

COUNTRY REPORT

SLOVENIA



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Introduction¹

This report presents Slovenian legal framework of constitution making and constitution making dynamics, constitution making and deliberative democracy, and recent deliberative democratic practices on both national and local levels of government.

Constitution-Making in Slovenian Political System

The process of forming and enacting the Slovenian Constitution, adopted on 23 December 1991, was inseparably connected to the Slovenian liberation and its democratization. Democratization ran from the end of the 1980s and beginning of the 1990s and created a basis for the transition to a new constitutional arrangement. One of the main objectives of this arrangement was national liberation (Cerar 2001, 10). However, the process of liberation surpassed the accepting of a new constitution. Due to a lack of political consensus on new constitutional arrangements, it was accepted approximately six months after the declaration of independence.

Accepting the new Constitution and the soon following elections of the new state authorities (President of the Republic, National Assembly, and National Council) was the most dramatic phase of Slovenia's transition (keeping in mind the liberation was followed by a ten-day war and a few months of the partial isolation of Slovenia). The beginning of Slovenia's current constitutive system therefore stretches back to the time of the democratic movement in the 1980s, when alternative and oppositional forces progressively increased their demands for Slovenia's statehood and introduction of a democratic system. A complete program for a more determinant assertion of Slovenia's statehood was first put forth by the authors of the 'Subscriptions for Slovenian National Program' in the *Nova revija* magazine in 1987. However, the first draft of the constitution was proposed in 1988 by the Society of Slovenian Writers and the Slovenian Sociological Society, where a number of authors composed the so-called 'Writers' Constitution' and published it in the *Critical Science Magazine*.² The initiative that was launched at the public presentation of the Writers' Constitution was used by the opposition organizations (societies, associations, unions, etc.) to form the Convention for the Constitution in 1989. The Convention's activities operated under the former republic's constitution and ordered the creation of a working draft of the current constitution. This draft was accepted by the Convention at the beginning of 1990 (the DEMOS Constitution) and published in the *Democracy* magazine under the title 'Working Draft of the New Slovenian

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² This later formed material for the Slovenian Constitution, which focused on those theses of the Slovenian Constitution that were summarized advanced and published in the national program one year earlier. They were seen as groundwork for the later draft. Their purpose was to dismiss ideological principles, the former constitution, and provisions on the leading role of the Communist Party and to trigger the process of establishing a free and democratic Slovenia.

Constitution'. It presented a 164-article formulation of the proposed new constitution.³

By the end of 1990, the extensive work of the political coalition on their primary aim to liberate Slovenia by composing a new constitution had failed. Consequently, DEMOS agreed on an alternative – to hold a plebiscite. This was carried out on 23 December 1990, when 88.2 percent of the voters (a 93.2 percent electoral turnout) voted in favour of an independent Slovenia. The outcome of the plebiscite proves the legitimacy of the Slovenian liberation process. Slovenia finalized its statehood by accepting the 'Basic Constitutional Deed on the Independent Republic of Slovenia' and the Constitutional Law for Realization of the Basic Constitutional Deed on the Independent Republic of Slovenia. At the same time, Slovenia accepted the Declaration of Independence.⁴ The former two have a constitutional and juridical nature, whereas the latter is a political act. The Basic Constitutional Deed is *sui generis* a constitutional law, which defines Slovenia as an independent state with all those rights and responsibilities (and their implementation) that were formerly given to the federal organs by the Constitution of SFR⁵ Yugoslavia and by the Constitution of the Republic of Slovenia. It further defines Slovenia's international borders, guarantees the protection and exercise of the human rights of all people on Slovenian national territory, and also guarantees legal custody of Italian and Hungarian minorities as determined in the 1974 Yugoslav Constitution.

The Current Slovenian Constitution was ratified in a regular legislative body (the tri-cameral Slovenian Socialist Assembly) following the procedure of constitutional revision. The latter was made obligatory by the former constitution (actually by its amendments) for any amendments to it. But the span of action ran from the wording of the new Constitution, via the Basic Constitutional Deed on the Independent Republic of Slovenia to the independence plebiscite. That is why the preamble of the Slovenian Constitution begins: 'Derived from the Basic Constitutional Deed on the Independent Republic of Slovenia', which further begins with: 'Derived from the will of the Slovenian Nation and the citizens of the Republic of Slovenia, expressed in the 23 December 1990 plebiscite on the liberation and independence of the Republic of Slovenia'. The legitimacy of the current Constitution therefore originates from the results of the public vote (plebiscite) that was actually a substitute for a constitutional referendum (Jambrek 1992, 215). This shows the new Constitution is an expression of public opinion, empirically measured in the social reality. In the period of Slovenia's international recognition, the plebiscite and the subsequent Constitution both had a very strong influence on the conceptualization of the legitimacy of the state's authority.

