it particularly targeted transgender people.
- Concerning **transgender people**, in *Slovakia* and *Finland*, participants pointed to the fact that it was required to be infertile in order to obtain legal recognition of gender change. In *Slovenia*, it was explained that medical transition was decided by a group of experts and regretted that no protocol to get a second opinion existed if the transition was denied. In *Greece*, the relatively mild sentencing of perpetrators for lynching a transsexual person was mentioned, as well as the fact that the victim had been demonised. In *Portugal*, participants appreciated the law on legal gender self-determination, which separated the medical and legal aspects of gender recognition and facilitated procedures in both areas. In *Sweden*, it was considered that the time taken for the necessary medical evaluations before being able to change legal gender was too long.

## *Persons with disabilities*

Participants in country visits often referred to the UN Convention on the Rights of Persons with Disabilities (CRPD) and EU anti-discrimination Directives as major sources of inspiration of national legal frameworks, whose **implementation** varied according to location.

- In *Portugal*, participants considered that there existed a gap in between a good legal framework and practice. In *Greece*, it was explained that, although the Constitution provided for equality before the law, people with disabilities had to wait until 2005 to benefit from specific **legislation** prohibiting discrimination in the field of employment. In *Slovakia*, participants appreciated that relevant CSOs had the opportunity to comment on the national action plan for the development of quality of life for persons with disabilities. In *Sweden*, it was regretted that no

specific provision on discrimination against persons with disabilities existed in national criminal law, making it difficult to claim rights in court.

- Thoughts were expressed during the country visits about the persistence of discrimination in practice, notably in the areas of inclusion in the labour market and accessibility of services. For example, in *Greece*, measures of **reasonable accommodation** allowing people with disabilities to work under proper conditions were considered to be rare. In *Finland*, it was explained that the needs of people with disabilities were systematically taken into consideration in town planning and construction but that this did not, however, always prevent negligence or unconscious decisions that led to unintentional exclusion. In *Slovakia*, participants appreciated positive developments such as the fact that building certification now included criteria on accessibility. Difficult physical access to public buildings was mentioned in *Greece*, *Portugal* and *Slovakia*.

## The rule of law

Participants in the sessions on **the rule of law** mostly discussed topics related to the judiciary, decision-making processes, including in the context of COVID-19, corruption and transparency.

### *Judiciary – independence and specific challenges*

While the participant's assessments of the **overall situation of the justice system** in their countries varied, issues like the length of judicial proceedings and access to justice came up in most countries visited.

- In *Finland*, *Sweden* and *Portugal*, participants underlined the full **independence** of their justice system, which did not mean that challenges did not exist, notably concerning the insufficient recruitment of judicial personnel. In *Sweden*, concerns were expressed about the possible influence of the change of government on the rule of law. In *Portugal*, several participants believed it problematic that some administrative authorities (such as national regulatory bodies) were making decisions that were essentially within the criminal law sphere. In *Slovenia*, where constitutional guarantees on the independence of the judiciary were clear, it was felt that politicians still tended to see the judiciary as subordinate to the other powers. Lack of political will to support the judiciary was believed to be the cause for low salaries in the profession.
- The **slow pace of justice** was a major issue raised, to various extents, in all visited countries. In *Greece*, participants, including social partners, complained that the justice system was plagued with delays, a situation which had been reinforced by the COVID-19 period. They felt that efforts to address that situation had not yielded visible results and that the phenomenon was a clear deterrent to foreign investment. In a different context, participants in *Finland* also considered that the length of judicial proceedings, especially in civil cases, was the main issue in the area of the judiciary, and that COVID-19 had increased the backlog. In *Slovakia*, participants expressed a general feeling of permanent backlog, notably due to understaffing. In *Portugal* too, the speed of justice was found to be the most central problematic issue related to the judiciary, which was attributed to a general lack of financial means in the sector. The issue seemed relatively less acute to the eyes of participants in *Sweden* and *Slovenia*, who still associated delays with recruitment issues and SLAPPs respectively.
- **Access to Justice** was another topic which came up regularly in the countries visited. For example, in *Finland*, *Sweden* and *Portugal*, participants believed that the cost of judicial proceedings discouraged many people from going to court, especially victims of discrimination or people whose revenue was just above the threshold to benefit from legal aid. The need for reinforced free legal aid, especially for victims of crime, and the need to hire more judicial experts was raised in *Slovenia*.

### *Decision-making processes, including in the context of COVID-19*

The balance of power and the openness of **decision-making processes**, including in the COVID-19 context, were some of the key topics raised by participants in the countries visited.

- In several countries, participants appreciated the resilience of checks and balances during the **COVID-19** period. For example, in *Portugal*, *Slovakia* and *Slovenia*, participants welcomed the strong role played by the Constitutional Court in the review of urgency measures. In *Slovakia*, it was however believed that only half of the laws passed under the accelerated legislative procedure were actually linked to the pandemic, and it was feared that the practice would have a long-term influence on decision-making. In *Finland*, participants explained that the rare decisions that did not meet all required procedures and standards during the COVID-19 crisis were reviewed by a parliamentary committee playing a strong role in checks and balances. In *Sweden*, participants appreciated that most draft pieces of legislation passed through the Council of Legislation for ex-ante constitutional review, but they also regretted that the authorities did not always follow the Council's opinion.
- Participants also discussed **law-making** beyond the specific COVID-19 context. In *Greece*, the way the legislative process was conducted was considered to be one of the most serious rule of law issues, and participants believed that it had deteriorated over the past years. Participants considered that the excessive use of emergency procedures prevented adequate public consultation and parliamentary analysis. In *Slovakia*, participants pointed to a political culture that leaned towards a preference for direct and vertical methods of decision-making, and it was felt that the participation of civil society was considered a necessary evil rather than a luxury.

### *Corruption and transparency*

Although the **levels of challenges varied** significantly amongst the countries visited, participants discussed issues relating to corruption and transparency, including the protection of whistleblowers.

- In *Greece*, **corruption** was considered still common and insufficiently addressed, and occurring whatever political force was in power. Participants explained that changes in criminal law to address corruption did not include criminal provisions against illegal enrichment or accounting fraud. In *Slovakia*, progress made by the authorities in the area of corruption was welcomed and reference was made to the increase in the number of cases brought to court, including those concerning high-profile officials. In *Portugal*, participants explained that the national anti-corruption mechanism provided under the national anti-corruption strategy was still in its initial phases and that the means of public prosecution needed to be reinforced to ensure investigations of complex corruption cases. In *Slovenia*, participants called for more efforts by national authorities, estimating that only a minority of alleged corruption cases were investigated. Despite *Finland* already ranking at the top of the anti-corruption indexes, participants did not consider that efforts to address corruption had to be reduced, pointing to the need to

ensure investigation of all corruption cases, even those considered minor, and vigilance required for the export sector. In *Sweden*, participants explained that the national approach was built on trust, which was positive, but also meant that manipulation was in principle possible. They also referred to the rise of organised crime in the country.

- Participants in *Greece* felt that **access to information and transparency** was not treated as a priority by the authorities despite the existence of legislation and a national transparency authority. They felt that difficulties in accessing information made oversight work by journalists and CSOs much more difficult. Participants regretted the late transposition of the EU directive on the protection of persons who report breaches of Union law ("Whistleblower Directive") and cases of pressure on whistleblowers and journalists. Participants acknowledged the progress represented by the lobbying law and called for full implementation. In *Slovakia*, participants appreciated that an independent office for the protection of whistleblowers had recently been put in place, but they also pointed to a lack of awareness-raising and encouragement to make use of this option, notably in public institutions. In *Slovenia*, participants regretted the absence of a strategy on transparency since 2019. It was also remarked that the draft law transposing the EU Whistleblowers Directive still presented some shortcomings concerning the scope of concerned breaches and the time limit for reporting. In *Finland*, it was remarked that lobbying was still unregulated, but that legislation was being prepared.

## Conclusion

This report provided an overview of the third group of country visits undertaken by the Fundamental Rights and Rule of Law group in 2022. The extensive conversations with numerous civil society representatives provided valuable insights into the significant developments that are emerging.

Participants in the sessions on the **fundamental rights of social partners** generally considered that the overall protection offered to social partners was appropriate. In several instances, however, they also pointed to challenges, such as the existence of gaps between the legal protection of trade union rights and their actual implementation in companies. Social partners also testified to developments in collective bargaining and tripartite dialogue in changing socio-economical environments, including the long-lasting consequences of austerity policies. They underlined the importance of social dialogue to face crises like the COVID-19 pandemic but, in some instances, they also warned about the weakening of social dialogue as a consequence of such crises. Participants in several visited countries considered that they had not been sufficiently involved in the preparation of the National Recovery and Resilience Plan (NRRP). More generally, the involvement of social partners in legislative processes varied significantly amongst the visited countries. Some participants mentioned good examples of involvement from the upstream phase, while there were also perceptions that consultations were too often of an informative nature, and many participants demanded better opportunities to influence decisions.

Participants in the sessions on **freedom of association and freedom of assembly** described various levels of civil society involvement in decision-making depending on the country visited. As regards social partners, there was a general call for improvement to ensure more genuine participation as far as timing and influence on final outcomes were concerned. Freedom of assembly was generally considered well protected by law, but some challenges existed in actual implementation, as illustrated by limitations or bans on protests during the COVID-19 period. In what was perhaps the most common and worrying trend, participants testified to various levels of increasing pressure on CSOs and the spread of a climate of mistrust towards CSO activities, particularly in certain sensitive areas. This was generally cited alongside a context of polarisation of public debates and the rise of populist political agendas and hate speech, which were conducive to the development of threatening behaviours against CSO staff or volunteers, progressive demonstrators, and representatives of minority groups. Participants also expressed concerns with regard to the possible rarefaction of public funding for CSOs, in the context of competing priorities and the prevalence of a short-term project-based approach by funders. The most vocal CSOs had particular issues in accessing sustainable funding and the whole civil society sector faced an increasingly burdensome administrative environment.

Participants in the session on **freedom of expression and media freedom** generally considered that key challenges did not concern the general regulatory framework but rather issues relating to media pluralism, the economic model for media, the independence of public media, the socioeconomic conditions of journalists, and their protection against rising threats. Freedom of the press varied significantly from country to country—some of them topping the rankings in this area—but participants also warned



against similar tendencies affecting the sector. For example, socioeconomic crises and the digital transformation were strong factors for a restructuring of the media landscape, including media concentration. A clear image of the major upheaval faced by the world of journalism emerged from the discussions, characterised by growing economic difficulties for the majority of media outlets and a growing precariousness for journalists, whose working conditions have continually worsened in recent years. Participants explained how these profound trends impacted quality journalism, with a risk that the journalists' vocation for investigation could be replaced by an approach where journalists would be mere processors of existing information. Such developments created a context prone to the distortion of information under various forms, such as influence by the authorities or non-State actors, disinformation, fake news and self-censorship. In some visited countries, journalists faced rising pressure, notably as targets of strategic litigation against public participation (SLAPPs). Justice was still lacking for the murders of Giorgos Karaivaz in Greece and Ján Kuciak in Slovakia. Media professionals taking part in the visits showed a lot of resilience, courage and strength, and also offered some positive views on the capacity of the sector to adapt to change provided proper political support was ensured.

Participants in the sessions on **the right to non-discrimination** appreciated that the general framework on non-discrimination was adequate and they formulated recommendations, such as the need to ensure the adoption and full implementation of transversal and sectoral anti-discrimination strategies. They also called for the reinforcement of the capacities for action of Ombud-institutions, National Human Rights Institutions and Equality Bodies, and for better training of the police and justice personnel. As far as specific groups were concerned, the situation of migrants (including asylum seekers) and the need for a much greater effort to ensure their proper reception and integration was underlined in all visited countries. Alleged pushbacks taking place in some visited countries were strongly condemned. Some participants highlighted an imbalance of treatment between asylum seekers fleeing Ukraine and those from other geographical origins. Structural discrimination in society, notably in police practices, was also considered a key issue for migrants and members of ethnic minorities. The situation of Roma people was raised in several country visits to highlight their poor access to employment, education, health and housing. Women's rights were raised in all visited countries, concerning topics like the particular impact of the COVID-19, gender-based violence and sexual and reproductive rights. In several visited countries, it was remarked that the legal framework concerning LGBTIQ people's rights, as well as societal openness, had improved in recent years. However, challenges remained, in particular for transsexual people, and the rise of hate speech was deemed worrying. Participants considered that the actual implementation of measures of reasonable accommodation for persons with disabilities varied according from country to country and they underlined the need to integrate their rights into town planning and construction.

Participants in the sessions on **the rule of law** offered various assessments of the overall situation of the justice system in their countries. However, some topics clearly emerged as common concerns, like the length of judicial proceedings, excessive backlogs, the need to improve access to justice, and the need to reinforce financial means and recruit more judicial personnel. In several countries, participants appreciated the resilience of checks and balances during the COVID-19 period, notably through the role of civil society and constitutional or parliamentary review of urgency legislation. In some countries, participants underlined a culture of top-down decision-making which predated COVID-19 but was worsened by it. Challenges in the areas of corruption and transparency varied

amongst the visited countries, but participants generally called for the reinforcement of national anti-corruption strategies and mechanisms and public prosecution. Access to information was considered essential, notably in support of oversight work by journalists and CSOs. The importance of the full transposition of the EU Directive on the protection of persons who report breaches of Union law (the "Whistleblower Directive") and of better regulation of lobbying were mentioned in most visited countries.

A report summarising the views of national civil society actors regarding trends in the areas of fundamental rights and the rule of law in countries as diverse as Greece, Finland, Portugal, Slovakia, Slovenia and Sweden cannot give a full picture. However, a synoptic view of various geographical parts of our continent can help us examine the **broader landscape and identify potential patterns**.

The **image** that emerges from the discussion of the FRRL group with national civil society actors is that basic freedoms and rights seem to be generally protected under the law and, overall, legislative frameworks seem to have improved over the years, including as a result of EU-driven initiatives, for example on anti-discrimination and whistleblowing. However, there seems to be a distinct gap between such satisfactory legislative frameworks and less adequate implementation of rights, in particular concerning the safeguards needed for CSOs to freely lead their activities.

A temptation for governments to propose assertive responses during crisis like the COVID-19 pandemic often results in a top-down approach to decision-making which affects civic participation and usual democratic processes. The long-term risk of such strategies is the undermining of the principles of justice, equality and fairness, which would certainly contribute to the slow disintegration of social cohesion. To address such risks and tendencies, civil society actors encountered during the country visits put forward a key idea, which could be considered to be the common thread to all country visits: the **general call for a stronger response at national and EU levels in support of the work of civil society**, in order to tear down barriers to civic action and offer a fully enabling environment for civil society to thrive, all the while making sure that CSOs full independence is guaranteed and effectively protected”.

In **2023-2024**, the FRRL group will visit the remaining seven EU Members States which have not yet been visited, to complete a full cycle of visits. In doing so, it will continue listening to civil society on how it views how the situation of fundamental rights and the rule of law will evolve. The next synthesis report of the FRRL group will be the fourth of its kind, will propose an overview of that last group of visits.

We wish to thank all representatives of civil society whom we met for their valuable contribution to this report. The EESC FRRL Group looks forward to continuing collaboration with civil society actors across the EU.

The EESC Fundamental Rights and Rule of Law Group  
Paul Soete, President  
Ozlem Yildirim, Vice-President  
Christian Moos, Vice-President



## **APPENDICES**

### Country visit reports

#### **Greece**

(5-6 May 2022)

#### **Finland**

(2-3 June 2022)

#### **Slovakia**

(7-8 July 2022)

#### **Portugal**

(6-7 October 2022)

#### **Sweden**

(13-14 October 2022)

#### **Slovenia**

(17-18 November 2022)

# Report on the visit to Greece

5-6 May 2022

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

## *Fundamental rights related to social partners*

Participants in this session considered that the **rights of social partners** were well protected by the broad statutory framework and the Constitution, which included explicit provisions on the right to collective bargaining, freedom of association, the rights of trade unions and the right to strike.

However, they also felt that **the consequences of the 2008 financial crisis and austerity policies** had affected collective bargaining, public consultation, the ability of the social partners to influence political decisions, and democratic processes in general. This had exacerbated subsequent crises such as climate change, reception of asylum seekers and COVID, increasing economic and social inequalities in the country and leading to a gradual fall in the standard of living of the majority of Greece's population. The public sector had borne the brunt of that situation, as illustrated by the compression of salaries – notably with the suppression of the 13th month's pay and lack of salary increases in the past years.

Social partners regretted their underrepresentation in **trilateral social dialogue**, which meant that the authorities had *de facto* had the last word. Years of economic adjustment programmes had also affected the quality of consultation of social partners, which they felt was too fast. Participants considered that social dialogue had proved useful during the COVID crisis and led to appropriate solutions, showing the need to set up a genuine tripartite dialogue to discuss all socioeconomic questions, beyond the simple remit of labour law.

Participants explained that collective bargaining existed at national, sectoral, company level, but that there had been a longstanding practice of **submitting collective agreements to arbitration**, abiding by the authorities' decision in the final instance. Greece had issued a declaration on Article 6 of the revised European Social Charter (on the right to collective bargaining), stipulating that it would not apply to arbitration mechanisms for the settlement of labour disputes. Social partners described such a system as almost "compulsory arbitration", which they considered was not to the standard of a democratic country and had a long-term freezing effect on collective bargaining. They explained that this system tended to be abandoned with time but that Greece was still looking for a better model of social dialogue.

Social partners, and particularly employers, felt affected by the regrettably **slow judicial system**. A representative of the employers described how a Supreme Court decision on the calculation of the minimum wage had taken two years just to go through the admissibility stage. Others referred to legal cases involving extremely long court decision processes sometimes lasting for years, and thus undermining foreign investors' trust and

interest in placing FDIs in Greece. Such issues were present in courts at all levels, including administrative courts, acting as a clear deterrent to major investments in the country.

### *Freedom of association and assembly*

A CSO representative presented findings of a 2021 report on **abuse of power by the police in the context of assemblies**. This report found that the 2020 legislative reforms regulating assemblies during the COVID period had been problematic in several respects. They had allowed the police to disperse peaceful assemblies on the grounds of an isolated act of violence – instead of concentrating the response on the individual provoking violence. The report indicated that peaceful protestors had been arrested apparently after having been randomly picked up by the police purely for being part of a rally going out of control. The report also considered that the obligatory regime of notifying the authorities of assemblies was below international standards, as was the fact that assemblies could be banned on the basis of broad references to protection of public order. It also pointed to the fact that the blanket bans on assemblies during the COVID period, in November and December 2020, as well as in January-February 2021, had led to protestors being arrested. The participant in question felt that the authorities considered abuse of power by police to be isolated cases and failed to show clear political willingness to address such a systematic issue and the general judicial impunity surrounding it. The Greek authorities indicated that possible abuses of force by the police were dealt with at several levels, through an internal police mechanism, the Ombudsman and the National Transparency Authority.

Participants felt that civil society had been impacted by years of **austerity measures** and that the effects had become almost permanent in this sector, as in the rest of society. The health system, labour rights and vulnerable groups were presented as having been hit by several waves, with the COVID crisis following austerity measures.

In that context, participants regretted the rise of a **suspicious narrative** against civil society, in particular organisations and individuals working with migrants, including asylum seekers, which sometimes led to the individual targeting of CSO workers. They also regretted a lack of trust between CSOs and authorities and felt that the most active and vocal CSOs did not benefit from public funding, leading to an overall weakening and division of civil society. Access to public funding – especially for sums over EUR 50 000 – was subject to heavy financial audit requirements costing thousands of euro, which greatly complicated access to any funds for small or medium CSOs. Participants acknowledged that public consultation of CSOs existed but they regretted that it was generally too quick to be meaningful.

Participants talked about the mandatory **registry for CSOs working in the area of asylum and migration**, established in 2020. They felt that demands set by authorities in that framework had become more and more strict and disproportionate with time, as had the scope of their responses. One such requirement concerned criminal records for employees and volunteers, which was seen as limiting the possibilities for reintegrating ex-offenders through employment. According to a participant, authorities could decide if a CSO was "beneficial" in the area of asylum and migration on the basis of vague criteria. Participants also regretted that a CSO could be deregistered if a deadline in the hefty registration procedure was not met. They considered that this situation indirectly affected migrants, including asylum seekers, as CSOs played a major role in them exercising their

rights. The Greek authorities explained that their position with regard to the CSO registry was that no CSO failing to keep the law should be included in it or have access to it.

Participants explained that **Turkish and Macedonian minorities** could not organise themselves as CSOs with explicit references to the name of their communities – a restriction which had been justified by the Supreme Court on grounds of protection of public order. Decisions by the European Court of Human Rights in that domain were not being implemented.

