

Slovenia's input to the Annual Rule of Law Report

Introductory summary

The document represents the contribution of Slovenia to the Annual Rule of Law Report which includes a general overview of Slovenian positions and also sums up a more substantial response to the questionnaire across the four pillars with the overview of the legal and institutional framework, as well as some national observations. In line with the Commission's notion in the Methodology document, the contribution focuses on the summary of the overall situation, taking into account significant developments since January 2019.

Slovenia welcomes the comprehensive rule of law mechanism, including the annual report for monitoring the rule of law within the Member States as well as within the EU institutions. We see its value in a meaningful contribution to uphold and strengthen respect for the rule of law in the Union thus increasing EU's internal and external credibility and resilience. Seeking synergies with other mechanisms, preventive value, raising awareness and rule of law culture, deepening of the dialogue and ensuring better efficiency of the toolbox across the institutional spectrum should be its objectives. We rely on the European Commission to ensure objective annual reporting, equal for all Member States. In addition, we count on the monitoring approach to be the same in all Member States, based on comparable information and reliable sources, including an open dialogue with Member States. Coherent use of a wide range of relevant sources, which will be clearly indicated in the report, will play an important role for the transparency and credibility.

To sum up Slovenia's views as regards the mechanism and the annual report, we expect that it will seek synergies with other mechanisms, avoid overlap and additional administrative burden as well as ensure efficiency and cohesion of the toolbox across the institutional spectrum. We count on close involvement with the Member States throughout the process, which will foster institutionalization of the mechanism and its shared ownership, thus also increasing EU's internal and external credibility. The guiding principles should be transparency, inclusiveness, objectivity and equal treatment, representativeness and factual reliability of indicators and sources. For Slovenia, reliable and comparable sources, ensuring referential integrity, independent and objective indicators, agreed procedures and involvement of Member States are key warranties for the quality and credibility of the annual reports.

All this will ensure the report's good potential to significantly contribute not only to enhancing the inter-institutional dialogue, but also help the institutions to better respond to the current challenges in a coherent way. It will pave the way for a meaningful annual rule of law dialogue in the General Affairs Council (GAC), which could serve as a basis for further strengthening of the inter-institutional cooperation. Moreover, Slovenia would wish that this contributes not only to discussions at the EU-level, but also enhances the dialogue in national parliaments and promotes consultations with the civil society.

Respect for the rule of law and international law represents one of the core values for Slovenia. As such it is identified as a national interest, and consequentially reflected in our foreign policy strategy. We expect that in accordance with the Treaties, the European Commission, together with other institutions and Member States, will safeguard the rule of law as a fundamental value of the Union and ensure respect for the EU law, values and principles.

For Slovenia, the **implementation of international agreements and commitments** in good faith as well as equal treatment of all legal and natural persons irrespective of their nationality is an integral part the rule of law concept. These aspects are important as they ensure efficient protection of all legal and natural persons' rights across the whole territory of the Union and support the functioning of the internal market. Therefore, we recommend that the monitoring of these aspects be included in reporting on the assessment of the rule of law criteria.

In a more detailed description of the most important international aspects of the rule of law, we stress: 1) honouring international commitments arising from valid international treaties in good faith and observing decisions of international tribunals, 2) independence of the judiciary from executive and legislative powers which is especially important in connection to equal treatment of domestic and foreign persons, 3) ensuring an efficient legal remedy (fair trial in reasonable time on equal basis for every EU legal or natural person), 4) Equal treatment for domestic and foreign persons as discrimination restricts the exercising of fundamental freedoms, and 5) absence of arbitrary interpretation of laws and other acts given that unified and stable interpretation of laws and acts in all EU Member States must apply for every EU person as it creates predictability.

The importance of the rule of law is also reflected in the forthcoming **Trio Presidency programme**. The next Trio, including Slovenia, firmly believes in the importance of democracy, human rights, rule of law and our open societal models, which are the foundation of European freedom, security and prosperity. In this respect, the three Presidencies look forward to the forthcoming European Democracy Action Plan, the New Strategy for the Implementation of the Charter of Fundamental Rights, a new impulse to the accession of the EU to the European Convention on Human Rights as well as to promoting a regular dialogue with citizens, as important factors to better implement EU policies. The Trio is committed to the principles of the Roadmap for Recovery:¹ the plan for recovery must be based on solidarity, cohesion and convergence; the recovery must be flexible, agile and evolving; it must be inclusive and co-owned by all involved; while fully respecting our values and the rule of law.²

Even in times of the **COVID-19** outbreak, Slovenia is aware of the importance to respect the rule of law. The measures taken to curb the epidemic are based on the Prevention of Infectious Diseases Act. Slovenia fully agrees that the restrictive measures must be temporary and proportionate whereas necessary to achieve legitimate goals in a democratic society. During the pandemic, these goals are primarily aimed at protecting the lives and health of people and ensuring the resilience of the health system. These measures inevitably interfere with certain human rights and fundamental freedoms, such as the right to assembly and association and freedom of movement, but they are temporary in nature and follow the principle of proportionality. Their temporality is reflected in the limited duration of the epidemic. Given that the end of the epidemic cannot be accurately predicted, the government regularly checks the justification for continuing to maintain the measures. Measures shall be released following the advice of the medical authorities, in particular on the basis of an epidemiological picture based on extensive testing. In this light, the government weekly checks both the provisionality and the proportionality of the measures. As of 16 April 2020, Slovenian government is also bound by the decision of the Constitutional Court. In doing so, the government strives to give due attention to vulnerable groups. Procedural time limits were also suspended in favour of the holders of individual entitlements. All governmental measures are subject to the discretion of the courts, including the Constitutional Court of the Republic of Slovenia, which is competent for the protection of human rights.

In Slovenia, we support the monitoring of the measures in terms of compliance with the rule of law by the Commission based on equal treatment and objective criteria, which is a task that is primarily the responsibility of individual Member States. In terms of the measures adopted in view of efficient management of the covid-19 pandemic and their potential implications on the fundamental rights, on 30 March 2020 Slovenia also duly submitted the overview of the situation and measures to the EU Agency for Fundamental Rights (FRA)³. Slovenia sees the rule of law as a fundamental European value shared by all, the Member States and the EU institutions. For this reason, we believe it is important to avoid any impressions of EU division. In the time of current COVID-19 crisis it is more than ever necessary to strengthen our unity and solidarity, both internally and externally. In this light, the mechanism and the subsequent reporting will also send a clear and important message to EU's enlargement candidates.

I. Justice system

A. Independence

The independence of Slovenian judges is guaranteed by the **Constitution of the Republic of Slovenia** (*Ustava Republike Slovenije*)⁴.

Constitution, Art. 125, The Independence of the Judges:

“The judges shall independently exercise their duties and functions in accordance with this Constitution and with the law.”

1. Appointment and selection of judges and prosecutors

¹ A Roadmap for Recovery - Towards a more resilient, sustainable and fair Europe, 22 April 2020.

² Draft Trio Presidency Programme as of 22 April 2020

³ Coronavirus COVID-19 outbreak in the EU Fundamental Rights Implications – Slovenia: https://fra.europa.eu/sites/default/files/fra_uploads/slovenia-report-covid-19-april-2020_en.pdf

⁴ Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia Nos. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99 and 75/16 – UZ70a); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=USTA1>; English version: <https://www.us-rs.si/en/about-the-court/legal-basis/constitution/>.

The status of judges (*sodniki*) is governed by Articles 125 to 134 of the Constitution of the Republic of Slovenia and the **Judicial Service Act** (*Zakon o sodniški službi*)⁵. Judges are elected by the National Assembly (*Državni zbor*, i.e. the Parliament) on the basis of a proposal from the **Judicial Council** (*Sodni svet*) as a separate Constitutional body. The office of judge is permanent, and the age limit and conditions for election are laid down by law.

Constitution, Art. 130, The Election of Judges:

“The National Assembly shall elect judges upon the proposal of the Judicial Council.”

According to the **State Prosecution Service Act** (*Zakon o državnem tožilstvu*; ZDT-1)⁶ a person who meets the conditions for election to the judicial office pursuant to the act regulating the judicial service (general conditions) and specific conditions for appointment to the position of a state prosecutor as laid down by this Act may be appointed a state prosecutor (*državni tožilec*).

In the Republic of Slovenia, state prosecutors operate at four levels: there are local state prosecutors, district state prosecutors, higher state prosecutors and supreme state prosecutors. The term of office of a state prosecutor is permanent.

2. Irremovability of judges, including transfers of judges and dismissal

The office of a judge is permanent and is normally terminated with retirement which is compulsory only at the age of seventy. Any grounds for termination of office of a judge can be determined only by statute.

Constitution, Art. 132, para. 1:

“The circumstances in which a judge shall no longer hold office shall be specified by statute.”

Judicial Service Act, Art. 74:

“Judges shall have their judicial office terminated pursuant to law:

1. if they fail to make an oath no later than sixty days from the day of being elected to judicial office, unless the failure of not making an oath is a result of factors beyond their control;
2. if they lose the citizenship of the Republic of Slovenia;
3. if they lose the capacity to contract or cease to be in sufficient health to perform judicial service;
4. if they resign from judicial service via a written application sent to the Judicial Council by the president of the court;
5. if the court is abolished and it cannot be guaranteed that they will continue to perform judicial service at another court;
6. if they accept an office, begin to perform activities, conclude an employment relationship or despite a prohibition perform work that is incompatible with judicial office (Article 41, third paragraph of Article 42 and third paragraph of Article 43);
7. if it proceeds from assessment of their service that they are unsuited to judicial service (Article 33);
8. if a disciplinary sanction of termination of judicial office is pronounced upon them.

Judges shall have their judicial office terminated upon retirement, but no later than upon reaching 70 years of age.

The grounds specified in point 1 of the previous paragraph shall be deemed to have occurred sixty days after the judge has been elected to a judicial office, the grounds specified in points 2, 3 and 8 of the previous paragraph on the day the decision of the relevant body becomes final, the grounds specified in point 5 of the previous paragraph on the day the court ceases its work, the grounds specified in point 7 of the previous paragraph on the day the Judicial Council confirms the assessment and the grounds specified in the previous paragraph at the end of the year in which the judge reached the age limit for retirement.

On the grounds pursuant to point 4 of the first paragraph of this article, judicial office shall be terminated sixty days after the judge's resignation is received by the Judicial Council; on the grounds pursuant to point 6 of the first paragraph of this article it shall be terminated on the day the office or work incompatible with judicial office is taken or begun.”

The Judicial Council makes a proposal to the National Assembly for relieving a judge of his/her judicial office:

- in case he/she has infringed the Constitution or committed a major breach of the law in the discharge of the judicial function;

⁵ Judicial Service Act (Official Gazette of the Republic of Slovenia, Nos. 94/07 – official consolidated text, 91/09, 33/11, 46/13, 63/13 in 69/13 – corrigendum, 95/14 – ZUPPJ515, 17/15, 23/17 – ZSSve and 36/19 – ZDT-1C); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO334>.

⁶ State Prosecution Service Act (Official Gazette of the Republic of Slovenia, Nos. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve and 36/19); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5812>.

- in case he/she has been convicted of a crime, committed intentionally while discharging the judicial function and thereby to have abused that office (dismissal from the judicial office is obligatory in this case);
- in case he/she has been sentenced to a prison term longer than six months.

Constitution, Art. 132, Termination and Dismissal from Judicial Office, para. 2 and 3:

“If in the performance of the judicial office a judge violates the Constitution or seriously violates the law, the National Assembly may dismiss such judge on the proposal of the Judicial Council. If a judge is found by a final judgement to have deliberately committed a criminal offence through the abuse of the judicial office, the National Assembly dismisses such judge.”

Judicial Service Act, Art. 78, para. 2 and 3:

“If a judge is sentenced to a prison term longer than six months, the Judicial Council shall propose to the National Assembly the dismissal of the judge, while it shall only inform the National Assembly of other cases in which judges have been sentenced for criminal offences.

If a judge is sentenced to a prison term of less than six months or given a non–custodial sentence for a criminal offence, the Judicial Council shall propose to the National Assembly the dismissal of the judge if the criminal offence was such as to render the judge unsuitable for the judicial function.”

A judge is elected to a vacant post at a court of law and as a rule cannot be transferred to another court, even in the way of promotion, without his/her consent. Exceptions to this rule can be determined only by statute.”

Judicial Service Act, Art. 4, para. 3, 4, 5:

“Judges may with their written consent be permanently transferred to another court or another body (transfer) or temporarily assigned to another court or another body (assignment).

Transfer and assignment shall not affect the judge’s status or the judge’s wage in the position to which the judge has been appointed.

Transfer or assignment without the judge’s consent shall only be permitted in the cases and under the conditions set out by this Act.”

Cases, as laid down in the Judicial Service Act, in which a judge can be transferred to another court without his/her consent are:

1. abolishment of the court (Art. 66, para. 2);
2. as a result of a significant decrease of the work load of the particular court over an extended period (Art. 66, para. 2);
3. when the organisation of the courts is changed (Art. 66, para. 3);
4. as a disciplinary sanction (Art. 82), for a limited period of 6 months and up to 3 years (Art. 83, para.4). This sanction cannot be imposed to the Supreme Court Judge.

Note: in cases 1–3 an equal judicial post and the same salary class are assured to the judge transferred to another court (Art. 66, para. 3).

3. Promotion of judges and prosecutors

Upon entering judicial service judges shall acquire the right to promotion in accordance with the conditions set out by the Judicial Service Act. Judges are promoted by the **Judicial Council** upon the advisory opinion of the **Personnel Council**. Personnel councils are formed at the district and the higher courts and at the Supreme Court. They are competent for the giving of opinions on candidates, the assessment of judicial service and other personnel issues relating to judges at law courts, if so, determined by law.

Promotion includes promotion within wage grades within the range of wage grades for particular judicial titles and promotion to a higher judicial title, promotion to a higher judicial post and promotion to the position of a senior judge. Promotion within wage grades and to the position of a senior judge shall be decided upon by the president of the court at the judge’s proposal whereby the criteria set out in the Judicial Service Act shall be taken into consideration. Promotion to a higher judicial title and accelerated promotion within wage grades, to a position of a senior judge or to a higher judicial post and exceptional promotion to a higher judicial title is decided upon by the Judicial Council at the judge’s or the president of the court’s proposal. Promotion shall be decided upon after the procedure for determining the judge’s performance and expertise has been carried out.

The criteria for promoting judges are seniority and qualifications, based on merits which are objectively defined. Criteria for Selecting and Promoting Judges and Procedure for Assessing Judicial Work are regulated by Section 4 of the Judicial Service Act.

Promotion of State Prosecutors is subject to the **State Prosecution Service Act** (*Zakon o državnem tožilstvu*)⁷. The State Prosecutorial Council is formally responsible for the promotion of prosecutors in salary classes and to the position of councillor. The body with the jurisdiction to appoint a state prosecutor (Government) is responsible to decide on promotion to a higher post.

State Prosecution Service Act (Art. 37):

“(1) With the appointment to the office, a state prosecutor shall acquire the right to promotion in compliance with the conditions determined by this Act.

(2) A state prosecutor may be promoted—

- into salary grades within the range of salary grades for a particular state prosecutor’s title;
- to a higher state prosecutor’s title;
- to a higher state prosecutor position;
- to the position of councillor.

(3) The State Prosecutor Council shall decide on the promotion in salary grades, to the status of councillor and to the title of district and higher state prosecutor.

(4) The Government shall decide on the promotion to the title of supreme state prosecutor on the proposal of the State Prosecutorial Council.

(5) The promotion shall be decided on after the carrying out of an assessment of the performance, quality and expertise of the state prosecutor on the proposal of state prosecutor or the responsible head of a state prosecutor’s office.

(6) Promotion to a higher state prosecutor position shall be carried out *mutatis mutandis* pursuant to the provisions of the preceding section of this Act.

(7) The State Prosecutor Council shall be responsible for preparing the assessment of the state prosecutorial service.

(8) Unless otherwise stipulated by this Act, the provisions of the Act regulating the judicial service shall apply *mutatis mutandis* to the promotion of state prosecutors, to the definition of criteria for the selection and promotion of state prosecutors and to the performance assessment procedure that applies to state prosecutors.”

4. Allocation of cases in courts

Allocation of cases in courts is regulated by the **Courts Act** (*Zakon o sodiščih*)⁸.

Courts Act (Art. 15):

“Where two or more judges have been assigned to the same legal field, cases shall be assigned to individual judges according to the daily succession of filed initial procedural acts, taking into account the alphabetical order of the initial letters of the surnames of judges.

If several initial procedural acts falling within the same legal field are filed on the same day, or when, within the same legal field, the order of cases is determined in advance, the cases shall first be classified by the alphabetical order of the initial letters of the surnames or names of parties or participants against whom the procedural act has been filed.

Cases in which higher courts and the Supreme Court of the Republic of Slovenia decide on an ordinary or extraordinary legal remedy shall be assigned to judges according to the daily succession of arrived files, taking into account the alphabetical order of the initial letters of the surnames of judges.

Cases referred to in the preceding paragraphs shall be assigned to judges immediately, according to the succession of filed initial procedural acts and/or arrival of files; cases may also be assigned later, in compliance with the method of Court Rules previously determined.”

Court Rules lays down detailed rules for the assignment of cases.

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

⁷ State Prosecution Service Act (Official Gazette of the Republic of Slovenia, Nos. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZ); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7156>.

