

European Presidential Conference 2019

COUNTRY REPORT - SLOVENIA

Membership

In accordance with the Bar Act, the lawyers practicing the lawyers' profession in the Republic of Slovenia are obliged to join Slovenian Bar Association. In 2018, Slovenian Bar Association consisted of 2,264 members. The register of lawyers included 1,768 lawyers (953 gentlemen and 815 ladies), the register of foreign lawyers included 11 lawyers, the register of prospective entrants included 163 prospective entrants and the register of pupils included 322 pupils. In 2018, there were 271 law companies and 11 civil law companies active in Slovenia.

One Hundred and Fifty Years of Organized Bar in Slovenia

The year 2018 was quite important for Slovenian Bar Association – it celebrated an important anniversary, 150 years of organized and independent bar on the territory of Slovenia. It, however, does not mean that lawyers in Slovenia act as an organized profession for only 150 years; 150 years ago, precisely in 1868, there entered in force the Lawyers' Order that introduced an important provision, specifying that the registration of lawyers into the register of lawyers shall be subject to the decision of Slovenian Bar Association. Beforehand, lawyers used to be appointed by the emperor and from 1849 till 1868 by the Minister of Justice. This landmark denotes the true independence of the legal profession.

Throughout its history (ever since 1868) the Slovenian bar faced many ups and downs threatening its independence. However, all efforts for independence on the part of Slovenian lawyers were not strictly focused on their professional independence but spread to the independence and autonomy of the whole nation. Ever since its foundation, Slovenian Bar Association strictly supported and encouraged its members for the protection of human rights at the time when the latter were most exposed to violation. However, an independent and autonomous bar is the prerequisite for the national respect of human rights. It is for historical reasons and not accidentally that Slovenia is one of rare countries where the bar is a separate constitutional category.

Slovenian Bar Association Awarded the Highest National Award

The role of Slovenian bar in the past and at present is invaluable for the existence and for the development of the Slovenian nation and of Slovenia as a State, in particular in terms of the rule of law. This was also recognized by the Republic of Slovenia. On 20 December 2018, the President of the Republic of Slovenia awarded to Slovenian Bar Association the highest national distinction – the golden order for merits, based on strict enforcement of the above values. As stated by the President of the Republic in his comment to the awarded distinction, the one and a half century long tradition and efficient performance of Slovenian Bar

Association involve enormous knowledge, vision, courage and obstinacy, along with staunch struggle for fundamental rights and integrity of an individual and his dignity. Slovenian Bar Association provides for independence and autonomy of the bar throughout its activity. It did so even in those times when the totalitarian regimes attempted to subordinate the bar because it was disruptive due to its permanent claims for the rule of law and for the protection of human rights, when the idea of independent justice and of independence of the three branches of government was negated, as well as when the bar tried to limit its activity to the topics exclusively subject to the mechanisms of the market. The above distinction is not only awarded in recognition of the 150 years long efforts of Slovenian lawyers and of Slovenian Bar Association for the development of the rule of law and for the defense of human rights, but it is also a significant incentive both for emphasizing the professional responsibility of the bar and for strengthening its duty to protect the physical, moral and intellectual integrity of individuals as well as their dignity.

A Book about Slovenian Lawyers Active in Art, Science and Politics

On the occasion of its 150th anniversary, Slovenian Bar Association published a book – a monograph with the title »Famous Slovenian Litigants – Slovenian Lawyers in Art, Science and Politics«. The compendium includes the biographies of 108 lawyers whose work contributed not only to the bar, but also to the period in which they lived and strongly influenced the development of the Slovenian nation. The book also contains a list of all lawyers active in the period from 1918 to 2018.

Paragraph No. 1 – a Documentary & Fiction Film about the Bar

On the occasion of its 150th anniversary, Slovenian Bar Association, together with a private production house and in cooperation with the national television, turned an almost one-hour long documentary & fiction film Paragraph No. 1, dealing with the history of organized bar in Slovenia and with the legal profession. The purpose of the film is to make general public familiar with the history of Slovenian Bar Association and to let it know the mission of the legal profession, also through the eyes of prominent lawyers and other legal professionals. The film was broadcast as part of the official program of the Slovenian Film Festival, at the Day of Slovenian Lawyers 2018 and on the Slovenian television.

Charity Activity of Slovenian Bar Association

Slovenian Bar Association regularly helps socially deprived individuals through its Humanitarian Aid Fund based on the financial support of all lawyers. In 2018, Slovenian Bar Association celebrated its 150th anniversary with two major charitable campaigns worth 130,000.00 euros. Slovenian Bar Association donated to the Pediatric Clinic of Ljubljana University Medical Center the funds for the purchase of a new ultrasonic device and to the Pediatric Clinic of Maribor University Medical Center the funds for the purchase of a heated intensive care bed and an incubator. Moreover, Slovenian Bar Association donated to the Olympic Committee of Slovenia 6,000.00 euros intended for scholarships granted to ten promising sportsmen from less well-off families.

