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The Protection of Human Rights under the European Convention on Human Rights in Slovenia**

ABSTRACT: This article explores the protection of human rights under the European Convention on Human Rights (ECHR) in the Republic of Slovenia. Beginning with a brief introduction to the Council of Europe (CoE) and its key legal instrument, the ECHR, the author examines the structure of the ECHR, the rights it guarantees, the mechanisms for enforcing those rights, and its influence on both domestic legal systems and international human rights norms. The author then outlines the historical development of human rights in Slovenia, describes Slovenia's relationship with the CoE from a human rights perspective, and reviews Slovenia's ratification of the Convention and other CoE treaties. In the core sections, the author discusses how the ECHR's human rights protection obligations are reflected in the Slovenian Constitution and provides an overview of the significant legislative processes that have occurred in Slovenia as a result of the implementation of the ECHR and ECtHR's judgments. Finally, the article analyses 15 landmark cases involving Slovenia before the European Court of Human Rights (ECtHR).

KEYWORDS: Convention for the Protection of Human Rights and Fundamental Freedoms, European system for protection of human rights, Council of Europe, constitutional protection of human rights obligations, Slovenia.

1. Introduction: The Council of Europe, the European Convention on Human Rights, and the European Court of Human Rights

The Council of Europe (CoE), founded in 1949, is the oldest political organisation on the European continent. Established in the aftermath of the

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Second World War—a period marked by unprecedented human rights violations—the CoE was born from a desire to create a new order rooted in democratic values, protection of human rights, and the rule of law. It became the first international organisation in Europe focused on promoting democratic principles and human rights across the continent.[1]

Since its founding, the CoE has established a common legal framework centred on the Convention for the Protection of Human Rights and Fundamental Freedoms (better known as the European Convention on Human Rights) and the European Court of Human Rights (ECtHR). The CoE currently has 46 member states, encompassing nearly all European countries and more than 700 million people. Its two main statutory bodies are the Committee of Ministers and the Parliamentary Assembly of the Council of Europe.

The Committee of Ministers, the CoE's decision-making body, consists of the foreign ministers of each member state or their permanent diplomatic representatives in Strasbourg. The Committee sets the CoE's policies, approves its budget and program of activities, and oversees the implementation of the ECtHR judgments and decisions. It also oversees committees dedicated to monitoring, including the European Committee on Legal Co-operation, the European Committee on Crime Problems, the Steering Committee on Media and Information Society, the Committee on Counterterrorism, and the Committee on Artificial Intelligence.[2]

The Parliamentary Assembly, composed of members of the national parliaments of each member state, elects the Secretary General, who leads and represents the organisation for a five-year term. It acts as a deliberative body, providing a platform for parliamentary representatives from the Council's member states to discuss, debate, and make recommendations on key political and social issues affecting the continent. It plays a crucial role in monitoring compliance with the Council of Europe's core values. It assesses whether member states are upholding democratic principles, protecting human rights, and maintaining rule-of-law standards.[3]

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[1] Council of Europe, 2025. Though distinct from the European Union (EU), both organisations frequently collaborate, especially on issues related to human rights and legal reform. The EU and the CoE have developed a strong political and strategic partnership, including joint cooperation programmes in many countries, inside and outside Europe.

[2] Council of Europe, 2025a.

[3] Council of Europe, 2025b.

Other key entities within the CoE are the Congress of Local and Regional Authorities, which is tasked with strengthening local and regional democracy in member states and brings together elected representatives of local and regional governments, and the Commissioner for Human Rights, an independent office established to advance human rights protection.[4]

The CoE's activities are wide-ranging, addressing various threats such as torture, violence (including violence against women, sexual abuse, and domestic violence), hate speech, extremism, terrorism, and corruption. It assists member states in protecting children from sexual exploitation and abuse, monitors the protection of minority rights and regional and minority languages, oversees elections, and supports judicial reforms within its member states. The CoE also advocates for equality and non-discrimination, freedom of expression, media freedom, and freedom of association and assembly.

