

# Slovenia's contribution for the third annual Rule of Law Report

## Introduction

The following document represents the contribution of Slovenia to the third Annual Rule of Law Report. It covers the **period since January 2021 to date** and addresses, under the established **four pillars, the feedback and progress achieved, including the new developments** across the institutional framework with regard to the issues raised in the respective country chapter of the 2021 Rule of Law Report. In addition, it also takes into account other significant developments in the same period falling under the scope of implemented, newly adopted, envisaged or recently drafted legislation, policy plans, developments related to the judiciary and other independent authorities.

Legislation or other documents are referenced with a link while with the aim to avoid duplication in the responses provided, where possible, explicit references are made to previous Rule of Law Reports and contributions already submitted in this context, including those provided in a related context also under international bodies or procedures. Contributions are focused on significant developments both as regards the legal framework and its implementation in practice. Significant developments include challenges, on-going work, positive developments and best practices, covering both legislative developments or implementation and practices. Developments considered relevant under each of the four pillars that are not mentioned in the sub-topics, are added at the end of each section.

Where relevant, contribution continues to include significant rule of law **developments in relation to the COVID-19 pandemic** within the framework of the four pillars covered by the report while focusing on the measures taken to curb the pandemic.

In the second year of the **COVID-19** pandemic, Slovenia remains aware of the importance to respect the rule of law, especially while adopting the necessary restrictive measures. Unavoidable in protecting the lives and health of people and ensuring the resilience of the health system, these measures inevitably interfered with certain human rights and fundamental freedoms. However, the restrictions met the required constitutional standards: they were proportionate and temporary, pursuing a legitimate goal in a democratic society, and pending on the duration of the epidemic. Given that its end cannot be accurately predicted, the government regularly verifies the justification for continuing the measures, including their provisionality and proportionality. They shall be released upon the advice of the medical authorities, particularly on the basis of the epidemiological situation. In Slovenia, all governmental measures are subject to judicial oversight, including the constitutional oversight by the Constitutional Court of the Republic of Slovenia in its protection of human rights.

The review period also covers the **Slovenian Presidency of the Council** in which the rule of law was an important part due to its vital role for the functioning of the EU as a whole, including EU's resilience, internal market and mutual trust. Thus, Presidency achievements in this field are also included in the present contribution. During the Slovenian Presidency the rule of law, including fundamental rights issues, were addressed in three out of four formal General Affairs Council meetings. Significant time and effort were devoted not only to extensive preparations, but first and foremost, to substantive discussions, making use of the second Commission's annual RoL report. Our Presidency has contributed to further consolidating the mechanism by continuing and deepening the **annual RoL dialogue** in two constructive debates, a general and a specific one, as well as in other Council formations and high-level events. The Presidency strived for synergies between various mechanisms to promote the rule of law and better understanding, which would lead towards more convergent views of the rule of law as a common value that binds us together, and to better respond to challenges in a coherent way. In this, we continued observing criteria of objectivity, transparency and non-discrimination, while ensuring equal treatment for all, in a non-partisan and evidence-based approach.

In Slovenia's view, **further consolidation and development of the EU's toolbox**, from promotion and prevention to response as well as seeking complementarity between individual tools, is not only useful, but also necessary for strengthening the respect for the rule of law in the EU. Building on the practice so far, including a full exercise implemented during our Presidency, there is still some **leeway for the annual report** as a living and evolving process. Not least, by complementing/further structuring the report by formulating the recommendations.

The content and dynamics, including within the dialogue, have shown that this is a living and evolving process, which has been well-consolidated in the past two years. It has also played an important role in expanding and complementing EU's rule of law toolbox, by introducing a constructive dialogue at the Council. Building on positive experience after two

annual reports, a certain stocktaking or a lessons-learned process could be useful also in considering the need, which derives from the practice, for a **possible extension of the scope of the review**. Since the very establishment of a comprehensive RoL monitoring mechanism, including the reporting, the process has developed. Based on its regular exercise, it brought new insights and challenges. Since the rule of law is a comprehensive and complex notion, its scrutiny should be systematic and the reporting thorough, while not limited only to four pillars.

The aim should be to strive towards a comprehensive and credible in-depth analysis, which would take into account a wide(r) spectrum of the rule of law related issues, as well as more functional aspects of the EU law, which can also extend beyond the four pillars – by including issues and their implications, which could potentially inhibit the very core of the rule of law in the EU and its achievements, e. g. four freedoms (the functioning of the single market, free movement of capital, free flow in establishing and providing services, etc.). In addition, while the Council of Europe mentions the rule of law as "one of the three principles which form the basis of all genuine democracy, together with individual freedom and political liberty," and recognises six core substantive elements of (1) legality, including a transparent, accountable and democratic process for enacting law; (2) legal certainty; (3) prohibition of arbitrariness; (4) access to justice before independent and impartial courts, including judicial review of administrative acts; (5) respect for human rights; and (6) non-discrimination and equality before the law. This Rule of Law report, on the other hand, is dedicated to only four pillars, consisting of (1) the justice system, (2) the anti-corruption framework, (3) media pluralism and (4) other institutional issues related to checks and balances. Hence, the context of individual freedom, democracy, respect for human rights and equality before the law are currently lacking from the report sections. In this light, **respect and implementation of the international and EU law** is a very important element of the rule of law as a cross-cutting issue. Equal treatment of all legal and natural persons irrespective of their nationality is inherent to 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. A more detailed oversight of these aspects was provided in the introductory part of Slovenia's input for the first annual RoL report. The review should also encompass the respect and implementation of such commitments, as there are matters in this relation, which have a strong potential to not only **affect other EU policies and objectives**, such as enlargement, but also to erode EU's internal and external credibility.

As the respect for the rule of law is a common responsibility of the Member States as well as of **EU institutions**, the latter **should not be left aside** and we should find possibilities how to **involve them as equal subjects of the rule of law review**. The principle of equal treatment should apply to all, given that the institutions are co-legislators who also implement EU law. This would contribute to the credibility, integrity and comprehensiveness of the state of the rule of law in the EU. In this light, it would be worth considering the possibility to improve the methodology for future annual reports in a suggested way, which would also contribute to solidifying the basis for future recommendations. Most certainly, the Rule of Law should not become just an empty shell for effective enforcement of the EU law by the European Commission, but remain a tool for permitting access to human rights and democracy by the Member States, considering their concrete juridical, historical, political, social and geographical context.

Slovenia has supported the mechanism since its inception, and trusts that future monitoring of the rule of law will continue to be based upon **credible and transparent criteria, reliable and comparable sources**, and representative indicators. At the same time, **understanding relevant circumstances, similarities and differences** between Member States and EU institutions is important and can be learned from each other through dialogue. The report as a valuable tool reminds us that the rule of law is a fundamental value and that its **upholding and protection need constant care and effort**. It also shows that substantial challenges remain for the rule of law in the EU, to which no Member State is immune, and that quite some room remains for further improvement, leaving all Member States with work to do. Its value also lies in **supporting Member States in identifying and addressing challenges as well as launching incentives for reforms** that can contribute to strengthening the rule of law across the Union.

In this light, Slovenia supports the Commission's work and further counts on its close involvement with the Member States throughout the process. While standing ready to **provide subsequent information** we also look forward to **receiving follow-up clarification** on the recommendations in the next phases of drawing up the report. The third annual report will also provide the basis for the country specific debate on the rule of law in Slovenia.

## **FEEDBACK, PROGRESS MADE AND DEVELOPMENTS WITH REGARD TO THE POINTS RAISED IN THE 2021 REPORT**

**In relation to the country chapter for Slovenia of the 2021 Rule of Law Report**, according to the established structure the Commission's questionnaire, follow-up below addresses two separate points regarding the first pillar.

The country chapter states that the State Prosecutorial Council ensures that the state prosecutor's offices implement a uniform prosecution policy. Paragraph one of Article 18 of the State Prosecution Service Act (ZDT-1) stipulates that the State Prosecutorial Council participates in ensuring uniformity of law enforcement while the State Prosecutor General adopts the prosecution policy (Article 145 of the ZDT-1) and provides guidelines for its implementation (Article 65 of the State Prosecutor's Order (DTR)). Its implementation is defined in more detail by the head of the state prosecutor's office by means of the annual work programme (Article 147 of the ZDT-1).

As regards the working group, established by the Ministry of Justice, in reference to the 2<sup>nd</sup> report: due to its composition, the working group addressed a comprehensive scope of identified long-lasting issues - challenges and proposals for improvements to the Slovenian justice system. The working group has come to the agreement on many issues; however, some still have yet to be discussed in order to adopt a Report. The Minister of Justice, appointed 15 June 2021, will continue to hold these discussions in January 2022.

## REPLIES TO THE EUROPEAN COMMISSION'S QUESTIONNAIRE

### I. Justice System

#### A. Independence

##### 1. *Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)*

In supplement to the first and second annual Rule of Law Reports: The Supreme State Prosecutor's Office of the Republic of Slovenia expressed its concern regarding delays when appointing certain state prosecutors by the Government of the Republic of Slovenia. At the moment, 29 procedures are still pending; 21 vacancies for state prosecutors have not been filled yet. As a result, only 203 posts have been occupied at state prosecutor's offices from the total of 236 positions, which are provided in the joint establishment plan. Nevertheless, data shows that despite the smaller number of public prosecutors, actual number of working days of public prosecutors in 2020 was higher than actual number of working days of public prosecutors in 2019. That indicates that the state prosecutorial function in the country is stable and so far there are no problems with staff shortages in individual state prosecutor's offices. In addition, Slovenia is the first among the Member States of the European Union to increase the number of public prosecutors and their staff, as in the period from 2010 to 2018 the number of public prosecutors increased by 27 percent and the number of their staff by 38 percent. The Government also takes into account the findings of the Council of Europe Commission for the Efficiency of Justice 2020. Their findings show that in mature democracies in the north, west, central and south of the European Union<sup>1</sup> the average number of public prosecutors per 100,000 inhabitants is much lower than the Slovenian average of 10.2, as it is only 7.9. On the other hand, in younger democracies<sup>2</sup> the average number of public prosecutors per 100,000 inhabitants is much higher than the Slovenian average, as it is 21.3.

In supplement to the first and second annual Rule of Law Reports: the Supreme Court of the Republic of Slovenia believes that the constitutional arrangement, according to which a repeated vote in the National Assembly is necessary to be appointed a supreme judge, again proved as complicated, because the National Assembly failed to elect two higher judges proposed for the posts of supreme judges by the Judicial Council. However, it is necessary to continue to perform a democratic oversight over the judiciary branch of government, since the justice system should serve the people and should not become an isolated, self-sufficient closed system.

The Constitution of the Republic of Slovenia namely provides that the office of a judge is permanent. However, the Judicial Service Act, adopted in 1994, provides that judges who violated human rights in the performance of their judicial duties under the totalitarian regime (prior to 16 May 1990) cannot be appointed to a permanent judicial office. The

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<sup>1</sup> Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, Poland, Portugal, Slovenia, Spain and Sweden.

<sup>2</sup> Bulgaria, Hungary, Latvia, Lithuania, Slovakia.

Judicial Council, which nominates the judges to be elected for permanent office to the National Assembly and which is composed mainly of judges, has disregarded (ignored) this provision from the very beginning, despite the fact that there is a number of very well-known judgements, other acts and testimonies by participants to the proceedings and other witnesses with evidence that persons who were appointed to a permanent judicial office had committed human rights violations.

Since 1994, several hundred judges suspected of having violated fundamental human rights have been appointed to a permanent judicial office, because the Judicial Council simply ignores these facts in its proceedings. Many of these controversially appointed judges have already retired; however, there are still numerous such appointees at appellate level. Furthermore, more than half of the Supreme Court judges can be filed in this category.

Until Slovenia's accession to the EU, the most high profile, publicly known judges who had violated human rights were not nominated to senior positions in the judiciary. This drastically changed after 2008, when this fact seems to have become a promotion criterion for judges and prosecutors. Thus, the judge who imposed the last death penalty in the former communist Yugoslavia was appointed President of the Supreme Court of the Republic of Slovenia, and the prosecutor who litigated a priest for holding a mass in memory of murdered civilian victims was appointed State Prosecutor General.

The Judicial Service Act states that a person may be elected judge provided they hold a university degree in law, have at least who years' experience of working in the judiciary and have passed the state bar exam. Recently the question of whether these conditions were met has been raised in the public for (at least) one member of the Supreme Court of the Republic of Slovenia. The Supreme Court offered the following explanation to the recurring questions from the press: "Taking into account the statutory election procedure in which eligibility for the judicial post is assessed, the question about the existence of judges' diplomas is redundant. The Supreme Court Judge will file a lawsuit over the written untruths. The compensation received will be donated to charity."<sup>3</sup>

On the subject the Judicial Council issued the following opinion: "In accordance with the regulations on the election of judges and appointments to judicial positions, the Judicial Council is not competent to verify the fulfillment of the formal conditions of candidates for judicial office in the case of selection procedures that have already been finalized. In this context, the Judicial Council is also not competent to assess the credibility and authenticity of the document that proves the level of education (graduation certificate), nor the legal validity of the bar exam certificate submitted by Branko Masleša as a candidate for a judge. Nevertheless, pursuant to Article 2 of the Judicial Council Act (ZSSve), the Judicial Council expects the Supreme Judge Branko Masleša fully clarifies to the public and to the Judicial Council the ambiguities and doubts regarding the validity of graduation certificates and bar exams that appear in the media, as the continuing ambiguities in this regard lead to the damage to the reputation of the judge and the judiciary in public."

## ***2. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)***

In March 2021, the Judicial Council filed with the Constitutional Court a request for a review of the constitutionality of the Courts Act concerning competence of court presidents to remove a judge off their case(s) or reassigning them by means of oral orders. It asserts the lack of legal ground for such practice that may interfere with the independence of judges appointed by law, as well as their independent conduct of proceedings in court, especially after a case had already been assigned.<sup>4</sup>

## ***3. Promotion of Judges and Prosecutors (incl. judicial review)***

## ***4. Allocation of cases in Courts***

The president of the largest court in Slovenia (the Ljubljana District Court) bypassed the court rules and took the criminal file (against the mayor of the Slovenian capital) from one of the judges, while transferring her to a lower court. The president arbitrarily and unlawfully assigned the case file to a judge that was very lenient toward his own son in other proceedings for the offence of armed robbery. The suspended judge appealed. The Judicial Council found that

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<sup>3</sup> This problem is address also under question number 10.

<sup>4</sup> Article: <https://www.sta.si/2877268/predsednik-sodisce-po-mnenju-sodnega-sveta-z-ustnimi-odredbami-ne-more-posegati-v-sojenje-sodnikov>

the president of the court acted unlawfully; however, it neither initiated any proceedings against him nor informed the public of its decision.

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

No supplements.

**6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)**

In supplement to the first and second annual Rule of Law Reports: as per paragraph one of Article 134 of the Constitution of the Republic of Slovenia, the judges are not held criminally liable for the decision ("opinion or vote") expressed during decision-making in court. The exemption from the above rule is the criminal offence of unlawful, biased and unfair trial (abuse of judicial office) as per Article 288 of the Criminal Code (KZ-1). In accordance with the relevant provision, a judge who, in conducting judicial proceedings or handing down a court decision knowingly violates or distorts the law with the intention of causing damage to the party in proceedings or gives them unlawful precedence, or a judge who, with the same intention bases a court decision on facts which he or she is aware do not exist, or are imputed by false or unlawful evidence, may be sentenced to imprisonment for no more than three years. Judges may also be held accountable for other criminal offences stipulated by the KZ-1, if the criminal offence does not refer to the content of decisions expressed during decision-making ("opinion or vote"), e.g. forging of documents (Article 251 of the KZ-1), acceptance of bribes (Article 261 of the KZ-1), embezzlement and unauthorised use of another's property (Article 209 of the KZ-1), etc. For a criminal offence committed in the performance of the judicial office, a judge may only be prosecuted based on the National Assembly's permission. For offences unrelated to the performance of judicial office, permission is not required. If a judge violates the Constitution or seriously breaches the law in performing their judicial office, the National Assembly may dismiss them upon proposal of the Judicial Council as an independent and autonomous body. The National Assembly must dismiss a judge if they commit a criminal offence from Article 288 of the KZ-1 (see Article 132 of the Constitution). Within the framework of immunity of judges as per Article 134 of the Constitution of the Republic of Slovenia, substantive immunity is also known in the Republic of Slovenia, which means that a judge's direct damage liability is excluded from the set of procedural and substantive decisions in a court case (decision of Ljubljana Higher Court, ref. no. II Cp 3736/2007, 1 August 2008).

In relation to disciplinary proceedings against judges, the Supreme Court of the Republic of Slovenia highlights the importance of the Constitutional Court's decision no. U-I-445/18 of 14 October 2021, in which the Constitutional Court established that paragraphs one and two of Article 40 and paragraph two of Article 45 of the Judicial Council Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 23/17) were not compliant with the Constitution. The legal arrangement permitting members of the disciplinary court who are also members of the Judicial Council to participate in disciplinary proceedings concerning a judge's responsibility, even when the proposal to instigate disciplinary proceedings is submitted by the Judicial Council, does not meet the standard of objective impartiality. In the procedure of determining the judge's disciplinary responsibility, constitutional procedural guarantees of fair proceedings must be ensured, safeguarded by Article 22 of the Constitution. Impartial decision-making is a composite part of realising the right to a fair trial. The requirements of constitutional procedural guarantees of an impartial trial, which arise from the constitutional review of paragraph one of Article 23 of the Constitution and which otherwise refer to courts, are the guideline for ensuring guarantees of impartial decision-making for fairness of any procedure in which competent authorities decide on rights, duties or legal benefits. The relevant authority deciding on rights, obligations or legal benefits must make decisions in such a composition that permits no circumstances raising doubt about its impartiality. The Constitutional Court ordered the National Assembly to eliminate the established unconstitutionality within one year. Until the determined unconstitutionality is eliminated, members of the disciplinary court who are also members of the Judicial Council, must not participate in disciplinary proceedings instigated at the proposal of the Judicial Council.