### *Freedom of expression and freedom of the media*

Participants in this session pointed out that, regrettably, Greece had fallen a long way down the **Reporters Without Borders Index** in the past years, and was now last on the EU list. They considered that the issue was not so much that journalists were not free, as there was overall good legal protection of freedom of expression. Challenges rather lay in a combination of state and major business capture of media, authorities' reluctance to be transparent, and self-censorship in the media sector.

Participants explained that there was a trend towards **concentration** of traditional media outlets. Major media belonged to businesspeople: for example, a large majority of private TV channels were owned by huge ship-owners. The restructuring of the media sector following the various socioeconomic crises and the digital transformation had led to a great number of media professionals being laid off. In parallel, small online media had proliferated, reaching a wide readership based on a precarious economic model in which a few staff were employed on fairly low wages under less favourable work conditions. Small independent media outlets could not count on regular profitable business advertisements as a source of sustainable and independent revenue and were looking for alternative models such as grants from foundations supporting investigative journalism, subscription-based models, or a non-profit status. Concerning transparency of ownership, the Greek authorities explained that a new law required all media to publish information on this.

The **socioeconomic conditions of journalists** were considered to be average if compared to the general economic situation of the country, with journalists generally receiving a salary slightly above the minimum wage. However, participants regretted that working conditions had severely deteriorated since the austerity measures had been introduced, with the sector being one of the first to experience the labour laws put in place around the bailout. In that context, many complained that collective bargaining was non-existent and that media workers were at the mercy of cancellable media contracts. Many of the younger generation of journalists could only find employment opportunities in "news rooms", where they mostly reformatted existing information, instead of working in the area of investigative journalism.

Participants explained how **self-censorship** was driven by invisible factors. Most journalists would not address issues seen as critical to the authorities, and there was a polarising tendency in public debates to associate journalists with one or other side of official narratives. For example, it was particularly difficult to report on alleged illegal pushbacks of migrants at the Greek borders without risking being portrayed as an agent of Turkey, and there were cases of journalist arrests for pictures taken at the border.

Representatives of recognised international daily newspapers were also accused of spreading fake news for having reported on pushbacks.

Participants considered that the authorities had considerable **influence over public TV and radio** and that instructions on how to treat any matters involving them were sometimes circulated. Journalists in these public media outlets would tend to be particularly challenging of representatives of the opposition during interviews. News agencies tended not to question the official government narratives on a number of domains.

Participants felt that **pressure** could sometimes be more explicit, giving the example of an investigating journalist who risked going to prison for having used leaks to report on alleged bribery involving the pharmaceutical company Novartis. Concerning this file, the Greek authorities asserted that the journalist had been investigated for the alleged use of classified information and possible extortion of information without any evidence, not for having written articles.

Participants also regretted the absence of a breakthrough in the investigation of the **assassination** of investigative journalist Giorgos Karaivaz in 2021. The Greek authorities indicated that this case was still under investigation but no link had been established with political or public affairs. More generally, they mentioned their work on developing initiatives on the safety of journalists, which they aimed to align with best practices.

Participants also warned against the development of **surveillance of journalists**. Reference was made to one specific case of a journalist who had allegedly been hacked with spyware software, after having been wiretapped by the national secret services. They believed that the Greek authorities had issued a great number of surveillance decrees on state security grounds, and that there was no reason why the use of spyware would remain an isolated case. The Greek authorities explained that they had provided several public justifications of the surveillance in question, which represented their official position. Three investigations were under way concerning the possible involvement of national services in wiretapping of journalists – by the National Transparency Agency, the Authority for Communication Security and Privacy, and the Public Prosecutor.

A participant gave an example of what was considered to be authorities' general reluctance to provide **access to information** – in particular concerning sensitive issues such as migration or the arms trade – or to answer critical questions in the framework of journalist investigations. Information access requests concerning the obscure criteria for the allocation of EUR 20 million by the authorities to some "friendly" media outlets to broadcast public health messages during COVID had remained mostly unanswered. Without such information, and in the absence of any judicial investigation into the matter, it had been impossible for the investigative journalists behind the requests to clarify why some outlets received much more than others. The only possibility left for journalists to obtain the information had been to go to court, where they had won their case.

Participants took note with extreme caution of the **2021 law against fake news**. While they acknowledged the need to address the phenomenon following its rise during the COVID period, they feared that excessively vague criteria on news "provoking fear or anxiety for citizens" could lead to abusive and unacceptable implementation.



### *The right to non-discrimination*

During the session with social partners, employers suggested that Greece was compliant with the EU directives on **non-discrimination** in the area of employment, and referred to 2021 labour legislation explicitly prohibiting termination of a contract for reasons linked with the EU protected criteria on non-discrimination. References were also made to the work of the Ombudsman in persistently promoting the principle of equal treatment in the public and private sectors. Participants in the session on non-discrimination acknowledged the existence of a number of national strategies concerning groups suffering discrimination, but they called for more systematic implementation and for funding to support activities in these areas. The Greek authorities explained that National Action Plans had indeed been adopted in the past years concerning the rights of children, sexual abuse against children, racism and intolerance, people with disabilities, gender equality and LGBTIQ rights. They indicated that relevant CSOs were represented in the preparation committees and implementation mechanisms.

Participants in the session on non-discrimination strongly condemned the **alleged illegal pushbacks** at the Greek borders, referring to similar positions by the United Nations High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM) and the European Commission, and to numerous cases currently being considered by the European Court for Human Rights. Some participants pointed out that the Greek official position was that it abided by international law, whereas, in their view, these pushbacks amounted to a pattern which represented a *de facto* policy for national border management. Participants regretted that the authorities had only set up an independent border monitoring mechanism after much international pressure, saying that they expected much more tangible results from it. The Greek authorities explained that they looked specifically into the allegations of illegal pushbacks, adding that investigations were underway by the National Transparency Authority, the Ombudsman, and the Public Prosecutor.

Participants considered that pushbacks added to **other human rights violations against migrants**, including the breach of the obligation to provide individualised analysis of asylum claims. Migrants, including asylum seekers, faced illegal detention in poor conditions and widespread discrimination in a number of fields. In particular, cases were mentioned of hundreds of years of imprisonment of individual migrants for alleged shipwreck and human trafficking. Other examples of discrimination and human rights violations faced by migrants included restriction of freedom of movement on Greek territory; impeded access to health services; great difficulties in opening a bank account and access to insurance; and disproportionate targeting by the police, for example in the application of COVID-related restrictions.

It was noted that there was significant **difference in the treatment** of Ukrainian war-asylum seekers and asylum seekers from other origins who had arrived in previous years. For example, the education sector sought to integrate Ukrainian asylum seekers into the local school system, and they received all the equipment needed at school. On the other hand, child asylum seekers who had arrived from other countries and were living in camps could not attend education during COVID because of the lack of digital access, the difficulty of leaving the camp (which was often left to the discretion of the camp manager), and the fact that camps were often situated in very remote areas. Life in camps in general was described as preventing integration of migrants into society: in addition to

the endemic violence which prevailed there, access to health, schooling and employment was very difficult. However, during the session with social partners, employers indicated that some sectors of the Greek economy, such as the tourism and hospitality industry, had a high demand for staff, and they considered this to be an opportunity for integration through work.

A participant outlined the difficult situation of **Roma** women facing double discrimination – from within their own community and from wider society. Roma people had been particularly impacted by the COVID crisis and they notably suffered from certain discriminatory lockdown restrictions as well as a general suspicion that they were spreading the virus. The participant gave examples of discrimination faced by Roma individuals in their relations with the police, in accessing hospitals, or in seeking employment, bank loans or housing. Special schooling programmes were still failing to break the *de facto* school ghettoising of Roma pupils. The Greek authorities referred to the Roma Action Plan and to a number of programmes lead by the Ministry of Labour, Social Security and Welfare to facilitate integration into the labour market and access to banking.

A participant explained that, despite the fact that the Constitution provided for equality before the law, **people with disabilities** had to wait until 2005 to benefit from specific legislation prohibiting discrimination in the area of labour, thanks to the transposition of the EU directives on the matter. Despite this legal protection, discrimination remained high in practice, as the vast majority of people with disabilities (especially more severe disabilities) remained excluded from the labour market. Reasonable accommodation allowing people with disabilities to work under proper conditions was rare, as were complaints by people with disabilities against their employers, for fear of losing their job. A law was being drafted to propose personal assistants, but it would initially be limited to a pilot project in Athens. Some participants voiced complaints about the visible lack of solidarity and human rights-based accessibility for people with disabilities, while others emphasised there were a number of key government and municipality initiatives in the pipeline aiming to make the lives of people disabilities easier. The Greek authorities confirmed that a law was being drafted, as one of the tangible results of the National Action Plan on Persons with Disabilities, which coordinated action by several ministries and included cooperation with CSOs.

Participants considered that COVID had particularly impacted **women and children**, both in terms of domestic violence and in terms of the economic situation. Participants regretted that Greece consistently ranked last amongst all EU Member States in the Gender Equality Index and that there were very few shelters for women fleeing domestic violence. Child poverty was high and single parent families received little help from the state. Children of irregular migrants could get stuck in a gridlock, with great difficulty accessing citizenship, hindering their access to the labour market. There was a lack of adequate support for children with disabilities, notably in terms of accessible leisure and school personal carers.

Participants also mentioned the relatively mild sentencing of perpetrators for lynching a **transsexual person** and the fact that the victim had been demonised.

## *The rule of law*

Participants again complained that the Greek **justice system** was plagued with delays, a situation which had been reinforced by the COVID period. They felt that efforts to speed up justice had not yielded visible results. They also regretted what they estimated to be decisive influence of the executive on the judiciary through the appointment of higher judges to the Council of State and the Supreme Court.

**Corruption** was considered still common and insufficiently addressed, and occurring whatever political force was in power. A stakeholder who had earlier attended a conference in Boston (USA) discussing FDI opportunities in Greece echoed the complaints of some American investors regarding the high level of corruption in this country. Digitalisation provided some hope of highlighting corruption cases but financial support to civil society in that domain remained nearly inexistent. A participant welcomed the fact that the European Commission's Rule of Law Report treated the topic with high priority, while regretting that it mostly focussed on laws and policies instead of the real challenges of failure to enforce the law and criminal cases. The Greek authorities pointed to significant progress over the past years, and they referred to the Transparency International 2021 Corruption Perceptions Index, according to which Greece had "reaped the rewards of anti-corruption reforms". They also considered that the national Action Plan on corruption was ambitious and holistic, based on the pillars of prevention, detection, and awareness-raising and the work by the National Transparency Authority set up in 2019.

Participants explained that the **Criminal Procedure Code** had been amended several times in recent years to rationalise some sentences which had previously not been properly implemented. Some participants, however, regretted that changes in criminal law did not include criminal provisions against illegal enrichment or accounting fraud, leading, for example, to impunity for bankers who had illegally funded political parties. On the other hand, when people were prosecuted for misdemeanour the jail sentence would not be suspended while an appeal was conducted, which was a breach of the right to be presumed innocent. The Greek authorities explained that the reform of the Criminal Procedure Code and of the Criminal Code had integrated recommendations by the Council of Europe Group of States against Corruption (GRECO) and the Working Group on Bribery in International Business Transactions of the Organisation for Economic Cooperation and Development (OECD), and that they had led to vital changes in how bribery was treated in the country. The Code of Civil Law and the organisation of courts and judges were also going to be reformed, and the overall objective of these processes was to speed up justice without compromising quality.

The way the **legislative process** was conducted was considered to be one of the most serious rule of law issues, having deteriorated over the past years. Participants thought that a reference to national security imperatives and the use of emergency procedures had become the norm. In the past years, a great number of bills had been rushed through the legislative process in just a week, preventing the normal public consultation procedure and parliamentary analysis, which would usually span several weeks. They pointed to the practice of tabling amendments after the official deadlines, immediately before the vote, which prevented Members of Parliament from reading them properly and made public consultation meaningless. The Greek authorities asserted that improving the quality of the law had been a government priority over the past years, notably by

codifying a number of sectors of the law, impact assessments, and efforts to make the legislative process more accessible on line. They also referred to statistics showing a gradual fall in last minute amendments and emergency legislative procedures over the last three years – there was no example of the use of the emergency legislative procedure in 2022. Concerning the transparency of the legislative process, the Greek authorities mentioned that a platform existed to ensure public consultations on draft laws.

While acknowledging the progress represented by the **lobbying law**, participants regretted a lack of implementation of transparency requirements regarding meetings between MPs and lobbyists. The Greek authorities presented the law as a modern approach to the regulation of lobbying, which followed recommendations by international bodies. The transparency register to be set up would apply both to the legislative and executive branches, putting Greece above the current practice in most countries.

As during the session on freedom of expression and media freedoms, participants pointed to the **emergency procurement** which had taken place during the COVID period, and in particular to the EUR 20 million "We stay at home" campaign in Greek mass media, which raised the question of unfair allocation of funding, including seemingly in favour of pro-government press and even for non-existent outlets. The Greek authorities said that all procurement tenders were accessible on line.

Participants felt that **access to information and transparency** was not treated as a priority by Greek authorities despite two laws on the subject and recognition of these rights in the Constitution. This made oversight work by journalists and CSOs much more difficult. Some participants considered that the creation of the National Transparency Authority in 2019 had been positive, but others also underlined the lack of continuity created by the succession of transparency and anti-corruption institutions and failure to respond to appeals, often leaving courts as the only genuine means of redress to exercise the right to access documents.

Participants regretted that Greece had failed to transpose the 2019 **Whistleblower Directive** before the 2021 deadline. They also regretted the fact that the Novartis bribery scandal did not lead to civil or penal penalties, despite the case being handled by the anti-corruption prosecutor. Participants considered the case to be a fiasco in terms of protecting whistleblowers and journalists because of the way they were targeted in the context of this scandal, despite the fact that company officials had admitted the bribes. The Greek authorities said they had been proactive in setting up a legal framework to protect whistleblowers, in particular in criminal proceedings. The draft law was ready to be submitted for public consultation. It notably entailed the obligation for organisations in over 50 persons to put internal reporting procedures in place.

# Report on the visit to Finland

2-3 June 2022

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

## *Fundamental rights related to social partners*

Participants considered that social partners benefited from a **solid framework** and a long tradition of tripartite dialogue. The Finnish system provided for the adequate involvement of social partners and CSOs in the legislative process from the upstream phase, in the form of participation in governmental working groups. Participants felt that compared to some other countries, there was no topic which was too sensitive to be discussed in these frameworks. The government always involved the social partners in questions concerning wages or labour and social legislations, but also in position papers on EU matters. In addition to structured consultations, ministries were also quite accessible for more informal exchanges.

Participants explained that the practice of **social dialogue** had evolved over the past few years – drifting away from collective bargaining at national level – and social partners were still looking for a new negotiation model. Participants explained that employers, in particular in the forestry and technological sectors, withheld from negotiations at national or sectoral level, preferring negotiations at company level to better face global competition. The Finnish authorities explained that a tripartite working group was discussing the future of collective bargaining in the country, but that no significant steps can be expected before social partners agree on such a model.

Participants explained that a package to support employment in the context of **COVID-19** was negotiated at the beginning of the crisis, covering aspects such as employment, social benefits and company operations. Healthcare workers had been put under intense pressure by the pandemic. Exceptional measures imposed overtime work and forced vacations to be postponed. After the crisis, nurses went on strike to demand better working conditions.

Social partners had sought to learn lessons from the crisis to prepare tools to act against possible new crises in order to maintain the resilience of companies and workers in such situations. Their **reflection** also extended to challenges posed by technological changes such as artificial intelligence, for example. The objective was to make the most of such changes for lifelong learning, upskilling and reskilling, rather than letting social partners be victims to societal changes.

One participant explained that the **right to strike** was well protected and recently used by groups including nurses and teachers to demand better working conditions. The participant however also evoked the case of the Finnish postal service's attempt to prevent postal union action by threatening to resort to temporary workers during the strike. Several workers lost their pay for refusing to train these temporary workers, which led to a case at the European Court of Human Rights.

Participants explained that the **labour market in Finland was strongly segregated along gender lines** compared to other Nordic neighbours. Only a very small minority of sectors boasted a near-equal repartition between male and female workers. The persistent gender pay gap in the country resulted from this uneven repartition throughout the sectors more than from individual differences within companies. Young professionals' career choices were still strongly influenced by traditional models, with men rarely seeking careers in areas seen as female sectors. The Finnish authorities informed about the existence of a tripartite programme on equal pay and a tripartite working group on pay transparency, and about ongoing research and evaluations on these questions.

### *Freedom of association and assembly*

Participants agreed that Finland had a very **strong and diverse civil society**, organised under umbrella organisations that were respected and heard by the authorities. CSOs could, for example, have productive meetings with the police administration in ways that some participants felt would not be possible in most countries. Civil society played an important watchdog and advisory role, which complemented action by the independent office of the Parliamentary Ombudsman, whose mandate was quite broad (covering the National Prevention Mechanism against torture, and monitoring the Convention on the Rights of Persons with Disabilities (CRPD), etc.), and whose recommendations on amending legislations were almost always followed. The role of the National Human Rights Institution was entrusted to the Human Rights Centre (HRC), which mainly focussed on awareness raising and capacity building on human rights. CSO consultations ran in a smooth and efficient manner, although some participants had the feeling that the timing was sometimes unclear, and that the timeframe offered for involvement of civil society had shortened over the last years following one of the legislation drafting processes.

Participants explained that Finnish CSOs benefitted from a **strong tradition of public funding** which stemmed from various levels: European, national, regional, and municipal – a variety of sources which ensured their independence. This structure was all the more appreciated because the majority of the Finnish CSOs were small or medium sized, limiting their capacity for fundraising. One participant believed that ministries varied in their levels of exigence concerning CSO reports on the use of public money, but that reporting requirements were always very demanding, and sometimes too costly both in time and money.

Participants also explained that the stable situation offered by the large availability of public funding could evolve, and that reflecting on the future of funding was essential for CSOs. One of the **challenges** was the emergence of new issues such as COVID-19 and the war in Ukraine, which could divert funding channels from the usual recipients. Another challenge was the foreseen reform of the state monopoly on gambling, which generated funds that traditionally benefitted social and health CSOs. As funds would now only stem from the state budget, there could be a risk that funding policies could change according to the priorities of the government in power. Additionally, the possibility for the State to transfer the provision of some services in areas like health or development cooperation to the civil society sector raised questions. Although such transfers were framed by law, some participants felt it important to ensure that fundamental rights guarantees and public service requirements would not be lost in the transfer. Also, entrusting CSOs to be service providers could make it more difficult for them to play their role as watchdogs. Concerning the end of the state monopoly on gambling, the Finnish authorities informed

that the objective was to fully compensate the funding gap through the state budget. A working group had been established to reflect over future funding models, including the challenge of avoiding priority changes according to the wishes of political majorities.

**Freedom of assembly** was considered well-protected, with authorities playing an active role to safeguard and promote it. Despite this overall excellent level of protection, participants felt that the police were sometimes puzzled by new forms of activism, such as non-violent disobedience led by climate protesters. A few examples were given of measures taken by law enforcement authorities which could have a chilling effect on freedom of assembly. One case concerned the use of tear gas by police to disperse a sit-in, which was followed by criminal charges against the policemen. The other case concerned charges of aggravated action against a public building filed against dozens of protestors. Regarding the former, the police response was considered disproportionate as it concerned a non-violent sit-in, and the charges brought against them were seen to have the potential to prevent such actions in the future. One participant concluded that cases of police abuse were rare, but that when they occurred, there was a risk of inconsistent action, such as more severity against certain types of demonstrators and more clemency with others. More human rights training was advocated as one of the ways to address such challenges.

Participants agreed that the **main challenges** against freedom of assembly did not stem from the authorities but rather from the rise in hate speech stemming from far-right groups which particularly threatened progressive demonstrators, such as climate activists, ethnic or sexual minorities, and women. Human rights defenders lived in a largely secured environment compared to other countries, but also faced an increase of hate speech, in particular online, which was overwhelmingly under-reported.

### *Freedom of expression and freedom of the media*

Participants assessed the level of **press freedom as very high** in Finland. The legal environment offered solid protection, for example in the area of access to documents or respect for source confidentiality, and legal sanctions were limited to serious cases of defamation or matters of national security.

The **media landscape** was considered particularly vibrant given the relatively small size of the Finnish population. Public television and radio was fully independent, attracting half of the general population. The national, local and regional press landscape was also vibrant. Finland, however, was not exempt from the general trend towards media concentration, as social media had been pulling advertising revenue away from traditional media. This had led to a slight reduction of the editorial offer in a free media market that was not subject to state intervention. Overall, there was a strong tradition of newspaper reading, and many households subscribed to at least one daily newspaper. One of the main challenges in the area of media freedom concerned the under representation of minorities, such as people with migrant backgrounds and indigenous Sami.

