

**ANNEX II to**  
**European Rule of Law Mechanism: input from Slovenia**  
**2023 Rule of Law Report**

**PRILOGA: Input from the National Assembly of the Republic of Slovenia to the 2023 Rule of Law Report**

The annual Rule of Law Report lies at the centre of the European Rule of Law Mechanism, an annual cycle to promote the rule of law in all Member States and prevent problems from emerging or deepening further.

The 2023 Rule of Law Report (relating to 2022) covers the same pillars as previous reports (the justice system, the anti-corruption framework, media freedom and pluralism, and other institutional issues related to checks and balances), while also addressing the challenges posed by the SARS-CoV-2 (COVID-19) pandemic.

Following a request from the Slovenian Ministry of Foreign Affairs, the National Assembly Services prepared replies to selected parts of the questionnaire that serves as the basis for the Annual (National) Rule of Law Report for 2022. In our Input, we report on the developments and topical issues in 2022 from the perspective of the National Assembly, thus complementing the comprehensive overview of the National Assembly's competences, tasks and activities included in the Third (National) Annual Rule of Law Report (hereafter: the Reference Report)<sup>16</sup>. The Input also includes developments with regard to the points raised in subsequent inquiries by the European Commission in 2022 concerning the Report relating to 2021 (Input from the National Assembly to the 2022 Rule of Law Report – Country Chapter on the rule of law situation in Slovenia).

The eighth parliamentary term (2018–2022) began with the first session of the newly elected National Assembly held on 22 June 2018 and lasted until the beginning of the new, i.e. ninth parliamentary term. In the period covered by this Report, the country was run by its 14<sup>th</sup> Government, led by Janez Janša (the Government took office on 13 March 2020). The ninth parliamentary term (2022–) began with the first session of the newly elected National Assembly on 13 May 2022. The 15<sup>th</sup> Government, led by Robert Golob, was appointed by the National Assembly on 1 June 2022.

This Input – available in Slovenian and English – was prepared by the Research and Documentation Division in cooperation with other Services of the National Assembly.

#### **1 Question 44**

##### **Information on measures taken to follow-up on Commission's recommendations regarding the system of checks and balances**

We would like to clarify at the outset that the replies concerning the Commission's recommendations (listed on page 2 of the 2022 Rule of Law Report – Country Chapter on the rule of law situation in Slovenia)<sup>17</sup> are based on the responses to the recommendations given in September 2022, as there have been few changes since September 2022.

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<sup>16</sup> The comprehensive overview of the National Assembly's competences, tasks and activities in the areas covered by the questionnaire is included in the [Third \(National\) Annual Rule of Law Report](#) (Input from the National Assembly) (in English in Appendix of the Report).

<sup>17</sup> [https://commission.europa.eu/system/files/2022-07/54\\_1\\_194035\\_coun\\_chap\\_slovenia\\_en.pdf](https://commission.europa.eu/system/files/2022-07/54_1_194035_coun_chap_slovenia_en.pdf)

### **1.1 Recommendation to Slovenia to ensure that rules on parliamentary inquiries contain adequate safeguards for independence of judges and state prosecutors, taking into account European standards on judicial independence**

Regarding the parliamentary inquiry that constituted a ground for the two Constitutional Court judgements, we would like to clarify that at its 29<sup>th</sup> session of 2 February 2022, the National Assembly – after consideration of the Report by the Commission of Inquiry for investigating abuses in the case of Franc Kangler and others – did not adopt the basic findings and the proposed conclusions from the Commission's Report, nor did it adopt the basic findings and the proposed conclusions from the Supplementary Report of the Commission of Inquiry for investigating abuses in the case of Franc Kangler and others.

In their work, the National Assembly and the above Commission of Inquiry took due consideration of the two judgements of the Constitutional Court, namely U-I-246/19-41 of 7 January 2021 and U-I-214/19 of 8 July 2021. In the ninth term of the National Assembly, the above Commission of Inquiry is no longer active.<sup>18</sup> The only Commission of Inquiry established so far in the ninth parliamentary term – the Commission of Inquiry for determining the political responsibility of holders of public office with regard to the alleged illegal financing of political parties and party political propaganda in the media before and during the 2022 elections to the National Assembly with financial resources from state-owned enterprises, state institutions and foreign entities – does not concern judges or public prosecutors.

In response to the statements listed on p. 5 of the Report and with regard to the implementation of the above-mentioned Constitutional Court judgements, we would like to clarify that the texts of the draft Act and draft Rules of Procedure on parliamentary inquiry had been drawn up already in the eighth parliamentary term. The texts had been negotiated among the deputies of the National Assembly, but the drafts were not submitted to the legislative procedure

In view of the importance of this issue, the President of the National Assembly – at a working meeting with the Vice Presidents of the National Assembly, leaders of deputy groups and the two representatives of the national communities held on 12 September 2022 – suggested that the Working Group tasked with the drafting of the (new) Act and Rules of Procedure on parliamentary inquiry to be submitted to the legislative procedure be re-established. The deputy groups presented their candidates for members of the Working Group by 20 September 2022. The Working Group comprises members of all deputy groups (except for the Deputy Group of the Italian and Hungarian National Communities which did not appoint their candidate).

The President of the National Assembly, who is also the Head of the Working Group, convened the Group's first meeting on 8 November 2022. The members were provided with the drafts of the new Act and Rules of Procedure on parliamentary inquiry, as well as with a brief overview of the rationale for the new regulation and a presentation of the objectives, principles, and main solutions of the two drafts.