The Ministry of Justice is in the process of preparing amendments to the Judicial Council Act (ZSSve), which was adopted in 2017. With the new Act, the Judicial Council was assigned a more significant role when ensuring the quality of the candidates to be elected in the judicial offices, new powers in the field of judicial administration (also regarding the court network) and the sole competence for taking disciplinary actions against judges. After three years of application of the new ZSSve, an assessment of its effects was prepared, which included an assessment of the achieved objectives set in the reform and its contribution to consolidating the role and position of the Judicial Council. In the

assessment, the distinctly positive aspect of the ZSSve was highlighted, defining the Judicial Council as an important and independent *sui generis* state body with an appropriate position in relation to the role assigned to it by the Constitution of the Republic of Slovenia. However, in the implementation of the statutory provisions of the ZSSve in practice, several questions and dilemmas arose, especially in connection to procedural provisions of disciplinary proceedings against judges. Based on the results of the assessment, the Ministry of Justice is in the process of preparing appropriate amendments to the ZSSve.

#### **7. Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency of the system and access to information**

In supplement to the first and second annual Rule of Law Reports: the Supreme Court of the Republic of Slovenia highlights that the Slovenian Association of Judges filed a new request for review of the constitutionality with the Constitutional Court of the Republic of Slovenia due to the non-compliance of judges' wages with the Constitution (comparability of officials' salaries in all three branches of power), which was determined several times and the inability of a political agreement about the measures to eliminate the established discrepancy.

#### **8. Independence/autonomy of the prosecution service**

In supplement to the first and second annual Rule of Law Reports: As a positive contribution to strengthening the state prosecution position as an independent and autonomous body, the Supreme State Prosecutor's Office of the Republic of Slovenia mentioned the Constitutional Court decision no. U-I-214/19, Up-1011/19 of 8 July 2021, in which the court considered the motion and constitutional complaint of the State Prosecutor General, the Supreme State Prosecutor's Office and the Supreme Court against the provisions of the Parliamentary Inquiries Act (ZPPre) relating to the Act on instigating a parliamentary inquiry to determine political responsibility of holders of public functions who supposedly participated in the preparation and implementation of a political and criminal prosecution against the former mayor of the Municipality of Maribor and member of the National Council of the Republic of Slovenia. This was the Constitutional Court decision by means of which the state prosecution service was defined as a section of the executive branch, which functions autonomously in relation to other executive branch bodies, and independently with regard to the legislative and judicial branches of power. In its decision of 8 July 2021, the Constitutional Court stated that the Constitution ensures independence and autonomy of state prosecutors in paragraph one of Article 135 and sentence two of paragraph two of Article 3 and thus prohibits any political intervention in the performance of state prosecution function in specific cases. The parliamentary inquiry to determine political responsibility of holders of public functions could have an explicitly dissuasive or deterrent effect on state prosecutors, so that they would abandon or withdraw from prosecution in similar cases in the future and that would seriously jeopardise the functioning of the rule of law. As stated by the Constitutional Court, the independence and autonomy of state prosecutors are crucial for the functioning of the rule of law, protection of human rights, and independent, impartial and fair trial. State prosecutors are thus not part of the executive branch of power, who could be subjected to political supervision and accountability. The establishment of the state prosecutors' political accountability (and also that of supreme state prosecutors and the State Prosecutor General) with regard to their conduct when performing state prosecution function within the framework of parliamentary inquiry is thus non-compliant with the constitutionally ensured independence of state prosecutors. The Constitutional Court thus repealed the Act on instigating a parliamentary inquiry to determine political responsibility of holders of public functions and simultaneously determined that the Parliamentary Inquiries Act and the Rules of Procedure on Parliamentary Inquiries are non-compliant with the Constitution.

The decision follows the Constitutional Court decision of 7 January 2021 relating to the exclusion of judiciary and judges from parliamentary inquiries, included in the input for the second Rule of Law report. In a separate opinion, one of the justices referred to his previously stated concerns regarding the majority reasoning (5-2), according to which not even a suspicion of wilful violation of the law, constituting abuse of the prosecutorial function, may justify the prosecutors (or judges) being subjected to a parliamentary inquiry.<sup>5</sup> He argued that, however important, the concept of prosecutorial independence does not go as far as to prevent altogether a systematic or deliberate abuse of prosecutorial function from being investigated by parliamentary inquiries which are a regular and integral part of checks and balances within the separation of powers in established democratic societies.<sup>6</sup>

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<sup>5</sup> Constitutional Court decision no. U-I-214/19, Up-1011/19 of 8 July 2021, para. 108. Available at: <https://www.us-rs.si/wp-content/uploads/2021/08/U-I-214-19-Odlocba.pdf>

<sup>6</sup> Partially consenting, partially dissenting separate opinion to the above decision: <https://www.us-rs.si/wp-content/uploads/2021/08/U-I-214-19-Up-1011-19-Delno-prireditilno-delno-odklonilno-loceno-mnenje-Dr.-Dr.-Jaklic-Oxford-ZK-Harvard-ZDA.pdf>

The Constitutional Court ordered the National Assembly to eliminate the established unconstitutionality within one year after the publication of the decision in the Official Gazette of the Republic of Slovenia. The court maintains that the legislator has to protect state prosecutors' independence in the procedure of ordering a parliamentary inquiry, which is why the unconstitutionality in the legal void was determined, which endangers the constitutionally ensured independence of state prosecutors. As a result, the Constitutional Court also determined the method of executing the decision until the elimination of the determined unconstitutionality.

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

No supplements.

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

In supplement to the first and second annual Rule of Law Reports: The Supreme Court of the Republic of Slovenia reports that the survey of the Supreme Court on public satisfaction with the operations of courts was carried out again at the end of 2021 (the results will be published in 2022). Preliminary findings show that trust in the Slovenian judiciary has substantially increased among the general public (from 4.8 in 2019 (and 4.2 in 2015) to 5.8 from a total of 10 in 2021). The survey is being conducted systematically and continually (every two years); the next survey is scheduled for the end of 2023. Nevertheless, the overall public trust into the independence of courts and judges remains well below the EU and OECD average. In 2021, it was rated positive (very good or fairly good) by only 47 % of the population and is the 8<sup>th</sup> worst among EU Member States.<sup>7</sup>

Concerning two cases included in the response for the second Rule of Law report regarding disciplinary proceedings against judges, there has been some new development in 2021. In August, the first mentioned district court judge, after having been suspended from his function for a year, resigned from judicial office. The indictments filed against him by the State Prosecution became final in October, pending trial. In November, he appeared in a television talk show where he criticised several systemic elements of the judiciary and the prosecution. The case of the second district court judge, who had been disciplinarily reassigned to another court, resulted in the request of the Judicial Council for a review filed before the Constitutional Court, as mentioned in the answer to question number 6 above.

According to the Constitutional Court, the right to a public trial (Article 24 of the Constitution), which is an integral part of the right to a fair trial and at the same time an instrument of democratic public scrutiny of the courts, implies that trial and sentencing can be the subject of public debate and criticism. Public debate and criticism (including on concrete court decisions) do not threaten the independence of judges, but only enable it. Nevertheless, we have insufficient mechanisms in place for guaranteeing public hearings and public judgments. That is why we are unable to ensure everybody the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. There are two main indicators showing that the most basic problem with the judiciary in Slovenia remain unsolved. First is the trust of the people into our judiciary system, which is one of the lowest in the EU. Second is a number of judiciary per capita cases at the ECJ. Slovenia ranked the first among all Council of Europe member regarding lost cases.

The Judicial Council thus assessed in December as inappropriate an online communication by the Supreme Court<sup>8</sup> regarding media inquiries on the allegedly questionable law degree of its judge and former president. In its communication, the Supreme Court announced that the respective judge would file a lawsuit and earmark the awarded damages for humanitarian purposes.<sup>9</sup> The message drew public criticism for seemingly prejudicing a future trial outcome, as well as in SLAPP context.<sup>10</sup> The President of the Supreme Court dismissed the Judicial Council's assessment as unfounded, stating that the message merely summarised a reply by the judge, whose law degree could

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<sup>7</sup> Flash Eurobarometer 489: Perceived independence of the national justice systems in the EU among the general public, available at [https://data.europa.eu/data/datasets/s2272\\_489\\_eng?locale=en](https://data.europa.eu/data/datasets/s2272_489_eng?locale=en)

<sup>8</sup> Article: <https://www.sta.si/2979520/sodni-svet-komunikacija-vrhovnega-sodisca-na-twitterju-glede-maslese-neprimerna>

<sup>9</sup> <https://twitter.com/vrhovno/status/1467876700805648385> "Taking into account the statutory election procedure in which eligibility for the judicial post is assessed, the question about the existence of judges' diplomas is redundant. The Supreme Court Judge will file a lawsuit over the written untruths. The compensation received will be donated to charity."

<sup>10</sup> <https://twitter.com/NewsEchr/status/1468267175727316996>

only be disclosed after the latter's consent, due to the confidentiality of such information.<sup>11</sup> A Supreme Court judge and former Constitutional Court justice openly disapproved of the communication in the mentioned, and a separate case.<sup>12</sup> Ten days after the first article was published concerning the initially mentioned judge, both his law degree and graduation certificate were disclosed in the media.<sup>13</sup> Also among the documents disclosed was a verified attestation of the judge in question having passed the bar exam in another republic of the former federation.<sup>14</sup> Some media have continued to dispute the authenticity of the documents due to supposed inconsistencies.<sup>15</sup> The Supreme Court judge who is due to retire in 2022 has responded to the allegations in an interview, denoting them as personal disqualifications aimed at intimidation.<sup>16</sup>

In addition this latest scandal with the Supreme Court judge, since 2008 Slovenian judiciary has been rocked by huge scandals on a yearly basis. During 2009 and 2010, more than one billion (1) euros were laundered by the biggest Slovenian state-owned bank (NLB) for a foreign regime (Iran) and its terrorist branches under international (EU, UN) sanctions while – after more than ten years – the perpetrators remain unindicated. Despite the fact that plenty of evidence about the biggest single act of organised international crime in our history is provided by foreign investigations and through the work of the Slovenian parliamentary inquiry committee. In 2014, an opposition leader whose party is projected to win the elections is sentenced and sent to prison three weeks before the elections under a false indictment, which was fully annulled by the constitutional court a year later, when both a general and local elections were over. In 2015, on the basis of the court order, police unlawfully raided the headquarters of the main opposition party, trying to confiscate its server under the pretext that did not exist. The case was dropped immediately after the unlawful court order was made public. There are serious challenges to judicial independence and impartiality as seen in a number of attempts to silence and remove whistle-blowers among judges and prosecutors (Radonjić, Testen, Kotnik, etc.).

Regarding perception of the independent authorities by the general public, the President of the Court of Audit no longer performs paid supervisory functions mentioned in last year's input, as his term in the international sports foundation was not renewed in June. However, his appearance among the speakers at a December conference<sup>17</sup>, organised by a civil initiative projected to become an important political platform for the upcoming elections<sup>18</sup>, gave rise to doubts regarding his impartiality in view of the rules on integrity and conflict of interests. As well in December, the Court of Audit announced an audit of the Financial Administration's operation for the years 2020 and 2021.<sup>19</sup> In January 2022, the Director-General of the Financial Administration informed on television that they proposed to the Court of Audit an extension of the audit period, claiming major irregularities occurred prior to COVID-19 years. He added that the recent public appearances of the President of the Court of Audit precluded his neutrality and constituted a conflict of interests.<sup>20</sup>

## B. Quality of justice

### 11. Accessibility of courts (e.g. court/legal fees, legal aid, language)

In supplement to the first and second annual Rule of Law Reports: On 17 December 2021, the National Assembly adopted the Act Amending the Court Fees Act (ZST-1D), published in the Official Gazette of the Republic of Slovenia

<sup>11</sup> Article: <https://siol.net/novice/slovenija/predsednik-vrhovnega-sodisca-diploma-branka-maslese-je-zaupne-narave-568904>

<sup>12</sup> Article: <https://siol.net/novice/slovenija/vrhovni-sodnik-jan-zobec-tukaj-je-slo-tako-dalec-kot-se-nikoli-568376>

<sup>13</sup> Article: <https://www.rtvlo.si/slovenija/o-domnevno-sporni-diplomi-branka-maslese-bo-razpravljaj-tudi-sodni-svet/605007>

<sup>14</sup> In the former federation, the legislation of one federal entity did not directly apply in another. Prior to the introduction of permanent term for Slovenian judges (1994), judicial nominations had to be renewed periodically. According to established Supreme Court practice, there is no ground in Slovenian legislation for recognizing a bar exam passed in another republic of the former federation to fulfil the condition set for judicial appointments in Article 15 of the Court Services Act (Official Gazette of the Republic of Slovenia, no. 94/07, with subsequent changes and amendments) in relation to Article 34 of the State Legal Exam Act (Official Gazette of the Republic of Slovenia, no. 83/03, with subsequent changes and amendments). See Supreme Court decisions no. I Up 239/2017 of 17 October 2017 and no. I Up 116/2020 of 19 November 2020.

<sup>15</sup> Article: <https://pozareport.si/7dni/post/615396/sodni-izvedenec-diploma-branka-maslese-napisana-z-word-procesorjem-ki-leta-1975-se-ni-obstajal>

<sup>16</sup> Article: <https://www.dnevnik.si/1042978869>

<sup>17</sup> Article: <https://www.rtvlo.si/slovenija/robert-golob-se-je-cas-za-pot-v-normalo-cesar-si-zelijo-tudi-ljudje/605311>

<sup>18</sup> The leading figure of the initiative, registered according to the Societies Act, is the acting President of the Management Board of a SOE whose term was not extended in November and who has since been ranking high in public opinion polls as to the 2022 parliamentary elections. As per previous Rule of Law report input, the Court of Audit is competent for overseeing the financing of political parties, as well as auditing SOEs. Following unsuccessful attempts to elect a new President of the Management Board, the decision currently rests with the competent court that is due to pass a decision at the end of January 2022.

<sup>19</sup> <https://www.rs-rs.si/revizije-in-revidiranje/ahiv-revizija/ucinkovitost-poslovanja-furs-v-letih-2020-in-2021-v-delih-ki-se-nanasajo-na-izvajanje-financnih-na/>

<sup>20</sup> <https://siol.net/novice/slovenija/simic-o-veselu-na-njegove-nastope-ne-mores-bit-nevtralen-video-569973>



no. 204/21. By amending the Court Fees Act, the provisions of the Act are being harmonised with the Constitutional Court decision relating to court fees. The court fees are thus adjusted to the amendments in the applicable legislation, which came into force in the period as of 2016 onwards, particularly in family matters proceedings. Certain deficiencies of the applicable Act are being eliminated, especially those regarding fee exemptions, and lawyers' access to file documents in cases where defence is conducted *ex officio* are being improved (from the viewpoint of court fees). Also, in case when the application for initiating the procedure will be submitted in electronic form, court fee will be 20% lower than in the case of filing an application in paper form. Access to justice has also been improved as regards court fees. There are new court tax free exemptions for workers and insured persons as plaintiffs in proceedings on individual labour disputes and social disputes and for the plaintiff in proceedings under the Collective Actions Act. Furthermore, in the proceedings for which free legal aid has been granted, it is automatically assigned that court tax is not required.

## **12. Resources of the judiciary (human/financial/material)**

In supplement to the first and second annual Rule of Law Reports: In 2021, the Ministry of Justice continued its efforts to improve conditions for the justice authorities: namely, two larger estates were acquired thus enabling 1.500 m<sup>2</sup> more working space, and various activities for new premises for many courts are in progress (i.e based on the spatial and programme verification of the location of Bežigranski dvor, a competition procedure has been underway, which will serve as the basis for completing the project engineering contract), the Ministry also rented a large court hall for Ljubljana District Court, which enables the implementation of large-scale hearings during the COVID-19 pandemic. In addition, the Ministry also started to acquire a location for a new Central digital distribution centre. In 2021, the Government has dedicated € 5.1 million to investment maintenance, premises and vehicle purchase and technical security systems for the justice authorities, which is more than 50% more funds than in 2020. In 2021, the Ministry also hired a large court hall for Ljubljana District Court, which enables the implementation of large-scale hearings during COVID-19.

With the project of collecting data on the accessibility of judicial bodies' facilities in Slovenia for people with reduced mobility, which began in 2019 and 2020 on the basis of a target and research programme and which will end in 2022 on the basis of a regular programme of the national land survey service, the Ministry of Justice reached an important milestone in 2021 regarding the collection of data necessary for planning access for people with reduced mobility. The relevant data will be useful for the Ministry of Justice, which manages the buildings of judicial authorities, when planning further investments and to the judicial authorities, which will enable access to the buildings in which they work by means of minor maintenance works and organisational measures for all people irrespective of their possible functional disabilities. The project will thus contribute significantly to the enhancement of the rule of law because it will promote equality for all when accessing judicial authorities.