⁸ Courts Act (Official Gazette of the Republic of Slovenia, Nos. 94/07 – official consolidated text, 45/08, 96/09, 86/10 – ZJNepS, 33/11, 75/12 – ZSPDLS-A, 63/13, 17/15, 23/17 – ZSSve, 22/18 – ZSICT and 16/19 – ZNP-1); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO332>.

The Judicial Council⁹ is a state authority that, in accordance with the Constitution, does not fall under any of the branches of power. In the process of the appointment of judges, it ensures cooperation between the legislative, executive and judicial branches. Its tasks include protecting the independence of judges and the judiciary, and promoting and ensuring the accountability, efficiency and quality of work of the judiciary.

The primary responsibility of the Judicial Council is selecting candidates for judicial offices in the candidate selection process and proposing one candidate for one judicial office to the National Assembly. In addition, it adopts the Code of Judicial Ethics and appoints members of the Ethics and Integrity Commission, as well as adopts qualitative criteria for the assessment of the work of judges, decides on the promotion of judges, may lodge requests for the evaluation of judicial service in respect of a particular judge and may request official supervision over the work of a particular judge. The Judicial Council gives opinions to the National Assembly and the ministry on laws governing the courts and the judicial service, and appoints and dismisses presidents of courts and gives opinion to the National Assembly on appointment of the President of the Supreme Court (the National Assembly appoints the President of the Supreme Court on the proposal of the minister responsible for justice) and decides on appeals of judges who believe that their independent position or the independence of the judiciary have been violated.

The Constitution guarantees that judges have a majority in the Judicial Council and that those of this body's members that come from their ranks, are elected by their peers.

Constitution, Art. 131, The Judicial Council:

"There shall be a Judicial Council composed of eleven members. Five members shall be elected by vote of the National Assembly on the nomination of the President of the Republic from amongst practising lawyers, professors of law and other lawyers. Six members shall be elected from amongst judges holding permanent judicial office. The President of the Judicial Council shall be chosen by the members of the Judicial Council from amongst their own number."

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules

A judge is bound by the Constitution and the law. Pursuant to the Constitution, a judge is also bound by the general principles of international law, and ratified and published international treaties (Article 3 of the Courts Act). Judges are accountable since they face either impeachment or disciplinary procedures.

A disciplinary sanction may not be pronounced upon a judge except under conditions and according to the proceedings set out by the Judicial Service Act. Disciplinary proceedings are fast-track. Criminal liability and liability for a misdemeanour shall not exclude a disciplinary liability on the part of the judge (Article 80 of the Judicial Service Act).¹⁰

Within the framework of court management and exercising supervision over the implementation of court management tasks, it is not permitted to interfere with the independent position of a judge in decision-making on cases assigned to him (paragraph 2 of Article 60 of the Courts Act). In the course of official supervision, it is not permitted to interfere with the independence of a judge in the performance of judicial office (paragraph 2 of Article 79a of the Judicial Service Act). In the course of disciplinary proceedings, it is not permitted to interfere with the independence of a judge in the performance of judicial office (paragraph 4 of Article 80 of the Judicial Service Act). In the exercise of its powers, the Service for the Supervision of Court Administration may not interfere with the independence of a judge in the performance of the duties of judicial office, with the presumption of innocence, with the secrecy of legal proceedings or with the guarantee of a fair trial, and may not examine case files except in parts relating to the review of court fees and administrative review (paragraph 5 of Article 65a of the Courts Act). In the exercise of its powers, the ministry responsible for justice may not interfere with the independence of a judge in the performance of the duties of judicial office, with the presumption of innocence, with the secrecy of legal proceedings or with the guarantee of a fair trial (paragraph 3 of Article 67a of the Courts Act).

The Judicial Council adopts the **Code of Judicial Ethics** and appoints members of the **Ethics and Integrity Commission**. The Code of Judicial Ethics (*Kodeks sodniške etike*)¹¹ establishes rules for the professional and personal conduct of judges with a view to protecting their independence, impartiality and honesty and the good reputation of the judicial service.

⁹ <http://www.sodni-svet.si/#/english>

¹⁰ See the Judicial Service Act, Chapter VII – Disciplinary Proceedings and Suspensions from Judicial Service.

¹¹ The Code of Judicial Ethics with commentary available at: http://www.sodni-svet.si/images/stories/Kodeks_sodniske_etike_komentar_ang_sept_2017.pdf (English version)

Judges are obliged to comply with the Code of judicial ethics both in the performance of judicial office and outside of it. The Code of judicial ethics is published on the websites of the Judicial Council and the courts (Article 53 of the Judicial Council Act – *Zakon o sodnem svetu*¹²). The Ethics and Integrity Commission has the following powers:

- adopts principled opinions on conduct constituting violation of the Code of Judicial Ethics;
- issues recommendations regarding compliance with the rules on judicial ethics and integrity pursuant to the Code of Judicial Ethics;
- adopts guidelines in the area of judicial ethics and integrity in compliance with the Code of Judicial Ethics;
- provides education and training of judges in the field of ethics and integrity in cooperation with the Judicial Training Centre.

In accordance with the State Prosecution Service Act (Art. 8), a state prosecutor is held liable for any misconduct in the performance of his duties, pursuant to this Act. A state prosecutor may not be brought before a disciplinary tribunal for an opinion provided during the performance of his duties. Disciplinary tribunals shall decide on disciplinary matters instituted against state prosecutors pursuant to the State Prosecution Service Act.

Disciplinary procedures and temporary dismissal from the state prosecutorial service are regulated in the Chapter Three of the State Council of Prosecutors.

7. Remuneration/bonuses for judges and prosecutors

In accordance with the principle of the independence of judges (Article 125 of the Constitution), judges' salaries are regulated by a law. The Public Sector Salary System Act (*Zakon o sistemu plač v javnem sektorju*)¹³ regulates the salaries for judges and prosecutors.

8. Independence/autonomy of the prosecution service

State Prosecution Service Act (Art. 3):

“(1) A state prosecutor shall be self-dependent and bound to the Constitution and statute in performing his state prosecutorial service. Pursuant to the Constitution, a state prosecutor shall also be bound by the general principles of international law and ratified and published international treaties.

(2) Decisions made by the state prosecutor shall not be interfered with, except by way of general instructions and the assigning of a case in the manner stipulated by this Act.

(3) A state prosecutor who believes that his self-dependence has been violated, may request the State Prosecutorial Council to deal with the violation. If the State Prosecutorial Council concludes that the request is justified, it may remedy the violation or request that it be remedied and make its conclusion public as appropriate.”

The State Council of Prosecutors is an institution which aims at carrying out self-governance and upholding the independence of prosecutors. It is made up of 9 members, 4 of them elected by prosecutors, 4 elected by the Parliament and one is appointed by the Minister of Justice. The Council appoints heads of regional prosecution services; it is responsible for the promotion, transfer, the discipline and the relocation of the prosecutors. It makes proposals for the appointment of the Prosecutor General.

9. Independence of the Bar (chamber/association of lawyers)

The Bar¹⁴ - as a part of the judiciary - is an autonomous and independent service, regulated by law (Article 137 of the Constitution of the Republic of Slovenia). The independence of Slovenian attorneyship is guaranteed by the Constitution.

Constitution, Art. 137, para. 1:

“Attorneyship is an independent service within the system of justice and is regulated by law.”

¹² Judicial Council Act (Official Gazette of the Republic of Slovenia, Nos. 23/17); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7156>.

¹³ Public Sector Salary System Act (Official Gazette of the Republic of Slovenia, Nos. 108/09 – official consolidated text, 13/10, 59/10, 85/10, 107/10, 35/11 – ORZSPJS49a, 27/12 – odl. US, 40/12 – ZUJF, 46/13, 25/14 – ZFU, 50/14, 95/14 – ZUPPJS15, 82/15, 23/17 – ZDOdv, 67/17 in 84/18); Slovenian version <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3328>.

¹⁴ <http://www.odv-zb.si/en/about-the-bar>

According to the Bar Act (*Zakon o odvetništvu*)¹⁵ the Bar as a part of justice is an autonomous and independent service and the lawyer is autonomous and independent in his practice.

Lawyers practicing the legal profession in the Republic of Slovenia shall necessarily associate into the Bar Association of Slovenia (The Bar Act, Art. 41).

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

Extensive surveys on public satisfaction with the courts have been carried out in Slovenia in 2013, 2015 and 2017. The surveys have shown that the perception of the judiciary in Slovenia differs considerably among the groups (general public, court users, professional users, judges and court staff). These surveys, despite being useful, provide predominantly quantitative results.

By contrast, the outcomes of extensive research within the **IQ Justice Project** in 2017 and 2018 are based on qualitative research methods – surveys among judges and court staff, workshops with key-players involved in judicial procedures (judges, staff, lawyers, prosecutors, notaries, experts, translators, media, court users), in-depth individual interviews with court users, analyses of blogs, social media and news portals, in-house observation of users as well as detailed mapping of court activities and processes.

The desired effect of the procedural justice part of the IQ Justice project is better understanding of court procedures and the nature of judicial work among the general public, accompanied by higher awareness of judges and court staff as to questions concerning respect, dignity, the right to be heard, impartiality, etc. In the long run, these improvements should lead to better satisfaction with court services and higher trust in judges and courts. Activities provide qualitative insight into the real problems these categories of users are facing relating to the work of courts, and, most importantly, tangible products that tackle these problems. More than 720 problems gathered in all the activities were coded and classified into categories to prepare a general overview of communication problems courts have and propose concrete deliverables and solutions. The participation of an experienced professional business communications company proved to be a highly relevant and useful instrument because it helped the judiciary to perceive the discrepancy between how it sees itself and the way people outside the judiciary view judges and courts in Slovenia.

The effects have been achieved through the following “tools” (documents and events). Some documents are available on internet, accessible to everyone, others are targeted to policy-makers:

- general project document which includes proposed solutions regarding communication (proactive communication of courts, media judges, training of judges and court staff), infrastructure (signalisation and design within court premises, displays, use of ICT) and people (training of judges and court staff in skills that are important for procedural justice, reorganisation of business processes), including examples and good practices from different countries.
- Brochures on the most common court procedures and situations.
- A special brochure on the organisation of the court system.
- Two short animated movies to explain in plain and understandable language the court system and the role of a witness.
- A special website <https://nasodiscu.si> entitled »in-court-you-are« (in Slovenian: nasodiscu.si) contains very useful information on different types of procedures (much more detailed compared to brochures). The content of the website was written by judges and court staff and then intentionally »translated« into easily understandable Slovenian.
- Three manuals: on the renovation of court writings (to enable user friendliness through design change), the signalisation within court premises and the measuring of improvements within every single court.
- Court location map (for the capital only).

The project has been presented at various occasions in 2018 – the meeting of presidents of courts, the meeting with judges and court staff from two pilot courts, the Conference of best practices in courts, different training events (for prosecutors, state attorneys, members of the Bar Association, the land register training event).

¹⁵ Bar Act (Official Gazette of the Republic of Slovenia, Nos. 18/93, 24/96 – odl. US, 24/01, 54/08, 35/09, 97/14, 8/16 – odl. US, 46/16 in 36/19); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO265>.

Tangible effects can already be seen through different satisfaction surveys. Already at the end of 2017, the trust in courts, according to the survey of the Supreme Court, slightly increased, with a noticeable fall of the part of the people who do not trust the courts at all and an increase of those who do.

The improvement in public trust is evident also from the European Semester Country Report Slovenia 2019 of the European Commission, where it is expressly stated (p. 41) that “The 2019 EU Justice Scoreboard shows improvements in the perception of judicial independence”; In the end of 2018 a private research company (Valicon) survey showed, that the biggest rise in trust among professions (+31%) between 2012 and 2018 is attributable to judges. Similarly, one of the highest rises in trust among institutions goes to courts (+32%).

Improving the Quality of Justice (IQ Justice) project has won the Council of Europe and European Commission Crystal Scales of Justice prize in 2019.¹⁶

The systematic Slovenian approach to this issue is also evident from the EU Justice Scoreboard 2019 (Figure 41-42).

11. Other - please specify

B. Quality of justice¹⁷

12. Accessibility of courts (e.g. court fees, legal aid)

Free Legal Aid Act (*Zakon o brezplačni pravni pomoči*)¹⁸ provides legal basis for free legal aid. Legal aid encompasses the exercise of the right to judicial protection, based on the principle of equality and taking into account the social position of persons that are not able to exercise this right without causing harm to their ability to maintain themselves and their families. In essence, the Free Legal Aid Act determines legal aid as the right of the eligible person to the total or partial provision of funds necessary to cover the costs of legal assistance and the right to an exemption from paying the costs of the judicial proceeding. Legal aid can be approved as regular, extraordinary, exceptional, special or emergency legal aid. It can be approved for legal advice, legal representation and other legal services laid down in this Act, for all forms of judicial protection before all courts of general jurisdiction and specialised courts based in the Republic of Slovenia, before the Constitutional Court of the Republic of Slovenia, and before all authorities, institutions or persons in the Republic of Slovenia authorised for out-of-court settlement, as well as in the form of an exemption from paying the costs of the judicial proceeding. Legal aid can also be approved for proceedings before international courts or arbitration panels.

Costs for judicial proceedings are regulated by **Court Fees Act** (*Zakon o sodnih taksah ZST-1*)¹⁹, **Attorneys' Tariff** (*Odvetniška tarifa*)²⁰, **Notary Tariff** (*Notarska tarifa*)²¹, **Court Experts, Certified Appraisers and Court Interpreters Act** (*Zakon o sodnih izvedencih, sodnih cenilcih in sodnih tolmačih*)²², **Criminal Procedure Act** (*Zakon o kazenskem postopku*)²³, **Rules on the Reimbursement of Costs related to Criminal Procedure** (*Pravilnik o povrnitvi stroškov v kazenskem postopku*)²⁴ and **Civil Procedure Act** (*Zakon o pravnem postopku*)²⁵.

13. Resources of the judiciary (human/financial)

¹⁶ See <https://rm.coe.int/newsletter-no-18-en-version-19-fevrier-2020/16809c8f87>.

¹⁷ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

¹⁸ Free Legal Aid Act (Official Gazette of the Republic of Slovenia, Nos. 96/04 – official consolidated text, 23/08, 15/14 – odl. US and 19/15); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1265>.

¹⁹ Court Fees Act (Official Gazette of the Republic of Slovenia Nos. 37/08, 97/10, 63/13, 58/14 – odl. US, 19/15 – odl. US, 30/16, 10/17 – ZPP-E, 11/18 – ZIZ-L and 35/18 – odl. US); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4729>.

²⁰ Attorneys' Tariff (Official Gazette of the Republic of Slovenia Nos. 2/15 and 28/18); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=TARI184>.

²¹ Notary Tariff (Official Gazette of the Republic of Slovenia No. 59/19); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=TARI224>.

²² Court Experts, Certified Appraisers and Court Interpreters Act (Official Gazette of the Republic of Slovenia No. 22/18); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7726>.

²³ Criminal Procedure Act (Official Gazette of the Republic of Slovenia Nos. 32/12 – officially consolidated text, 47/13, 87/14, 8/16 – odl. US, 64/16 – odl. US, 65/16 – odl. US, 66/17 – ORZKP153,154, 22/19 and 55/20 – odl. US); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362>.

²⁴ Rules on reimbursement of costs related to criminal procedure (Official Gazette of the Republic of Slovenia No. 61/97, 68/97 – popr., 62/08 and 38/13) 5); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV2512>.

²⁵ Civil Procedure Act (Official Gazette of the Republic of Slovenia Nos. Uradni list RS, št. 73/07 – officially consolidated text, 45/08 – ZArbit, 45/08, 111/08 – odl. US, 57/09 – odl. US, 12/10 – odl. US, 50/10 – odl. US, 107/10 – odl. US, 75/12 – odl. US, 40/13 – odl. US, 92/13 – odl. US, 10/14 – odl. US, 48/15 – odl. US, 6/17 – odl. US, 10/17, 16/19 – ZNP-1 and 70/19 – odl. US); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1212>.

The budget of the judiciary is a separate part of the State budget. The allocation of funds to each district court, higher court and to the Supreme Court is determined by the Parliament on the governmental proposal. The budget of the judiciary, as far as financial means for salaries and functional expenses are concerned, is drafted by the Supreme Court on the basis of financial plans, prepared separately by all the courts. The Supreme Court sends the draft proposal to the Ministry of Finance. The final proposal is drafted by the Government which sends it to the Parliament for adoption. The Supreme Court also co-ordinates the realisation of the budgetary financial plans of the lower courts. The financial means for the courts' premises are secured through the Ministry of Justice.

Courts Act (Art. 75, para.4):

“Under the state budget of the Republic of Slovenia, the level of funds for providing the equipment of the courts and the spatial conditions of courts shall be determined and provided by the ministry responsible for justice, while funds for the computerisation of courts shall be provided by the Supreme Court of the Republic of Slovenia.”

The participation of judges in making decisions concerning funding of the courts is triple: 1) the draft proposal for the judicial budget is prepared by the Supreme Court on the basis of financial plans of all the courts; 2) the Judicial Council gives an advisory opinion to the governmental proposal of the budget for the judiciary; 3) representatives of the Supreme Court, the Judicial Council and the Slovenian Judges' Association participate at the session of the Parliamentary Committee for the Judiciary when it examines the governmental proposal of the budget for the judiciary.

The Courts Act prescribes different budget responsibilities in respect of the functioning of the courts and are provided from the Supreme Court Budget and from Ministry of Justice budget. More precisely, the following funds are provided by the budget user Supreme Court of the Republic of Slovenia for all courts: wages of the judges and the court personnel, information technology for the courts and costs of the activities of the courts.

