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## The National Human Rights System of Slovenia

- **ABSTRACT:** *Following the fall of communism in 1991, Slovenia committed itself to robustly protecting fundamental rights in its new Constitution. Fundamental rights not only form the starting points of the Constitution's Preamble, but are also, as a principle, directly enforceable. Their constitutional regulation has been relatively stable over more than thirty years, having been only rarely amended. Nevertheless, certain amendments have introduced some new rights and expanded the aspects of existing ones.*

*Fundamental rights may be limited by the rights of others and in cases determined by the Constitution. Moreover, they can also be restricted in the public interest only if the principle of proportionality is secured. Fundamental rights can even be temporarily suspended, but only in the event of a state of war or emergency. In the event of their infringement, legal redress is provided by regular courts and the Constitutional Court. Access to the Constitutional Court is conditional upon the exhaustion of all available legal remedies. Although the Constitutional Court has the final word within the Slovenian legal system on the protection of fundamental rights, Slovenian law also provides for a general Human Rights Ombudsperson, as well as several specialised ombudspersons responsible for specific areas of human rights protection (e.g. health and children's rights).*

- **KEYWORDS:** *Slovenia, Fundamental Rights, Direct Effect, Constitutional Court, Constitutional Complaint, Regular Courts, Ombudspersons*

### 1. Introduction

To break with an undemocratic political system in which human rights were only declaratory, Slovenia has placed human rights protection very high on its political and legal agenda as an independent and sovereign state. This follows not only

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from the Preamble to the 1991 Constitution but also from the Basic Constitutional Charter on Sovereignty and Independence of the Republic of Slovenia and its Preamble<sup>1</sup> – adopted in June 1991 – through which Slovenia legally broke its ties with the former Yugoslavia.

Despite some initial turbulence in human rights protection due to significant backlogs in Slovenian courts, the system gradually became a relatively well-functioning human rights protection system, largely because of the European Court of Human Rights finding violations of the Convention. Moreover, quite soon after its establishment, the Constitutional Court became a very sought-after institution, which caused an overflow of incoming cases, so it needed to shut its doors temporarily. Eventually, new human rights institutions were established, enabling better human rights protection at lower levels. In general, after more than thirty years of independence, the general awareness of human rights is much higher than it was at the beginning of the new system. Still, as the world and society are in constant flux with new social problems, new challenges are created for human rights protection.

Section 1 presents Slovenia's substantive mechanism for human rights protection, where the preamble of the Constitution is first discussed. Then, the catalogue of human rights in the Constitution is presented, in which all three generations of human rights are briefly explained. This is followed by a discussion of the amendments adopted in the Constitution relating to human rights throughout its existence. The section concludes with a discussion of the issues of exercise and limitation (Art. 15 of the Constitution), as well as the possibility of temporary suspension and restriction of human rights (Art. 16 of the Constitution). In Section 2, the procedural aspect of human rights protection, i.e., fundamental rights adjudication, is examined, focusing on the approach of Slovenian courts and the Constitutional Court to human rights protection. The last section, Section 3, presents institutions specialised for human rights protection, such as the Constitutional Court, the main Human Rights Ombudsperson, and other human rights ombudspersons. Finally, in such a comprehensive overview of the national system of human rights protection, the role of non-institutional stakeholders, i.e., various non-governmental organisations and civil society organisations, is also briefly mentioned.

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1 Among other declarations, it was also stated in the Basic Constitutional Charter that the 'Socialist Federative Republic of Yugoslavia does not function as a state governed by the rule of law and that within it human rights, national rights, and the rights of the republics and autonomous provinces are grossly violated.' (Cerar et al., 2005, p. 19).

## 2. A Substantive Mechanism for Fundamental Rights Protection

### ■ 2.1. *The Preamble and Catalogue of Human Rights*

In contrast with the ex-socialist constitutions, both federal (Yugoslav) and republican (i.e., of the Socialist Republic of Slovenia), where human rights were declared but not fully protected by an operative mechanism of judicial redress, the 1991 Constitution of the Republic of Slovenia<sup>2</sup> placed human rights protection on a pedestal.<sup>3</sup> This follows from its Preamble,<sup>4</sup> in which human rights are emphasised as one of the foundations of Slovenian constitutionalism.<sup>5</sup> One part of Slovenian constitutional theory considers the Preamble primarily as a symbolic and non-binding part of the Constitution<sup>6</sup>. Another part, however, sees it as having an important interpretative value, especially the part concerning human rights protection. In the event of a clash between different parts of the Constitution, for example, between fundamental rights and provisions on constitutional authorities in the chapter on state organisation, the former should prevail.<sup>7</sup> Even the Court has emphasised, by citing the Preamble, that human rights may prevail over a democratically adopted decision by a majority (U-I-111/04). Because the Preamble, as one of the starting points of the Constitution, determines human rights, it must be an interpretative tool of the entire normative part of the Constitution (U-II-2/09).

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2 The citation to the original text, without subsequent amendments, is as follows: Official Gazette of the Republic of Slovenia, No. 33/91-I.

3 In all three drafts of the Slovenian Constitution, from 1988 until 1991, human rights protection was ranked very high. It is interesting to know that in the drafts, the sanctity of life and human dignity preceded human rights protection, but was eventually abandoned when the actual Constitution was forged (Jambrek, 2014).

4 'Proceeding from the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia, and from fundamental human rights and freedoms, and the fundamental and permanent right of the Slovene nation to self-determination; and from the historical fact that in a centuries-long struggle for national liberation, we Slovenes have established our national identity and asserted our statehood, the Assembly of the Republic of Slovenia hereby adopts.'

5 In fact, human rights protection was already enshrined in the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia, which was the legal act by which Slovenia was created as an independent state. See para. 2 of Section III: 'The Republic of Slovenia guarantees the protection of human rights and fundamental freedoms to all persons in the territory of the Republic of Slovenia irrespective of their national origin, without any discrimination whatsoever, in accordance with the Constitution of the Republic of Slovenia and the treaties in force.'

6 Grad and Kaučič, 1997, p. 40.

7 Pavčnik, 2007, p. 303.

Moreover, that part should be understood as a tool for teleological interpretation of the entire normative part of the Constitution.<sup>8</sup>

In the normative part of the Republic of Slovenia Constitution, human rights protection is also one of the constitutional principles. Art. 5, which is part of the first section of the Constitution (General Provisions), provides that ‘in its territory, the state shall protect human rights and fundamental freedoms.’ The difference between human rights and fundamental freedoms in the Constitution is more descriptive than normative. Thus, human rights are rights that are guaranteed to every individual based on his or her human nature and refer to the protection and fulfilment of certain standards of living (the right to life, the right to security of person, the inviolability of human dignity, the right to privacy, etc.). Fundamental freedoms, on the other hand, are primarily linked to individual liberty and the rights to express oneself freely, to associate freely and to manifest one’s religion or belief freely (e.g., freedom of expression, freedom of assembly and association and freedom of movement). Notwithstanding this descriptive difference, all constitutional rights can normatively be equally referred to as human rights. For the purpose of this chapter, fundamental rights and ‘civil’ rights can also be understood as synonymous. However, ‘citizens’ rights are narrower than human rights, as they only pertain to citizens (e.g. of the Republic of Slovenia). In principle, from a normative standpoint, there is no hierarchy in their validity or importance. More crucial is their normative difference from statutory rights.<sup>9</sup>