As part of the *Effective Justice project* carried out with the resources from the European Social Fund and within the framework of measures drafted by the Supreme Court of the Republic of Slovenia, the Constitutional Court of the Republic of Slovenia, the Supreme State Prosecutor's Office, the State Attorney's Office and the Ministry of Justice in the framework of the Recovery and Resilience Plan, improved access and adjustment of the judiciary to the modern methods of operations are being provided, also by way of an enhanced focus on an individual. Urgent further digitalisation of services is encouraged, which will contribute to the accelerated discussion of cases, prompt and comprehensive exchange of information and documents, the use of safe and high-quality communication technology for video conferencing and an easy access to the judiciary for everyone entering the judicial system (citizens, companies and vulnerable individuals).

In February 2021, the Supreme Court of the Republic of Slovenia on the legal basis provided by the Ministry of Justice successfully completed the *eDražbe* project. All sales carried out during court proceedings are published on the <https://sodnedrazbe.si/> website. Interested users may participate in electronic auctioning, which is completely anonymous. The following major projects commenced in 2021: establishment of e-commerce in the *i-K* system; construction of the *e-Koledar* information system; development of the *e-Spis* information system; optimisation of processes for keeping records by acts; the second phase of upgrading the *e-Notarji* information system; development of new prosecution registers; development of the new Central Criminal Record information system and the purchase of video-conferencing equipment for large and medium-sized courtrooms and the Children's House.

The Supreme State Prosecutor's Office of the Republic of Slovenia will submit the requested data at a later time since the budget year 2021 is in the closing phase. The financial data for 2021 will be forwarded at the beginning of 2022.

The Supreme Court of the Republic of Slovenia submitted the following data. The budget adopted for 2022 for all courts in the Republic of Slovenia amounts to € 198.9 million and is lower by € 0.6 million from the budget adopted for 2021, while it is € 7.9 million higher than the estimated realisation for 2021. Due to various restrictions related to the COVID-19 epidemic, the 2021 realisation at courts was lower than it would have been otherwise. In 2021, less funds were spent for the costs of court proceedings (including logistics services), free legal aid, and the EU and Slovenian participation funds. Lower expenditure was recorded in bankruptcy proceedings and free legal aid relating to the budget adopted for 2021 due to various governmental anti-COVID-19 measures.

On 18 November 2021, the National Assembly of the Republic of Slovenia supported the governmental proposal to amend the 2022 budget, where the initially allocated funds for the work of courts stayed the same. On 18 November 2021, the National Assembly of the Republic of Slovenia also supported the government proposal of the 2023 budget, which allocates € 203.4 million to all courts in the Republic of Slovenia, which is an increase of judicial budget in comparison to judicial budget for 2021 and 2022 (i.e. € 4.5 million increase - 2,2% increase from the 2022).

At the end of 2021, a working group consisting of representatives of Judicial Employees' Union, Supreme Court of the Republic of Slovenia, Ministry of Justice and Ministry of Public Administration prepared a draft White paper on the renewal of the career development of civil servants in the judiciary with the aim to: eliminate the differences in the systematization of civil servants' positions in the courts, introduce transparent and uniform procedures for the career development of civil servants in the judiciary and provide objective criteria for career advancement, ensure adequate and equal pay for equal work within the judiciary and adequate and equal pay as for work in comparable jobs and titles in the public sector.

### **13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)**

In supplement to the first and second annual Rule of Law Reports: Training of judges in the Republic of Slovenia is very important. However, it should not overshadow the importance of actual judicial experiences that a particular Appellate or Supreme Court judge must acquire before their promotion. Although practical legal experience gained in courts should come before pure theoretical knowledge, there were some recent sidesteps from this practice by the Judicial Council that proposed candidates for the Supreme Court without a single day of experience in the courtroom.

Education of judicial employees, which was almost completely suspended due to the pandemic restrictions, is now being implemented remotely with new adjustments.

In 2021, the Judicial Training Centre operating within the Ministry of Justice carried out the majority of educational events, which were anticipated in the 2021 Work Programme of the Judicial Training Centre. Due to the restrictions related to the health situation, all events that were methodologically suitable to be carried out remotely were actually implemented in such a way. Certain minor events were conducted in a classic format, i.e. in person, in periods when the health situation permitted gatherings in small groups. If compared to 2020, when suitable technical equipment for the implementation of remote events was provided to the Judicial Training Centre only in the second half of the year, the Centre carried out the work programme continuously in 2021 since it no longer experienced problems with technical equipment (see reply to question no.13 of 2021 questionnaire for the 2021 Rule of Law Report). Suitable technical equipment of the Centre's certain target groups for remote attendance at educational events remains a challenge which aggravates the implementation of minor remote events where active participation of the attendees is required.

Furthermore, the Supreme Court of the Republic of Slovenia noted that education and training courses are also carried out within their project called *Improving the Quality of Justice*. Judgecraft (education of mentor judges) was implemented, so that the newly appointed judges have the opportunity to be mentored by their more experienced peers and various specialist materials (e.g. Handbook on civil procedure, Handbook on criminal procedure, Handbook for new judges, Handbook for writing a quality civil decision (published in August 2021 and which recorded 855 downloads until 20 December 2021) are published on the Ministry of Justice Intranet. Workshops on judicial skills with the application of supervision techniques were also carried out 2021 (in addition to years 2018 and 2019). A curriculum of training for court staff has already been confirmed and is being carried out. Training for on-the-job training providers was implemented. By the end of 2021, 55 training courses were completed, and some are still underway. A handbook for public employees was published. Online training for public employees has been organised and is being carried out.

#### **14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems during the COVID-19 pandemic)**

In supplement to the first and second annual Rule of Law Reports: Following the adoption of the amendments to Criminal Procedure Act (ZKP) in 2019 and 2020 and the adoption of the Rules on electronic operations in civil procedures and in criminal procedure in 2020, the Ministry of Justice established a working group in 2021 to support and coordinate the implementation of electronic operations in criminal matters in practice and to optimise the criminal case file. Several necessary adjustments in the current operations and communication between police, prosecution service and courts have been identified. Also, the court rules have been amended accordingly. The practical aspects identified were also relevant for the ongoing projects for adjustment of IT infrastructure and applications in the Prosecution service and by the Supreme court (as described below). The Ministry of Justice has worked closely with the national Chamber of Notaries, drafting an amendment to the Notaries Act that will allow for notary work, in certain cases, to be conducted remotely (via video-conference), using a secure link and by comprehensively verifying the identities of all the parties, as well as for notaries to issue notary acts in appropriately digitally signed electronic form.

The Ministry of Justice is also in the process of preparing amendments to reform Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act. Insolvency procedures are already fully digitalized; however, the reform also introduces a possibility of e-auctions in insolvency procedures as well and provides legal basis for a unified e-public register of all the sales in the insolvency procedure. Proposed changes are aimed to raise the recovery rate in the bankruptcy procedures. The reform is also ensuring a legal basis for audio-video conferencing in court hearings in the insolvency procedures.

The Supreme State Prosecutor's Office of the Republic of Slovenia determined that more funds will have to be earmarked for international cooperation<sup>21</sup>. Additional equipment was purchased in 2021, which enables prosecutors and other employees to participate in video conferences and attend remote meetings. The funds for financing the computerisation of the public prosecution service are provided by the Ministry of Justice.

Regarding the challenges or digitalisation development, it was explained that the prosecution service established an electronic communication channel with the Police in 2017, through which it receives data from the Police on criminal complaints in the *e-format*. In 2021, the data transfer with the Police was up-graded in a way that now allows (in addition to *e-complaints*) the electronic transmission of attachments to *e-complaints*. In 2020, the prosecution service also established an electronic communication channel with the court, which is limited to requests for the protection of legality. These solutions are to be extended to electronic operations between prosecution and courts in all criminal cases by the end of 2023. Since August 2021, the project of constructing new prosecution registers has been underway, which encompasses application support for case management and a portal for clients, which will constitute a modern electronic communication route, which will enable the clients to carry out all procedural actions that do not require their direct physical presence in accordance with the law. The completion of this project is planned in 2023.

In relation to assessment tools, statistics are being used in particular, which are prescribed for the prosecution service by means of the Rules governing the form and content<sup>22</sup>. In addition to the request for regulatory reporting, the state prosecution service has been publishing current statistical data on the work of the state prosecutor's office on its website since 2020, thus contributing to the transparency of its operations.

The Supreme Court of the Republic of Slovenia has supplemented a section of the 2021 response to question no.14 with regard to the developments in the past year, as follows: A specialised web page *e-Sodstvo* (eCourts) enables electronic communication in enforcement of civil cases (*eIzvršba*), land registry cases (*eZK*), insolvency cases (*eINS*) and in family matters between courts and social work centres. In this respect, the Ministry of Justice added: On the basis of a newly adopted Non-Contentious Civil Procedure Act in 2019 the Minister of Justice on the 1st of March issued an Order on fulfilment of technical conditions for e-commerce between district courts and social work centres in proceedings regulating civil statues and family relations. Therefore, from March 2022 all the communication between social work centres and district courts in cases concerning family affairs and relations is in e-form – electronic.

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<sup>21</sup> Funds will have to be ensured and particularly tools to enable safe, prompt and efficient electronic cross-border cooperation. The prosecution service is thus making every effort and is in the process of establishing the *e-Dokazi* portal, which the European Commission is developing under the name of *eEDES*.

<sup>22</sup> <https://www.drzavnotoziiskisvet.si/files/Akti/Merila%20za%20uspesnost%20pregona%20drzavnih%20tozilstev.pdf>

Civil enforcement on the basis of an authentic document is a digitalised procedure where claims can be filed online with the support of a specific legislative framework, without the need for simultaneous submission of cases in paper form and integrated to the case management system (CMS). (In 2021, 99.90% of those claims were filed electronically; with no limit to the value of the disputed amount in these cases).

The possibility to electronically submit various documents is provided to enforcement agents (as well as to all 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 law prescribes that certain types of documents must be submitted to court by a notary, attorneys, administrators in bankruptcy proceedings and social work centres in electronic form only (i.e. in the land registry, insolvency cases, court registry cases, family matters for social work centres). In criminal, administrative and civil and commercial litigious cases, efforts are under way to upgrade the computerised CMS to allow electronic communication (see below – *eVa*). This is foreseen for the end of 2022. In order to facilitate transition to the holistic electronic operation(s) in administrative, civil and commercial matters, the *PUND* information system was updated and the *eVa* application developed. The transition to e-operation for all courts and participants in judicial proceedings in the following matters is planned for the end of 2022. E-operation between courts and prosecutor's offices is planned for the end of 2022.

A rise in the implementation of procedural actions via video-conferencing was significant in the judiciary in 2020, particularly as a response to the occurrence of the COVID-19 epidemic. In spring, a significant increase was recorded in criminal proceedings in which detainees and prisoners were heard. In the second half of the year, there was also an increase in civil proceedings (hearing of parties to proceedings or carrying out of hearings in commercial litigations, urgent non-contentious hearings). To this end, the judiciary and the Ministry of Justice cooperated intensively to supply additional video-conferencing equipment and succeeded in tripling capacities in 2020, and then further doubling them in 2021, with additional and sizable investments in both video-conferencing and audio-recording infrastructure being planned for 2022. The Ministry of Justice also revised and extended the legal basis for the use of video-conferencing in criminal cases and is working on a similar solution for civil cases. In conclusion, video-conferencing played a crucial role in the ongoing management of urgent proceedings. As a response to the COVID-19 epidemic, the Supreme Court promoted and implemented (in collaboration with the Ministry of Public Administration) tele-working and enabled work from home for about 3.000 (some 75%) court employees. In addition, necessary IT equipment (notebooks, desktops) was provided for judges and court personnel.

As part of the EU funded a project *Effective Justice* in 2021, the Supreme Court as the beneficiary further pursued the development of the *Archeia* (previously *eHramba*) information system. The system was connected to the court administration record in 2021. This enables a centralised, long-term storage of digital content (e.g. electronic documents) received or generated by the judiciary in a uniform and legally compliant manner; the material in the electronic form will be retained in accordance with determined archiving deadlines, while controlled selection, serving, exclusion and destruction of documents is supported in compliance with regulations. The new *Archeia* system is also in the process of certification by the Archives of the Republic of Slovenia. In the development of new functionalities of the *PUND* information system, which supports court operations in civil proceedings and has been in use since February 2021, a new horizontal solution was introduced – the *eVa* application for a uniform validation of incoming mail, and as such, it is planned to be used by other information systems of the judiciary. Through the *eVa* application, incoming mail will be directed to the target register of an individual information system. As a horizontal solution, the *eVa* application enables the processing of the entirety of incoming mail at the level of court districts, management of certain proceedings of several courts or districts and optimisation of court applications management at all specialised courts with regard to staffing, spatial and other organisational resources. The use of *eVa* in civil matters by all courts is planned for 2022.

Due to the legally prescribed mandatory electronic operations in family law matters between courts and social work centres, a new subportal within the *eSodstvo* portal was launched in 2020 through which social work centres may submit electronic applications in family law matters as of February 2021. The development of new functionalities of the system were finalised in 2021 and the upgraded application will be installed to the production for criminal matters obligations. New functionalities of the *eObveznosti* information system will contribute significantly to improved financial operations of the courts. The data warehouse and the system for business intelligence ensure official reporting to competent institutions and enable the management of courts from monitoring court operations to in-depth analyses and research

whose results serve as the basis or information for adopting management, business and strategic decisions at all levels of the Slovenian judiciary. Within the project *Effective Justice*, the data warehouse is expanded with additional data and new content based exclusively on data from external source records. The quality of data in the data warehouse is improved and the system for business intelligence is being upgraded in accordance with innovations in information systems for managing court cases, additional content and court performance indicators. The *eDražbe* (eAuctions) application was put into production in February. New functionalities of, inter alia, *e-ZK* and *e-Suupdating* of the system for business intelligence have been developed in 2021. Furthermore, the electronic case file viewer (*eSpis*) was developed pending production in civil cases by the end of Q1 2022.

Working drafts of law proposals in the light of the judicial legislation reform also include new provisions on the publication of judgements, especially first instance judgments. Drafts provide that Supreme Court should publish all Supreme Court and higher court judgements. Due to the concerns of the Supreme Court about the reasonableness of non-selective publication of "all" first instance decisions the Ministry of Justice proposed special criteria. Criteria focus on publication of those final judgments of the courts of the first instance which are important for strengthening legal certainty and ensuring uniform case law, and which have ruled on the main proceedings, except for those in which the public has been partially or completely excluded from court proceedings or if the adjudicating judge or the panel so decides for certain reasons. The Supreme Court publishes court decisions in a machine-readable form. More detailed criteria for the publication of final court decisions and technical conditions for machine readability shall be determined by the President of the Supreme Court. Published court decisions should be pseudonymized by deleting a number of personal data, listed in the article. Every individual has the right to request from the President of the Supreme Court or from the Supreme judge authorized by him the deletion or correction of the publication of a court decision. There will also be possibility to keep and process a collection of unprocessed case law of courts of all levels and other material used in the decision-making and trial proceedings.

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

No supplements.

**16. Geographical distribution and the number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases**

In supplement to the first and second annual Rule of Law Reports: The reform of judicial legislation is in the final phase of preparation. The Ministry of Justice prepared working drafts of law proposals which are currently in the phase of preliminary expert harmonisation with judicial stakeholders. Its purpose is to improve operations and efficiency of courts, including judicial and court staff, in a way to introduce a single first instance judge (with the obligation that the current local judges start working on more challenging cases, which are currently under the jurisdiction of district courts) and establish a court district as a basic organisational unit of courts, introduce the post of a novice judge with an annual assessment and monitoring by a judge/counsellor (so-called mentoring), reform the procedure of assessment and promotion of judges (changes regarding faster and exceptional promotion to a higher judicial title at the same judicial post). To increase efficiency, the provisions on disciplinary violations and sanctions are amended, the observance of time standards is enhanced in the sense of their ongoing improvement, judicial decisions at all instances are published online so that clients can monitor phases of proceedings, changes are also necessary in the organisation of trials in more challenging cases of organised and economic crime, terrorism, corruption and other similar criminal offences.

**C. Efficiency of the justice system**

**17. Length of proceedings**

In supplement to the first and second annual Rule of Law Reports: According to the data from the Supreme Court of the Republic of Slovenia, the average duration of judicial proceedings for first 11 months of 2021 remains the same as in 2020 (8,0 months for more important cases and 1,1 month for other cases). Throughout the first 11 months of 2021, courts received 5,9 % more cases and they resolved 7,4% more cases than in the same period of 2020. The number of unresolved cases decreased by 10,1% in first 11 months of 2021 when compared to 2020.

The Supreme State Prosecutor's Office of the Republic of Slovenia reports that while an epidemic was not declared in 2021, COVID-19 affected the efficient implementation of competences, tasks and powers of state prosecutors. Irrespective of all the problems linked to the pandemic, the statistical data reveal that there are fewer unresolved complaints than at the end of 2020. The degree of managing caseload is above 100%, which means that state prosecutors resolved a higher number of cases in 2021 than was the number of new ones, which were received; however, this required them to work outside business hours. Relating to the duration of proceedings, the Supreme State Prosecutor's Office also highlights that, by adoption of the Decree amending the Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 28/2021 of 25 February 2021) on 13 March 2021, the formality of instructions or the state prosecutor's obligation was enforced in Article 12 of the Decree, stating that an official written note must be drafted within 48 hours and submitted to the police force if a police officer requires written instructions and proposals irrespective of the complexity of the case. The Decree also stipulates that the state prosecutor commences steering the work of the Police in the pre-trial investigation from the moment they provide written guidelines in a specific case.

