

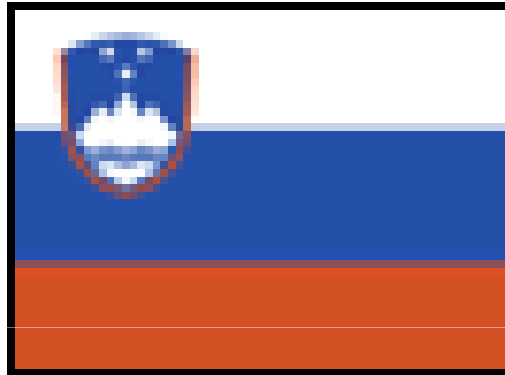


SUNICOP

Comparative governance in CEE



SUNICOP



Slovenia



CONSTITUTIONAL DEVELOPMENT

- part of ex-Yugoslavia - FEDERAL CONSTITUTIONS;
- 1974 – Constitution of the SR Slovenia
- **September 1989 – amendments to 1974 Constitution** – pluralisation of the political system;

- April 1990 – THE FIRST DEMOCRATIC ELECTIONS;
- **23 June 1990 – plebiscite** (88,2% of those voting – favor independence)
- 25 June 1991 – **Declaration of Independence**;

- **23 December 1991 – CONSTITUTION**
- 15 January 1991 – international recognition
- 1 May 2004 – EU Member State

FIVE REVISIONS OF THE CONSTITUTION.

- 1) **14 July 1997** – foreign citizens were granted permission to buy real estate in Slovenia;
- 2) **25 July 2000** – proportional voting system was entered directly to the Constitution;
- 3) **7 March 2003** – amendments to allow Slovenia to enter the EU and NATO if that would be the will of people (referendum on March 23, 2003);

REVISIONS:

4. **23 June 2004** – three amendments:
 - a) disability as a personal circumstance which prohibit discrimination;
 - b) the right to pension as an element of the right to social security;
 - c) candidacy quotas for state and local communities' elections in order to promote gender equality;

5. **20 June 2006** – the postition of the municipalities is strenghtened and the regionalism of the state is enabled

Constitution

- Preamble and 10 titles, 174 articles:
 - The Preamble
 - 1. General Provisions
 - 2. Human Rights and Fundamental Freedoms
 - 3. Economic and Social Relations
 - 4. Organisation of the State
 - 5. Self-Government
 - 6. Public Finance
 - 7. Constitutionality and Legality
 - 8. The Constitutional Court
 - 9. Procedure for Amending the Constitution
 - 10. Transitional and Final Provisions

BASIC CONSTITUTIONAL PRINCIPLES

- Democratic republic and unitary state;
- Rule of law
- Social state
- Right to self-determination
- Popular sovereignty
- Separation of powers
- Transfer of the exercise of sovereign rights to international organisations – EU (2003)
- Constitutionality and legality

SEPARATION OF POWERS

LEGISLATIVE POWER: two chambers:

NA – 90 (88 – proportional, D'Hondt, 8 territorial constituencies – each represented by 11 deputies + 2 members elected by ethnic minorities)

NC – 40 (elected representatives of employers, employees, farmers, tradesman, self-employed, from non-economic sector and local interest groups)

EXECUTIVE POWER:

President – directly elected, 5 years

Government – **actually perform e.p.**

JUDICIAL POWER: courts

---8 MEPs----

President of SLO - Danilo Turk-



Prime Minister of SLO – Borut Pahor



CONSTITUTION-MAKING

- **1. PROPOSAL TO INITIATE THE PROCEDURE (obligatory phase):**
 - a) 20 deputies of the NA
 - b) Government
 - c) at least 300.000 voters
- **2. ADOPTION OF CONSTITUTIONAL CHANGES (obligatory phase):**

2/3 majority vote of all deputies of the NA

 - Constitutional Commission – the final draft
- **3. CONFIRMATION OF CONSTITUTIONAL CHANGES BY REFERENDUM (optional phase)** – if at least 30 deputies so require, the NA must submit constitutional amendment to voters for adoption – FACULTATIVE REFERENDUM
 - if majority of those voting voted in favor of the proposal

ACTS OF THE NATIONAL ASSEMBLY

- CONSTITUTIONAL ACTS AMENDING THE CONSTITUTION
- LAWS
- AUTHENTIC INTERPRETATIONS OF LAWS
- STATE BUDGET, SUPPLEMENTARY STATE BUDGET
- RULES OF PROCEDURE OF THE NA
- ORDINANCES
- RESOLUTIONS
- DECLARATIONS
- RECOMMENDATIONS
- DECISIONS
- OFFICIAL CONSOLIDATED TEXTS OF LAWS

NA



LEGISLATIVE PROCEDURE

- LEGISLATIVE INITIATIVE:

- a) Government
- b) every deputy
- c) at least 5.000 voters
- d) National Council

LEGISLATIVE REFERENDUM

- NA MAY CALL A REFERENDUM ON ITS OWN INITIATIVE

- NA MAY CALL A REFERENDUM IF SO REQUIRED BY:

1. at least 1/3 of deputies
2. National Council
3. 40,000 voters

SHORTENED PROCEDURE for the adoption of law:

- -minor amendments to a law;
- -cessation of the validity of an individual law or individual provision;
- - less demanding harmonisation of the law with other laws or with the law of the EU;
- - amendments to laws related to proceedings before decisions of the CC

URGENT PROCEDURE for the adoption of law:

-proposed by the Government, where so required:

1. In the interests of the security or defence of the state, or
2. In order to eliminate the consequences of natural disasters or to prevent consequences regarding the functioning of the state that would be difficult to remedy

DECREES WITH THE FORCE OF LAW

- 1) STATE EMERGENCY OR WAR
- 2) THE NA IS UNABLE TO CONVENE
- 3) THE PRESIDENT – ON THE PROPOSAL OF THE GOVERNMENT
- 4) CONFIRMATION IN THE NA - IMMEDIATELY upon its next convening

NATIONAL ASSEMBLY – NATIONAL COUNCIL

- NATIONAL ASSEMBLY – all functions of modern parliament
- NATIONAL COUNCIL – limited and subordinated powers:
 - a) right to propose to the NA the passing of laws;
 - b) right to convey of the NA;
 - c) right to require the calling of a legislative referendum;
 - d) in the legislative procedure: right to exercise a suspensive veto

NA – PRESIDENT OF THE REPUBLIC

- **PRESIDENT (elected in direct elections!):**
 - a) right to call the elections of the NA;
 - b) right to call the first session of the newly elected NA;
 - c) Indirect impact on process of ratification of the international treaties

NA - GOVERNMENT

NA:

- elects the President of the G.;
- appoints and dismisses the ministers (proposal of the President of G.);
- President of G. and ministries – oath before the NA;
- may decide to impeach the President of G. or ministers before the CC

- G and ministers are **POLITICALLY**
ACCOUNTABLE to the NA

GOVERNMENT – PRESIDENT OF THE REPUBLIC

- **PRESIDENT OF R** – involved in the formation of G.:
 - a) the President of G. is elected by NA on the proposal of P (after consultation);
 - b) no support in NA – renewed consultation and new candidate within 14 days;
 - c) if no – final attempt (within 48 h – NA – majority of votes of the deputies present);
 - d) if no – **P dissolves NA and calls new elections**

POLITICAL ACCOUNTABILITY OF G.

- 1. (CONSTRUCTIVE) VOTE OF NO CONFIDENCE
- 2. VOTE OF CONFIDENCE
- 3. INTERPELLATION
- 4. PARLIAMENTARY QUESTIONS
- 5. IMPEACHMENT OF THE PRESIDENT OF THE G. AND MINISTRIES BEFORE CC

SAFEGUARDING OF THE CONSTITUTION

- CONSTITUTIONAL COURT
 - **nine judges** (elected by NA on the proposal of the President of R – secret ballot, majority vote of all deputies)
 - **nine years** (may not be re-elected);

CC



CC DECIDES(1):

- on the **conformity of laws** with the Constitution;
- on the conformity of regulations with the Constitution and with laws;
- on the conformity of laws and other regulations with the ratified treaties and with the general principles of the international law;

CC DECIDES (2):

- on constitutional complaints;
- on jurisdictional disputes – state and local communities and among local communities themselves;
- on jurisdictional disputes – courts – other state authorities;
- on jurisdictional disputes – NA – PofR – G;
- on the unconstitutionality of the acts and activities of political parties;

NORM CONTROL

- 1. **WRITTEN REQUEST** of an applicant
- 2. **CC ORDER** on the acceptance of a petition to initiate a review procedure (majority votes of judges present)
- 3. **INITIATIVE BY HIGHEST STATE ORGANS** (NA, 1/3 of deputies, National council, G., ombudsman for human rights...)

CONSTITUTIONAL COMPLAINT

1. injuri of HR's;

2. exhaustion of all other legal remedies - with exceptions:

- if the alleged violation is manifestly obvious;
- if the implementation of the act would result in irreparable consequences for the complainant

3. meeting the deadline (60 days – with exceptions in especially well founded cases)

CONSTITUTIONAL COMPLAINT - PROCEDURE:

- **WHETHER TO INITIATE PROCEEDINGS:** a panel of 3 judges;
- **DECISION** (to accept or to reject c.c.): the panel – unanimously;
- **SUSPENSION OF THE IMPLEMENTATION OF THE CHALLENGED INDIVIDUAL ACT** – IF its implementation would cause harmful consequences

JURISDICTIONAL DISPUTES

- between courts and other state authorities,
 - between NA – PofR and G.
-
- A REQUEST: affected authority
 - **DEADLINE: 90 days**

IMPEACHMENT of the PofR, the PofG and of ministries

- VIOLATION OF THE CONSTITUTION OR A SERIOUS VIOLATION OF LAW
- 2/3 MAJORITY VOTE OF ALL JUDGES

UNCONSTITUTIONALITY OF ACTS AND ACTIVITIES OF POLITICAL PARTIES

- 1. PETITION (ANYONE)
 - 2. REQUEST (highest state organ)
 - 2/3 MAJORITY VOTE OF ALL JUDGES
- a) CC abrogates the unconstitutional act of pp.;
 - b) CC prohibits its unconst. activities;
 - c) CC orders that pp be removed from the register

Thank you for your attention!