It was agreed that members would submit their proposals and comments in the form of amendments by 15 December 2022, and that the drafts and proposals received would be discussed at the Group's next meeting. Given that the points raised by the Constitutional Court also referred to the role of the judiciary (e.g., judicial protection) and

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<sup>18</sup> Pursuant to Article 23 of the Rules of Procedure on Parliamentary Inquiry, a parliamentary inquiry that has not been completed during a single parliamentary term of the National Assembly shall be deemed concluded. The new National Assembly may reinitiate such parliamentary inquiry in accordance with these Rules of Procedure

prosecution, the President of the National Assembly additionally invited the Ministry of Justice to take part in the Working Group.

Before the next meeting of the Working Group, the Services of the National Assembly will further examine the draft texts and formulate proposals for their possible improvement. In doing so, they will pursue the position that it is primarily necessary to implement the decisions of the Constitutional Court and bring into effect the amendments to the Parliamentary Inquiry Act that are consistent with the Constitution and ensure the efficiency of parliamentary inquiries. In addition, insofar as relevant, the decision of the Administrative Court will be applied in connection with the action filed by one of the deputies in December 2022 regarding his dismissal as a member of the existing Commission of Inquiry, particularly if the decision will be substantively related to the Constitutional Court Decision No. U-I-50/11. The State Attorney's Office, which represents the National Assembly in the case, submitted its response to the action filed to the Court on 23 December 2022.

The draft Act and the draft Rules of Procedure have not yet been submitted to the legislative procedure.

## **1.2 Recommendation to Slovenia to remove obstacles to the investigation and prosecution of corruption cases, including by ensuring the operational autonomy of the National Bureau of Investigation, increasing the resources of State Prosecution and revising the statute of limitation**

### **a) Regarding the removal of obstacles to the investigation and prosecution of corruption cases, including by ensuring the operational autonomy of the National Bureau of Investigation**

In response to the statements on pp. 5 and 6 of the Report concerning the Minister of Interior's powers to instruct the Police, we wish to clarify that in July 2022, the National Assembly adopted the Act to Reduce Inequalities and Harmful Policy Interventions and Ensure Respect for the Rule of Law.

As regards the normative regulation of the moment in time when the Minister's power to direct the Police in certain cases ceases and the Public Prosecutor's power to direct pre-trial and criminal proceedings takes effect, the Act – which was tabled by a group of at least 5,000 voters – restores the legal regime to the situation before the adoption of the amendments to the Organisation and Work of the Police Act in October 2021 (ZODPol-G, Official Gazette of RS No. 172/21). In such regard, the proposer of the Act stated in the draft Act that it provided for the reintroduction of the second sentence of Article 4(8) of the Organisation and Work of the Police Act, thereby re-establishing the primary powers of the Public Prosecutor's Office to lead and direct the work of the Police in a pre-trial investigation, which safeguards the effective and professional prosecution of criminal offences and reduces the influence of politics and the competent minister.

As reported on p. 6 of the Report, prior to the adoption of the Act to Reduce Inequalities and Harmful Policy Interventions and Ensure Respect for the Rule of Law, the Government amended the Decree on the cooperation of the state prosecutorial service, Police and other competent state bodies and institutions in the detection and prosecution of perpetrators of criminal offences and operation of specialised and joint investigation teams.

The Report states on p. 9 that the National Bureau of Investigation is "the specialised criminal investigation unit for the detection and investigation of serious crimes, including corruption. Previously an autonomous body, it was moved in 2021 under the management authority of the General Police Directorate". On p. 11 the Report further

states that “serious concerns exist regarding the independence of the specialised anti-corruption police – the National Bureau of Investigation”. It is also reported that as of October 2021 the Bureau no longer enjoys absolute autonomy, that the Bureau’s Director does not have the autonomy to decide which investigations the Bureau will take over, that the Bureau is under the responsibility of the Director of the General Police who has the final say on its internal acts, management and resources, and that the Minister of the Interior is now competent to prescribe requirements for the Bureau’s Director. This is also the subject of footnotes 60 and 61 on p. 11 of the Report.

In this regard, we need to clarify that in July 2022, the National Assembly adopted the Act to Reduce Inequalities and Harmful Policy Interventions and Ensure Respect for the Rule of Law.

As regards the normative regulation of the matter, the Act restores the legal regime to the situation before the adoption of the amendments to the Organisation and Work of the Police Act in October 2021 (Official Gazette of RS No. 172/21). The proposer of the Act to Reduce Inequalities and Harmful Policy Interventions and Ensure Respect for the Rule of Law stated in the draft that the Act pursued the objective of efficiency and professionalism in the work of special police bodies, such as the Bureau, in the prosecution of criminal offences that is based on autonomy. The Act provides for the integration of senior positions in the organisation of the Police into the public employee system while abolishing the selection of candidates on the basis of a special selection procedure and the method of termination of a managerial position. The regulation thus reverts to the previous situation where the position of the head of the first-level organisational unit of the General Police Directorate, the position of the Director of the Police Directorate and the position of the Head of the Police Station are regulated under the public employee system, which reduces the competences of the Minister of the Interior in the selection and appointment of candidates for the highest positions in the Police. It also re-establishes the absolute autonomy of the National Bureau of Investigation and restores the previous arrangements for the appointment and dismissal of the Bureau’s Director.

According to the current Organisation and Work of the Police Act, the Bureau is now organised within the internal organisational unit of the General Police Directorate responsible for combating crime. It is fully autonomous in performing its tasks (Article 21), while an internal act adopted by the Director General of Police upon the proposal of the Director of the National Bureau of Investigation determines which investigations of suspected criminal offences are to be taken over by the National Bureau of Investigation (Article 22). Pursuant to Article 48a of the Organisation and Work of the Police Act, the Director of the National Bureau of Investigation is appointed and dismissed by the Director General of Police. The procedure is subject to the provisions of the Act regulating public employees that govern the appointment and dismissal of the Director of a body within a ministry. Articles 49a and 49b of the Organisation and Work of the Police Act introduced with the October 2021 amendments (version ZODPol-G) and relating to the acquisition and termination of a managerial position have ceased to have effect.