The Ministry of Justice introduced the changes mentioned in previous paragraph in close cooperation with the Ministry of the Interior to assure timely reactions and cooperation between the Police and prosecutor, including by written traceability of such cooperation. The impact of the changes to the Decree is to be evaluated in due time.

## **II. Anti-corruption framework**

### **A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)**

#### **18. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).**

The Commission for the Prevention of Corruption (hereinafter: CPC) refers to the institutions in the fight against corruption that were listed in the answers for the previous years.

The allocated budget of the CPC for the year 2022 is € 2,345,382<sup>23</sup>. As of December 2021, the CPC has 41 employees (Chief Commissioner, 2 Deputy Commissioners and 38 public servants). The general restrictions on public spending, mentioned in 2021 report, were lifted, enabling the CPC to initiate recruitment proceedings for new employees in the second half of 2021 (proceedings are near completion). The plan is to employ five more employees which would increase the total amount of employees to 52.

Based on the amendment of the Integrity and Prevention of Corruption Act (IPCA) from November 2020, the CPC adopted the Rules of Procedure of the CPC<sup>24</sup> and the Ministry of Justice prepared the Rules on restrictions and duties of officials in regard to the acceptance of gifts<sup>25</sup>.

In 2021, Slovenia was peer-reviewed in the Phase 4 Evaluation of the OECD Working Group on Bribery in International Business Transactions (OECD WGB), which is responsible for monitoring the implementation and enforcement of the OECD Anti-Bribery Convention. The Phase 4 Report on Slovenia was published in March 2021<sup>26</sup>.

The amended Organisation and Work of the Police Act (ZODPol-G, Official Gazette of the RS, no. 172/21) prescribes a catalogue of criminal offences which the National Bureau of Investigation (hereinafter NPU), specialized unit for detection and investigation of serious criminal offences, especially corruption and economic, financial and organized crime must investigate. In the past years, NPU was a target of criticism because of "selection" of cases. The critics

<sup>23</sup> [https://www.gov.si/assets/ministrstva/MF/Proracun-direktorat/Drzavni-proracun/Sprejeti-proracun/Sprejeti-2023/izpisi-2023/SP2023\\_POS.pdf](https://www.gov.si/assets/ministrstva/MF/Proracun-direktorat/Drzavni-proracun/Sprejeti-proracun/Sprejeti-2023/izpisi-2023/SP2023_POS.pdf)

<sup>24</sup> <https://www.kpk-rs.si/kpk/wp-content/uploads/2021/10/Poslovnik-Komisije.pdf>

<sup>25</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV14250>

<sup>26</sup> <https://www.oecd.org/daf/anti-bribery/slovenia-phase-4-report-en.pdf>

stated that NPU referred certain investigations to criminal police divisions of police directorates, since the autonomy of the director of the NPU regarding the selection of the cases, which NPU would investigate, allowed this. In December, the Constitutional Court suspended the application of some of the amendments mentioned.<sup>27</sup>

The NPU and Specialised State Prosecutor's Office of the Republic of Slovenia (hereinafter SDT), have successfully conducted investigation of the Slovenian cell of the notorious and brutal Kavač Clan which deals with drug trafficking. In media, there were insinuations that information leakage from NPU enabled escape of some members of the criminal group. The criminal police arrested an administrative worker of the Specialised State Prosecutor's Office due to her ties to the Kavač Clan and disclosure of confidential information, refuting the accusations of the corruption within NPU.

**19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption**

Regarding safeguards for its functional independence, the CPC refers to the information provided in last year's answers.

**20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators**

In partnership with the Ministry of Public Administration, the Ministry of Justice and other stakeholders, the CPC started the procedure to renew the Resolution on the Prevention of Corruption, which was adopted by the National Assembly in 2004 and needs to be amended according to modern standards. The project is in its early stages and in-depth activities are planned for 2022.

**B. Prevention**

**21. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application**

Considering the changes to the questionnaire, the contribution to the first and second annual Rule of Law reports is supplemented with the following clarifications and data, as well as general references on the topics of integrity, incompatibility, revolving doors and codes of conduct.

**Asset declaration:** In 2020, the CPC received 4,912 asset declarations. It completed 16 supervisions (individual and group), in which it discussed 923 natural persons and issued six warnings. Comprehensive data for 2021 is not available yet, although the CPC instigated four minor offence proceedings and issued three warnings before November.

**Incompatibility of functions:** In 2020, the CPC discussed 27 violations relating to the incompatibility of functions. Ten officials informed the CPC in 2020 that in addition to their function they were also carrying out other activities. In three cases, the CPC assessed the incompatibility of functions due to probability that, considering the actual scope and content of the activity carried out additionally by the official, this could have represented a disproportionate risk for objective and impartial implementation of the function or could threaten the integrity of the official. The CPC also considered two applications from career officials who asked to carry out commercial activities in addition to their regular function. In both cases, the CPC issued permission with certain restrictions. These cases have received an in-depth attention of the CPC, although they have not amounted to wide media publicity, did not involve large amounts of additional financial gain and did not raise the question whether the incompatibility of functions undermines the mere independence of the official's office. On the other hand, the CPC acted surprisingly formalistic in one case, which did raise wide public attention, because the additional financial gains of the President of the Audit Court of the Republic of Slovenia five times exceeded his financial gain from holding an office, thus undermining the independence of the Audit Court itself. However, the CPC found that the President of the Audit Court additional function of the Chair of FIFA's Audit and Compliance Committee with a yearly remuneration exceeding 200.000,00 EUR, raised no incompatibility nor independence questions only because it found his activity non-commercial in nature.

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<sup>27</sup> Constitutional Court decision no. U-I-823/21 of 23 December 2021. Available at: <https://www.us-rs.si/zacasno-zadrzanje-izvrsevanja-drugega-do-cetrtega-odstavka-49-a-clena-in-drugega-do-petega-odstavka-49-b-clena-zakona-o-organiziranosti-in-delu-v-policiji-uradni-list-rs-st-15-13-11-14-86-15-77/>

Comprehensive data for 2021 is not available yet, although the CPC instigated ten minor offence proceedings and imposed one sanction before November.

**Lobbying:** In 2020, the CPC received 5,345 reports about lobbying contacts. When discussing lobbying matters, seven minor offence proceedings were instigated. Comprehensive data for 2021 is not available yet, although the CPC issued four warnings before November.

**Business restrictions:** As per Article 35 of the Integrity and Prevention of Corruption Act (IPCA), the public sector entities are only exceptionally permitted to do business with business entities managed by, or in which business shares belong to, the officials who hold a position in a public sector entity. Reasonably the same restrictions apply to business entities linked with the official's family members. In accordance with Article 36 of the IPCA, the restrictions apply for another year after the cessation of the function, and the former official is prohibited from representing business entities for further two years after their function in the public sector entity is terminated. In 2020, the CPC carried out 18 proceedings regarding violations of the relevant rules and the violations were also determined in three of these cases. Comprehensive data for 2021 is not available yet, although the CPC instigated four minor offence proceedings and issued three warnings before November.

**Training:** The CPC trains the public sector by conducting regular trainings for officials, civil servants and employees of state-owned companies that include comprehensive overviews of the topics of integrity, conflict of interest and lobbying regulation.<sup>28</sup> In 2020, the CPC carried out 25 training courses, which were attended by 1.300 participants. In 2021, the CPC conducted or took part in **over 60 trainings, workshops and round tables** on the topic of integrity and other IPCA issues, which were attended by **over 3.000 individuals**. In case of identified corruption risks, the CPC issues **recommendations** to public sector bodies and monitors their integrity plan improvements and communicates about these issues through the CPC website and other appropriate channels for awareness-raising purposes. In compliance with the amendments to the IPCA in 2020, the CPC also finances the programmes of NGOs involving training, information dissemination and raising awareness of the public and public sector entities and the transfer of good practices when ensuring integrity and corruption prevention (Article 17 of the IPCA). The Administration Academy at the Ministry of Public Administration runs the training programme for civil servants and functionaries. In 2022, a super election year, it is working with the CPC to provide additional training and awareness-raising for new functionaries.

According to the IPCA, the CPC can open administrative investigations of **breaches of integrity** of an official person and publish its findings on the CPC website. In 2021, the Administrative Court approved the CPC's findings in several cases, establishing that the new procedural rules, introduced with the IPCA amendment, are adequate and effective for determining breaches of integrity in the public sector. A new two-year Government Programme for Preventing Corruption and Improving Integrity is also being drafted in order to be adopted in 2022.

As regards the **incompatibility of public office**, the CPC identified systemic corruption risks in connection with the fact that the rules for incompatibility of functions and prohibition of membership and activities are not unified in Slovenian legislation, which means that specific rules apply to different categories of officials. The CPC submitted an initiative to the Government of the Republic of Slovenia to unify the regulation of incompatibility, which may, if necessary, also determine the acceptable amount of income that a professional official can obtain by performing additional activities. Additionally, the CPC pointed out that there are different sanctions in place for appointed and elected officials in cases of detected violations in connection with incompatibility of functions and the prohibition of membership and activities.

**22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)**

On lobbying and asset disclosures in the public sector, the CPC generally refers to the information provided in the answers for previous years. In February 2021, the CPC issued an official systemic explanation<sup>29</sup> of lobbying regulation, further explaining the legal provisions and the responsibilities of lobbying participants (lobbyists, lobbied persons, interest groups).

<sup>28</sup> See the Annex to this contribution (hereinafter Annex) for a table of CPC-related trainings in 2021.

<sup>29</sup> [https://www.kpk-rs.si/kpk/wp-content/uploads/2021/10/SP\\_lobiranje\\_okt.-2021.pdf](https://www.kpk-rs.si/kpk/wp-content/uploads/2021/10/SP_lobiranje_okt.-2021.pdf)



**Acceptance of gifts in the public sector** was added to this chapter. Previously, the IPCA regulated only the acceptance of gifts for holders of public office, while the rules on gifts for public servants were included in the Public Employees Act. The IPCA amendment from November 2020 unified the system of the acceptance of gifts in the public sector, which now stands for all official persons and their family members. The IPCA provisions related to gifts also apply to the state-owned enterprises (SOEs) that were established on the basis of a law. The amendment also affected the threshold amounts for gifts that are allowed to be accepted and must be reported to the authority (employer) or the CPC. The list of received gifts kept by public sector entities now includes gifts worth more than € 50 (previously € 25), and the maximum value of a gift that is traditionally or usually received at certain events (cultural, ceremonial) increased to € 100 (previously € 75). Lists of all gifts received have to be submitted to the CPC by 31 March for the previous year. Based on the IPCA provisions, the Ministry of Justice issued the Rules on restrictions and duties of officials in regard to the acceptance of gifts.

In 2021, the Ministry of Public Administration continued with activities to involve the Slovenian municipalities in the National Open Data Portal – OPSI.<sup>30</sup> Currently, 157 (out of 212) municipalities are involved and have so far published 1431 records and collections they maintain. In autumn 2021, the ministry started to actively involve municipalities in the OPSI portal. To this end, several workshops were organised to provide municipal representatives with information on both the legislative and practical aspects of publishing data on the OPSI portal. In December 2021, the European Commission published the Open Data Maturity Report 2021. In the Open Data Policy category, Slovenia ranked 1st among all countries. Slovenia is ranked 9th overall, which lists it in the group of Fast Trackers.<sup>31</sup>

### **23. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)**

As regards the **conflict of interest**, the CPC refers to the information provided in the answers for previous years.

In supplement to the first and second annual Rule of Law Reports, the Ministry of Justice stated that the rules regarding the conflict of interest refer to officials, clerks and other public employees, including the employees of the central bank and management and supervision board members in other public sector entities, including business entities in which the state owns a majority share. General rules on avoiding the conflict of interests are determined in the IPCA, while special rules apply for certain categories of people or individual legal proceedings.

According to Article 37 of the IPCA, all official persons must pay due attention to any conflict of interest issues with regard to their post or office and are obliged to avoid such issues. These provisions apply to **all** official persons, **unless** the exclusion of an official person is regulated by the act governing the criminal procedure, the act governing the civil procedure, the act governing the general administrative procedure or another act governing exclusion from decision-making in legal proceedings (Article 40 of the IPCA). The term “**official person**” includes holders of public office, officials in managerial positions and other public employees, employees of the Bank of Slovenia, managers, and members of the management and supervisory boards of public sector entities (Paragraph 9 of Article 4 of the IPCA). Additionally, IPCA provisions also apply to persons appointed as **external members** of committees, councils, working groups or other comparable bodies by a public sector entity when they perform public duties or duties within the remit of the public sector entity. IPCA provisions are also applicable for managers and members of management, governing and supervisory bodies in companies in which the state or local community has a majority share or dominant influence.

However, Article 3 of the IPCA clearly states that the IPCA applies to the public sector, unless issues governed by this act are regulated otherwise by another act. The conflict of interest is covered in Article 100 of the Public Employees Act, which means that **public employees are excluded** from the conflict of interest general provisions of the IPCA, and their conduct is supervised according to the procedures in the Public Employees Act.

### **24. Measures in place to ensure whistleblower protection and encourage reporting of corruption**

The IPCA provisions concerning the protection of reporting persons were not affected by the IPCA amendment, so the CPC refers to its answers from the previous years. In 2021, the CPC received one request for whistle-blower protection and assisted in establishing a causal link between the initial report and the retaliatory measures suffered by the whistle-blower.

<sup>30</sup> National Open Data Portal - OPSI (<https://podatki.gov.si/>).

<sup>31</sup> Article: <https://www.gov.si/novice/2021-12-09-merjenje-zrelosti-na-podrocju-odprtih-podatkov-slovenija-obcutno-napredovala/>

Following the entry into force of EU's new directive on whistle-blower protection, the Ministry of Justice drafted a whistle-blower protection law to transpose the provisions of the directive into the Slovenian legal system. The CPC did not participate in the preparation of the draft law and will offer its comments and suggestions in the continuation of the legislative process.

Supplement to the first and second annual Rule of Law Reports, the Ministry of Justice stated that whistle-blower protection is currently regulated by the IPCA in relation to persons reporting on corruption. On 8 December 2021, the Ministry of Justice prepared a draft proposal of the Act on the protection of whistleblowers to extend the scope of protection provided by IPCA and to transpose the Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law is being transposed to the Slovenian legislation. The draft proposal is undergoing expert harmonisation. The act is to contribute to the prevention and detection of various violations which hinder the economic growth by generating business uncertainty, slow down procedures and cause additional costs. Enhanced protection of whistleblowers will increase the general level of employee protection in accordance with the objectives of the European Pillar of Social Rights.

**25. List the sectors with high risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other**

Based on the cases investigated under its powers, the CPC identifies the following sectors and activities with high risk of corruption or conflict of interest:

- appointment and dismissal of management and members of supervisory boards in SOEs, including the Slovenian Sovereign Holding and the Bank Assets Management Company;
- decision-making in local government, especially in regard to conflict of interest (mayors and municipal council members);
- public procurement (with additional risks in the healthcare sector and other areas related to the fight against the COVID-19 epidemic – see answer under question 26);
- spatial planning and environmental matters;
- breaches of integrity of holders of public office in the form of administering undue pressure on subordinate employees or expressing favoritism to certain bidders in public procurement proceedings;
- incompatibility of public office and additional activities of public office holders.

According to the Ministry for Public Administration, in relation to the monitoring and preventing corruption and conflict of interest in the public procurement sector, the Amendment to the Public Procurement Act (hereinafter: PPA) was passed in July 2021 and is in use since 1 January 2022. The Amendment to PPA is one of the milestones in Slovenia's Recovery and Resilience Plan. Several changes to the PPA were adopted aimed at increasing transparency in the monitoring of public expenditure and preventing corruption and conflict of interest.

The changes include the following:

- All documentation on public procurement procedure should be published on the official Slovenian procurement portal (hereinafter: PJN). Prior to that, the notices had to be published on PJN, but the documentation could be published either on PJN or elsewhere, typically on the web page of the contracting authority/entity.
- All decisions on the contract award should be published on the PJN including decisions in negotiated procedures without prior publication.
- The yearly list of awarded contracts that are under the national threshold for the use of the low-value procedure should be published on PJN. Before, the list was published either on PJN or on the web page of the contracting authority/entity.

**26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic**

In 2020, the CPC conducted a systemic oversight of public sector entities that have procured the protective equipment required to control the spread of COVID-19. By carrying out thematic supervision, the CPC helped public sector institutions to **identify corruption risks** by examining concrete implementation of the provisions and procedures and -

in case of identified corruption risks - by issuing **recommendations** for better and more appropriate management of risks in future public procurements in connection to the acquisition of the necessary equipment. Based on the report in the above-mentioned oversight, CPC opened 21 administrative **investigations** against eight individuals for the suspicion of breaches of integrity. Two of the cases were concluded with an established breach of integrity, 12 cases were dismissed, while the remaining cases are still open and are in their final stages.

In 2021, the CPC extended its **oversight** to local government (municipalities) and hospitals. Its main focus was transparency of urgent public procurement procedures and the restriction of business activities in cases where the holders of public office were connected to the public tender recipients. Additionally, the CPC issued a recommendation to the Ministry of Health regarding the **identified risks** connected to lack of supervision of quality and quantity of distributed medical supplies and other goods (COVID-19 tests).

#### **27. Any other relevant measures to prevent corruption in public and private sector**

No supplement.

