

# JUDICIAL COUNCIL OF THE REPUBLIC OF SLOVENIA



REPUBLIKA SLOVENIJA  
SODNI SVET



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## Foreword by the President

The Judicial Council of the Republic of Slovenia releases its first promotional document in the form of a brochure. The moment of the release is appropriate, as well as ceremonial. The brochure has been released ahead of the first meeting of the General Assembly of the European Network of Councils for the Judiciary in the Republic of Slovenia, in its capital, Ljubljana. The Executive Board entrusted the Judicial Council of the Republic of Slovenia with co-hosting the event. It is an expression of trust that makes us full of pride and, on the other hand, brings responsibility that we accept and are fully aware of. We also understand the trust expressed by this respected and exceptionally important European institution as a major piece of the mosaic that is the path travelled by the Judicial Council, which in the Republic of Slovenia has been elevated to the constitutional level as the guardian of the efficiency, independence and public reputation of the judiciary. It has been constantly performing all three functions in full since the creation of the Republic of Slovenia as a new independent state more than 33 years ago.



I dare to say that it has been successful in doing so, not only by proposing professionally highly qualified candidates to be elected or appointed as judges and promoting existing judges and exercising other important legislative powers, but also by making opinions that provided a view both to the judiciary and other branches of power and the public, on the one hand on what the judicial branch of power should be and must be like in order to be professional, efficient and respected, and on the other hand what the relations between the branches of power, especially the relation of the other two branches to the judicial branch, and their mutual communication, as well as cooperation and support should be like, always keeping in mind the autonomy and independence of the judicial branch, i.e. its most important elements – judges, when it comes to judicial decision-making. Only the latter ensures the implementation of the postulates of the rule of law, democracy, the protection of human rights and statehood. I am convinced that the new line-ups of the Judicial Council will successfully continue on the established path.

President of the Judicial Council  
Vladimir Horvat



## JUDICIAL COUNCIL OF THE REPUBLIC OF SLOVENIA

The Judicial Council is an independent and autonomous constitutional body sui generis. The fundamental task is to protect the autonomy and independence of the judiciary and to ensure the quality of the work of courts and judges and the public reputation of the judiciary. The Judicial Council has been a member of the European Network of Councils for the Judiciary (ENCJ) since 2004.



## History and legal framework

The Judicial Council was established during the existence of the former state in 1990 by the Act Amending the Act on Regular Courts, although it had a different composition and fewer powers than it has today. The main task was to deal with fundamental issues in the field of personnel policy of the courts, and its most important power was to determine candidates for vacant judicial positions and propose them for election to the Assembly of the Socialist Republic of Slovenia. After independence, the Judicial Council acquired a constitutional status, as its existence, the number and type of members and the manner of their election are regulated by Article 131 of the Constitution. The Constitution also defines its power to propose to the National Assembly the election (Article 130 of the Constitution) and dismissal (Article 132 of the Constitution) of judges. After the adoption of the Constitution, the position and powers of the Judicial Council were regulated in detail in the Courts Act and in the Judicial Service Act, while the Judicial Council Act, which placed the Judicial Council in a similar position in a normative sense to other constitutional and state bodies in the system of checks and balances between different branches of power, was only passed in 2017. With the entry into force of this independent act, the Judicial Council also gained financial independence, as it became an independent and direct budget user for the first time.



## Composition and term of members of the Judicial Council

The Judicial Council has eleven members. Five members are elected by the National Assembly at the proposal of the President of the Republic among university professors of law, lawyers and other jurists, and six members are elected by judges from among themselves. The post of a member is honorary and is performed on a non-professional basis. Members serve six-year terms. In order to ensure continuity of work, two or three members of the Judicial Council are elected by the National Assembly and three members from the ranks of judges every three years. Members cannot be immediately re-elected after their terms expire. The President and Vice-president of the Judicial Council are elected for a period of three years by members from among themselves with a two-thirds majority.



Meeting with the President of the Republic of Slovenia  
Nataša Pirc Musar

## Adoption of decisions of the Judicial Council

The Judicial Council adopts a valid decision if at least eight members are present at the session. Generally, decisions are made by a majority vote by all members, while the most important ones require a two-thirds majority. This prevents members who are judges from outvoting members who are not judges.