In such regard, we would like to add that the Whistleblower Protection Act has been submitted to the legislative procedure. Aiming to protect the public interest, the Act sets out the methods and procedures for reporting and dealing with breaches of regulations of which individuals become aware in a work-related context and protecting individuals who report or publicly disclose information about a breach. The Act also defines the powers of the Commission for the Prevention of Corruption and the safeguards and support measures to prevent or eliminate retaliation.

The National Assembly held a general debate on the draft Act at its 4<sup>th</sup> regular session (24 November 2022), during which the proposer (the Government) underlined that it was an important legislative project regulating the protection of whistleblowers in both public and private sectors. The Act transposes the relevant EU Directive into the Slovenian legal order but goes even beyond the requirements contained in the Directive as it covers the reporting of breaches of any regulations applying in Slovenia, not just Union law. Moreover, it will apply to anonymous reports, as well, and is more ambitious than the EU Directive as it comprises a wider range of safeguards. In the debate, coalition deputies welcomed the draft Act as one of the key steps towards a society whose absolute values also include the rule of law and the public goods. They pointed out that whistleblowers were an important part of a country's immune system, enabling the detection of carefully concealed irregularities and abuses, and that a protective environment was crucial to enable them to report abuses without having to face the dilemma between doing the right thing and risking their careers and economic survival or remaining silent to the detriment of the public interest. Opposition deputies, on the other hand, while supporting the purpose of the draft Act, felt that it was too broad, going beyond areas of public interest, and not in line with the intention of the EU Directive.

After the general debate, the National Assembly decided (by 53 votes to 21) that the draft Act was suitable for further consideration. The draft Act was discussed at the 9th regular session of the Committee on Justice, where amendments and articles of the draft Act were adopted, while the general debate will continue at the 6th regular plenary session of the National Assembly, which will begin on 23 January 2023.

#### **b) Regarding the increase of the resources of State Prosecution and revision of the statute of limitation**

Regarding the increase of human resources of State Prosecution, we would like to point out that, pursuant to Article 141(1) of the State Prosecution Service Act (Official Gazette of the Republic of Slovenia, No. 58/11, 21/12 – ZDU-1F, 47/12, 15/13 – ZODPol, 47/13 – ZDU-1G, 48/13 – ZSKZDČEU-1, 19/15, 23/17 – ZSSve, 36/19, 139/20, 54/21 and 105/22 – ZZNŠPP), the number of state prosecutor posts and the titles for the performance of the state prosecution service at particular state prosecutors' offices are defined by the Minister responsible for justice through an order on the proposal of the State Prosecutor General, in agreement with the Government and after obtaining the prior opinion of the State Prosecutors' Council. The regulation currently in force is the Decree on the number of state prosecutor posts (Official Gazette of the Republic of Slovenia, No. 76/11, 69/12, 52/13, 52/14, 71/15, 14/19, 102/20 and 135/22), whose latest amendment increased the total number of state prosecutor posts. Pursuant to Article 34(1) of the State Prosecution Service Act, state prosecutors are appointed by the Government on the proposal of the Minister responsible for justice. Regarding the increase of financial resources, more details are provided in the reply to Recommendation No. 6.

Currently, there is no draft Act in the legislative procedure regulating the statute of limitation for corruption offences.

#### **1.3 Recommendation to Slovenia to adopt and start implementing without further delay the anti-corruption strategy**

In view of the statements reported on p. 10 of the Report about the absence of a national anti-corruption strategy, we agree with the statement that a Resolution on the Prevention of Corruption in the Republic of Slovenia (Official Gazette of the Republic of Slovenia No. 85/04) was adopted in 2004 and has not been changed since. We also wish to clarify that while the National Assembly is responsible for adopting "resolutions on national programmes", such can only be proposed by the Government (Article 169a(2) of the Rules of Procedure of the National Assembly).

#### **1.4 Recommendation to Slovenia to strengthen the rules and mechanisms to enhance the independent governance and editorial independence of public service media taking into account European standards on public service media**

With regard to the statements on pp. 18 and 19 of the Report, we would like to clarify that in July 2022, the Government submitted to the legislative procedure the draft Act Amending the Radio Television Slovenia Act. Among the main solutions, the draft Act provides for a new regulation of the governance, management and supervision of the public institute RTV Slovenia. This is a major amendment, in respect of which it was proposed at the time of tabling the draft Act that it be dealt with under the urgent procedure. The National Assembly adopted the Act on 14 July 2022 and, following a request by the National Council to reconsider it, readopted it on 21 July 2022.

On 21 July 2022, an initiative for the voters to request a legislative referendum on the adopted Act was submitted to the National Assembly by at least 2,500 voters. (A request to call a referendum may be submitted by at least 40,000 voters no later than seven days after the expiry of the deadline for the collection of signatures.) In October 2022, over 40,000 voters submitted a request to the National Assembly to call a legislative referendum on the above Act. The referendum was held on 27 November 2022 and an amendment to the Radio Television Slovenia Act was adopted, entering into effect on 27 December 2022. The following day, a petition for a constitutional review was submitted to the Constitutional Court.

Two other draft Acts relating to the above issue have been submitted to the legislative procedure, namely the draft Act amending the Radio Television Slovenia Act tabled by a group of deputies of an opposition deputy group and the draft Act amending the Radio Television Slovenia Act tabled by a group of coalition deputies. The legislative procedure concerning the two drafts continues in accordance with Article 117 of the Rules of Procedure of the National Assembly. A general debate on the draft amendments tabled by the opposition will expectedly be held at the 6th plenary session starting on 23 January 2023.