³. Unfortunately, it did not exceed the mark in its title. The working draft was divided into five sections: 1. Basic principles, 2. Human rights, 3. State arrangement, 4. Self-government, and 5. Constitutional protection.

⁴. All three documents were accepted on 25 June 1991.

⁵. SFR Yugoslavia—Socialist Federal Republic of Yugoslavia, often referred to as SFRY.

The new Constitution institutionalized values of a modern constitutional democracy such as the sovereignty of the people, human rights, the right of self-determination, political and property pluralism of enterprising, free elections, and the division of power. Slovenia was thereby part of the actual and normative process of the great political changes seen at the end of the 20th century—the transition of single-party systems and integration of Western civilization’s norms into the Constitution. The Slovenian Constitution institutionalized the values of a liberal and independent state. The referendum and the integration of the mentioned values in the Constitution together guarantee their symbolism, legitimacy, and stability (Rupnik et al. 1996, 18). Hence, the Constitution gained the form of a ‘social contract’, became a symbol of legitimacy and stability, and established itself as an independent value. The Constitution of the Republic of Slovenia is in its form a modern constitution focused on classical constitutional material. It fundamentally differs from previous Slovenian (or Yugoslavian) constitutions in 1963 and 1974, which were based on the ‘Basic Deed of Self-government’. These not only determined the state’s system but also defined the position and role of workers and citizens in the self-governed communities of bigger or smaller sizes. From there the program of actions also originates. The former Slovenian and Yugoslav constitutions were imbued with ‘visionary principles’ and the ideal system of self-government. Today’s Slovenian Constitution is, on the contrary, a classical and realistic constitution (Pavčnik 1993, 890) that has almost no provisions concerning programs and actions.⁶ The new Constitution highlights basic human rights and defines them as the origin of the whole system, whereas the former constitutions simply ‘drowned’ them in a detailed vision of a self-governed society or state.

The Slovenian Constitution is primarily based on liberal-democratic principles but also contains elements of political doctrines of pluralism, socialism, and corporatism (Lukšič 1992, 305). It is caught in a paradigm of Continental European constitutionality, where it is clear that it followed certain provisions of the Italian and German constitutions. Nevertheless, we can confidently talk of its genuine form and tenor. The new Constitution is not only a collection of legal principles but also a tool for exhibiting Slovenian culture, proof of the country’s cultural development, a mirror of the cultural heritage of the Slovenian nation, and lastly its basis for future hopes. From that point of view, the Constitution of the Republic of Slovenia was created in a pluralistic procedure with all the related consequences of agreements and compromises among Slovenian political parties or other political subjects. So it was not only formally ratified in the newly formatted National Assembly. It was formulated on legal and professional grounds, in spite of the many compromises among political elites.

In the process of forming the new Constitution, some of the more important open questions addressed: the constitutional definition of a national basis for a Slovenian state; foreigners’ ownership rights; the extent of protection of social and

⁶ Some ‘program norms’ can be found in the chapter about basic economic and social relations (e.g. the provision on the state’s duty to provide good working (and employment) conditions, or the one on the state’s duty to provide good conditions for the citizens to get suitable apartments. Such provisions form the state’s political duty but not also its legal obligation, which could then be lawfully enforced.

economic rights; the status of national minorities; the social function of property; workers' rights of self-management; rights related to conceiving and giving birth to a child; a single or bi-cameral parliament; the representation of regions; the representation of social, cultural, and economic interests; the authority of the President; the army; the division of power between the state and municipalities; the designation and composition of the Judicial Council; the question of a constitutional referendum or plebiscite on national self-determination and other questions (Cerar 2001, 17). Over time some of these questions were resolved on their own (constitutional referendum, demilitarization), some are still present today, whereas some are even subject to changing the Constitution.