#### **C. Repressive measures**

#### **28. Criminalisation, including the level of sanctions available by law, of corruption and related offences including foreign bribery.**

Considering the changes to the questionnaire, the contribution to the first and second annual Rule of Law Reports is supplemented by the Ministry of Justice with the following clarifications and data:

The KZ-1 defines the following **corruption and corruption-related criminal offences**:

##### CRIMINAL OFFENCES AGAINST VOTING RIGHTS AND ELECTIONS

- obstruction of freedom of choice – Article 151 of the KZ-1 (fine or imprisonment of up to two years);
- accepting bribe in election or ballot – Article 157 of the KZ-1 (fine or imprisonment of up to one year);

##### CRIMINAL OFFENCES AGAINST PROPERTY

- disloyalty – Article 215 of the KZ-1 (imprisonment of up to five years; a fine can be imposed in certain cases);

##### CRIMINAL OFFENCES AGAINST THE ECONOMY

- abuse of position or trust in business activity – Article 240 of the KZ-1 (imprisonment of up to eight years);
- unauthorised acceptance of gifts – Article 241 of the KZ-1 (imprisonment of up to six years; a fine can be imposed in certain cases in addition to imprisonment);
- making unauthorised gifts – Article 242 of the KZ-1 (fine and imprisonment of up to six years);
- money laundering – Article 245 of the KZ-1 (imprisonment of up to ten years; a fine can be imposed in certain cases in addition to imprisonment);

##### CRIMINAL OFFENCES AGAINST OFFICIAL DUTIES, PUBLIC AUTHORISATIONS AND PUBLIC FUNDS

- abuse of office or official rights – Article 257 of the KZ-1 (imprisonment of up to eight years);
- defrauding of public funds – Article 257a of the KZ-1 (fine and imprisonment of up to eight years);
- acceptance of bribes – Article 261 of the KZ-1 (fine and imprisonment of up to eight years);
- giving bribes – Article 262 of the KZ-1 (fine and imprisonment of up to six years);
- accepting proceeds for unlawful intermediation – Article 263 of the KZ-1 (fine and imprisonment of up to six years);
- giving of gifts for unlawful intervention – Article 264 of the KZ-1 (fine and imprisonment of up to six years);

##### CRIMINAL OFFENCES AGAINST ADMINISTRATION OF JUSTICE

- unlawful, biased and unfair trial – Article 288 of the KZ-1 (imprisonment of up to three years).

The Supreme State Prosecutor's Office of the Republic of Slovenia assesses as positive the legislative amendment of the Criminal Code (KZ-1) regarding the limitation period, which entered into force on 15 December 2021. If the final judgement in proceedings with an extraordinary legal remedy is annulled, the statute of limitations in the new trial is now five years from the annulment of the final judgement and no longer two years as previously applicable.

The Ministry of the Interior emphasizes these amendments in view of the criminal offences against property: “Organising Money Chains, Illegal Gambling and illegal manipulation of results of sports competitions”. Following Council of Europe Convention on the manipulation of sports competitions, a new paragraph was added to Article 212 of the KZ-1.<sup>32</sup>

A change in the chapter Criminal offences against the economy also occurred. Namely, the definition of the criminal offence of “Fraud to the Detriment of European Communities (Article 229 of the KZ-1)” has been modified.<sup>33</sup>

The criminal police strives to detect and respond to cases of corruption that occur in Slovenia. In investigating corruption offenses, the police cooperate with other bodies involved in the prevention of corruption (CPC, Court of Auditors, Office for the Prevention of Money Laundering, etc.). The systemic regulation of curbing corruption and the adoption of legislation is the responsibility of other ministries.<sup>34</sup>

**29. Data on investigation and application of sanctions for corruption offences, including for legal persons and high level and complex corruption cases and their transparency, including as regards the implementation of EU funds**

The Police actively investigates all concrete grounds for suspicion of criminal offences in this area. Among them is also a successful example of pre-trial proceedings from the field of economic crime and corruption in the area of health care, i.e. abuses of issuance of medical certificates.

After the conduct of extensive activities in pre-trial proceedings, the Police has already filed the first criminal complaint against 11 reasonably suspected persons for several criminal offences: one criminal offence of Abuse of Office or Official Duties according to Article 257 of the Slovenian Criminal Code KZ-1, nine criminal offences of Giving Bribes according to Article 262 of the Slovenian Criminal Code (KZ-1) and one criminal offence of Acceptance of Bribes according to Article 261 of the Slovenian Criminal Code (KZ-1). The proceeds of unlawful conduct, obtained by the suspects, amounted to at least 1.2 million. In the matter, more cases of abuse were detected and the information against over 60 suspects is still being verified in pre-trial proceedings. As a lot of business documentation and electronic devices was seized during house searches and other activities, and many additional information was gathered, these still have to be properly analysed and examined in order to substantiate suspicion of other criminal offences. The competent Maribor District State Prosecutor’s Office, which is directing the pre-trial proceedings, will be informed about the findings.

Among cases known to public, the following can be highlighted: a high-profile case in connection to police officers with forged PCT certificates<sup>35</sup> is led by the Special Division of the Specialised State Prosecutor’s Office, competent for investigation of criminal offences, committed by police officers. Within pre-trial proceedings, in the area of the Police directorate Celje, the police are intensively checking facts and circumstances regarding reasons for suspicion of commission of several criminal offences from the area of economic crime. The Ministry of the Interior cannot reveal detailed information yet, due to current phase of the pre-trial proceedings. The competent District State Prosecutor’s Office, which is directing the pre-trial proceedings, will be informed about the findings.

In supplement to the first and second annual Rule of Law Reports, the Supreme State Prosecutor’s Office submitted a table displaying the number of cases by individual criminal offences, considered so-called corruption offences<sup>36</sup>, in which

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<sup>32</sup> First para: The same sentence as in the first paragraph of this Article shall be imposed on a person who, in order to gain material or other benefit for himself or someone else, agrees to an unauthorized change in the result or course of an official sports competition or does or omits something for such a change.

<sup>33</sup> First para: Whoever avoids expenses by way of using or submitting false, incorrect, or incomplete statements or documents, or does not reveal data and thus causes damage to the general budget of the European Union or the budgets managed by the European Union or the budgets managed on its behalf, shall be sentenced to imprisonment for not less than three months and not more than five years.

Second para: The same sentence shall be imposed on a person who forges, unlawfully withholds or uses inappropriately funds of the general budget of the European Union or of the budgets managed by the European Union or managed on its behalf.

Third para: The same sentence shall be imposed on a person who obtains funds from the budgets from the first and second paragraph, by way of using or submitting false, incorrect, or incomplete statements or documents, or does not reveal data.

<sup>34</sup> Source: KZ-11, accessible at: [https://www.uradni-list.si/\\_pdf/2021/Ur/u2021186.pdf](https://www.uradni-list.si/_pdf/2021/Ur/u2021186.pdf)

<sup>35</sup> The abbreviation PCT in PCT certificates stands for vaccination, recovery or negative test for covid-19.

<sup>36</sup> Article 241 of the KZ-1: unauthorised acceptance of gifts.

Article 242 of the KZ-1: making unauthorised gifts.

Article 261 of the KZ-1: acceptance of bribes.

Article 262 of the KZ-1: giving bribes.

Article 263 of the KZ-1: accepting proceeds for unlawful intermediation.

an indictment was filed (between 2019 and 2021).<sup>37</sup> The Office further explains that an important circumstance, which is directly reflected in a larger number of indictments filed in 2019, is also the fact that indictments were filed in complex cases in 2019, in which a large number of persons were accused simultaneously for a large number of criminal offences (these were corruption cases in which medical doctors, technical reviewers and vehicle users were accused).

The Ministry of Justice does not dispose of the statistical data for 2021 (expected to be accessible by end of June 2022).

**30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning)**

No supplement.

**31. Information on effectiveness of administrative measures and sanctions, in particular recovery measures and administrative sanctions on both public and private offenders**

No supplement.

### **III. Media freedom and pluralism**

#### **A. Media authorities and bodies**

**32. Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

The Ministry of Culture recalls that this issue was addressed in the 2021 Rule of Law Report under item 29. As regards the development in this area, the Republic of Slovenia concluded transposition of the Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018, amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities. The directive, which was transposed into the revised Audiovisual Media Services Act (*Zakon o spremembah in dopolnitvah Zakona o avdiovizualnih medijskih storitvah*; hereinafter ZAvMS-B), addresses the issue of independent regulatory bodies in Article 30. The ZAvMS-B was adopted by the National Assembly on 15. 12. 2021. Measures adopted will be notified to the European Commission in due time.

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

New development in this area is a proposal of the new Electronic Communications Act (ZEKom-2). ZEKom2 was sent into the legislative procedure by the Government on 22 December 2021. The law transposes the Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code and thus, among other things, brings into conformity the rules on conditions and procedures for the appointment and dismissal of the head/members of the collegiate body of media regulatory authorities and bodies with the EU's acquis.

**34. Existence and functions of media councils or other self-regulatory bodies**

No new development in this area (as reported in the 2021 Rule of Law Report under item 31). Mass Media Act (ZMed) (articles 100 to 103) regulates the competencies of an independent professional body (Broadcasting Council), sources of funding, its composition, method of appointment, criteria for appointing members, competencies, reasons for incompatibility of functions, and reasons for early dismissal. The Council is an independent professional body that performs tasks determined by law.

#### **B. Transparency of media ownership and safeguards against government or political interference**

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Article 264 of the KZ-1: giving of gifts for unlawful intervention.

<sup>37</sup> See Annex.

**35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)**

No new development in this area. As reported in the 2021 Rule of Law Report under item 32.

**36. Safeguards against state / political interference, in particular:**

**- safeguards to ensure editorial independence of media (private and public)**

No new developments in this area. The Mass Media Act stipulates in Article 6 (general principles) that mass media activities in Republic of Slovenia shall be based on the freedom of expression, the inviolability and protection of human personality and dignity, the free flow of information, the media openness to different opinions and beliefs and to diverse content, the autonomy of editorial personnel, journalists and other authors in creating programme in accordance with the programme concepts and professional codes of behavior, and on the personal responsibility of journalists, other authors/creators of contributions and editorial personnel for the consequences of their work.

**- specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),**

Independence of the public media service provider Radiotelevizija Slovenija (hereinafter RTV Slovenija) is guaranteed by the Radiotelevizija Slovenija Act. The act in Article 2 stipulates the following: "The founder of the public institution RTV Slovenija is the Republic of Slovenia. The duty of the founder is to ensure the institutional autonomy and editorial independence of RTV Slovenija and to provide adequate funding for the provision of public service." Editorial and institutional independence is reflected in the systemically (by law) provided sources of funding (broadcasting fee directly collected by the RTV Slovenija) and in the procedures for the election and appointment of independent bodies of management, administration and supervision.

The Slovenian Press Agency (hereinafter STA) has a similar legal status as RTV Slovenija when it comes to institutional and editorial independence. The Slovenian Press Agency is established by the law with the purpose of providing public media service (press agency – media outlet). The main difference between STA and RTV Slovenija is that public service provided by STA is financed from the state budget according to an annual contract between the founder (Government) and STA. The amount of funds for providing public service is based on the STA Annual Business Plan that is adopted by the independent Supervisory Board on the proposal of its Director.

The following persons cannot be appointed to the Programming or supervisory board of the RTV Slovenija:

Persons who, at the time of their candidacy or during five years prior to their candidacy, were:

- Members of the bodies of political parties;
- Members of the European Parliament (hereinafter: Members) of the European Parliament or employees (hereinafter: employees) and officials (hereinafter: officials) in the bodies of the European Union;
- the President of the Republic, the Prime Minister, deputies, members of the National Council, mayors, constitutional judges, ministers, ministers of state, state secretaries and other officials in state bodies;
- directors general, secretaries general, heads of constituent bodies and government services, directors of directorates and constituent bodies, heads of administrative units and directors or secretaries of municipal administration.

The same conditions apply for the candidates for supervisory board of the STA.

**- procedures for the concession/renewal/termination of operating licenses - information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance**

In accordance with the Mass Media Act (article 10) in order to disseminate programmes, a legal or natural person may be established or entered in the Court Register of the Republic of Slovenia if, in addition to the general conditions, such a person also fulfils the following **special conditions**:

- its head office or permanent residence is in the Republic of Slovenia;

– the editorial board has its seat in the Republic of Slovenia.

After the entry in the Court Register, a legal or natural person (media publisher or broadcaster) must register with the Ministry of Culture - Mass Media Register (article 12). Radio and television broadcasters – linear audiovisual media service providers - must apply for a license and use of radio frequencies (if the frequencies are required for distribution purposes). Nonlinear audiovisual services (VOD) are obliged only to notify their business (no license is required).

**37. *Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)***

The matter was addressed in the 2021 Rule of Law Report under item 33. A new development in this area are the provisions of the Directive (EU) 2018/1808 regarding the transparency of media ownership transposed into ZAvMS-B. The Act supplements the existing data set, that audiovisual service providers are obliged to publish, with data on persons who have at least a 5% ownership or management share or a share of voting rights in the provider's property.

**C. Framework for journalists' protection**

**38. *Rules and practices guaranteeing journalist's independence and safety***

The matter was addressed in the 2021 Rule of Law Report under item 34. The level of protection of journalists' independence and safety in Slovenia is in line with the standards of the Council of Europe and those of the EU.

**39. *Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists***

The Police performs its fundamental tasks on the entire territory of the Republic of Slovenia pursuant to the Police Tasks And Powers Act. The most important task is to protect lives, personal safety and property of people in the broadest sense, which also includes protecting lives and personal safety of journalists at demonstrations and rallies. The police do not draw up special plans for the protection of journalists at rallies and demonstrations as such tasks are part of the general plan for providing security at a particular event or rally. Any criminal offences against journalists, committed at rallies or elsewhere, are investigated by the Police with all due diligence and in accordance with professional standards, for the Police are well aware of the importance of journalism in democratic societies.

**40. *Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)***

No new development in this field. The matter was addressed in the 2021 Rule of Law Report under item 34.

**41. *Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits***

No new development in this area.

***Other – please specify***

The Government notes that the general atmosphere of public discourse was socially and politically charged in 2021. To a significant extent, media reporting has contributed towards an escalation of existing tensions, not least by providing considerable public reach to persons or groups promoting illegal protests and extreme positions, also directed against vaccination and health-related or restrictive measures to curb COVID-19, affecting the level of public trust in these measures, including vaccines. The lines between an essential role of the media in responsibly informing the public and monitoring the authorities in democratic societies on one hand, and turning into active political actors through open agitation and circulation of partial or false information well beyond reasonable criticism in a manner incompatible with professional journalistic standards and ethics on the other, were often blurred or crossed. Existing challenges relating to the transparency of media ownership referred to in the previous input may have been among the factors leading to the above situation. On two major televisions (including the national broadcaster), reporting in favour of the health

measures has managed to prevail by a narrow margin (September to October). By late October, a previously significant negative trend was in decline.<sup>38</sup>

## **IV. Other institutional issues related to checks and balances**

### **A. The process for preparing and enacting laws**

#### **42. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process**

In preparation of the legislative measures, Slovenia is **working closely with the European Commission** and the OECD. Through procedures in the framework of the European Semester, the Commission monitors the economic and fiscal policy, as well as measures in the country, with the help of special recommendations to steer the countries in their action. In this way, also by bilateral cooperation and coordination with the Commission, Slovenia has been adopting the measures for a greater stability, convergence, and a higher growth. Regarding policymaking, Slovenia's **cooperation with the OECD** plays a strong role as well. Upon regular economic overviews, closely cooperating with the experts in Slovenia, the OECD prepares recommendations in different areas. The latter facilitate the planning of measures and future development. The OECD also prepares reports and analyses from various fields to help in the planning or preparation of legislative changes and other modifications.

The National Assembly does not carry out a regulatory **impact assessment** as such. The Resolution on Legislative Regulation (2009)<sup>39</sup> states that the concern and responsibility for the quality level of legal acts represent an integral part of the efforts for a successful operation and upholding of the rule of law. The Resolution includes the principle of transparency as the public should be allowed permanent cooperation.

Pursuant to the Rules of Procedure (Article 115), a draft law contains the title of the law, an introduction, the text of the articles, and a statement of reasons. The inclusion of assessments referred to in the indents six to nine of the same Article is only required for a draft law proposed by the Government. If a draft law is proposed for adoption by urgent legislative procedure, the Government does not need to state the assessments from the sixth and seventh indents. When a draft law does not contain the required elements, the President of the National Assembly calls upon the proposer to supplement the draft law.

In this regard, the parliamentary Legislative and Legal Service holds an important role by delivering opinions on the conformity of draft laws, other acts and amendments with the Constitution and the legal system, and on legislative and technical aspects of drafts (Article 27 of the Rules of Procedure).<sup>40</sup> The Legislative and Legal Service is an autonomous and independent service of the National Assembly (Article 13 of the National Assembly Act).

Several other mechanisms contributing to the quality of regulations are presented below.

In its work, the National Assembly pursues the principle of **openness** (Article 4 of the National Assembly Act). The work of the National Assembly is open to the public; the provisions on the openness are laid down in the Rules of Procedure (Articles 5 and 100). Following any amendment to a law, an unofficial consolidated text of the law is prepared and made available in electronic form on the website of the National Assembly. The official consolidated text is published in the Official Gazette of the Republic of Slovenia and made available on the National Assembly website (Article 153 of the Rules of Procedure). Sessions of the National Assembly and meetings of its working bodies are open to the public. A session or a meeting or part thereof may be closed to the public for reasons stated in Rules of Procedure (Article 101).

Representatives of the media have the right to be present at open sessions of the National Assembly and meetings of its working bodies and to inform the public of their work. Provisions are laid down in Article 102 of the Rules of Procedure.