The constitutional catalogue of human rights encompasses two sections, named ‘Human Rights and Fundamental Freedoms’ (Section II) and ‘Economic and Social Relations’ (Section III), covering three different generations of human rights: (i) those of the negative status (civil and political rights), (ii) the positive or active status (social and economic rights), and (iii) rights of the third generation (including environmental rights, personal data protection and other rights dealing with digital society).<sup>10</sup> The human rights from all three generations are often scat-

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8 Jambreč, 2014, p. 17, in Avbelj 2019 II. During the Covid-19 pandemic, the Slovenian Constitutional Court found many executive regulations imposing restrictive measures on citizens to curb the pandemic unconstitutional and based the reasoning for this on the lack of sufficient grounding in the Infectious Diseases Act. Thus, the Court argued that the executive regulations violated the constitutional principle of legality in public administration. Art. 120 (Organisation and Work of the State Administration) of the Constitution stipulates that: ‘Administrative bodies perform their work independently within the framework and based on the Constitution and Laws.’ See, e.g., the following decisions: U-I-210/21 (mandatory vaccination for public servants), U-I-180/21 (PCT requirement and personal data processing), U-I-445/20 (unpublished government orders), and U-I-132/21 (mandatory mask-wearing and hand disinfection). However, in those cases, the Court failed to address the idea that some of the most important human rights, such as the right to life and the right to health, might have outweighed the principle of legality of public administration (See: Novak, 2021).

9 Novak, 2021.

10 Ibid., p. 197.

tered throughout these two sections and are usually not listed according to their historical civilisational development or specific content.

For example, the first human right listed in Section I is equality before the law, which is also considered a constitutional principle. Then follow human rights related to constitutional criminal procedural law (e.g., protection of personal liberty, orders for and duration of detention, presumption of innocence, principle of legality in criminal law, legal guarantees in criminal procedure). In the continuation of the same section, one finds some classical as well as political human rights, such as freedom of movement, inviolability of dwellings, freedom of expression, the right to assembly and association, and the right to vote. The section concludes with labour and social rights, such as freedom of work, the right to social security, the right to health care, and family rights (e.g. marriage and the family, rights and duties of parents, rights of children). At the very end of this section, special rights of autochthonous communities and the Romany community in Slovenia are set out. The next section deals with some labour (e.g. security of employment) and economic rights (e.g., free enterprise), as well as environmental rights (e.g., national assets and natural resources, the right to a healthy living environment). The section ends with some additional labour rights, freedom of trade unions, the right to strike, and the rights of aliens employed in Slovenia.

Not all of the above-mentioned rights are equally 'strong' in normative terms. In a liberal constitution, such as that of Slovenia, the classical civil and political rights are more directly legally protected than social rights, which can be considered weaker in this sense.<sup>11</sup> Some of them can even be exercised directly based on the Constitution. The latter was an ideal to be achieved in the new Constitution, due to their 'declarative' nature during socialism. This was, however, not possible in every case, which means that the Constitution or the very character of a particular right required their more precise implementation by statute. Even though there is a rich catalogue of social rights, they, as a rule, contain the so-called statutory proviso (*r serve de loi*). This means that they are only generally protected, as their more detailed protection is determined by statute.<sup>12</sup>

## ■ 2.2. Amendments of the Constitution in the Area of Human Rights.

From its adoption in December 1991, the RS Constitution has been amended eleven times, five of which concerned human rights. Between 1997 and 2021, the Slovenian Constitution was amended eleven times, affecting 16 different articles (13 were amended and 3 were added). However, 43 proposals to amend the Constitution were made: 30 by the National Assembly deputies, 12 by the Government, and only one by the citizens. All the amendments can be classified in three groups: (a)

11 Novak, 2008; Letnar  rni , 2019, pp. 130–134.

12 See e.g.: Art. 50.1 (Right to Social Security) that reads as follows: 'Citizens have the right to social security, including the right to a pension, under conditions provided by law.'

amendments due to Slovenia's joining the EU (Art. 3.a, 47, 68 and 148); (b) amendments to regulate better certain constitutional institutions that did not work well in practice (Arts. 80, 90, 97, 99, 121, 140, and 143); and (c) amendments mainly from the area of human rights through which the rights and freedoms of certain social groups were protected and some new human rights were adopted (Arts. 14, 43, 50, 62.a, and 70.a).<sup>13</sup>

In preparation for joining the EU, it was first amended in 1997 with respect to Art. 68 (Property Rights of Aliens). Its original text read as follows: 'Aliens may acquire ownership rights to real estate under conditions provided by law. Aliens may not acquire title to land except by inheritance, under the conditions or reciprocity.' That text was changed to:

Aliens may acquire ownership rights to real estate under conditions provided by law or if so provided by a treaty ratified by the National Assembly, under the condition of reciprocity. Such law and treaty from the preceding paragraph shall be adopted by the National Assembly by a two-thirds majority vote of all deputies.

On the eve of Slovenia's accession to the EU in 2004, that article was finally amended, in 2003, to the following wording: 'Aliens may acquire ownership rights to real estate under conditions provided by law or a treaty ratified by the National Assembly.'

In order to join the EU, Slovenia had to amend, in the same year (i.e. 2003), another human rights provision – Art. 47 (Extradition) of the Constitution. In the original text, it stated: 'No citizen of Slovenia may be extradited to a foreign country. The extradition of aliens shall only be permitted in cases covered by treaties that are binding in Slovenia.' It was amended to include the following text:

No citizen of Slovenia may be extradited or surrendered unless such obligation to extradite or surrender arises from a treaty by which, under the provisions of the first paragraph of Article 3a, Slovenia has transferred the exercise of part of its sovereign rights to an international organisation.

Indeed, the so-called EU article, i.e., Art. 3a, was adopted in the same pre-EU accession package of constitutional amendments in 2003.

Furthermore, only one year later, in 2004, three constitutional articles on fundamental rights were amended. On the insistence of various civil-society organisations of disabled persons, disability was added to Art. 14 (Equality before the Law) of the Constitution as one of the so-called personal circumstances based

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13 Kaučič, 2021.

on which discrimination can never be constitutionally admissible.<sup>14</sup> In the same year, Art. 43 (Right to Vote) of the Constitution was amended to stimulate greater women's participation in standing for election to state authorities and local community authorities. In such a manner, a special para. 4 was added to the previous article.<sup>15</sup> Finally, part of the 2004 amendment bundle was also the change of Art. 50 (Right to Social Security). As a result of a political campaign by trade unions and some civil society organisations, the right to a pension was included in the Constitution, which entailed the amendment of Para. 1 of that Article.<sup>16</sup>

Last but not least, to prove that it is a country deeply dedicated to human rights protection, the National Assembly adopted two final amendments adding two internationally less protected human rights to the human-rights constitutional catalogue, namely the right to drinking water<sup>17</sup> and the right to use sign language.<sup>18</sup> Thus, Slovenia became one of the first countries to protect such rights in its constitution.

### ■ 2.3. *The Fundamental Rights' Exercise, Limitation, Temporary Suspension, and Restriction*

Art. 15 of the Constitution (Exercise and Limitation of Rights) is one of the most crucial constitutional articles for a systemic understanding of the national human rights framework. First, it provides that 'Human rights and fundamental freedoms shall be exercised directly based on the Constitution.' The idea of this article was

14 Art. 14 of the Constitution: '(1) In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance. (2) All are equal before the law.'