The following funds are provided by both the budget user Supreme Court, as well as the ministry responsible for justice in Republic of Slovenia for all courts:

- The funds for the equipment of the courts and maintenance of premises (including maintenance investments, audits on energy efficiency, technical security equipment and the funds spent on leased premises) as well as so called “small” investments (investments which cannot exceed a certain value).
- The funds for the acquisition on new premises for both the courts and public prosecution services.
- Funds for education of judges and court staff that are provided in the budget of courts (expenses for professional education of employees, expenses for business travels, expenses of conferences, seminars and symposiums, expenses for training for the use of information technologies in courts, the Central Judicial Library of the Supreme Court of Republic of Slovenia) and the Judicial Training Centre, which is part of the Ministry of Justice (it provides the education for all functionaries and public officials in judiciary, not only to judges and public prosecutors).

It is important to note that the majority of the informatisation projects are financed from EU sources.

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

Slovenian judges have adequate support in staff, equipment, especially office automation and data processing facilities.

IT policies and strategies and IT Governance are defined and coordinated, as well as governed at national level by one institution – the Supreme Court. The strategy is proposed by the director of the Centre for informatics at the Supreme Court of the Republic of Slovenia and approved by the Beneficiary Council, consisting of representatives of the Supreme Court (incl. the Centre for informatics), IT departments of courts, the Judicial Council, the Ministry of Justice and the Ministry of Public Administration. The CMSs and other IT tools are developed by the project groups, organized in the Project management Service at the Supreme Court. The project groups have one technical and one content leader, who are together responsible for development. The Project management Service at the Supreme Court, as well as some project groups are headed by the experienced judges from first and second instance, seconded to the Supreme Court.

The data on work of courts (statistics), is available at the **Supreme Court's Data Warehouse** (used in the Slovenian judiciary as the official source of data since 1st January 2012, at every court, and for providing data to the Ministry of Justice and at the Judicial Council). There is a centralised national database of court decisions (case-law, etc.) - Sodna praksa (PRIS) (also free public access through www.sodnapraksa.si). The national record of criminal convictions is centralised at

the Ministry of Justice. Outside users (including courts) can access the record through the specialised application. The writing assistance tools are included in the CMSs, provided by the Project management Service at the Supreme Court. The templates (including pre-written texts) are verified by the judges. All courts are equipped by voice recording tools, maintained by courts and the Ministry of Justice. In every court district, a device for videoconferencing is available. The equipment is provided by the Ministry of Justice and is maintained by the Ministry of Justice and the courts.

The specialised web page (**e-Sodstvo**, <https://evlozisce.sodisce.si/>) enables electronic communication in enforcement in civil cases (elzvršba), land registry cases (eZK) and insolvency cases (eINS). Civil enforcement on the basis of the authentic document is an informatised procedure where claims can be filed online, with specific legislative framework, without the need for simultaneous submission of cases in paper form, and integrated to CMS (In 2018, 99,86% of those claims were filed electronically. There is no limit to the value of the disputed amount in these cases).

The possibility to electronically submit all kinds of documents is provided to enforcement agents (as well as all the other participants in the proceedings) via the courts' web portal eSodstvo (a digital certificate is required). The Supreme Court encourages enforcement agents to submit their documents electronically. Bankruptcy agents are obliged to submit their reports - the list of tested claims and other writings in electronic form via the courts' web portal eSodstvo.

The laws prescribe that certain types of documents must be submitted to court by notary and in electronic form only (i.e. in the land registry and court registry cases). In Criminal, Administrative (and civil and commercial litigious) cases currently efforts are taking place to upgrade the informatised CMS to allow electronic communication.

Personal data within case files are protected according to the Personal Data Protection Act and the Courts Act. These acts include among other provisions on sharing (further use) of personal data for institutional or business users, which is also regulated by procedural laws.

Extensive quantitative surveys on satisfaction with the functioning of courts in Slovenia, performed by academic institutions, are planned as a bi-annual activity on national level (2013, 2015, 2017, 2019). The surveys target the general public, court users in all courts in the country (non-professionals - parties and other people present at courts, including victims), legal professionals (lawyers, public prosecutors and state attorneys) and employees (judges and court staff). Extensive analysis and complete results of all surveys are published on the Slovenian judiciary website²⁶. To complement quantitative research a qualitative study of procedural fairness and communication activities was introduced in 2017, including workshops with different stakeholders, in-depth interviews with court users, observation within court premises as well as analyses of social media. The results of these surveys serve as basis for specific projects and activities (such as simplified guides on court roles and proceedings, improving signalisation within court premises, etc.), as such research enables court management to identify more in detail potential areas for improvement.

15. Other - please specify

C. Efficiency of the justice system²⁷

16. Length of proceedings

The data on work of courts, including length of proceedings, is available at already mentioned **Supreme Court's Data Warehouse**.

According to new provisions of the Civil Procedure Act (*Zakon o pravdnem postopku*)²⁸, the programme of the procedure must be prepared at the preparatory hearing. In criminal cases, according to the Criminal Procedure Act (*Zakon o kazenskem postopku*)²⁹, a court can set a date or multiple dates for future hearing sessions at the preparatory hearing.

²⁶ Available at: http://www.sodisce.si/sodna_uprava/statistika_in_letna_porocila/zadovoljstvo_javnosti/.

²⁷ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

²⁸ Civil Procedure Act (Official Gazette of the Republic of Slovenia Nos. Uradni list RS, št. [73/07](#) – officially consolidated text, [45/08](#) – ZArbit, [45/08](#), [111/08](#) – odl. US, [57/09](#) – odl. US, [12/10](#) – odl. US, [50/10](#) – odl. US, [107/10](#) – odl. US, [75/12](#) – odl. US, [40/13](#) – odl. US, [92/13](#) – odl. US, [10/14](#) – odl. US, [48/15](#) – odl. US, [6/17](#) – odl. US, [10/17](#), [16/19](#) – ZNP-1 and [70/19](#) – odl. US); Slovenian version <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1212>.

²⁹ Criminal Procedure Act (Official Gazette of the Republic of Slovenia Nos. [32/12](#) – officially consolidated text, [47/13](#), [87/14](#), [8/16](#) – odl. US, [64/16](#) – odl. US, [65/16](#) – odl. US, [66/17](#) – ORZKP153,154, [22/19](#) and [55/20](#) – odl. US); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO362>.

Additionally, data on the average length of proceedings for all courts is published every 3 months, which can serve as a general reference for parties. Since 2016, the Supreme Court sets the timeframes for duration of proceedings and procedural phases (different timeframes for different types of proceedings). The timeframes are published as well.

The obligatory Annual work programme of courts consists of the assessment of the expected number of incoming cases, timeframes for typical procedural acts and solving the cases and the plan of operating results. The latter includes the expected number of resolved cases and criteria of efficiency (resolved cases to staff ratio), effectiveness (expected time to resolution) and economy (budgetary funds to solved cases ratio).

A very thorough ability of the Slovenian judiciary to monitor court activities is evident from the EU Justice Scoreboard 2019 (Figure 39, 40 and 44-46).

17. Enforcement of judgements

Civil enforcements (allowing the enforcement etc.) are procedures at local courts. Enforcement agents in civil matters are bailiffs practising as private professionals under the authority (control) of public authorities.

Prison services are responsible for the enforcement of prison sentences. Most alternative sanctions are carried out by social welfare agencies, which are institutions run by the Ministry of Family and Social Affairs. The judge decides on modalities of the enforcement of incarceration sanction. He supervises the enforcement of house prison. The probation commission (composed of supreme or higher court judge, supreme or high public prosecutor and a worker of the Ministry of Justice), decides on probational dismissal. The judge for juvenile offenders supervises the enforcement of pedagogic measures.

18. Other

Trial without undue delay is generally respected. Court backlogs in Slovenia cannot be considered as a “systemic deficiency” anymore as this was the case before the Lukenda decision of the European Court of Human Rights. In December 2005, a project aimed at eliminating court backlogs, the so-called Lukenda Project was approved. A number of measures aimed at improving the efficiency of judicial proceedings in Slovenia have also been taken beyond the Lukenda project. The Committee of Ministers of the Council of Europe was satisfied with the progress made by Slovenia and in 2016 subsequently closed all cases where excessive length of domestic judicial proceedings and the lack of an effective remedy was found by the European Court of Human Rights with respect to Slovenia.³⁰

II. Anti-corruption framework

A. Institutional framework capacity to fight against corruption (prevention and investigation/prosecution)

19. List of relevant authorities in charge of prevention, detection, investigation and prosecution of corruption, incl. of its resources (where data available)

The most important institutions in the fight against corruption are the Commission for the Prevention of Corruption, the State Prosecutor's Office (comprising the Specialised State Prosecutor's Office for, inter alia, corruption and organised crime) and the Police (comprising the National Investigation Bureau, a specialised criminal investigation unit for complex crime, including corruption). Additionally, other State authorities in Slovenia also have an important role in the prevention and disclosure of corruption, namely: the Court of Audit, the National Review Commission for Reviewing Public Procurement Award Procedures and the Office for money laundering prevention.

Commission for the Prevention of Corruption (hereinafter: CPC)³¹ was set up under the Prevention of Corruption Act, which was replaced in 2010 by the **Integrity and Prevention of Corruption Act** (*Zakon o integriteti in preprečevanju*

³⁰ The Committee of Ministers of the Council of Europe adopted final resolution in this respect in December 2016: <https://hudoc.exec.coe.int/eng#%7B%22EXECLIdentifier%22:%5B%22001-170005%22%5D%7D>.

³¹ <https://www.kpk-rs.si/en/>

korupcije)³². The new act retained the name of the commission, but significantly expanded its functions and responsibilities. CPC is an autonomous and independent state body. Despite being a public-sector institution, CPC is not subordinate to, nor does it receive instructions or guidelines for its work from the Government or the National Assembly. In its activities, it is bound only by the Constitution and the law. Its independence is further ensured by the manner of the selection of its leadership, which is appointed by the President of the Republic following a recommendation by a special selection board with members from each of the three branches of power and the civil society.³³

CPC is not a detection and prosecution body in pre-trial or trial proceedings, but it does possess certain executive, supervisory, and investigative (administrative) powers. It has a wide range of competences, from the prevention of corruption and the strengthening of integrity of public office to the supervision and inspection of suspicions of alleged corrupt conduct and other irregularities. CPC's competences are primarily defined in the Integrity and Prevention of Corruption Act³⁴ and additionally laid out in the Rules of Procedure of the Commission for the Prevention of Corruption (*Poslovnik Komisije za preprečevanje korupcije*).³⁵ The structure of its competences and tasks are further defined in the Document on the Internal Organisation and Job Classification in the Commission for the Prevention of Corruption.

The CPC is not part of the law enforcement or prosecutorial system and its employees do not have typical police powers. They do, however, have broad legal powers to access and subpoena financial and other documents (notwithstanding the confidentiality level), question public servants and officials, conduct administrative investigations and proceedings and instruct different law enforcement bodies and other institutions to gather additional information and evidence within the limits of their authority. The CPC investigates practices under its jurisdiction, where a suspicion of corruption or other potential irregularities is present. It regularly cooperates with police and the prosecutor's office and informs them about potentially corruptive practices. Besides conducting administrative investigations of allegations of corruption, the CPC has the mandate to act upon the violations in the following fields: conflict of interest, restriction of business activities, integrity of public office, whistleblower protection, lobbying regulation. CPC is organised around two pillars, the Centre for Corruption Prevention and the Integrity of Public Office, and the Investigation and Oversight Bureau. Other activities are performed by the Secretariat of the CPC. Its financial resources are set in the state budget and its spending is under sole decision of the CPC.³⁶

Specialised State Prosecutor's Office (hereinafter: SSPO)³⁷ was established by the State Prosecutor's Office Act in 2011. SSPO is organised within the framework of the Office of the State Prosecutor General of the Republic of Slovenia and is organisationally and functionally separate from the Office of the State Prosecutor General. The SSPO has the status of a District State Prosecutor's Office with territorial jurisdiction over the entire Slovenian territory. Its subject matter jurisdiction is determined by law. The most serious criminal offences, which prosecution calls for special organisation and qualifications of state prosecutors and the highest level of performance, are dealt with by the SSPO. Thus, SSPO is, *inter alia*, competent for criminal offences involving corruption. SSPO as a rule operates under the principle of team work such that in dealing with particular matters, brings together the knowledge, qualifications and experience of its members in specific legal fields, to the extent required to efficiently direct and investigate criminal acts and prepare indictments. The state prosecutorial service at the SSPO is performed by appointed or seconded state prosecutors. The head of the SSPO may propose that a state prosecutor from a District State Prosecutor's Office that would otherwise have territorial jurisdiction to deal with a particular case be additionally assigned to the SSPO to participate in dealing with a particular case. In such appointment, transfer and secondment, the following is taken into consideration: the length of state prosecutorial service, the final evaluation on the state prosecutorial service and professional experience in the area of dealing with the cases within the jurisdiction of the SSPO. The same as for the District State Prosecutor's Offices, external candidates may be appointed to a vacant post of prosecutor in the SSPO. The appointment follows the same general procedure as for the appointment of a new state prosecutor. The comparable professional career and comparable experience in the area of dealing with the cases within the jurisdiction of the SSPO are taken into consideration. Joint

³² Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia No. 69/11- official consolidated text), Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5523>; English version: <https://www.kpk-rs.si/en/wp-content/uploads/sites/3/2020/04/EN-2011-01-3056-2010-01-2226-npb3.pdf>.

³³ Articles 7 and 9 of Integrity and Prevention of Corruption Act.

³⁴ Articles 10 and 12-14 of Integrity and Prevention of Corruption Act.

³⁵ Articles 5 and 10 of the Rules of Procedure of the Commission for the Prevention of Corruption (Official Gazette of the Republic of Slovenia No. 24/12), Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL98>.

³⁶ Financial and human resources for year 2020: <https://www.kpk-rs.si/transparentnost/kpk-v-stevilkah/kadrovska-in-financna-sredstva-kpk/>, and for year 2019 in the annual report: <https://www.kpk-rs.si/kpk/wp-content/uploads/2020/03/Letno-porocilo-2019.pdf> (pages: 12-15).

³⁷ <https://www.dt-rs.si/specialised-state-prosecutors-office>

annual report of the Office of the State Prosecutor General of the Republic of Slovenia³⁸ presents in detail the financial resources and human resources allocated to the SPPO.

National Bureau of Investigation (hereinafter: NBI) was established in November 2009 with amendments of the Act on internal organisation, job classification, posts and titles in the Police. Its organisation is regulated in the Organisation and Work of the Police Act (*Zakon o organiziranosti in delu v policiji*).³⁹ NBI is a specialised investigating unit at the national level, organised within the Criminal Police Directorate at the General Police Directorate. It was established for special cases in the detection and investigation of complex criminal offences, particularly related to the economy, corruption and organised crime, which require specialised qualifications, organisation and the equipment of criminal police investigators, or particular targeted activities of state authorities and institutions in the field of taxes, customs duties, financial operations, securities, protection of competition, prevention of money laundering, prevention of corruption, illicit drugs and inspection supervision. NBI operates under the principle of professional and operative autonomy. The Criminal Police Directorate provides technical conditions and assistance to the NBI in carrying out its tasks. The activities of the NBI are headed by the Director of the NBI, who is appointed by Director General of the Police.⁴⁰ At the regional level, the units combating corruption operate at Police Directorates in Criminal Investigation Police Divisions.

The Court of Audit⁴¹ is in accordance with the Slovenian Constitution the highest body for supervising state accounts, state budget and all public spending in Slovenia. The Court of Audit cannot be categorised within any of the three branches of power (legislative, executive or judicial); it exercises its powers entirely independently. The Court of Audit Act defines that the acts with which Court of Audit exercises its powers of audit cannot be challenged before the courts or other state bodies. According to the Court of Audit Act (*Zakon o računskem sodišču*)⁴², the deputies and working bodies of the National Assembly, the government, ministries and local authority bodies may propose that an audit be carried out. From among their proposals the Court of Audit selects in its annual work programme at least five proposals from the National Assembly, two of which must come from opposition deputies and at least two from the working bodies of the National Assembly. The Court of Audit can also, at its own decision, consider initiatives for audits from individuals and civil society organisations. The Court of Audit's financial resources are presented in its annual report.⁴³

National Review Commission for Reviewing Public Procurement Award Procedures (hereinafter: National Review Commission)⁴⁴ is a specific, independent, professional and expert state authority providing legal protection to tenderers at all procedural levels of the award of public contracts. It is entrusted with the most important measures in the field of legal protection, namely the annulment of all unlawful activities of the tenderer and sanctioning of misdemeanour in the field of public procurement. Resources of the National Review Commission are stated in the annual report⁴⁵.

The Office for Money Laundering Prevention⁴⁶ is an administrative body within the Ministry of Finance; however, it is fully autonomous and operationally independent body in the performance of its duties. It is responsible for gathering and processing reports on suspicious transactions emanating from financial and non-financial institutions, which could be indicative of money laundering of proceeds of crime, including proceeds of corruption. The office for Money Laundering Prevention also acts as an intermediary body as it transmits the results of its analyses for further consideration to the competent authorities for investigation and prosecution of corruption, when grounds for suspecting money laundering offence are met. Financial and human resources allocated to the Office for Money Laundering Protection are available in annual report⁴⁷.

