



# Weekly Briefing

**Slovakia political briefing:**  
**The Slovak Government's Plans and New Challenges**  
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# The Slovak Government's Plans and New Challenges

## Summary

*The governing coalition, comprising Smer-SD, Hlas and the Slovak National Party, introduced the amendment, which has faced widespread criticism for abolishing the Special Prosecutor's Office, reducing penalties for financial crimes, and shortening the statute of limitations for offences including rape. After the changes to the Penal Code were passed by MPs in early February, anti-corruption organizations warned that the amendment “makes corruption and other property crimes more attractive” and weakens public protection. Therefore, in their separate motions, President Čaputová and the opposition turned to the Constitutional Court on February 19 and 20 in an effort to have the amendment suspended. At the same time, they asked the court to examine whether the amendment is in line with the Constitution. For the time being the court hasn't dealt with the matter of constitutionality of the amendment, saying that it will look into the matter. Its final decision is not expected for several months.*

*Presidential election polls suggest race is tightening between Peter Pellegrini and Ivan Korčok, but it looks like that Igor Matovič's last-minute bid may be diverting support from Ivan Korčok. Korčok, who served as foreign minister under the last government, has almost closed the gap on Pellegrini, the current speaker of parliament and leader of the Hlas party, in the race to become president, according to a pre-election survey. Matovič's candidacy made the presidential race more interesting and tangled.*

## Introduction

The governing coalition in Slovakia, consisting of Smer-SD, Hlas and the Slovak National Party passed a controversial legal amendment that has attracted widespread criticism. It will abolish the Office of the Special Prosecutor, reduce penalties for financial crimes, and shorten the statute of limitations for crimes such as rape. President Zuzana Čaputová, despite expressing profound opposition to the changes, decided not to veto the amendment, opting instead to sign it and instead allow for a constitutional challenge.

The more conventional approach by a dissenting president would be to veto the law, but that would allow the ruling coalition to delay a vote to override her veto – for which it has the numbers in parliament – until the last minute, thus allowing no opportunity for a meaningful appeal. Instead, Čaputová chose to bet on a constitutional review. She hoped that the Constitutional Court would suspend the law before it becomes effective. If the legislation's numerous changes to statutes of limitations were to come into effect for even one day they would irrevocably affect – and in many cases, effectively end – a large number of ongoing criminal cases.

Former Prime Minister Igor Matovič, who gained EU fame for allowing Sputnik vaccines to be administered, which ultimately cost him his seat, threw his hat into the upcoming presidential elections but admitted it is not his ‘dream’ and that he is doing it to mobilize pro-democratic voters to support the right candidate. Anyway, it is expected that he will have an effect on the upcoming presidential elections.

### **The government wants to change the Penal Code**

Coalition MPs adopted Penal Code changes in February. It means that the Special Prosecutor’s Office will cease to exist and several Smer-SD people who are facing corruption or organized crime charges, including Smer-SD MP Tibor Gašpar and ex-finance minister and central bank’s governor Peter Kažimír, will not be tried or may receive only a suspended sentence. The coalition MPs approved an extensive amendment to the Penal Code and other related laws, including the Criminal Procedure Law, despite the opposition’s obstacles in the parliament, protests throughout Slovakia and criticism from Brussels.

The coalition has been trying to change criminal laws since last December. In the past two weeks, Gašpar changed the original amendment twice. President Zuzana Čaputová was prepared to veto these changes immediately, but she was aware that the coalition had enough votes to override it. Besides the president, the opposition was also ready to turn to the Constitutional Court, which could suspend the effectiveness of all the adopted changes to the Penal Code. According to them the adoption of the amendment to the Penal Code is bad news for Slovakia and all its citizens. If they did not do anything, the amendment would come into effect in mid-March.

Some of the changes include reducing penalties for corruption and economic crimes, shortening statutes of limitations (for rape and other crimes), changes to working with cooperating defendants, strengthening the protection of judges from prosecution, and reducing penalties for drug cultivators. President Zuzana Čaputová decided not to veto the government's contentious Criminal Code amendment, opting instead to sign it and allow time for a constitutional challenge. Her move aims to provide constitutional judges ample time to assess the law before it comes into effect on March 15.

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The president emphasized the importance of a proper legislative process for changes, such as shortening the statute of limitations in cases of rape, that result in serious consequences. The coalition's amendment was rushed through parliament without expert input or public consultation using what is known as a fast-tracked procedure. The changes, and the manner of their passing, garnered international criticism and massive public protests across Slovakia. Čaputová's decision allows for a constitutional review, offering an opportunity to address concerns before the law becomes effective. If the legislation's numerous changes to statutes of limitations were to come into effect for even one day they would irrevocably affect – and in many cases, effectively end – a large number of ongoing criminal cases.