At the beginning of the ninth parliamentary term, at the 2<sup>nd</sup> urgent meeting (22 June 2022), the Committee on Culture discussed the “Violation of journalistic and editorial autonomy and the right to information as a mission of the public broadcaster RTV Slovenia” and adopted the following conclusions:

1. The Committee on Culture calls on the management of the public institute RTV Slovenia to consistently ensure the constitutional right to information as a fundamental human right. Pursuant to Article 39(2) of the Constitution of the Republic of Slovenia, everyone has the right to obtain information of a public nature. This includes quality and timely provision of information from RTV correspondents around the world, which gives effect to this right.
2. The Committee on Culture calls on the management of the public institute RTV Slovenia to immediately cease the pressure on the editorial independence and institutional autonomy of RTV Slovenia and to restore the conditions for the independent work of journalists. Moreover, the Committee calls on the management of RTV Slovenia to immediately stop discrediting and pressurising its employees and implementing politically motivated and unprofessional staffing and other changes at the public institute RTV Slovenia.
3. The Committee on Culture calls on the Programme Council of RTV Slovenia to carry out its work impartially and professionally and in accordance with the Radio Television Slovenia Act.

### **1.5 Recommendation to Slovenia to establish legislative and other safeguards to protect journalists, particularly online, taking into account European standards on the protection of journalists**

At its 12<sup>th</sup> urgent meeting (28 November 2022), the Committee on Culture discussed the “Actions in the media and cultural spheres that deliberately escalate hostility and incite violence and attacks against individuals on the basis of their values, beliefs or worldview” and adopted the following conclusions:

1. The Committee on Culture condemns any hate speech and discrimination that incite hatred, violence and attacks against individuals on the basis of their values, beliefs or worldview.
2. The Committee on Culture supports the Government’s intention to set up a special action group to prevent hate speech.

### **1.6 Recommendation to Slovenia to ensure requisite safeguards for budgetary autonomy of the independent bodies**

In respect of the statements on p. 22 of the Report referring to the budgetary autonomy of certain independent bodies, we would like to clarify that the Public Finance Act (Official Gazette of the Republic of Slovenia, Nos. 11/11 – official consolidated text, 14/13 – corr., 101/13, 55/15 - ZFisP, 96/15 – ZIPRS1617, 13/18 and 195/20 – CC dec.) regulates the structure, preparation and implementation of the budget of the Republic of Slovenia. The submission of financial plan proposals of direct spending units of the central government budget is regulated in Article 9 of this Act. The Article stipulates that direct spending units prepare their own financial plan proposals and submit them to the ministry responsible for finance, based on the instructions for the preparation of the central government budget proposal. Notwithstanding the above, the financial plan proposals are also prepared and submitted by Ministries – for bodies and organisations within the ministries; the Supreme Court of the Republic of Slovenia – for the courts pursuant to the Courts Act; the Minor Offences Panel of the Republic of Slovenia – for independent state minor offence authorities; and the Office of the State Prosecutor General of the Republic of Slovenia – for state prosecutor’s offices. These direct spending units, which are responsible for preparing and submitting the financial plan proposals, are also responsible for the transmission of all materials defined by this Act between the ministry responsible for finance and the state authorities and organisations under their competence. In this respect, the Constitutional Court Judgment U-I-474/18 of 10 December 2020 must also be taken into consideration.

In the ninth term of the National Assembly, no proposal to amend the Public Finance Act has been submitted to the legislative procedure. Pursuant to the Rules of Procedure of the National Assembly, only the Government may propose the state budget, amendments to the state budget or a revised state budget.

The Report states on p. 7 that the Government generally consults the judicial authorities on the budget for courts, State Prosecution and Judicial Council. According to the established practice, the Ministry of Finance (in cooperation with the Ministry of Justice) prepares the draft budget for the justice system based on input from and in consultation with the judiciary, and the Government submits the agreed proposal to National Assembly in full transparency.

With regard to the statement on pp. 7 and 8 of the Report that “The judicial authorities were not informed of the revised proposed budget nor invited to parliamentary discussions on it, contrary to the established practice”, we would like to clarify that it follows from the report of the National Assembly’s Committee on Justice that it discussed the Draft Amending Budget of the Republic of Slovenia for 2022 and the Draft Budget of the Republic of Slovenia for 2023 at its 31<sup>st</sup> meeting on 14 October 2021. The President

of the Judicial Council took an active part in the meeting by presenting the opinions on draft amendments to the budget delivered by the Supreme Court and the Judicial Council. As far as sessions of the National Assembly are concerned, only the proposer is invited to attend, i.e., the Government. Draft amendments to the budget were made public and submitted together with a letter from the President of the National Assembly to the Judicial Council to obtain its opinion before being discussed at a meeting of the working bodies and session of the National Assembly. The opinions of the Judicial Council, the Supreme Court, the Constitutional Court, the Supreme State Prosecutor's Office and the State Prosecutorial Council on the forementioned draft amendments to the budget and on the budget were made public, including the materials related to the consideration of the proposal for amending the budget. The deputies of the National Assembly took note thereof. The two amendments concerning the increase of resources of the Supreme Court and the Judicial Council were not adopted at the session of the National Assembly.

The above-described procedure for the consideration of drafts relating to the state budget was in place also in 2022. At its meeting of 21 September 2022, the Committee on Justice considered the draft revised state budget for 2022. The President of the Judicial Council was invited to attend the meeting and took an active part therein. The draft budget was forwarded to the Judicial Council to obtain its opinion. The Judicial Council delivered a written opinion, which is published together with other materials relating to the consideration of the draft revised state budget.

On 19 October 2022, the Committee on Justice discussed the draft amendments to the state budget for 2023 and the draft state budget for 2024. The President of the Judicial Council was invited to attend and actively participated in the Committee meeting. The two drafts were forwarded to the Judicial Council which delivered a written opinion thereon. Later on, also the text of the amended budget for 2024 was sent to the Judicial Council and its written opinion was obtained. The written opinions of the Judicial Council are published together with other materials relating to the consideration of each draft.