Twenty Years of the Gazette of Slovenian Bar Association

In 2018, Slovenian Bar Association celebrated another jubilee - 20 years of uninterrupted publication of its gazette "The Lawyer". A gazette of Slovenian Bar Association was published

for the first time in 1979 but ceased to be published in 1982. In December 1988, the publication of the gazette was resumed under a new name, "The Lawyer", and developed into the only professional magazine of Slovenian lawyers edited for twenty years. Throughout its existence the magazine has taken a huge step forward and has developed from a modest internal gazette into a publication of rich contents and perfect design, published by Slovenian Bar Association in a circulation of 4,350 copies. Besides, it can be followed on-line on the web site of Slovenian Bar Association as well as on other portals. It is impossible to imagine the activity of Slovenian Bar Association without this magazine because "The Lawyer" serves for informing the members and for presenting the Slovenian bar to both the professionals and the general public.

Lawyers' Tariff Rate

In the Republic of Slovenia lawyers charge for their lawyers' services according to the Lawyers' Tariff, adopted by Slovenian Bar Association and subject to the consent of the Minister of Justice. The Lawyers' Tariff includes Lawyers' Tariff rates applied for the evaluation of lawyers' services.

The new Lawyers' Tariff, effective since 2015, specifies that the value of the Lawyers' Tariff rate may only be changed in the event when the growth of the cost of living or the growth of judges' salaries in the period since the effect of the last increase exceeds 10 percent. The last increase of the Lawyers' Tariff rates took place in 2003, therefore Slovenian Bar Association, in charge of determining the Lawyers' Tariff rate, adopted the decision that the Lawyers' Tariff rate, currently amounting to EUR 0.459, be adjusted to the inflation rate in the way to amount to EUR 0.610.

The decision on the change of the value of the Lawyers' Tariff rate is subject to the consent of the Minister of Justice who in spite of the fact that all terms and conditions for the respective change have been fulfilled refused to give his consent. Accordingly, in February 2016 Slovenian Bar Association filed against the decision of the Minister of Justice a legal action to the Administrative Court of the Republic of Slovenia with a comment that the Minister of Justice severely exceeded his competences and prejudiced the independence of the bar.

As the claim by Slovenian Bar Association addressed to the Court of First Instance failed, Slovenian Bar Association filed an appeal against the decision of the above court. The Supreme Court of the Republic of Slovenia, acting as an appellate authority, granted the appeal by Slovenian Bar Association and returned the case to Administrative Court for a repeated procedure and for a new decision. The latter alleged in the respective reasons that the determination of the Lawyers' Tariff rate was not merely subject to political decision-making and that the Minister of Justice was not entitled to pass a political, legally non-related veto to the changes of the Lawyers' Tariff proposed by Slovenian Bar Association. Any contrary approach would mean that the Lawyers' Tariff and the respective rates for lawyers' services (including the consequences for the performance of the bar and for the parties in the procedures) are fixed politically, which is, however, legally inadmissible. Slovenian Bar Association finds the decision by the Supreme Court in the respective matter to constitute the victory of the rule of law over political arbitrariness. In January 2019 the First Instance Court in the repeated procedure concerning the legal action by Slovenian Bar Association repealed the Minister's decision and returned it to the Minister of Justice for a new decision.

Cooperation at Regulation Proceedings

In 2018, too, Slovenian Bar Association regularly took an active role in the proceedings of adopting the legislation that is important for the bar. It was particularly active in its comments focused on the modification of the criminal procedure in which the Ministry proposed the abolition of the judicial investigation. Slovenian Bar Association is supporting the idea that vital regulations should be modified with a trembling hand. It is necessary to use one's common sense. A regulation should apply to multi-purpose situations and shall enable the judge such judicial creativity to sub-summarize a particular situation within the limits of a legal standard.

The previous term of the Minister of Justice was marked by the idea of a thorough renewal of the whole procedural legislation. The civil procedure was changed despite numerous warnings on the part of Slovenian Bar Association that the Act was not completed in particular on the level of electronic operations. By changing the civil procedure, the government caused numerous problems that may hinder the citizen who decides for a legal action. As a result, the civil procedure is again subject to comments on the part of professionals and even the Ministry expressed the idea that certain disputable provisions of the Act, reasonably pointed out by Slovenian Bar Association, should be regulated differently.

Slovenian Bar Association already notices that Ministries adopting the legislation procedures treat it very differently. In some very exceptional cases representatives of Slovenian Bar Association already participate in the working team concerned with drafting of the bill at the Ministry, while in other cases Slovenian Bar Association may enter the legislative procedure as late as in the phase when the drafting of a regulation is already completed, and comments thereto may only be made within a time-limited public consultation. Should Slovenian Bar Association be admitted to drafting of the legislation at a very early phase, the bar as part of the judiciary could contribute much more to the search for adequate solutions concerning the Slovenian legal order.

The Lawyers' Academy of the Slovenian Bar Association and the Mediation Center

The Lawyers' Academy with Slovenian Bar Association organized numerous training courses and workshops for members of Slovenian Bar Association, within the scope of its permanent training in addition to the traditional Lawyers' School attended by more than 600 members.

In 2018, Mediation Center with the Lawyers' Academy of Slovenian Bar Association, established in 2017, continued its activities for implementation of its vision to become the biggest private out-of-court mediation center ever available from any Slovenian institution whatsoever.

Traditional Day of Lawyers' Pro Bono Legal Aid

The traditional Day of Lawyers' Pro Bono Legal Aid took place on 19 December 2018. Almost 450 lawyers all over the country offered to clients free of charge legal aid.

M.Sc. Roman Završek, President