B. Prevention

³⁸ For the year 2019: <https://www.dt-rs.si/files/documents/Letno%20poroc%CC%8Cilo%20DT%20za%20leto%202019.pdf>; financial resources (pages 17-18) and human resources (pages 9-17).

³⁹ Organisation and Work of the Police Act (Official Gazette of the Republic of Slovenia Nos. [15/13](#), [11/14](#), [86/15](#), [77/16](#), [77/17](#), [36/19](#) in [66/19](#) – ZDZ); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6315>.

⁴⁰ Article 49 of Organisation and Work of the Police Act.

⁴¹ <http://www.rs-rs.si/en/>

⁴² Court of Audit Act (Official Gazette of the Republic of Slovenia Nos. [11/01](#) in [109/12](#)); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO2550>.

⁴³ Last available for year 2018: http://www.rs-rs.si/fileadmin/user_upload/Datoteke/Letna_porocila_ANG/Annual_Report_2018-Court_of_Audit_of_the_Republic_of_Slovenia.pdf (financial resources – pages 68-69 and human resources – pages 63-66).

⁴⁴ <http://www.dkom.si/eng/>

⁴⁵ Last available is for the year 2018 (http://www.dkom.si/o_dkom/porocila_o_delu/), where financial resources are presented on pages 99-101 and human resources on pages 103-105.

⁴⁶ <https://www.gov.si/drzavni-organi/organi-v-sestavi/urad-za-preprecevanje-pranja-denarja/o-uradu-za-preprecevanje-pranja-denarja/>

⁴⁷ Page 61 of annual report for the year 2017 (https://www.gov.si/assets/organi-v-sestavi/UPPD/Dokumenti/Letna_porocila/eea1200293/letno_porocilo_2017-v2.pdf).

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

Basic legal framework for strengthening the integrity in the public sector, increase transparency, prevent corruption and to avoid conflicts of interests in Slovenia is **Integrity and Prevention of Corruption Act** (hereinafter: IPCA)⁴⁸.

a) Asset disclosure rules

The supervision of the assets of the officials is one of the basic conditions of trust in the public office and represents an inseparable element of the integrity of the public sector. In Slovenia, obligation for the declaration of assets for public officials stems from the IPCA. The rules contained in the IPCA regarding the monitoring and supervision of assets are binding for a wide group of persons. Article 41 of the IPCA determines which officials are obligated to file an asset declaration with the CPC. CPC is responsible for monitoring the financial status of public officials. These officials include high-level, local, elected and appointed officials such as: professional high-level officials, non-professional mayors and deputy mayors, high-ranking civil servants, managers, persons responsible for public procurement, civil servants of the National Review Commission for Reviewing Public Procurement Procedures. Only declaring officials are required to file the declaration, excluding their spouses and children.

The scope of data in the asset declaration is determined in Article 42 of the IPCA and includes *inter alia*: income, immovable property, shares, stakes, management rights in companies or other entities. Movable property, bank deposits, loans, savings, values and securities are declared if the value exceeds 10.000 EUR. Asset declarations are to be submitted to the CPC upon taking office, a year after ceasing functions, upon every change in office, activities, ownership or assets that exceeds 10.000 EUR, and upon request by the CPC. The asset declarations are open to the public during tenure of each official until one year after departure from the public service (Article 46 of the IPCA). The CPC uses random checks and target selection checks of declarations. In accordance of Article 76 of the IPCA, the CPC keeps records on persons subject to asset declaration duties. In cases of disproportionate increase in assets the CPC will act in accordance with Article 45 of the IPCA.

b) Lobbying

Lobbying in Slovenia is comprehensively regulated in the IPCA. Legal definition of lobbying activities and agents/participants involved in lobbying activities (lobbyist, lobbied person, interest group) can be found in Article 4 of IPCA. As to the lobbying activities the following conditions of legal lobbying have to be met cumulatively: 1) non-public contact; 2) goal of influencing discussion and adoption of regulations and other general documents; 3) carried out in the interest, name or on behalf of a certain interest group/lobbying client. It is explicitly prohibited to lobby in matters that are subject to judicial and administrative proceedings, public procurement, as well as all other proceedings in which the rights and obligations of individuals are decided upon. Registration of the lobbyists is envisaged in accordance with Article 56 of IPCA. A lobbyist may be any person of the age of majority who is not employed in the public sector, has not been deprived of the capacity to enter into contracts, and has not been sentenced by way of a final judgment for an intentionally committed criminal offence to a prison sentence of more than six months. Lobbyists may form lobbyist associations which adopt the code of professional ethics.

Lobbying activities may be performed only by a domestic or foreign natural person entered in the registry of lobbyists, set up by the CPC. Entry into the registry is a prerequisite for the commencement of lobbying activities. The Lobbying Registry is kept by the CPC and information in the Registry is public, except for the tax ID number of the lobbyist. Public official may agree to lobbying only if the lobbyist is entered in the register kept by the CPC. If there are conflicts of interests, contact with the lobbyist must be declined. All public officials must report to CPC on their contacts with lobbyists in accordance with Article 68 of the IPCA, they must also report any illegal lobbying (Article 71). A Registered lobbyist must also report in writing once a year to the CPC on his lobbying activities for the previous year and 30 days after the expiry of the validity of registration (Articles 63 and 64 of IPCA).

c) Revolving doors

In preventing the movement of positions between private and public sector, IPCA provides a so called “cooling – off” period in paragraph 3 of Article 56 which prohibits high-level officials to lobby until two years have elapsed from the date of termination of their office. In addition, Article 36 of IPCA also provides temporary prohibition for certain transactions after

⁴⁸ Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia No. 69/11- official consolidated text), Slovenian version: http://pisrs.si/Pis_web/pregledPredpisa?id=ZAKO5523; English version: <https://www.kpk-rs.si/en/wp-content/uploads/sites/3/2020/04/EN-2011-01-3056-2010-01-2226-npb3.pdf>.

the termination of office. Namely, a high official may not act as a representative of a business entity that had business contacts with the body in which the official held office until two years have elapsed from the termination of his office. If such an event occurs, the body in which the official held his office is obligated to inform the CPC within 30 days. In addition, the body in which the official held office may not do business with the entity in which the former official has a 5% participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons until one year has elapsed from the termination of the office.

d) Transparency of public decision making

According to **the Rules of Procedure of the Government of the Republic of Slovenia**, the transparency of the Government's work is provided primarily by the press conferences, web publishing, based on the Access to Public Information Law and press releases. The Government and the Prime Minister provide the answers to questions, suggestions and proposals as a rule through the ministries and government departments. The central body in charge of the transparency of the Government work is **the Government Communication Office**.

The work of the Government can be followed on the Government web site. Throughout the whole process of the adoption of documents: materials in the process of preparation (*gradiva v obravnavi*)⁴⁹, the reading at the Government committee meetings and Government sessions (agendas and adopted decisions) until the Government sends the adopted materials to the Parliament and/or the Governmental decrees and decisions to be published in the Official Gazette. Materials are submitted to the General Secretariat of the Slovenian Government in a form (the basis is **the Government Rules of Procedure**) containing a special section on which the competent ministry that prepared the material must state specifically whether the material can be published online. Generally, materials are published, while in the event that the competent ministry states that the material should not be published, it must base this on the exceptions provided by the Access to Public Information Law. Special rules are in place for classified documents in accordance with the Classified Information Act.

The Government websites that publish Government materials are intended for public groups and persons with a special interest, particularly non-governmental and other civil society organisations, which the Government seeks as far as possible to involve in the process of preparing and adopting its decisions. All those that have been involved in the process of creating materials can in this way verify how the competent ministries and departments considered their comments, initiatives and proposals in drawing up the Government decisions. At the same time as publishing specific material in the Government information system, the Government General Secretariat publishes the material on the web site. Agendas are published in advance on the Government website.⁵⁰ The Government annual work plan is published online.⁵¹

e) Access to public information

General information on the regulatory framework of access to information of a public nature in Slovenia: The fundamental law providing a basis for open and transparent functioning of the Government, state bodies, public administration bodies and also the broader public sector is the **Public Information Access Act** (*Zakon o dostopu do informacij javnega značaja*, hereinafter: ZDIJZ)⁵². The right to access information of a public nature is enshrined in Article 39 of the Slovenian Constitution and represents a vital asset in the struggle for the open, transparent and responsible working of public administration. The purpose of the ZDIJZ is to ensure the public nature and openness of the functioning of public bodies and to facilitate the exercising of rights by natural and legal persons to obtain public information. This means that the ZDIJZ sets two commitments for public sector bodies: a) to proactively disseminate public information at their disposal and b) to enable access to information and the re-use of information based on individual requests. The implementing regulation that governs this area is the Decree on communication and re-use of public sector information (*Uredba o posredovanju in ponovni uporabi informacij javnega značaja*).⁵³

⁴⁹ <https://www.gov.si/drzavni-organi/vlada/seje-vlade/gradiva-v-obravnavi/>

⁵⁰ For Government sessions: <https://www.gov.si/drzavni-organi/vlada/seje-vlade/dnevni-redi-sej-vlade/>

For working body sessions: <https://www.gov.si/drzavni-organi/vlada/seje-vlade/dnevni-redi-delovnih-teles-vlade/>

⁵¹ <https://www.gov.si/drzavni-organi/vlada/seje-vlade/program-dela-vlade-rs/>

Proposed Government materials are also as a rule published online: <https://www.gov.si/drzavni-organi/vlada/seje-vlade/gradiva-v-obravnavi/>

Press releases are issued following Government committee meetings and Government sessions: <https://www.gov.si/drzavni-organi/vlada/seje-vlade/>. See also the process for preparing laws (pillar IV below).

⁵² Public Information Access Act (Official Gazette of the Republic of Slovenia Nos. 51/06 – official consolidated text, 117/06 – ZDavP-2, 23/14, 50/14, 19/15 – Constitutional Court decision and 102/15 and 7/18); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3336>; English version can be found at: <http://www.pisrs.si/Pis.web/cm?idStrani=prevodi>.

⁵³ Decree on communication and re-use of public sector information (Official Gazette of the Republic of Slovenia, No. 24/16); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED6941>.

The Slovenian Public Information Access Act has been **regarded as a very pro-transparent** (see the rating of the NGO's, Global Right to Information Rating, Slovenia among top 5 in the world)⁵⁴.

The public nature and openness of operations is required for state bodies, local community bodies, public agencies, public funds and other persons of public law, holders of public authority and providers of public services. In a narrow scope, it also binds commercial companies in which a majority interest is held by the state, a self-governing local community or another person of public law. The simplest and most direct way of accessing information is by publishing the information on the internet. Information of a public nature that official bodies must post on the internet is defined in Article 10 of the ZDIJZ. This involves first and foremost valid regulations, proposed regulations and the consolidated texts of regulations in the working field of the official body. The obligation to publish information also applies to programmes, strategies, positions, opinions and instructions that are of general significance and are important for the operation of the body or for the body to decide on the rights and duties of natural and legal persons, and to information about the activities and services offered by the official body. Notices and tender documents related to the awarding of public contracts must also be published on websites; these documents are published on the Public Procurement Portal. Information is accessible on the websites of individual bodies or via single state portal sites. Each body is to publish and regularly update what is called their Catalogue of Public Information (hereinafter: Catalogue). The purpose of the Catalogue is to provide the public with information about what kind of data a specific body holds and what services it performs as part of its public duties, and on what legal basis.

The framework of 'information of a public nature' involves all documents created or in the possession of state authorities. In line with the ZDIJZ, applicants (natural or legal persons) may request access to individual documents without needing to demonstrate any legal interest. At the official body the application is dealt with by a person specially authorised to conduct or decide in procedures under the ZDIJZ, specifically bidding by Articles 5.a and 6 of the ZDIJZ, and that person decides whether or to what extent a given document is accessible to the public. These articles provide exceptions to public access for the purpose of protecting certain private or public interests (e.g. classified documents, personal data, protection of information if court or administrative proceedings are not yet concluded). In terms of comparative law, the exceptions to access are similar to the provisions that exist in other member states or in the EU Regulation 1049/2001 regarding public access to documents from three EU institutions⁵⁵. In comparative legal terms, Slovenian legislation on access to information of a public nature is relatively pro-transparent; Slovenian act is rated highly by international non-governmental organisations.

Slovenia and Open Data

According to the latest OURData Index of the OECD, Slovenia ranks at the top 10 in terms of openness of public sector data.⁵⁶ The National Open Data Portal serves as a single open point for publishing open data for the entire public sector, including government documents and data of the National Statistical Office. The data is to a large extent accessible in a machine-readable format that enables researchers, journalists and entrepreneurs to produce new analyses, applications and visualizations.

21. Rules on preventing conflict of interests in the public sector

Basic legal act governing conflict of interests for official persons in the public sector is IPCA, which defines the notion "conflict of interests" in Article 4 and rules preventing conflict of interests in Chapter 4 (Articles 37 – 40). Conflict of interest means circumstances in which the private interest of an official person (pecuniary or non-pecuniary) influences or appears to influence the impartial and objective performance of his public duties. An official person may not use his office or post to advance his personal interests or the personal interests of another person. Avoiding conflict of interest is primarily the obligation of the official person, who has to pay attention to each actual or potential conflict of interest and must make every effort to avoid it. Official person who finds that a conflict of interest has arisen or might arise must: 1) immediately inform his/her superior in writing, and if s/he has no superior, the CPC; 2) immediately cease to perform any work with regard to the matter in which the conflict of interest has arisen, unless the delay would pose a risk.

⁵⁴ <http://www.rti-rating.org/>

⁵⁵ Irrespective of the possibility of an exception to access pursuant to Article 5.a or the first paragraph of Article 6 of the ZDIJZ, the official body must provide applicants with information where it involves information relating to: (i) public spending, (ii) performance of a public office or the employment relationship of a civil servant or (iii) environmental emissions, waste, hazardous substances and other information so provided by the act governing environmental protection (i.e. an exception to exceptions pursuant to paragraph 3, Article 6 of the ZDIJZ). The first instance body must decide under the ZDIJZ within 20 working days. In the event of no response from the body, it is assumed that access has been denied. In the area of access to information of a public nature the supervisory authority is the Information Commissioner (IC). An applicant may lodge an appeal against the decision of the first instance body with the Slovenian Information Commissioner. A constitutional complaint may then be lodged against the decision of the IC before the Slovenian Constitutional Court. The practice of the IC and Constitutional Court to date has been extensive; IC decisions and generally those of the Constitutional Court are published online.

⁵⁶ <https://www.gov.si/en/news/2019-11-18-slovenia-among-top-5-eu-countries-in-openness-of-public-sector-data/>

In addition, rules on incompatibility of functions (Articles 26-29 of IPCA) and rules restricting business activities (Articles 35 - 36 of IPCA) are also aimed at preventing the conflict of interests in the public sector. Within the government, the Ministry of Public Administration (MPA) is competent to regulate the status, rights and obligations of officials and has therefore a role in promoting integrity among persons in top executive functions. A Transparency, Integrity and Political System Office was established as a separate unit in the MPA in 2014 inter alia to prepare government measures to enhance transparency and integrity, as well as coordinate their implementation. The Public Sector Directorate within the MPA is responsible for officials' training.

Furthermore, Article 100 of **Public Employees Act**⁵⁷ (*Zakon o javnih uslužbencih*; hereinafter: ZJU)⁵⁸ regulates the prohibition of activities for public employees in case of conflict of interest. According to ZJU civil servant shall not perform any activity that could affect the impartial performance of his/her work. Article 100 includes provisions on impartiality, restrictions on profit-making activities for individuals holding certain positions within the civil service and restrictions on businesses contracting with the Government if those same civil servants have more than 20% ownership of business. After termination of their office, certain professions such as customs officers, police officers, prosecutors, judges cannot perform for a certain period work similar to that performed during their office. In addition, Article 11 of ZJU provides for certain restrictions and duties of civil servants (and members of their family) related to accepting gifts. They cannot accept gifts relating to their work, with the exception of protocol (offered by representatives of States or international organisations) and occasional gifts of low value (not exceeding 64 Euro, or gifts received from the same persons not exceeding the total value of 128 Euro - in a given year). Public employees are obliged to inform donors that gifts exceeding the value mentioned above become employer's property. Comprehensive information referring to this topic can also be found in the information the Republic of Slovenia has submitted to the UNODC with regards to the Article 7 paragraph 4 of UNCAC.⁵⁹

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

Measures for the protection of whistle-blowers are incorporated in the Integrity and Corruption Prevention Act (Articles 23-25). IPCA doesn't use the word "whistle-blowers", but instead uses the term "reporting persons" in line with UNCAC. According to the law, the reporting person is any person who reports instances of corruption to the Commission for the Prevention of Corruption or other competent body. That means that the definition is much wider than the definition of the whistle-blower (according to, e.g., the Council of Europe Recommendation), which implies a work-related relationship. IPCA regulates the protection of persons against diverse threats, physical violence and psychological maltreatment, when such persons actively, and in good faith, desire to make an effort to report all acts of corruption and their perpetrators. As far as the administrative investigation of allegations of corruption is concerned, the reports can be submitted to the CPC via classic mail, e-mail, telephone or in person at the CPC headquarters. In addition to that, the CPC website⁶⁰ has the option of using a previously prepared blank form of a report, which the reporting person can easily fill out with relevant information and send it back through a secure system. The reports can be signed or submitted anonymously. The reporting person also has the option to call the CPC through a direct telephone line, where an on-duty employee of the CPC provides the necessary information on the submission of the report and instructs potential reporting persons in their future activities.