Constitutional Changes

From a theoretical point of view, there is no clear answer to the advantages of the short-term or long-term validity of constitutions. Some advantages of the latter are social stability and the stability of state regulation by avoiding shocks to state organs (or other organs for that matter) caused by every constitutional amendment. A long-term valid constitution creates an image of reputation, thus implanting a special (legal) consciousness, and a certain psychological state of mind of every citizen. On the other hand, such a constitution can prove its own inability to adapt to reality and so it is more of a relic than a living legal act. The stabilizing effect of the Slovenian Constitution is expressed through a demanding procedure of its altering, which requires a qualified majority in the legislative body (as opposed to a regular legislative procedure).⁷

The Slovenian Constitution is in no need of great changes, but it could use a few minor ones. Due to time restrictions, it was not completely finalized. At the time of its writing and enacting, some resolutions lacked a wider consensus whereas others were necessary due to joining the European Union. The Constitution was changed for the first time in 1997, when Article 68 was altered to enable the foreign possession of real estate. It was changed for the second time in 2000, when Article 80 was amended to change the elective system. In 2003, a constitutional law was ratified which changed the so-called 'European' articles and was at first highly politicized and disputed. In the following year (2004), a cluster of changes was accepted. Among them were, for example, Article 14, which determines the equality of rights regardless of invalidism, Article 43, which regards the equality of candidacy for elections among men and women, and an amendment to Article 50, which regards the citizens' right to a pension. In 2006, there were changes to Articles 121, 140, and 143, which all relate to local self-government. Changes to Article 121 comprise: deleting the first paragraph, which imposed administrative duties directly on ministries; amending the

⁷ To initiate the process, 20 MPs, the Government, or 30,000 voters are needed and relative support of two-thirds of present MPs is required; to accept the changes of the Constitution or its amendment, absolute support of two-thirds of all MPs is required (Constitution of the Republic of Slovenia 2016, Articles 168 and 169). Confirmation of any constitutional change in a referendum is mandatory only if required by at least 30 MPs. A constitutional amendment is accepted if the constitutional referendum is attended by a majority of voters, and if the majority is also in favor of the proposed amendment. There is no actual implantation of constitutional referendum in Slovenia.

second paragraph in order to generalize the classification of those subjects eligible to carry out the services of state administration and that these authorizations can be given not only by law but also by sub-legal acts. Article 140 was changed in a way that it now permits the transmission of certain state duties from the state to the municipalities, without the latter's concord (whereby the state also has to provide the necessary means). Lastly, the new Article 143 regards the obligatory establishment of regions (with a law) as wider local communities in order to carry out regional duties prescribed by the law. Ratifying the law on regions will require two-third majority of Members of Parliament (henceforward MPs) present. In the process of discussing the bill, there must also be a place for the non-obligatory co-operation of the municipalities.

The most significant of all the above changes is no doubt the constitutional arrangement of Slovenia's international associations and co-operation. The new Article 3a enables Slovenia to enter into international contracts in order to join international organizations of a supra-national nature and to transfer some of its sovereignty to them. This can only happen if these organizations are based on human rights, democracy, and the rule of law and if Slovenia joins a defence association of countries based on these same values. The National Assembly can call a referendum before ratifying any such international contract. Legal acts and decisions of organizations, to which Slovenia has transferred some of its sovereignty, are employed in Slovenia in accordance with the legal structure of these organizations. Changing Article 47 made it possible to hand over a Slovenian citizen to another state or an international court (which is otherwise prohibited), if prescribed so by an international treaty. The double-changed Article 68 guarantees an equal right of possession of real estate for both foreign and Slovenian citizens. These changes clarified the relationship between European supranational legislation and the Slovenian legislation and also transparently enabled Slovenia's membership in the European Union and NATO.

In May 2013, the National Assembly adopted several changes in the Constitution. Firstly, Article 148 of the Constitution changed with the insertion of the so-called "Golden Fiscal Rule", which aims to balance the public finances and puts limitations on public borrowing. Then, the organization of a referendum was re-organized as well, with the amendments of Articles 90, 97, and 99 of the Constitution. The latter change limits the right to a referendum, as only 40,000 citizens can henceforth request it, but not also thirty MPs or the National Council. A referendum is also not possible to be requested on laws which have implications on public finances and the human rights. As a consequence, a referendum cannot be called on taxes, duties, or other laws relating to compulsory charges, as well as on the law to be adopted for the implementation of the state budget; the law on emergency measures to ensure national defence, security, or the aftermath of natural disasters; the laws on ratification of international treaties; and the laws that eliminate any possible unconstitutionality. In November 2016, the Constitution was changed most recently, as a new Article 70a was added in order to make access to drinkable water a fundamental right for all citizens and stop it being commercialized.