The organisation has set standards in democratic citizenship education and developed a unique Youth Policy that brings together youth representatives and public authorities to amplify young people's voices in the democratic process. Confronted with a shrinking space for civil society in parts of Europe, the CoE also provides support for Belarusian democratic forces and civil society. Finally, the organisation is a leading provider of online human rights training for legal professionals, academics, and the public across Europe and beyond.[5]

The CoE promotes human rights primarily through international conventions, charters, agreements, protocols, and other legal instruments.[6] Its key convention, the foundation of all its activities and a milestone in international human rights law, is the European Convention on Human Rights (ECHR).[7] Altogether, the CoE has adopted nearly 230 conventions and other legally binding international treaties. Some of these instruments enable the CoE to monitor member states' progress in various areas and to make recommendations through the specialised monitoring bodies.

In addition to monitoring bodies, the CoE has several specialised advisory bodies addressing areas such as corruption prevention,

[4] Council of Europe, 2025.
[5] *Ibid*. The CoE's HELP Programme provides online training on human rights law for legal professionals, academics and the wider public across Europe and beyond.
[6] *Ibid*.
[7] European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos 11 and 14, Council of Europe, ETS 5, 4 November 1950.

constitutional matters, anti-racism efforts, doping in sports, and cultural matters. Notable monitoring and advisory bodies include the Committee for the Prevention of Torture (CPT), the Group of States against Corruption (GRECO), the European Commission for Democracy through Law (also known as the Venice Commission), and the European Commission against Racism and Intolerance (ECRI). Upon joining the CoE, all member states agreed to uphold human rights, democracy, and the rule of law, and to incorporate the standards, recommendations, and guidelines from CoE treaties and monitoring mechanisms into their national laws and practices.[8]

Drafted in the aftermath of the Second World War, the ECHR was created in response to the atrocities committed during the conflict, with the goal of safeguarding fundamental human rights and establishing a framework to prevent future violations. Signed in Rome in 1950,[9] the Convention became the first instrument to give binding force to human rights protections in Europe, setting forth a range of enforceable rights and freedoms and establishing the ECtHR to ensure compliance. The ECHR has since become a cornerstone for human rights protection in Europe, directly influencing national legal systems and allowing individuals to seek redress at the international level through the ECtHR. Over the decades, the ECHR has evolved into a dynamic, living instrument of human rights protection, with the Court serving as its central enforcement mechanism.

The ECHR establishes a broad range of civil and political rights, as well as certain second-generation rights, which states parties are obligated to uphold and guarantee within their jurisdictions. Additionally, it includes provisions that, while not defining specific rights, are essential for the protection and enforcement of these rights. Over the decades, the Convention has been amended and supplemented by a series of Protocols that have expanded the rights guaranteed under the Convention and refined the procedures for their enforcement.

The ECHR provides for the establishment of the ECtHR, the judicial body responsible for enforcing the Convention.[10] Individuals, groups, and states can bring cases before the Court if they believe that a state party has violated the rights guaranteed by the Convention. Although the ECtHR was established in 1959, individuals did not have direct access to the Court until

[8] *Ibid*.
[9] The ECHR came into force on 3 September 1953. Initially ratified by 12 states, the ECHR has grown in scope and membership, now applying to 46 states across Europe.
[10] ECHR, Art. 19.

1998; prior to that, they had to apply to the European Commission of Human Rights. Protocol No. 11 to the ECHR, which came into force in 1998, abolished the Commission, expanded the Court, and allowed individuals to bring cases directly to it.