Safety and security of reporting persons are crucial for enabling further communication and cooperation. Offering and guaranteeing confidentiality reassures reporting persons and guarantees that the focus remains on the substance of the disclosure and not on the individual who made it. The protection of the reporting person's identity is one of the basic measures in the fight against corruption and the CPC protects the identity of all reporting persons, regardless if they request it or not. Both during and after the proceedings, the identity of the reporting person is not considered public information and does not fall under the Access to Public Information Act. This measure also applies in cases that were forwarded to other competent state bodies. The law clearly states that it is forbidden to reveal the identity of a reporting person that submitted the report in good faith and had reasonable grounds to believe the submitted information was true. The individual who acts against this provision could be subjected to misdemeanour proceedings and issued a fine in the range of 400 to 4000 EUR. Only the court can rule that the identity of the reporting person be disclosed, if strictly necessary in order to safeguard the public interest or the rights of others.⁶¹

⁵⁷ <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3177>

⁵⁸ **Public Employees Act** (Official Gazette of the Republic of Slovenia Nos. [63/07](#) –officially consolidated text, [65/08](#), [69/08](#) – ZTFI-A, [69/08](#) – ZZavar-E and [40/12](#) – ZUJF); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3177>.

⁵⁹ https://www.unodc.org/documents/corruption/WG-Prevention/Art_7_Conflicts_of_interest/Slovenia.pdf

⁶⁰ www.kpk-rs.si

⁶¹ If the reporting person request special protection regarding his identity, he gains the status of a "concealed reporting person", who is given a codename/pseudonym in his first contact with the employee of the CPC (usually the employee that handles his report). This way, the identity of the reporting person is known only to the employee (not to his colleagues or his superior), which ensures a relationship of trust, necessary for cooperation in further proceedings

If the reporting persons have been subjected to retaliatory measures, as a consequence of filing the report, and this has had an adverse impact on them, they have the right to claim compensation from their employer for the unlawfully caused damage and the CPC can offer assistance in establishing a causal link between the adverse consequences and retaliatory measures. If the reporting persons are public servants, and if they continue to be the focus of retaliation, making it impossible for them to continue work in their current work post, they can request that their employer transfers them to another equivalent post. The public servant's employer must ensure that the demand for transfer is met within 90 days and must inform the CPC about it. If in relation to the report on corruption, the conditions for the protection of the reporting person or his family members are fulfilled under the Witness Protection Act (*Zakon o zaščiti prič*),⁶² the CPC may submit a proposal to the Commission for the Protection of Witnesses to include them in the protection programme, or may propose that the State Prosecutor General takes urgent safeguarding measures. Following the entry into force of EU's new directive on whistle-blower protection, the Ministry of Justice formed an interdisciplinary working group of experts with the mandate to draft a whistle-blower protection law to implement and integrate the provisions of the directive into the Slovenian legal system.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

In its 2019 assessment, the CPC reported⁶³ of the higher corruption risks in the areas such: public procurement, employment procedures in the state-owned companies, public institutes and public agencies; local communities' spatial planning matters (e.g. the issuing of construction permits); healthcare sector; operation of the Foundation for the Financing of Disabled and Humanitarian organizations (FIHO).

The prosecution service perceives high risks of corruption in the business and public sector. Fighting corruption, especially in the business and public sector is therefore already one of the priorities of the State Prosecutor General targeted in the Prosecution Policy of the State Prosecutor's Office, adopted in October 2017.⁶⁴ With regards to the public sector, the Policy gives emphasis to combating corruptive actions connected to major public service systems such as health-care, field of energy, telecommunications, national projects and also to the operation of the local communities.

In November 2019, Police reported that their activities are focused on investigating corruption in the most exposed areas, such as official duty and public authority, banking, healthcare and protection of the financial interests of the Republic of Slovenia and the European Union. Corruption risks are also present in sport as Police dealt with several criminal offences in this area in recent years. Police has investigated cases of corruption in healthcare, banking, energy and other areas, which are related to ensuring the safety of citizens (e. g. technical inspection of the vehicles, working permits).⁶⁵

Prevention measures in public procurement

Information on the procedure, evaluation criteria, selection criteria and related documents are transparent and publicly available. According to the recently published OECD 2020 Government at a Glance report, Slovenia ranks among the most developed OECD member countries in terms of the transparency of public procurement process and publicly available information⁶⁶. As regards the public procurement procedures in framework in Slovenia there have been numerous safeguards against corruption, among others:

a) A system of electronic submission of tenders

As of 1 April 2018, the implementation of mandatory eSubmission of tenders in Slovenian public procurement system is in place. Modul eSubmission is integrated in the public »state-developed« e-procurement system called »information system e-JN«, its use is free of charge. Current version of »e-JN« contains five modules (eSubmissions, eAuctions, eDossier, eCatalogue and eInternal procedures). The five modules are integrated into a comprehensive system on a single platform. The e-JN system fully supports the electronic execution of the public procurement procedure, as well as the implementation of the public procurement process and is integrated into appropriate back-office systems. Electronic public procurement, in fact, makes it possible to achieve greater efficiency and transparency in procurement procedures. Informatization of public procurement processes brings a great deal of complexity, which can be solved successfully through the e-Procurement project, also providing information support, specifications for document structures and training all actors, for

⁶² Witness Protection Act (Official Gazette of the Republic of Slovenia Nos. [81/06](#) – officially consolidated text, [117/06](#) – ZDoh-2, [110/07](#) in [30/18](#)); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4265>.

⁶³ <https://www.kpk-rs.si/kpk/wp-content/uploads/2020/03/OcenaStanja2019.pdf>

⁶⁴ <https://www.dt-rs.si/files/documents/Politika%20pregona/PP.pdf>

⁶⁵ <https://www.policija.si/medijsko-sredisce/sporocila-za-javnost/sporocila-za-javnost-gpue/101529-policija-prednostno-obravnavakorupcijska-kazniva-dejanja-na-podrocjih-kjer-so-tvegania-naivecja>

⁶⁶ <https://www.gov.si/en/news/2019-11-19-slovenia-among-top-oecd-countries-in-public-procurement-transparency/>

electronic exchanges of documents. Operation E-Procurement ensures simplification and rationalization of procedures, increasing transparency, competitiveness and economy in the use of public funds, saving time, reducing costs and reducing administrative barriers⁶⁷.

b) **Transparency regarding all the important public procurement documents, including contracts**

To further increase the transparency, all the relevant documents from public procurement procedures are published (documentation, decisions on public procurement and contracts: scans of signed contracts, raw metadata for re-use).

Considering publication and transparency all notices regarding public contracts whose value is equal to or greater than the values defined in Public Procurement Act (*Zakon o javnem naročanju*),⁶⁸ hereinafter: PPA, must be published by the contracting authority on the Public Procurement Portal⁶⁹ and in some cases also in the Official Journal of the European Union⁷⁰. PPA also specifies types of notices and the form and manner of their publication. Contracting authorities must draw up contract notices and send them for publication to the public procurement portal. Contract notices mentioned above must be published in full in the Slovenian language, though a summary of the important elements of each notice will also be published in other official EU languages⁷¹. Contracting authority shall notify tenderers and candidates of all decisions made by publishing a signed decision on the public procurement portal. The contracting authority shall provide reasons for its decision. The decision shall be deemed to be served on the date of its publication on the public procurement portal. With an intention to improve transparency the contracting authority must, no later than 48 days after the award of a contract, publish the contract (without the data that is not deemed to be public information). All contracts and their later amendments must be published on the public procurement portal.⁷²

Due to even bigger transparency PPA has also established a new obligation for contracts with a value estimated to be less than the thresholds for the application of PPA.⁷³ Even in these cases the contracting authority is obliged to comply with the principles of economy, efficiency and effectiveness and the principle of transparency. The contracting authority must annually publish on its website or on the public procurement portal a list of public contracts awarded in the previous year with a value equal to or greater than EUR 10.000 net of VAT. The information on the tenderers who submitted the offer and their calculation are publicly available from the beginning of the opening of tenders, thus providing a high degree of transparency within the ongoing public procurement procedure. The Public Payments Administration of the Republic of Slovenia in accordance with the Slovenian Public Information Access Act is authorized for the publication of account transactions of persons subjected to public information. Obligatory use of public procurement portal, the widely used e-procurement solutions, public publications of documents and contracts made during the public procurement procedure, the technical solutions made to monitor public spending, etc., are all meant to empower the media, civil society organizations and the wider public, which are encouraged to use the data and scrutinize public procurement.

c) **Asset declaration of the persons responsible for public procurement**

Oversight of the assets of persons under obligation is one of the basic conditions of transparency and trust in public offices, so it represents an inseparable part of the integrity of the public sector. Monitoring and overseeing assets serve to promote and enhance transparency in processes and procedures of exercising executive power, in performing public offices and in managing public affairs. Section V of the IPCA regulates control over the assets of persons under obligation, among

⁶⁷ More information: <https://ejn.gov.si/en/aktualno/vec-informacij-ponudniki.html>

⁶⁸ Public Procurement Act (Official Gazette of the Republic of Slovenia nos. 91/15 and 14/18); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7086>.

⁶⁹ Article 21 of PPA (Thresholds for the application of this Act): (1) This Act shall apply to procurements with a value net of value-added tax (hereinafter: VAT) estimated to be equal to or greater than the following thresholds: a) in the general field (EUR 20,000 for public supply or service contracts or design contests; EUR 40,000 for public works contracts; EUR 750,000 for public service contracts for services listed in Annex XIV to Directive 2014/24/EU and Annex XVII to Directive 2014/25/EU (hereinafter: social and other specific services), with the exception of services which are covered by CPV code 79713000-5). b) in the infrastructure field (EUR 50,000 for public supply or service contracts or design contests; EUR 100,000 for public works contracts; EUR 1,000,000 for public service contracts for social and other specific services, with the exception of services which are covered by CPV code 79713000-5).

⁷⁰ As appointed by the European Commission: https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/thresholds_en

⁷¹ The contract notices may be used as a means of calling for competition in respect of all procedures (except a negotiated procedure without prior publication). Not later than 30 days after the conclusion of a contract, following the decision to award or conclude it, contracting authorities must send for publication a contract award notice on the results of the procurement procedure. Contracting authorities must also publish a notice of modification of a contract during its term within 30 days of the modification of the contract and a notice for additional information, information on incomplete procedure or corrigendum when carrying out a procurement procedure. Contracting authorities must publish the procurement documents on or via the public procurement portal, except where they award contracts by negotiated procedure without prior publication or competitive procedure with negotiation. After the expiry of the time limit for the receipt of tenders, contracting authorities are not allowed to amend or modify the procurement documents. The information provided by the contracting authority to economic operators on or via the procurement portal is deemed to be an amendment to or modification or clarification of the procurement documents if its content implies that such information is to amend or modify the procurement documents or if a clarification is used to eliminate the ambiguity of information.

⁷² See – »pregled pogodb« - link: <https://www.enarocanje.si/objavaPogodb/>

⁷³ Article 21 of PPA.

others also persons responsible for public procurement (which includes persons that in accordance with this definition participate in public procurement and are not employed by the contracting authority) and civil servants of the National Review Commission for Reviewing Public Procurement Award Procedures. IPCA regulates precisely the duty to report assets, which data is rated as data on assets, the time for reporting data to the CPC and changes to data.⁷⁴ IPCA lays down the obligation both for persons under obligation of reporting their assets and for bodies employing persons under obligation and contracting authorities, which are to submit lists of such persons to the CPC.

d) **Mandatory provisions on avoidance of the conflict of interest**

The provisions in **IPCA** provide that official persons (which includes civil servants throughout the public sector) must be watchful of any actual or possible conflict of interest and must do everything to avoid that, and official persons may not use their office or work in such a way that would afford them or another person any illicit private interest.⁷⁵ Under the Integrity and Prevention of Corruption Act an official must also not act as a representative of a business entity that has established or is about to establish business contacts with the body in which the official held office until two years have elapsed from the termination of his office. An important part of fraud detection is also the protection of whistleblowers (point 22 above).

Public Employees Act (ZJU) stipulates the principles that relate to all civil servants throughout the public sector. According to Article 91 of the **Public Procurement Act (PPA)**, a public procurer must provide effective prevention, detection and elimination of conflicts of interest in the implementation of public procurement procedures in order to avoid any distortion of competition and ensure equal treatment of all economic operators. PPA is stricter concerning provisions regulating the prevention of conflict of interests. Before awarding the contract, the person conducting the procurement procedure must notify in writing all persons involved in the preparation of the procurement documents or in the decision-making at any stage of the procurement procedure of which tenderer is to be awarded the contract. Before launching a procurement procedure, contracting authorities may conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements. The contracting authority must take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer. These measures include dissemination of such information to other tenderers and application of appropriate time limits for the receipt of tenders. Besides the PPA also defines exclusion grounds⁷⁶.

The Ministry of Public Administration (MPA), for the purposes of joint procurements and procurements on the behalf of the authorities of the Republic of Slovenia carries out joint public procurements of the Government in accordance with the act on public procurement, as well as other procurements for which the Government authorised the MPA. It also gathers the needs of the authorities of the Republic of Slovenia and proposes to the Government joint public procurements, as well as manages the information system which, in line with the contract or framework agreement, enables the awarding of an individual contract.

e) **Trainings and awareness raising**

In order to strengthen the integrity and prevent corruption risks in the field of public procurement, trainings on the integrity of public procurements have been held and have been planned also in the future **at the Administrative Academy of the MPA**. The trainings are intended for civil servants who conduct public procurement proceedings and have been performed as one of the measures within the framework of the two-year Government Program of measures for enhancing Transparency and Integrity 2017-2019, in collaboration with the NGO Transparency International Slovenia. In the period from 2017 until May 2018, 17 workshops were held; attended by 380 civil servants. Participants were civil servants, who participate in various roles in the preparation, planning and execution of public procurement proceedings both in the ministries and other public institutions and local administrations. Participants have been in general very satisfied with the

⁷⁴ Data on assets are defined in detail in Article 42 of the IPCA.

⁷⁵ Article 37 of the IPCA. In addition, in order to ensure transparency and to mitigate corruption risks any public-sector body or organisation which is subject to the obligation to carry out public procurement procedures must prior to the conclusion of contract exceeding the value of EUR 10.000 (net of VAT) obtain a statement or information on the participation of natural and legal persons in tenderer's assets, including the participation of economic operators which are considered to be companies affiliated to the tenderer under the provisions of the Companies Act. The public-sector body or organization must submit this statement or information to the Commission at the latter's request. In the event that the tenderer submits a false statement or provides false information on the facts stated, the contract is null and void. The body in which the official held office must not do business with the entity in which the former official has a minimum 5% participation in the founders' rights, management or capital, either by direct participation or through the participation of other legal persons until one year has elapsed from the termination of the office.

⁷⁶ Contracting authorities must exclude an economic operator from participation in a procurement procedure if they have established or are otherwise aware, that that economic operator or a person who is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein has been the subject of a conviction by a final judgment containing elements of several criminal offences or has been guilty of serious misrepresentation in supplying the information required for the verification of the existence of grounds for exclusion or of the fulfilment of the selection criteria, has withheld such information, or if the economic operator has undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or awarding

content. The content of the workshops as well as the trainers were highly evaluated in the surveys. The contents of the workshops together with the practical examples have been gathered by the MPA in the brochure "Integrity in public procurements" containing the guidelines focusing on the practical measures to prevent corruption risks.⁷⁷

f) **An IT application STATIST**

Furthermore, an important project on increasing transparency in public procurement is the IT solution [STATIST](#)⁷⁸, widely available from the end of January 2016. It ensures the integrated, direct and modified publication of information on public contracts awarded in the Republic of Slovenia. STATIST contains all information on public contracts awarded since 1 January 2013; each user can examine the data using various filters. The application displays, for the chosen timeframe, in terms of contract value, the ten largest contracting entities and ten largest tenderers, and most frequently awarded contracts, according to the subject and legal basis. The data can be exported in .csv format, which enables its re-use.

24. Any other relevant measures to prevent corruption in public and private sector

An important measure to prevent corruption in public and private sector are **integrity plans**, i.e. a tool for establishing and verifying the integrity of an organization. According to IPCA (Articles 47 to 50) government bodies, local authorities, public agencies, public institutes, commercial public institutions and public funds are obliged to develop and adopt integrity plans. Integrity plan is a tool for establishing and verifying the integrity of the organization. It is a documented process for assessing the level of vulnerability of an organisation, its exposure to unethical and corruption practices. Moreover, is devoted to identifying relevant corruption risks in different working fields of an individual organization; assessment, what kind of danger the corruption risks may pose to an individual organization; determining measures to reduce or eliminate corruption risks⁷⁹. All institutions are obliged by the law to send their integrity plans to the CPC with the main goal to strengthen integrity and anti-corruption culture in a public sector by identifying risks, planning and implementation of adequate measures. With an overall integrity plan system, causes of corruption will be eliminated, which will result in strengthening the rule of law and people's confidence in the institutions. The Act set an obligation to all the above mentioned to draw up integrity plans by June 5th, 2012 on the basis of guidelines produced by the CPC and submit them to the CPC. Through the integrity plan it is possible to identify the level of exposure of an entity to corruption risks and risks for unethical and other unlawful behaviour. By identifying risks and risk factors it is possible to assess the existing control mechanisms, evaluate likelihood of risks to occur and the level of damage they may cause and finally propose measures to minimize or suppress risks. In 2014 the CPC developed an electronic registry and requested every public sector entity obliged to draw up an integrity plan to insert in into the registry. This enables every subject to manage data from its integrity plan for its own use as well as to submit data to the CPC for further supervision. Through this tool the CPC easily conducts different analysis of risks and risk factors the public sector bodies face⁸⁰.