15 It now reads as follows: '(1) The right to vote shall be universal and equal. (2) Every citizen who has attained the age of eighteen years has the right to vote and be elected. (3) The law may provide in which cases and under what conditions aliens have the right to vote. (4). The law shall provide measures for encouraging the equal opportunity of men and women in standing for election to state authorities and local community authorities.'

16 It now reads as follows: '(1) Citizens have the right to social security, including the right to a pension, under conditions provided by law. (2) The state shall regulate compulsory health, pension, disability, and other social insurance, and shall ensure its proper functioning. (3) Special protection in accordance with the law shall be guaranteed to war veterans and victims of war.'

17 The text for this right is as follows: '(1) Water resources shall be a public good managed by the state. (2) As a priority and in a sustainable manner, water resources shall be used to supply the population with drinking water and water for household use and in this respect shall not be a market commodity. (3) The supply of the population with drinking water and water for household use shall be ensured by the state directly through self-governing local communities and on a not-for-profit basis.'

18 The new article reads as follows: '(1) The freedom to use and develop the Slovene sign language shall be guaranteed. In those municipalities where Italian or Hungarian is also an official language, the freedom to use the Italian or Hungarian sign language, respectively, shall be guaranteed. The use of these languages and the status of their users shall be regulated by law. (2) The freedom to use and develop tactile sign language shall be regulated by law.'

to break with the socialist tradition in which fundamental rights were not directly exercisable and were systematically violated. Therefore, the protection of human rights and fundamental freedoms is one of the basic reasons why the Slovenian Constitution was adopted.<sup>19</sup>

Accordingly, there are several constitutional rights that can be directly exercised on the basis of specific legal remedies in court and other legal proceedings. For example, if one establishes that they were discriminated against<sup>20</sup> by a public entity (i.e. vertical human rights protection) or a private person (horizontal human rights protection), they may file an action in court in civil proceedings. Equality is otherwise considered a personality right, which is also the subject of civil-law protection. A similar case of the possibility of a direct civil action at law being lodged in a civil court of first instance would be if Art. 26 of the Constitution (Right of Compensation)<sup>21</sup> was violated. Damage is a civil-law category, and its redress is in Slovenia provided in the Code of Obligations, which in the case of a dispute is adjudicated by civil courts.

Exceptions to the general principle determined in para. 1 of Art. 15 are provided in para. 2 of the same Art. It provides: 'How human rights and fundamental freedoms are exercised may be provided by law whenever the Constitution so provides or where this is necessary due to the particular nature of an individual right or freedom.' Fundamental rights legal norms are similar to legal-principle norms: more abstract and general than legal-rule norms, and as such, not only defeasible but also vague and ambiguous.<sup>22</sup> Therefore, in several cases, the Constitution needed to prescribe how a statute was required to exercise such rights, or was necessary for a right to be exercised appropriately owing to its character.

The first example could be Art. 43 of the Constitution (Right to Vote), prescribing in para. 1 that 'The right to vote shall be universal and equal,' but stating in para. 3. of the same article that 'The law may provide in which cases and under what conditions aliens have the right to vote.' If the right to vote at state elections is only reserved for citizens of the Republic of Slovenia, aliens,

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19 Jambrek, 2014, pp. 25 and 94.

20 As a result of the violation of Art. 14 of the Constitution (Equality before the Law), which provides: '(1) In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance. (2) All are equal before the law.' Equality before the law is considered to be a personality right; civil courts have jurisdiction over the redress of violations of this right.

21 '(1) Everyone has the right to compensation for damage caused through unlawful actions in connection with the performance of any function or other activity by a person or authority performing such function or activity within a state or local community authority or as a bearer of public authority. (2) Any person suffering damage has the right to claim, in accordance with the law, compensation also directly from the person or authority that has caused such damage.'

22 Alexy, 2002; Dworkin, 1987; Guastini, 2016.

if they are also residents, may vote at local elections, which is explicitly determined in the Local Self-Government Act. The second example of the detailed regulation of a constitutional right by statute could be the Right to Correction and Reply (Art. 40 of the Constitution),<sup>23</sup> which is bestowed on individuals and even public authorities to respond to incorrect or false news in the media. To make this right operative, it was necessary to determine further conditions, deadlines, and procedures for its implementation, as done in the Media Act.

Human rights and fundamental freedoms are not absolute but may be limited (a) either by the rights of others or (b) in cases determined by the Constitution. There are many, perhaps even numerous, possibilities of (a) in the Constitution, one example being when journalists' Freedom of Expression (Art. 39 of the Constitution) is limited by the protection of Privacy and Personality Rights (Art. 35 of the Constitution)<sup>24</sup> of individuals on whom they report. The second example (b) of explicit constitutional limitation of a human right would be para. 2 of Art. 32 of the Constitution (Freedom of Movement). The first part of this article provides for general freedom: 'Everyone has the right to freedom of movement, to choose his place of residence, to leave the country and to return at any time.' However, the second part sets out limitations for which the Constitution authorises legislation: 'This right may be limited by law, but only where this is necessary to ensure the course of criminal proceedings, to prevent the spread of infectious diseases, to protect public order or if the defence of the state so demands.' Accordingly, such limitations are determined in Slovenia in the Criminal Procedure Act, the Infectious Diseases Act, the Public Order and Peace Act, and the Defence Act.

Conflicts between constitutional principles and between human rights are resolved through balancing and by applying the principle of proportionality. Both the interpretative method of balancing and the principle of proportionality are said to be grounded in Art. 2 (State Governed by the Rule of Law) in conjunction with Art. 15 (Exercise and Limitation of Rights) of the Constitution. When constitutional principles are found to be in conflict, the Constitutional Court balances them to determine which one should prevail in a certain case (see, e.g., Decision No. U-I-18/93, which is considered the first decision in which the principle of proportionality was applied).<sup>25</sup>

Furthermore, every statutory interference with a human right needs to be constitutionally legitimate, which entails that it has to stand both the test of legitimacy (Art. 15.3 of the Constitution) and the test of proportionality (Art. 2 of the Constitution, as the principle of proportionality is considered one of the

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23 'The right to correct published information which has damaged a right or interest of an individual, organisation, or body shall be guaranteed, as shall be the right to reply to such published information.'

24 'The inviolability of the physical and mental integrity of every person, his privacy and personality rights shall be guaranteed.'