The Council of Mass Media composed of academics, media professionals, and civil society representatives took up cases where a complainant felt misrepresented in the media. Participants believed that the **media was largely exempt from direct influence** from politicians, despite isolated incidents. There were occasional cases of strategic lawsuits against public participation (SLAPP), especially against freelance journalists, but they

remained rare. Participants mentioned that a journalist was charged for reporting on security matters, allegedly because of the use of leaked classified information, however it had later emerged that he had only used publicly available information. One participant considered that the monitoring role of journalists was made harder by the trend revealed during COVID-19 to make political decisions based on complex data or artificial intelligence.

Participants agreed that the key challenge related to freedom of expression was **hate speech**. An example was given of a politician being cleared by a court of attacking homosexuality based on references to the Bible (however it was considered a positive development that the public prosecutor appealed the decision). On the other hand, another journalist had been convicted – before being cleared in a higher instance – for mocking a far-right politician. Participants felt that online hate speech particularly affected the ability of women and minorities to engage in public discussions and, notably, to run for elections. They felt that there was a general lack of awareness on what counted as hate speech, with very few cases where the courts had sought to define it. Russia-connected attempts to interfere in public life took the form of online disinformation led by social media influencers, who would use any possible topic (COVID-19, refugees, NATO membership) to spread fake news. Concerning hate speech, the Finnish authorities indicated that despite all political will, the phenomenon would be difficult to address in a country with such strong traditions in freedom of expression. Concerning disinformation, the authorities pointed to statistics showing that the country succeeded relatively well in addressing online disinformation compared to other countries.

### *The right to non-discrimination*

Participants explained that there was a good **legal framework** on non-discrimination, notably based on the Constitution, the Equality Act, and the Non-Discrimination Act. All authorities had the obligation to promote equality, notably through the development of an equality plan, which some participants felt were sometimes too generic and needed more focus on implementation. Participants also regretted that the non-discrimination Ombudsman could not work on labour issues because the Ombudsman's mandate did not entail employment matters, nor allow for taking up complaints concerning private employers. The Finnish authorities indicated that the Non-Discrimination Act was under partial review based on the recommendations of two working groups, which included measures to increase equality education starting at a young age, and more possibilities for the Non-Discrimination Ombudsman or other parties promoting equality to take a matter to the National Non-Discrimination and Equality Tribunal without the individual that has been a victim of discrimination – among others.

Participants explained that there was no definition of **hate crime and hate speech** under law, only aggravating circumstances leading to harsher sanctions. They added that only a very small minority of victims of hate speech or hate crime reported them to the police, and in the few cases that were reported, the investigation rate was very low. They felt that hate speech had been amplified and legitimised by far-right politicians and supporters, targeting women, LGBTIQ persons and ethnic minorities in particular, and that freedom of expression or freedom of religion was used as an excuse for such hate speech. Participants supported more awareness rising and capacity building among police and justice personnel to be able to better reach out to victims of hate speech.



Some participants explained that the needs of **people with disabilities** were systematically taken into consideration in town planning and construction, but that this did not, however, always prevent negligence or unconscious decisions that led to unintentional exclusion. They also regretted the fact that inclusion throughout the labour market was low because of discrimination and a lack of personal assistance. Children with disabilities faced higher levels of bullying at school compared to the rest of the child population, along with other groups such as LGBTIQ youth. The Finnish authorities informed that the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) was carried out in close collaboration with organisations of people with disabilities. They acknowledged the key issue of discrimination in the area of employment, which was largely the result of individual attitudes. Legislation provided for measures to promote equality and to ensure reasonable accommodation, and would be further reinforced by the implementation of the EU Accessibility Act.

One participant believed that despite the existence of good regulations on discrimination, the persistence of structural discrimination in society was still preventing the full integration of **migrants** through work. The parallel processes to get residence and work permits were burdensome and sometimes treated inconsistently by the administration. There was also an unjustified difference in treatment between Ukrainian asylum seekers, who were granted temporary residence, and other groups of asylum seekers. The latter did not benefit from equal support and faced daily hurdles, for example not being able to open a bank account. These asylum seekers had to submit their claim for asylum at specific points such as crossing points at the border or police stations, contrary to the previous practice allowing asylum claims to be filed throughout the country.

Participants explained that **people with ethnic minority backgrounds** often found themselves stuck in professions that they would not have wanted to follow. Additionally, surveys have proven the existence of workplace discrimination based on ethnic background. Surveys have also proven the existence of ethnic profiling in police practices. The indigenous Sami's right to free, prior and informed consent was not fully implemented. One participant explained that self-determination to quit the religion assigned at birth was normally not possible before reaching the age of majority (18), which entailed constraints in terms of taxes and religious teaching at school.

Participants explained that COVID-19 had impacted **women** more than men. Women represented the majority of staff in sectors such as the health sector. It was also indicated that Finland had one of the most restrictive abortion laws in Europe, obliging those seeking an abortion to give justified healthcare reasons, and to obtain the approval of two doctors before starting the process. Participants believed that the anti-gender movement was on the rise in Finland, which hindered women's participation in social and political life, including in elections. The Finnish authorities acknowledged that despite the very good societal protection offered by welfare and equality policies during the crisis, COVID-19 also highlighted long-term challenges such as labour market gender segregation, domestic violence, and unequal domestic care. Concerning abortion, the Finnish authorities informed that a review of the 1970 law was ongoing, following a citizen initiative which gathered enough signatures to put the question on the Parliament's agenda.

One participant informed that Finland did not yet have a comprehensive **LGBTIQ** strategy or action plan. A key issue was the significantly low level of reporting of hate speech and

hate crime against LGBTIQ people. Another challenge concerned transsexual people, who were required to be infertile and undergo a psychiatric diagnosis to have their gender legally recognised. One participant called for the adoption of a law to protect intersex children to allow for interventions related to their health when necessary, while leaving non-vital interventions for a later time when they would be in a position to make a self-determined choice. The Finnish authorities acknowledged the growing demand and need for an LGBTIQ strategy, and recognised that further action was needed to facilitate the legal recognition of transgender people.

### *The rule of law*

Participants explained that Finland, which topped global rule of law indicators, had a **strong and independent judicial power**, and that the vast majority of the public, including business, had confidence in the judiciary.

Participants agreed that the main challenge concerned the **length of judicial proceedings**, especially in civil cases. A National Court Administration had been put in place in 2020 to work on this and other related challenges, which were further exasperated by the backlog created by COVID-19. It called for a response in terms of human resources, based on data proving that the majority of judges experienced strong work overloads. The Finnish authorities acknowledged the need to provide more funding towards judiciary human resources, and indicated that in a constrained budgetary environment with a multiplication of new challenges, such an objective could only be approached one step at a time.

Participants believed that the **cost of judicial proceedings** was another challenge, and somehow related to the length of the proceedings. According to those participants, many people were hesitant to go to court because of the cost. The middle class, for example, was not wealthy enough to afford expensive proceedings, yet was above the revenue threshold to benefit from legal aid. The high costs of judicial proceeding particularly affected victims of discrimination who could not seek financial compensation before the Anti-Discrimination Ombudsman or the National Non-Discrimination and Equality Tribunal. The time that it took for a decision to be made in these instances often brought them past the two-year deadline to file a case for compensation in the civil judicial system.

Some participants explained that the **Constitutional Law Committee of the Finnish Parliament** was a very important body for ensuring checks and balances, and that it was fully independent despite being composed of members of Parliament. For example, it played an important role in ensuring that the rare decisions that did not meet all required procedures and standards during the COVID-19 crisis were reviewed. A side effect of the COVID-19 crisis was that the general population had started to debate human rights and the rule of law. However this did not mean that further efforts were not needed for better general awareness raising on these topics. Despite an overall very satisfactory situation in the area of the rule of law, both the Finnish authorities and its civil society reflected on the risks of a potential overtake of power by anti-democratic forces. The authorities were considering a stress test of its institutions to identify concrete ways to safeguard not only the rule of law in such a scenario, but also media freedom and the civic space.

Despite already ranking at top of the **anti-corruption** indexes, the Finish authorities adopted a new anti-corruption strategy in 2021 to maintain its efforts in that area. Some

participants welcomed this vigilance and believed that all actors should be involved in order to properly implement and monitor the strategy. There were calls for improvements concerning the need to investigate all corruption cases, even those considered minor. Vigilance was also needed against risks of corruption concerning companies in the export sector. One participant explained that lobbying was still unregulated in the country but that legislation was in preparation, including the establishment of a transparency registry. Regulations concerning traffic of influence were also in preparation.

# Report on the visit to Slovakia

7-8 July 2022

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

## *Fundamental rights related to social partners*

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

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

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

## *Freedom of association and assembly*

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

Another participant mentioned the growing **pressure** on civil society organisations dealing with sensitive topics and playing a watchdog role. This trend had developed in recent years in the context of a polarisation of discussions on social media, and of the spreading of anti-civil society narratives. It was felt that the authorities' approach towards CSOs was based not on hostility but rather on a lack of understanding of how to collaborate with

them. It was also felt that, despite the authorities' appreciation of the role played by civil society as service providers in addressing the consequences of the war in Ukraine, their roles as watchdogs or contributors to public debate was much less recognised. It was noted that the President of the Republic had a civil society background, which contributed to a more positive impression of civil society.

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

### *Freedom of expression and freedom of the media*

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

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

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

Participants reflected upon whether a stricter definition of the **profession of journalist** was needed, pointing, on the one hand, to the fact that many propagators of fake news

were hidden behind the practical title of "civic journalism", while also seeing a risk in overly strict definitions and distinctions. It was also remarked that disinformation and hate speech (for example against groups such as Roma people) also sometimes stemmed from the mainstream media, in the context of fierce competition for readership which encouraged tabloid-type methods. Support for quality journalism was seen as the best method of addressing such trends.

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

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

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

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

### *The right to non-discrimination*

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

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

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

Participants appreciated that relevant CSOs had the opportunity to comment on the national action plan for the development of quality of life for **persons with disabilities**, which was under preparation. They also appreciated positive developments such as the fact that building certification now included criteria on accessibility. However, they pointed to a number of long-term challenges, such as the fact that social facilities for people with disabilities were not legally regulated, which did not help investigations in the event of human rights infringements. There was also only a very partial acceptance of people with disabilities in the domain of employment and inadequate access to buildings was still widespread.

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

Participants explained that the Constitution offered overall protection to people without a **religion**, which represented up to a third of the population of the country. However,

they regretted that no specific legislation was in place to offer better funding and access to public media to organisations proposing a humanistic spiritual vision. They felt that the imbalance was too large between the treatment of registered churches, which legally received hundreds of millions of euros of public funding, and CSOs working on non-religious humanistic grounds, which mostly had to fund themselves. They also underlined the strong influence of the Church on political and social life, and on the teaching curricula. On that last point, the Slovak authorities clarified that pupils were offered a choice between religious and humanistic ethical teaching at the beginning of each school year.

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

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

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

### *The rule of law*

Participants recognised that the institutional **rule of law framework** was firmly in place, while they pointed to a political culture which leaned towards a preference for direct and vertical ways of decision-making. They felt that the participation of civil society, including



the social partners, was considered a necessary evil by authorities rather than offering a genuine added value for law-making. Participants also felt that the authorities had an excessively shallow approach to the rule of law mechanism exercise led by the European Commission, not taking proactive measures based on yearly reporting. They therefore appreciated that the European Commission Rule of Law Report would this year entail country-specific recommendations, which they hoped would help civil society in its watchdog role.

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

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

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

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

Participants regretted that law-making during the COVID-19 pandemic had been marked by unpredictable, contradictory, and non-transparent rules. A participant explained that only half of the laws passed under the **accelerated legislative procedure** were actually linked to the pandemic. The topic was also brought up in the session on the rights of social partners, where a participant explained that the practice had remained, seemingly to become the norm rather than the exception, resulting in the bypassing of the consultation of civil society, including the social partners. Another participant considered that such a

development was one of the main rule of law challenges in the country, and called for a strict limitation of that accelerated legislative procedure to the original criteria for its use, that is to say, extraordinary crises, threats to fundamental rights, and grave economic situations.

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

# Report on the visit to Portugal

6-7 October 2022

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

## *Fundamental rights related to social partners*

Participants in this session agreed that the **protection provided under law** to social partners was good, and that Portugal had an excellent track record as far as the ratification and implementation of the main International Labour Conventions (ILO) was concerned. It was agreed that social partners supported employers and workers quite well – including through genuine trade union efforts to reach out to groups such as platform and migrant workers – and that they enjoyed a strong legitimacy on the national stage.

**Social dialogue** was solid and covered a wide range of issues, which helped the country through various crises, such as the COVID-19 pandemic. Social dialogue was both bipartite and tripartite, leading to a good number of collective agreements covering a great number of employees. The Portuguese authorities confirmed that they took social dialogue into consideration and pointed to several initiatives in that area, including the Economic and Social Council (CES) and the publication of draft laws in the Labour and Employment Bulletin issued by the Ministry of Labour addressed to the social partners.

Social partners, however, felt that their **participation in decision-making** should be increased. They believed that their involvement in preparing Portugal's National Recovery and Resilience Plan (NRRP) had been insufficient. They also felt that they were consulted too late in the process, and mostly in an informal way, without the possibility of having a significant impact on the content of the plan. A similar reflection was made in relation to the implementation of the European Social Fund in Portugal.

Some participants pointed to challenges in the area of **collective bargaining** resulting from an update of the Labour Code in 2003. That revision had allowed for expirations to be set to once open-ended agreements, which trade union representatives felt put in question the voluntary aspect of collective bargaining, and meant that agreements could come to an end without proper reason. A representative for employers underlined that the expiration of a collective agreement did not affect the continuity of the worker protection in areas such as social protection, allowances, or safety at the workplace.

Some participants believed that there was a gap between the legal framework and the **actual protection of trade union rights in companies**. Some workers were reluctant to acknowledge their affiliation with a trade union, which hindered trade unions' ability to obtain effective representation in some companies. It was also mentioned that some companies used the COVID-19 pandemic as a way to complicate contacts between workers and trade unions not represented in their company.

One participant brought up the pressures put on trade unionists specifically aimed to limit **strikes**, which would also affect their career development. An example given was

resorting to temporary staff to neutralise the effects of planned strikes. Trade union representatives believed the minimum service rule infringed workers' right to go on strike, while employers' representatives were in favour of the rule. Employers' representatives also lamented that some strikes involved topics which were not directly in their hands.

Employer and worker representatives did not agree on the impact of the **EU Directive on minimum wages**, referring to questions of subsidiarity, the European Court of Justice's ability to intervene in matters concerning national salaries, and the risk of putting a cap on salaries in a country where wages are already low – with the minimum wage close to the poverty line. The Portuguese authorities indicated that Portugal already complied with most aspects of the Directive, and that they intended to continue and reinforce social dialogue when implementing the text, in line with the recent Medium-term agreement to improve incomes, wages and competitiveness between the government and social partners.

The work of **labour inspectors** was considered essential for ensuring the proper implementation of labour laws, however participants regretted that these services lacked the time and human resources to properly carry out their duties. The Portuguese authorities acknowledged these challenges and spoke of the recent recruitments to face them.

### *Freedom of association and assembly*

Participants agreed that the **legal framework** for protecting freedom of association and freedom of assembly was strong in Portugal, and that these rights did not suffer from systemic or serious violations or political pressure. The Portuguese society still benefited from the rights granted after the fall of the dictatorship in 1974. However, participants argued that the legal framework dating from that period needed to be updated, in particular to better protect the identity of people exercising their freedom of association and of assembly. To support this argument, participants brought up the 2021 incident in which the municipality of Lisbon shared demonstrators' personal data with the Russian Embassy.

Some participants explained that the **CSO fabric** in Portugal relied heavily on volunteering, which was weakened but also revitalised in various ways by the pandemic. People tended to show a genuine willingness to volunteer, but in more sporadic ways, and in response to urgent situations. As in other countries, participants felt that the space for civil society was narrowing. CSOs notably suffered from the gradual polarisation of public opinion and from the rise of hate speech, which led to cases of threats against CSO staff members working in areas related to migration or the integration of people with foreign origins, or members of the Roma community. Participants also believed that the interference of some political parties in the CSO environment was a negative development.

According to participants, CSOs depended mostly on **funding** from the public sector at state and EU levels. These funds were not particularly orientated towards advocacy or monitoring activities. The scarcity and centralisation of resources tended to lead to competition rather than collaboration among CSOs, at least in the human rights field. On a positive note, efforts to do away with the red-tape surrounding setting-up CSOs were welcomed. The Portuguese authorities presented the various schemes available for civil society funding and considered them substantial, particularly in areas related to gender

equality, the integration of migrants, the rights of persons with disabilities, the rights of LGBTIQ people, and other discriminations.

Participants believed that **CSO involvement in decision-making** still needed to be stepped up despite the real recent efforts by the authorities, which were also recognised. According to participants, experience showed that whether or not CSOs were consulted mostly depended on the goodwill of the authorities in power at a given time, or on that of specific institutions. Consultations were too often made simply to tick boxes, and not with the aim to genuinely involve CSOs in political dialogue. It was acknowledged that CSOs had been involved in a number of committees (on discrimination, gender equality, human rights, etc), however their involvement was viewed as a mere formality, lacking the possibility for meaningful influence on outcomes. One participant believed that steps should be taken to improve the continuity of exchanges between authorities and CSOs, and that these exchanges should be better organised to avoid last-minute dealings that would result in outcomes of poor quality. The Portuguese authorities mentioned the existence of numerous committees opened to civil society contribution, and also that of a public website to ensure civil society and citizen consultations on draft legislations. Citizens were also entitled a right of initiative in certain legislative areas.

Participants pointed out that there lacked a specific institution to channel the **voice of civil society**. On that point, the Portuguese authorities indicated that the Economic and Social Council (CES) was not restricted to social partners and also integrated various civil society interests. Participants also regretted the scarcity of lasting self-organised platforms among CSOs themselves, and the rare representation of CSOs in the media. In the absence of a regulation on lobbying and advocacy activities, it was felt that the ability to influence policy-making mostly depended on power and financial capacities. One participant also explained that the promoters of projects were often also those paying for compulsory environmental impact assessments. This situation prevented a genuine focus on the general interest, and marginalised the views of independent CSOs in such impact assessments.

### *Freedom of expression and freedom of the media*

Participants believed that the legal framework on freedom of expression and media freedom was good, but that significant challenges persisted in the area of **socio-economic developments**. They believed that the media sector suffered from a lack of funding, which was leading to a real crisis affecting quality and investigative journalism and favouring commercialism and sensationalism, despite the existence of a solid code of ethics for journalists that guide the profession. The current economic model was considered unsustainable for the media, given recent developments such as the increasing costs of production, the scarcity of porters to deliver newspapers, or the local "news deserts" characterised not only by the disappearance of local media, but also of media points of sale. The Portuguese authorities acknowledged the issues faced by the media sector, while noting that such challenges were global. They explained that public funding was available to support regional media and delivering newspapers and magazines to subscribers.

One participant explained that the media sector was highly regulated in Portugal. It was considered that the **Portuguese Regulatory Authority for the Media's** scope to take action was limited by the nomination process of its regulatory board, which was de facto

in the hands of the two main political forces that had dominated the parliament for decades. This situation had apparently created a one-year gap between the end of term of the previous board and the installation of the next. One participant explained that several key provisions of the European Media Freedom Act, such as transparency of ownership and the participation of journalists in editorial decisions, were already in effect in Portugal. They also expressed fears that the organisation of media regulators at EU level would lead to a top-down decision-making model.

Like elsewhere in Europe, **journalists' socio-economic situation** was characterised by poor working conditions, precarious labour contracts and low remuneration, especially when considered alongside the social responsibility they carried in democratic societies. The rise of extremist discourses had also brought into question the legitimacy of journalists' work, with examples presented of politicians insulting journalists. Cases of strategic lawsuits against public participation (SLAPPs) also contributed to the rise of self-censorship. One participant pointed to an example of a more explicit attempt to limit journalistic work in the case of a sport journalist summoned to the disciplinary board of the Portuguese Football Federation for having asked a question which was not directly related to the game that was being discussed in the interview. The Portuguese authorities acknowledged individual difficulties faced by journalists, while still noting that the country was a very safe place compared to others, as indicated by the low number of cases reported to the Council of Europe platform to promote the protection of journalism and safety of journalists.

The increasingly difficult **access to public documents** was another issue that was raised. It was explained that a journalist who is refused access to a public document by the authorities could turn to the commission for access to administrative documents. However, public authorities were not bound by the decisions given by that commission, which sometimes left journalists to appeal to courts as a last resort. It came to light that recourse to courts to counter refusal of access to public documents had never been so high. A parallel phenomenon also mentioned was the tendency for public authorities and politicians to limit their responses to journalists. One-sided "declarations" had started to replace traditional press conferences, which usually end with Q&A sessions. The Portuguese authorities considered that the right to access public documents benefitted from strong legal protection covering all administrations, with only limited legitimate exceptions.

