



REPUBLIC OF SLOVENIA
Ministry of Justice

**Judicial Forum: Relations between Ministry of Justice and Judiciary
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The Constitution of the Republic of Croatia defines judicial power as one of the pillars of power in the Republic of Croatia.

Under Article 3 of the Constitution of the Republic of Croatia, the rule of law is one of the highest values of its constitutional order. The principles of the rule of law require the guaranteed independence of the judiciary, stable and impartial judges as well as a qualified and efficient justice system, which guarantees their independence

Moreover, a strong and efficient judiciary means successful democratic governance and is vital for the economic development of a market oriented economic system.

In accordance with the constitutional principles of the separation of powers, the judiciary in the Republic of Croatia is independent and autonomous. Judicial office is permanent; judges enjoy immunity in order to protect their independence

Under the Courts Act there are four types of courts in the Republic of Croatia - courts of general jurisdiction (municipal courts, county courts, the Supreme Court), commercial courts (commercial courts and the High Commercial Court), the Administrative Court and misdemeanour courts.

There are 114 municipal and 21 county courts in the Republic of Croatia. There are also 13 commercial courts and the High Commercial Court of the Republic of Croatia, as well as 114 misdemeanour courts and the High Misdemeanour Court. 1,666 judicial posts are planned (systematised). 83% judges have been appointed so far, while the appointment of 17% judges is pending. The State Judicial Council has just finished the proceedings of the appointment of 6 judges to the Supreme Court of the Republic of Croatia. Accordingly, all the posts systematized under the framework criteria are now filled.

The amendments to the Constitution of the Republic of Croatia, the Courts Act and the State Judicial Council Act regulate the organisation of courts, their scope of work and competencies, the manner of appointment of the President of the Supreme Court of the Republic of Croatia, court presidents, judges, the dismissal of judges and the issue of disciplinary responsibility of judges.

Under the Constitution of the Republic of Croatia, the President of the Supreme Court of the Republic of Croatia is appointed and dismissed by the Croatian Parliament, subject to a preliminary opinion by all the judges of the Supreme Court and the Committee on Justice of

the Croatian Parliament, upon the proposal of the President of the Republic of Croatia. He or she is appointed for a period of four years. The Constitution of the Republic of Croatia, the Courts Act and the State Judicial Council Act established the permanency of judicial office. When they first take judicial office, judges are appointed for a period of five years, and after reappointment their office is permanent.

Judges are appointed and dismissed by the State Judicial Council. The newly established judicial councils have a significant role in this. They give evaluation of the discharging of judicial office and opinions of the candidates for judges.

Presidents of other courts are appointed by the Minister of Justice, among the candidates proposed by judicial councils. The opinion of the judicial council is dominant and accepted in relation to appointments, except when votes are divided amongst the candidates, and the decision is made by the Minister, governed by the criteria of the profession, decency, professionalism and honesty.

The State Judicial Council, which appoints, dismisses and carries out disciplinary proceedings, is mostly composed of judges and also of representatives of the legal sciences and the Bar Association. Members of the State Judicial Council are appointed and dismissed by the Croatian Parliament, with the opinion of the Committee on Justice of the Croatian Parliament.

The amendments to the 2000 Constitution contain new provisions on the state's attorney's service. It is defined as an autonomous and independent judicial body authorised and responsible to proceed against the perpetrators of criminal offences and other punishable acts, undertake legal actions for the purpose of the protection of property of the Republic of Croatia and file legal remedies for the protection of the Constitution and laws.

The State's Attorney's Service Act from June 2001 regulated the organisation, competencies, the conditions for appointment and dismissal of state's attorneys and their deputies who are appointed and dismissed by the State's Attorneys' Council which also decides on their disciplinary responsibility. When they are first appointed, the deputy state's attorneys are appointed for the period of five years, and after the first appointment their office is permanent. The composition of the State's Attorneys Council is a guarantee that the appointments and the career of state's attorneys are decided by the profession, without any interference by politics. The Croatian Parliament appoints only the Chief State's Attorney, upon a proposal by the Government of the Republic of Croatia, subject to a preliminary opinion of the Committee on Justice of the Croatian Parliament, for a term of four years. In case the Chief State's Attorney is not re-appointed or is dismissed, he or she continues to work as a deputy state's attorney in the state's attorney's office. County and municipal state's attorneys are appointed by the Chief State's Attorney, subject to a preliminary opinion by the Minister of Justice and the collegiate body of the state's attorney's office.