## **2 Question 45**

**Framework, policy and use of impact assessments and evidence-based policy-making, stakeholders<sup>19</sup>/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process**

### **2.1 Code of Ethics**

In the first half of 2022 (i.e., before 13 May 2022 when the eighth term of the National Assembly came to an end), the Council of the President of the National Assembly discussed two motions for assessing violations of the Code of Ethics. The Council did not approve the sanctions proposed in any of the presented cases. The cases were closed, and no violations of the Code are deemed to have occurred.

In the second half of the year (i.e., in the ninth term of the National Assembly), three potential violations of the Code of Ethics were detected, but the procedures at the Council of the President have not yet been completed. At a consultative meeting with the President of the National Assembly (13 December 2022) to which the Vice Presidents, the leaders of deputy groups and the two representatives of national communities were invited, it was agreed that disrespectful speech by deputies at plenary sessions and meetings of working bodies and the threats and insults faced by the deputies as a result of such heightened rhetoric would be discussed at the next meeting. Hoping for everyone to commit to greater tolerance and respect in debates and speeches, as well as to

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<sup>19</sup> This includes also the consultation of social partners.



respect the integrity and personal dignity of fellow deputies, perhaps by drawing up and signing a joint document, the President of the National Assembly forwarded a draft of the possible text (note: the draft is not yet publicly available) to the leaders of deputy groups for discussion and possible adoption of a special act to such effect.

Consultative meetings with the President of the National Assembly are closed to the public. The next meeting is scheduled for late January 2023.

## 2.2 Impact assessment

As detailed in the Reference Report, the National Assembly does not carry out a regulatory impact assessment as such. Several other mechanisms contributing to the quality of regulations are in place. They are presented below, together with the available statistics.

## 2.3 Openness of National Assembly's work

According to the National Assembly Elections Act and the Rules of Procedure of the National Assembly, plenary sessions and committee meetings are, as a general rule, public (for more, see the Reference Report).

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. The openness of National Assembly's was ensured throughout 2022. The public service performed by RTV Slovenia comprises a special national television channel intended to provide live transmission of sessions of the National Assembly and meetings of its working bodies. RTV Slovenia offers (live) streaming of all public committee meetings, even if two or more meetings take place at the same time. The streaming of committee meetings ran smoothly throughout 2022.

**Table 1: National Assembly sessions by mandate in 2022**

<b>NATIONAL ASSEMBLY SESSIONS 2022</b>	<b>8<sup>th</sup> Mandate</b>	<b>9<sup>th</sup> Mandate</b>	<b>Total 2022</b>
<b>Regular sessions</b>	<b>2</b>	<b>5</b>	<b>7</b>
<b>Extraordinary sessions</b>	<b>7</b>	<b>29</b>	<b>36</b>
<b>Closed sessions</b>	<b>2</b>	<b>0</b>	<b>2</b>

Source: Report on National Assembly's Work in 2022.

## 2.4 Cooperation with civil society, professional public

When considering a draft law, the National Assembly also obtains opinions, comments and views of the relevant stakeholders and the interested public. All comments, opinions and positions on the draft law are published on the website of the National Assembly and considered as additional material when considering a draft law. The deputies take note thereof but are not bound by such.

The Reference Report details procedures related to:

- taking note of proposals, initiatives and questions presented by the civil society,
- public presentations of opinions,
- attendance at meetings of working bodies,
- opinions by local communities,
- opinions by the Judicial Council and the State Prosecutors' Council, and
- opinions by national communities and the Roma.

The above activities ran smoothly in 2022.

- Attendance at meetings of working bodies  
In 2022, 899 persons attended the meetings of working bodies (1253 in 2021).
- Taking note of proposals, initiatives and questions presented by the civil society  
In 2022, working bodies took note of 237 proposals, initiatives and questions presented by civil society (203 in 2021).
- Opinions by local communities received by the working body responsible  
In 2022, working bodies responsible received 157 opinions by local communities regarding draft laws (81 in 2021).
- Public presentations of opinions  
In 2022, 1 public presentation of opinions was held (2 in 2021).
- Research papers prepared by the Research Section  
In 2022, the Research Section prepared 97 research papers (86 in 2021).

## **2.5 Petitions**

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

In 2022, the Commission received 99 petitions (78 in 2021). 92 cases were closed (74 in 2021) and 7 petitions are still pending (4 in 2021).

## **2.6 Legislative initiative and referendum**

Pursuant to the Constitution (Articles 88 and 97), laws may be proposed – besides the deputies, the National Council and the Government – also by at least 5,000 voters.

Upon a petition submitted by 5,000 voters, the National Assembly (at its 13th extraordinary session of 21 July 2022) adopted the Act to Reduce Inequalities and Harmful Political Interference and to Ensure Respect for the Rule of Law (RLIPA).

On 27 November 2022, three legislative referenda were held concerning the Act amending the Government of the Republic of Slovenia Act, the Act amending the Radio Television Slovenia Act and the Act amending the Long-Term Care Act. In all three referenda, the majority of voters voted in favour of the entry into force of the Acts.

## **2.7 Other activities relevant in terms of openness of National Assembly's work**

The National Assembly is an open institution, connected to and collaborating with the public, NGOs, institutions, state bodies, courts, etc. in various ways and various areas. Other important forms of cooperation include the deputies' work in constituencies. In 2022, all the above activities ran smoothly.

The National Assembly is well aware of its national and cultural mission and has been hosting various cultural events, exhibitions, visits, etc. for years. In 2022, we celebrated the 30th anniversary of the National Assembly and carried out a number of projects and events.<sup>20</sup> Activities continued to launch the National Assembly's programme for children, adolescents and young people known as Active Citizenship.