25 See also: Wedam Lukić, 2008.

subprinciples of a state governed by the rule of law). The test of legitimacy entails reviewing whether the goal of interfering with a right is constitutionally admissible. The protection of another constitutional right always entails a constitutionally admissible goal. However, this does not always apply to the protection of public interests (in statutes) since not all of them are constitutionally admissible. For example, a violation of basic constitutional principles could not be a legitimate goal of statutory regulation even if the legislature defines that as a public interest. Moreover, it could also be unconstitutional if it is not clear which goal is pursued, such that its constitutional admissibility can be evaluated.<sup>26</sup>

Thus, from the above-mentioned, it follows that regarding the interference with human rights there are two kinds of balancing: (1) in the event of a direct or 'horizontal' clash between two constitutional rights belonging to two different natural persons or legal entities (e.g. a private person's right to privacy v. a journalist's freedom of expression), the Court similarly balances them than in the case of a conflict between two constitutional principles. However, (2) when the matter concerns an indirect or vertical clash between a private person's constitutional right (e.g., to personal integrity) and a public interest represented in a statute, such as safeguarding people's right to life or health by ordering mandatory vaccination, the Court will apply the principle of proportionality. According to that, it tests whether the measure is (a) necessary to achieve the goal, (b) appropriate for doing so, and (c) whether the benefit of the measure outweighs its costs or detrimental effects (proportionality in the narrow sense).<sup>27</sup> Unlike in some other Central European countries, where such a principle is said to have been borrowed from the German *Bundesverfassungsgericht* and the academic work of Robert Alexy,<sup>28</sup> in Slovenia it was reportedly taken from the case law of the European Court of Human Rights.<sup>29</sup>

The last paragraphs of Art. 15 of the Constitution provide that 'Judicial protection of human rights and fundamental freedoms, and the right to obtain redress for the violation of such rights and freedoms, shall be guaranteed.' (para. 4) and: 'No human right or fundamental freedom regulated by legal acts in force in Slovenia may be restricted because this Constitution does not recognize that right or freedom or recognizes it to a lesser extent' (para. 5). Para. 4 will be discussed in more detail in the next section, while para. 5 signifies that the constitutional rights system is not exclusive because a treaty ratified by the Slovenian parliament may

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26 Kerševan, 2019.

27 See, e.g., Novak, 2010, where the author claims that in addition to applying balance in resolving conflicts of constitutional principles and fundamental rights, courts also need to be consistent in following precedential effects in future cases.

28 Alexy, 2002, 2003.

29 Gabriš, Horvat and Novak, 2023. However, it was also referred to as the principle of 'practical concordance', taken from German legal theory, where a compromise ensured that the extent of protecting a right was limited to the extent necessary to exercise another right (Šturm, 2002, p. 195).

introduce a new constitutional right or further specify an existing one (e.g., as in the Convention on the Rights of the Child), which the Constitution also recognises. The same applies to the European Convention for the Protection of Human Rights, which was ratified by Slovenia and, according to the monist theory, became part of its internal legal system.<sup>30</sup> When parties cite its provisions in their complaints before the Constitutional Court, the Court most often continues to adjudicate on alleged human rights violations based on the Slovenian Constitution because it is generally considered that the latter offers broader protection of human rights than the Convention.<sup>31</sup> Moreover, the case law of the European Court of Human Rights (ECtHR) can be an important interpretative tool for the Constitutional Court, especially in the areas in which its case law has been highly developed, as in freedom of expression (see, e.g., Decision No. Up-407/14).<sup>32</sup>

The Slovenian constitutional rights system not only provides for their exercise and limitation, as we saw in the preceding section, but also for their temporary suspension and restriction. However, this is possible only when a war or state of emergency is formally declared by the National Assembly.<sup>33</sup> In over 30 years of the history of independent Slovenia, there has never been such a case. However, human rights and fundamental freedoms may be suspended or restricted only for the duration of the war or state of emergency, and only to the extent required by such circumstances and inasmuch as the measures adopted do not create inequality based solely on race, national origin, sex, language, religion, political, or other conviction, material standing, birth, education, social status, or any other personal circumstance. As an exception to the above-mentioned, the rights provided by Art. 17 (Inviolability of Human Life), Art. 18 (Prohibition of Torture), Art. 21 (Protection of Human Personality and Dignity), Art. 27 (Presumption of Innocence), Art. 28 (Principle of Legality in Criminal Law), Art. 29 (Legal Guarantees in Criminal Proceedings), and Art. 41 (Freedom of Conscience)

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30 See: Art. 8 of the Constitution: 'Laws and other regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly.' See also para. 2 of Art. 153 (Conformity of Legal Acts) of the Constitution: 'Laws must be in conformity with generally accepted principles of international law and with valid treaties ratified by the National Assembly, whereas regulations and other general acts must also be in conformity with other ratified treaties.'

31 A similar approach to the human rights under the European Convention on Human Rights will also need to be taken concerning fundamental rights under the EU Treaty (of the Human Rights Charter), as they are also binding in Slovenia, pursuant to Art. 3a of the Constitution. See the relevant part of Art. 3.a: 'Legal acts and decisions adopted within international organizations to which Slovenia has transferred the exercise of part of its sovereign rights shall be applied in Slovenia in accordance with the legal regulation of these organisations.' However, the Constitutional Court held that the EU Charter of Fundamental Rights is applicable in areas where EU law is applied by a Member State (see e.g.: the case of U-I-295/13; see also: Vatovec, 2024).

32 See also: Ribičič, 2004.

33 Art. 16 of the RS Constitution.

can never be restricted as they enjoy absolute protection even in most emergent situations. Absolute human rights constitute a minimum foundation of human dignity that cannot be violated under any circumstances. They are the foundation of the rule of law, humanism, and the civilised world. Respect for them is particularly important in times of crisis, when the temptation to restrict them is greatest. These absolute rights do not allow any exceptions, are exempted from the principle of proportionality, and hold a hierarchically higher constitutional position than other rights because the Constitution gives them priority protection over other rights. The legal character of these rights could be compared to *ius cogens* in international law.<sup>34</sup>

### 3. Fundamental Rights Adjudication in Slovenia

The Slovenian constitutional review system is, in contradistinction to the (original) American model of constitutional review that is diffused, a typical European model, in which constitutional review is concentrated.<sup>35</sup> However, this concentration of constitutional review does not apply to decisions on the violations of human rights, as every court in Slovenia is empowered to adjudicate in relation to such matters. The Constitutional Court is only the highest judicial authority for the protection of human rights,<sup>36</sup> having the highest position in Slovenia regarding the interpretation of human rights' constitutional provisions. Offering a final remedy for human rights violations in the national legal system, parties can bring their cases to the Court by filing a constitutional complaint after all other legal remedies have been exhausted,<sup>37</sup> both formally and substantively. 'Formally' means that all possible appeal instances available in the legal system must be exhausted before filing a constitutional complaint. Thus, typically, a party claiming a human rights violation initiates proceedings before a first-instance court and, if unsuccessful there, they may appeal to the court of appeal, and if needed from there to the Supreme Court. Most often, the Court adjudicates on human rights violations arising from Supreme Court judgments. However, in cases where the last instance of decision-making is vested in a court of appeal, the Court adjudicates on those decisions. Exceptionally, a constitutional complaint may be lodged

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34 Letnar Černič, 2019a, p. 133.

35 Mavčič, 2013.

36 Art. 1 of the Constitutional Court Act (Off. Gaz. RS, No. 15/94 et seq.; hereinafter CCA).

37 Ibid., Art. 51.1.

before extraordinary remedies<sup>38</sup> have been exhausted if the alleged violation is obvious and severe consequences are likely to occur for the party if the challenged individual legal act is enforced.<sup>39</sup> Moreover, 'substantive' exhaustion of legal remedies entails that a particular human-rights violation must be claimed in all the proceedings prior to a decision from the Constitutional Court.