When a case is brought before the ECtHR, the Court initially determines whether the case is admissible. For a case to be deemed admissible, the applicant must have exhausted all domestic remedies, filed the application within six months of the final domestic decision, and raised a claim involving a violation of a right guaranteed by the Convention.[11] If the case is admissible, it moves to the merits stage, where the Court, together with representatives of the parties, examines the case, conducts investigations if necessary, and determines whether a violation of the ECHR has occurred.[12] At any stage of the proceedings, the Court may offer its assistance to the parties to facilitate a friendly settlement of the matter.[13]

The judges of the ECtHR are elected by the Parliamentary Assembly from a list of three candidates proposed by each State. They are elected for a non-renewable term of nine years.[14] The Convention requires that candidates be under 65 years of age, possess high moral character, and have qualifications appropriate for high judicial office or be jurists of recognised competence. Although elected with respect to a specific State, judges perform their duties in an individual capacity, hear cases as individuals, and do not represent their State. They must remain independent and refrain from any activity incompatible with their duty of independence and impartiality.[15] A judge may be dismissed from office only if the other judges, by a two-thirds majority, determine that the judge no longer meets the required conditions.[16] The number of full-time judges serving on the Court is equal to

[11] *Ibid*., Art. 35.
[12] *Ibid*., Art. 38.
[13] *Ibid*., Art. 39.
[14] *Ibid*., Art. 22. Judges are elected by majority vote whenever a sitting judge's term has expired or when a new state accedes to the convention.
[15] *Ibid*., Art. 21. Judges are prohibited from having any institutional or similar ties with the state in respect of which they were elected. To ensure the independence of the court, judges are not allowed to participate in activities that may compromise the court's independence. Judges cannot hear or decide a case if they have a familial or professional relationship with a party.
[16] *Ibid*., Art. 23. Judges enjoy, during their term as judges, the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe.

the number of contracting states to the European Convention on Human Rights, currently 46.

The Court operates in several formations: as a single judge, in committees of three judges, in Chambers of seven judges, and in a Grand Chamber of seventeen judges. It may address both individual applications and inter-state cases. A single judge and a committee of three judges may declare an individual application inadmissible or remove it from the Court's list of cases when no further examination is required. While a Chamber decides on the admissibility and merits of both individual and inter-state applications, the decision on admissibility may be taken separately. If a case pending before a Chamber raises a serious question concerning the interpretation of the Convention or its Protocols, the Chamber may, at any time before issuing a judgment, relinquish jurisdiction in favour of the Grand Chamber.[17] Within a period of three months from the date of the judgment of the Chamber, any party to the case may also request that the case be referred to the Grand Chamber, which delays the finality of the judgment until a new decision is rendered.[18]

The judgments may require the state to pay compensation or take specific remedial actions. States may be expected to implement the Court's rulings by making legislative or administrative changes to prevent future violations. In addition to regular judgments, which are binding on member states, the Court may, at the request of the Committee of Ministers, issue advisory opinions on legal questions concerning the interpretation of the Convention and its Protocols.[19] The Court may, in exceptional circumstances, whether at the request of a party or of any other person concerned, or of its own motion, under Rule 39 of its Rules of Court,[20] indicate interim measures to the parties to the proceedings before it. Such measures, applicable in cases of imminent risk of irreparable harm to a Convention right, which, on account of its nature, would not be susceptible to reparation, restoration or adequate compensation, may be adopted where necessary in the interests of the parties or the proper conduct of the proceedings.

[17] *Ibid.*, Arts 27-30.
[18] *Ibid.*, Art. 43.
[19] *Ibid.*, Art. 47.
[20] Rules of Court, European Court of Human Rights, 28 March 2024, Strasbourg.