Administrative and professional service of the Judicial Council (from left to right): Metka Brežnik (member of the administrative service), Polona Perčič (member of the administrative service), Klavdija Štarkel (legal adviser), Daša Sikošek (seconded local court judge), Barbara Ušaj (legal adviser), Alenka Klemenčič (seconded district court judge), Alan Rupnik (legal adviser), Domen Horvat (secretary-general), dr. Marko Ropret (analyst), mag. Irma Zevnik (head of human resources), Lidija Pupis (head of the administrative service), Marija Rutar (finance officer), Andraž Saksida (finance officer), Marko Češnovar (seconded district court judge), Sandra Kumlanc (member of the administrative service and officer in charge of human resources)

## Organisation and functioning of the Judicial Council

The Judicial Council makes decisions at sessions that are usually convened every 14 days. Sessions are generally closed to the public, unless the Judicial Council decides otherwise and the entire session or part of it is public. The minutes of a session are always made public. The Judicial Council reports on its work to the National Assembly on an annual basis, and in the report it also makes an opinion on the Supreme Court's annual report on the efficiency and effectiveness of the courts.

The functioning of the Judicial Council is supported by an administrative and professional service headed by the Secretary General, who is a seconded judge.

## Working bodies of the Judicial Council

The following independent bodies operate as part of the Judicial Council:

- the Ethics and Integrity Commission,
- disciplinary bodies (the disciplinary prosecutor and the disciplinary court),
- the Electoral Commission.

Members of the working bodies are appointed by the Judicial Council. The disciplinary court has nine members, specifically three members of the Judicial Council and six judges at various levels. The Ethics and Integrity Commission has five members who are judges. One of the members of the commission must also be a member of the Judicial Council. The Electoral Commission also has five members who are judges.



## Basic powers of the Judicial Council

The Judicial Council has the following basic powers:

- to select from among candidates for a vacant judicial post and propose them to the National Assembly to be elected to judicial function, i.e. to appoint them to a vacant judicial post if they are already judges;
- after receiving an opinion of the minister of justice, to appoint and dismiss presidents and vice-presidents of courts, with the exception of the Supreme Court president,
- to give an opinion in procedures for the appointment and dismissal of the Supreme Court president,
- to submit a proposal to the National Assembly for the dismissal of a judge,
- to issue a declaratory decision on the termination of judicial function,
- to decide on certain forms of the promotion of judges,
- to decide on the incompatibility of the judicial function,
- to decide on a judges' proposal for a violation of their independence to be eliminated,
- to decide on the transfer or assignment of a judge,
- to appoint members of the disciplinary bodies, the Ethics and Integrity Commission and the Electoral Commission,
- to enforce disciplinary sanctions imposed on judges,
- to decide on an appeal against the decision of the president of the Supreme Court to suspend a judge,
- to adopt the Code of Judicial Ethics,
- to submit opinions to the National Assembly and the relevant ministry on laws governing the courts and judicial service,
- to submit requests to initiate proceedings for review of the constitutionality and lawfulness of regulations if they encroach on the constitutional status or rights of the judiciary,
- to submit a request for ordering a review of operations in a particular case,
- to give an opinion on orders for the detention of a judge or the initiation of criminal proceedings against a judge ...

## Judicial protection against decisions of the Judicial Council

An appeal in an administrative dispute is permitted against decisions of the Judicial Council, which is decided on by the Supreme Court in a panel of five judges. The court must decide on the appeal within 30 days of its receipt. There is no regular or extraordinary legal remedy against a decision of the Supreme Court.

## Financing of the Judicial Council

Since 2017, the Judicial Council has been an independent and direct budget user, which means that it itself adopts the draft financial plan for its operation and forwards it to the Government of the Republic of Slovenia. EUR 827,268 in funds was allocated to the Judicial Council for its operation in 2022. The spending of funds has been increasing since 2017 due to the additional powers that the Judicial Council acquired with the enactment of the Judicial Council Act in 2017 and due to the general increase in the scope of work of the Judicial Council and its working bodies.