Apart from the amendments to the Constitution that have actually entered into force, there have been several proposals that were never adopted. In 1997, 40,000 voters submitted a proposal for the amendment to Article 82, which states that members of the National Assembly (MPs) are representatives of the entire nation and are in no case bound by any instructions. The proposed amendment provided for the MPs to be accountable to their voters who could call them off in mid-term.

In this manner, MPs would be held accountable for their work. Because the proposed change would interfere with the constitutional setup and status of the National Assembly, the amendment was not adopted. In 1999, the proposal for ruling out Article 143, which regulated the topic of communities of wider local self-government, was launched. The abolition of this Article would eliminate the obstacles for the regionalization of Slovenia. The Article was eventually amended in 2006. Further proposals for amendments were submitted in 2001, whereby the first group of proposals in the area of international integration concerned Articles 3, 8, 47, and 68 (the proposed amendments were adopted two years later) and the other group of proposals referred to the institute of referendum (Articles 90, 97, 99, and 170), to the formation and operation of the Government (Articles 112, 114, and 118), to the judiciary (Articles 129, 130, 131, 132, and 134), and to the provisions on regions (Articles 121, 140, and 143, which were amended in 2006).

In early 2002, numerous amendments to the Constitution were once again proposed by deputy groups of the National Assembly. Their proposals included the amendment to Article 44 with the provision on the promotion of equal possibilities of women's and men's candidatures at national and local-level elections; the extension of material and procedural immunity of the MPs from criminal and restitutive liability; the amendment to Article 14 on the guarantee of equal rights and freedoms also in case of disability (adopted in 2004); amendment to Article 50, adding the right to pension (adopted in 2004); the amendments to Articles 111, 112, 116, and 117, which regulate the election of the Prime Minister, the appointment(s) of ministers, and the vote of (no) confidence to the Government; the amendment to Article 143, which would enable the granting of suffrage at the age of 16; the de-constitutionalizing of the provisions contained in Article 6 on the state insignia and the amendment to the text of the Preamble to the Constitution of the Republic of Slovenia (Kaučič 2007). Yet another amendment to the Constitution was proposed in 2010, aimed at changing three Articles.

The amended Article 160 is derived from the rule that the competences of the Constitutional Court are set down in the Constitution of the Republic of Slovenia. In the amended Article 161, powers of the Court regarding its constitutionally legal judgments are determined, in relation to Article 160. In the proposed amendment to Article 162, entities that may initiate procedures before the Constitutional Court and the principle of free choice among submitted initiatives and constitutional appeals are set down. The abovementioned amendments of course concern the regulation of the competences of the Constitutional Court of the Republic of Slovenia. During that same year, an idea for amending Article 80, which states that the National Assembly is composed of 90 members, was raised. Namely, it was suggested that the number of MPs and members of the National Council should be reduced to a maximum total of

75 representatives (Hren and Šušteršič 2010). In February 2012, several political parties proposed the abolition of the National Council (the SDS, the NSi, and the Virant Alliance) and the abolition of permanent tenure of office of judges (the SDS), but proposals failed to reach any parliamentary procedure (Haček et al. 2017).

Slovenian Contribution to the Deliberative Democratic Model

Deliberation is not a new political phenomenon. Historically, we can trace it back to the Ancient Greece and model of direct democracy, where the sublimity of the word is placed above all other political instruments and portrayed as a major political tool. In addition to the legitimacy crisis of liberal institutions that started in the second half of the previous century and which recently led to the crisis of the representative democratic model, tenets of deliberative democracy can be tracked back to the new social movements in the 1960s, which provided a serious critique of political elitism and the technocratic state. As an integral model of democracy, deliberative democracy was nevertheless not constituted before the 1990s, when increased interest in participatory forms of democracy were also pushed by the rise of new ICTs, especially the Internet (Oblak-Črnič, Prodnik, and Trbižan 2011, 91).

