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Slovakia: controversial changes to the criminal law, and a dispute with Brussels on the horizon

Krzysztof Dębiec

On 8 February, the Slovak parliament adopted a package of controversial amendments, in particular to the Criminal Code. These envisage a radical reduction of penalties for selected crimes (mainly economic crimes including corruption, tax fraud and theft) as of 15 March; a reduction of the statute of limitations (on average by half); and an extension of the options for suspended sentences. In addition the Office of the Special Prosecutor, a specialised autonomous unit of the General Prosecutor's Office dealing with particularly dangerous crimes, is to be abolished on 20 March. President Zuzana Čaputová announced that she would use all the legal instruments at her disposal to prevent the regulations in question from coming into force. The draft amendment to the criminal law itself has already been criticised by the European Commission, the European Parliament and the European Public Prosecutor's Office.

Commentary

- The changes that have been passed, as well as the early removal of key investigators from the criminal police, are probably aimed at ensuring impunity for certain people from the inner circle of PM Robert Fico's Smer, the largest party in the ruling coalition. Over the past three years, when they were in opposition, over 40 such individuals were convicted and more than 100 charged. After the implementation of the amendment, the statute of limitations will expire on charges against individuals including the former minister of economy and the environment, Peter Žiga (who is now in the leadership of Hlas, one of the other coalition parties), and the head of the central bank, Peter Kažimír (who was formerly a member of Smer). Moreover, oligarchs linked to the coalition parties – who are facing 12 to 20 years in prison in the ongoing trials, including for corruption – will now be able to count on suspended sentences. The statute of limitations will also run out on past scandals, such as the so-called 'Gorila affair', which involved the influential financial group Penta. The media it owns (including the country's two largest tabloids) have effectively supported the introduction of the changes. On 23 March the first round of presidential elections will take place; if, as seems likely, the head of Hlas Peter Pellegrini wins, this will also give coalition politicians the right to grant pardons (a privilege of the head of state) – along with the possibility to carry out abuses.
- Čaputová has announced that she will take steps to block the amendment from coming into force, but it is not very likely they will succeed. In order to override a presidential veto, a majority of the statutory number of MPs is sufficient, which the coalition has. Another

hope for the opposition could be to refer the motion to the Constitutional Court, as this body could suspend the legislation until the case has been heard. The head of state has suggested she would question whether resorting to the fast-track legislative procedure was appropriate in the case of such fundamental changes. Čaputová has already raised this issue once, when the previous centre-right government adopted a support package for families with children. On that occasion she was successful: in December 2022 the Constitutional Court ruled the use of the fast-track legislative procedure unconstitutional. It seems unlikely that the public protests against the proposed legal package, which have accompanied the parliament's work on the amendment for weeks now, will stop it from acquiring legal force. So far the demonstrations have not moved the opinion polls very much, and are significantly smaller in numbers than the largest demonstrations against the Fico government in 2018.

- Increased criticism of Bratislava's actions by the EU institutions is to be expected, and that may create problems with the smooth disbursement of EU funds. Although Fico has secured himself an alliance with Hungary on preventing Article 7 of the TEU, which concerns the consequences of violating EU values (see '*Fico-Orbán meeting: the Article 7 alliance*'), from being applied, he faces the threat that the European Commission may freeze some of Slovakia's funding due to the problems with the rule of law. On 8 February, it emerged that the EC had already stopped some payments from the National Reconstruction Plan (for projects worth €920 million): it justified this by the need to assess the planned changes to the law in Slovakia, as if they are implemented, this would jeopardise the appropriate spending of EU funds.