An application ERAR⁸¹

In order to provide for a **high transparency of money flows** from public to private sector, the Commission for the Prevention of Corruption developed an online application called **Erar**. The application provides the general public with a user-friendly access to information on business transactions of all public sector bodies and matches financial transactions to company records from the Business Register, thus providing a further insight into links between the public and private sphere. Recently, the application was updated with information on tax debtors, lobbying contacts and information on the restriction of business activities. Therefore, Erar presents an indispensable tool for strengthening the rule of law, integrity and transparency, as well as mitigation of corruption risks and conflicts of interest.

C. Repressive measures

25. Criminalisation of corruption and related offences

⁷⁷ https://www.gov.si/assets/ministrstva/MJU/STIPS/Integriteta/Program-Vlade-2017-2019/Razno/48f1186f27/Integriteta_pri_javnem_narocanju_prirocnik_jan2019.pdf

⁷⁸ <https://ejn.gov.si/statist>

⁷⁹ The integrity plan consists, in particular, of: an assessment of corruption exposure of the institution; personal names and work posts of the persons responsible for the integrity plan; a description of organisational conditions, staff and typical work processes including a corruption risk exposure; an assessment and proposed improvements regarding: the quality of regulations, management, administration, etc.; the integrity of staff and institution; transparency and efficiency of processes and measures for timely detection, prevention and elimination of corruption risks.

⁸⁰ The law (para. 2 of Article 47 of the IPCA) also allows the CPC to issue a decision ordering a public entity which is not obliged to draw up an integrity plan and in which an activity in the public interest is performed or has public assets available to implement and amend the integrity plan in cooperation with the CPC. This happens if the CPC finds that there is a risk of corruption and other forms of unlawful conduct in performing an activity in the public interest and having public assets available. Such order has been issued by the CPC regarding FIHO (Foundation for financing of organisations for the handicapped and humanitarian organisations) in 2011; currently an intensive work is on-going on this matter as two employees of the CPC are involved in the work of the FIHO working group for the integrity plans.

⁸¹ <https://erar.si/>

Slovenian Criminal Code (*Kazenski zakonik*)⁸² encompass incriminations of corruption in chapter 26 (criminal offences against official duty, powers conferred by public law and public funds), chapter 24 (criminal offences against the economy) and in chapter 17 (criminal offences against voting right and elections).

Criminal offence		Criminal Code	Liability of Legal Persons Criminal Code, Article 42 in relation to Liability of Legal Persons for Criminal Offences Act (<i>Zakon o odgovornosti pravnih oseb za kazniva dejanja</i>) ⁸³ , Art. 1 and 25
Bribery in the public sector	Acceptance of bribes	Article 261	
	Giving bribes	Article 262	X
Bribery in the private sector	Unauthorised acceptance of gifts	Article 241	X
	Making unauthorised gifts	Article 242	X
Indirect bribery (through general provisions of Criminal Code on participation in criminal offences)	Aiding	Article 38	
	Abetting	Article 37	
Trading in influence	Giving of gifts for unlawful intervention	Article 264	X
	Accepting proceeds for unlawful intermediation	Article 263	X
Abuse of functions	Abuse of office or official rights	Article 257	
	Abuse of position or trust in economic activity	Article 240	X
Defrauding of public goods		Article 257a	
Accepting bribe in election or ballot		Article 157	
Obstruction of freedom of choice		Article 151	
Money laundering		Article 245	X
Obstruction of justice		Article 286	X

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

- Overview of application of criminal sanctions: In the below table there are statistical data for the applied sentences in corruption cases for natural persons. With regard to legal persons, please note that out of 51 cases of criminal offence from Article 245, we had one case of suspended sentence and one case of a fine applied to legal persons in 2019 (in 2018 no criminal sanctions were applied to legal persons with regards to corruption offences).

Criminal offence (relevant Articles in Criminal Code)		Prison sentence	Suspended sentence	Suspended sentence with additional condition	Fine	Confiscation of objects	Judicial admonition	TOTAL
Article 240	2018	17	12	2	9			40
	2019	22	17	2	6			47
Article 241	2018		4		4			8
	2019	1	3		1			5
Article 242	2018		1					1
	2019		3					3
Article 245	2018	8	7		12			27
	2019	21	9	1	19	1		51
	2018	1	29	2	2		2	36

⁸² Criminal Code (Official Gazette of the Republic of Slovenia Nos. 50/12 -officially consolidated text, 6/16 – popr., 54/15, 38/16, 27/17 and 23/20); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5050>.

⁸³ Liability of Legal Persons for Criminal Offences Act (Official Gazette of the Republic of Slovenia Nos. 98/04 – officially consolidated text, 65/08 and 57/12); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1259>.

Article 257	2019		13	5	2			20
Article 257a	2018							
	2019		1		1			2
Article 261	2018	7	1		7			15
	2019		2		2			4
Article 262	2018		10		6			16
	2019	3	5		7			15
Article 263	2018	3	1		1			5
	2019		2		1			3
Article 264	2018		3		1			4
	2019		1					1
Article 286	2018	4	5		1			10
	2019	1	7					8

- Overview of application of non-criminal sanctions: In 2019, the CPC conducted 95 minor offence (misdemeanour) procedures, 32 of which were concluded with a final decision, imposing 11 fines (15,400 EUR in total) and 21 cautions. In 48 cases, the procedure was concluded with a warning. In the remaining cases, it was determined that the actions of individuals did not constitute a minor offence.

Type of Offence	Number of Cases	Final Decisions	Warnings
Conflict of Interest	37	17	19
Restriction of Business Activities	7	2	2
Incompatibility of Office	6	3	2
Lobbying	23	5	12
Anti-Corruption Clause	6	2	1
Asset Disclosure	16	3	12
Total	95	32	48

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

In its 2019 report⁸⁴, the State Prosecutor's Office outlines certain practical obstacles in investigating corruption cases such as the fact that the person offering a bribe is criminally liable and therefore reluctant to report a corruption offence as he/she risks criminal prosecutions. Additionally, due to the nature of these crimes they are difficult to investigate and prove. Obtaining evidence from the bodies, which do not perceive themselves as being aggrieved therefore poses challenges. Systemic corruption is a problem according to the prosecution and its detection difficult due to many factors. With regard to corruption in the healthcare the 2018, report observes the problem in the fact that the health care institutions are not willing to take upon the role victims or have difficulties in the accurate perception of the damaging effects. Even after internal review procedures suspects remain in their positions which hampers the obtaining of evidence material. Additional obstacle is a short period of limitations for the criminal offences committed before the entry into force of the amendments to the Criminal Code in 2015 (KZ-1C). Furthermore, most common difficulties arising from the prosecution of banking criminal are the lack of jurisprudence, lengthy investigations, vague standards what good banking practice is, high standards of proof and difficulties in proving *dolus coloratus*. Other issues are also vast documentation, accessing information from abroad, acquiring and analysing large amounts of digital data, lack of willingness of afflicted banks to initiate investigations into suspected criminal acts within their abilities, need of specific knowledge in economics and banking and lack of specialisation of courts in this field.

III. Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

⁸⁴ Available at: <https://www.dt-rs.si/files/documents/Letno%20poroc%CC%8Cilo%20DT%20za%20leto%202019.pdf>

Electronic Communications Act (hereinafter: ZEKom-1) contains rules on setting up of an independent regulatory authority in Republic of Slovenia (AKOS). AKOS is a convergent authority and regulates many different fields (telecommunications, electronic media, post and rail transport). The enforcement powers (administrative supervision and inspection of implementation) in the media field are allocated within Mass Media Act (hereinafter: ZMed) and Audiovisual Media Services Act (hereinafter: ZavMS). Financial resources are allocated directly to the AKOS:

ZAvMS (Article 38):

(1) Broadcasters or providers shall be obliged to make an annual payment to the Agency for a valid license to perform television activities or for registration in the official record of providers of on-demand audiovisual media services respectively. The payments under this Article shall cover the costs incurred by the Agency in the exercise of its competencies under this Act.

Another independent financial resource is a frequency or radio frequency allowance, which is paid annually by the holders of radio frequency allocation decisions and it represents a part of the AKOS direct annual revenue. The frequency allocation is regulated within ZEKom-1.

ZEKom-1 (Article 60):

(1) The holders of the decision on the allocation of radio frequencies shall be liable for the annual payment to the agency for the use of the allocated radio frequencies. The payments cover the costs incurred by the Agency in managing and controlling the spectrum.

29. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

The AKOS bodies are the Council and the Director. The members of the Council of the Agency are appointed by the Government on the basis of a call for proposals conducted by the Ministry. Director of AKOS is appointed by the Government on the proposal of the minister (Public administration ministry). The position of the director is adequately protected from the interference of political sphere. Regardless the fact that the director is being appointed by the government, the director has a high level of autonomy.

ZEKom-1 (Article 176):

The members of the Council may not be members of political party bodies, functionaries under the law governing the public sector wage system, persons who are employed or are members of the administrative or supervisory body of a legal person engaged in an activity in the field covered by the Agency or who hold shares in legal persons engaged in the activity in the field covered by the Agency, or in legal entities which have ownership interest in such legal entities, persons whose spouse, non-spouse partner and relative in the lineage up to and including the other knee is a member of the administrative or supervisory body of a legal person engaged in an activity in the field regulated by the Agency or which holds shares in legal entities engaged in activity in an area under the jurisdiction of the Agency or in legal entities which has ownership interest in such legal entities.

ZEKom-1 (Article 178):

(1) A member of the Agency Board shall be dismissed prematurely if he requires it himself, if he no longer fulfills the statutory requirements for appointment, if he permanently loses capacity to work, if the incompatibility situation referred to in Article 176 of this Act occurs, if he has not completed his duties for more than half a year.

ZEKom-1 (Article 181):

(1) The Director of the Agency shall be appointed by the Government upon the proposal of the Minister following a public competition.

ZEKom-1 (Article 185):

(1) A director shall be dismissed prematurely only if:

- requires it himself,*
- no longer fulfills the conditions for appointment referred to in the first paragraph of Article 182, except for the condition referred to in point 9 of the first paragraph of Article 182;*
- if he / she permanently loses his / her capacity to perform the position of director.*

(2) The director may also be dismissed prematurely if the Court of Audit of the Republic of Slovenia, in accordance with its competencies, acts in accordance with the law governing the Court of Auditors to call for its dismissal.

(3) *The director shall be dismissed by the government, either on his own initiative or at the proposal of the agency council, if there are reasons referred to in the first and second paragraphs of this Article.*

(4) *The director must be informed of the reasons for his early dismissal, while at the same time having the opportunity to defend himself.*

(5) *The Government shall dismiss the Director by an administrative decision explaining the reasons for his decision.*

(6) *There shall be no appeal against the decision referred to in the preceding paragraph, but judicial protection shall be guaranteed in an administrative dispute, with the competent court having a priority decision.*

(7) *Information on the dismissal of the Director shall be made public by the Government. In the event that this information does not contain a justification for all the reasons for dismissal, the government, at the request of the dismissed director, must make the decision referred to in the fifth paragraph fully public on its website.*

(8) *A dismissed director who had a contract of employment before being appointed to the Agency shall be assigned to a vacancy in the agency appropriate to his or her qualification for the period for which he or she was contracted. In the absence of such a post, the Government shall terminate the employment contract in accordance with the law governing employment relations, in accordance with the provisions on regular dismissal.*

(9) *If the director is dismissed prematurely because he no longer fulfills the conditions for his appointment from point 8 or 10 of the first paragraph of Article 182, it is a dismissal for guilty reasons and for termination of the employment contract for criminal reasons in accordance with the law, which governs employment relationships.*

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

In Slovenia, there is no specific legislation or rules regulating the matter in the field of allocation of state advertising and to date there are no restrictions on allocation of advertising space. There is also no consolidated data on revenues of the audio-visual, radio or newspaper sector, including expenditure for online advertising. Established print media outlets are focusing more and more on online and creating a viable model of subscriptions for specific content, while a lot of new online media outlets are trying to use crowdfunding as a source of income and offering free content. Some limit free access only to specific content, while others limit free access to everything except for short news for a week and then make it free of charge.

There were attempts to create a unified payment system called Piano; however, it did not include all of the bigger media houses. In the end, it brought a small number of subscribers and a very low income for the media involved. By law, the state should provide funding for media; however, in practice the support schemes failed to facilitate market entry or to enable media organizations to overcome financial difficulties, as the amount of funding was very small. Mostly new media can apply for temporary grants and public calls, which usually get many applications, so only few are considered.

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

In general, there were some public information campaign related events in Slovenia held in various fora, as the rule of law was becoming one of the prominent subject matters due to the raising concerns in some parts of the EU. Such events took place either at the margins of some high-level state visits (as keynote speakers to the audience of the civil society and local community representatives, the interested public, practising professionals and academia) which provided additional opportunities to hold round tables and conferences.

Public and livestreamed debates on the rule of law, be it at the EU level or in the national context, were also held, as part of good practice. One of the important round tables on this issue ("Rule of Law Foundations") was held within the National Assembly in September 2019 at the initiative of the highest representatives of the three branches of power.

One of the indicators of the perception onto functioning of the courts by general public are also extensive quantitative surveys, performed by academic institutions. The extensive analysis and complete results of all surveys are published on the website of the Slovenian judiciary⁸⁵.

Furthermore, organized by the Ministry of Foreign Affairs in cooperation with the Government Communications Office, Slovenia has a track record of reach out to the civil society, including local communities, in the context of raising awareness on European affairs since pre-accession times. In recent years, the rule of law related subjects in such public and

⁸⁵ Available at: http://www.sodisce.si/mma_bin.php?static_id=2018092809455002 (see also points 10 and 14 above).

livestreamed (government web site) consultations were focused on democratic legitimacy and institutional reforms, populism, active citizenship, etc.

In addition, practically all General Affairs Council sessions, where the rule of law issues have been almost a permanent point of the agenda, were followed by press conferences by our State Secretary for the European Affairs summing up the discussion and our views on the current state of play. They have been reported on by most of the television and radio broadcasters in prime time.

32. Rules governing transparency of media ownership

ZMed contains provisions that aimed at regulating transparency of the media ownership. Article 12 stipulates the following:

(1) For the purpose of entry in the Mass Media Register, the publisher/broadcaster shall register the mass medium at the competent ministry prior to commencing the performance of activities.

(2) It shall be necessary to cite the following in the application for entry in the Mass Media Register:

- name of the mass medium;*
- name or business name and head office address or address of permanent residence of the publisher/broadcaster;*
- publisher's/broadcaster's person in charge, if the publisher/broadcaster is a legal entity;*
- type of the mass medium and interval of its dissemination;*
- full name of executive editor;*
- head office of the editorial board or executive editor;*
- mode and envisaged coverage area in disseminating programmes;*
- language of programmes dissemination;*
- sources and methods of financing;*
- data on persons with the minimum of 5 percent ownership or management stake or share of voting rights in the assets of a publisher/broadcaster of a general informative printed daily or weekly or a radio or television programme.*

(3) Evidence on the fulfilment of special conditions specified in Article 10 of the Act, on entry in the Court Register, the broadcaster's basic legal act and the concept of its programme, both of them complying with the present Act, shall be enclosed in the application for entry in the Mass Media Register. Prior to the beginning of transmission, broadcasters of radio or television programmes shall submit copies of contracts concluded with collecting societies for the protection of copyright and related rights on works that will be broadcast on their programmes

Section 8 of ZMed, titled "Protection of media plurality and diversity", is addressing the transparency of media mergers. First paragraph of the article 58 requires the following:

(1) Any person who wishes to acquire an ownership or management stake or a share in the voting rights in the assets of a broadcaster of a radio or television programme, or a publisher of general informative printed journal of twenty (20)% or more shall be obliged to obtain approval from the competent ministry for the conclusion of the legal transaction or the resolution adopted by the General Meeting or another competent body of a company to be valid.

C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The same law (ZMed) contains numerous provisions that ensure journalists and other media actors a high level of editorial independence and protection from the state interference. Article 18 limits the power of the media owner when appointing executive editor, by requiring an opinion from the editorial board, and stipulates:

(1) Each mass medium shall have an executive editor, who shall be appointed and dismissed by the publisher/broadcaster in accordance with the present Act and the publisher's/broadcaster's basic legal act. Before appointing or dismissing the executive editor, the publisher/broadcaster shall obtain an opinion from the editorial board, unless stronger influence on the part of the editorial board is stipulated in the basic legal act.

Second paragraph of the Article 20 ensures editorial independence within the programme concept of the publisher/broadcaster:

(2) The editorial board, editorial personnel, journalists, and authors of other programme pieces shall be independent in their work within the framework of the programme concept and in accordance with the publisher's/broadcaster's basic legal act.

Journalists are also entitled to protection of journalistic sources and right to hold opinions and standpoints (second and third paragraphs of the Article 21):

(2) Editorial personnel, journalists or the authors of contributions shall not be obliged to reveal the sources of their information, except in cases where such is stipulated by criminal law.

(3) Journalists may not be given notice or a contract concluded with them terminated, their pay reduced, their status in the editorial board changed or their position worsened in any other manner for the reason of the expression of opinions and standpoints, which are in accordance with the programme concept and the rules, criteria and standards of the profession.

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

No special provisions of the Criminal Code are in force. Attacks against journalists are prosecuted in accordance with the same procedure as attacks against other citizens.