The Convention applies either directly or is incorporated into the national law of member states,[21] and domestic courts often refer to the ECtHR's jurisprudence when interpreting national laws related to human rights. While the compliance of states with judgments is monitored by the Committee of Ministers,[22] one of the most significant achievements of the ECHR is its influence on the domestic legal systems of its member states. The ECtHR has developed a vast body of case law that shapes how the Convention is applied across Europe. Its dynamic approach to interpretation—often referred to as the 'living instrument' doctrine—allows the Court to adapt its rulings to contemporary conditions and societal changes.[23]

This article provides a comprehensive overview of how the ECHR is implemented in the Republic of Slovenia. It begins by outlining the historical development of human rights in Slovenia, emphasising that this development received significant impetus after the establishment of an independent and democratic Slovenia in 1991, followed by the promulgation of the new Constitution and the ratification or accession to key universal and regional international human rights instruments. The author then describes the relationship between Slovenia and the CoE from a human rights perspective, examines the ratification of the Convention and other CoE legal instruments by Slovenia, illustrates how human rights protection obligations arising from the ECHR are reflected in the provisions

[21] In some states, such as the United Kingdom, the ECHR has been given legal effect through specific legislation, such as the 1998 Human Rights Act. In others, the ECHR takes precedence over national laws, meaning that domestic courts are required to ensure that national legislation conforms to the Convention's standards.

[22] The supervision procedure over the execution and implementation of the judgment begins when the judgment becomes final. It lasts until the Committee of Ministers establishes that the state's measures are sufficient and decides to close the case.

[23] While most states comply with ECtHR judgments, some cases—particularly those involving systemic or structural issues – have resulted in delays or partial compliance. For example, in cases related to issues such as prison overcrowding, discrimination against minority groups, or restrictions on freedom of expression, states may be slow to implement necessary reforms. The Committee of Ministers plays a crucial role in overseeing the enforcement of judgments, but persistent non-compliance by certain states remains a challenge. Another significant issue is the ECtHR's growing caseload. The Court receives thousands of applications each year, leading to a backlog of cases and long delays. Protocol No. 14, which came into force in 2010, introduced reforms aimed at increasing the efficiency of the Court by allowing single judges to reject inadmissible applications more quickly and establishing a system for prioritising cases.

of the Slovenian Constitution, and outlines major law-making processes that have occurred in Slovenia as a result of the implementation of the ECHR and the ECtHR's judgments. Finally, the author analyses several landmark cases involving Slovenia before the European Court of Human Rights.

2. The historical context: A short outline of the development of human rights in Slovenia

The development of human rights in Slovenia took place within a Central European historical and cultural context. This development accelerated after the establishment of an independent and democratic Republic of Slovenia in 1991, followed by the promulgation of a new Constitution and the ratification or accession to key universal and regional international human rights instruments.

Until 1918, the territory of present-day Slovenia formed part of the Austrian Empire and, after 1867, the Austrian half of the dualist Austro-Hungarian Empire.[24] Throughout the Empire's existence, constitutional traditions and practices remained weak, as executive power – embodied above all in the emperor – was exercised with few real limitations. Nevertheless, on December 21, 1867, the so-called *December Constitution* was adopted. It comprised six fundamental laws, including the Fundamental Law on the General Rights of Citizens, which codified many of the rights and freedoms recognised in Europe at the time. These included the principle of ethnic equality among the 'tribes' of the Empire, who were entitled to preserve their own language, culture, and customs, as well as freedom of religion (for officially recognised faiths), freedom of worship, academic freedom, and the freedom to choose a profession. Other guarantees – such as protection against unlawful deprivation of liberty, the inviolability of the home, and the privacy of correspondence—were regulated in separate legislation.[25] However, according to Žontar, the frequent suspension of these rights during the final fifty years of the monarchy generated widespread discontent and undermined the legitimacy of Habsburg rule, particularly among the Slavic peoples. This erosion of trust and legitimacy

[24] The exception is the north-east region of Prekmurje, which belonged to the Kingdom of Hungary and later to the Hungarian part of the Empire.
[25] See Vilfan, 1996, p. 436.

may have contributed to the dissolution of the Empire in 1918, following the end of the First World War.[26]