Discussion about democratic governance has its roots in early theories about participatory democracy, which can be defined abstractly as a regime in which adult citizens assemble to deliberate and to vote on the most important political matters. Barber (1984, 117) states that participatory democracy becomes possible through policy-making institutions and a high level of education, which binds citizens to pursue the common good. However, Barber (1984, 234) specifies that strong participatory democracy will not develop through civic education and knowledge, but rather will arise when people are given political power and channels of influence. Having attained these, they will perceive that it is necessary to acquire knowledge in order to be able to make political decisions. According to Pateman (1970, 42–43), people's participation in the community's decision-making stabilises the community. A decision-making process that allows public participation develops from the very start as a process that perpetuates itself due to the effect of political participation. Participatory political processes have an impact upon the development of the social and political capacities of citizens, and this positively influences the next act of participation. Participation has an integrative effect especially upon those citizens who take part in political activity, and thus makes the acceptance of collective decisions easier.

Deliberative democracy, in its essence, advocates the systematic internalization of the assumptions that Barber (1984) requires to establish a strong democracy. In order to fulfil this requirement, it would first be necessary to ensure greater involvement of those affected by political decisions and (equally importantly) to build-up a different political culture and civic awareness, enhancing the social inclusiveness and importance of citizen's participation in political decision-making. Contrary to the liberal-democratic model, the main innovation of deliberative model is the establishment of institutions and procedures that will enable those affected by the decisions taken to play a crucial role in the process of political decision-making. The objection of the proponents of the deliberative decision-making model is that the

existing political decisions do not (sufficiently) contain the will of all stakeholders affected by the decision. This finding also leads to further criticisms of the legitimate deficiency of both the decisions taken and the system that enables such deficient decision-making.

Lukšič joins many critics of liberal democracy who believe that the activities, backgrounds, and interests of political representatives and decision-makers are distant from the lives and expectations of citizens. Although elections act as selective, citizens have little influence on the decisions made on their behalf. In line with the basic belief in the deliberative capacity of the individual, deliberative theory acknowledges the existing representative institutions; but also maintains critical distance by noting that because of the influence of party interests and the lack of the citizen's opinions that are being politically marginalized in the political decision-making process, citizen's interests and expectations are systematically excluded or at least inadequately addressed (Lukšič 2005, 239).

Proponents of the liberal democratic model point out that the complexity of modern societies makes it impossible for the public to make political decisions directly. However, deliberative democracy does not deny the need to share work and integrate professional views into decision-making processes. After all, experts are part of the public that would be included in the deliberative decision-making model. But the forms deliberative democracy offers are significantly different in that they provide the desired and possible citizenship operation. However, due to the increased internal legitimacy, the decisions that would be the product of such a decision-making process would also strongly bound legally defined political authorities. Deliberative democratic model therefore relies on institutions that a) promote democratic deliberation, involving a reasonable political dialogue, b) are sensitive to the plurality of values, and c) promote political judgment, taking into account different perspectives and views of different stakeholders (Lukšič 2005, 240).

Deliberative Democratic Practices in Slovenia

Online tool “I suggest to the government”

The best example of deliberative democratic practice in Slovenia is the online tool “predlagam.vladi.si” (“I suggest to the government.si”). The tool was created in November 2009 for the purpose of sending various proposals to the Government of the Republic of Slovenia for changing the current regulation, exchange of opinions, and to influence the policy-making processes at the governmental level. The main goal of the online tool is to encourage users to exchange opinions and to involve the Slovenian inhabitants in the policy-making processes at the governmental level. The tool enables the mutual exchange of individual views, views and opinions on public topics, which are determined by the users themselves. Users can freely define and present in more detail the substantive issues that are, in their opinion, not adequately regulated by law, and at the same time users can also submit the proposal for its regulation. All proposals prepared in accordance with the online tool rules are publicly announced. Other users can comment on suggestions or suggest corrections. The final proposal prepared by the

author of the original proposal is to be put to the vote. If such a proposal receives more votes for than against, and if at least 3% of active registered users participate in the voting, the proposal is to be sent to the competent body of the Slovenian government, which must prepare an official response. The administrator and moderator of the online tool predlagam.vladi.si is the Office of the Government of the Republic of Slovenia for Communication.

