



REPUBLIC OF SLOVENIA
Ministry of Justice

INFORMATION
ON THE COMPETENCES OF THE MINISTRY OF
JUSTICE OF THE REPUBLIC OF SLOVENIA IN THE
RELATIONS TO THE JUDICIARY

Judicial Forum: Relations between Ministry of Justice and Judiciary
Bled, 7 and 8 March 2002

BASIC DOCUMENTS REGULATING THE SPHERE OF ACTIVITY

- Constitution of the RS (Ur. l. RS/I, 33/91 and RS 42/97)
- Government of the Republic of Slovenia Act (Ur. l. RS, 4/93, 23/96, 47/97, 119/00 and 30/01)
- Public Administration Act (Ur. l. RS, 67/94, 20/95, 29/95 and 80/99)
- Organisation and Competence of Ministries Act (Ur. l. RS, 71/94, 47/97 and 30/01)
- Enforcement of Penal Sanctions Act (Ur. l. RS, 22/00)
- Courts Act (Ur. l. RS, 19/94, 45/95, 26/99, 38/99 and 28/00)
- Judicial Service Act (Ur. l. RS, 19/94, 8/96, 24/98 and 48/01)
- State Prosecutor Act (Ur. l. RS, 63/94 and 59/99)
- State Attorney Act (Ur. l. RS, 20/97)
- Lawyers Act (Ur. l. RS, 18/93, 24/96 and 24/01)
- Notaries Act (Ur. l. RS, 13/94, 48/94, 82/94 and 41/95)
- State Law Examination Act (Ur. l. RS, 13/94, 71/94 and 5/99)
- Execution of Civil Judgements and Securities Act (Ur. l. RS, 51/98, 72/98, 11/99 and 59/01)
- Establishment of Reciprocity Act (Ur. l. RS, 9/99)
- Personal Data Protection Act (Ur. l. RS, 59/99, 57/01 and 59/01)

JUDICIAL BODIES IN THE REPUBLIC OF SLOVENIA

1. COURTS

Courts of general jurisdiction:

- 44 regional and 11 district courts competent to deal with matters of first instance
- 4 higher courts competent to deal with matters in the appellate instance
- Supreme Court of the Republic of Slovenia

Specialised courts:

- Administrative Court of the Republic of Slovenia and its external units, competent to deal with administrative disputes
- 3 labour courts and the Ljubljana Labour and Social Court, competent to deal with first-instance disputes concerning labour law and social security, and the Supreme Labour and Social Court, which is competent to deal with matters in the appellate instance
- Constitutional Court of the Republic of Slovenia

2. STATE PROSECUTION SERVICE

- State Prosecutor's Office of the Republic of Slovenia
- 4 higher state prosecutor's offices
- 11 district state prosecutor's offices with external departments

3. STATE ATTORNEY'S OFFICE

- State Attorney's Office of the Republic of Slovenia, with eight external departments

4. MISDEMEANOURS JUDGES

- Misdemeanours Panel of the Republic of Slovenia
- Misdemeanours judges (56)

1. Competences of the Ministry in connection with courts

- to propose the number of judicial posts to the Judicial Council
- to propose the number of lay judges to the Judicial Council
- to determine the number of professional staff and administrative technical staff in courts
- to appoint the presidents of courts and propose a president of the Supreme Court for nomination by the National Assembly
- to decide on the dismissal of presidents of courts
- to perform official supervision of court work
- to make supervisory complaints in lengthy court procedures
- to keep a centralised personnel record
- to prescribe the court rules
- to appoint and dismiss court experts, assessors and interpreters
- to head the application procedure for the election of judges
- to prescribe official attire for judges
- to lodge initiatives to start disciplinary procedures against judges
- to make decisions in the appellate stage of an administrative procedure to determine the compatibility of the court official's office with functions outside the court
- to carry out statistical research into court operations

2. Competences of the Ministry in connection with the state prosecution service

- to conduct supervision of the administrative side of the operation of state prosecutor's offices
- to issue consent to the internal operation acts of state prosecutor's offices
- to determine, at the proposal of the State Prosecutor General, the number of state prosecutors in the State Prosecutors' Team for Special Tasks
- to determine, at the proposal of the State Prosecutor General and in agreement with the Slovenian government, the number of state prosecutors in individual state prosecutor's offices
- to give consent to the instructions for the activities of the State Prosecutors' Team for Special Tasks
- to propose state prosecutors for nomination by the Slovenian government
- to head the procedure for inviting applications for the position of state prosecutor
- to nominate one member to the personnel board
- to propose for nomination or promotion the heads of state prosecutor's offices
- to prescribe official attire for state prosecutors
- to keep personal records on state prosecutors
- to allocate a state prosecutor to work at the Ministry of Justice
- to propose that a state prosecutor or head of a state prosecutor's office be dismissed from office
- to propose the introduction of a disciplinary procedure against a state prosecutor