During the interwar period (1919–1941), Slovenia was part of the Kingdom of Serbs, Croats, and Slovenes, which was later renamed the Kingdom of Yugoslavia. On June 28, 1921, the Kingdom's Constitutional Assembly adopted the so-called Vidovdan (St. Vitus Day) Constitution (Serb. *Vidovdanski ustav*).[27] It formally proclaimed a parliamentary monarchy and, in Chapter II, titled Fundamental Rights and Duties of Citizens, broadly recognised numerous human rights and freedoms. Influenced by the Weimar and Belgian constitutions, Chapter III of the St. Vitus Day Constitution, titled Social and Economic Rules, stipulated several rights that are now recognised as human rights of 'the second generation' (e.g. economic and social rights). These articles appeared at the beginning of the Constitution, giving rights and freedoms a highly symbolic prominence.

Although regarded as progressive for its time, the St. Vitus Day Constitution's provisions on fundamental rights were often dismissed as little more than 'empty words on paper,' since they were rarely implemented in practice and were frequently undermined by subsequent legislation.[28] The right to vote, for example, was restricted to men over the age of 21, while no law was ever adopted to extend suffrage to women.[29] Even more problematic was the notorious Article 116, which empowered the king to declare or prolong a state of emergency – thus consolidating absolute power – in cases of war, mobilisation, public unrest, or rebellion, either throughout the Kingdom or in any of its parts, by decree and without parliamentary involvement. In practice, King Alexander I resorted to these extraordinary powers repeatedly, prompting criticism even from his closest advisors, who warned that the Kingdom had abandoned the rule of law and descended into a police state.[30]

Overall, despite being modelled on some of the most progressive constitutions of its era, the St. Vitus Day Constitution in practice left the Karađorđević monarchy more closely aligned with the absolutist traditions

[26] Žontar, 2009, p. 57.
[27] St. Vitus Day Constitution (Ustav Kraljevine Srba, Hrvata i Slovenca – Vidovdanski ustav), adopted on June 28, 1921.
[28] Vilfan, 1996, p. 466. See also Ribičič, 1978.
[29] Bardutzky, 2022, p. 175.
[30] See Krkljuš, 2009, p. 324.

of the Habsburg and Ottoman Empires than with contemporary parliamentary monarchies. On January 6, 1929, King Alexander I dissolved the entire parliament and instituted the so-called January Sixth Dictatorship (Slov. *Šestojanuarska diktatura*). In 1931, the king unilaterally imposed the so-called September Constitution. Reintroducing monarchical absolutism, this constitution remained in power until the beginning of World War II.

In the post-war 'Second Yugoslavia,' a socialist-communist federal and multi-ethnic state, human rights were formally guaranteed in each of its three constitutions (1946/47, 1963, and 1974) at both the federal and republican levels. It is also worth noting that Yugoslavia was one of the 48 founding members of the United Nations. However, on December 10, 1948, it abstained from voting on the adoption of the Universal Declaration of Human Rights.

The Constitution of the Federal People's Republic of Yugoslavia of 1946[31] and the Constitution of the People's Republic of Slovenia of 1947[32] set out identical provisions on human rights in Chapter V, entitled Rights and Obligations of Citizens. These included several classical liberal rights, such as equality before the law, the prohibition of discrimination, protection against unlawful deprivation of liberty, the right of access to the courts, the prohibition of excessive punishment, the inviolability of the home, the privacy of correspondence, the right of asylum, and the rights to petition and appeal. In line with socialist principles, both constitutions also proclaimed a wide range of economic and social rights. Furthermore, they expressly guaranteed universal suffrage, granting all citizens over the age of 18 both the active and passive right to vote. Both constitutions also recognised the equality of men and women in all areas of life, including the right to equal pay.[33]

However, in both documents, the chapter on rights followed sections on General Provisions, State Power, and the Socio-economic Order. This constitutional structure, and the notably authoritarian Article 42, which granted the state broad powers to protect the 'freedoms and democratic