There is a 60-day deadline to file a constitutional complaint from the service of the judgement of the final instance court.<sup>40</sup> A constitutional complaint is not admissible if the violation of human rights or fundamental freedoms did not have serious consequences for the complainant. It is deemed that there has been no violation of human rights or fundamental freedoms having serious consequences for the complainant with regard to individual acts: (a) issued in small-claims disputes under the Civil Procedure Act that regulates civil procedure, or in other disputes if the value in dispute for the complainant does not exceed the amount defined for small-claims disputes under that Act; (b) if only a decision on the costs of proceedings is challenged in the constitutional complaint; (c) issued in property trespass disputes; and (d) issued in minor-offence cases. Irrespective of that, in especially well-founded cases, the Constitutional Court may exceptionally decide on a constitutional complaint against the mentioned individual acts. An instance of an especially well-founded case is a decision that concerns an important constitutional question going beyond the concrete case.<sup>41</sup>

A constitutional complaint is rejected<sup>42</sup> if it is not an individual act through which a state authority, local community authority, or bearer of public authority decides upon the rights, obligations, or legal entitlements of the complainant. Furthermore, it is rejected if the complainant does not have a legal interest in the Court's decision, if it is not admissible, if it was not lodged in time, or if all legal remedies were not exhausted. It is also rejected if it was lodged by a person not entitled to do so, if the complainant does not supplement the application in accordance with a call to do so from the Constitutional Court, or if it is so incomplete that the Constitutional Court cannot examine it.<sup>43</sup>

The constitutional complaint is accepted for consideration if there is a violation of human rights or fundamental freedoms having serious consequences for

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38 The Slovenian legal system provides for (i) ordinary legal remedies, which are typically understood as appeals from a court of first instance to a court of appeal, where judgments become final once the appellate court delivers its decision. However, legal remedies submitted to the Supreme Court, as the highest court, from courts of appeal are typically considered (ii) extraordinary legal remedies, which are lodged against previously final decisions (Novak, 2021; Pavčnik, 2007).

39 Art. 51.2 of CCA.

40 Ibid., Art. 52.

41 Ibid., Art. 55.a. This article was added following a major reform of the procedure in 2007, when the Court had severe backlogs.

42 These are the so-call procedural prerequisites for deciding on a constitutional complaint.

43 Art. 52b.1 of CAA. There are certain exemptions to some of the listed requirements that I did not state explicitly, to make the text of these provisions more readable.

the complainant, or if it concerns an important constitutional question that goes beyond the concrete case.<sup>44</sup>

When screening applications (constitutional complaints) to determine whether procedural prerequisites have been met, the judges sit in three different panels of criminal law, civil law, and administrative law, respectively. If a constitutional complaint passes the procedural stage and is accepted for consideration on the merits, it is then decided by the full plenum of judges. Not many applications reach that step (about 3 percent of all applications lodged).

If the Court finds a human rights violation, it annuls the relevant decision and (a) remands the case for new proceedings, or (b) decides on the merits of the case itself if it has enough information about both the factual and legal elements of the case from the file. The latter option is less frequently used than the former since, as a court of last resort, the Court usually decides on cases *in camera*, and public hearings are rare, although they are possible. After all, it is not meant to be a fact-finding court, unlike courts of first instance and, exceptionally, courts of appeal.

Moreover, the Constitutional Court decides on the violations of human rights and fundamental freedoms also in the framework of 'abstract' constitutional review, where it reviews whether particular statutes or executive regulations, as general legal acts, violate the constitutional provisions governing human rights and fundamental freedoms. This power is granted to the Court in Art. 160 of the Constitution. Furthermore, when deciding on a human rights violation alleged in a constitutional complaint, the Court is empowered to extend, on its motion (*ex officio*), its review to relevant statutes if it deems them also unconstitutional. This is called the principle of connection of issues (connectivity) and is provided in Art. 59 of the Constitutional Court Act (hereinafter CCA).

Court decisions are final (in the Slovenian legal system) and legally binding.<sup>45</sup> Although Court decisions in the area of abstract constitutional review, i.e. constitutional review and the review of constitutionality and legality (of statutes and executive regulations), are considered formal sources of law (with *erga omnes* effect) resembling binding precedents in common law systems, Court decisions in constitutional-complaint cases generally do not enjoy the same authority. Although the Court has reiterated several times that this should be the case, lower courts have on several occasions pointed to the distinction that, in civil-law systems such as the Slovenian one, court decisions have only *inter partes* effect (except when the case law has been settled, which strengthens its normative effect).<sup>46</sup>

In addition to human rights protection implemented by ordinary courts and the Constitutional Court, the Judicial Review of Administrative Acts Act

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44 Ibid., Art. 52b.2, which encompasses objective and subjective criteria for the acceptance of a constitutional complaint.

45 Ibid., Art. 1.3.

46 Novak, 2018.

(hereinafter the JRAAA) provides for the so-called subsidiary human rights protection by administrative courts under Art. 157.2 of the Constitution<sup>47</sup> (and more specifically Art. 4 of the JRAAA, which basically mirrors the constitutional provision). This applies only if no other human rights protection is provided by courts with general jurisdiction. Potential examples include interferences with personal freedom, such as unlawful arrest, detention, or restriction of free movement, the unlawful collection or processing of personal data, interference with privacy, such as investigation without appropriate legal grounds, or discrimination by authorities based on gender, race, age, etc.

## 4. Specialised Human Rights Institutions

### ■ 4.1. The Constitutional Court

Within the Slovenian human rights protection system, the Constitutional Court is the highest authority.<sup>48</sup> The Court consists of nine judges, who are nominated by the President of the Republic and elected for a term of nine years by the National Assembly. With some exceptions, the usual profiles of judges elected to sit on the Court are senior university professors of law or Supreme Court judges.

The present Court was established in the 1991 Constitution of the Republic of Slovenia. The framers of the Constitution found inspiration for such a Court in the example of the German *Bundesverfassungsgericht*.<sup>49</sup> In comparison with other constitutional courts within the European model, the Slovenian Constitutional Court has a wide range of powers – considerably more than a typical court of this model – vested in it based on the Constitution and statutes. Typical Court powers are the following. According to the Constitution, it decides on jurisdictional disputes between different state authorities, and also state authorities versus local authorities. It also monitors whether statutes and lower legal acts are in compliance with the Constitution, and executive regulations in conformity

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47 'If other legal protection is not provided, the court having jurisdiction to review administrative acts also decides on the legality of individual actions and acts which intrude upon the constitutional rights of the individual.'

48 Given Art. 127 of the Constitution providing that the Supreme Court is the highest court in the state, immediately after the adoption of the new Constitution, there was a dilemma as to which was in fact the highest court in Slovenia, the Supreme Court or the Constitutional Court. That issue was soon resolved; it was held that the Constitutional Court is the highest court for constitutional review (of constitutionality and legality) and human rights protection, while the Supreme Court is the highest court in other judicial matters (in 'regular' court jurisdiction).

49 Mavčič, 2000, pp. 17–43.

with statutes.<sup>50</sup> It can dissolve unconstitutional political parties and prohibit their activities. The Constitutional Court judges may also deliver an opinion on the conformity of a treaty that is to be ratified by the National Assembly, on the proposal of the President of the Republic, the Government, or a third of the deputies of the National Assembly.<sup>51</sup>

The powers vested in the Court by statutes include, for example, deciding on the constitutionality of a decision by the National Assembly not to call a referendum,<sup>52</sup> on appeals against the National Assembly refusal to confirm the election of deputies from the Republic of Slovenia to the European Parliament,<sup>53</sup> on the constitutionality of a National Assembly decision to dissolve a municipal council or dismiss a mayor,<sup>54</sup> and requests by the Judicial Council of the Republic of Slovenia to review statutes concerning judicial organisation.<sup>55</sup> Practically, any statute may confer power on the Constitutional Court to review a specific matter under Art. 160 of the Constitution.