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<sup>38</sup> <https://siol.net/novice/slovenija/analiza-kako-sta-pop-tv-in-rtv-slovenija-porocala-o-koronavirusu-565756>

<sup>39</sup> Resolution on Legislative Regulation (in Slovenian): <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2009-01-4117?sop=2009-01-4117>.

<sup>40</sup> It should be mentioned that an important role in drafting regulations, especially as regards their improvement and impact assessment, is played by the Government and the ministries. See, e.g. A Guide to Drafting Regulations (in Slovenian): <https://e-uprava.gov.si/drzava-in-druzba/e-demokracija/vodnik-po-postopkih-priprave-predpisov.html>.



The conditions for work of media representatives are available on the website of the National Assembly ([www.dz-rs.si](http://www.dz-rs.si)).<sup>41</sup> RTV Slovenija livestreams all working body meetings, also via the new website of the National Assembly. The public service performed by RTV Slovenija also comprises a special national television channel providing live transmission of sessions of the National Assembly and its working bodies and broadcasting of recordings of such sessions (Article 3 of RTV Slovenija Act<sup>42</sup>).

When considering a draft law, the National Assembly obtains opinions, comments and views of the **relevant stakeholders and the interested public**. All comments, opinions and positions on the draft law, both by interested and professional public, are published on the National Assembly website and considered as additional material when considering a draft law. They include:

- taking note of proposals, initiatives and questions presented by the civil society (Article 41 of the Rules of Procedure),
- public presentations of opinions (Article 46 of the Rules of Procedure),
- invitation of relevant representative persons to meetings of working bodies (Articles 51 and 103 of the Rules of Procedure),
- delivering opinions by local communities (Article 145 of the Rules of Procedure),
- taking note of opinions by the Judicial Council and the State Prosecutors' Council,
- presenting opinions by national communities and the Roma (Article 15 of the Act on Self-Governing National Communities<sup>43</sup>). State authorities, holders of public authorisations and authorities of self-governing local communities must obtain the prior opinion of the Roma Community Council for the purposes of adopting and issuing regulations and other general legal acts relating to the status of the Roma community (Article 12 of the Roma Community in the Republic of Slovenia Act<sup>44</sup>),
- National Assembly and its working bodies may request that organisations of Slovene national minorities, emigrants, and workers abroad provide their opinions (Article 276 of the Rules of Procedure).

The right to **petition** is provided in Article 45 of the Constitution: every citizen has the right to file petitions and to pursue other initiatives of general significance. In the National Assembly, petitions are dealt with by the Commission for Petitions, Human Rights and Equal Opportunities.<sup>45</sup> The procedure to file petitions is specified on the National Assembly's website.<sup>46</sup>

The **legislative initiative and referendum** are regulated in detail by the Referendum and Popular Initiative Act.<sup>47</sup> Pursuant to the Constitution (Articles 88 and 97), laws may also be proposed by at least 5,000 voters. The National Assembly calls a referendum on the entry into force of a law that it has adopted if so required by at least 40,000 voters (Article 90 of the Constitution).

The National Assembly is an open institution, connected to and collaborating with the public, NGOs, institutions, state bodies, courts, etc. in different areas. It also maintains regular contact with various bodies, institutions, parliaments and governments of other countries, and regularly responds to questionnaires received from institutions (e.g. ECPRD), individuals from Slovenia, international organisations, etc. Thus, it provides for an appropriate exchange of (good) practices.

#### Statistical data on the work of parliamentary working bodies - cooperation with the civil society:

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<sup>41</sup> See Conditions for Work of Media Representatives at: [https://www.dz-rs.si/wps/portal/en/Home/Info/Media/conditions!/ut/p/z1/04\\_Sj9CPyKssy0xPLMnMz0vMAfIjo8zivSy9Hb283Q0N3E3dLQwCQ7z9g7w8nNwNAwz0w8EKnPyCTD3BCrycTAwCjf19nYLMgwwNA030o1CkHV0NgNKGZqEuoWZG\\_gHmGPoxFEQRY78BDuBoQJz9eCylwm98QW4oEDggAgCGkPBr/dz/d5/L2dBISEvZ0FBIS9nQSEh#!](https://www.dz-rs.si/wps/portal/en/Home/Info/Media/conditions!/ut/p/z1/04_Sj9CPyKssy0xPLMnMz0vMAfIjo8zivSy9Hb283Q0N3E3dLQwCQ7z9g7w8nNwNAwz0w8EKnPyCTD3BCrycTAwCjf19nYLMgwwNA030o1CkHV0NgNKGZqEuoWZG_gHmGPoxFEQRY78BDuBoQJz9eCylwm98QW4oEDggAgCGkPBr/dz/d5/L2dBISEvZ0FBIS9nQSEh#!)

<sup>42</sup> *Zakon o Radioteleviziji Slovenija* (Official Gazette of RS, Nos 96/05, 109/05 – ZDavP-1B, 105/06 – CC dec., 26/09 – ZIPRS0809-B and 9/14).

<sup>43</sup> *Zakon o samoupravnih narodnih skupnostih* (Official Gazette of RS, Nos 65/94 and 71/17 – ZFO-1C).

<sup>44</sup> *Zakon o romski skupnosti v Republiki Sloveniji* (Official Gazette of RS, No. 33/07).

<sup>45</sup> See Commission for Petitions, Human Rights and Equal Opportunities at [https://www.dz-rs.si/wps/portal/en/Home/pos/WorkingBodies/izbranDT!/ut/p/z1/04\\_Sj9CPyKssy0xPLMnMz0vMAfIjo8zinfyCTD293Q0N\\_IMNLAwC\\_SxcjdwDAg3cXUz1w1EVuHs5mRgEGv7OqWZBxl6GJnqRxGj3wAHcDQgTj8eBVH4jS\\_IDQ0NdVRUBAA6yZEK/dz/d5/L2dBISEvZ0FBIS9nQSEh/?idSubjekT=DT006](https://www.dz-rs.si/wps/portal/en/Home/pos/WorkingBodies/izbranDT!/ut/p/z1/04_Sj9CPyKssy0xPLMnMz0vMAfIjo8zinfyCTD293Q0N_IMNLAwC_SxcjdwDAg3cXUz1w1EVuHs5mRgEGv7OqWZBxl6GJnqRxGj3wAHcDQgTj8eBVH4jS_IDQ0NdVRUBAA6yZEK/dz/d5/L2dBISEvZ0FBIS9nQSEh/?idSubjekT=DT006)

<sup>46</sup> See Petitions (in Slovenian) at [https://www.dz-rs.si/wps/portal/Home/druzo/Peticije!/ut/p/z1/04\\_Sj9CPyKssy0xPLMnMz0vMAfIjo8zivSy9Hb283Q0NDIxCXAwCQ\\_zdjM3cPY0NfM31w1EVuBsFmRoEuhg5-QYbGBsEBxvrRxGj3wAHcDQgTj8eBVH4jS\\_IDQ0NdVRUBACEu3UV/dz/d5/L2dBISEvZ0FBIS9nQSEh#!](https://www.dz-rs.si/wps/portal/Home/druzo/Peticije!/ut/p/z1/04_Sj9CPyKssy0xPLMnMz0vMAfIjo8zivSy9Hb283Q0NDIxCXAwCQ_zdjM3cPY0NfM31w1EVuBsFmRoEuhg5-QYbGBsEBxvrRxGj3wAHcDQgTj8eBVH4jS_IDQ0NdVRUBACEu3UV/dz/d5/L2dBISEvZ0FBIS9nQSEh#!)

<sup>47</sup> *Zakon o referendumu in o ljudski iniciativi* (Official Gazette of RS, Nos 26/07 – official consolidated version, 6/18 – CC dec. and 52/20).

**Persons invited to meetings of working bodies**<sup>48</sup> (Article 51 of the Rules of Procedure). 1274 persons were invited to attend working body meetings in 2021 (1155 in 2020).

**Taking note of proposals, initiatives and questions presented by the civil society**<sup>49</sup> (Article 41 of the Rules of Procedure). In 2021, the working bodies took note of 203 proposals, initiatives and questions presented by the civil society (461 in 2020).

**Opinions by local communities received by working bodies responsible** (Article 145 of the Rules of Procedure). In 2021, working bodies responsible received 82 opinions by local communities (44 in 2020).

**Public presentations of opinions** (Article 46 of the Rules of Procedure). Two public presentations were held (by the Committee on Culture and the Committee on the Interior, Public Administration and Local Self-Government).

During 2021, the Advocate of the Principle of Equality (hereinafter: Advocate) was consulted in early stages of preparation of draft bills and national policy papers (strategies) by some ministries more often than in 2020. It issued nearly 50 various recommendations, either in the legislative processes of public consultations or ad hoc (in the context of COVID-19 pandemic measures), stressing the need to pay due diligence to equality assessment of the proposed measures and policies. Due diligence is an inherent duty of any policy-making authority preparing a draft bill under the national antidiscrimination legislation. Some legislative proposals were lacking assessment of the impact on equality.

#### **43. 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)**

In addition to the 2021 Rule of Law Report, the National Assembly reported that the regular procedure for the adoption of laws is regulated in the Rules of Procedure (Articles 121–122, 125, 129, 126, 134, 140). Shortened or urgent procedures are also defined therein. Adoption of a law by urgent procedure may only be proposed by the Government. In both cases, no general debate is held, while the second and third readings are held at the same session of the National Assembly (Articles 142–144 of the Rules of Procedure). A decision on whether a law will be discussed in a shortened or urgent procedure is taken by the Council of the President of the National Assembly (Articles 142 and 143 of the Rules of Procedure).

According to the reports on National Assembly's work,<sup>50</sup> in the current parliamentary term (2018–2021), 33.7% of laws were adopted by the regular procedure, 23.5% by the urgent procedure, and 27.2% by the shortened procedure. See statistical data in the previous section.

In the following presentation of statistical data on the work of the National Assembly, data for the current term (2018–2022) and 2021 is provided until 31 December 2021 (8<sup>th</sup> term is still ongoing).

#### **Data on plenary sessions by year**

| <b>PLENARY SESSIONS</b> | <b>2019</b>  | <b>2020</b>                                       | <b>2021</b>   |
|-------------------------|--|---|---|
| Regular sessions        | 11   | 7   | 7   |
| Extraordinary sessions  | 12   | 26  | 36  |
| Closed sessions         | 1 regular and 1 extraordinary session were partly closed to the public | 1 regular session was partly closed to the public | 2 regular sessions were partly closed to the public |

Due to the COVID-19 pandemic, 11 extraordinary sessions in 2021 were convened and partly held remotely, via videoconferences, based on the new Article 93a of the Rules of Procedure and the decision adopted by the Council of the President.

<sup>48</sup> Data on persons invited to working body meetings relate to the number of institutions whose work is directly related to the content of the issues discussed, experts, and representatives of the interested public.

<sup>49</sup> Data on the number of submission with proposals, initiatives and questions from the civil society (e.g. associations, private institutes, institutions, individuals declaring themselves part of civil society) of which the working bodies took note pursuant to paragraph three of Article 41 of the Rules of Procedure.

<sup>50</sup> The reports on National Assembly's work are available on the National Assembly's website (in Slovenian): <https://fotogalerija.dz-rs.si/datoteke/Publikacije/PorocilaDZ>

**Data on plenary sessions by year and term (2011–2014<sup>51</sup>, 2014–2018 and 2018–2022).**

| PLENARY SESSIONS       | 2011–2014 |      |      |      |      | 2014–2018 |      |      |      |      | 2018–2022<br>(ongoing term) |      |      |      |  |
|------------------------|-----------|------|------|------|------|-----------|------|------|------|------|-----------------------------|------|------|------|--|
|                        | 2011      | 2012 | 2013 | 2014 | 2014 | 2015      | 2016 | 2017 | 2018 | 2018 | 2019                        | 2020 | 2021 | 2022 |  |
| Regular sessions       | 1         | 8    | 11   | 5    | 3    | 11        | 11   | 11   | 3    | 3    | 11                          | 7    | 7    | -    |  |
| Extraordinary sessions | 1         | 24   | 26   | 19   | 8    | 18        | 15   | 11   | 12   | 18   | 12                          | 26   | 36   | -    |  |
| TOTAL                  | 2         | 32   | 37   | 24   | 11   | 29        | 26   | 22   | 15   | 21   | 23                          | 33   | 43   |      |  |
|                        | 95        |      |      |      |      | 103       |      |      |      |      | 120                         |      |      |      |  |

**Number of adopted laws by type of legislative procedure (in two parliamentary terms)**

| ADOPTED LAWS             | 2014–2018 | %    | 2018–2021<br>(ongoing term) | %    |
|--------------------------|-----------|------|-----------------------------|------|
| Constitutional amendment | 1         | 0.2  | 1                           | 0.3  |
| Regular procedure        | 178       | 39   | 109                         | 33.7 |
| Urgent procedure         | 87        | 19.1 | 76                          | 23.5 |
| Shortened procedure      | 105       | 23   | 88                          | 27.2 |
| Ratification             | 85        | 18.6 | 49                          | 15.2 |
| TOTAL                    | 456       | 100  | 323                         | 100  |

**Number of adopted laws by type of legislative procedure in the parliamentary term 2018-2022 (VIII)**

| ADOPTED LAWS             | 2018<br>(VII in<br>VIII) | %    | 2019<br>(VIII) | %    | 2020<br>(VIII) | %    | 2021<br>(VIII) | %    |
|--------------------------|--------------------------|------|----------------|------|----------------|------|----------------|------|
| Constitutional amendment |                          | -    |                | -    |                |      | 1              | 0.8  |
| Regular procedure        | 30                       | 37.5 | 28             | 29.5 | 24             | 30.8 | 54             | 43.2 |
| Urgent procedure         | 16                       | 20   | 17             | 17.9 | 25             | 32.1 | 21             | 16.8 |
| Shortened procedure      | 22                       | 27.5 | 29             | 30.5 | 21             | 26.9 | 37             | 29.6 |
| Ratification             | 12                       | 15   | 21             | 22.1 | 8              | 10.3 | 12             | 9.6  |
| TOTAL                    | 80                       | 100  | 95             | 100  | 78             | 100  | 125            | 100  |

**Share of laws adopted by the regular procedure – by parliamentary term**

| PARLIAMENTARY TERM | %    |
|--------------------|------|
| 2011–2014          | 20.9 |
| 2014–2018          | 39   |
| 2018–2021          | 33.7 |

**Share of laws adopted by the urgent procedure – by parliamentary term**

| PARLIAMENTARY TERM | %    |
|--------------------|------|
| 2011–2014          | 24.6 |
| 2014–2018          | 19.1 |
| 2018–2021          | 23.5 |

**Share of laws adopted by the shortened procedure – by parliamentary term**

| PARLIAMENTARY TERM | %    |
|--------------------|------|
| 2011–2014          | 29   |
| 2014–2018          | 23   |
| 2018–2021          | 27.2 |

**44. Regime for constitutional review of laws**

Pursuant to Article 160 of the Constitution and provisions of the Constitutional Court Act, the Constitutional Court decides on the conformity of laws with the Constitution and on the conformity of other general acts of the National Assembly with the Constitution and laws. Other competences include the handling of constitutional complaints, disputes

<sup>51</sup> The term was shorter due to early elections.

over jurisdiction, issues concerning the proposing and calling of referendums, deputies' terms of office, etc. The relation of the National Assembly to the Constitutional Court is specifically regulated in the Rules of Procedure.<sup>52</sup>

Requests or petitions to initiate proceedings before the Constitutional Court and rulings on initiating such proceedings are submitted to the National Assembly as the opposing party, to obtain replies to a request or petition or obtain information and explanations in its examination phase. The President of the National Assembly submits such request, petition or ruling to the competent working body (Legislative and Legal Service) and the Government to obtain their opinions.<sup>53</sup>

The Constitutional Court submitted to the National Assembly 16 requests/petitions in 2021 (28 in 2020). 44 of them were submitted to obtain a reply or explanation (53 in 2020). Concerning requests for a reply or explanation by the National Assembly, the Constitutional Court established inconformity with the Constitution in 11 cases (eight in 2020); the Court abrogated individual provisions in seven cases (three in 2020).

#### **Number of cases concerning the review of constitutionality and legality of regulations submitted to the National Assembly by the Constitutional Court**

| TYPE   | Number of cases (2021) |
|--|------------------------|
| Requests or petitions to initiate proceedings      | 16                     |
| Requests to obtain a reply or explanation          | 44                     |
| Cases closed in the National Assembly              | 65                     |
| - resolved at the Constitutional Court*            | 43                     |
| - replies or explanations by the National Assembly | 22                     |

\* By either abrogating individual provisions, establishing conformity/inconformity, rejecting or dismissing a petition/request, or suspending the procedure in its decision/ruling.

#### **Types of Constitutional Court decisions concerning requests for replies or explanations to the National Assembly**

| CONSTITUTIONAL COURT DECISION                   | Number of cases (2021) |
|---|------------------------|
| Establishing inconformity with the Constitution | 11                     |
| Abrogating individual provisions                | 7                      |

- 45. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic**
- **judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic**
  - **oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic**

The Constitutional Court performed the constitutional review of several laws and ordinances adopted on their basis in the context of COVID-19 measures during 2021. In the review process, it often suspended the legal provisions in question before ruling on their constitutionality or legality.<sup>54</sup> The Constitutional Court has partially abrogated the Communicable Diseases Act in two cases (in May<sup>55</sup> and October<sup>56</sup>) and the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 (September).<sup>57</sup>

<sup>52</sup> Articles 262-271 of the Rules of Procedure.