- to appoint deputy heads of state prosecutor's offices
- to determine the number of administrative technical positions in state prosecutor's offices
- to ensure the development of uniform information technology support
- to make supervisory complaints in lengthy procedures
- to request from the state prosecutor's offices a report on matters which they are working on
- to allow inspection of the records and registers of state prosecutor's offices

3. Competences of the Ministry in connection with state attorneys

- to give consent to the regulations on the internal organisation and operation of state attorney's offices
- to supervise the administrative affairs of state attorney services
- to propose candidates to the government for the appointment of state attorneys and assistant state attorneys
- to head the procedure for inviting applications for the position of state attorney or assistant state attorney
- to issue opinions in the procedure of nominating the State Attorney General
- to determine the number of positions for state attorneys and assistant state attorneys
- to determine the number of positions for professional staff and administrative technical staff in state attorney's offices
- to propose to the government the promotion and placement of an attorney in the State Attorney General wage category
- to decide on the length of the State Attorney General's annual leave
- to prescribe official attire for state attorneys
- to keep personnel records
- to propose to the government the termination of office or dismissal of a state attorney
- to propose disciplinary actions against attorneys

4. Competences of the Ministry in connection with misdemeanours authorities

- to appoint heads of misdemeanours judges
- to determine the number of judicial positions
- to monitor and study the work and organisation of misdemeanours authorities, personnel issues and professional training for misdemeanours authorities staff, and to ensure material and other conditions for work
- to monitor and ensure the implementation of the Misdemeanours Act and other regulations on misdemeanours, and to propose suitable measures
- to make supervisory complaints in lengthy procedures
- to request information, opinions and reports from the misdemeanours authorities, and to carry out an inspection of their operation
- to lay down the basic rules for the determination of the number of judges and the basic rules for the classification of jobs and work by other employees of the misdemeanours authorities

5. Competences of the Ministry in connection with state law examinations and scholarships

- to propose to the government the number of trainee positions in individual courts
- to permit candidates to sit the exam
- to appoint the president and members of the examination board
- to determine the content of and procedure for the oral part of the examination
- to make decisions on scholarships for the needs of judicial bodies
- to make second-instance decisions in an administrative procedure concerning a request for an extension of the training period
- to make second-instance decisions on deferral of training
- to prescribe instructions on how to write an assessment of the work of trainee judges

6. Competence of the Ministry in connection with notary services

- to head the application procedure, and to appoint and dismiss individual notaries
- to determine the number of notary positions
- to ensure the legality of operation of the notary service
- to issue consent to the notaries' tariff

7. Competences of the Ministry in connection with lawyers' services

- to issue consent to the tariff for lawyers' services
- to request the introduction of disciplinary procedures

8. Competences of the Ministry in connection with bailiffs

- the Minister appoints bailiffs in line with the provisions of the Execution of Civil Judgements and Securities Act (Article 281)
- to keep a record of bailiffs
- the Minister makes first-instance decisions in disciplinary procedures against bailiffs

9. Competences of the Ministry in connection with bankruptcy administrators

- the Minister prescribes the programme and manner of conducting professional examinations for administrators of forced settlements, bankruptcy and liquidation procedures
- the Minister issues and revokes licences for the administrators of forced settlements, bankruptcy and liquidation procedures

10. Competences of the Ministry in connection with serving officials

- the Minister issues licences for serving on the basis of the provisions of the Civil Procedure Act
- to keep a register of licensed serving officials

ORGANISATION OF COURTS AND JUDICIAL SERVICES

1.

The position of judges is defined by the Constitution, which lays down the basic principles while leaving the specifics of enactment to the legislator.

In 1994 the foundations for judicial reform were laid, mainly with the systemic and organisational Courts Act (Ur. l. RS 19/94 – hereinafter: the CA), which has been amended several times since (Ur. l. RS, 45/95, 38/99 and 28/2000). The Act lays emphasis on the independent position of judges in relations with superior courts; and it defines the sphere of court administration (which is within the competence of the court) and the areas of judicial administration (within the competence of the ministry). Court independence is reflected in the low level of power of the Ministry of Justice over the judiciary. The principle of a legitimate judge is defined in detail.