There are 21 county state's attorney's offices and 64 municipal state's attorney's offices together with the State's Attorney's Office of the Republic of Croatia in the Republic of Croatia.

The provisions of the Constitution of the Republic of Croatia, the Courts Act and the State's Attorney's Service Act guarantee the independence of the justice system, and prohibit any interference in the independent functioning of the justice system, and prohibit the use of

public powers for the purpose of influencing the impartial and independent work of the courts and state's attorney's services.

The Act on the Office for Fighting Corruption and Organised Crime was enacted and the Office as a specialised state's attorney's service for proceeding against criminal offences of corruption and organised crime was organised, with a view to increasing the efficiency of the justice system, and primarily to more efficient discovering, processing and sanctioning corruption and organised crime. Together with the repressive, the Office also has a preventive and educational function, in accordance with the ratified international conventions. The Act on the Office for Fighting Corruption and Organised Crime ensures the co-ordinated work of state's attorneys, judges and police and other supervisory bodies in an integrated and consistent process of fight against corruption and organised crime.

The financial means for the functioning of courts and state's attorney's offices, including salaries, are provided in the Republic of Croatia from the State Budget for every current year (The State Budget for the year 2002 – "Narodne novine" no. 116/01). The total of 1,807,560,398.00 kuna were provided in the State Budget for the Ministry for this financial year. The justice bodies play an active role in the process of the provision of financial resources, and they propose, through the Ministry of Justice and the Ministry of Finance, the amounts of resources they need to carry out the administration of justice. The resources provided are allocated to each justice body through the Ministry of Justice, within the resources provided by the plan. The Ministry of Justice brings together data by budgetary items up to the level of distribution and sends them to the Ministry of Finance as a request for final payment. The role of the Ministry as the holder of the treasury for this field is the supervision (control) of the proper proceedings of the users from the planning to the disposing (spending) phase of the resources provided. It should be mentioned that all the monetary transactions are carried out through the System of the State Treasury as of this year, with the aim of ensuring better control over the disposition of the State Budget funds, i.e. more rational use of budgetary funds.

In the reform of the justice system, special attention will be paid to the development of a more efficient, effective and modern Croatian justice system. In connection with this, it will be necessary to make certain amendments to the Criminal Procedure Act, the Civil Procedure Act, the Bankruptcy Act, the Execution Act, the Inheritance Act and other laws, in order to increase the procedural discipline of parties in proceedings and make the proceedings more efficient, effective and appropriate.

The amendments to the Criminal Procedure Act will promote the principle of efficiency of criminal proceedings, speed up criminal proceedings and eliminate those provisions, which used to enable various abuses of procedural rights by the participants in criminal proceedings, in line with the international standards for the protection of human rights. The Inheritance Act will specially regulate the issue of the transfer of estate proceedings to public notaries, as well as their powers in these proceedings.

The projects for the organizing and updating of companies registers at commercial courts are pending, as well as the organization of the situation in land registers and cadastre, by means of the introduction of electronic data processing. It is necessary to finish the computerisation of the courts and state's attorney's offices and improve international co-operation. Measures should be undertaken, with the assistance of international community, aimed at achieving increased efficiency of international co-operation, especially of mutual

legal assistance by promoting direct contact and communication between judges and state's attorneys (prosecutors). The development of a justice system network at the European and broader international levels should be supported.

With a view to lifting the burden from the courts, out-of court methods, such as mediation and reconciliation, arbitration and the like should be promoted, because citizens are involved in dispute resolution in this manner, which contributes to the strengthening of stability, democracy and social peace.

In the process of implementation of the Association and Stabilisation Agreement with the European Union it is necessary to bring Croatian legislation into line with EU legislation. During this process education of judges, state's attorneys and other officials in the justice system should be undertaken, so that they would become acquainted with the institutions and principles of European legislation and the conventions of the Council of Europe adopted in the field of the protection of human rights and freedoms, the fight against corruption and organised crime and the improvement of the rule of law and independent and impartial justice system.

The efficiency of the justice system and judicial proceedings can be achieved by highly educated and additionally trained judges, state's attorneys and other staff in the justice system. Accordingly, the Ministry of Justice founded the Centre for the Training of Judges and other Justice Officials last year, which will carry out planned, systematic, permanent and specialised legal training.