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<sup>20</sup> <https://www.dz-rs.si/wps/myportal/Home/is/dogodki/DZ30let>

## 2.8 Transparency, openness of National Assembly's work, and specific forms of cooperation in 2022

All the above forms of cooperation contribute to the democratic image and transparent functioning of the National Assembly. In 2022, the National Assembly cooperated with various state bodies and institutions and with parliaments and governments of other countries. It regularly exchanged information, data and materials, and answered questionnaires received from international institutions and organisations (e.g., the ECPRD network), citizens, researchers, and other individuals.

## 2.9 Public information campaigns on rule of law issues

Apart from the usual activities of the National Assembly mentioned above (e.g., informing the public, answering journalists' questions, live TV broadcasts and streaming of plenary sessions and meetings of working bodies, publication of documents relating to the legislative procedure and plenary sessions on the National Assembly's website, etc.), the National Assembly has not carried out any specific activities with regard to the rule of law. However, this issue has often featured in various forms of public appearance (articles, interviews, speeches, etc.) of representatives of the National Assembly.

## 3 Question 46

### 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)

The procedure for the adoption of laws is detailed in the Reference Report.

In 2022, 28 % of laws were adopted by the regular procedure, 35 % by the urgent procedure, and 25 % by the shortened procedure.

**Table 2: Adopted laws by type of legislative procedure (in 2022)**

ADOPTED LAWS	8 <sup>th</sup> Mandate	9 <sup>th</sup> Mandate	Total 2022	%
Constitutional amendment	0	0	0	0%
Regular procedure	18	15	33	28%
Urgent procedure	9	32	41	35%
Shortened procedure	16	13	29	25%
Ratification	9	5	14	12%
<b>TOTAL</b>	<b>52</b>	<b>65</b>	<b>117</b>	

Source: Report on National Assembly's Work in 2022.

## 4 Question 47

### Regime for constitutional review of laws

Constitutional Court – number of cases discussed at meetings of parliamentary working bodies: when the Constitutional Court sends a request or petition to initiate proceedings before the Constitutional Court or a ruling on initiating proceedings to the National Assembly, as the opposing party in such proceedings, in order to obtain a reply to the request or petition or to obtain information and explanations in the procedure for examining the petition, the President of the National Assembly sends such request or petition or such ruling to the working body responsible, the Legislative and Legal Service, and the Government in order to obtain their opinions.

In connection with the proceedings before the Constitutional Court, in 2022 the Court sent to the National Assembly 76 requests/petitions. 48 requests/petitions were sent to

obtain a reply or explanation. Concerning the cases in which the National Assembly was asked for reply or explanation, the Constitutional Court found unconformity with the Constitution in 13 cases; in 7 cases the Court abrogated individual provisions of laws.

#### 4.1 Proceedings before the Constitutional Court

**Table 3: Number of cases in the framework of procedures to review the constitutionality and legality of regulations sent to the National Assembly by the Constitutional Court**

CASE TYPE	NO. OF CASES 2022
Cases sent to the National Assembly by the Constitutional Court	76
Cases sent to the National Assembly to obtain a reply or explanation	48
Cases closed in the National Assembly:	84
- solved at the Constitutional Court*	65
- replies or explanations sent to the Constitutional Court by the National Assembly	19

Source: Legislative and Legal Service

Key:

\*By a decision/ruling, the Constitutional Court:

- abrogated the provisions of articles/laws,
- found conformity or inconformity,
- rejected a petition or request,
- dismissed a petition or request,
- suspended the procedure.

**Table 4: Types of Constitutional Court decisions concerning petitions and requests for the National Assembly to provide a reply or explanation**

CONSTITUTIONAL COURT DECISION	NO. OF CASES 2022
Inconformity with the Constitution	13
Abrogation	7

Source: Legislative and Legal Service

## 5 Question 48

**COVID-19: update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic**

### 5.1 Constitutional review of emergency regimes and measures in the context of the COVID-19 pandemic

Constitutional Court decisions adopted in 2022 in proceedings for assessing the constitutionality and legality of regulations adopted by the National Assembly or Government to curb the COVID-19 pandemic:

#### U-I-793/21-13, U-I-822/21-12; 17 February 2022

Upon a petition submitted by V.B., the Constitutional Court assessed points 2 and 3 of paragraph one of Article 39 of the Communicable Diseases Act (ZNB)<sup>21</sup> and found that it was not inconsistent with the Constitution. Upon a petition submitted by L.J., the

<sup>21</sup> Official Gazette of RS No. 33/06 – official consolidated version, 142/2020 and 82/2021.

Constitutional Court examined the constitutionality and legality of paragraph two of Section 3.1 of the Decree determining special measures under Article 83a of the Courts Act (ZS)<sup>22</sup> to prevent the recurrence and spread of infections with the infectious disease COVID-19, and found that it was not inconsistent with the Constitution.

#### **U-I-25/22; 17 March 2022**

Upon a petition by the voters, the Constitutional Court examined the constitutionality and legality of Article 48 of the Act on Additional Measures to Curb, Mitigate, Control, Remedy and Eliminate the Consequences of COVID-19<sup>23</sup> since, according to the petitioners, it was not an urgent measure to eliminate the consequences of the infectious disease COVID-19; the inclusion of the contested provision in the Act prevented voters from submitting a request for a legislative referendum. The Constitutional Court ruled that Article 48 of this Act should be abrogated.

#### **U-I-180/21; 14 April 2022**

On the initiative of the Information Commissioner (IC), the Constitutional Court reviewed two Government ordinances, namely:

- Ordinance on the method of determining compliance with the requirements of recovery, vaccination and negative test result in relation to the infectious disease COVID-19<sup>24</sup> and decided to abrogate it. The abrogation takes effect one year after the publication of the decision in the Official Gazette of the Republic of Slovenia (6 May 2023).
- Ordinance on temporary measures to prevent and control infections with the infectious disease COVID-19<sup>25</sup> and decided to abrogate it in the part specifying the processing of personal data<sup>26</sup>. The abrogation takes effect one year after the publication of the decision in the Official Gazette of the Republic of Slovenia (6 May 2023).