[31] Constitution of the Federal People's Republic of Yugoslavia (Ustav Federativne Narodne Republike Jugoslavije), adopted on 31 January 1946, Official Journal of the Federal People's Republic of Yugoslavia, year -{II}-, No.10, Beograd, Friday, 1 February 1946.
[32] Constitution of the People's Republic of Slovenia, adopted on 16 January 1947, Official Gazette of the People's Republic of Slovenia, year 4, No. 42, 11 October 1947. [Online]. Available at: https://www.sistory.si/cdn/publikacije/38001-39000/38564/ustava_ljudske_republike_slovenije.pdf (Accessed: 14 November 2024).
[33] See Bardutzky, 2022, p. 190.

order of the People's Republic and the federation,' effectively subordinated individual rights to the interests of the state. Even more problematic was the implementation of constitutional rights in practice, as in its early years, socialist Yugoslavia was a politically and economically centralised autocratic country, with power firmly held by Josip Broz Tito's Communist Party. Until 1952, a period of sharp political and penal repression took place across the entire country, including Slovenia.[34] Although the death penalty was used less frequently in Slovenia than in other republics, during this period (referred to as 'the darkest times of the Slovene criminal justice system'), Slovenian courts imposed the death penalty on more than two hundred people, most of whom were political dissidents. Hundreds of other political opponents, dissidents, and non-conformists were imprisoned or subjected to forced labour (even for minor offences) in Goli Otok, a special penal colony similar to the Soviet Gulag, which operated on a remote, desolate island off the Croatian coast.[35]

In the late 1950s, following the Tito–Stalin split and the subsequent break with Soviet influence, Yugoslavia embarked on a path of political liberalisation, gradually moving away from the rigid 'iron communism' of the immediate post-war years toward a model of so-called 'welfare socialism.' The 1963 Constitution of the Socialist Federal Republic of Yugoslavia,[36] together with the 1963 Constitution of the Socialist Republic of Slovenia,[37] broadened the catalogue of human rights and introduced many significant innovations. While some rights reflected socialist ideology—most notably the primacy of labour and social rights—the constitutions also enshrined many universal rights that would not have been out of place in Western democracies.

Importantly, unlike the declaratory provisions of the 1947 Constitution, several fundamental rights in the 1963 Constitution were

[34] Flander et al., 2022.

[35] See Režek, 2002, p. 83. Only 3,4 % of those sent to Goli otok were Slovenians. Most political prisoners were Serbs or Montenegrins.

[36] Constitution of the Socialist Federal Republic of Yugoslavia, adopted on April 7, 1963, Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 14, year XIX, April 10, 1963. [Online]. Available at: https://www.pfsa.unsa.ba/pf/wp-content/uploads/2019/05/Ustav-SFRJ-iz-1963.pdf (Accessed: 14 November 2024).

[37] Constitution of the Socialist Republic of Slovenia [*Ustava Socialistične Republike Slovenije*], adopted on 9 April 1963, Official Gazette of the Socialist Republic of Slovenia, No. 10/1963. [Online]. Available at: https://www.iusinfo.si/zakonodajna-knjiznica/zakon/86305AAC/clen/1 (Accessed: 14 November 2024).

accompanied by explicit limitations on state interference. For instance, although the death penalty was formally retained, the new criminal law restricted its application to only a few serious offences and prohibited execution by hanging. Moreover, Slovenia, unlike the federation and other republics, became abolitionist after 1959, the year of its last execution. At the same time, the new Slovenian criminal code abolished life imprisonment, replacing it with a maximum custodial sentence of 20 years. Reforms to criminal procedure further strengthened defendants' rights by introducing additional procedural safeguards and expanding the role of defence attorneys, who had previously been largely symbolic participants in the process. Taken together, the reforms of the late 1950s and 1960s, which were more intensive in the northern than in other parts of the federation, positioned Yugoslavia among the most progressive countries in the world at the time with respect to criminal law and penal policy.[38]

In keeping with the norms of a socialist state, the catalogue of rights in the 1963 constitutions began with labour and social rights. Article 37 limited working time to a maximum of 42 hours per week. Exceptions could only be temporary in some professions if this was absolutely necessary. The right to daily and weekly rest was a constitutional right. Also, there was the right to a yearly vacation which could not be shorter than 14 working days. There was also the right to a minimal salary. Article 38 guaranteed extensive social security for not only workers, but also for their family members.