Physical attacks and threats against journalists may be prosecuted under various provisions of Criminal Code of Slovenia (e.g. Light injury – Article 122, Aggravated Bodily Harm - Article 123, Grievous Bodily Harm - Article 124, Threat - Article 135, to state only a few).

With regard to the protection of journalists in the context of disclosure of classified information and the commitment of Slovenia to strengthen media freedom it should be emphasized that Act amending Criminal Code was adopted in July 2015. Amendments in Article 260 introduced exclusion from criminal liability for the act of disclosing classified information, provided that, given the circumstances, public interest in disclosing classified information outweighs that in maintaining its secrecy.

35. Access to information and public documents

Article 45 of the ZMed ensures access to information and public documents on request of the media. This provision is a special provision ("lex specialis") in relation to the Public Information Access Act which is a general act. Article 45 stipulates:

(1) Pursuant to this Act, press release is any information issued by a body upon its own initiative to the media, as well as any information issued by the body to the media in response to a question, which relates to the body's remit. Such information must be true and comprehensive.

(2) The mass media can demand to issue a press release from any body obliged to do so by the act regulating the access to public information.

(3) For the purpose of issuing information to the media, the bodies shall appoint a person responsible for the implementation of the provisions of this Article and shall publicly announce such a person's name, telephone number at work and office e-mail address. The bodies shall deliver the data on such a person to the competent ministry.

(4) After receiving a question, if submitted in writing and if the body intends to refuse or partly refuse to provide a reply, the body must inform the medium thereof in writing by the end of the next business day following the day of receiving the question.

(5) The body may refuse or partly refuse to provide a reply to a question if the requested information is not subject to free access, as stipulated by the act regulating the access to public information.

(6) The bodies must submit to the media the reply to a question no later than within seven working days after receiving the question in writing.

(7) A written report mentioned in the fourth or the reply mentioned in the sixth paragraph of this Article contains the name of the medium which posed the question, the question itself and the decision on refusal or partial refusal or alternatively the reply to such a question. The medium may demand additional explanations within three days from receiving the answer. The body must send such explanations immediately and in no case any later than within three days of receiving the request for additional explanations.

(8) The refusal or partial refusal referred to in the fourth and the fifth paragraphs of this Article shall be deemed a negative decision.

(9) An appeal against the negative decision stipulated in the previous paragraph shall only be allowed if such a negative or partially negative reply to a question is derived from a document, matter, file, register, record or any other documentary evidence.

(10) The body competent for deciding on an appeal against the decision pursuant to the act regulating the access to public information shall decide on the appeal against the decision referred to in paragraph eight, which must be submitted in writing. The body must execute the decision issued on the basis of the appeal immediately and in no case later than within five business days of having been served such a decision.

(11) An author/creator of a programme contribution and the executive editor shall not be criminally liable or liable for damages for the accurate publication of a press release content that has been published by the media in its entirety and literally. The body that provided the information shall be responsible for its veracity and accuracy.

(12) The body authorised for deciding on the appeal pursuant to the provisions of the act regulating the access to public information shall be competent to exercise supervision over the implementation of this Article.

Pursuant to the Public Information Access Act (PIAA), anyone can submit an individual request for access to materials to any public sector body, and such requests are processed under the aforementioned procedure. See point 20 above. Furthermore, in accordance with ZMed (Mass Media Act)⁸⁶ the media and journalists may also additionally request from public bodies a response for the press. A response to a question may be denied or partly denied only if the requested information is excepted from free access under the PIAA. After receiving a response, the media may also request further clarification, which a commercial subject under predominant influence is bound to communicate within three days of receipt of a request for further clarification. The media and journalists have the option pursuant to the PIAA of lodging an appeal against a denial or partial denial of response with the Information Commissioner, if the response to the question stems from specific documents at the public body.

36. Other - please specify

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

Legislative process is anchored in the Rules of Procedure of the National Assembly (*Poslovnik državnega zbora*).⁸⁷ All submitted proposals of acts must consist of detailed reasoning and explanation of the proposed content,⁸⁸ furthermore, the governmental proposals need to be in line with the Rules of Procedure of the Government of the Republic of Slovenia (*Poslovnik Vlade Republike Slovenije*).⁸⁹

There can be a preliminary reading of the draft law within responsible working body of the National Assembly⁹⁰, however, regular legislative procedure⁹¹ comprises three readings of the proposed act. The first reading is intended for the presentation of the draft law (when the draft law is forwarded to the deputies or at special request of at least ten deputies during the general debate at the session of the National Assembly). The second reading of the draft law involves the debate and voting on individual articles or parts of the draft law within the working body responsible or at a session of the National Assembly; it also includes modifications of and supplements to the draft law (i.e. amendments). The third reading involves the debate and voting on the draft law in its entirety; it is held at the session of the National Assembly.

Upon request for contribution to this input, the Advocate of the Equality Principle shared his experience: "In line with its powers and tasks as defined in Article 21 of the Protection Against Discrimination Act (PADA)⁹² the Advocate regularly adopts recommendations during the legislative process, particularly during the public consultations phase. However, responses by government ministries responsible for draft legislation in question seldom provide substantive feedback to the Advocate's recommendations. In some instances, ministries do not respond at all, while in others they bundle their

⁸⁶ Mass Media Act (Official Gazette of the Republic of Slovenia, Nos. 110/06 - official consolidated text, 36/08 - Competition Act 1, 77/10 - ZSFCJA, 90/10 - odl. US, 87/11 - AVMS, 47/12, 47/15 - ZZSDT, 22/16, 39/16, 45/19 - dec. US and 67/19 - dec. US); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608>; English version: https://www.rtvlo.si/files/razno/mass_media_act.pdf.

⁸⁷ Rules of Procedure of the National Assembly (Official Gazette of the Republic of Slovenia Nos. 92/07; [105/10](#), [80/13](#), [38/17](#) and [46/20](#)); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL34>.

⁸⁸ Art. 115 of the Rules of Procedure of the National Assembly.

⁸⁹ Rules of Procedure of the Government of the Republic of Slovenia (Official Gazette of the Republic of Slovenia nos. 43/01, 23/02, popr., 54/03, 103/03, 114/04, 26/06, 21/07, 32/10, 73/10, 95/11, 64/12 and 10/14); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=POSL32>

⁹⁰ Art. 119 - 120 of the Rules of Procedure of the National Assembly.

⁹¹ Art. 121 - 142 of the Rules of Procedure of the National Assembly.

⁹² Official Gazette of the Republic of Slovenia, no. 33/16 in 21/18, unofficial English translation available at http://www.zagovornik.si/wp-content/uploads/2019/02/PADA-ZVarD_EN.pdf

responses to the Advocate's recommendations together with responses to other stakeholders' comments, rarely providing substantive argumentation on why certain recommendations were either adopted or rejected. Ministries responsible for draft legislation have, up to this point, never consulted the Advocate at their own initiative. During the fast-track legislative procedure there is no public consultation phase. The Advocate is usually informed of the content of such draft legislation only after it has been adopted by the Government or when it is published on the website of the National Assembly."

Shortened and urgent procedure is possible only under clearly defined conditions:

- shortened procedure: to discuss minor amendments to a law, the expiration of a law or individual provisions, minor harmonisations with other laws or the EU law, or amendments relating to procedures before the Constitutional Court or a decision thereof;

- or urgent procedure: when so required in the interests of the security or defence of the state, or in order to eliminate the consequences of natural disasters, or to prevent consequences regarding the functioning of the state that would be difficult to remedy. Such procedure can only be proposed by the Government.

There is no general debate in the shortened and urgent procedures, the second and third readings are always held at the same session, and different deadlines apply for individual tasks.

In the parliamentary term 2014-2018, 178 laws were adopted by the regular procedure (39 % of all the laws adopted in that term), 87 by the urgent procedure (19,1% laws), and 105 by the shortened procedure (23 % laws); the National Assembly also adopted 85 ratifications (18,5 % laws). A constitutional act was adopted under the procedure for amending the Constitution (0,2 % laws)⁹³ that enshrined the right to drinking water into Slovenian Constitution (new article 70a).

Participation of civil society and participation of judiciary

Resolution on Legislative Regulation (*Resolucija o normativni dejavnosti*)⁹⁴, adopted by the National Assembly on 19 November 2009, represents a political commitment of each respective government that it will implement the principles for better preparation of regulations and to involve the public in decision-making processes, either when preparing policies in a given area or when preparing new regulations. The resolution, inter alia, defines the minimum duration of the phase of public consultation (30 to 60 days) – "with the exception of proposals for which participation of the public is not possible (e.g. adoption of the national budget, legislation being adopted in the emergency legislative procedure)". However, even in the time of COVID-19 epidemic the government took some time to meet with relevant stakeholders before proceeding with urgent COVID-19 legislation.

Ministries responsible for preparing the texts of legislative proposals are namely obliged to send proposals of draft laws - prior to being submitted for debate by the government - to the Government Office for Legislation. One of the basic responsibilities of the Office is to consider that draft laws and other acts submitted to the National Assembly are compatible with the Constitution. In addition to verification by the executive, examination is before tabling a draft law undertaken by the Legislative and Legal Service of the National Assembly. This Service delivers opinions on the conformity of draft laws (1) with the Constitution and the legal system (the ratified and published international treaties are part of the legal system), (2) and opinion on legislative and technical aspects of drafts. There is special provision in Art. 23 of the Judicial Council Act⁹⁵ that grants a right and competency to the Judicial Council for submitting opinions to the National Assembly and to the competent Ministry in regard of legislative proposals concerning judicial administration and judicial professions.

Enacting laws

Ministries examine in advance (*ex ante*) the potential economic, social, environmental or other impacts of the proposed draft law and this examination is part of the mentioned special form. According to this form, the competent ministry must submit a plan for the presentation of the adopted law (awareness raising principle): the adopted law shall be published in the Official Gazette and shall be presented to the target groups and to the public through websites, public hearings, media, seminars, etc. In addition, the ministry must provide a plan for monitoring the implementation of the law once it is adopted. In doing so, it must provide methods for monitoring the achievement of objectives and criteria for determining the achievement of objectives, and explicitly emphasize cooperation with civil society. As a rule, the Ministry of Justice monitors the implementation of the laws based on the published case-law and in cooperation with the competent authorities, based

⁹³ Report on National Assembly's work in the parliamentary term 2014–2018, pp. 27-28, available at http://www.dz-rs.si/wps/portal/Home/deloDZ/Publikacije/PorocilaDZ/!ut/p/z1/04_Sj9CPykssy0xPLMnMz0vMAfljo8zinfyCTD293Q0N3C0CzAwczYzc_SxDDY28fU30wwkpiAJKG-AAjgb6BbmhigCs1zwO/dz/d5/L2dBISEvZ0FBIS9nQSEh/

⁹⁴ Resolution on Legislative Regulation (Official Gazette of the Republic of Slovenia No. [95/09](#)); [Slovenian version: http://www.pisrs.si/Pis_web/pregledPredpisa?id=ZAKO5516](#) .

⁹⁵ Official Gazette of the Republic of Slovenia No. 23/17.

on their findings in the implementation of the provisions in practice. However, it can also involve civil society in cooperation. The implementation of the provisions of the law can be regularly monitored both in the regular work and in the civil society, and with the preparation of annual reports on the implementation of the law.

38. Regime for constitutional review of laws

Constitutional Court is bound by Constitution of Republic of Slovenia and by Constitutional Court Act (*Zakon o ustavnem sodišču*)⁹⁶. The latter stipulates the powers the court has, among them also the constitutional review of regulations or general acts. The Constitutional Court in whole or in part abrogates laws that are not in conformity with the Constitution. In addition, the Constitutional Court abrogates or annuls regulations or general acts issued for the exercise of public authority that are unconstitutional or unlawful (with *ex tunc* effects). If the Constitutional Court deems a regulation unconstitutional or unlawful as it does not regulate a certain issue which it should regulate or it regulates in such a manner which does not enable abrogation or annulment, the Constitutional Court issues a declaratory decision thereon. The legislature or authority which issued such unconstitutional or unlawful regulation must remedy the established unconstitutionality or unlawfulness within a period of time determined by the Constitutional Court. Until the final decision, the Constitutional Court may suspend the implementation of the challenged regulations. If the Constitutional Court suspends the implementation of the challenged regulations, it may at the same time decide in what manner the decision is to be implemented.

Pursuant to Article 39 of PADA, if the Advocate of the Equality Principle assesses that a law or and other regulation is discriminatory, it can submit a request for constitutional review. The Advocate has direct access to the Constitutional Court on the basis of PADA and does not have to prove its legal interest to request constitutional review.

B. Independent authorities

39. Independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

The principle of the separation of legislative, executive, and judicial powers lays in Slovenian constitution.⁹⁷ Despite separation of individual functions of each power, a system of checks and balances is set up between them. A judge is bound by the Constitution and laws passed by the National Assembly as the holder of legislative power. However, the judiciary has certain leeway concerning the application of law in particular cases and furthermore, judiciary may also influence the legislative branch in case of constitutional review⁹⁸ as well as the executive branch because it may review the legality of acts issued by the bodies of the executive branch.⁹⁹ Pursuant to the Constitution, a judge is also bound by the general principles of international law and ratified and published international treaties. Judicial decisions are binding on all state bodies.¹⁰⁰ Judges hold office permanently until their retirement.¹⁰¹

It was proven as good practice to hold regular debates on the rule of law which are being held within the parliament, one of the important round tables on this issue was held on 6 September 2019 organised by all three branches.¹⁰²

The institution of **Human Rights Ombudsman**¹⁰³ was introduced into Slovenia's constitutional system with the passing of the new constitution in December 1991. Article 159 of the Constitution established the Ombudsman Office in order to protect human rights and fundamental freedoms in relation to state authorities, local self-government, and holders of public authority. The Office of the Ombudsman for the Rights of Citizens was established by Human Rights Ombudsman Act (*Zakon o varuhu človekovih pravic*)¹⁰⁴, which was adopted in December 1993 and later amended in 2017. Last amendments (by establishing the Council for human rights¹⁰⁵ which has the advisory role, and the Centre for Human

⁹⁶ Constitutional Court Act (Official Gazette of the Republic of Slovenia No. 64/07 – official consolidated text, 109/12 and 23/20); Slovenian version. <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO325>.

⁹⁷ Article 3 of the Constitution of the Republic of Slovenia-

⁹⁸ Article 156 of the Constitution of the Republic of Slovenia.

⁹⁹ Articles 120(3) and 157 of the Constitution of the Republic of Slovenia.

¹⁰⁰ Article 2 of Courts Act.

¹⁰¹ Article 129 of the Constitution of the Republic of Slovenia.

¹⁰² [https://www.dz-](https://www.dz-rs.si/wps/portal/Home/deloDZ/Posveti/Soglasjezaprihodnost/TemeljiPravneDrzave/lut/p/z1/04_Sj9CPykyssy0xPLMnMz0vMAfjo8zinfyCTD293Q0N_E1DTA0CXQ0two)

rs.si/wps/portal/Home/deloDZ/Posveti/Soglasjezaprihodnost/TemeljiPravneDrzave/lut/p/z1/04_Sj9CPykyssy0xPLMnMz0vMAfjo8zinfyCTD293Q0N_E1DTA0CXQ0two

<wsQw2Dg030wwkpiAJKG-AAjgb6BbmhigDHSpj3/dz/d5/L2dBISEvZ0FBIS9nQSEh/>

¹⁰³ www.varuh-rs.si

¹⁰⁴ Human Rights Ombudsman Act (Official consolidated text - Official Gazette of the Republic of Slovenia no. 69/17), Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO300>.

¹⁰⁵ <http://www.varuh-rs.si/o-instituciji/podrocja-dela-varuha/svet-varuha-za-clovekove-pravice/>

Rights¹⁰⁶ which operates under the auspices of the Ombudsman) provided legal basis for the broadening of the powers of the Ombudsman so that status A in accordance with the Paris Principles can be obtained. Since 2018, the Office of the Ombudsman also provides children's rights advocates. Ombudsman annual report¹⁰⁷ is discussed in the National Assembly. Government prepares response in regard of findings/recommendations set by report.

The Ombudsman publishes annual reports to the Parliament, which are available also at the website and their summaries also in English. In these reports, the Ombudsman gives several recommendation to state institutions, mainly to the government and the ministries, how to improve a human rights situation in Slovenia.¹⁰⁸The Government also reports about implementation of the findings from previous Reports. Since 2018, the Ministry of Justice is preparing a comparative presentation of the implementation of the recommendations of the Ombudsman's Annual Report by all responsible stakeholders.¹⁰⁹

In 2016, the National Assembly adopted a Protection Against Discrimination Act (*PADA - Zakon o varstvu pred diskriminacijo*)¹¹⁰ which established the **Advocate of the Principle of Equality**¹¹¹, an independent and autonomous state body, which provides assistance and support to persons subjected to discrimination when enforcing their rights regarding protection against discrimination in the form of counselling and legal assistance in administrative and judicial proceedings related to discrimination. The Advocate is also mandated to conduct a supervisory inspection and has the power to submit a request for a review of constitutionality or legality of a regulation or general legal act issued to execute public authorisations. The competences of the Advocate of the Principle of Equality extend to both public and private sector.

The regular annual report¹¹² about Advocate's work and findings about the existence of discrimination of individual groups of persons with a personal circumstance must be submitted to the National Assembly. Based on reports, the National Assembly adopts definitions and recommendations, while the Government gives a preliminary opinion on submitted reports.