However, the Constitutional Court didn't help and the Special Prosecutor's Office will shut down in March. It means that Prime Minister Robert Fico (Smer-SD) has managed to accomplish one of his main pre-election goals. After almost 20 years of its existence, the Special Prosecutor's Office, headed by former politician and lawyer Daniel Lipšic, will cease to exist on March 20.

President Zuzana Čaputová wasn't able to stop the abolition of the Special Prosecutor's Office (ÚŠP). However, in the section related to the abolition of the ÚŠP, the panel of 12 judges did not comply with her proposal to suspend the amendment. The end of the Office is thus irreversible. In relation to the Special Prosecutor's Office, it is expected the relevant laws not to be suspended, as the existence of the ÚŠP does not have a constitutional dimension. Prosecutors added that they are fulfilling their duties in preliminary proceedings and in court proceedings. They also noted that they have filed charges with the court against 63 people and

motions to approve plea agreements for 14 people since the start of this year. But three weeks before the end of this anti-corruption institution, ÚŠP prosecutors don't know what the entire abolition process will look like.

In a fact, the Constitutional Court does not seem to view the imminent amendment to Slovakia's criminal laws in the same way as the government: on February 28 it temporarily stopped the effectiveness of some of its key sections, two weeks before it was due to come into force. According to the court, the suspended parts could "cause serious and irreparable consequences resulting in a violation of the principle of the rule of law".

The panel of 12 judges decided, albeit not unanimously, to suspend all the changes to the Penal Code and the Act on Criminal Liability of Legal Entities, as well as some changes to the Criminal Procedure Law. Specifically, the panel sees a danger in reducing penalties, shortening the statutes of limitations, and at the same time rewriting the criminal damage classification, but also in reopening previously approved plea bargains and using illegally obtained evidence in a criminal proceeding only in favor of the charged.

President Zuzana Čaputová welcomed the decision of the Constitutional Court, because it is good news for democracy and the rule of law in Slovakia. She announced immediately after the court's announcement, adding that the decision is also an important message to the foreign partners that the finances of European taxpayers remain adequately protected in Slovakia.

The Prime Minister Fico's reaction positive at first, but later he has called on Ivan Fiačan, the chief justice of the Constitutional Court, to resign. He cited the reason to be the 'anti-government' media reporting on the decision on suspending key parts of the government's amendment to criminal laws earlier than the decision's delivery to the Justice Ministry, the president and the opposition parties involved in the legal disputes. Fico went on to say that the new Slovak president, which will be elected in early April, should handle Fiačan's dismissal.

The president can appoint or dismiss the chair of the Constitutional Court (the chair still remains to serve as the Constitutional Court judge), according to the constitution. The constitution does not mention any further detail. According to the Council of Europe's Venice Commission, the president should not do it "at any time and without objective reasons". Presently the polls indicate a win by Hlas party leader and Speaker of Parliament, Peter Pellegrini, in the presidential race. Smer-SD supports Pellegrini.

Fico reiterated that he respects the court's decision, and again stressed that Smer-SD has achieved its political goal: the abolition of the anti-corruption Special Prosecutor's Office as of March 20. At the same time, he criticized the Constitutional Court for deciding on a law that wasn't published in the collection of laws when the court was dealing with the president and the opposition's submissions.

According to Fico, the government will also prepare another amendment to the Penal Code in the near future. It will include 'useful items' that the court should have no problem with, according to Fico. One such item could concern penalties and the criminal damage classification.

### **Presidential race continues**

The presidential elections in the spring of 2024 will follow shortly on from Prime Minister Robert Fico's victory in the September 2023 parliamentary vote. While the president holds little power, the post holder can help set the tone of public debate and counter the government narrative. The election will show how the public feels about Fico's comeback, after being forced to resign after mass protests over the murder of journalist Ján Kuciak and his fiancée Martina Kušnírová in 2018.

Presidential election poll suggests race is tightening, but it looks like that Igor Matovič's last-minute bid may be diverting support from Ivan Korčok. Ivan Korčok, who served as foreign minister under the last government, has almost closed the gap on Peter Pellegrini, the current speaker of parliament and leader of the Hlas party, in the race to become president, according to a pre-election survey. The first round of the presidential election will take place on March 23.

The opinion poll indicates that among first-round candidates Pellegrini leads with 39 percent, followed closely by Korčok on 37.2 percent. Igor Matovič's last-minute entry into the race seems likely to have dented Korčok's support: Matovič, who was prime minister for some of the time that Korčok was foreign minister, recorded 4.8-percent support. Ján Kubiš, another former foreign minister, has 3-percent support, while other candidates range from 2.4 percent (Krisztián Forró) to 0.6 percent (Milan Náhlík).