Furthermore, both the federal and Slovenian constitutions included progressive provisions, particularly regarding gender equality. They established universal suffrage, granting both active and passive voting rights to all citizens aged 18 and older and granted women full equality with men in all spheres of life, including the right to equal pay and special workplace protections. This was the first time that Slovenian women were granted the right to vote. However, elections were largely a formality, offering little genuine choice as only state-approved candidates were permitted to run.

Notably, the 1963 Slovenian Constitution also introduced rights such as freedom of thought and opinion, which were absent in the 1947 Constitution. However, these freedoms were not absolute—they were restricted to prevent any 'abuse' that could undermine the socialist constitutional order. While some rights were ideologically driven, such as the right to social self-governance, solidarity, and the right to elect

[38] See Flander et al., 2023.

representatives within labour organisations, many other rights were genuinely universal and would not have been out of place in Western democracies.

While the 1974 constitutions of the Federal Socialist Republic of Yugoslavia[39] and the Socialist Republic of Slovenia[40] further expanded the catalogue of fundamental rights, the republican constitution introduced several novelties compared with the 1963 Constitution. For example, the Constitution recognised the right to make free choices regarding childbearing (e.g. a constitutional right to abortion), the right to a healthy environment, and several other provisions concerning rights and duties aimed at environmental protection. It was also the first time in Slovenian constitutional history that the protection of human dignity (in all phases of criminal procedure, including the execution of imprisonment) was expressly mentioned. Other new rights included the right to submit applications and make recommendations to state agencies (e.g. the right to petition) and a range of economic and social rights related to labour.

However, in general, both the federal and Slovenian constitutions of 1974 were imbued with the ideals of socialism and socialist values. Both constitutions stated in the chapter outlining their 'Fundamental Principles' that the freedoms, rights, and duties of individuals are the expression of 'socialist self-governing democratic relationships,' in which 'individuals liberate themselves from exploitation and all forms of arbitrary power, and through their work create the possibilities for holistic development, free expression, and the protection of their persons and human dignity.' The principles further stated that rights and freedoms could be limited only by the rights and freedoms of others and by the interests of the socialist community. The 1974 constitutions sought, at least in theory, to anchor human rights as a cornerstone of the self-governing socialist order.

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[39] Constitution of the Socialist Federal Republic of Yugoslavia [*Ustav Socijalističke federativne republike Jugoslavije*], adopted on 21 February 1974, Official Gazette of the Socialist Federal Republic of Yugoslavia, No. 9/74. [Online]. Available at: https://www.yuhistorija.com/serbian/doc/Ustav_SFRJ_iz_1974.pdf (Accessed: 14 November 2024).

[40] Constitution of the Socialist Republic of Slovenia [*Ustava Socialistične republike Slovenije*], adopted on 20 February 1974, Official Gazette of the Socialist Republic of Slovenia, No. 6-44/74. [Online]. Available at: http://stres.a.gape.org/VTA/ustavna_pobuda_23_1_15/gradivo/18_1_ustava_SRS_1974.pdf (Accessed: 14 November 2024).

By the late 1980s, it had become evident that the legitimacy of the socialist regime was eroding and that popular aspirations for political freedom, progress, and the (idealised) values of the Western world could no longer be suppressed. Slovenia embarked on a path of transformation, signalling the democratisation of its political, economic, social, and legal systems. As part of the transition from socialism to democracy and capitalism, the country undertook extensive constitutional and legal reforms, introduced gradually through amendments to the 1974 Constitution.