Article 19 of PADA states that the Advocate shall conduct its tasks pursuant to PADA and other acts independently within the framework and on the basis of the Constitution and the law. In terms of the scope of protection against discrimination and promotion of equality, PADA is one of the most far-reaching national legislations among EU Member States.¹¹³ Three main pillars reflecting the Advocate's powers and tasks include: 1) protection of discrimination and promotion of equality at a systemic level; 2) providing counselling and legal support to victims of discrimination and participating in relevant legal proceedings or representing victims of discrimination therein; 3) passing legally binding decisions on the complaints of discrimination filed by alleged victims of discrimination.

In terms of the latter pillar, the Advocate notes, that the European Commission's recommendation notes that where equality bodies have the legal capacity to take binding decisions, Member State should also grant them the capacity to issue adequate, effective and proportionate sanctions. PADA does not provide the Advocate with the power to issue sanctions.¹¹⁴

As noted in the Commission's recommendation, the independence and effectiveness of equality bodies is conditioned by providing them with adequate financial and human resources that reflect the scope of their mandate in terms of competences and tasks. In its first year of operation, the Advocate was allocated a total of € 200,000, which hindered its ability to develop, and to fulfil its broad mandate. However, in the beginning of 2019 the national budget was rebalanced and the Advocate was allocated € 1,100,000. The increase allowed the Advocate to start exercising almost all of its statutory powers and tasks, however, it is estimated that an annual budget of approximately € 2,000,000 would be needed

¹⁰⁶ <http://www.varuh-rs.si/o-instituciji/zaposleni/center-za-clovekove-pravice/>

¹⁰⁷ Available also on-line <http://www.varuh-rs.si/porocila-zou-upr/letna-porocila-priporocila-dz-odzivna-porocila-vlade/>

¹⁰⁸ see: <http://www.varuh-rs.si/porocila-zou-upr/letna-porocila-priporocila-dz-odzivna-porocila-vlade/> and <http://www.varuh-rs.si/index.php?id=54&L=6>).

¹⁰⁹ <https://www.gov.si/teme/odzivna-porocila-vlade-na-letna-porocila-varuha-clovekovih-pravic/>

¹¹⁰ Protection Against Discrimination Act (Official Gazette of the Republic of Slovenia Nos. 33/16 and 21/18 – ZNOrg), Slovenian version: http://www.pisrs.si/Pis_web/pregledPredpisa?id=ZAKO7273; English version: http://www.zagovornik.si/wp-content/uploads/2019/02/PADA-ZVarD_EN.pdf.

¹¹¹ <http://www.zagovornik.si/en/>

¹¹² Available at <http://www.zagovornik.si/porocila/>

¹¹³ It provides open-ended lists of personal circumstances on the basis of which discrimination is prohibited, an open ended list of areas of social life where discrimination is prohibited, and a wide range of prohibited forms of discrimination (including harassment, sexual harassment, incitement to discrimination, instructions to discriminate, and specific severe forms of discrimination). This significantly broadens the substantive spectrum of the Advocate's powers and tasks as defined in Article 21 of PADA. The Advocate compartmentalised statutorily prescribed powers and tasks into three main pillars, taking into account the relevant recommendations by international institutions, specifically the Commission in June 2018 on standards for equality bodies and the European Commission Against Racism and Intolerance (ECRI) general policy recommendations no. 2 from December 2017.

¹¹⁴ Article 42 allows the Advocate to refer cases to the competent inspection service to instigate minor offence proceedings. However, pursuant to the Inspection Act, inspectors' work is independent, meaning that they are not bound by the Advocate's decisions on established discrimination. Moreover, areas of discrimination exist where no inspection service has jurisdiction. Such and other inconsistencies in PADA have also been emphasised in ECRI's 2019 fifth report on Slovenia.

in order for the institution to function to its full capacity. Apart from this, the Advocate add his independence is challenged by the relationship with the Ministry of Finance in budget-related issues.

C. Accessibility and judicial review of administrative decisions

40. Modalities of publication of administrative decisions and scope of judicial review

Judicial control over administrative acts and acts of public administration by independent courts guarantees the principle of rule of law. It is granted upon the Constitution (Art. 157) and by the Administrative Dispute Act (*Zakon o upravnem sporu - ZUS-1*)¹¹⁵. An administrative dispute is a judicial review carried out by the judicial authority which is separated from the public administration and it is completely impartial. Such judicial control is exercised with the purpose of limiting the arbitrary conduct of the executive branch of authority. An administrative dispute stands for an external judicial control of the legality of final administrative acts issued in administrative proceedings. The Administrative Court is responsible for the implementation of the latter powers and it is governed by a special administrative-judicial procedure.

The concept of administrative dispute in Slovenia is primarily intended for the legal protection of the individuals (see Articles 23, 25, 120, 157 of the Constitution). An individual or legal entity can initiate a mechanism of judicial review and judgment by the court, which in each case is limited to a specific case (Article 2 of ZUS-1). The material scope of the administrative disputes is determined in Articles 2 – 7 of the Administrative Dispute Act.

41. Implementation by the public administration and State institutions of final court decisions

The Constitution of the Republic of Slovenia in Article 2 states that Slovenia is a state governed by the rule of law. One of the fundamental principles of the rule of law is the right to reach a substantive decision by a court. However, this right is effective only if the party can rely on a binding, final decision in judicial proceedings, which cannot be called into question in any other proceedings. The Constitutional Court in its decisions (U-I-5/16) directly link Article 23 of Constitution (right to judicial protection) with the article 158 (finality of legal decisions). In a special chapter (p. 16), the Constitutional Court, in its 2018 Annual Report¹¹⁶ highlights the issue of unimplemented decisions. At the end of 2018, there remained fourteen unimplemented Constitutional Court decisions, thirteen of which refer to statutory provisions and one to a regulation of a local community.

The Ministry of Justice is also responsible for the coordination of the implementation of judgments of the European Court of Human Rights (ECtHR) which in many cases implied on Slovenian legislation and also court proceedings¹¹⁷. Project Unit for Coordination of the Execution of Judgments of the ECtHR is in charge of the preparation of Action Plans and Reports as regards the execution of judgments of the ECtHR where individual and general measures (adopted also by other relevant stakeholders) are defined. Statistics on the enforcement of judgments of the ECtHR¹¹⁸ show that at the end of 2014, 302 judgments against Slovenia were not executed, after introducing systemic approach in 2016, the number of non-executed cases declined to 49 (at the end of 2016). By the end of 2019, there were only 12 outstanding judgments of ECtHR. The Ministry will continue to make efforts to enforce all other judgments of the ECtHR, and also put all the efforts in education and training on the case law of ECtHR and also the European Court of Justice (CJEU).

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

In Slovenia, the term 'civil society' is often used in the public sphere, although little consensus exists regarding its general meaning or understanding. In this input the focus is cooperation with **non-governmental organisations** (NGOs) as they represent greater part of the civil society. On 31 March 2020, there were 28,004 non-governmental organisations registered in Slovenia, of which 24,147 were associations, 3,599 (private) institutes and 258 foundations.¹¹⁹ They are active practically

¹¹⁵ Administrative Dispute Act (-Official Gazette of the Republic of Slovenia No 105/06, 107/09 – odl. US, 62/10, 98/11 – odl. US, 109/12 and 10/17 – ZPP-E); Slovenian version: <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4732>.

¹¹⁶ https://www.us-rs.si/media/rsus_letnoporocilo_2018_eng_web.pdf

¹¹⁷ Between 1993 and 2019, 9,722 complaints were filed against Slovenia before ECtHR. During this period, the ECtHR ruled on 9,442 complaints, of which the vast majority (9,669 complaints/95.5%) were inadmissible or deleted. By the end of 2019, the ECtHR issued judgments in 368 cases, and the violation of at least one article of the European Convention on Human Rights was found in 338 cases, i.e. only 3.48% of all the complaints filed before ECtHR were successful. Data available: https://www.echr.coe.int/Documents/Annual_report_2019_ENG.pdf; https://www.echr.coe.int/Documents/Overview_19592019_ENG.pdf.

¹¹⁸ Also evident from the annual reports of the Committee of Ministers of the Council of Europe: <https://www.coe.int/en/web/execution/annual-reports>.

¹¹⁹ <https://www.cnvos.si/en/ngo-sector-slovenia/number-ngos/>; NB: Not all registered NGOs are necessarily active. In 2018, there were just below 27,000 active associations, institutes and foundations.

in all areas of life – from social, cultural, sports, advocacy, ecology and health activities to civil protection and almost all domains of today's society.

Non-Governmental Organisations Act (*Zakon o nevladnih organizacijah*)¹²⁰ entered into force in April 2018 and was prepared in close cooperation with NGOs resulting from a three-year participatory process. It defines non-governmental organisations, lays down uniform definition of NGOs, the conditions for granting the status of a non-governmental organisation operating in the public interest¹²¹, the rights and obligations of these NGOs, and regulates the register of NGOs operating in the public interest. These lists are publicly available, also the list of NGOs in the field of justice.¹²² Non-Governmental Organisations Act also lays down the support environment and measures for a more effective development of non-governmental organisations, with the purpose of strengthening the contribution of NGOs to social welfare, cohesion, solidarity, democratic pluralism and sustainable development. The fruitful dialogue between the government and NGOs is a precondition to improve the effectiveness, efficiency and transparency of the law-making process ("good legislation") and hence trust. The professionalisation of NGOs is also encouraged through calls from the NGO Development Fund.¹²³

Civil society is one of the fundamental pillars of democracy. The vision of Slovenia's development includes a well-developed, efficient, innovative and sustainable non-governmental sector that is able to recognise the needs of its environment and respond to them efficiently and successfully, providing widely accessible and high-quality services, and acting as the advocate of public interest and one of the forms of citizen participation in the governance. The State finances NGO projects and programmes, in areas where it considers that NGOs could implement public policies and provide services to citizens. Financing flows mostly through public tenders, public calls, or direct financing. Government defined and laid down measures which will enable non-governmental and volunteer organisations to contribute to realising the principles of pluralism and democracy in the society by adopting National Strategy for the Development of the Non-Governmental Sector and Volunteering by 2023.¹²⁴ The Strategy also promotes transparency, integrity and accountability of NGOs.

In Slovenia, there is no general law obliging the government or individual ministries to include NGO representatives in advisory bodies or working groups in which legislation is prepared, policy formed, etc. However, as part of long-lasting cooperation with NGOs, the NGO representatives are often included in government and municipal level advisory and inter-ministerial working bodies. There are many good practices of such cooperation. One of them was publication of brochure on rights of victims of crime that was prepared together with relevant NGOs.¹²⁵

CNVOS (Center za informiranje, sodelovanje in razvoj nevladnih organizacij/Center for information, cooperation and development of non-governmental organizations) is a national NGO umbrella network, uniting over 1300 groups of associations, individual associations, institutes and foundations. Their experts in fields of advocacy, law, project management, finance and communication provide the Slovenian non-governmental sector with comprehensive and professional expert support.¹²⁶ Since 2009, CNVOS advocacy experts have been monitoring the openness of the governmental institutions toward the public and NGOs in policy according to the principles set by Resolution on Legislative Regulation. A special breaches counter (*Števec kršitev*)¹²⁷ counts the number of cases and ways of how severely different state bodies have breached consultation deadlines that are set in the government's rules of procedure.

43. Other

¹²⁰ Non-Governmental Organisations Act (Official Gazette of the Republic of Slovenia No. 21/18); Slovenian version: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO7129>; English version available at <https://www.gov.si/en/topics/non-governmental-organisations/>.

¹²¹ The conditions for obtaining such status have also been standardised for all legal forms of non-governmental organisations (societies, institutes and institutions).

¹²² <https://podatki.gov.si/dataset/seznam-nevladnih-organizacij-v-javnem-interesu-na-podrocju-pravosodja-julij-2019/resource/442e032a-919a-4835-a2d8-b52d25253247>

¹²³ <https://www.gov.si/en/topics/non-governmental-organisations/>

¹²⁴ Available at <https://www.gov.si/en/topics/non-governmental-organisations/>. The main objectives of this strategy are: to establish a supportive environment for the operation and development of NGOs, to establish long-term funding for NGOs, to strengthen the role of NGOs in the planning and implementation of public policies at local and national levels; to strengthen the cooperation between NGOs and the business sector and to establish cross-sectoral partnerships, to promote transparency, integrity and accountability of NGOs, and to promote solidarity and high-quality volunteering and the development of various forms of volunteering at local and national levels.

¹²⁵ <https://www.gov.si/assets/ministrstva/MP/obrazci-odskodnine-zrtvam/Publikacije-pravice-zrtev-KD/Pravice-zrtev-v-kazenskem-postopku-ang.pdf>

¹²⁶ <https://www.cnvos.si/en/about/>

¹²⁷ <https://www.cnvos.si/stevec-krsitev/>

Effective inclusion of the public in the drafting of regulations is also the aim of the **Guidelines for Inclusion of the Public in Drafting Regulations**, drawn up by the Ministry of Public Administration in 2015.¹²⁸ **Participatory tools for citizens and civil society** to address issues that they themselves perceive as needing government action or involvement are:

- **Online platform for public consultation: eDemocracy**” (*eDemokracija*)¹²⁹ where draft laws must be published. Ministries responsible for preparing the texts of legislative proposals should fill in carefully a special form which contains regulatory impact assessment and is part of proposed draft law. Citizens and civil society can comment and send in suggestions on legislative changes proposed by the government.

- **Slovenian portal predlagam.vladi.si**¹³⁰ (*I propose to the Government*) allows citizens to participate in government decision making. Portal was introduced in 2009 by the Government Communication Office of Slovenia. The site allows citizens to communicate directly with the government and among themselves on important issues. They can express their opinions, participate in the legislative process, and make suggestions to reduce administrative burden. Citizens can submit new ideas, discuss them in an open forum, and express support for other ideas by voting. A proposal that receives sufficient support is sent for scrutiny by the competent ministry, which must take a position on the proposal.

- Web portal **STOP the Bureaucracy ('Stop Birokraciji')**¹³¹ enables users to notify and report about administrative burdens they encounter, whereby information about barriers is forwarded to the competent authority. In this way, users contribute to the common goal set at the beginning of the project, i.e. to improve the legislative framework and make the economy more efficient. With the help of submitted initiatives and measures implemented, more than 420 million EUR has been saved.

- **National Interoperability Framework portal (NIO)** is a website dedicated to publishing interoperability solutions and products of the public sector. It connects a catalogue of interoperability solutions with best practices for re-using its content. The NIO sets out national conditions for achieving interoperability and ensures that sectoral interoperability frameworks can also be harmonized, although they formulate solutions that are specific to a particular field. In the case of eJustice, the Supreme Court of the Republic of Slovenia has presented an open-source system for secure and reliable electronic document exchange suited for use primarily in (public) institutions (“Laurentius”). It uses an open protocol for secure and reliable electronic document exchange, developed for secure electronic delivery of court documents by the Supreme Court.¹³²

Open and inclusive policy making builds upon the idea of designing policies by broadening the evidence base. For this we have **an innovative web-based tool called SME test** that enables the public (citizens, business entities, economic and other interest groups), in addition to substantiating their comments and proposals on a public policy proposal, to quantify the impact of their alternative policy proposals. The tool is user-friendly and enables conducting more sophisticated analysis. The test was officially introduced into the policy process in 2016 and is mandatory for use since January 2017.

In July 2019, the **Action Plan for Better Regulation**¹³³ was adopted by the Government of the Republic of Slovenia with the aim of systematically ensuring better regulation. It contains a set of measures that will significantly influence better preparation of regulation drafting. We intend to increase the quality of regulation by: actively involving professional and interested public in the preparation phase, preparing impact assessments of regulations in different social fields, as well as carrying out ex-ante and ex-post evaluations of regulations, thus achieving the effect of reducing the legislative burdens.

Furthermore, Slovenia has been developing good practice and gaining experience in **involving the civic public in discussions** on European affairs since pre-accession times. The complexity of European affairs requires intense public communication, which is fundamental to citizen participation in democratic shaping of future goals and priorities. The debates focused on topical issues under consideration at the EU level, including the future of the EU, democratic legitimacy and institutional reforms, populism, active citizenship, etc. In cooperation with local administrations, the government organized consultations with citizens in smaller Slovenian municipalities. The methodology of these consultations was based on principles of transparency, political pluralism, fairness and openness to all citizens. The introductory theme common to all consultations was the citizens' perception of the EU in their daily lives, active citizenship and possibilities of

¹²⁸ The Guidelines are accessible at: http://www.stopbirokraciji.si/fileadmin/user_upload/mju/Boljsi_predpisi/Vkljucevanje_javnosti/MJU-SMERNICE-FINAL_842015.pdf

¹²⁹ <https://e-uprava.gov.si/drzava-in-drzava/e-demokracija.html>

¹³⁰ <https://predlagam.vladi.si/>

¹³¹ <https://www.stopbirokraciji.gov.si/en/home>

¹³² Available at: <http://nio.gov.si/nio/asset/laurentius+sistem+za+varno+elektronsko+vrocenje-719?lang=en>

¹³³ Akcijski načrt za izboljšanje postopka načrtovanja, priprave, sprejemanja in vrednotenja učinkov zakonodaje 2019-2022

their participation in EU democracy. The debates were centred on citizens as main speakers, they were livestreamed and could be followed on the government's website and social media, while video recordings are still available on the government website. Prior to the covid-19 outbreak, the government had drawn up a consultation plan for 2020 in 2021, also as an integral part of the planned Conference on the Future of Europe. The project will continue as our good national practice of civil society participation.