Moreover, the power to decide on human rights violations is vested in the Court by the Constitution. The relevant provision is Art. 160.2 of the Constitution which provides that [u]nless otherwise provided by law, the Constitutional Court decides on a constitutional complaint only if legal remedies have been exhausted. The Constitutional Court decides whether to accept a constitutional complaint for adjudication on the basis of criteria and procedures provided by law.

Even prior to the 1991 Constitution, Slovenia, as one of the six republics within socialist Yugoslavia, already had its own 'republican' constitutional court since 1963. A federal constitutional court was also established that same year. However, the then constitutional courts were much less powerful in the then non-democratic political system. The judges did not need to be lawyers and were limited to issuing non-binding advisory opinions on the constitutionality of statutes submitted to the assembly (i.e., parliament), which could choose whether or not to follow them.<sup>56</sup>

The Court reviews human rights violations in three possible ways: (1) based on constitutional complaints lodged by natural persons or legal entities against alleged violations by court decisions. The above part of this presentation mainly dealt with that kind of procedure. However, the other route for addressing human rights violations is through the so-called (2) abstract review, where the

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50 Slovenia does not provide for a special administrative supreme court. Apart from administrative courts responsible for reviewing the legality of individual administrative acts, the Administrative Department of the Supreme Court performs appellate jurisdiction in those cases.

51 Art. 160 of the Constitution.

52 The Popular Initiative and Referendum Act.

53 The Election of Deputies from the Republic of Slovenia to the European Parliament Act.

54 The Local Self-Government Act.

55 The Judicial Council of the Republic of Slovenia Act.

56 Mavčič, 2000.

Court examines whether statutes, i.e., laws, violate the human rights provisions of the Constitution. That procedure is initiated by either a petition or a request. The first is lodged by private individuals (or private legal entities), who also need to demonstrate that their legal interest has been affected. That basically means that they need to have a certain legal proceeding already pending in which they claim a human rights violation. It is not enough that such a review is requested by mere 'taxpayers' as persons having only a general interest in the repeal of an allegedly unconstitutional statute due to a human rights violation. Furthermore, the request to review a human rights violation by a general legal act (statute) can also be filed by state and other public authorities (as provided in the CCA). They do not need to demonstrate their legal interest in the matter of an alleged human rights violation because that is legally presumed, and the Court is always required to decide on their applications without first examining their legal interest.

The third (3) route for deciding upon the constitutionality of a statute concerning the possible violation of a constitutional right is through the so-called concrete review, which is set out in Art. 156 of the Constitution. This provides the following:

If a court deciding some matter deems a law which it should apply to be unconstitutional, it must stay the proceedings and initiate proceedings before the Constitutional Court. The proceedings in the court may be continued after the Constitutional Court has issued its decision.

However, not many requests from other courts are submitted annually to the Constitution Court in this manner – perhaps three or four in an entire year.

#### ■ 4.2. *The Human Rights Ombudsperson*

Art. 159 (Ombudsperson for Human Rights and Fundamental Freedoms) of the Constitution provides that

(1) In order to protect human rights and fundamental freedoms in relation to state authorities, local self-government authorities and bearers of public authority, the office of the ombudsman for the rights of citizens shall be established by law. (2) Special ombudsmen for the rights of citizens may also be established by law for particular fields.

The Ombudsperson is independent from the government and the judicial system, ensuring impartiality when handling complaints and conducting investigations. The first statute in this area, the Human Rights Ombudsperson Act, was adopted in 1993. Since the Constitution is rather sparse regarding the regulation of this

institution, all major provisions on powers, term of office, election, etc., have been regulated in the statute. The Ombudsperson is appointed by the National Assembly for a term of six years. The majority prescribed for their appointment is constitutional (i.e., ‘absolute qualified’ or two thirds of all the National Assembly deputies), which is the highest in the Slovene legal system, and such is also prescribed for amending the Constitution. This signifies how symbolically important a role is this office plays in the Slovenian constitutional order. However, legally speaking, the symbolic power of the Ombudsperson cannot be compared with their normative powers. As such it is considered an informal institution of human rights protection.<sup>57</sup>

The Ombudsperson’s crucial legal powers include the ability to file a request before the Constitutional Court to review the constitutionality or legality of a general legal act if it is deemed to inadmissibly interfere with a human right or fundamental freedom (the so-called *actio popularis*).<sup>58</sup> Moreover, they can file a constitutional complaint concerning a case that is being dealt with.<sup>59</sup>

Other less formal powers of the institution include inquiries relating to alleged human rights violations and opinions, reports, and recommendations thereon provided to other state authorities on improving the exercise of human rights and amending legislation. The Ombudsperson may submit their opinion on human rights protection in a case under consideration to any authority irrespective of the type and procedure before such authorities.<sup>60</sup> They may investigate public institutions and government bodies on their own initiative or upon receiving a complaint. The office may request documents, call witnesses, and even visit public institutions. While the Ombudsperson has no direct enforcement powers to compel actions, they can make recommendations and issue proposals for resolving issues. These are often influential, as the institution’s findings may be taken seriously by government bodies, courts, and other public institutions. The Ombudsperson also engages in educating the public about human rights, their legal rights and freedoms, and how to seek redress for human rights violations. The office provides accessible resources and guidance for individuals who may not be aware of their rights.

The Ombudsperson also issues recommendations for changes in legislation, government policies, and practices to ensure compliance with human rights standards. This can involve submitting reports to the Slovenian Parliament, government, and international bodies like the EU and the United Nations, particularly in relation to its role to coordinate the National Prevention Mechanism under Art. 3 of the Optional Protocol to the UN Convention Against Torture.<sup>61</sup>

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57 Letnar Čeranič, 2019b, p. 432.

58 Art. 23.a.5 of CCA.

59 Ibid., Art. 50.2.

60 Art. 25 of the Ombudsperson for Human Rights Act.

61 Human Rights Ombudsperson, 2025.

The office is supported by a team of experts and staff who assist with investigations, research, and public outreach. The Ombudsperson is assisted by four Deputy Ombudspersons. The Ombudsperson reports annually to the National Assembly on the state of human rights in Slovenia, highlighting issues of concern and offering recommendations. The Human Rights Ombudsperson's Council is the Ombudsperson's advisory body for the promotion and protection of human rights and fundamental freedoms and the strengthening of legal certainty, acting with professional autonomy. Its establishment, tasks and objectives are defined in Art. 50a of the Ombudsperson for Human Rights Act. It is composed of a chairperson and 16 members. Seven members are representatives of civil society, three are representatives of science, and two are representatives of the Government of the Republic of Slovenia. The Equality Ombudsperson, the Information Commissioner, the National Assembly of the Republic of Slovenia and the National Council of the Republic of Slovenia each have one member.<sup>62</sup>