Citizens can use the predlagam.vladi.si tool to draw attention to the problems and highlight issues, especially those that are not otherwise addressed by the government, and to propose various policy solutions and changes. The most important feature of the online tool is the commitment of ministries and government services to consider and analyse the submitted proposals and prepare an appropriate response. If the influence on political decisions can be achieved through the online tool predlagam.vladi.si, an important question to what extent the success and power of the submitted proposals increases with the approach to the democratic demands of ideal deliberation still remains. The success of the proposal is positively affected by the achievement of consensus in the debate, the equality and involvement of citizens, and the intensive exchange of reasoned claims and criticisms between them. Proposals published on predlagam.vladi.si are successful if the competent authorities define them in a positive answer as included in the policy-making process (Trbižan 2011, 21).

Portal <https://predlagam.vladi.si/> also contains the overview of the most resounding proposals, i.e. proposals that have received the most votes, comments, and views in the most recent period, as well as the overview of all active proposals. On 21 July 2020, there were 85 active proposals debated on the portal, and most resounding were the proposals that a) all public employment agencies should be abolished, b) state should end all financing of the Church, c) prohibition of fertilization with slurry, and d) renewal of the conditions for the appointment to the position of state minister. Up to 21 July 2020, there have been 9,591 proposals in total that received in total almost 229,787 votes, 64,160 comments, and 3,253 feedbacks from various state ministries. In total, there are 27,025 registered portal users on 21 July 2020, which represents a bit less than 1.6% of all voters. Trbižan (2011, 27) states that average response time from state ministries is 24 days.

For the discussion about the deliberative potentials of citizen participation in the political process through the web portal, it is more relevant to understand what are actually the topics of debates and how the debates itself are structured. Since in the context of their “success,” all proposals are divided into three groups: a) accepted with positive response, b) accepted as potential solution, or c) rejected (Oblat et al. 2011, 103). A difference in policy areas can be observed between the accepted proposals, the rejected proposals, and the proposals as possible solutions. Among both rejected and accepted proposals, most are in the field of transport (20%). Equally often, the adopted proposals also deal with taxes, finances, and public administration. In the group of proposals as possible solutions, most proposals are defined in the field of internal affairs (20%). The group of adopted proposals does not have proposals in the fields of agriculture, social affairs, higher education, and science, while the proposals do not address education and general affairs as possible solutions. None of

the groups have proposals for the areas of environment and space and justice. The least frequently represented area is culture with 3% of accepted proposals and zero in the other two groups (Trbižan 2011, 27).

Public participation in the normative process

The Constitution of the Republic of Slovenia stipulates that laws are adopted by the National Assembly, and the eligible proponents are: any member of parliament, government, state council, or at least 5,000 voters. In the ordinary legislative procedure, which is defined in detail in the Rules of Procedure of the National Assembly, three stages are envisaged in the discussion of the law: the first is intended to acquaint with the bill, the second to discuss and vote on articles or parts of the bill at the parent working body and at a session of the National Assembly, and the third to debate and vote on the bill in its entirety and shall be held at a session of the National Assembly. A proposer of the law may, before filing a bill, propose that a hearing be held in the National Assembly on the reasons that require the adoption of the law, as well as on the principles, goals, and main solutions of the proposal law (general debate).

We would like to draw attention to an important component of the legislative process – participation of the public. The public debate has an important information function, as it informs citizens about the planned normative solutions and offers opportunity to propose changes and additions to the proposed normative acts. The legitimacy of the authorities is ensured through public debate, therefore, in order to ensure it, it is necessary to present legal changes to citizens and obtain their views on these changes. Public opinion is thus a key indicator of legitimacy.

Public participation is more specifically provided for in Article 9 of the Rules of Procedure of the Government of the Republic of Slovenia (RPG), which stipulates that the proposer of the regulations invites professional and other public to participate in the preparation of the regulations by a general invitation, accompanied by a normative draft. In addition, the applicant may raise individual issues raised by the invitation to participate, accompanied by a draft regulation, addressed to a specific organization, civil society, or individual experts. The deadline for public response is set by the regulation proposer and amounts to 30 to 60 days from the publication on the website. In addition, the RPG stipulates that the public is not invited to participate in the preparation of proposals regulations in cases where, by the nature of things, this is not possible (i.e. emergency measures). In addition, the RPG provides that the above rules on public participation do not apply if public participation in the preparation of legislation is regulated by law.