<sup>53</sup> Article 265 of the Rules of Procedure.

<sup>54</sup> Constitutional Court decision no. U-I-83/21-9, U-I-84/21-8, U-I-86/21-10 of 8 April 2021, suspending the Ordinance determining the conditions of entry into the Republic of Slovenia to contain and control the COVID-19 infectious disease (Official Gazette of the Republic of Slovenia, no. 46/21, with subsequent changes and amendments). Available at: <http://www.us-rs.si/documents/4f/36/u-i-83-21-u-i-84-21-u-i-86-2111.pdf>

Constitutional Court decision no. U-I-50/21-19 of 15 April 2021, suspending the Ordinance on the temporary partial restriction of movement of people and on the prohibition of gathering of people to prevent the spread of COVID-19 (Official Gazette of the Republic of Slovenia, no. 27/21, with subsequent changes and amendments). Available at: <http://www.us-rs.si/documents/54/8e/u-i-50-21-sklep-zz3.pdf>

Constitutional Court decision no. U-I-210/21-12 of 30 September 2021, suspending the Ordinance on the method of meeting the condition of morbidity, vaccination and testing to curb the spread of SARS-CoV-2 virus infections (Official Gazette of the Republic of Slovenia, no. 147/21, with subsequent changes and amendments). Available at: <http://www.us-rs.si/documents/e4/88/u-i-210-21-sklep-zz8.pdf>

<sup>55</sup> Constitutional Court decision no. U-I-79/20-24 of 13 May 2021. Available at: <http://www.us-rs.si/documents/88/d5/u-i-79-20-odlocba6.pdf>

<sup>56</sup> Constitutional Court decision no. U-I-155/20-24 of 7 October 2021. Available at: <http://www.us-rs.si/documents/ca/51/u-i-155-20-odlocba5.pdf>

<sup>57</sup> Constitutional Court decision no. U-I-8/21 of 16 September 2021. Available at: <http://www.us-rs.si/documents/52/41/u-i-8-21-delna-odlocba3.pdf>

In the view of the Government, suspending a measure (aimed at preventing the spread of COVID-19) and postponing the review of its constitutionality for later presents a peculiar practice that disables the pursued goal of the measure at its adoption, the context of which may no longer be relevant at the time of the actual review. Moreover, partial abrogation of laws providing the ground for effectively engaging COVID-19 and its consequences, often applying very strict standards for a limited category of rights (compared to constitutional reviews of measures in similar legal systems elsewhere) without due regard for the situation on the ground, hinders the efforts by the authorities to successfully deal with the health crisis (without declaring a state of emergency which, while constitutional, would present a more serious interference with basic rights and freedoms).

### **Constitutional Court decisions in assessing the constitutionality of individual provisions of laws adopted by the National Assembly in 2021 (in the COVID-19 context)**

#### **U-I-480/20; dated 11 March 2021:**

The Constitutional Court established inconformity of Article 52 of the Act Determining Intervention Measures to Mitigate the Consequences of the Second Wave of the COVID-19 Epidemic with the first indent of paragraph two of Article 90 of the Constitution.

#### **U-I-483/20; dated 1 April 2021**

The Constitutional Court decided on a request for a review of the constitutionality of the Act on the Provision of Funds for Investments in the Slovenian Armed Forces in the Years 2021 to 2026, approving the decision by the National Assembly not to allow a legislative referendum concerning a law on urgent measures ensuring defence of the state and security, as determined in Article 90 of the Constitution.

#### **U-I-79/20; dated 13 May 2021**

Upon a petition submitted by multiple petitioners, the Constitutional Court reviewed and abrogated points 2 and 3 of paragraph one of Article 39 of the Communicable Diseases Act which authorised the Government to prohibit or restrict the movement and gathering of people in preventing the introduction or spreading of a communicable disease in the state.

#### **U-I-8/21; dated 16 September 2021**

The Constitutional Court reviewed Article 104 of the Act Determining Temporary Measures to Mitigate and Remedy the Consequences of COVID-19 which authorises the Minister of Education to order the performance of educational process at a distance in educational organisations. The Constitutional Court abrogated the provision (interfering with the rights to education and to work-training) in the part related to ordering distance learning in primary schools and schools and institutions for children with special needs.

#### **U-I-155/20, U-I-155/20-24; dated 7 October 2021**

Upon the initiative of multiple economic entities, the Constitutional Court reviewed and abrogated point 4 of paragraph one of Article 39 of the Communicable Diseases Act, which authorised the Government to prohibit or restrict circulation of certain types of goods and products to prevent the introduction or spread of a communicable disease in the state.

**The National Assembly exercises oversight** in several ways, including through deputies' questions and motions addressed to the PM and the ministers, through interpellations, etc.

**Parliamentary inquiries** are regulated in Article 93 of the Constitution. The National Assembly may order inquiries on matters of public importance, and must do so when required by a third of its deputies or the National Council. Regarding investigation and examination, a parliamentary commission of inquiry has powers comparable to those of judicial authorities.

The working bodies may discuss in meetings issues related to individual areas and take note of the implementation of individual regulations. The National Assembly may also adopt a decision requesting that the Government or an individual minister report to the National Assembly on the implementation of adopted laws and other regulations, as well as on other measures within their competence and on the effects thereof.<sup>58</sup> A working body may, within its scope

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<sup>58</sup> Article 237 of the Rules of Procedure.

of work, request the Government, other state authorities or public institutions, SOEs or public funds founded by the state to provide explanations and information which it requires to perform its tasks. The former must immediately forward the information and documents requested, unless contrary to the law.<sup>59</sup>

As a tool to oversee the work of the Government or individual ministers, **interpellations**<sup>60</sup> are regulated by the Constitution and the Rules of Procedure. Pursuant to Article 118 of the Constitution, an interpellation with respect to the work of the Government or an individual minister may be initiated in the National Assembly by at least 10 deputies. Following a debate, if a majority of all deputies (46) carry a vote of no confidence in the Government or an individual minister, the National Assembly dismisses the Government or the said minister.

Out of a total of seven interpellations against ministers submitted in 2021, five were related to the responses of ministers and their line ministries to the pandemic. In 2021, the following ministers survived their respective interpellations in the National Assembly (Minister of Education, Science and Sport (twice); Minister of Labour, Family, Social Affairs and Equal Opportunities; Minister of Culture, Minister of the Interior).

A **parliamentary question or a motion** to regulate individual issues or to adopt certain measures within the scope of work of the Government, a minister or a Government office may be presented to the Government, a minister, or the Secretary General of the Government by any deputy.<sup>61</sup> (Article 240 of the Rules of Procedure). In 2021, several parliamentary questions and motions concerning Covid-19 were presented.

#### **Discussion of annual and other reports by state bodies**

Generally, the competent working body **discusses annual reports by other state bodies** submitted to the National Assembly in accordance with the law or other regulations within three months. A discussion is held if provided by the Rules of Procedure or proposed by the competent working body which prepares the draft act.<sup>62</sup>

### **B. Independent authorities**

#### **46. Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions<sup>63</sup>**

The Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) has been issuing its alternative reports on the state of the rule of law in Slovenia since 2019, as a part of the European Network of National Human Rights Institutions (ENNHRI) report on the state of the rule of law in Europe.<sup>64</sup> The ENNHRI report, which includes country reports of the EU Member States, is also submitted to the European Commission. The Ombudsman is also going to prepare its alternative report on the state of the rule of law in Slovenia for the current year.

The Ombudsman notes that the Constitutional Court decision no. U-I-474/18 of 10 December 2020 establishing unconstitutionality of certain provisions of the Public Finance Act – where pertaining to the National Council, the Constitutional Court, the Ombudsman and Court of Audit – has not been implemented in given deadline ( 23 December 2021). In January 2021, the Global Alliance of National Human Rights Institutions (GANHRI), in particular its Sub-Committee for Accreditation (SCA), recommended, *inter alia*, that the financial autonomy of the institution and its sufficient and independent financing should be further determined.<sup>65</sup>

The Advocate of the Principle of Equality has regularly provided input for annual Rule of Law Reports. In July 2021, Mr. Miha Lobnik's five-year term was renewed as its head by the National Assembly (since 26 October). The Advocate's budget is € 1.471.491,77 for 2021, as per own proposal in the previous years. On 23 December, it had 20 employees.

<sup>59</sup> Article 45 of the Rules of Procedure.

<sup>60</sup> Interpellations (in Slovenian): <https://www.dz-rs.si/wps/portal/Home/Is/PogostaVprasanja/vprasanje/76bc8c42-95b5-47b5-9227-fc9dfdcb435>

<sup>61</sup> Article 240 of the Rules of Procedure.

<sup>62</sup> Article 41 of the Rules of Procedure.

<sup>63</sup> Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>

<sup>64</sup> See: <http://ennhri.org/rule-of-law-report-2021/> and <http://ennhri.org/rule-of-law-report/>.

<sup>65</sup> Global Alliance of National Human Rights Institutions (GANHRI), Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA), 7-18 December 2020, 2.5 Slovenia Human Rights Ombudsman of the Republic of Slovenia), pp. 22-24. Available at: <https://ganhri.org/wp-content/uploads/2021/01/SCA-Report-December-2020-24012021-En.pdf>.

The budget is appropriate with regard to the tasks and obligations given by the law and allows for comprehensive and effective functioning of the Equality Body in this period.

#### **47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years**

##### **Follow-up of recommendations by NHRIs, ombudsman institutions**

The Ombudsman presented its 26th Annual Report to the National Assembly in October 2021.<sup>66</sup> The National Assembly adopted the report on 26 October 2021 and recommended that the relevant institutions and officials implement all of the recommendations, as well as all the recommendations of the National Prevention Mechanism. The Ombudsman has expressed concerns about poor and slow implementation of his recommendations by the authorities. In the report for 2020, the Ombudsman proposed **128 new recommendations** to improve the work of various bodies, legislation and implementation of human rights standards in legislation and in practice.<sup>67</sup> All mentioned recommendations are important and necessary in order to maintain a high standard of respect for human rights as a society in the future. In addition, the Ombudsman highlights **another 156 relevant past recommendations that remain either unfulfilled or partially unfulfilled**. The Ombudsman has regularly called on the competent authorities to take seriously the implementation of all recommendations and to remedy concrete violations for the benefit of the individuals.

The Ombudsman notes that a large number of recommendations still remain partially or non-implemented. **11 of Ombudsman's new recommendations and additional 14 from previous years have been rejected by the Government (or respective Ministries) due to disagreement.** Ombudsman is also particularly concerned that **as many as 8 out of 11 rejected recommendations relate to the rights of people with disabilities and other vulnerable groups.** In addition to the mentioned recommendations, the Ombudsman, acting in the capacity of **National Prevention Mechanism (NPM) made 329 recommendations to various institutions.** The responses from the relevant institutions are generally good. The NPM expects a faster response to the given recommendations, as only half of them were implemented by the time the annual report was prepared. The Ombudsman also recalls that a number of unexecuted judgments of the Constitutional Court of the Republic of Slovenia increased during 2021. At the end of 2020, there were already 18 unfulfilled so-called declaratory judgments, while at the end of 2019, there were 13 such judgments. For example, the decision of the Constitutional Court No. U-I-79/20-24 of 13 May 2021<sup>68</sup> regarding the established unconstitutionality in the Communicable Diseases Act has not yet been implemented, even though the deadline has expired already in August 2021. While amendments to enforce the mentioned Constitutional Court decision were proposed by the Government and passed by the National Assembly in July, a veto by the National Council followed<sup>69</sup>, requiring a re-vote by the National Assembly that was unsuccessful as the higher majority required for a second vote was not obtained.

In supplement to the first and second annual Rule of Law Reports the Ministry of Justice noted that in its regular annual report for 2020 (issued in June 2021),<sup>70</sup> the Ombudsman issued 116 new recommendations that refer to the Government and again highlighted 138 recommendations provided in the past regular annual reports, for which it assessed that they remained partly or fully unrealised and which refer to the Government.

The Government has prepared a joint response report<sup>71</sup> that addressed all Ombudsman's recommendations (adopted in September 2021). According to the assessments of individual ministries, 29 recommendations among the new recommendations referring to the Government represent ongoing tasks, 22 recommendations were fully realised, 31 were partly realised and 23 remain unrealised. Among the recommendations provided by the Ombudsman in the past years, the ministries assess that 25 of them refer to ongoing tasks, 34 recommendations were realised, 48 were partly

<sup>66</sup> See: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2020/Letno\\_porocilo2020\\_-\\_pop.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2020/Letno_porocilo2020_-_pop.pdf). A shorter version of the Annual Report is also available in English: [https://www.varuhrs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2020/Annual\\_Report\\_2020.pdf](https://www.varuhrs.si/fileadmin/user_upload/pdf/lp/LP_2020/Annual_Report_2020.pdf).

<sup>67</sup> For a compilation of all recommendations see (in Slovene): [https://www.varuhrs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2020/LP20\\_-\\_povzetek\\_porocila.pdf](https://www.varuhrs.si/fileadmin/user_upload/pdf/lp/LP_2020/LP20_-_povzetek_porocila.pdf).

<sup>68</sup> See in Slovene: <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2021-01-1842/> and <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-79-20-z-dne-13-5-2021/>.

<sup>69</sup> National Council demand no. 502-01-9/21/292 of 12 July 2021. Available at: [http://www.ds-rs.si/sites/default/files/dokumenti/zaht\\_za\\_ponov\\_odl\\_o\\_znb-d\\_epa\\_197\\_p.pdf](http://www.ds-rs.si/sites/default/files/dokumenti/zaht_za_ponov_odl_o_znb-d_epa_197_p.pdf)

<sup>70</sup> [www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp/LP\\_2020/Letno\\_porocilo2020\\_-\\_pop.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp/LP_2020/Letno_porocilo2020_-_pop.pdf).

<sup>71</sup> See in Slovene: [https://www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp\\_-\\_odzivna\\_porocila\\_vlade/Odzivno\\_porocilo\\_Vlade\\_na\\_LP\\_VCP\\_in\\_LP\\_DPM\\_za\\_letno\\_2020.pdf](https://www.varuh-rs.si/fileadmin/user_upload/pdf/lp_-_odzivna_porocila_vlade/Odzivno_porocilo_Vlade_na_LP_VCP_in_LP_DPM_za_letno_2020.pdf).

realised, 17 remain unrealised and the realisation of 14 recommendations was rejected by the ministries due to their disagreement. As per the previous assessment of the realisation of repeated recommendations, the assessment improved with regard to 26 recommendations, two recommendations were additionally defined as ongoing tasks and the assessment was downgraded for one recommendation.<sup>72</sup> The Human Rights Ombudsman was satisfied with the efforts of the Government.

#### ***Follow-up of recommendations by the Advocate***

In 2020<sup>73</sup>, the Advocate: received 129 complaints (40 substantial decisions) and provided independent assistance to 246 people with counselling. On 31 December 2020 six cases were pending before the national Administrative court challenging the Advocate's substantive decisions. The Advocate continued to represent the party in one civil court case initiated in 2019, and in addition intervened in one proceeding before the European Court of Human Rights. The Advocate considered 42 initiatives for the review of constitutionality of regulations, and initiated one proceeding for the assessment of constitutionality or legality before the Constitutional court. The Advocate carried out 42 exchanges of information on discrimination within the European Union and international organizations, and conducted three independent researches. In addition to annual report the Advocate prepared and published two independent reports and issued 48 recommendations (related to draft legislation and policy papers, discriminatory practices and to promote equality), out of which four were taken into account, 11 were not taken into account, and the rest of the recommendations were either taken into account partially or are in the process of their implementation (and monitoring).

In 2021, by 22 December 2021, the Advocate:

- received 57 complaints and provided independent assistance to 319 people with counselling,
- seven cases were pending (15 December) before the Administrative court challenging the Advocate's substantive decisions (four new in 2021),
- continued to represent the party in one civil court case initiated in 2019,
- considered 36 initiatives for the review of constitutionality of regulations,
- initiated three proceedings for the assessment of constitutionality or legality before the Constitutional court,
- conducted one independent research and financed another two,
- in addition to annual report prepared two independent reports (to be published by the end of 2021),
- issued 44 recommendations (related to draft legislation and policy papers, discriminatory practices and to promote equality); some recommendations were taken into account, some were not taken into account, the rest the recommendations were either taken into account partially or are in the process of their implementation. More details would be available in the forthcoming Advocate's 2021 annual report.

#### ***48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)***

Pursuant to Article 148 of the Criminal Procedure Act,<sup>74</sup> the Police, based on the collected information and evidence in a pre-trial procedure, draw up a criminal complaint, presenting the collected evidence and enclosing any items, sketches, photographs, reports and records on what action was taken and any official notes, statements and other materials that may be useful for the successful completion of the procedure. If no elements of a criminal offence have been determined, the Police inform the competent state prosecutor's office thereof by means of a report.

Criminal complaints and reports drawn up during the pre-trial phase are not publicly accessible.

#### ***49. Judicial review of administrative decisions: - short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)***

#### ***Constitutional arrangement concerning the Judicial review of administrative decisions***

Article 120 of the Constitution regulates organisation and work of the State Administration. It reads as follows:

<sup>72</sup> [www.varuh-rs.si/fileadmin/user\\_upload/pdf/lp\\_-\\_odzivna\\_porocila\\_vlade/Odzivno\\_porocilo\\_Vlade\\_na\\_LP\\_VCP\\_in\\_LP\\_DPM\\_za\\_letno\\_2020.pdf](http://www.varuh-rs.si/fileadmin/user_upload/pdf/lp_-_odzivna_porocila_vlade/Odzivno_porocilo_Vlade_na_LP_VCP_in_LP_DPM_za_letno_2020.pdf).

