

EUROPEAN PRESIDENTS' CONFERENCE 2020

Country Report - Slovenian Bar Association

Membership

At the end of 2019, Slovenian Bar Association consisted of 2,278 members. The register of lawyers included 1,813 lawyers (843 gentlemen and 970 ladies), the register of foreign lawyers included 11 lawyers (4 ladies and 7 gentlemen), the register of prospective entrants included 166 prospective entrants (106 ladies and 60 gentlemen) and the register of pupils included 299 pupils (187 ladies and 112 gentlemen). In 2019, there were 255 law companies and 12 civil law companies active in Slovenia.

New Bar Act

Despite the steady attitude of lawyers and of Slovenian Bar Association, the bar is facing a systematic decline in Slovenia for the recent fifteen year. This is reflected in the reduced autonomy and independence of the bar, which is, on the one hand, due to the changed legislation, reducing the competencies of the bar (e.g. the Notaries Act, the Land Register Act, the State Attorneys Office Act, etc.) and, on the other hand, due to the interpretation of the existing regulations by other members of the judiciary and by the executive branch to the detriment of the bar.

The existing regulation of the bar, its legal and economic position in the Slovenian society and in the judiciary, along with numerous accumulated problems that more and more disturb the performance of its primary mission, they all call for changes to take place as soon as possible.

At the year-end of 2019, Slovenian Bar Association, cooperating with the Law School of the University of Ljubljana and with the Law School of the University of Maribor, completed and extensive and intensive preparation of the new Bar Bill, intended for improvement of the position of the bar as well as for updating of the respective legal solutions, such as required by the development of the judiciary and of the society. The new Bar Act is scheduled to be submitted to the Ministry of Justice at the beginning of 2020.

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 value of the Lawyers' Tariff Rate is determined by

Slovenian Bar Association, while the decision on the change of the value of the Lawyers' Tariff Rate is subject to the consent of the Minister of Justice.

Slovenian Bar Association adopted the decision to change the value of the Lawyers' Tariff Rate in 2015, but the Minister of Justice refused to give its consent in spite of the fulfilled terms and conditions for changing the value of the Lawyers' Tariff Rate (the growth of the cost of living or the growth of judges' salaries in the period since the effect of the last increase exceeding 10 percent). Accordingly, in February 2016 Slovenian Bar Association filed against the decision of the Minister of Justice a legal action. 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 in October 2018 and returned the case to the Court of First Instance 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.

The message of the Supreme Court of the Republic of Slovenia was also understood by the competent ministry and after more than three years of litigation it expressed its willingness to resolve the case out of court. At the beginning of 2019, the Minister of Justice approved the decision to change the value of the Lawyer's Tariff Rate, such as adopted by Slovenian Bar Association in 2015. After almost 16 years since the last change, since April 2019, the value of the Lawyers' Tariff Rate amounts to EUR 0.60. This represents a 30% nominal increase, but in reality it is merely a reconciliation of its value with the increase in the cost of living in the Republic of Slovenia since 2003.

Participation of Representatives of Slovenian Bar Association at Investigations of Law Offices

In 2019, too, the representatives of Slovenian Bar Association participated in all procedures related to law office investigations in order to achieve constitutional warranties in accordance with the decision by the Constitutional Court of the Republic of Slovenia. In 2016 the latter agreed with Slovenian Bar Association and with the investigated lawyers that the challenged law office investigation system invoked in the Criminal Procedure Act and in the Bar Act is inconsistent with the Constitution of the Republic of Slovenia. As a matter of fact, the Court has found some violation of the human right to lawyer's privacy, of the right to judicial protection and of the right to legal protection in the proceedings of the ordered investigations of law offices. On these grounds it ordered to the Parliament of the Republic of Slovenia to eliminate the unconstitutionality within one year from the publication of the decision and until that date, by considering all warranties established under the decision in question, to regulate a temporary system of house investigations, investigation of electronic equipment and seizure of the objects found with lawyers, and it determined the legal remedies in the respective proceedings.

The Parliament of the Republic of Slovenia adopted an amendment to the law, which was ordered by the Constitutional Court of the Republic of Slovenia in connection with investigations of law firms, in March 2019 with the amendment of the Criminal Procedure Act (ZKP-N), and the amendments became effective in October 2019.

In 2019, however, the need for protection of lawyers' privacy in other proceedings beyond the criminal proceedings was noted by the Supreme Court of the Republic of Slovenia that was asked to assess the tax authority's conduct in the proceedings against a lawyer. As in the opinion of the Court the law governing the tax procedure does not provide sufficient safeguard to respect the privacy of lawyers, in September 2019 the Supreme Court of the Republic of Slovenia filed to the Constitutional Court of the Republic of Slovenia a request for the review of the constitutionality of the Tax Procedure Act (ZDavP-2) and the Bar Act.

