

QUESTIONNAIRE

ON THE IMPACT OF COVID-19 ON RULE OF LAW AND JUDICIAL ACTIVITY

Answers Slovenia

1. What are the main problems the Judiciary experienced at a general level in your country as a consequence of the legal reforms approved in order to cope with the COVID-19 pandemic?

Due to the 2.5-month lockdown of courts due to the declared Covid-19 pandemic, the number of unresolved cases, has risen sharply again and case resolution times will be extended again. Due to the deficit in the state budget due to assistance to the national economy, all investments and additional employment for special projects in judiciary and in the public administration have been suspended for this year. There is also very likely that there will be a reduction in salaries. In the first "package" of measures, judges avoided this, but not state prosecutors.

2. Did the legal reforms approved in your country in order to cope with the COVID-19 pandemic affect Rule of Law and Human Rights principles? If any, pls. enumerate them.

As mentioned above, the case resolution time will be extended, so the measures have affected the right to a trial within a reasonable time.

At the time of the declared pandemic, the free movement of people was restricted only to the area of the municipality of residence (exceptions: arrival at work, access to a doctor, hospital, pharmacy and grocery store).

3. As to the judicial organisation of your country, what impact had the legal reforms approved in order to cope with the COVID-19 pandemic? More specifically, what were their effects on the powers of the Minister of Justice, Council for Judiciary, Heads of Courts, Heads of Prosecution Services, Judges, Prosecutors, Court Administrators, Court Managers?

Considering the judicial organization in the Republic of Slovenia, the changes in the legislation to prevent the spread of the infectious disease COVID-19 did not affect the changes in the competences of the Minister of Justice, the Judicial Council, or the presidents or directors of courts. Only the President of the Supreme Court of the Republic of Slovenia has the power to limit the case resolution of legally determined urgent matters in the event of a declared epidemic. This time, he also used this power and for a part of the time declared by the pandemic, by Order and other measures, further limited the range of urgent matters and determined that the office hours for uninvited parties be abolished.

The presidents of the courts had to determine the way of working for individual courts and appoint judges and court staff on duty by legal areas.

4. As far as Court activity, Court proceedings and trials are concerned, what was the impact of legal measures adopted? Pls. provide relevant information distinguishing between civil, criminal and administrative cases.

Article 83 of the Courts Act determines which matters are urgent (criminal, civil and administrative). These cases are also heard by the courts during the judicial holidays, which take place every year from 15 July to 15 August, when the procedural deadlines do not run and court shipments are not served.

Such urgent matters are:

- investigations and adjudication in criminal cases in which the defendant is deprived of liberty or his liberty is restricted, and in criminal cases concerning aliens who are not residents of the Republic of Slovenia,
- the issue of an interim decision,
- non-litigious and executive matters as regards upbringing and childcare protection, as well as maintenance obligations arising from the law,
- non-litigious matters relating to the detention of persons in mental health organisations,
- protests against a bill or cheque and bill of exchange actions,
- disputes about the publication of a correction to published information,
- an inventory of a deceased's property,
- matters of compulsory settlement and bankruptcy.

Article 83a of the Courts Act stipulates that even in the event of natural and other disasters, major epidemics or similar emergencies, which may to a greater extent hinder the smooth or regular exercise of judicial power, courts hold hearings and decide only in urgent cases (83 Article). The President of the Supreme Court may limit the range of these cases by a special order and decide on other measures.

By a special Order, the President of the Supreme Court excluded from the set of urgent cases:

- protests against a bill or cheque and bill of exchange actions,
- disputes about the publication of a correction to published information,
- an inventory of a deceased's property,
- matters of compulsory settlement and bankruptcy

and limited urgent non-litigious and executive family matters to the urgent removal of the child.

5. Did "urgent" cases receive a different treatment and in this framework was a special legal definition or specification of "urgency" introduced for Court proceedings and trials?

See answer under point 4.

Only in the listed urgent cases were hearings held, court shipments were served and procedural deadlines were running.

6. Did the amount of money and, more generally, the value at stake in the case play a role in the treatment of it?

No, the value at stake of the dispute does not play any role in determining the urgency of the matter.

7. As far as criminal cases are concerned, did cases concerning arrested defendants receive a different treatment?

See answer under point 4.

Criminal cases where the accused is in custody are specified as urgent by law (Courts Act). So they were treated ongoing.

8. What was the impact of such legal reforms on legal deadlines and procedural

timeframes?

The Parliament adopted a special intervention law (the Act on Interim Measures Concerning Judicial, Administrative and Other Public Matters to Control the Spread of the Infectious Disease SARS-CoV-2 - ZZUSUDJZ), which stipulated that during the declared pandemic COVID-19 procedural and material deadlines do not run, except in urgent matters.

9. What is the role played in your country by IT, e-filing, smart and remote working in the management of cases as an effect of legal measures approved in order to cope with the COVID-19 pandemic? To what extent these measures are applicable also to the activity of Public Prosecutors?

Legal measures approved in order to cope with the COVID-19 pandemic did not in themselves directly affect IT, however, the benefits of IT and e-filing have proven to be an excellent way to overcome the effects of a pandemic. Except in urgent cases, remote work of judges and court clerks (also state prosecutors) was the only possible one. The problem was caused by the lack of licenses for remote work.

10. What is the role played by your Association in the drafting of such legal reforms? Was your Association consulted by the Government before adoption of the aforesaid measures?

The Slovenian Association of Judges was not involved in the preparation of the intervention laws. The Government did not consult with the Association in preparing them.

11. Did the Government consult the High Council for the Judiciary and/or other judicial institutional instances or representatives before adoption of the aforesaid measures?

The Judicial Council was only acquainted with the content of the intervention law, it was not involved in the preparation.

The Ministry of Justice consulted only with the President of the Supreme Court, not the Government.

12. What is the attitude of Bar Associations and Lawyers vis-à-vis such legal reforms?

The Bar Association has always demanded that the courts serve shipments on an ongoing basis, otherwise "the rule of law will fall apart". However, when the courts began to serve court documents and applications after 1.5 months, they did not accept them. They wanted special protection against possible infection, and demanded that protective equipment (protective face masks, gloves, visors) be provided to them free of charge by the courts. Whenever possible they evade access to the main hearings, requesting that the hearings be conducted by videoconference, even though they are well aware that only each district court (not local courts) has only one courtroom equipped with secure videoconferencing equipment.