It was considered that the difficult situation facing the media not only stemmed from the media providers themselves but was also due to audiences' lack of **awareness and education** on and interest in important principles, such as the difference between facts and opinions, the protection of sources, and the verification of information. A more demanding audience and more qualitative journalism were needed, however current economic models – for example paid subscriptions for quality online news – had become barriers to information for the majority of the population. Some participants shared best practices in the area, including projects allowing journalists to teach media literacy to the populations most prone to becoming victim to fake news, such as the younger and older populations. Participants also discussed the importance of increasing literacy and safeguards in the area of online algorithms and privacy rights online, such as the right to be forgotten. The Portuguese authorities indicated that they took the global disinformation problem very seriously, and that they promoted media literacy through several channels, including awareness campaigns, an informal group on media literacy

involving several institutions, and an amendment to the audio-visual law putting more obligations on the broadcaster in that area.

### *The right to non-discrimination*

Participants appreciated that the authorities had shown more openness to listening to civil society in the area of **anti-discrimination** in recent years, with the National Strategy for Equality and Non-Discrimination regularly integrating the views of CSOs in their work. Participants also welcomed the positive atmosphere for dialogue with the government and the parliament, as well as concrete forums, such as the youth parliament. Participants called for reinforcement in the area of funding, which was available at national and European levels, and also for more long-term support (as opposed to one-off programmes) for CSOs working in the field of anti-discrimination. Participants in general called for more awareness-raising efforts targeted towards citizens, and training for public officials. On that point, the Portuguese authorities brought up a number of training programmes on intercultural dialogue (in particular covering migrants and the Roma community) that involved the education, security, and health sectors. According to the Portuguese authorities, the UN Committee on the Elimination of Racial Discrimination considered the anti-discrimination training given to the Portuguese police to be an example of best practice.

On **disability rights**, participants agreed the law was sound and that the legislation stemming from the Parliament was in line with the requirements of the Convention on the Rights of Persons with Disabilities (CRPD). However, there existed a gap between the law on paper and that in practice, notably concerning the inclusion of people with disabilities in education and work. There was a noticeable difference between the quotas set for the number of employees with disabilities in both public and private jobs, and their actual representation in these sectors. Participants also believed that the law on physical accessibility in public buildings for people with disabilities was not fully enforced. They called for more efforts to implement the law, but also for more updated and disaggregated data. Participants also hailed security forces' openness to anti-discrimination training provided by specialised CSOs, concerning not only disability rights but also those of the LGBTIQ population. The Portuguese authorities indicated that a set of measures existed to facilitate independent living for people with disabilities in the areas of employment, social security and education. Contributions from civil society had been integrated into the national strategy for the inclusion of people with disabilities for 2021-2025, with the aim of ensuring an integrated approach in the implementation phase.

Participants commenting on **LGBTIQ rights** believed that the legal framework had improved in recent years, and that Portugal had humanistic laws, which however still needed to be fully implemented. They regretted the absence of a specific framework to address discriminations, which limited recourses against discrimination at the workplace or in access to services to the general principle of equality recognised by the Constitution. An example of a positive development in this field was the law on legal gender self-determination, which separated the medical and legal aspects of gender recognition and facilitated procedures in both areas. Participants did, however, regret that the law did not extend to non-nationals, excluding asylum seekers from protection. They indicated that reports of hate-related attacks against LGBTIQ people were low, and that such attacks appeared to be more frequent than the reports suggested, calling for more efforts in the area of data collection and in training law and security officials.

Participants considered the Portuguese legislation on **gender equality** to be rather modern and inspiring for other EU Member States, for example in the area of salary transparency, where an EU Directive on the matter took inspiration from Portuguese law. However, it was also felt that some public services and Portuguese society in general lacked a certain awareness on rights and rules. This called for more capacity building in the police, education, justice, and health sectors. It was also said that victims' confidence needed to be reinforced to encourage more reporting of gender-based crimes, such as gender-based domestic violence and harassment at the workplace. The Portuguese authorities indicated that gender equality had been a constant focus of public action since the return to democracy in 1974, and that the topic was mainstreamed not only in the training of public servants but also in citizenship education programmes in schools.

Participants commenting on the matter of **migrants, including asylum seekers**, regretted that legislation in that area was too scattered, thus hindering their ability to enjoy the rights afforded them by law, for example in the area of reception and integration. Frontline services faced coordination challenges, and asylum seekers had difficulties opening bank accounts and accessing services, such as health services. Positive developments in recent legislative updates facilitating asylum seekers' access to the job market and their children's access to Portuguese nationality were hailed. It was, however, still to be seen how these provisions would be implemented. As far as challenges were concerned, participants regretted that a procedure for identifying statelessness had not yet been effectively put in place, despite the existence of legal provisions. They also believed that the provisions of the Criminal Code needed to be updated to better address incitement to hatred and violence beyond the public sphere. Participants agreed that more training for law and police officials was needed to ensure more effective assistance for victims of hate crimes. The Portuguese authorities indicated that the Criminal Code was indeed going to be amended to expand the scope of hate crimes, and therefore possibilities for redress for victims. They also pointed out that the Council for Migration, a consultative body which directly advised the High Commissioner for Migration, ensured that the largest migrant communities in the country were represented through elections within the relevant CSOs.

### *The rule of law*

Participants agreed that there was no general issue with the **independence and integrity of the judiciary**, where judges were under ever-increasing scrutiny on their work. Participants considered that Portugal had a very formalist culture in the area of the rule of law as well as in others, which meant that the legal framework was generally good, but that implementing laws was the main challenge. One participant mentioned a survey of Portuguese judges which showed that nearly one out of five believed that legal proceedings were not always in line the rules, highlighting a need for stronger protocols for the early detection of these kinds of issues.

As far as the **organisation of the judiciary** was concerned, it was explained that judges now made up the majority of the High Judicial Council, and it was hoped that this aspect would not change in the future. Several participants believed it problematic that some administrative authorities (such as national regulatory bodies) were making decisions that were essentially within the criminal law sphere including decisions involving multi-million-euro fines – with very limited possibilities for judicial review. It was also pointed out that Portugal was doing well in the area of digitalisation of justice, however judges were not



included in the board in charge of controlling the IT system used, which created a blind spot without judicial oversight within the judiciary.

Participants considered the **speed of justice** to be the most central problematic issue related to the judiciary, which was attributed to a general lack of financial means in the sector. Examples were given of cases which had stalled for more than a decade in the investigation phase. One participant regretted the lack of effective sanctions for exceeding time limits set for investigative phases. There was also a historic tendency in Portugal to favour large-scale trials for complex white-collar crimes, which contributed to the impression that justice was dragging. This added to a feeling of burdensome processes, which affected trust in the judicial system.

There was a consensus among participants that **access to justice** was also a problem, most notably for the middle class, who did not qualify for legal aid and did not have the means to pay the full cost of judicial proceedings. The criteria for publishing judicial decisions were also deemed unclear. Additionally, it was pointed out that access to justice for prisoners needed to be improved, with participants mentioning the European Court for Human Rights' condemnation of Portugal's prison conditions. The Portuguese authorities stressed that legal aid was accessible to all individuals and entities lacking available funding, but that improvements were possible.

One participant referred to the above-mentioned survey of Portuguese judges that also showed that a quarter of respondents believed that a certain level of **corruption** existed in the profession – a perception which was much higher among the general population. Other participants, however, felt that the survey in question did not reflect reality. One participant pointed out that a national anti-corruption mechanism provided under the National Anti-Corruption Strategy was still in its initial phases. It was also believed that the office of the Attorney General lacked sufficient financial means and a specific structure to carry out investigations in complex corruption cases. On corruption, the Portuguese authorities indicated that a complex legal framework existed, showing political will to take action in this area.

One participant mentioned that there was a general positive perception of authorities' compliance with the rule of law in the context of the **COVID-19 pandemic**. The Constitutional Court and the Ombudsman office played an active role in reviewing the measures taken by the authorities, which temporarily constrained certain rights, in what was the first use of the state of emergency since the return to democracy. It was felt, however, that the authorities did not always appreciate lawyers' proactivity during that period, which one participant said had led to the introduction of non-lawyers in the bar association's oversight body.

# Report on the visit to Sweden

13-14 October 2022

Four members took part in the country visit to Sweden. The delegation met with several representatives of civil society, specifically, civil society organisations (CSOs), social partners, the media and legal professions on the one hand, and the Swedish authorities on the other. The aim of this report is to faithfully reflect and reproduce the views of civil society.

## *Fundamental rights related to social partners*

The participants agreed that the exceptional Swedish model for **social dialogue** was working very well and should be maintained. The state provided a legislative framework in the form of labour laws for this model, but they were not allowed to interfere in wage-setting. Social partners could be involved in discussing new legislation via expert groups or consultations with the authorities and in some cases, they could deviate from existing legislation through collective agreements. According to participants in that session, such involvement was crucial for maintaining the 'Swedish model'.

Participants explained that Swedish society was highly unionised, with a large network of **unions** establishing close contact with workers. Participants explained that the right to strike would not apply when a collective agreement was in place.

Participants expressed concern over the **EU Directive on minimum wages**. The social partners clearly stressed that they needed to keep the ability to regulate wages through collective bargaining, without which they believed that the 'Swedish model' would collapse.

One participant explained that there was a strong protection of **consumer rights** in Swedish law, but that enforcement and awareness of these laws was lacking. It was also explained that the Swedish authorities provided financial contributions to Swedish consumers to pay household bills, but it was unclear if, when and how any further contributions would be made during the current energy crisis.

**Work-related crime** – namely fraud, rule violations and crime in working life – was raised as an issue as it could happen despite collective agreements being in place. It was explained that regional safety representatives, appointed by the trade unions, supervised safety measures in place at different workplaces. Worry over the Swedish authorities possibly removing and/or weakening these representatives in the future was voiced.

## *Freedom of association and assembly*

Participants explained that **Civil Society Organisations (CSOs)** had great freedom over their self-organisation, as long as their structure ensured internal democracy and transparency.

As in other countries, participants felt that the space for civil society was shrinking. **Hate speech** on social media, which particularly targeted young people, women and persons

carrying religious symbols, was of major concern for the participants. Such hate led to a fear of speaking out which, in turn, meant that less people were likely to join CSOs.

Participants pointed out that the criteria for the **distribution of public funds** were increasingly strict. Criteria linked to democratic governance were demanding, which prompted fear among the participants that the authorities could misuse them to restrict funding to certain CSOs. The authorities explained that the objective of such strict criteria was to prevent public funding of CSOs working against fundamental Swedish values.

Participants noted the **difficulty for some CSOs to open a bank account**, which they considered represented an obstacle to freedom of association. It was explained that some CSOs, mostly smaller organisations working with vulnerable groups, were not always able to obtain the electronic identities issued by Swedish private banks which, in turn, prevented them from opening an account and operating freely.

Participants expressed strong concerns over a possible negative evolution of the Swedish authorities in its approach to issues such as **anti-racism, migration and public funding for CSOs**. They believed that the fundamentals of freedom of assembly and association were not necessarily under threat in Sweden, rather that the prerequisites protecting such rights could be at stake.

#### *Freedom of expression and freedom of the media*

Participants recognised that the overall situation concerning freedom of the media was good in Sweden, as reflected by many global statistics. Participants expressed concern over a possible change of stance by the Swedish authorities with regard to freedom of the media, including the guarantees offered to the public service broadcaster. It was explained that Sweden had the oldest law on freedom of the press in the world, and that such a consolidated tradition made it difficult to limit such freedoms, including media freedoms. It was also explained that an independent **Media Ombudsman** had the mandate to protect all types of press and broadcast media from interference.

The authorities gave information on an upcoming project to support funding of media outlets. Participants noted that the **spread of disinformation** was worrying, and that the authorities' proposal to limit public funding and only support media outlets that do not produce fake news could be misused. Participants felt that this proposal would breach the media freedom act, which stated that the authorities should not influence the media.

Participants felt that **access to information** in Sweden was generally very good. Nevertheless, some cases of various authorities restricting free access to public records during the COVID-19 crisis were mentioned. Such restrictions were publicly criticised by CSOs, and a special investigation considered that these restrictions had been inappropriate.

Regarding the **safety of journalists**, participants believed that threats against journalists were very worrying in Sweden. They believed that the Swedish judiciary lacked experience in this domain, which has been harmful to the victims. Participants also noted that the protection of exiled journalists was volatile in Sweden.

### *The right to non-discrimination*

Participants noted that the reality of discrimination in Sweden was different from the idealised image often reflected by the country. Regarding the legal framework, participants agreed that the **discrimination act** did not cover all possible forms of discrimination, nor did it have specific provisions on discrimination by the police. The authorities confirmed that an inquiry was appointed by them to study the possibility of widening the scope of the act. Some participants expressed doubts over the independence of the newly established Swedish Institute for Human Rights. Lastly, most participants called for a reinforcement of the role and capacities of the equality ombudsman, while others pointed to the essential role played by CSOs in the domain. The authorities confirmed that the equality ombudsman would handle more cases, enhance dialogue with civil society and anti-discrimination bureaus (CSOs educating and assisting people with their rights) and increase knowledge about the law amongst the Swedish public.

Participants explained that **persons with disabilities** were not sufficiently considered in Swedish law and society. For example, no specific provision on discrimination against persons with disabilities existed in Swedish criminal law, making it more difficult to claim rights in court. Participants criticised the Swedish school system for not educating children about disabilities enough, and social services for not being sufficiently informed about the specific challenges and rights of persons with disabilities.

Participants felt that there was still substantial discrimination in Swedish law against **rainbow families**. For example, the proposed change to the gender recognition act put forth by the authorities was both welcomed by participants on principle, but also criticised for not going far enough. One participant explained that the identity card of a person undergoing the various required medical evaluations before being able to change legal gender, would not match them during that time. This could represent a period of humiliation for the person concerned and lead to identification issues. Participants also noted that senior LGBTQI persons faced discrimination when entering care homes due to a lack of concern for their specific needs. Moreover, they believed that the criteria to grant asylum based on sexual orientation or gender identity were not properly implemented, leading to the refusal of asylum to some LGBTQI persons.

Regarding **gender equality**, participants indicated that many issues persisted in Swedish society such as the pay gap, harassment and inequality in the treatment of women with disabilities compared to men with disabilities. A positive development was considered the good level of reporting of gender-based violence compared to most other countries, which consequently translated into the fact that Sweden recorded one of the highest numbers of reported rapes in the world per year. Nevertheless, participants considered that the Swedish police and the judiciary were not trained well enough to deal with such crimes, as a shockingly low number of cases led to conviction.

Some of the bureaucratic obstacles to the integration of **migrants**, including through access to the work market, were outlined. Some participants felt that rejected asylum seekers who were stuck in Sweden, including state-less persons, were pushed into destitution by not being provided with accommodation, access to the labour market or financial support. Nevertheless, it was also mentioned that some undocumented persons were treated in CSO health centres.

Some participants strongly challenged the Swedish authorities' response to the UN Committee on the Elimination of Racial Discrimination whereby Swedish legislation would effectively prohibit every form of **racist expression**.

While some participants acknowledged that the authorities regularly met with elderly civil society in the form of a pensioners committee, they also felt that **over 65-year-olds were structurally discriminated against** in Swedish society, as they were not considered in most laws and under-represented in public institutions. Furthermore, it was expressed that children's rights were not considered enough in decision-making in Sweden.

The fact that Sweden did not ratify the International Labour Organisation (ILO) convention on indigenous peoples was also lamented. Some participants were concerned about a possible change of attitude by the Swedish authorities with regard to topics like **ethnic and racial profiling**, Muslim minorities, or disadvantaged children's rights. Representatives of CSOs working in these fields explained that they were worried about not receiving any more public funding. It was also hoped that the evaluation commissioned to the Swedish National Council for Crime Prevention on ethnic profiling by the Swedish police would be delivered.

### *The rule of law*

Participants agreed that the situation in Sweden was good with regard to the rule of law, and underlined that Swedish judges evaluated the Swedish courts as very independent. Participants expressed concern about a possible change of approach by the Swedish authorities to rule of law related policies. A committee of inquiry set up by the authorities was examining how to further strengthen the **independence of the judiciary** and the Judges' Proposals Board charged with appointing judges. It was explained that judges in Sweden could not be dismissed unless they committed a criminal offence.

Participants highlighted a **lack of judges** due to recruitment difficulties. This has led to an increased risk of mistakes in proceedings and delays. In response to this situation, it was explained that younger and retired judges were brought in, without the same socio-economic conditions as other judges however.

Participants noted that **access to courts** was an issue due to high legal fees. It was explained that there was no right to compensation even if the case was won, although the authorities underlined that fee exemption was applied after an intervention by the equality ombudsman. Participants estimated that education on access to justice and citizens' rights in general was deemed too low in Sweden.

Participants explained that most draft legislation passed through the **Council of Legislation** for ex-ante constitutional review before entry into force. However, participants expressed dissatisfaction about the fact that the authorities did not always follow the Council's opinion. The Swedish authorities explained that the Council was only given a few days to complete their investigation, which meant that some aspects could be overseen. Therefore, the authorities occasionally chose not to follow the Council of Legislation's non-binding opinion.

Participants stressed the importance of addressing the phenomenon of **undue pressure on judges** stemming from social media and society as a whole. It was also explained that

the aforementioned committee of inquiry would treat this topic as well the anonymisation of published decisions.

Participants explained that the Swedish system was built on trust, which was positive, but also meant that manipulation was in principle possible. EU **anti-corruption** work was very welcomed by the participants, as they believed that Swedish anti-corruption law was too trusting and not robust enough. The authorities confirmed the importance of monitoring all forms of corruption, and stated that the fight against corruption was a topic that was also discussed at local level. Participants considered that the rise in organised crime in Sweden was alarming.

# Report on the visit to Slovenia

17-18 November 2022

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

## *Fundamental rights related to social partners*

Participants in this session stated that Slovenia had historically had high standards in terms of **social dialogue**. The social partners had always cooperated well by reaching compromises and adopting legislative acts after fruitful discussions in the Economic and Social Council (ESC), the body responsible for social dialogue. However, the COVID-19 pandemic and the lack of political will under the previous government had had a negative impact on social dialogue.

It was explained that the model of Slovenian **collective bargaining** dated back to the 1990s. Currently there was no general collective agreement for all economic activities. According to participants, the Act regulating collective agreements would need to be reformed. One participant felt that collective bargaining agreements needed to apply to all activities, even in cases where employer associations would not be signatories. The Act on trade union representation also dated back to the 1990s, and set a minimum threshold of trade union members employed in an individual sector, profession or by an employer as the entry condition for acquiring the properties of the union's representativity at a certain level. Trade union membership had been declining and differed significantly across sectors.

Participants informed the delegation that, since 2017, all socio-economic and labour-related draft law had to be discussed in the ESC before being put forward by the government. They also referred to a non-written rule whereby such fundamental proposals had to be adopted with the consensus of the social partners. According to participants, this prior agreement of the social partners had been an accepted practice until the situation changed under the previous government. Participants acknowledged the government's urgency to act fast in response to the COVID-19 pandemic, but they also indicated that the social partners' trust had been abused on multiple occasions in that context. In their view, the COVID-19 pandemic had been used as an excuse for accelerated law-making, bypassing meaningful **consultations with the social partners**. As a protest against what they considered as disrespect of social dialogue standards, the trade unions stepped out of the ESC in 2021. They returned to the negotiation table in mid-2022, trusting that the change of government would be conducive to a revitalisation of social dialogue.

Despite acknowledging the re-establishment of the former consultation pattern, participants remained worried about the **potential long-lasting weakening** of social dialogue. They feared, in particular, that the involvement of the social partners in upcoming reforms related to the labour market, the pension system and healthcare would not be sufficiently meaningful. Participants perceived that social dialogue was treated by the government as a way to inform the social partners rather than as an proper

consultation process. The Slovenian authorities acknowledged setbacks over the past two years, but sought to reassure the delegation that social dialogue had been re-established since mid-2022.

Participants were very critical of the fact that, in their view, trade unions had not been properly involved in national **discussions on EU initiatives** such as the European Semester, the National Recovery and Resilience Plan (NRRP), and the Energy Package. They wanted the social partners to be informed in good time and involved in the preparation and design of measures, especially those related to European funds. They suggested that the European Commission could request an independent opinion from the social partners, and that it could also check their level of involvement in transposing EU legislation.

It was pointed out that **hate speech** had escalated under the former government and during the COVID-19 pandemic, and that the social partners were among the recipients of such attacks. One participant mentioned that the new government had promised the introduction of a coordinator for the prevention of hate speech-related activities.