With regard to the issue of public participation in the preparation of regulation, it is undoubtedly also worth mentioning the Resolution on Normative Activity (2009). Resolutions are legally non-binding acts by which the parliament assesses the situation, determines the policy, and adopts programs in individual areas, but due to its non-binding nature, the resolution alone cannot create any legal effects. With the Resolution on Normative Activity (2009), the Slovenian National Assembly outlined the main guidelines of legislative policy and basic elements for upgrading the Slovenian legal system, which in essence represent a summary of already known and

established constitutional, legal, and nomotechnical principles and rules. The resolution draws attention to a number of shortcomings in the field of regulation, and the wish was that after its adoption, among other things, the professional and other interested public should be more consistently involved in the preparation and adoption of regulations, so in the second point of the 6th chapter, there are also guidelines outlined to help achieve this goal. The participation of the widest possible circle of subjects in the preparation of decisions should ensure greater legitimacy of the decisions taken and reduce the democratic deficit, thus enabling the adoption of quality and effective regulations. The text of the Resolution distinguishes between spontaneous public participation, which arises from the interest of the individual, and organized public deliberation, which arises from the call to target groups and experts, and the fact that certain interest organizations have a specific role in the drafting procedures.

The resolution highlights a number of principles in public involvement (timeliness, openness, accessibility, responsiveness, transparency, and traceability), but also offers minimum recommendations that the state administration should take into account when drafting new regulation or regulatory changes:

- public participation in drafting regulations should generally last from 30 to 60 days (with the exception of draft regulations where cooperation is not possible by the nature of things),
- appropriate material should be prepared, containing a summary of the content with expert bases, key issues, and objectives,
- a report on cooperation should be prepared after the cooperation procedure; presentation of the impact on solutions in the draft regulation.

The call for public participation should be implemented in a way that will ensure the response of target groups and professional publics and information to the general public, and for the sake of continuous cooperation and information, lists of entities whose participation in drafting regulations is required by law and entities dealing with the area. It is clear that the Slovenian government or individual ministries do not consistently adhere to the recommendations of the Resolution. The *Centre for Information, Cooperation and Development of NGOs* runs a website entitled "Counter of Violations of the Resolution on Normative Activity",⁸ where, since 2009, they monitor how national governments adhere to the provisions of the Resolution, which requires at least 30 days of public debate on each new regulation. For the mandate 2014–2018, for instance, the violations began to be counted on 18 September 2014 and in the period up to 22 May 2017, 772 of the total of 1,312 published draft regulations were recorded with a total lack or too short public participation. During this time, the Ministry of Health, for instance, published 95 draft regulations, violating the provisions of the Resolution as many as 45 times, of which 10 draft regulations were submitted for public discussion without a deadline for comments, 34 draft regulations were submitted for public discussion with a deadline for comments shorter than 30 days, and one draft regulation was not put up for public

⁸ Available at <https://www.cnvos.si/stevec-krsitev/>.

discussion at all. For the current government, which took office on 13 March 2020, during the first 130 days in office, the government published 124 draft regulations, but only in 40 cases the provisions of the Resolution were adhered, in 14 cases there was no public participation at all, and in 70 cases the deadlines for public debate were under the required minimum of 30 days.

On this issue, the legal profession draws attention to the fact that ministries are too quickly satisfied with only the formal aspect of public participation, without a substantive analysis of the comments from the public debate. Last but not least, with regard to the issue of public participation in the drafting of legislation, it is also important to point out the fact that civil society also participates in the drafting of legislation through the activities of individual stakeholders who influence the content of legislation by lobbying in accordance with legal and ethical rules.

Deliberation in Slovenian Local Government

According to the modern theory of participatory democracy, people's political participation and deliberation are characterised by an aim to acquire information and knowledge about political matters so that political opinions or decisions can be argued proficiently. Knowledge is not usually the starting point when opinions or decisions are formulated; information about political issues is, by nature, contingent on the situation. The citizens who participate in political deliberations are assumed to possess the ability to select relevant information, which they can use to support their arguments. Among the most basic principles of participatory democracy is the idea that people learn through an opportunity to participate and by utilising and judging the relevance of different types of information. Political information and knowledge are therefore given a certain utility value in political argumentation; administrative information and knowledge of societal matters are presented as having significant descriptive power regarding circumstances.