#### ■ 4.3. *Other Ombudspersons*

As already mentioned, Art. 159.2 of the Constitution provides that special ombudspersons for the rights of citizens may also be established by law for particular fields. Thus, the Ombudsperson for Human Rights Act-B<sup>63</sup> introduced ombudspersons for children. In the field of the protection of children's rights, the Ombudsperson organises and manages child advocacy within the framework of an internal organisational unit. Child advocacy is carried out by child advocates (hereinafter referred to as 'advocates') within the framework of a network of volunteers which ensures equal access to an advocate for all children. The purpose of advocacy is for the advocate to provide professional assistance to the child, to express his or her views in all proceedings and matters in which he or she is involved, and to communicate the child's views to the competent authorities and institutions that decide on his or her rights and best interests. The advocate is not the child's legal representative. Professional assistance includes psychosocial support for the child, discussing the child's wishes, well-being and opinions, familiarizing the child with the procedures and activities in a manner appropriate to him/her, seeking the most appropriate solution together with the child, and accompanying the child before the authorities and institutions that decide on his/her rights and best interests.<sup>64</sup>

Furthermore, the Equal Opportunities Ombudsperson in Slovenia is an independent body responsible for promoting and protecting equal opportunities for all individuals, particularly with respect to gender, age, disability, sexual orientation, race, and other grounds of discrimination. The institution was established under

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<sup>62</sup> Human Rights Ombudsperson, 2025b.

<sup>63</sup> Official Gazette RS, No. 54/17 of 9 September 2017 (hereinafter OHR).

<sup>64</sup> Art. 25.a.1 and 2 of OHR.

the Equal Opportunities for Women and Men Act (2002) and the Protection against Discrimination Act (2007). It operates in accordance with international human rights standards, including the European Union's directives on equality and anti-discrimination. This Ombudsperson is tasked with overseeing the implementation of equality laws, promoting equal opportunities, and providing legal support and advocacy to individuals experiencing discrimination. It also engages in research, analysis, and education to raise awareness about discrimination issues in society. It can offer advice and recommendations to public authorities, employers, and others to ensure compliance with anti-discrimination laws. The office receives and investigates complaints from individuals who believe they have been victims of discrimination. It may assist individuals in pursuing legal remedies. If individuals face discrimination in various aspects of life – such as employment, education, or access to goods and services – they can approach the Equal Opportunities Ombudsperson for support, guidance, and sometimes mediation. The Ombudsperson addresses a wide range of equality-related concerns, including gender equality, combating violence against women, and addressing issues like pay gaps; supporting vulnerable groups such as persons with disabilities, ethnic minorities, and LGBTI+ individuals; and promoting equality in public and private spheres, including education, employment, and healthcare.

Moreover, patients' rights defenders are also an important part of the human rights protection system in Slovenia. Patients' rights defenders are institutions or individuals who work within the healthcare system and ensure the protection of patients' rights in healthcare. In Slovenia, patients' rights defenders are established by law, and their aim is to protect and enforce patients' rights, ensure access to healthcare, protect the right to information and privacy, and help resolve disputes between patients and healthcare institutions. In practice, patients' rights advocates are involved in various tasks, such as advising patients on their rights in relation to healthcare services, helping to resolve complaints, managing grievance procedures and disputes, defending the right to access to health services and fair treatment in healthcare, and educating patients about their rights. In Slovenia, the Patients' Rights Advocate is established at the level of individual healthcare institutions (hospitals, health centres) and is responsible for ensuring that patients' rights are enforced within these institutions. Patients' Rights Ombudsperson thus act as an important part of the rights protection system, specifically in the health sector, where they ensure that patients are not deprived of their basic rights, such as the right of access to healthcare, information about treatment, privacy and protection from abuse.

Last but not least, the Information Commissioner, although not a traditional ombudsperson, is also responsible for protecting the right to privacy and the protection of personal data. The office operates within the area of individual privacy and the control of the processing of personal data. In addition, the Ombudsperson for Access to Public Information works to ensure transparency and access to the

information citizens need to exercise their rights, such as the right to information and participation in public life.

In addition to institutional or state-organized bodies for human rights protection, non-institutional stakeholders in that area should also be mentioned. There are various non-governmental organisations and civil society organisations, such as Amnesty International Slovenia, the Legal Centre for the Protection of Human Rights and the Environment (PIC), the Peacebuilding Institute – Institute for Modern Social and Political Studies, Legebitra, Slovene Philanthropy, the Society for Non-Violent Communication, the SOS Telephone for Women and Children – Victims of Violence Society, etc.

## 5. Conclusion

As already pointed out at the beginning of this chapter, a departure point of Slovenian constitutional identity was human rights protection. In more than thirty years of its independence, Slovenia seems to have built a robust system for their protection, relying on both institutional and non-institutional stakeholders. A purely general and superficial view would claim that immense progress has been made in that period, but a critical mind would nevertheless ask whether enough has been done and where further potential for improvement remains.<sup>65</sup> And criticism is always welcome when it is supported by relevant data. Thus, let us see some fine-tuned opinions from two European bodies on the situation of human rights protection in Slovenia.

In 2023, the European Court of Human Rights (ECtHR) handed down 1,014 judgments, 892 of which found at least one violation of the European Convention on Human Rights. The highest number of judgments with at least one violation of the Convention were delivered against Russia (216), followed by Ukraine (123), Turkey (72), Romania (58) and Hungary (48). In relation to Slovenia, the Court handed down two judgments. Both found at least one violation of the Convention. These were violations of the right to a fair trial. A further 203 cases against Slovenia were dismissed or declared inadmissible by the Court. In addition, 978 new complaints were lodged against Slovenia in 2023, which represented the highest number per capita among Council of Europe member states.<sup>66</sup> Although the number of new complaints is high, Slovenia currently ranks among the countries with the fewest human rights violations found before the ECtHR.<sup>67</sup> The number of human rights violations identified has fallen significantly since 2006, as the adoption of the Law on the Protection of the Right to a Trial without Undue Delay has addressed this

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65 For a quite critical view on the issue, see: Avbelj and Letnar Černič, 2020, pp. 78–85.

66 Reporter, 2024.

67 European Court of Human Rights, 2024.

issue at the systemic level. The Lukenda project, launched in 2005, which has increased the number of judges, has also contributed significantly to ensuring more efficient justice.<sup>68</sup>

Furthermore, the European Union Agency for Fundamental Rights (FRA) has highlighted a number of important issues regarding the protection of human rights in Slovenia in its annual report for 2024, with data from 2023. In its view, in 2023, Slovenia made progress in improving the quality of the justice system. Promising developments included proposed legislative changes aimed at strengthening judicial independence, including reforms to judicial appointment procedures. While measures have been taken to protect journalists and reduce political influence over the media, the report highlighted the need for further efforts to ensure the independence of the media and to protect journalists from threats and violence. The report also stressed the need to protect civic space and ensure the conditions for its smooth functioning. The report also emphasised the need for further efforts to protect the rights of minorities, including the LGBTIQ+ community, and to ensure equal treatment of all citizens. Although Slovenia was found to have made progress in the area of human rights protection, the FRA report highlighted the need for further efforts to protect the fundamental rights of all citizens, in particular vulnerable groups.<sup>69</sup>

From the above-presented documents, it follows that Slovenia has made significant progress in human rights protection in more than three decades of its sovereignty. However, it still has challenges to address, and the potential to ensure an even stronger system of protection

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68 Supreme Court of Slovenia, 2023.