### *Freedom of association and assembly*

Participants agreed that the **legal framework** for protecting freedom of association and freedom of assembly was up to international standards. There was no legal restriction on the activities of CSOs. The right to participate in decision-making was guaranteed by law and every draft law had to be subjected to mandatory consultation. Participants regretted that cooperation with the previous government on topics such as migration and the rule of law had been impossible.

According to participants, the COVID-19 crisis and the installation of the government of that time coincided with **limitations on freedom of association, assembly** and other rights. For example, protesters were fined and gatherings were sometime banned. Participants however appreciated that checks and balances had been resilient in that context: CSOs stood up to defend fundamental rights, and the review of COVID-related measures by the Constitutional Court was protective of rights. Participants believed that lessons could be learned from the crisis to ensure that Slovenia was better prepared to face situations of misuse of power through, for example, the inclusion of experts and an overall improvement of decision-making processes.

Participants explained that some CSOs experienced **verbal attacks and smear campaigns**. According to them, populist political forces continued to pursue an anti-civil society narrative which sometimes derived into hate speech against civil society. Participants advocated higher protection of human rights defenders at national level and supported the idea of a European Civil Society Strategy to bring further guarantees at EU level. The Slovenian authorities mentioned that an amendment to the criminal code had made hate speech and hate crime an aggravating circumstance.

Participants believed that **pressure on civil society** had diminished after the change of government in 2022. They explained that there was no more misuse of government decrees to narrow the civic space. However, participants also considered that the situation was only partially back to the pre-pandemic situation as some mild actions, like writing on the pavement, could now be fined.



The Slovenian authorities informed the delegation that some guidelines for fostering **cooperation with CSOs** were under preparation. The guidelines would provide contact persons in each ministry for CSOs to liaise with. The Slovenian authorities also indicated that legal solutions for misdemeanours involving CSO members were also under consideration. The Slovenian authorities expressed their hope that these steps would help rebuild trust between the government and CSOs.

Participants explained that overall, the pattern of **funding for civil society** has been solid enough to resist the agenda changes of successive governments. The previous government had cut funding for CSOs in some specific areas like the cultural sector. The subsequent government had then re-established such funding and restored the funding available for civil society to pre-pandemic levels. Participants however regretted that appealing in court against funding decisions took a long time. One participant explained that all public funding to CSOs were allocated through public tenders and calls, dealt with by the relevant ministry in charge of the area concerned. It was also pointed out that political intervention was prevented by the fact that the minister or the Cabinet could not directly intervene in decisions on the allocation of funds, which were in the hands of civil servants. The Slovenian authorities mentioned that a call for proposals for CSOs promoting democracy, active citizenship and the rule of law was under preparation.

One participant mentioned the challenges faced by the **youth**. Over recent years, young people felt overburdened by the health and political crises while they also lost trust in politics, based on their perception that they had been used for political purposes and often not listened to.

### *Freedom of expression and freedom of the media*

Participants explained that the position and **working conditions of journalists** had been deteriorating over the past years. They believed that pressure was constant inside and outside media outlets and that it stemmed from both media owners and politicians. Self-censorship existed as journalists felt that they were restricted as to what topics they could cover depending on who was the owner of their media outlet. It was explained that there was no longer a national collective agreement for journalists since 2017, the existing one being only valid for the public sector.

Participants affirmed that private **media concentration** was increasing, and that a single owner possessed dozens of media outlets, ranging from newspapers to radio channels. Media plurality had been particularly affected under the previous government, marked by the political takeover of the main newspapers, pressure on radio and television services as well as press agencies, and strategic litigation cases against journalists.

It was explained that media outlets were economically weak, and prone to be subject to **economic pressure**, through the threats of litigation and the loss of advertising revenues (which mostly stemmed from a few state-owned companies). In the COVID-19 context, the previous government had also cut funds to around thirty national and local media projects arguing that savings were needed. Participants believed that legal updates were needed to address the spread of misinformation, fake news and hate speech, and to better manage the development of social media.

Participants explained how the **criminalisation of defamation** was being used by politicians to take strategic litigation against public participation (SLAPPs) cases against journalists. Individual investigative journalists, especially active in the area of corruption, told the delegation about dozens of SLAPPs taken against them. Some cases were based on accusations like tax evasion and money laundering. Lawsuits could be launched from both the public prosecutor and private individuals and aimed to hit journalists financially, since there was no limitation on the number of cases that could be opened. Some participants felt that the judiciary also had a poor understanding of the reality of the pressure exerted on journalists through SLAPPs. The Slovenian authorities expressed their full support for the Commission initiative to address SLAPPs presented in April 2022.

Participants described how the Slovenian Press Agency (STA) had been the target of funding cuts by the previous government in 2020, allegedly because the government was not satisfied with the reporting from Brussels. They also explained how smear campaigns, intimidation and bullying targeted journalists from the public service broadcaster RTV. RTV journalists had been on strike in 2022 to demand full editorial autonomy and an end to politically-motivated interference and censorship. Some TV hosts were removed from their posts at RTV in the context of the plan approved by the TV leadership to reduce news programmes. Journalists considered the difficult situation as the main cause of the very low level of trust towards the media in the general public. They added that two legal cases had been opened against the RTV head, including for lack of respect of the journalists' union rights. The Slovenian authorities considered the ongoing **heated atmosphere** as the outcome of many disagreements, especially on public media, over the last years. They expressed their hope that a return to previous management ways proposed in a November 2022 referendum would appease discussions around RTV and would prevent possible future interferences by governments.

Two participants considered that there were no restrictions on media freedom but rather a lack of pluralism, due to what they called an **imbalance of views** in the media sector in favour of left-wing takes. They considered that actions under the previous government had not been motivated by the objective of pressuring the media.

### *The right to non-discrimination*

Participants considered that the right to non-discrimination was taken very seriously in Slovenia: a vast **legislative framework** provided that discrimination based on any grounds was prohibited in any area of public life, with an open-ground formula. Protection applied not only to individuals but also legal persons.

It was explained that the Equality Body had a far-reaching mandate, and wide-ranging tasks and powers beyond awareness-raising, including representation of victims in court, access to the Constitutional Court and collective action. Its decisions were binding and it could also make recommendations. **Data collection** on equality was considered scarce, affecting the ability of the equality body to monitor the situation. It was also felt that more funding was needed to increase research and data collection by CSOs, for example on ethnic discrimination. The Slovenian authorities informed the delegation that they were working on improving data collection, but that progress in that area required some time.

Despite the existence of good legislation, participants regretted certain gaps in policy implementation and a general prejudice in society. They explained that discrimination hit

the most **marginalised persons and groups**, which included LGBTIQ+ people, minorities, foreigners and women. Discrimination was considered as high in access to the labour market and to healthcare, but it was also felt that integration in education, primary and secondary school had progressed significantly.

Participants explained that while there were some specific anti-discrimination **strategies**, an overall strategy was missing. Some essential sectoral strategies were also lacking, such as on racism, while the strategy on gender equality is in the process of adoption. A participant explained that the reasonable accommodation principle had not been implemented in line with EU standards and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The sanctioning of hate speech was also considered as flawed by some participants who believed that legislation on hate crime was needed and that intersectional discrimination needed to be better integrated in the law. Participants considered that there were minor issues with the Istanbul Convention (on action against violence against women and domestic violence) but that it was overall well implemented. The Slovenian authorities expressed strong support for the Istanbul Convention and said that a national strategy on preventing domestic violence was under preparation.

Participants explained that three pieces of legislation governed the situation of foreigners in Slovenia, including migrants, asylum-seekers and refugees: the International Protection Act, the Citizenship Act and the Foreigners Act. Participants believed that **pushbacks** at the border had decreased since the change of government and said that the approach by the new government had included the tearing down of the fence at the southern border. Ahead of Croatia's entry into the Schengen area, one participant feared that pushbacks would increase again. It was explained that the vast majority of foreigners in the country were migrant workers and that the criteria for family reunification were restricted under the previous government.

Participants regretted that public capacity was lacking notably in the area of housing, affecting the ability of migrants to get a permanent address and, as a consequence, to get access to all rights and services. Practical **procedures for migrants** to obtain or renew their documents were considered as very slow, and the opening of a bank account was particularly difficult for migrants from certain countries. Participants explained that persons refused international protection went to detention centres and that in cases where deportation was impossible, they became "invisible" inhabitants, without any right or access to services. A participant said that minor migrants were detained in violation of international law. The Slovenian authorities said that the latest strategy on migration had been adopted in July 2019, providing a holistic and long-lasting approach.

Participants believed that the visibility and social inclusion of **LGBTIQ+ persons** had much improved in the last years. Two landmark Constitutional Court decisions had led to legal equality in the areas of marriage and adoption for same-sex partnerships. However, there had also been increasing episodes of hate crime and hate speech, especially against transgender persons. Female couples and single women were still discriminated against in access to infertility treatments. A participant explained that medical transition was decided by a group of experts, and regretted that no protocol to get a second opinion existed if the transition was denied. Participants acknowledged that laws provided for inclusiveness in education, but said that this mainly applied in relation to children with special needs and ethnic minorities rather than to LGBTIQ+ children. The Slovenian

authorities referred to the need to work on awareness-raising to change public perceptions. They also voiced support for the EU LGBTIQ equality strategy, but admitted that no national mechanism was currently in place.

A participant explained that Slovenia was one of the first countries to adopt legislation on **Roma** inclusion. A public representative body for the Roma communities provided for consultation on policies that affected them. Unfortunately, it was felt that this body was not so representative and actually divided the communities. It was explained that discrimination was seriously under-reported by Roma persons. Many housing settlements still lacked infrastructure like running water, an issue which was being dealt with but in a slow way. Despite some progress in access to the labour market, unemployment for Roma individuals was still high, and so was the drop-out level in education. The health situation in Roma communities was considered as worse than the rest of the population; notably, Roma persons have a twenty-year lower life expectancy compared to other Slovenians. Participants believed that better policies for Roma communities were needed, and the Slovenian authorities stated their commitment to the betterment of conditions for Roma persons.

### *The rule of law*

Overall, participants called for **vigilance on the rule of law** given what they considered as attacks led by the previous governments.

With regard to the **independence** of judges, it was explained that the Slovenian Parliament was preparing a change in the procedure for the nominations: candidates would still be chosen by the judicial council, but appointed by the President, and no longer by the Parliament.

Participants considered that courts were generally doing well in terms of **management of cases**: the backlog had decreased, as had the time taken to process cases. However, it was highlighted that the increase in strategic lawsuits (SLAPPs) might contribute to the remaining backlog. It was also said that an increasing number of cases did not end up in court, but were handled via alternative dispute resolution mechanisms. The Slovenian authorities mentioned that some measures regarding the conditions of judges were under consideration, including assigning certain tasks to judges' assistants, in order to reduce the workload.

One participant pointed out the fact that politicians tended to see the **judiciary as subordinate** to the other powers, despite the fact that constitutional guarantees were clear on the matter. As a consequence of a lack of political will, salaries of judges had not been revaluated adequately. One participant considered that dissatisfaction of judges about their economic and social conditions was high. Judges would not consider as sufficient the future regulation on salaries in the public sector. The participant also regretted that the premises of the courts were old and below standard in terms of facilities, and that self-organisation of the courts was weak, as illustrated by their inability to organise online justice during the COVID-19 period.

It was explained that the **Ombudsman** office had received one third more cases between 2020-21 compared to pre-COVID-19 times. It was however regretted that most of its

recommendations were not taken on board by the relevant authorities and that a rising number of Constitutional Court judgements remained unimplemented.

Concerning the profession of **lawyers**, one participant believed that the Slovenian authorities appeared to be reluctant to sign the European Convention on the Legal Profession. The participant also regretted the lack of action to address the fact that some semi-professionals gave legal services without being registered lawyers. One participant highlighted the need for additional measures to provide free legal aid, for amending the criminal victim compensation act as well as hiring more judicial experts. The Slovenian authorities did not consider that the material situation of the judiciary was so negative, and they confirmed their willingness to continue the dialogue with the courts.

Participants explained that, during the **COVID-19 crisis**, the government had pursued a "rule-by-decree" policy, imposing restrictions without parliamentary scrutiny and without always publishing decisions in the Official Journal. The Constitutional Court had declared some of these urgent decrees, notably restricting freedom of movement, as unconstitutional. It was also explained that, during that period, the police had begun claiming the costs of policing against protesters, as a way to restrict freedom of protest.

Participants explained that Slovenia had a bad track record concerning **corruption** and they regretted that not enough political priority was given to the issue. In 2021, Slovenia, on a downward trend, ranked below the Organisation for Economic Co-operation and Development (OECD) and EU average in the Transparency International Corruption Perception Index. It was said that only a tiny minority of alleged corruption cases were investigated, and that the number of cases addressed was lower than before. This was believed to explain the fact that surveys showed that half of Slovenians doubted the usefulness of reporting corruption cases. Participants regretted the absence of a strategy on transparency, the last one having expired in 2019. The Slovenian authorities said that proposals for a future strategy on transparency were under preparation.

One participant explained that the legal protection of **whistle-blowers** took the form of the 2022 Whistle-blower Protection Act, which was going to go through Parliament. The participant regretted that the draft law still presented some shortcomings, and called for protection to be extended to reporting on breaches against the spirit of the law, not only the narrow reading of the law, and for the limitation of reporting cases to be extended beyond the limit of two years.



## **APPENDICES**

### Government observations

**Greece**

(5-6 May 2022)

**Finland**

(2-3 June 2022)

**Slovakia**

(7-8 July 2022)

**Portugal**

(6-7 October 2022)

**Sweden**

(13-14 October 2022)

**Slovenia**

(17-18 November 2022)

# GREECE



## **2. Freedom of association and assembly**

### ***(par. 4, p.g. 2)***

The Registry of Greek and foreign volunteer organisations and of civil society organisations (CSOs) which fulfill the minimum necessary conditions to participate in the implementation of actions in the area of international protection, migration and social integration on Greece, was established in the Ministry of Migration & Asylum by article 58 of Law 4686/2020.

The purpose of the Registry is to ensure transparency and coordination of the NGOs activities operating with the Greek territory, as well as safety for the beneficiaries of NGOs services, that often belong to vulnerable groups.

The Registry is in full compliance with relevant national and European legislation, including the right of association. Its objective is not to set barriers to the NGOs and in no case the registration procedure is intended to be excessive or cumbersome. On the contrary, the objective is to set the same rules for all NGOs operating in Greece, as well as to verify that they offer high quality services to the beneficiaries. Additionally, the Register facilitates coordination of initiatives and efforts undertaken by CSOs, thus optimize the impact of their assistance, in the light also of their regular funding by EU or national budget.

The Registry of NGOs allows the Greek State to be able to ensure that the NGOs operating within the Greek territory actually provide the services they claim to provide, thus ensuring the safety and human rights of refugees and migrants and, also, to be fully informed on the number and the lawfulness of the actions implemented by these NGOs, as is the case with any other legal or natural person operating within the Greek territory.

It should be emphasized that there is absolutely no «fee» for registration and that the issuance and submission of all the requested documents and supporting documents under the current legislation, as can be observed by reading the relevant JMD, is done at no cost. It is also worth noted that the application of an NGO for registration and certification may be rejected in case the relevant requirements set by law are not met, but a subsequent application can be submitted at any time, even on the same day, while applicants have the right to appeal, and all procedural guarantees are respected.

As for the registry of NGOs members, registering is necessary for all members of NGOs who, in order to perform their work, come in contact with refugees and migrants, especially women, children and unaccompanied minors, particularly for those who have free access and are active in accommodation facilities. The purpose is to be able to bar the access and direct contact with refugees and migrants for persons of criminal conduct, convicted of heinous criminal offenses, such as, for example, sexual abuse, pedophilia, pandering, drug trafficking, actual bodily harm etc. , but also to prevent and protect people from incidents of exploitation, smuggling and/or human trafficking, so that the human rights of refugees and migrants, and above all their very life, safety, physical integrity and mental health, can be guaranteed, as required by national law and international conventions.

### ***(par. 5, p.g. 2)***

In Hellenic Republic, all persons, regardless of ethnicity, religion or language, fully enjoy all civil, cultural, economic, political and social rights, which are recognized under national and international law. Furthermore, any individual who claims to belong to a distinct ethnic, or cultural group is absolutely free to do so.

However, subjective claims or perceptions of a small number of persons, which are not based on objective facts and criteria, do not establish by themselves a corresponding obligation of the State to officially recognize a group as a «minority» and to guarantee to its members specific minority rights, additional to those guaranteed by the national legislation and the international treaties on human rights.

As far as freedom of association of “persons who self-identify as ethnic Macedonian” is concerned, only one case has been brought in recent years before the European Court of Human Rights, namely the case of the so-called “Home of Macedonian Civilization”, which was decided by the ECtHR in 2015. It is to be noted that the inclusion of the qualifier “Macedonian” in the statute of the said association creates confusion as to the aims to be pursued by this association, since the same qualifier is used by hundreds of other associations established by Greek Macedonians, which, however, use the adjective “Macedonian” to denote the regional and/or cultural provenance of their members and not a distinct national identity. Such confusion, which also creates problems of public order and infringes upon the human rights of others, could have been avoided if the founders of the said association had used a name for the latter which corresponds to their Slav-oriented identity. It is noteworthy that the aforementioned complainants have not availed themselves of the possibility afforded by the Greek legislator to request the re-opening of their case before the competent domestic court.

Furthermore, the law places no specific restrictions or limitations on the names of associations. Requests for the registration of associations are decided by the competent courts, and not by the Administration.

The 1923 Peace Treaty of Lausanne (Art 45) established the status of the Muslim Minority in Thrace, identifying it on the basis of religion, without reference to ethnic origin. Therefore, there is no "Turkish Minority" in Greece but only one minority, namely the Muslim Minority in Thrace. Accordingly the word "Turkish" should be replaced by the phrase "the Muslim Minority in Thrace".

Freedom of association is unequivocally, firmly and duly protected by the Greek Constitution and, as such, is enjoyed by all citizens, irrespective of ethnic origin, culture or religion.

Over the last 10 years, more than 50 associations established by and comprised of members of the Muslim minority have been registered with local courts in the region of Thrace, all of which freely pursue their various activities.

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

**The Reporters Without Borders Index** should be taken with a grain of salt since for example for 2022 Greece scores 55.52 points and ranks in the 108th position while for example Chad scores 56.18 and ranks in the 104th position.

Regarding the example for the **alleged pressure**, it is noted that the Novartis case investigation is still ongoing.

#### **SAFETY OF JOURNALISTS – MoU – TASK FORCE**

The Greek Government defends, in every possible way, the right to freedom of expression and information, as enshrined in Article 10 of the European Convention of Human Rights.

Greece is currently planning a series of initiatives aligned with the Commission Recommendation (EU) 2021/1534 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, with the signing of a Memorandum of Understanding, initiated by the Secretariat General for Communication and Media of the Presidency of the Government and the participation of another five competent Ministries, taking place on Monday, May 23, 2022.

This Memorandum of Understanding contains a common framework of cooperation which includes, inter alia, the preparation and submission of proposals for legislative and non-legislative initiatives to ensure the protection, safety and empowerment of journalists and other media professionals, the documentation and specialization of policies and initiatives in regards to online safety, digital literacy and empowerment of journalists, the planning of training programs for the development of skills and competencies in all professions related to the protection of journalists and other media professionals as well as raising public awareness of the dangers posed by attacks on journalists for the smooth function of Democracy. Additionally, the MoU provides for the creation of a Task Force in further pursuit of the goals set in its text.

## **KARAIVAZ – STATE REPLY ON CoE PLATFORM**

On the matter of the assassination of investigative journalist Giorgos Karaivaz, the following State reply to the respective alert has been published on the Council of Europe's Platform, which can be accessed via this link: [shorturl.at/eIU39](https://shorturl.at/eIU39)

“The brutal assassination of journalist George Karaivaz has shocked the Greek government, as expressed by the Greek Prime Minister himself, as well as the public opinion. The Prime Minister requested, from the competent Minister for Citizen Protection, that relevant procedures for solving this case proceed quickly.

The competent Greek Authorities have rigorously looked into the matter and have spared no effort in their search to identify the perpetrators and motives of this cowardly attack.

The search for the perpetrators of the assassination of George Karaivaz has been and still remains an absolute priority for the Hellenic Police and its various Agencies. The competent investigative Authority is conducting a systematic and in-depth investigation of this crime, in order to clearly identify the perpetrators and bring them before the relevant Greek judicial Authorities. In this framework, police investigators are also making full use of the available state-of-the-art technological and forensic tools and services.

Investigations by law enforcement Authorities in charge of this case are well underway and in full swing. New data and information gathered so far by the competent investigators cannot, however, be disclosed as, under Greek relevant legal framework (the Greek Code of Criminal Procedure), preliminary investigation is confidential.

Greece addresses the issue of media freedom and the safety of journalists with particular care, making every possible effort to defend everyone's right to be fully informed, which forms part of a well-functioning and active democratic society.”