Slovenian Bar Association joined the position of the Supreme Court of the Republic of Slovenia by considering that the ZDavP-2 does not take into account the specific aspects of the protection of the lawyer's privacy in tax procedures. Despite the different nature and purpose of the tax procedures, Slovenian Bar Association believes that there is no reason why tax authorities would not be subject to substantially the same constitutional conditions in the tax procedure as the police in the (pre)criminal procedure.

According to Slovenian Bar Association, the rules about interference with attorneys' privacy and the restrictions laid down by the Constitutional Court of the Republic of Slovenia in the decision regarding investigations of law firm should be observed in every case when it comes to interference with attorneys' privacy, regardless of which government authority performs the actions and no matter what procedure is involved. As a matter of fact, the constitutional protection of lawyers' privacy is not intended to privilege lawyers, but rather to protect and to safeguard the rights of their clients.

Lawyers' Academy with Slovenian Bar Association

The Lawyers' Academy with Slovenian Bar Association, established by Slovenian Bar Association in 2015 with the aim of providing ongoing, up-to-date and professional training for lawyers, prospective entrants and pupils, has organized numerous trainings and workshops throughout the year. In the last few years, the high quality, topical and diverse training courses run by the Lawyers' Academy with Slovenian Bar Association have already become recognizable and well-attended. In 2019, the Lawyers' Academy with Slovenian Bar Association also continued to prepare pupils employed in law firms for the state examination of professional competence, as the practice started in 2018 proved to be very well accepted by the participants in the training. In 2019, Slovenian Bar Association and Lawyers' Academy with Slovenian Bar Association already organized the 20th Lawyers' School. This time, too, the standard two days long training course for lawyers, prospective entrants and pupils was well attended. There were over 800 members of Slovenian Bar Association participating in this training course. In 2019, Mediation Center run by the Lawyers' Academy with 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. This Mediation Center manages to implement the lawyers' efforts for developing the culture of peaceful and amicable settlement of disputes, in turn potentially reducing the workload of law courts. On the other hand, Mediation Center run by the Lawyers' Academy of Slovenian Bar Association offers the possibility of practicing mediation to all interested lawyers and thereby offers the opportunity for a potentially new specialization in the lawyers' profession.

Computerization of the Slovenian Bar Association

In 2019, the Slovenian Bar Association has continued with computerization of its work and the work of law firms. For the last decade, the Bar has provided each lawyer, when entering the directory of lawyers, a special Law Office software with at least two free licenses to use. The Law Office enables the lawyer to electronically manage the files in accordance with the standards, developed by the Bar together with the software vendor and allows the lawyer to have orderly office business operations. Unified law firm software also allows better electronic business between the Bar and lawyers. The Bar endeavours that the Law Office software also offers the possibility of uniform electronic business of lawyers with the state and the courts in court proceedings as soon as possible. Currently, this is being done through various secure electronic channels providers, which are not connected to Law office software, which unnecessarily requires additional work in the office business operations.

In 2019, the Bar introduced the AMM program, which is a major step forward also in the field of computerization of managing registration and participation in educational events, organized by the Bar Academy of the Slovenian Bar Association. The AMM program allows lawyers to apply online for educational events, as well as electronical registration of registered participants before the event itself. Registration is done solely electronically, using a lawyer's card, which has gained new functionality and affiliation with AMM in 2019. Last but not least, the AMM program allows lawyers an online overview of training attendance. This AMM function will be especially important after adopting the law on compulsory education of lawyers for the lawyer's license renewal, as a lawyer will be at any time able to check in AMM how many points he has already received by attending training courses, the point value of individual training and how many more points he needs to renew a lawyer's license.

Traditional Day of Lawyers' Pro Bono Legal Aid

The traditional Day of Lawyers' Pro Bono Legal Aid (free of charge) took place all over Slovenia on 19 December 2019, already for the ninth consecutive year.

Charity Activity of Slovenian Bar Association

In 2019, Slovenian Bar Association donated to socially deprived individuals and organizations almost 56,000.00 euros of charitable financial support.

European Lawyers day

In association with our Lawyers' Academy and the Ljubljana Lawyers' Bar we've organized two events commemorating this year's European Lawyers Day and this year's topic: "Your right to legal aid in criminal matters & A focus on access to a lawyer when detained in prison".

M.Sc. Roman Završek, President