## Current activities and opinions of the Judicial Council

When solving cases within its jurisdiction, the Judicial Council often encounters questions that are of great significance to the judiciary. The following questions or activities were among the most relevant recently:

- Ever since 2018 the Judicial Council has been actively monitoring, participating in and supporting the efforts of judges to regulate their material situation, which is part of the constitutional and Convention requirement for judicial independence. A number of opinions have been made in this regard, and initiatives and calls to eliminate the unconstitutional position of the judiciary have been repeatedly addressed to representatives of the executive and legislative branches of power. In 2021, the Judicial Council submitted a request to the Constitutional Court to assess the constitutionality of the regulations governing the remuneration of judges;
- The Judicial Council is closely monitoring the procedure to revise the Constitution, which has been underway since autumn of 2022. In this regard, the Judicial Council particularly supports changes to Article 130 of the Constitution to allow judges to be appointed by the President of the Republic on the proposal of the Judicial Council, while opposing changes to Article 129 of the Constitution and the introduction of a probationary period for novice judges;

- By submitting reasoned comments, the Judicial Council actively participates in the process of amending judicial legislation, i.e. amendments to the Courts Act, the Judicial Service Act and the Judicial Council Act. In this regard, it in particular advocates for changes in the legislative regulation that would ensure that both the judges of the Supreme Court and the President of the Supreme Court are appointed by the Judicial Council (and no longer by the National Assembly, as is stipulated by the current legislation);
- The Judicial Council actively participates in solving the issues in criminal and administrative justice, which currently face the greatest shortage of staff and an increased caseload;
- in addition to the request to assess the constitutionality of the regulations governing the remuneration of judges, the Judicial Council has submitted since 2017 four more requests to assess the constitutionality of the regulations that it assessed as encroaching on the constitutional position or constitutional rights of the judiciary. The Judicial Council was fully successful with two requests, while the Constitutional Court has not yet decided on two requests.



CURRENT MEMBERS  
AND THE SECRETARY  
GENERAL OF THE  
JUDICIAL COUNCIL

President:

## Vladimir Horvat

Supreme Court Senior Judge

Supreme Court of the Republic of Slovenia



Vice-president:

## dr. Urška Kežmah

attorney-at-law, Maribor



## Frida Burkelc

Higher Court Judge  
District Court in Celje



## Martina Colnar

Local Court Senior Judge  
Local Court in Ljubljana



## dr. Erik Kerševan

Supreme Court Senior Judge

Supreme Court of the Republic of Slovenia

member of the Executive Board of the ENCJ



## mag. Jonika Marflak Trontelj

Higher Court Senior Judge

Administrative Court of the Republic of Slovenia



## Milan Petek

District Court Judge  
Local Court in Nova Gorica



## dr. Saša Prelič

full professor, University of Maribor  
Faculty of Law



## Andrej Razdrih

attorney-at-law, Ljubljana



## Andrej Rozman

retired notary, Idrija





## mag. Emil Zakonjšek

attorney-at-law, Ljubljana

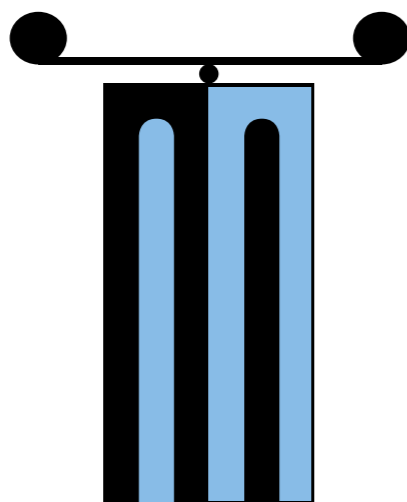


Secretary-general:

## Domen Horvat

District Court Judge  
District Court in Kranj





Issued and published by: Judicial Council of the Republic of Slovenia

Editor-In-Chief: Vladimir Horvat

Editorial board: Vladimir Horvat, Daša Sikošek, Domen Horvat

Photographs: Daniel Novakovič, Judicial Council of the Republic of Slovenia

Photograph on the back: Tomo Jeseničnik, photo library of Turizem Ljubljana ([www.visitljubljana.com](http://www.visitljubljana.com))

Design and layout: Vesna Vidmar

Translation: Zlatko Midžić

Proofreading: Kirsty Turner

Printing: Collegium Graphicum d. o. o.

No. of copies: 120 copies

May 2023