## **ALLEGED SURVEILLANCE OF JOURNALISTS**

On the matter of the alleged surveillance with the use of spyware software, the Deputy Minister to the Prime Minister and Government Spokesperson has provided extensive answers during the briefings of political editors and foreign press correspondents that took place on the 11th, 15th, 18th, and 26th of April. Additionally, a state reply on the matter has been published on the Council of Europe platform, which can be accessed via the following link: [shorturl.at/kCMPV](https://shorturl.at/kCMPV)

## **ESIEA – COLLECTIVE EMPLOYMENT AGREEMENT**

On the matter of the socioeconomic conditions of journalists, negotiations are currently under way with regard to a Collective Employment Agreement on the working conditions of journalists that are employed in the public domain, legal entities under public law, local authorities and legal entities under private law. In the working draft, provision is made for the first time with regard to journalistic missions at war zones or areas affected by natural disasters and humanitarian crises or in areas where pandemics are present and on-going. Under these circumstances, the suggested legal provision foresees that the public media employing the appointed journalists is obliged to provide them with the necessary

equipment for the safe realization of the mission, undertaking at the same time all the necessary preparatory measures for their security and insurance.

### **FREEDOM OF EXPRESSION AND PUBLIC GREEK RADIO AND TELEVISION COMPANY (E.R.T. S.A.)**

The Greek Constitution provides for freedom of speech and press, under Article 14. Independent media are active and express a wide variety of views. The law permits any prosecutor to order the seizure of publications that insult the President, offend any religion, contain obscenity, advocate for the violent overthrow of the political system, or disclose military secrets.

E.R.T. S.A. is an undertaking owned by the public sector in the form of a public limited company. It has administrative and financial autonomy (paragraph 3 of article 1 of Law 4173/2013), it is organized and managed in accordance with the provisions of Law 4173/2013 "Hellenic Radio and Television Limited Company (E.R.T. S.A.)", as in force, the provisions of Chapter A of Law 3429/2005 "Public Enterprises and Organizations (D.E.K.O.)", as well as the provisions of Law No. 4548/2018 "Reform of the law of joint stock companies (Société Anonyme)" and it operates like all public enterprises.

E.R.T. S.A.'s financial resources are also ensured by Law 4173/2013, article 6: A reciprocal fee of three euros (3.00 €) per month is imposed on consumers and collected in favor of E.R.T. S.A., as a compensation for the fulfillment of its purposes.

The members of the Board of Directors enjoy personal and functional independence in the performance of their duties.

### **STATE AID (EDOEAP)**

In regards to the media campaign "Menoume Spiti – Menoume Asfaleis" (staying home – staying safe):

- The campaign which took place during the first wave of the pandemic, aimed to inform the public on personal protective measures against the virus and battle fake news and disinformation on the subject.
- The campaign was assigned based on objective standards such as quantitative criteria on audience viewing, circulation, affinity indexes on target groups etc, as well as qualitative criteria such as brand safety. The payment to the Media was a compensation for this campaign and not a subsidy, financing or financial support of any sort.
- The relevant body of the Greek Parliament, established on the 12<sup>th</sup> November 2021 according to Greek Constitution's provisions, has already published the abovementioned findings. The link to the findings' report:

[https://www.hellenicparliament.gr/UserFiles/510129c4-d278-40e7-8009-e77fc230a9f0ce%9F%CE%A1%CE%99%CE%A3%CE%9C%CE%91%CE%95%CE%9E%CE%95%CE%A4%CE%91%CE%A3%CE%A4%CE%99%CE%9A%CE%97\\_2022.pdf?fbclid=IwAR1KTSSJ14R6p7MMs-AIPfxGtaKUbseCrFZPwbzTgHMfvL16ILCkdP8H-A8](https://www.hellenicparliament.gr/UserFiles/510129c4-d278-40e7-8009-e77fc230a9f0ce%9F%CE%A1%CE%99%CE%A3%CE%9C%CE%91%CE%95%CE%9E%CE%95%CE%A4%CE%91%CE%A3%CE%A4%CE%99%CE%9A%CE%97_2022.pdf?fbclid=IwAR1KTSSJ14R6p7MMs-AIPfxGtaKUbseCrFZPwbzTgHMfvL16ILCkdP8H-A8)

During the year 2021, an important and ambitious program of support for the companies affected by the effects of the coronavirus pandemic regarding newspapers of national circulation as well as regional and local newspapers and magazines, the content providers of regional TV stations, radio stations and electronic media, was completed. This program was horizontal and based on objective and equitable criteria for supporting media companies. The program had a budget of 18.5 million euros and supported 697 large, medium and small-sized companies, local, regional and national, helping them to repay their contributions to their insurance fund (EDOEAP), under objective criteria according to the size of each business. This resulted in benefiting both businesses and the insurance fund. (Joint Ministerial Decision 165/29.7.2021).

The effectiveness of the intervention as well as the prolonged unstable climate created by the pandemic during 2021, led to the initiative of immediate implementation of a new aid program for all affected companies, with a budget of to 8.5 million euros. On 30.07.2022, Decision No. 238 of the Deputy Minister to the Prime Minister was issued, which decided a) the inclusion of 499 beneficiaries, publishing companies of newspapers with nationwide circulation and regional and local newspapers, content providers of regional terrestrial digital television, radio stations, of the periodical press and electronic media companies in the financing program for the financial support of companies, for the period from 01-01-2021 to 31-12-2021 and b) the inclusion of 100 corresponding beneficiaries/businesses in the same program for the period from 01-12-2017 to 31-12-2020, pursuant to Joint Ministerial Decision 81/2022 (B' 2568), as amended and in force, for a total amount of six million, seven hundred eighty one thousand, two hundred seventy eight euros and sixty four cents (€6,781,278.64).

It is worth noting that both the first as well as the second program provide for the establishment and operation of an Ethics Committee, which is responsible for deciding whether or not to adhere to the principles of journalistic ethics and deontology taking into account the applicable Codes of Professional Ethics and Conduct of journalists, and in particular the Code of Professional Ethics and Conduct of the Journalists' Union of Athens Daily Newspapers (ESIEA) "Principles of ethics of the journalistic profession" which has been posted on the website of ESIEA (<https://www.esiea.gr/arxes-deontologias/arxosi? = pdf>) and the Code of Ethics of the Pan-Hellenic Federation of Journalists' Associations (POESY) which has been posted on the website of POESY (c)

**Access to information:** Greece has independent institutions outside Police and Coastguard such as the Ombudsman, the National Transparency Authority and the Judiciary where journalists can submit a complaint to be investigated thoroughly.

**Fake News:** Article 36 of Law 4855/2021 replaces Article 191 of the Penal Code (Dissemination of fake news), which is in force as follows: "Anyone who publicly or via the internet spreads or disseminates in any way fake news that is capable of causing concern or fear to the public or shattering public confidence in the national economy, the country's defense capacity or public health shall be punished by imprisonment of at least three (3) months and a fine. If the act was repeatedly committed through the press or via the internet, the perpetrator is punished with imprisonment of at least six (6) months and a fine. With the same punishment shall be punished, as well, the owner or the publisher of the media through which the acts of the preceding paragraphs were performed. "

Article 191 aims at protecting the institutional functioning of the state and the peaceful coexistence and living of citizens who are often the recipients of false news that cause them

fear, anxiety, panic or shake their confidence in the institutions of the constituted state. Furthermore, article 191 explicitly includes public health, a necessary addition, as, given the pandemic of the COVID-19 coronavirus, there have been widespread phenomena of false news disseminated to citizens, particularly on public health issues, which confuse public opinion and can affect one of the most critical areas of human personality, namely the health of citizens.

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

##### ***(par. 2,p.g. 4)***

Being a frontline member State at the external borders of the EU, Greece is well aware of the complicated challenges posed by the instrumentalisation of migration for political purposes. Already back in March 2020, Greece reacted immediately and effectively to such an attempt.

As emphasized by the Minister of Migration and Asylum, in his speech addressing the members of the LIBE Committee of the European Parliament, on June 27th, Greece, fully adhering to the fundamental rights, has in place independent mechanisms that investigate all complaints regarding alleged “pushbacks”.

In particular, the National Transparency Authority has been designated as the competent institution to investigate allegation of breaches of fundamental rights at the borders. This Authority enjoys institutional autonomy to investigate such cases and has, so far, not substantiated any of the alleged violations.

The National Transparency Authority operates in parallel to the Ombudsman and the Judiciary which have also, within their respective mandates, reviewed cases related to border protection and fundamental rights. Moreover, the internal disciplinary control mechanism is well in place within the Security Forces to ensure that complaints for violations of fundamental rights allegedly committed by its personnel are adequately investigated.

In addition to the aforementioned mechanisms already in place, Greece plans to further strengthen monitoring regarding fundamental rights, by establishing a Fundamental Rights Officer (FRO) within the Ministry of Migration and Asylum, as well as a Task Force for Fundamental Rights Compliance.

The surveillance activities which are conducted in the land borders have as objective the early detection of illegal border crossing activity, and the application of prevention and deterrence measures, according to the Schengen Borders Code. The competent border surveillance teams implementing patrolling activities inside the Hellenic territory conduct national and EU Joint Border Operations, in cooperation with the EU Border and Coast guard Agency (Frontex).

Regarding discriminations, based on nationality, race, religion, sex, disabilities etc, and our legal system does not permit them, in any case.

In the Media, there were a few problematic cases, based on this topic. NCRTV, the greek national regulatory authority, published decisions that imposed severe sanctions to radio and television channels, for having transmitted discriminative phrases or behaviours.

**(par. 3, p.g. 4)**

**(detention)**

As provided in article 39 par. 1 of the law 4636/2019 (A'169/2019), "All third-country nationals and stateless persons who enter without complying with the legal formalities in the country or reside in Greece without complying with the legal formalities, and whose nationality or identity cannot be certified by a public authority document, shall be submitted to reception and identification procedures".

The Ministry of Migration and Asylum, having as a priority the provision of the best protection and safety conditions of third-country nationals/stateless people entering Greece without the legal formalities, as well as for the benefit of the local communities, commenced the construction and operation of the new Multi-Purpose Reception and Identification Centers (MPRICCs) established by law 4825/2021 (G.G. A' 157/2021). The General Regulation on the Operation of the MPRICs established on the islands (Decision of the Secretary General for the Reception of Asylum Seeker, no. 25.0/118832/2021 (G.G. B'3191/2021) regulates the internal structure and operation of the MPRICs, as regional services of the Reception and Identification Service.

The MPRICs in the islands of Leros, Kos and Samos became operational in the period between September – December 2021 and the asylum-seekers were transferred safely from the Reception and Identification Centres (RICs) to the new sites, while the MPRICs in Lesbos and Chios are expected to become operational in 2023.

It should be clarified that the Reception and Identification Centres (RICs) operating on the five islands (Lesvos, Chios, Samos, Leros and Kos) and on the mainland (Evros) do not constitute detention centres. As for the new MPRICs in Samos, Kos and Leros, they are guarded by private security company and by the Hellenic Police, with the competencies of the latter being limited to matters of safeguarding the security of the establishments and assisting in some administrative procedures when necessary. Additionally, the entry or exit of asylum applicants in the new MPRICs is without limitations. All asylum seekers hold cards which allow them to access a digitalized "entry- exit" system and there is also a prohibition of entry for unregistered or unauthorized persons within the reception facilities, to ensure the safety of residents and employees. Following the above, Reception and Identification Centers (RICs) and Multi-Purpose Reception and Identification Centers (MPRICCs) should be dissociated from detention and pre-removal centers, the latter falling under the competency of the Hellenic Police.

**(Freedom of movement)**

According to article 7 of the General Regulation on the Operation of the Multi-Purpose Reception and Identification Centers of the Islands (GG A'3191/2021): 'The third-country nationals or stateless persons that enter the RIC that operates within the MPRIC are subject to the reception and identification procedures as described in article 39 of the law



4636/2019. Upon conclusion of these procedures, and as long as they live in these centers, they enjoy freedom of movement, according to articles 45 and 46 of the law 4636/2019 and always in accordance with the principles of proportionality and necessity. They have the right to enter and exit the MPRIC during the hours that are decided by a decision issued by the Director of the Reception and Identification Service and which is common for all the MPRICs [..].

Regarding the restriction of movement that is imposed for five (5) days in a designated area within the RIC, it needs to be clarified that it is implemented solely for the purpose of completing the reception and identification procedures. Apart from this restriction of movement, there is in general freedom of movement for those who are hosted in the RICs (art.45 of the law 4636/2019: ‘The asylum-seekers can freely move in the Greek territory or in the region that is specified by a regulatory act. The restriction of movement in a designated geographical area does not interfere to the inalienable sphere of privacy and does not impede the full exercise of the rights as provided in the law’).

In accordance with the above article, that incorporates article 7 of the EU Reception Conditions Directive (2013/33), the Ministerial Decision 1140/2019 (G.G. B’ 4736) was adopted, according to which applicants of international protection who enter the Greek territory through the islands of Rhodes, Lesbos, Samos, Kos, Leros and Chios, are subject to geographical restriction only within the island from which they entered the Greek territory. This geographical restriction of movement was imposed for the sole purpose of facilitating the application of accelerated border asylum procedures for the examination of the asylum claims filed at the border. The restriction is lifted subject to a decision of the Director of the RIC, in cases of:

(a) unaccompanied minors, (b) persons subject to the provisions of Articles 8 to 11 of Regulation (EU) No 604/2013, under the condition that after the take charge request submitted by the Greek Authorities has been accepted by another member State, (c) persons whose applications can reasonably be considered to be well founded and (d) persons belonging to vulnerable groups or who are in need of special reception conditions according to the provisions of the law 4636/2019, as long as it is not possible to provide them with appropriate support as per what is provided in article 67 of the same Law (“applicants in need of special procedural guarantees”).

### **(Access to health services)**

Regarding the provision of health care services and psychosocial support, the RICs and MPRICs are staffed with doctors, psychologists, social workers and other specialists. The Medical and Psychosocial Unit in the RICs is responsible to provide health care to third-country nationals and stateless persons that are hosted in the center. All asylum-seekers had free access to Covid-19 vaccination. Currently, the staff is recruited by the National Public Health Organisation (EODY). Moreover, all asylum seekers are provided with a temporary social security number called PAAYPA (ΠΑΑΥΠΑ), which allows them to access state services such as healthcare, pharmaceutical and hospital care, including necessary psychiatric care where appropriate. PAAYPA is to be issued to asylum-seekers together with their asylum seeker’s card.

Also, the law 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable social groups is applicable for asylum-seekers and members of their families.

As for recognized beneficiaries of international protection and legally residing migrants they obviously have full access to the services of the national health care system, while access is also guaranteed to undocumented migrants in case of emergency.

#### **(Access to basic services)**

In order to face effectively the challenges posed by the pandemic COVID-19 and to handle applications in a swift and efficient manner, the Ministry of Migration and Asylum has adapted many of its services, thus allowing the procedure to take place digitally. Since early 2020, applicants who wish to receive services from early 2020 could book an appointment via the digital portal [applications.migration.gov.gr](https://applications.migration.gov.gr) prior to visiting the Asylum Service offices.

The services that are already provided only via appointment are: Scheduled interviews, Scheduled registrations, Submission of documents for family reunification (Dublin cases). Moreover, since June 2020, the following services are offered exclusively online without requiring the physical presence of the applicants: Application to Change/Update Contact Information, Application to Change Personal Data, Application to Postpone/Expedite the Personal Interview Date, Application to Request Certification of Application Status, Application to Separate Files, Application to Submit Additional Documents, Application for Copies of personal file, Application for Legal Aid and Search for social security and tax number. Furthermore, in order to avoid crowding in the Asylum Service offices due to COVID-19 pandemic, the validity of applicants' cards was extended from a period of six months to one year.

Finally, in the framework of further improving the cooperation between relevant services (Hellenic Police, Greek Asylum Service and R.I.S.), RIS also undertook the responsibility for the notification of residence card permits and travel documents for beneficiaries of international protection residing within the hosting facilities, as to further accelerate asylum procedures and decongest the Asylum Offices.

#### ***(par. 4, p.g.5)***

The European Union has swiftly responded to the refugee implications of the war in Ukraine, by activating the relevant temporary protection legislation (Directive 2001/55). Following the relevant implementing Decision of the Council of the EU, in accordance with Directive 2001/55, the Greek Government activated, by a relevant Decision of the Minister of Migration & Asylum, the temporary protection status for Ukrainian nationals on 4 March 2022. The Decision provides for a 12-month temporary protection residence permit (expiring on 4th March 2023) that can be renewed for a period of 6 months, followed by another 6 months period (ie one year in total). The permit also indicates the holder's Social Security Registration Number and Tax Registration Number and provides the right for persons to engage in employed or self-employed activities, subject to rules applicable, as well as in activities such as educational and opportunities for adults, vocational training and practical workplace experience. The residence permit also provides access to the National Healthcare System.

As described above, Greece reacted in a coordinated and swift manner, in conformity with its obligations as a Member State and its international commitments stemming from the 1951 Geneva Convention on the Status of Refugees. In doing so, Greece is complying with all relevant Human Rights provisions and obligations.

To conclude, in the case of Ukrainian nationals, Greece and all other EU Member States are following a common European policy and a specific legal framework, i.e. that of temporary protection (Directive 2001/55). Nonetheless, procedural safeguards applicable on reception and asylum procedures are equal for all third country nationals arriving in Greece.

**(par.7. p.g. 5) People with disabilities:**

– The legislation for the implementation of the pilot program (funded by the RRF) has been adopted. The program will be implemented in three phases, given it is a new service and each step should be implemented gradually in order to achieve the best results. The 1st stage of the pilot program is taking place in Attica Region, and since its beginning (April 2022) 1,890 persons with disabilities have been registered in the electronic platform to apply for a personal assistant. During the 2nd stage (January 2023) the application procedure through the platform will open for 1.000 more persons with disabilities in three more Regions – apart from Attica. In 2024 the national roll out of the program will take place (funded by the ESF+).

– The recent law 4779/2021 obligates all the channels to take all the appropriate measures to ensure the accessibility of these people to them.

**5. The rule of law**

- Law 4842/2021 (GG 190A/2021) “Fast civil trial, adaptation of the provisions of Civil Procedure and digitization of civil justice ....” and Law 4938/2022 (GG109A/2022) “The Code on the Organization of Courts and the Status of Judicial Officers and other provisions” that recently came into force are expected to improve the speed of the justice system.
- The provision of Pilot Cases in the Civil Procedure allows the full plenary of the Supreme Court to decide on a legal matter brought before it by the three Member Council or the Prosecutor of the Supreme Court after an application by a party to a pending case or by preliminary question of a judge hearing such a case. This provision is designed to deal with legal matters that affect a wide circle of parties with the main goal of providing legal certainty while at the same time when used will help with the speedy resolution of these cases concerning the specific legal matter.
- The creation of the Judicial Police is a reform aimed to accelerate the administration of justice, and contribute to the economic and institutional transformation of the country. The creation of a judicial police will support and enhance the functioning of Justice by contributing know-how to the investigation of complex crime and by providing a wide array of services of judicial assistance.
- Regarding the reference “*A stakeholder who had earlier attended a conference in Boston (USA) discussing FDI opportunities in Greece echoed the complaints of some American investors regarding the high level of corruption in this country*”. The comment provided was about an investor’s calculation of the amount of officials he/she thought would have to bribe in order to invest in Greece. The investor’s perception was that he/she would have to pay a few Greek officials, hence he/she would be better off if he/she invested in another country where the number of officials he/she had to bribe would be lower. The phrase does not seem appropriate to be included in this report. Firstly, because it does not depict the actual comment made in the discussion with the Greek authorities; second because it is

vague, “a conference”, “some investors” are phrases that do not meet the standards of a formal report that needs to rely on specific facts, data, or other information; third because it does not demonstrate Greece’s improvement in the CPI (<https://www.transparency.org/en/news/cpi-2021-western-europe-european-union-trouble-ahead-for-stagnating-region>); fourth, because after all corruption takes two, and the investor who searched for investment opportunities calculating at the same time the business expenses in the form of bribes, would be equally culpable. For these reasons, we request the omission of this phrase.

- **NTA** is responsible for the design, monitoring, evaluation and restructuring of the National Strategic Anticorruption Plan (NACAP). The NTA has successfully concluded the evaluation of the last NACAP 2018 – 2021 conducted by an external independent evaluator. Based on the findings of the evaluation, the recommendations of international organizations, good practices of peers and after broad consultation with the public agencies and stakeholders from the private sector and representatives of the civil society, NTA has designed the new NACAP 2022 – 2025, with the consultation of which has been officially endorsed at the highest executive level.