According to AKO's findings, Korčok gained new supporters, but lost some to Matovič and another candidate, Patrik Dubovský, who is also being backed by the coalition of the Za

Ľudí, Kresťanská Únia and Slovensko parties, which Matovič leads. Obviously, Igor Matovič's candidacy shifts election dynamics. Changes in support among Za Ľudí-Kresťanská Únia-Slovensko coalition voters show a shift from 64 percent supporting Korčok in January to only 35 percent in the current poll. Matovič's candidacy influenced this shift, with about 2.4 percent now supporting historian Patrik Dubovský. Korčok lost approximately 4 percentage points in overall support due to this redirection. Matovič's ambition to attract conservative voters seems successful, but he still faces challenges in gaining support from other conservative parties' voters. He acknowledges that his chances of winning are low and suggests his post-first-round actions will depend on how much support he obtains. However, a potential endorsement of Korčok by Matovič may have limited impact, as only 53.8 percent of Matovič's first-round voters would follow such advice, according to AKO data.

When it comes to a likely second-round vote (in which only the top two candidates would remain), the AKO survey shows Pellegrini in the lead with 53.7 percent, ahead of Korčok on 46.3 percent. Supporters of third-place candidate Štefan Harabin, a controversial former justice minister, may impact the outcome. Despite Harabin's statement that he wouldn't advise supporting Pellegrini if he didn't make it to the second round, around 60 percent of his voters would still likely support Pellegrini, as per AKO data. Only 37 days remain until the presidential elections.

What is sure that Peter Pellegrini cannot be sure he will win the election race. Andrej Danko, another coalition leader and presidential candidate, is also struggling in the polls. All the polls have shown that the two main presidential candidates (Pellegrini and Korčok) will make it to the second round. But the polls also indicate growing support for Slovensko (former OĽaNO) leader and ex-PM Igor Matovič.

The polls asked respondents about 10 presidential candidates. However, there are already 11 official candidates as of February 19. The Supreme Administrative Court ruled that Róbert Švec from the nationalist movement Slovenské Hnutie Obrody can also compete in the race. He became the eleventh candidate. Initially, the Office of the National Council of the Slovak Republic, which is responsible for the daily operation of the parliament and approves registration forms of all presidential candidates if all the conditions are met, rejected his registration. It argued that a thousand of the 15,209 signatures submitted by him were not handwritten. As a result, the Office said, he failed to meet the requirement of at least 15,000

signatures. But the court has decided that it's the job of experts, not the Office, to verify signatures. The Office accepted the decision.

## **Conclusion**

The three-party ruling coalition (comprising Smer-SD, Hlas and the Slovak National Party) approved the amendment via fast-tracked legislative procedure - which avoids consultation with experts or the public - on February 8, ignoring grave concerns raised by the president, the opposition, experts, the European Public Prosecutor's Office, the European Commission, and the European Parliament. Instead, the coalition claimed that the changes to the Penal Code would make it 'modern' and 'European'.

By contrast, the opposition made sustained attempts to slow its parliamentary progress and a series of public mass protests across the country, as well as in some European cities, demonstrated widespread, strong opposition to the amendment following its submission to parliament last December.

The opposition forces, led by Progressive Slovakia (PS), a liberal pro-European party, have repeatedly referred to the amendment as a 'pro-mafia package' and warned against the "amnesty for Prime Minister Robert Fico and Speaker of Parliament Peter Pellegrini's people". This is a reference to the fact that several current high-profile corruption cases would be time-barred and that a number of influential people now facing criminal prosecution would likely evade conviction, or would receive a non-custodial sentence even if convicted, should the changes be implemented. The cases date back to the era before 2020, when Smer-SD – which is now, again, the largest party in the current coalition – was the dominant political force in Slovakia.

After the changes to the Penal Code were passed by MPs in early February, anti-corruption organizations warned that the amendment "makes corruption and other property crimes more attractive" and weakens public protection. Therefore, in their separate motions, President Čaputová and the opposition turned to the Constitutional Court on February 19 and 20 in an effort to have the amendment suspended. At the same time, they asked the court to examine whether the amendment is in line with the Constitution. For the time being the court hasn't dealt with the matter of constitutionality of the amendment, saying that it will look into the matter. Its final decision is not expected for several months.



Igor Matovič, the leader of the political movement OĽaNO (recently renamed 'Slovakia'), submitted the signatures needed to enter the campaign a few minutes before the deadline. He wants to mobilize pro-democratic voters as there may be 100 thousand people who otherwise would not have come to the polls. He means to represent a choice for “a conservative voter” and “to shield” a democratic candidate. According to polls, former foreign minister Ivan Korčok is the only relevant opponent in the presidential fight to Peter Pellegrini, a former PM and Robert Fico’s ruling coalition partner. Pellegrini, whose victory would tighten the current Fico government’s grip on power, is currently leading the polls, with Korčok in second place. Korčok’s popularity is slowly rising and has already gained the support of two liberal opposition parties, one of them being the opposition’s leader, Progressive Slovakia (PS).

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