We begin the evaluation of the deliberation usage in Slovenian local governments⁹ with the question in what manner municipalities provide opportunities for citizens to consult with the local government representatives. We analysed in which extend the second stage of citizens' involvement in the political decision-making, i.e. "consultation" is present. We found that all Slovenian municipalities have a published e-mail address (either general, by sections or even by individual civil servants). The methods and tools of consultations vary between municipalities; applications designed as forms where citizens write proposals, opinions, questions, suggestions, and others;¹⁰ we can say that all of the Slovenian municipalities allow

⁹ The Research Project 'E-demokracija in e-participacija v slovenskih občinah' (E-democracy and eParticipation in Slovenian municipalities) was performed at the Centre for the Analysis of Administrative-Political Processes and Institutions in the second half of March and in the beginning of April 2013 and included all municipalities at the time (211).

¹⁰ Municipalities have different names for such applications, e.g. 'service of citizens', 'Kr.povej', 'Citizens Initiative', 'Review of citizens', 'Ask the Mayor', 'Contact Us', 'Citizens' questions', 'Ask us', 'Questions, suggestions and criticisms of citizens', 'You question, Mayor answers', 'E-initiatives,' and others.

citizens the opportunity to establish a two-way electronic communication. We also analysed the third stage of citizens' involvement in the political decision-making – “active participation” – a partnership between the public authority and citizens, where citizens are actively involved in shaping public policy and decision-making about such policies. Only 38 Slovenian municipalities out of 211 (18 percent) have published public policy related e-surveys on their official websites. In addition, only eight municipalities offered an e-forum to its citizens.

As we also wanted to evaluate local government decision-makers' viewpoints on the citizens' involvement and deliberation,¹¹ we probed mayors of Slovenian municipalities with several statements and measured their (dis)agreement with the three simple statements (Table 1). The mayors assessed all statements as relatively important (all ratings are above average value). The highest ranked was the statement “Decentralisation of local government is necessary to involve citizens in public affairs” (mean value 4.22), followed by the statement “Residents should have the opportunity to make their views known before important local decisions are made by elected representatives” (mean value 3.63). Based on this rather simplistic questions, we can conclude that Slovenian mayors are in favour of citizens' active and direct involvement in local public policies.

Table 1: Importance of deliberation in local government (N=106)¹²

	Mean	Std. Deviation
Residents should participate actively and directly in making important local decisions.	3.60	1.110
Residents should have the opportunity to make their views known before important local decisions are made by elected representatives.	3.63	1.058
It is necessary to involve citizens in public affairs.	4.22	0.743

The support of democracy and governance ideas can also be analysed by looking at what the mayors believe to be the most effective ways of communicating with citizens. There are many ways of communicating with local people and allowing people to let local politicians know what they think. We asked the mayors which of the listed sources, instruments, and methods of communication¹³ are useful and effective for becoming informed of what citizens think. More than half of the mayors

¹¹ The research project ‘Stili lokalnega političnega vodenja’ (Styles of local political leadership) was conducted at the Centre for the Analysis of Administrative-Political Processes and Institutions in spring 2014.

¹² From: Research project “Styles of local political leadership” (2014). All questions were evaluated on the five-point scale from 1 (little importance) to 5 (very important).

¹³ The listed methods were as follows: citizens' letters via the Internet; citizens' letters in the local press; formalised complaints or suggestions; petitions; information on citizens' position gathered by the councillors; information on citizens' position gathered by people working in local administration; information on citizens' position gathered by the local parties; public debates and meetings; satisfaction surveys; neighbourhood panels of forums; forums via the Internet; focus groups; self-organised citizen initiatives; referenda, and personal meetings in the town hall.

assessed citizens' letters via the Internet (55 percent), petitions (62.5 percent), satisfaction surveys (56.3 percent), focus groups (63.6 percent), and referenda (60 percent) as only effective in special circumstances. Mayors viewed personal meetings in the town hall (95.4 percent), public debates and meetings (72.1 percent), and formalised suggestions or complaints (64.3 percent) as the most effective methods. The results show that mayors are still in favour of personal meetings with citizens: on average, they spent 6.3 hours per week in meetings with citizens, as 74.6 percent of the mayors claimed that they communicate with the citizens on a daily basis.

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