During the design and consultation phase of the NACAP 2022-2025 there has been consultations with 24 relevant public and private stakeholders of which 5 Civil Society Organisations, namely Vouliwatch, Transparency International Hellas, Association of Certified Fraud Examiners (ACFE), Institute of Internal Auditors Hellas (IIA Hellas), Greek Association of Regulatory Compliance Officers.

- **Accounting crimes** are punished as a misdemeanour under **Law 4254/2014 IE 19**. The law punishes the behaviour of any person who with the purpose of facilitating, concealing or covering up acts related to bribery

- (a) keeps accounts outside the books of his business;
- (b) carries out transactions off the books or insufficiently specified in them,
- (c) records non-existent expenditure or liabilities, or
- (d) prepares or uses an invoice or other accounting document with untrue content,

by imprisonment for a term not exceeding three years, if his act is not punished more severely by another provision.

According to article 20 of the UNCAC on **Illicit enrichment**: *“Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, **illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.**”*

Greek legislation does not define illicit enrichment as a criminal offence. Nonetheless, Law 3213/2003, as amended, requires a fairly large category of persons (members of the national parliament, members of the European parliament, the prime ministers, ministers, general and special secretaries, mayors, regional commissioners, judges and prosecutors, categories of public officials, law enforcement officials, doctors, and journalists among others) to deliver complete annual declarations of their assets and income under penalty for non-declaration, false declaration, omission or negligence on such declaration. The law provides for criminal penalties in case of non-submission or of submission or inaccurate data. According to the UNCAC evaluation *“At the same time, Article 20 of the Convention was considered, and it was decided that its goals are sufficiently served by the provisions of the aforementioned Law 3213/2003 that establish a system of asset declaration*

*obligations for public officials and include an offence of “failing to submit or submitting a false asset declaration”(para. 71)”*.

(see Greece Country Review Report in the context of the **UNCAC Evaluation Review Cycle 2010-2015** paras 71-75 available at [https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2015\\_12\\_04\\_Greece\\_Final\\_Country\\_Report.pdf](https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2015_12_04_Greece_Final_Country_Report.pdf))

- The **offence of bribery** has been upgraded from a misdemeanour to a felony which allows for more effective and dissuasive sanctions.
- The **lobbying Law** was enacted in September 2021 while all administrative decisions required for the implementation of the law have already been adopted. The Transparency Register platform is currently being developed and will be available in September 2022.
- The establishment of the NTA with Law 4622/2019 aimed at a complete restructuring of six pre-existing key state entities (namely: i. General Secretariat Against Corruption; ii. Inspectors-Controllers for Public Administration; iii. General Inspector of Public Administration; iv. Inspectors Body for Health and Welfare Services; v. Inspectors Body for Public Works; vi. Inspectors-Controllers Body for Transport) which were abolished, with the Authority **undertaking the entire range of responsibilities, obligations, and rights previously exercised by them (article 82 para. 4 of Law 4622/2019)**, ensuring the institutional continuity of administration and the interests of Greek citizens. In addition, all personnel serving in the pre-existing bodies was automatically transferred to NTA (article 118 para. 2 of Law 4622/2019).
- Law 4727/2020 has specific provisions under which public data can be accessed. Until today there has been no court decision which orders the Administration to provide the relevant data. In one case, the court did not rule the granting of evidence, but only ordered the Administration to provide a reasoned decision.

In the field of Human Rights, which is critical for the rule of law, the Government developed in cooperation with Civil Society bodies a series of horizontal inter-ministerial actions to ensure the rights of citizens who primarily belong to vulnerable categories. Coherent policies were designed and adopted, the implementation of which is evaluated on a systematic basis within the framework of Central Government mechanisms. Specifically, the following are implemented: the first National Action Plan for the Rights of the Child, the first National Action Plan for the Rights of Persons with Disabilities, the first National Action Plan against Racism and Intolerance, the National Action Plan for Gender Equality, the first National Strategy for the Equality of LGBTI+ people, and the first National Action Plan for the Prevention and Combating of Child Sexual Abuse. Also noteworthy is the country's progress in implementing decisions of the European Court of Human Rights, which is also reflected in the Court's official data. The overall progress of the country in the field of human rights has recently been reflected in other international evaluations such as the 3rd Universal Periodic Evaluation of the UN Human Rights Council, the evaluation by the UN Commission on the Rights of the Child as well as the annual report of the Organization of Fundamental Rights of the European Union for the year 2022.

Finally, in the field of child-friendly justice, the country made significant progress recorded in the EU Justice Scoreboard 2022. In particular, it is in the first places in the EU in this sector, while in the corresponding report for 2019 it was in the last.

# FINLAND



## Observations from the authorities concerning the draft Report

As was established during the discussions with the representatives of the Finnish Government, the issues and topics brought up during the discussion and consequently in the report, were things that were known and acknowledged by the Government. On some issues, work is already ongoing and on some issues, the need to move forward has been recognised. Of course, sometimes planned work does not proceed or commence as swiftly as intended – for instance, during the last couple of years, drafting urgent legislation linked to addressing and mitigating the effects of the COVID-19 pandemic has been prioritized over other ongoing work.

The remarks from civil society are pertinent and on the authorities' part, there is no need to offer any other interpretation. Civil society actors are an important contributor to the functioning of Finnish society.

## New funding model for activities funded with gambling proceeds

Gambling proceeds have traditionally been an important public funding source for many civil society organisations in Finland. In its discussion on spending limits in 2021, the Government agreed to set up a project to prepare a proposal for a new funding model for funding activities funded with gambling proceeds from the beginning of 2024.

On the Prime Minister's proposal, the [Government appointed a fixed-term project \(26.8.2021 - 17.12.2021\)](#) to prepare a proposal for a new funding model regarding activities funded with gambling proceeds from the beginning of 2024. The aim of the new funding model was to ensure that beneficiaries who operated with gambling proceeds receive predictable, stable and sufficient funding that ensures their autonomy. The funding model is based on the report of the working group chaired by Erkki Liikanen titled "The Finnish gambling system in transition - Options for the future" ([Government publications 2021:12](#)).

The group completed their proposal for a new funding model for activities funded with lottery proceeds on 04.02.2022. In the new funding model, Finnish gaming company's (Veikkaus) profits are recognised as revenue to the state in the form of universal coverage without earmarking the intended use. The purpose of the Lotteries Act will continue to be to prevent the harmful effects of gambling. In the future, decisions on the funding from Veikkaus will be made part of the regular preparation of the state budget.

The level of government grant funding will be decided by political decision in the general government fiscal plan for the coming four years, that is, for the entire spending limits period in order to improve continuity and predictability. The annual level of appropriations proposed for the government grant funding in the budget proposal will be decided on in the budget discussions.



The model also proposes that a parliamentary advisory board be appointed to monitor the funding for non-profit organisations and the development of their activities. The advisory board will be appointed for the duration of the parliamentary term.

As part of the reform of the funding model, new sector-specific framework acts will be prepared for the relevant ministries (those being the Ministry of Agriculture and Forestry, the Ministry of Education and Culture and the Ministry of Social Affairs and Health), which will harmonise the current practice and include a provision according to which general cost level development will be taken into account in the overall level of funding.

An agreement on the funding level for the period 2024-2026 was also reached at parliamentary level. The funding level for 2024 was determined to be EUR 990 000 000 based on the average of Veikkaus' long-term profit development. The funding level is expected to fall to EUR 974 900 000 by 2026 as a result of a reduction in veterans' rehabilitation appropriations. The parliamentary agreement also stipulated that the current distribution relations (4% for the Ministry of Agriculture and Forestry, 53% for the Ministry of Education and Culture and 43% for the Ministry of Social Affairs and Health) will be respected during the transition period.

The work to implement the new financing model has commenced. For example, the Ministry of Social Affairs and Health has started preparing a new Act on the financing of Social Welfare and Health Organisations. The proposal is being prepared urgently so that it can be presented in autumn 2022 as part of the overall reform of the funding model.



# SLOVAKIA

## 1. On fundamental rights of social partners

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

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

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

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

organisations of employers and workers enjoying the right of freedom of association." The Convention does not use the singular form, but the plural form when referring to representative organisations, and these are the most representative organisations. The Convention does not establish either the number of such organisations or the criterion on the basis of which representativeness will be determined. The Slovak Republic has determined such a criterion as 100 000 members (for a group of employers with at least 100 000 employed employees, for trade unions at least 100 000 employed members). If there are less than three organisations on one side of the tripartite that meet the given criterion, this side can be supplemented by other entities if they apply. It should be noted that it is much easier for employers to meet the 100 000 employee criterion because it is based on factual status (i.e. number of employees) while in the case of unions the criterion is based also on membership (and interest in membership). From this point of view, we perceived a gradual decline in the membership base.

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

## 2. On freedom of expression and freedom of the media

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

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

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

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

### 3. The right to non-discrimination

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

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

The Ministry of Justice operates grant schemes:

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

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

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

### 4. The rule of law

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

previous commissioner is extended until a new commissioner is elected.

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

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

The main changes to the current system are as follows:

1. A new **municipal court Košice** is established from 1 January 2023. The current district courts of Košice I – IV and Košice-okolie will merge into one municipal court which will inherit their agendas, personnel and buildings. The municipal court will have its chairman and vice-chairmen for different branches of law (criminal, civil, commercial and family). The merger of courts and their districts should allow specialisation of judges in different branches of law.
2. **Four new municipal courts in Bratislava** are established from 1 January 2023. The current district courts will transform into four new municipal courts. These municipal courts will be specialised in different branches of law and receive cases based on their causal competence - Bratislava I for criminal law, Bratislava II for family law, Bratislava III for commercial law and Bratislava IV for civil law. The current Bratislava V district court will merge into the new municipal Bratislava IV court. The municipal courts will be responsible for all cases in Bratislava region.
3. The rest of the Slovak Republic will **be divided into 32 judicial districts, and 32 district courts** will be established from 1 January 2023. Compared to the current situation, districts of the courts will be bigger and the new courts will have more personnel and judges thus allowing their specialisation.
4. **The number of regional courts will remain the same** – eight. The regional courts in Bratislava, Banská Bystrica and Košice will cover commercial law cases, the regional courts in Trnava, Žilina and Prešov will cover family law cases. All regional courts will continue to cover civil and criminal law cases. Administrative law cases will be covered by new administrative courts.
5. **Three new administrative courts** are established from 1 January 2023. They will be in Bratislava, Banská Bystrica and Košice.

6. The reform also covers the **possibility for online hearings, travelling of judges** to the place of former seat of district courts, changes of relevant legislation on competences of courts and where to submit a claim.
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# PORTUGAL

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*Portugal would like to thank the Fundamental Rights and Rule of Law Group of the European Economic and Social Committee (FRRL Group EESC) for its visit to Portugal. Portugal attaches utmost importance to the respect for the fundamental values of the European Union and remains committed to the preservation and promotion of the rule of law throughout the Union.*

*The draft report of the FRRL Group is well balanced and reflects the general views of the stakeholders and interested parties contacted. Some of the topics touched upon may be further developed in future reports to give a deeper overview of the situation in the country, including through a wider consultation process.*

## **1. Fundamental rights related to the social partners**

Regarding the participation of social partners in decision-making<sup>5</sup>, the Social and Economic Council is the constitutional body for consultation and social agreement, whose main objective is to promote the participation of economic and social agents in decision-making processes. This body is the main forum for dialogue between the Government, Social Partners, and other representatives of organised civil society<sup>6</sup>.

The [Labour Code](#) foresees the participation and consultation of social partners and civil society, which takes place at the Social and Economic Council and in other specialised *forums* at company level.

Therefore, Portugal already complies with the participation of social partners in wages negotiations, as foreseen in the recently approved EU Directive on adequate minimum wages and will continue to reinforce the social dialogue while implementing it. The recent Medium-term agreement to improve incomes, wages and competitiveness between the government and social partners is a recent example<sup>7</sup>. New labour inspectors (58) were

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<sup>5</sup>“ *Social partners, however, felt that their participation in decision-making should be increased* “(para. 3, line 1)

<sup>6</sup> <https://ces.pt/home-en/>

<sup>7</sup> <https://www.portugal.gov.pt/pt/gc23/comunicacao/documento?i=acordo-de-medio-prazo-para-a-melhoria-dos-rendimentos-dos-salarios-e-da-competitividade>



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recently recruited, thus reinforcing the implementation of labour laws<sup>8</sup>.

It is also important to mention the National Council for Solidarity, Volunteering, Families, Rehabilitation and Social Security Policies<sup>9</sup> which is an Advisory body to the government representing the various sectors, in order to ensure an adequate and efficient articulation between central, regional and local government with the social partners and other entities representing associations and other civil society entities, to promote the broad participation of all entities that intervene in the matter in question. It also aims to strengthen the role of the advisory bodies, not only in terms of following up and monitoring the development of public policies, but also in terms of drafting proposals for improvement and identifying priority intervention areas in the different thematic areas covered.

The rights on citizen participation in the parliamentary legislative process can be found in the Constitution of the Portuguese Republic (on participation in the elaboration of labour law, education law, professional career law, etc.); in the Rules of Procedure of the Assembly of the Republic (labour and local authority legislation, as well as any matter deemed particularly relevant), and in the Labour Code. The diversity of norms which require the hearing of various other entities - the governmental bodies of the autonomous regions; associations representing local authorities; non-governmental environmental organisations; the High Council of the Judiciary; the High Council of the Public Prosecution Service, *i.a.* - complements this framework, linking the legislator to the consultation of the bodies representing the interests to be legislated for.

Regarding civil society participation in legislative and executive processes, several examples were presented during the meeting, including the general right to petition as well as the online platforms that are available for public consultation: <https://www.consultalex.gov.pt/Homescreen.aspx> and [www.participa.pt](http://www.participa.pt) .

The High Commission for Migration Management Board is supported, in its decision-making and definition of broad lines of action, by its Council for Migration. Composed by public and private entities, the Council ensures the participation from actors across different sectors of society on migration policies. Representation of social partners at the Council is ensured by its internal rules, whereby two representatives of employers' associations and two representatives of unions' associations have a seat (as long as they also have a seat at the Economic and Social Council). Therefore, participation of social partners in decision-making, in this field is possible and encouraged. Regarding the comment on the need to step up CSO involvement in decision making<sup>6</sup>, it should be added

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<sup>8</sup> [https://www.act.gov.pt/\(pt-PT\)/SobreACT/Recrutamento/Paginas/Concursoexternodeadmiss%C3%A3oest%C3%A1gioparaingressonacarreiradelinspetorSuperiordoTrabalho.aspx](https://www.act.gov.pt/(pt-PT)/SobreACT/Recrutamento/Paginas/Concursoexternodeadmiss%C3%A3oest%C3%A1gioparaingressonacarreiradelinspetorSuperiordoTrabalho.aspx)

<sup>9</sup> <https://dre.pt/dre/detalhe/decreto-lei/48-2017-107047290?ts=1663286400034>

that the Council for Migration' Internal Regulation foresees the participation of representatives from migrant communities, which are regularly elected by Migrant Associations, and as well to Institutions which work with migrants.

The Commission for Citizenship and Gender Equality (CIG) has an Advisory Board which is a consultation body on the design, implementation, and evaluation of public policies for citizenship education and the promotion and defence of gender equality, which provides the representation of government departments and organisations representing civil society, including social partners. It has three sections: Governmental, NGO's and Technical-scientific. The Section of Non-Governmental Organisations is composed of 40 representatives of non-governmental organisations, as such recognised under the law, whose statutory purpose is primarily for the promotion of the values of citizenship, the defence of human rights, women's rights and gender equality, especially by combating various forms of discrimination on the grounds of sex, gender, age, social status, ethnicity, sexual orientation, gender identity, belief or religion and disability situations, the objectives of which are consistent with those of CIG.

<sup>6</sup> "Participants believed that CSO involvement in decision-making still needed to be stepped up" (para. 4, line)

## **2. Freedom of association and freedom of assembly**

The rights to freedom of assembly and of association are enshrined in the Portuguese Constitution as fundamental rights ([articles 45 and 46](#), respectively). [Decree-law No. 406/74, of 29 August 1974](#), regulates the right to freedom of peaceful assembly and demonstration, the exercise of which does not depend on prior authorisation from the public authorities. Regarding the right to freedom of association, everyone has the right to freely form associations, without the prior requirement of any authorisation, provided that such associations are not intended to promote violence and their purposes are not contrary to the law. Associations shall pursue their purposes freely and without interference from the public authorities and may not be dissolved by the State or have their activities suspended, except in cases provided for by law and only by judicial decision<sup>10</sup>.

Regarding Civil Society Organisations (CSO) funding, the sources are varied according to the areas of intervention of the organisations, and may come from the central state, municipalities, EU funds or private entities. At national level, two examples can be mentioned in this regard: (i) the technical and financial support provided by Commission for Citizenship and Gender Equality (CIG) to Women's Non-Governmental Associations in the implementation of national policies for the promotion of equality between women

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<sup>10</sup> [https://www.provedor-jus.pt/documentos/2018\\_-\\_Direito\\_a\\_liberdade\\_de\\_associacao\\_e\\_reuniao.pdf](https://www.provedor-jus.pt/documentos/2018_-_Direito_a_liberdade_de_associacao_e_reuniao.pdf)

and men, prevent and combat all forms of violence against women and girls and trafficking in human beings; and (ii) the support given by the High Commission for Migration (ACM) to immigrants associations, namely to programmes, projects and actions that aim to promote migrants and refugees' integration.

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

The Portuguese Constitution ensures the full independence of journalists while exercising their professional activity, bearing in mind the right to inform and to be informed without interference, which represents a pillar of the democratic rule of law. Any interference, whether political or economic, or any form of censorship is prohibited ([Article 37](#)). The independence of journalists is also featured in the Statute of Journalists, approved by [Law No. 1/99 of 1 January, Article 38 b](#)) of the Constitution guarantees the right of journalists, in accordance with the law, to access sources of information (...). The Statute of Journalists contains provisions aimed at ensuring this right, namely its [article 6](#). In addition, [Law No 26/2016 of 22 August](#) regulates access to administrative documents and administrative information, transposing [Directive 2003/4/EC of the European Parliament and the Council of 28 January 2003](#) into the internal legal order. It is important to note that the violation of the right of access to administrative documents, in addition to the possibility of recourse to the Administrative and Tax Courts, in accordance with the Code of Administrative and Fiscal Procedure, may also give rise to a right of complaint before the Commission for Access to Administrative Documents, which has the nature of an independent administrative entity that operates before the Parliament, which has the task of ensuring compliance with the rules on access to administrative documents.

Portugal has a solid labour legislation framework for all workers, which adds in the case of journalists, in addition to its own trade union, the protection given by specific collective regulatory instruments (collective contracts, collective agreements and company agreements). The difficulties faced by journalists stem from the successive crises that have affected the media sector. It became a structural issue since audiences have migrated from traditional news media to new media and citizens' appetite to pay for journalistic contents has decreased.

The Portuguese Regulatory Authority for the Media (ERC) is a fully independent authority which complies with the criteria of Article 30 of the "Media and Audiovisual Services" Directive, namely in the framework of obligations arising from the participation in ERGA. ERC is also supported by a national legal framework which, since 2005, allows it to duly respond to all existing requests, without needing more resources. For the pursuit of its activity, the ERC relies on its own revenues, as well as on those coming from the Portuguese State Budget.

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

[Law No. 93/2017, of August 23](#) establishes the legal framework to prevent, prohibit and combat discrimination based on racial and ethnic origin, colour, nationality, ancestry and territory of origin. In response to the EU's call, Portugal was the first Member State to approve (in July 2021) a National Plan to combat racism and discrimination 2021-2025. The Plan is based on 4 principles: (i) deconstruction of stereotypes; (ii) coordination, integrated governance and territorialisation; (iii) integrated intervention in the fight against inequalities; and (iv) 'intersectionality'. It plans to act in 10 areas, from education to security, justice, health, housing, employment, and data collection. In 2021, the High Commission for Migration (ACM) signed two protocols with security forces (PSP, GNR) to promote training, awareness and increase confidence and proximity to the security forces. In March 2022, the ACM and the Lisbon Regional Council of the Bar Association signed a protocol to develop training actions on combating racism and discrimination, including the training of lawyers in conjunction with higher education and representative associations. The protocol foresees is a pilot project for legal support and counselling to victims of racial discrimination.

The High Commission for Migration (ACM) is aware of how important is for migrants to access information on public policies and tools designed to help them in their integration process<sup>11</sup>. In this regard, ACM established National Support Centres for the Integration of Migrants, a one-stop-shop where migrants can find support, information, counselling, and mediation services. In addition to legal support, language training, employment and entrepreneurship, other governmental areas are also present, such as the Immigration and Border Services, Social Security, Health, Education, Justice, and Finance ministries. This good practice has been internationally recognised, including by the United Nations, in 2019, with the Public Service Award, one of the most prestigious international recognitions of excellence in public service.