With the Act the basic courts and their units which existed at the time became regional and district courts, and Chapter 3 of the Act defines their set-up in detail. The principles of the exercise of judicial authority and the position of courts and judges were laid down by the Constitution, mainly in the chapter on human rights and basic freedoms (for example, on independent and impartial courts).

Judges in courts of general jurisdiction exercise judicial authority. In courts which were founded to deal with specific matters, judicial authority is exercised within the bounds granted explicitly by law (specialised courts).

Slovenia has 44 regional, 11 district and four higher courts, and a Supreme Court. The Courts Act specifies in detail the substantive powers of regional, district and higher courts, and of the Supreme Court (CA, Article 99 onwards). It also specifies the functional powers of the courts. The provisions of Articles 114 onwards of the CA lay down the organisation of regional, district and higher courts, and the Supreme Court.

As an executive regulation, the court rules are within the competence of the Minister; they entered into force in 1995 and define in quite some detail (387 articles) the internal set-up of the courts, their functioning and other matters.

2.

The regulation of key issues defining the position of judges (from the manner of appointment to the manner of promotion, training, the substantive rights of judges and the setting of suitable standards for mandatory conduct, violation of which is punishable) could not be achieved by the Slovenian legislator solely with a few legal provisions. The CA (Article 39) for example leaves the regulation of a quite extensive issue to a separate law, i.e. the Judicial Service Act (Ur. l. RS, 19/94, 8/96, 24/98, 48/2001 – hereinafter: JSA). Together with the provisions included in Chapter V of the CA (judicial authority, judges, courts), the JSA forms a systemic entirety.

Because Article 130 of the Constitution only specifies that judges are to be elected by the National Assembly at the proposal of the Judicial Council, the law defines in detail the election procedure and the appointment of judges (Chapter 2 of the JSA). The Ministry advertises a vacancy for a judge within one month of receiving notification from the president of the court. The vacancy is advertised in the Uradni list. The Ministry of Justice forwards all

applications by all applicants to the personnel council of the court advertising the vacancy. The law also prescribes the procedure in the case of incomplete or late applications. After examining all the applications, the personnel council forms opinions on all applications and specifically states those it considers the most suitable and why. The personnel council sends its opinions as well as the applications to the Ministry of Justice, which also forms its opinions on the applicants and then submits them, complete with all other documents, to the Judicial Council. When selecting a candidate to nominate for the vacant position of a judge, the Judicial Council is not bound by the personnel council's opinions. If the Judicial Council selects a candidate who has not yet been elected as a judge, it must, in line with the provisions of the JSA, nominate the candidate for election by the National Assembly. If the National Assembly does not elect the candidate, the Judicial Council may repeat the selection from among the applications it received or it may decide to repeat the invitation for applications. By being elected to office, the judge is considered to be appointed to the vacant position. If the Judicial Council selects a candidate who has already been elected as a judge, it appoints the candidate to the vacant position.

FUNDING FOR THE REQUIREMENTS OF JUDICIAL BODIES

Measures aimed at improving the functioning and ensuring material conditions for the work of the courts, state prosecutor's offices, state attorneys and misdemeanours authorities in over 170 different locations throughout Slovenia include funding for the needs of judicial bodies.

As part of the drive for technological modernisation of operations, funding has been allocated for the following:

- office furniture
- office equipment, office security equipment, telecommunications, audio and visual equipment, vehicles, studies and project documents
- new computer equipment and maintenance of the existing hardware and software.

In addition, funding has been allocated for the following purposes:

- to buy property for the requirements of judicial bodies
- for the maintenance of buildings used by judicial bodies, which is carried out on the basis of long-term plans and more concrete annual maintenance plans for each individual judicial body. Since these buildings are usually old and in need of extensive renovation work, the shortage of funds has meant that only the most urgent maintenance work or work necessary in order to provide new office space in cases of severe shortages has been carried out.

The Ministry of Justice is working hard on buying more business premises in the long run, since many of its bodies currently work in rented offices. A comparison with the high cost of renting business premises for several years makes it clear that, in the long run, the purchase of premises will save money. The need to invest in property in order to ensure the uninterrupted operation of judicial bodies can be justified with the help of statistical calculations that show that the funds required to buy business premises are lower than the funds that would be spent on rent over the lifespan of the property.