### **5.2 Oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic**

Modern parliaments also have an oversight function. The National Assembly exercises such function in a number of ways, for example through parliamentary questions and motions addressed to the Prime Minister and ministers, interpellations, parliamentary inquiries, and discussion of annual and other reports of various state bodies.

In 2022, the National Assembly (and/or its working bodies) received and discussed, inter alia, the following annual and other reports (the date of receipt is indicated in brackets): Report on the Situation on the Financial Instruments Market in 2021, Annual Report of the Securities Market Agency for 2021 containing the Annual Accounts for 2021 and the Agency's Financial Plan for 2022 and 2023 (22 June 2022); Report of the Insurance Supervision Agency for 2021 and Financial Plan of the Insurance Supervision Agency for 2022 (28 June 2022); Annual Report of the Bank of Slovenia for 2021 with the Annual Accounts of the Bank of Slovenia for 2021 (15 June 2022); Report on the Situation in the Energy Sector in Slovenia in 2021 and Annual Report of the Energy Agency for 2021 (30 June 2022); Annual Report of the Financial Stability Board for 2021 (5 July 2022); Report on the work of the National Audit Commission for 2021 (23 March 2022); Report on the work and financial performance of the Foundation for the Financing of Disabled People's and Humanitarian Organisations in 2021 (16 June 2022) and 2020 (18 March 2022); Report on the work of the Fiscal Council in 2021 (14 May 2022); Annual Report of the

<sup>22</sup> Official Gazette of RS No. 94/2007 – official consolidated version, 175/2021 and 199/2021.

<sup>23</sup> Official Gazette of RS No. 206/2021.

<sup>24</sup> Official Gazette of RS No. 126/2021.

<sup>25</sup> Official Gazette of RS No. 22/2022, 29/2022, 37/2022 and 51/2022.

<sup>26</sup> An implementing regulation governing the processing of personal data is inconsistent with Article 38(2) of the Constitution if it is not based on a statutory basis specifying which data may be collected and processed and for what purpose.

Information Commissioner for 2021 (18 May 2022); Annual Report of the Commission for the Prevention of Corruption for 2021 and Assessment of the Situation for 2021 (26 May 2022); Annual Report on the work of the Department for the Investigation and Prosecution of Official Persons Having Authority Powers at the Specialised State Prosecutor's Office of the Republic of Slovenia for 2021 (16 February 2022); Report on the work of the Court of Audit of the Republic of Slovenia for 2021 (26 May 2022); Annual Report of the Slovenian Press Agency for 2021 (18 May 2022); Annual Report on the Achievement of the Objectives of the State Forests Management for 2021 (12 October 2022); Annual Report on the Management of the Capital Assets of the Republic of Slovenia and the Slovenian Sovereign Holding for 2021 (27 October 2022); Report on the Work of the Slovenian Institute of Auditors for 2021 (10 March 2022); Annual Report on the Operations of the Specialised State Prosecutor's Office of the Republic of Slovenia for 2021 (11 February 2022); Annual Report of the Broadcasting Council for 2021/2022 (October 2021–April 2022) (21 April 2022); Twenty-first Report on State Aid in Slovenia for 2017, 2018, 2019 and 2020 (25 May 2022); Annual Report on the Work of the Police for 2021 (25 May 2022); Twenty-seventh Regular Annual Report of the Ombudsman of the Republic of Slovenia for 2021 with the Ombudsman's Report on the Implementation of the Tasks of the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for 2021 with a draft recommendation (14 June 2022); Joint Annual Report on the Work of the State Prosecutor's Offices for 2021 (14 April 2022); Annual Report on the Efficiency and Effectiveness of the Courts for 2021 (16 May 2022); Regular Annual Report of the Advocate of the Principle of Equality for 2021 (29 April 2022); Report on the Environment in the Republic of Slovenia 2022 (19 August 2022).

#### ▪ **Parliamentary questions and motions**

In 2022 (particularly in the first half of the year), based on Article 240 of the Rules of Procedure of the National Assembly (PoDZ),<sup>27</sup> deputies presented a number of parliamentary questions and motions about COVID-19 to Government representatives, concerning, for example:

- easing of measures to contain COVID-19,
- incidence of cancer in Slovenia and trends during the COVID-19 pandemic,
- a new strategy to tackle the COVID-19 pandemic,
- absence due to COVID-19 in primary and secondary schools,
- coping with the COVID-19 crisis,
- number of people vaccinated against COVID-19,
- increasing the capacities of molecular diagnostic for COVID-19 by involving the Faculty of Veterinary Medicine, University of Ljubljana,
- harmonising COVID-19 requirements and rules at EU level,
- costs associated with the management of the COVID-19 pandemic in 2021,
- the Government's accountability regarding the number of COVID-19 deaths,
- relaxation of measures to contain COVID-19.

#### ▪ **Parliamentary inquiries**

Parliamentary inquiries are regulated by Article 93 of the Constitution<sup>28</sup>. The National Assembly may order inquiries on matters of public importance, and it must do so when required by a third of the deputies of the National Assembly or when required by the National Council. In matters of investigation and examination, the commission of inquiry appointed for such purpose has powers comparable to those of judicial authorities.

<sup>27</sup> Official Gazette of RS No. 92/2007 – official consolidated version, et seq.

<sup>28</sup> Official Gazette of RS No. 33/1991-I with amendments.