Also, other achievement at national level is the approval in 2018 of the National Strategy for Equality and Non-Discrimination 2018-2030 (ENIND), which started a new cycle in the promotion of women's rights and eliminating discrimination with a systemic and comprehensive approach to public policies on gender equality, preventing and combating violence against women and girls (including harmful practices such as FGM and forced marriages) and combating discrimination on the basis of sexual orientation, gender identity and expression, and sexual characteristics. These three areas correspond to

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<sup>11</sup> “ Participants commenting on the matter of migrants, including asylum seekers, regretted that legislation in that area was too scattered, thus hindering their ability to enjoy the rights afforded them by law, for example in the area of reception and integration.” (para. 5, line 1-3)

ENIND's three action plans that run from 2018-2021.

ENIND emphasises the multidimensional nature of disadvantage stemming from the intersection of various discrimination factors, such as sex with age, disability, race and national or ethnic origin. It also enhances collaboration between public administration, private sector, and civil society. ENIND's approach is more action-based and operational, with indicators and yearly targets to be met.

It is also important to mention the training programmes of the Security Forces and Services (FSS), which address various issues related to equality, human rights, and the proscription of discrimination. In this regard a [Plan for the Prevention of Manifestations of Discrimination in the FSS](#) was concluded in 2021, which includes the appointment of Human Rights Officers within the FSS who will be in charge of the implementation and monitoring of the Plan. Furthermore, there are also training modules and programmes: (i) the curricula in the various training for the *Guarda Nacional Republicana* (GNR), promotion and refresher courses include subjects related to the Rule of Law and Human Rights. The GNR, as part of the Internal Security System, is also governed by a Code of Ethics of the Police Service which states that “the establishment of ethical and professional standards of conduct common to all members of the security forces is an indispensable condition for the credible and efficient exercise of police service, as an integral part of the democratic rule of law”; (ii) training courses for different police careers of the *Polícia de Segurança Pública* (officers, chiefs and agents) also promotes a culture of training aimed at promoting the rule of law. In the courses, curricular units related to fundamental rights, respect for ethnic, religious, sexual, gender and cultural diversity are taught; (iii) the Higher Institute of Police Sciences and Internal Security, has courses with a strong legal component to disseminate the principles of the rule of law.

## 5. The Rule of law

In the field of independence and integrity of the judiciary, consistent data on these matters recognises that Portugal benefits from a sound and strong position, as stated by the Council of Europe and European Commission documents, namely the European Commission report for the efficiency of justice and the Justice Scoreboard, respectively.

In the context of organisation of the judiciary, and based on the observations on the regulatory bodies, it should be noted that the Competition, Regulation and Supervision Court has jurisdiction over matters relating to the appeal and execution of decisions, orders and other measures in misdemeanour proceedings that are appealed, *inter alia*, those issued by the Competition Authority, National Communication Authority, and the

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Portuguese Securities Market Commission. The decisions of this Court can be appealed to the Courts of Appeal. The allegation that there are very limited possibilities for judicial review as regards administrative sanctions applied by these entities does not seem to be confirmed by reality.

As regards the digitalisation of justice, although judges are not included in the board in charge of controlling the IT system used, this does not mean that they are not involved in the process of digitalisation of the justice system. For instance, in the context of the adoption of the legal framework that created the court system management (CSM) of administrative and tax courts (SITAF) the High Council of the Administrative and Tax Courts was consulted. The same process was adopted for the CSM used in judicial courts where the High Council of the Judiciary was consulted.

Concerning the speed of justice and, in particular, financial resources, it must be underlined that the 2023 State budget increases the expenditure of the justice area in comparison with 2022 (EUR 1 701.1 billion<sup>12</sup> v. EUR 1 610.5 billion<sup>13</sup>). As to the length of the investigation phase in white-collar criminality it is important to stress the evolution made through specialised bodies such as the Central Department of Criminal Investigation and Prosecution (DCIAP), within the Public Prosecution Service, and the Criminal Police (PJ). Bearing in mind the challenges around the lack of resources allocated to the police and the PPS, it is important to highlight the reinforcement of human resources of the DCIAP and PJ. The DCIAP has nowadays a global team of more than thirty Public Prosecutors, specialised in the investigation of serious and organised crime, including corruption, foreign bribery, and related crimes. The regional DIAPs in Porto, Coimbra, Lisbon and Évora have also around forty Prosecutors. In the PJ, the National Unit to Combat Corruption (UNCC) has in recent years increased the number of criminal investigation personnel. In 2022, 197 new inspectors entered the PJ, with another course for 70 more new inspectors and open competitions for 65 entries for scientific police specialists remaining. In addition, [Ordinance n. 245/2022, of September 27](#), presented the programme for recruiting personnel for the careers of criminal investigation, forensic specialist and security of the PJ, for the five-year period from 2022 to 2026. This ordinance was approved in the context of the National Strategy Against Corruption, foreseeing a very significant investment in the human resources of the PJ: another 1 100 persons will enter the PJ, reinforcing the careers of criminal investigation, forensic specialist, and security of the PJ. Such reinforcement of the PJ, whose mission is also to assist the judicial authorities in criminal investigation, implies, consequently, a substantial reinforcement of

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<sup>12</sup>[https://www.dgo.gov.pt/politicaorcamental/OrcamentodeEstado/2023/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2023\\_doc16\\_Relatorio.pdf](https://www.dgo.gov.pt/politicaorcamental/OrcamentodeEstado/2023/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2023_doc16_Relatorio.pdf), see page 186

<sup>13</sup>[https://www.dgo.gov.pt/politicaorcamental/OrcamentodeEstado/2022/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2022\\_1\\_Relatorio.pdf](https://www.dgo.gov.pt/politicaorcamental/OrcamentodeEstado/2022/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2022_1_Relatorio.pdf), see page 139

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the entire criminal justice system.

In relation to the existence of a complex legal framework on corruption matters, as mentioned in the EESC report, it should be noted that domestic law has been growing in consistency and in its holistic approach to the problem, showing political will to act in this area. This compromise is also demonstrated by the substantial reinforcement of the Criminal Police or the creation and effective implementation of the MENAC.

As regards the reference to the implementation of MENAC, there have been recent developments in this regard, and it will be soon fully operational. MENAC facilities have already been made available by the Ministry of Justice, the essential organic components of MENAC are already functioning, namely its President, Vice-President and Secretary General are all already in office, its Advisory Board met in September, its Monitoring Committee met in October, technical and administrative staff is being provided and already working. On 9 December, Ordinance n. 292-A/202211 created the maps of the staff of MENAC, at both management and technical levels. An awareness raising campaign has already been launched by the MENAC on the same date, encompassing, for example, media advertising directed to the Portuguese population in general. Also in the area of the fight against corruption, the OECD Working Group on Bribery, within the scope of Phase 4 of its evaluation proceedings, recognised a number of good practices adopted by Portugal in this field, namely: (i) the adoption of the National Anti-Corruption Strategy in 2021; (ii) the General Regime for the Prevention of Corruption; (iii) the establishment of the National Mechanism Against Corruption (MENAC); (iv) the adoption of legislation on whistleblower protection; (v) awareness-raising and training efforts in the public and private sectors.

Concerning access to justice and costs of judicial proceedings, legal aid is granted by [Law No. 34/2004, of 29 July](#). In addition, the legal framework on procedure costs ([Decree-Law No. 34/2008 of 26 February](#)) establishes an array of exemption situations including defendants in pre-trial detention and defendants serving a sentence where their economic hardship is established under Law No. 34/2004. Online access to court decisions is made public through two free-of-charge webpages (<http://www.dgsi.pt/> and <https://jurisprudencia.csm.org.pt/>). Currently, all civil, commercial, criminal, and administrative case law from the highest instance is available as well as all administrative judgments from the second instance. The availability of all first instance case law of the several jurisdictions still needs improvement. However, [criteria for publishing judicial decisions](#) are under consideration by the High Council for the Judiciary.

Regarding European Court of Human Rights case law on prison conditions, it should be underlined that pursuant to article 46 of the ECHR, the execution of the [Petrescu](#) ruling is under supervision and Portugal submitted to the Committee of Ministers on the 4th quarter of 2021 relevant information regarding this case, *inter alia*, all the measures adopted to improve prison conditions. Lastly, as mentioned in the [report on the 2023](#)

OBSERVATIONS FROM THE PORTUGUESE AUTHORITIES ON THE DRAFT  
REPORT OF THE AD HOC GROUP ON FUNDAMENTAL RIGHTS AND THE RULE OF  
LAW OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE ON ITS VISIT TO  
PORTUGAL  
6-7 OCTOBER 2022

[State budget<sup>14 15</sup>](#), an Action Plan for the gradual closing of the Lisbon Prison Establishment is announced.

With respect to references made to the bar association, it should be highlighted that a legislative procedure is currently pending in Parliament that aims to introduce changes to the legal framework of all public professional associations governed by [Law No. 2/2013, of 10 January](#). Examples of professions framed by this type of associations include not only lawyers, but also architects, doctors, nurses, *i.a.*

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<sup>14</sup> [Portaria n.º 292-A/2022 | DRE](#).

<sup>15</sup> [https://www.dgo.gov.pt/politicaorcament/OrcamentodeEstado/2023/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2023\\_doc16\\_Relatorio.pdf](https://www.dgo.gov.pt/politicaorcament/OrcamentodeEstado/2023/Proposta%20do%20Or%C3%A7amento/Documentos%20do%20OE/OE2023_doc16_Relatorio.pdf) see page 252



# SWEDEN



Government Offices of Sweden

2 December 2022  
A2022/01519

Ministry of Employment

I hereby submit the observations from Sweden on tire draft report on the visit to Sweden 13-14 October 2022.

Sincerely

A handwritten signature in blue ink that reads "Cadrarina Nordlander".

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Ministry of Employment

## Observations on the draft report on the visit to Sweden 13-14 October 2022

We would like to thank the Fundamental Rights and Rule of Law Group delegation for the prolific meeting on October 14 and for the opportunity to comment on the subsequent draft report. Here you can find our comments to what was offered as a response during the meeting.

### **Freedom of association and freedom of assembly**

The government proposal prop. 2021/22:272 concerning state grants to religious communities and democratic conditions for state grants to civil society has been revoked by the government.

### **Freedom of expression and of the media**

Regarding the Media Ombudsman (MO) it should be noted that the MO is an independent self-disciplinary body, handling complaints on the editorial content of newspapers, magazines, broadcast media and their websites and social media. The MO is the investigating authority in the process and handles complaints from individuals who feel unfairly treated by the media.

### **Non-discrimination**

The draft report mentions expectations regarding that the evaluation commissioned to the Swedish National Council for Crime Prevention on ethnic profiling by the Swedish police would be delivered. In that regard it can be noted that at the request of the Police Authority, the Swedish National Council for Crime Prevention is carrying out a study on how the Police Authority works with and handles the issue of ethnic profiling in police operations. The study is expected to last until June 2023, but the reporting period may be adjusted.

Regarding that the participants considered that the Swedish police and the judiciary were not trained well enough to deal with crimes such as rapes it can be noted that all students who attend basic police training receive training in the area of intimate partner violence and sexual crimes (including rape) and based on the content of the training, the students are given the conditions to obtain solid basic knowledge. Continuing and further education is also offered for police employees with a focus on sexual crimes. Since 2019, the number of places for participants in the sexual crime training has increased as part of the investment in particularly vulnerable crime victims. When assessing the number of reports and the proportion of convictions, differences between different countries regarding the reporting propensity (Sweden is considered to have a relatively high reporting propensity) and the legislative design of this type of crime should be taken into account.

### **Rule of law**

With regards to the independence of the judiciary it can be noted that according to the Instrument of Government, one of four laws that together make up the constitution, a person who has been appointed a permanent salaried judge may be removed from office only if:

1. he or she has shown himself or herself through a criminal act or through gross or repeated neglect of his or her official duties to be manifestly unfit to hold the office;
2. or he or she has reached the applicable retirement age or is otherwise obliged by law to resign on grounds of protracted loss of working capacity (Chapter 11 Art. 7).

In response to that some participants highlighted a lack of judges due to recruitment difficulties it can be noted that a wide range of work is being done to secure the recruitment of judges. The Swedish National Courts Administration, together with the courts, continuously work to secure the court's competence supply. For example, the number of training positions for legal clerks has recently increased. The Swedish National Courts Administration has also adopted a specific strategy for competence supply that focuses on how to attract and keep competent staff within the courts.

The Judges Proposals Board also has a designated task to carry out an active and long-term work to promote recruitment of permanent judges.

To cope with a growing caseload, the allocation to the Swedish courts has increased by SEK 170 million for 2025 in the budget bill for 2023.

And lastly, regarding the Council of Legislation. The Council of Legislation decides how much time is needed for its examination but often produces the opinion within a few days. The Council examines several aspects:

1. the manner in which the draft law relates to the fundamental laws and the legal system in

general;

2. the manner in which the various provisions of the draft law relate to one another;
3. the manner in which the draft law relates to the requirements of the rule of law;
4. whether the draft law is so framed that the resulting act of law may be expected to satisfy the stated purposes of the proposed law; and
5. any problems that may arise in applying the act of law.

The government attaches great importance to the opinion of the Council of Legislation and aim to follow it even though it's non-binding.

The reasons why the government in some cases doesn't follow its opinion vary. The government response to the Legislative Council's criticism is always included in the legislative proposal.

# SLOVENIA

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**Observations by the Slovenian Government on the draft report of the European Economic and Social Committee's Fundamental Rights and Rule of Law Group on its visit to Slovenia on 17-18 November 2022**

Respect for core EU values of democracy, free media, human rights, and the rule of law is a priority for the Government of Slovenia. We would like to thank the Fundamental Rights and Rule of Law Group for constructive discussions on 18 November 2022, and express our support for the work of the FRRL Group in its efforts to promote respect for these values in all EU Member States.

In response to the FRRL group's "Report on the visit to Slovenia 17-18 November 2022" of 31 January 2023, please find below the observations by the Slovenian Government concerning the following Report sections:

1. Fundamental rights related to the social partners

With regard to the stakeholder's comments on the involvement of trade unions in national discussions on EU initiatives, the Government notes that the social partners' assessment of the well-established consultation process in the preparation of the European Semester documents was rather subjective. The Government emphasises that the Economic and Social Council (ESC) has always been directly involved in the process of drafting the National Reform Programme, as well as of the Stability Programme. That was also and in particular the case in the preparation of the National Reform Programme. Specifically, the programme incorporates various measures and reforms that are simultaneously the subjects of ongoing negotiations with social partners. As the FRRL group rightly stated in its Report, the cooperation between the ESC and the Government is good. The Government continues to cooperate and consult with the ESC in the 2023 European Semester cycle.

2. Freedom of association and assembly



Due to COVID-19 restrictions, certain limitations on freedoms of association and assembly were enforced in 2020 and 2021. The Government has reacted to the instances of excessive and disproportionate use of force by the police at the protests in Ljubljana by issuing guidelines and mandatory instructions to remedy the deficiencies identified in the monitoring of the police's performance in protecting the protests. The police, in cooperation with the Ministry of the Interior, have taken a number of measures to prevent similar incidents, including systemic measures to be introduced into legislation. In addition, the Government has taken steps to grant amnesty to protesters who had been fined. The allegations that actions against organisers of undeclared rallies were brought in order to restrict the right to assemble are unfounded. The procedures were initiated due to the costs incurred by the police in protecting undeclared public gatherings.

In reference to the guidelines for fostering cooperation with CSOs, the Government emphasises that the Volunteering Act of 2011 was reactivated following the change of government in 2022. In the process of drafting legislation, NGOs are consulted regularly. They are also encouraged to give their opinions and submit comments in the inter-ministerial coordination process. When NGO opinions are not taken into account, written substantive reasons are provided.

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

On the concern regarding the public service broadcaster RTV Slovenia, the amendments to the Radiotelevizija Slovenija Act were adopted in July. These amendments were confirmed in referendum in November 2022, which gave a clear sign of broad public support to this step towards actual freedom and independence of media. Amendments primarily address the issues of management and supervision of the public service media, as well as its editorial independence. They significantly limit the direct influence of politics on the operation of RTV Slovenia and restore its autonomy. However, requests for a constitutional review of the amended law were filed before the Constitutional Court. The Constitutional Court decision is pending.

In response to the open issue of the protection of journalists, especially with regard to online attacks, the Government emphasises that the current legal system is adequate to resolve these conflicts. Simultaneously, the Government supports the European Commission's intention to improve protection of journalists and human rights defenders from SLAPPs and welcomes the European Commission proposal for the directive. A separate procedural law exclusively for SLAPP cases is currently under consideration.

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

On the topic of the right to non-discrimination, the Government aims to ensure equal treatment of all groups of society. While aware of certain shortcomings, the Government underlines its determination to address open issues, and points out that the strategy on gender equality is currently in the process of adoption.

The Government considers discrimination in access to labour market and healthcare as moderate, and welcomes the Report observation that the integration in education had progressed significantly.

The Government would like to note that Slovenian legislation on the sanctioning of hate speech already exists (Criminal Code, Protection of Public Order, etc.), including case law. To further strengthen the sanctioning of hate speech, the National Assembly adopted amendments to the Criminal Code in January 2023, which include a general provision on hate as an aggravating circumstance in sentencing.

With regard to the issue of migration and the alleged "pushbacks", the Government would like to clarify that foreigners who do not express their intention to apply for international protection in the police proceedings are returned to the country from which they have illegally entered Slovenia, in accordance with EU and Slovenian legislation, including ratified bilateral agreements. In response to the comments on poor reception conditions for migrants, the Government insists that migrants are granted all guarantees and rights based on Slovenian and European legislation.

#### 5. The rule of law

Respect for the rule of law is at the top of the Government's agenda. The rule of law is also high on the public's scale of values. The Government clearly manifests its political commitment to the rule of law by close and open communication, and cooperation, with various EU institutions, not least the Economic and Social Committee. There is significant will and determination at the highest level, and throughout the administration, to address the most pressing issues, including those covered in the European Commission 2022 Rule of Law Report and its recommendations, with the aim of strengthening the state of the rule of law in Slovenia.

To clarify its initial comments on the independence of judges, the Government draws attention to the proposed amendment to the Constitution, by which the President of the Republic should appoint the judges upon the proposal of the Judicial Council. According to the proposed changes, the initial appointment of a judge to judicial office would be for

a period of three years. After the third year of office, the position would become permanent. In addition, the proposal transfers the decision on judge immunity to the Judicial Council.

With regard to the management of court cases, the Government disagrees with the view presented in the Report that the increase in strategic lawsuits (SLAPPs) could contribute to the remaining case backlog. According to statistics from Oštro, a centre for investigative journalism in the Adriatic region, there have been 78 SLAPPs in recent years, so their impact on the management of court cases to this day was not considered to be significant. Nevertheless, the Government is aware that the allocation of cases to judges is uneven. Moreover, caseload varies between courts and within individual courts. In view of the above, the Government is considering relevant legislative changes.

As the Report correctly summarises, the constitutional guarantees on the separation of powers are clear. Furthermore, the Government is actively dealing with the issue of economic and social conditions of judges, in particular the salary disparity in comparison to officials. It recently initiated negotiations on the wage system in the public sector, which it intends to conclude by 30 June 2023.

The Government underlines the recent progress achieved in the modernisation and digitalisation of courts, by providing videoconferencing courtroom equipment that substantially improves the effectiveness and efficiency of the courts ([https://www.sodisce.si/sodna\\_uprava/letna\\_porocila/](https://www.sodisce.si/sodna_uprava/letna_porocila/)).

With regard to the comments on Slovenia's reluctance to sign the European Convention on the Legal Profession, it should be noted that the Convention has not yet been adopted. However, Slovenia remains attentive to the negotiation procedure for the preparation of the Council of Europe draft legal instrument aimed at strengthening the protection of the legal profession.

Even though the EU remains one of the least corrupt regions in the world, according to Eurobarometer surveys, corruption remains a serious concern for its citizens, including in Slovenia. In 2022, the procedure for the comprehensive update of the Resolution on the Prevention of Corruption started. The Government also began drafting the new Programme for strengthening the integrity and transparency of the public sector for the 2022–2026 period. The anti-corruption framework was recently expanded through the adoption of the Whistleblower Protection Act. It transposes the EU Directive on the protection of persons who report breaches of Union law. Unlike the Directive, it provides for protection for all persons reporting any breach of legislation in Slovenia, thus providing a higher standard of protection.

The authorities responsible for detecting and investigating criminal offences have always paid special attention to corruption. The investigation and prosecution of such offences is defined in the Police annual work plans and is in line with the strategic documents of the 2019-2023 Resolution on the National Programme for the Prevention and Suppression of Crime and the Resolution on the Long-Term Development Programme of the Police until 2025.



## European Economic and Social Committee

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