

TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Slovenia, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Slovenia, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

SLOVENIA REVIEW

Justice System

➤ *Quality of justice*

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities noted with concern the lack of information on specific procedural, gender- and age-appropriate accommodation for persons with disabilities in judicial proceedings, in particular for deaf-blind persons; the lack of accessibility of the buildings of law enforcement agencies and the judiciary; barriers to access to justice for persons with psychosocial and/or intellectual disabilities, in particular persons living in institutions and/or deprived of their legal capacity; the fact that the State party has not formulated policies to empower persons with disabilities to be part of the justice system as direct or indirect participants, such as lawyers, court officers or law enforcement officials. The Committee also expressed concern at the reported cases of excessive use of force against persons in psychiatric institutions by medical staff and judicial police officers ([CRPD/C/SVN/CO/1](#), para 18 – 20, 25).

➤ *Hate Speech and incitement to violence*

Hate speech and incitement to violence - In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues stated that the wording of article 297 of the Penal Code,

and consequently its interpretation, had helped to create an environment of impunity and discouragement; those who engaged in hate speech and incitement to violence against minorities were unlikely to be prosecuted and could therefore act with little concern of any punishment or consequences, while victims felt there was simply no point in complaining if they believed no one would be prosecuted or punished ([A/HRC/40/64/Add.1](#), para 49).

Other institutional issues related to checks and balances

➤ *The process for preparing and enacting laws*

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities expressed concern about the lack of consultation with organizations of persons with disabilities aimed at ensuring their meaningful involvement in the design and implementation of disability-related legislation and programmes; the lack of awareness among decision makers in the executive and legislative branches and among professional and administrative staff about Slovenia's obligations under the Convention on the Rights of Persons with Disabilities, in all areas of life ([CRPD/C/SVN/CO/1](#) para 4).

➤ *Independent authorities*

In its 2018 concluding observations, the Committee on the Rights of Persons with Disabilities was concerned about the limited capacity of the national preventive mechanism of the Human Rights Ombudsman to effectively address allegations of torture and ill-treatment against persons with disabilities in institutions. It also expressed concern at the lack of independence, capacity and resources of the Council of Slovenia for Persons with Disabilities designated as the independent monitoring framework for the implementation of the Convention ([CRPD/C/SVN/CO/1](#) para 25, 57).

In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues welcomed the amendments to the Human Rights Ombudsman Act made in late 2017, which set out a new legal basis for the Office of the Ombudsman to apply for A-status under the Paris Principles. The amendments provide for the establishment of a consultative body to the Ombudsman, with pluralistic representation in order to strengthen cooperation with civil society, as well as the establishment of a centre for human rights as a component dealing with a general mandate in relation to educational, training and promotional activities. Additional financial support for the office and further staff to aid in the fulfilment of its mandate were also envisaged ([A/HRC/40/64/Add.1](#) para 19).

In December 2020, GANHRI Sub-Committee on Accreditation (SCA) recommended that the Ombudsman office be re-accredited with A status. The SCA commended the efforts undertaken by the Ombudsman to advocate for the 2017 amendments to its enabling legislation. It encouraged the Ombudsman to continue efforts to address all human rights issues affecting the society in which it operates, including the rights of migrants and refugees, rights of persons with disabilities, and human trafficking. The SCA specifically recommended that the Ombudsman office advocate for the formalization and application of a broader and more transparent selection and appointment process. Noting that while the NHRI's funding situation had improved, it would benefit from additional funding in order to continue to carry

out its functions effectively, it also recommended the Ombudsman's office advocate for more adequate funding as well as for appropriate modifications to applicable administrative procedures to ensure that its independence and financial autonomy is guaranteed. Noting that the law as amended in 2017 did not explicitly mandate the Ombudsman to encourage Slovenia to ratify or accede to international human rights instruments, the SCA encouraged the Ombudsman to advocate for an appropriate legislative amendment to make this mandate explicit (GANHRI Sub-Committee on Accreditation Report –December 2020, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20December%202020%20-%2024012021%20-%20En.pdf>).

➤ ***Accessibility and judicial review of administrative decisions***

In the 2019 report following his visit to Slovenia, the Special Rapporteur on minority issues emphasised the human rights dimensions of the process by which citizens of the former Yugoslav republics who were not citizens of Slovenia could acquire Slovenian citizenship following the entry into force of the 1991 Citizenship Act. Nearly all of those removed ('erased') from the registry of permanent residents as a result of the law, belonged to minorities, leading in effect to discriminatory consequences. While half of these people would eventually regain their residency status, or in some cases succeeded in acquiring citizenship after decades of litigation, the situation of perhaps 10,000 who mainly lived outside Slovenia remained unclear. Compensation was still being fought over, despite judgments of the European Court of Human Rights, and a decision by the Constitutional Court in April 2018 ruling against the limitations for those who filed claims for damages in judicial processes on the amount of compensation awarded. As the Constitutional Court of Slovenia announced just a few days before the Special Rapporteur conducted his mission, the government compensation scheme should be amended to ensure that individual claimants can require judicial review of the amount of lump-sum damages ([A/HRC/40/64/Add.1](#) para 53, 55).