In the first half of 2022, two parliamentary commissions of inquiry (both concerning COVID-1 and established in 2020) completed their work:

- Commission of Inquiry to determine the facts and the possible political responsibility of holders of public office in the implementation of measures related to the COVID-19 pandemic and the mitigation of its consequences, in view of allegedly inappropriate use of public funds and unjustified restriction of rights and freedoms in the period from 13 March 2020 to the date of the ordering of the parliamentary inquiry in question, and to amend, if necessary, the legislation in force governing the State's action to deal with the pandemic of the infectious disease or its consequences.<sup>29</sup>
- Commission of Inquiry to determine the facts and the possible political responsibility of holders of public office on the condition, handling, stocks, procurement, purchases, storage and other ways of acquisition or disposal of personal protective equipment and critical medical equipment for the effective prevention of infections with infectious diseases, and the functioning of institutions and holders of public office in relation to the timely containment of the SARS-CoV-2 (COVID-19) pandemic and relevant measures, in view of allegedly inappropriate use of public funds and alleged failure to take appropriate measures for the timely containment of the COVID-19 pandemic, in the period from 1 February 2020 to the ordering of the parliamentary inquiry in question, and to amend, if necessary, the legislation in force governing public procurement, commodity reserves, integrity and the prevention of corruption and the management of public funds by holders of public office.<sup>30</sup>

#### **5.4 Processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances**

Measures to contain the COVID-19 pandemic and mitigate its impact on social and economic life in the Republic of Slovenia and the necessary adjustments to the work of the National Assembly in place between March 2020 and the end of 2021 are specified in detail in the Reference Report. In 2022, the pace of the pandemic slowed down and the situation was gradually returning to normal.

### **6 Question 58**

#### **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, contributions from civil society, etc.)**

The activities described in detail in the Reference Report (e.g., consideration of the annual reports submitted to the National Assembly by the various state bodies, openness of National Assembly's work, cooperation with civil society, etc.) continued in 2022. The waning pandemic enabled higher attendance and a greater number of events taking place.

At the request of several deputy groups, the Committee on Justice held a meeting in January 2022 to consider the "Implementation of the rule of law in terms of the efficiency, impartiality and independence of the Judiciary in the Republic of Slovenia" and adopted the following conclusions:

1. The Committee on Justice notes that a concerted effort by all three branches of government towards greater efficiency, openness and transparency is needed to increase confidence in the Judiciary and to improve the situation.

<sup>29</sup> The act ordering this parliamentary inquiry was adopted by the National Assembly at its session of 27 October 2020.

<sup>30</sup> The act ordering this parliamentary inquiry was adopted by the National Assembly at its session of 14 July 2020.

2. The Committee on Justice notes that, in order to improve the functioning of the Judiciary, it is important that the Judiciary is aware of its responsibilities, particularly with regard to guaranteeing human rights and fundamental freedoms in judicial proceedings, the independence of the Judiciary, and ensuring the appearance of impartial decision-making in judicial proceedings, as well as establishing accountability for its work and decisions in judicial proceedings, and ensuring their proper sanctioning.
3. The Committee on Justice recommends that the Government, the Ministry of Justice, the Supreme Court of the Republic of Slovenia and the Judicial Council consider and prepare legal solutions allowing to make the work of the Judiciary more transparent and more efficient, shorten procedures, and ensure a proper form of oversight over all decisions, including procedural ones, of all courts in the Republic of Slovenia, thus restoring confidence in the Judiciary, especially in terms of guaranteeing human rights and fundamental freedoms in judicial proceedings and enabling independent and impartial decision-making in judicial proceedings.

At the same meeting, at the initiative of the Chair of the Committee on Justice, the Committee discussed “The risk of lowering the level of public trust in the Judiciary as a result of the lack of clarity regarding the eligibility of Branko Masleša to perform the office of a judge of the Supreme Court of the Republic of Slovenia” and adopted the following *conclusion*:

In view of ensuring the constitutional principle of the rule of law and hence a good reputation of the Judiciary, the Committee on Justice calls on the Judicial Council as the proposer of the election of candidates to judicial vacancies to carry out within a month, together with the President of the Supreme Court of the Republic of Slovenia as the supreme institution of the judicial administration, an analysis of the fulfilment of the eligibility conditions for the permanent office of judge in the independent Republic of Slovenia in cases where the bar exam was passed in other socialist republics of the former Yugoslavia.

The Judicial Council responded to the above conclusions on 9 February 2022 stating, inter alia, that in accordance with Article 18 of the Judicial Service Act, the assessment of the fulfilment of the general and specific eligibility criteria for appointment of judges falls within the responsibility of the Judicial Council, which is an autonomous and independent body exercising the powers conferred on it by the Judicial Service Act and the Judicial Council Act with professional autonomy. The assessment of the eligibility of a judge is a matter of specific competition procedures, and the Judicial Council does not keep records of where and when a candidate elected to judicial office passed the bar or state legal exam. The relevant data and eligibility are established in each individual competition procedure. Although the data on the level of education attained, functional and specific knowledge and other data on professional competence of a judge are – in accordance with Article 78(2)(4) of the Courts Act – kept in the central personnel records kept by the Supreme Court, the Judicial Council does not have a legal basis for processing and storing the above personal data for a particular judge.

On 14 February 2022, also the Supreme Court responded, stating, inter alia, that it was not competent to carry out the analyses proposed by the Committee on Justice and to comment on the points raised. The Supreme Court also had no reason to further assess a judge’s education and professional qualifications, as this was the task and duty of the competent state bodies which decided on the election of a judge to judicial office, including when a judge in the independent Republic of Slovenia was re-elected to a permanent judicial office after the adoption of the new judicial legislation in 1994. In this



regard, it explained that the Judicial Service Act equated the performance of judicial office with the acquired professional titles and the passed bar or legal state exams.

The Government and the Ministry of Justice did not respond to the above conclusions.

## 7 References

Official Gazette of RS No. 33/06 – official consolidated version, 142/2020 and 82/2021.  
Official Gazette of RS No. 94/2007 – official consolidated version, 175/2021 and 199/2021.

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