<sup>73</sup> For more details, see Advocate's annual report 2020, available at <https://www.zagovornik.si/wp-content/uploads/2021/06/Redno-letno-porocilo-za-letno-2020-ANNUAL-REPORT-2019-SYSTEMIC-OVERVIEW.pdf>

<sup>74</sup> In English: [http://pisrs.si/Pis.web/npbDocPdf?idPredpisa=ODLU1872&idPredpisaChng=ZAKO\\_362&type=doc&lang=EN](http://pisrs.si/Pis.web/npbDocPdf?idPredpisa=ODLU1872&idPredpisaChng=ZAKO_362&type=doc&lang=EN); in Slovenian: <https://zakonodaja.com/zakon/zkp/148-clen-1>



- (1) The organisation of the state administration, its competence and the manner of appointment of its officers are regulated by law.
- (2) Administrative authorities perform their work independently within the framework and on the basis of the Constitution and laws.
- (3) Judicial protection of the rights and legal interests of citizens and organisations is guaranteed against decisions and actions of administrative authorities and bearers of public authority.

Judicial Review of Administrative Acts is laid down in Article 157 of the Constitution. It reads as follows:

- (1) A court having jurisdiction to review administrative acts decides the legality of final individual acts with which state authorities, local community authorities, and bearers of public authority decide the rights or obligations and legal entitlements of individuals and organisations, if other legal protection is not provided by law for a particular matter.
  - (2) If other legal protection is not provided, the court having jurisdiction to review administrative acts also decides on the legality of individual actions and acts which intrude upon the constitutional rights of the individual.
- In Slovenia, Judicial review is governed by the Administrative Dispute Act (ZUS-1).

### ***Courts competent for the judicial review of administrative decisions in Slovenia***

With regard to the organization of the Administrative Court, Article 9 of ZUS-1 stipulates that the Administrative Court based in Ljubljana (head office) is competent for judicial review of administrative decisions. The Administrative Court adjudicates at the head office and in branch offices in Celje, Nova Gorica and Maribor. The Court's jurisdiction *ratione materiae* is laid down in Article 11 of ZUS-1 which stipulates, that the adjudication of first instance is carried out by the Administrative Court, unless otherwise stipulated by the law.

Pursuant to Article 12 of ZUS-1, the Supreme Court of the Republic of Slovenia decides in administrative disputes over the legality of acts issued by election bodies at elections to the National Assembly, the National Council and for the President of Slovenia. Furthermore, in accordance with Article 12 of ZUS-1, the Supreme Court adjudicates on the appeal against the judgement issued by the Administrative Court (paragraph one of Article 73 of ZUS-1). The appeal is not permitted in disputes over the legality of acts passed by local election bodies (paragraph four of Article 73 of ZUS-1). A resolution may only be contested with a special appeal, if so stipulated in this Act (paragraph one of Article 82 and the next of ZUS-1). According to Article 12 of ZUS-1, the Supreme Court adjudicates on the revision (Article 83 of ZUS-1 and the next in relation to Article 122 of Act Amending the Contentious Civil Procedure Act (ZPP-E)).

### ***Scope of the judicial review before the Administrative Court and the Supreme Court in Slovenia***

Competence of Courts to give decisions in administrative disputes is laid down in Articles 1-7 of ZUS-1 (Basic provisions), translation of which is included in the Annex to this contribution. Each of the Articles mentioned above is dealt with extensively in a large body of case law of the Supreme Court of the Republic of Slovenia.

### ***Suspensive effect***

Paragraph one of Article 32 of ZUS-1 stipulates, that the lawsuit does not affect the implementation of the administrative act against which it was filed, unless otherwise stipulated by law. The suspensive effect of a lawsuit in the administrative dispute may only be provided for by a special law (compare ECLI:SI:VSRS:2017:I.UP.194.2017). Paragraph one of Article 84 of ZUS-1 stipulates, that the lodged request for revision does not postpone the execution of the final decision against which it was made

### ***Interim measures***

Second paragraph of Article 32 of ZUS-1, lays down the "quasi" temporary decree. Article 32 stipulates, that the court suspends, at the request of the plaintiff the implementation of the contested act until the issuing of a final decision, if the implementation would cause damage to the plaintiff that would be difficult to redress. In deciding, the court shall take into consideration the detriment of the public right and the benefits of opposing parties in accordance with the principle of proportionality.

Paragraph three of Article 32 of ZUS-1 regulates the "real" temporary decree. Pursuant to paragraph three, the plaintiff may also request a temporary decree to temporarily regulate the situation in connection with the contentious legal relationship for any of the reasons referred to in the preceding paragraph, if such a regulation appears to be necessary particularly in permanent legal relationships.

Paragraph two of Article 84 of ZUS-1 (revision procedure) stipulates, that the Supreme Court may on the request of the reviser issue a temporary ruling until the decision on the revision for the reasons specified in the second paragraph of Article 32 of this Act.

### ***Specific rules or derogations from the general regime of judicial review***

According to Article 22 of ZUS-1, provisions of the Civil Procedure Act are applied *mutatis mutandis* for the procedural issues not regulated by this Act, unless otherwise stipulates by law.

#### ***50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation***

Within the limits of their powers, the public administration and state institutions shall endeavour to respect the decisions of the national courts. In particular, this concerns those decisions of the Constitutional Court, which require necessary changes by drafting appropriate draft laws.

In 2021, Slovenia has sent five action reports regarding execution of European Court of Human Rights judgments and Committee of Ministers of the Council of Europe had adopted five resolutions on its execution. Slovenia ranks at the top of the Council of Europe Member States with the least non-executed judgments of the ECtHR (only four non-executed final judgments at the end of 2021).

### ***Other issues:***

The Advocate has continually drawn attention to the absence of a comprehensive national strategy for the protection against all forms of discrimination. Antidiscrimination legislation needs a policy for its effective implementation. Existing policies remain uncomprehensive and lack intersectionality. Some important areas remain completely unaddressed, i.e., there is no comprehensive policy to combat racism, discrimination against LGBTIQ+ people, young or elderly, thus not in clear domain of any of the ministries, lacking leadership and coordination.

Existing antidiscrimination policies often focus primarily on formal, process indicators (i.e., activities planned, and activities carried out), rather than on impact indicators based on human rights approach.

Reluctance to equality data collection also makes it difficult to assess the impact of the policies and possible progress.

## **D. The enabling framework for civil society**

#### ***51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)***

In supplement to the first and second annual Rule of Law Reports, based on Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014, the Ministry of Justice established the Slovenian contact point for the Citizens, Equality, Rights and Values Programme on the basis of the implemented public call and following the approval of the European Commission in order to improve access of civil society organisations when drawing EU funds. The contact point will be managed by the Association for Culture and Education PiNA, which will primarily promote the relevant Programme and provide assistance to the applicants or beneficiaries when applying to the programme calls, including the procedure and methods of application, the dissemination of user-friendly information and the results of the Programme, inquiries for partners and the implementation of training.

The Ministry for Public Administration reports that the first report on the implementation of the Strategy on Development of NGOs and Volunteering (2018-2020) will soon be available. Regarding the dialogue and participation in policy development the government considers civil society organisations as partners and consults them when preparing legislation or adopting strategic documents, action plans, etc. Some sectoral laws envisage advisory bodies and participation of NGO representatives in them. Since 2015, the Ministry of Public Administration has published Guidelines on including the public in policy development and has been simultaneously organising training programmes on this topic

for civil servants. NGO representatives are included in government and municipal level advisory and interdepartmental working bodies also in other fields. Nevertheless, it should be mentioned that even though guidelines, promotion and monitoring exist, the practice is not homogenous. The Access to Public Information Act stipulates that government bodies have the obligation to publish legislative proposals, programmes, strategies and other similar documents, which relate to their working area. Since 2010, this obligation has also been defined in the Rules of Procedure of the Government of the Republic of Slovenia.

The umbrella document governing public consultation is the Resolution on Legislative Regulation adopted by the National Assembly in November 2009. It 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 drafting 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). The Centre for Information Service, Co-operation and Development of NGOs (CNVOS) – an umbrella NGO – set up a ‘Violation meter’ (available here: [Števec kršitev RenDej - cnvos.si](http://Števec kršitev RenDej - cnvos.si) in Slovenian), a tool to monitor how often provisions related to public consultations are breached. The meter covers all regulations for which the resolution sets a minimum time for public consultations and all other acts for which such consultations are laid down in the government’s rules of procedure. The credibility and verifiability of this data remains questionable, since the NGO has not publicly disclosed the methodology of this mechanism.

Already effective with 1 January 2021, the Act Determining Intervention Measures to Assist in Mitigating the Consequences of the Second Wave of COVID-19 Epidemic<sup>75</sup> was adopted by the National Assembly at the end of December 2020. Among the measures introduced was a 100% increase of the amount of income tax (from previous 0.5% to 1%) which may be earmarked by all individual taxpayers as donations to NGOs in the public interest, political parties, representative trade unions and registered religious communities. The civil society organisations have been able to benefit from the extent of funding increased in this way already for the year 2020. The concept of the institute of **partial income tax for donations** was established with the intention of a special mechanism for the financing of the non-governmental non-profit sector, based on a decision by the taxpayer to purposely use a part of the income tax. Within the framework, the taxpayers themselves decide that 1% of the income tax (assessed according to their non-deductible income) is not be allocated in the integral budget of Slovenia, but earmarked instead to the above entities, including NGOs operating in the public interest, as donations. Thus, a part of the national revenue already has a purposed use determined in advance.

Remaining income tax resources, which the taxpayers have not destined for the financing of the entities mentioned above, are paid into a **special budgetary fund for the development of NGOs**, established in 2018 to finance the projects and programs through public tenders (projects and programs of horizontal networks and regional hubs as subjects of the supportive environment with the purpose of encouraging NGO development, as well as projects and programs by NGOs and other persons aimed at implementing the measures for the development of individual areas, development of NGOs or the supportive environment). In this context, the Ministry of Public Administration published **two public tenders in 2021**. The first addressed the co-financing of NGO projects chosen in tenders by – and co-financed from – either the EU budget or the EFTA Financial Mechanism Office. It aimed to encourage linking and partner-cooperation of NGOs in international projects and strengthen their operative capacities. Published in May, the second tender pursues digital transformation of NGO and volunteer organisations and higher inclusion of their users in the information society for the period 2021-2023. Its purpose is to encourage digital transformation development in NGOs by introduction of digital IT solutions, improve the skills of their employees and users, and provide a quicker and better response to society challenges and needs. The tender was not limited to any single area of activity. Since the fund was established, nearly **7.5 million €** were granted to various NGOs in three tenders (4.5 million € to be paid).

The Government proposed **other measures** in 2021 to the National Assembly which passed three extensive legislative packages to alleviate the burden that the pandemic had imposed on numerous socio-economic rights across society.<sup>76</sup>

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<sup>75</sup> Official Gazette of the Republic of Slovenia, no. 203/20, with subsequent changes and amendments.

<sup>76</sup> The Act on Additional Measures for Mitigation of Consequences COVID-19 (Official Gazette of the Republic of Slovenia, no. 15/21, with subsequent changes and amendments), of 3 February, the Act on Intervention Measures to Assist the Economy and Tourism Sector, and the Healthcare Intervention Measures Act (Official Gazette of the Republic of Slovenia, no. 112/21, with subsequent changes and amendments), of 7 July, the Act on Additional Measures to Stop Spreading and Mitigate, Control, Recover and Eliminate the Consequences of COVID-19 (Official Gazette of the Republic of Slovenia, no. 206/21, with subsequent changes and amendments), of 27 December.

Relevant for the civil society as well, the measures included solidarity bonuses for several affected categories of persons, including students, unemployed or retired persons, subventions for workers and employers (including NGOs), partial cost reimbursement for film and audio-visual production, cost reimbursement for obligatory tests, tax-free protective medical equipment for humanitarian organisations, as well as vouchers that may be used for cultural events. Financial compensation was made available for members of the Civil Protection Service and students assisting in healthcare institutions as volunteers, and a legal basis provided for damages in cases of serious health complications following vaccination (or medication) related to COVID-19.

**52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders**

No supplement.

**E. Initiatives to foster a rule of law culture**

**53. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)**

In December 2021, the National Assembly adopted the Debureaucratization Act, which repealed more than 200 laws and its corresponding executive regulations that were no longer in use by their addressees. The aim of the Debureaucratization Act was to comb through the complete Slovenian legal system finding consummated or obsolete general legal acts. Since these Acts formally still constituted a valid law, they were unjustifiably increasing the complexity and decreasing the searchability of the legal system. Expected result of this process is that the public becomes more empowered and that the justice system becomes more people centred.

National Assembly also reported that several committee meetings (including joint meetings) were called on current affairs and events at the request of deputy groups. Thus, the Committee on Justice met in five sessions (three with other Committees) discussing Rule of Law related issues: in February on *rising hostility, exclusion and attacks against individuals and organisations on grounds of their values, beliefs or worldview*; in April on *constitutional Court decisions on petitions and requests to initiate proceedings to assess the constitutionality of the provisions of anti-Covid-19 measures and on non-exclusion of constitutional judges when exclusionary grounds exist*; in October on *competent authorities having a duty to protect the rule of law, its democratic postulates, and ensuring equality before the law; and on questionable actions by the State Prosecutor's Office and certain state prosecutors in high-profile cases and assessment of the need to amend legislation due to services, omissions and public actions by the State Prosecutor's Office; and in December on security screening of employees and handling of classified information in the Judiciary and in State Prosecutor's Offices.*

In these meetings, the Committee(s) adopted decisions with recommendations to the Government and other state bodies (especially law enforcement agencies) for appropriate action. In urgent meetings, the Committee on the Interior, Public Administration and Local Self-Government discussed the following issues: inadmissibility of double standards of the Police and omission of official duties; and hooliganism at illegal protests and actions of the Police.

The Ministry of Foreign Affairs notes that there were numerous events in the year 2021 which addressed the Rule of Law and related issues as their main focus of discussion either in the context of the Council Presidency or outside it, which contributed to the promotion and awareness of the importance of a stronger rule of law culture in the EU as a community of values.

The Rule of Law was a key priority of the Slovenian Presidency of the Council of the European Union. Various Rule of Law issues were discussed in the General Affairs Council, reaffirming its role as a committed forum for promoting a stronger Rule of Law culture in the EU as a community of values. Within the annual Rule of Law dialogue, two discussions contributed to the further consolidation of the review mechanism. A general horizontal discussion addressed the rule of law in the EU (October). On Presidency initiative, it also focused on institutional checks and balances, especially the roles and responsibilities of the respective branches of power during COVID-19 restrictive measures. A country-specific discussion fostered a constructive exchange of experience and best practices regarding national Rule of Law frameworks in five member states (November). Other Council formations also addressed the Rule

of Law Report in the realm of their competences. Moreover, the Rule of Law was discussed by high-level panels at the Bled Strategic Forum (September) and a citizens' panel in the Conference of the Future of Europe.

Competent parliamentary working bodies in the National Assembly regularly addressed questions relating to the Rule of Law, including, amongst others, the 2021 Rule of Law Report with the European Commissioner for Justice Reynders in February via video-conference, as well as with the Commissioner for Values and Transparency Jourová. In view of its supervisory function, a new parliamentary commission of inquiry was established (June). The Rule of Law was addressed in a virtual meeting of the Conference of Presidents (May), as well as in the framework of Conference of European Affairs Committees (COSAC, November). Regarding media pluralism and freedom, the National Assembly held four sessions on proposed amendments to the media legislation and funding (March, May, September, and October). The National Council held an international conference (August) where academia members from Slovenia and other member states presented and compared the transition processes in Central and Eastern Europe, also addressing related issues of judiciary and the Rule of Law.<sup>77</sup>

An ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) visited Slovenia (October) and exchanged views on the Rule of Law situation in Slovenia with the President of the National Assembly and deputies of its working bodies, as well as other relevant stakeholders (government representatives, independent institutional bodies, NGOs, academia, journalist and press freedom organisations). The delegation was led by LIBE Chair who gave a public statement after the visit, observing that, overall, the public institutions work well in Slovenia.

As a part of Presidency preparations, the Director of EU Agency for Fundamental Rights (FRA) conducted a country visit to Slovenia (March 2021), addressing the issues of fundamental rights in discussions with the representatives of the National Assembly, the competent ministries, and independent institutions.

***Other – please specify***

The Government also notes that certain organisations, activists and social media influencers, declaring themselves active citizens or representatives of the civil society, have organised a series of illegal protests throughout 2021. The protests were directed against the government and the measures it adopted in the context of COVID-19, including the wearing of masks, the introduction of PCT condition and vaccination. The protests regularly received broad coverage and even support in the major media. On several occasions during Slovenia's Presidency of the EU council, main traffic routes were blocked and access to key infrastructure limited, including the hotel venues in which the high guests were staying during the EU-Western Balkans Summit in October 2021. Several prominent members of some of the NGOs granted substantial funds from the NGO budgetary fund mentioned above (see question 51) have played an active part in these protests.

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<sup>77</sup> Illusive Reconciliation: Transitional Processes in Central and Eastern Europe in a Comparative Perspective, 23 August 2021. A reflection on the current state of reconciliation, correction of injustices and punishment of persons responsible for trampling on human rights and the consequent state of the Rule of Law in former socialist countries, issues related to transitional justice, as well as reconciliation in international relations. Different approaches to common features and specific challenges were addressed in view of particular historical circumstances and political will in individual post-communist countries.