69 Ladić and Završnik, 2024.

## Bibliography

- Alexy, R. (2002) *A Theory of Constitutional Rights*. Oxford: Oxford University Press.
- Alexy, R. (2003) 'On Balancing and Subsumption. A Structural Comparison', *Ratio Juris*, 16(4), pp. 433–449; <https://doi.org/10.1046/j.0952-1917.2003.00244.x>.
- Avbelj, M., Letnar Čerňič, J. (2020) *The Impact on European Institutions on the Rule of Law and Democracy*. Oxford: Hart Publishing; <https://doi.org/10.5040/9781509915071>.
- Cerar, M. et al. (2005). *Constitution of the Republic of Slovenia (Official Translation)*. Ljubljana: Uradni list Republike Slovenije.
- Dworkin, R. (1987) *Taking Rights Seriously*. Cambridge: Harvard University Press.
- Ladić, M., Završnik, A. (2024) *Franet National contribution to the Fundamental Rights Report 2024*. European Agency for Fundamental Rights [Online]. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/frr2024\\_slovenia\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/frr2024_slovenia_en.pdf) (Accessed: 30 May 2025).
- European Court of Human Rights (2024) *Annual Report 2024*. Strasbourg: Council of Europe [Online]. Available at: <https://www.echr.coe.int/documents/d/echr/annual-report-2024-eng> (Accessed: 29 May 2025).
- Gabriš, T., Horvat, M., Novak, M. (2024) 'The Transfer of the Principle of Proportionality to the National Legal Order: The Cases of the Slovak Republic and Slovenia' in Cercel, C., Mercescu, A., Sadowski, M. (eds.) *Law, culture, and identity in Central and Eastern Europe: a comparative engagement*. 1st edn. Abingdon–New York: Routledge, Taylor and Francis Group, pp. 282–300; <https://doi.org/10.4324/9781003346890-16>.
- Guastini, R. (2016) *Sintaksa prava*. Zagreb: Naklada Breza.
- Jambreč, P. (2014) *Ustava in svoboda. Ustavna ureditev Slovenije – izvori, temelji in razvoj*. Nova Gorica, Brdo pri Kranju: Evropska pravna fakulteta, Fakulteta za državne in evropske študije.
- Grad, F., Kaučič, I. (1997) *Ustavno pravo Slovenije*. Ljubljana: Policijska-varnostna šola.
- Human Rights Ombudsman (2025) 'United Nations' [Online]. Available at: <https://www.varuh-rs.si/en/pravni-temelji-cp/united-nations/> (Accessed: 30 May 2025).
- Human Rights Ombudsman (2025b) 'Predstavitev' [Online]. Available at: <https://www.varuh-rs.si/o-varuhu/organizacijske-enote-in-svet-varuha/svet-varuha-zaclovekove-pravice/levi-meni/predstavitev/?categories=> (Accessed: 30 May 2025).
- Kaučič, I. (2021) 'Kako se je spreminjala slovenska Ustava (1991-2021)' in *Ustava Republike Slovenije (jubilejna izdaja)*. Ljubljana: Uradni list Republike Slovenije.
- Kerševan, E. (2019) 'Komentar 15. člena Ustave' in Avbelj, M. (ed.) *Komentar Ustave Republike Slovenije I*. Nova Gorica: Nova univerza, Evropska pravna fakulteta, pp. 123–129.
- Letnar Čerňič, J. (2019a) 'Komentar 16. člena Ustave' in Avbelj, M. (2019) *Komentar Ustave Republike Slovenije I*. Nova Gorica: Nova univerza, Evropska pravna fakulteta, pp. 130–134.

- Letnar Černič, J. (2019b) 'Komentar 159. člena Ustave' in Avbelj, M. (ed.) (2019) *Komentar Ustave Republike Slovenije II*. Nova Gorica: Nova univerza, Evropska pravna fakulteta, pp. 431–434.
- Mavčič, A. (2000) 'Razvoj sodne presoje ustavnosti' in Pavčnik, M., Mavčič, A. (eds.) *Ustavno sodstvo*. Ljubljana: Cankarjeva založba, pp. 17–46.
- Mavčič, A. (2013) *The Constitutional Review*. Lake Mary: Vandeplass Publishing.
- Novak, M. (2008) *Poglavja iz filozofije in teorije prava*. Nova Gorica: Evropska pravna fakulteta v Novi Gorici.
- Novak, M. (2010) 'Three Models of Balancing (in Constitutional Review)', *Ratio Juris* 23(1), pp. 101–112; <https://doi.org/10.1111/j.1467-9337.2009.00445.x>.
- Novak, M. (2018) 'Ensuring Uniform Case Law in Slovenia: Jurisprudence Constante, Stare Decisis, and a Third Approach (Zapewnienie jednolitego prawa precedensu w Słowenii: utrwalone orzecznictwo, stare decisis oraz trzecie ujęcie)', *Studia Iuridica Lublinensia*, 27(1), pp. 131–142; <https://doi.org/10.17951/sil.2018.27.1.131>.
- Novak, M. (2021) 'Politizacija ustavne justice', *Ius-Info*, 14 June [Online]. Available at: <https://www.iusinfo.si/medijsko-sredisce/kolumne/284609> (Accessed: 25 January 2025).
- Novak, M. (2021) *Uvod v teorijo prava*. Nova Gorica: Nova univerza, Evropska pravna fakulteta.
- Pavčnik, M. (2007) *Teorija prava. Prispevek k razumevanju prava*. Ljubljana: GV Založba.
- Reporter (2024) 'Rekordni Slovenci: kar 978 pritožb proti Sloveniji lani vloženih na ESČP', *Reporter*, 6 February [Online]. Available at: <https://reporter.si/clanek/svet/rekordni-slovenci-kar-978-pritozb-proti-sloveniji-lani-vlozenih-na-escp-1261410> (Accessed: 30 May 2025).
- Ribičič, C. (2004) 'Uveljavljanje evropskih standardov v praksi slovenskega ustavnega sodišča (Enforcement of European Standards in Jurisprudence of the Slovenian Constitutional Court)', *Revus*, 2004/3, pp. 69–83; <https://doi.org/10.4000/revus.1673>.
- Supreme Court of Slovenia (2023) 'Slovenija se že leta uvršča med države z nizkim številom ugotovljenih kršitev pred ESČP', *Vrhovno sodišče*, 18 July [Online]. Available at: <https://www.sodisce.si/vsrs/objave/2023071814293191> (Accessed: 30 May 2025).
- Šturm, L. (ed.) (2002) *Komentar Ustave Republike*. Brdo pri Kranju: Fakulteta za podiplomske državne in evropske študije.
- Testen, F. (2002) 'Komentar 15. člena Ustave' in Šturm, L. (ed.) (2002) *Komentar Ustave Republike Slovenije*. Brdo pri Kranju: Fakulteta za podiplomske državne in evropske študije, pp. 192–204.
- Vatovec, K. (2024) 'Evropeizacija ustavnosodne presoje prek Listine EU o temeljnih pravicah', *Dignitas*, 2024/83–84, pp. 27–52.
- Wedam Lukić, D. (2008) 'Načelo sorazmernosti kot kriterij ustavnosodne presoje', *Zbornik znanstvenih razprav: Ljubljana Law Review*, 2008/68, pp. 261–284.