Adopted even before the formal declaration of independence, these amendments established, among other things, a multi-party-political system and the promotion of entrepreneurship. In 1990, still within the Yugoslav Federation, Slovenia held its first democratic (multi-party) parliamentary elections. At the same time, the word "socialist" was removed from the official name of the republic.[41]

Among the reforms most directly related to human rights, the formal abolition of the death penalty—through constitutional amendments adopted by the Slovenian Assembly in 1989—was particularly significant. Although the death penalty had been prescribed and frequently applied throughout post-war Yugoslavia, the Slovenian judiciary, unlike its federal counterpart and those of other republics, had largely distanced itself from capital punishment by the 1960s.[42]

By the early 1990s, it had become clear that a consensual dissolution of the Yugoslav Federation was unlikely, prompting the Slovenian authorities to take unilateral steps toward establishing a sovereign and independent state. On December 23, 1990, a plebiscite was held in which the citizens decisively voted for independence. Six months later, on June 25, 1991, the Slovenian Assembly proclaimed the Republic of Slovenia an independent state by adopting the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia.[43] In this Charter, the Assembly declared that 'in the Socialist Federal Republic of Yugoslavia, human rights, national rights, and the rights of republics and autonomous regions are seriously violated, and that it does not function as a

[41] See Grad et al., 2018, pp. 87-89. Despite the fact that the Federal Constitutional Court in Belgrade annulled these constitutional amendments, the Slovenian authorities continued with democratic reforms.

[42] See Flander et al., 2022.

[43] Temeljna ustavna listina o samostojnosti in neodvisnosti Republike Slovenije [*Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia*], Official Gazette of the Republic of Slovenia, No. 1/91-I.

legally regulated state.' Furthermore, Paragraph III of the Charter explicitly guaranteed the protection of human rights and fundamental freedoms to all persons on Slovenian territory, irrespective of their ethnic origin and without any form of discrimination.

The events described above were followed by a ten-day war of independence, which culminated in the withdrawal of the Yugoslav People's Army from Slovenian territory. These developments secured the de facto sovereignty of the newly independent Slovenian state and paved the way for the adoption of the new Constitution of the Republic of Slovenia on December 23, 1991.[44]

The Constitution contains a comprehensive catalogue of human rights and fundamental freedoms, modelled on modern constitutional practice and international human rights standards. The commitment to protecting human rights is articulated in both the Preamble and the General Provisions, which declare that 'within its own territory, the Slovenian state shall protect human rights and fundamental freedoms. It shall protect and guarantee the rights of the autochthonous Italian and Hungarian national communities.' In its normative part, human rights and fundamental freedoms are codified in Chapters II and III.

Compared with the constitutions of the socialist era, which were marked by numerous political and ideological provisions, the new Constitution not only strengthened the protection of human rights and fundamental freedoms but also introduced several rights that were either newly regulated or defined in a different manner than in earlier constitutions.[45]

In conclusion, the Slovenian Constitution stands on par with the modern constitutions of European states and with the leading international human rights instruments, particularly the two United Nations human rights covenants and the European Convention on Human Rights (ECHR). It provides a comprehensive framework for the protection of human rights and fundamental freedoms, in certain areas even surpassing internationally recognised standards.[46]

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[44] Ustava Republike Slovenije [*Constitution of the Republic of Slovenia*], Official Gazette of the Republic of Slovenia, No. 33/91-I.
[45] See Grad et al., 2018, p. 743.
[46] *Ibid*.

3. Slovenia and the Council of Europe's human rights mechanisms

3.1. Slovenia's membership of and participation in the Council of Europe

Slovenia joined the CoE on May 14, 1993. Representatives of the state, academia, and civil society widely agreed that accession marked a significant step in consolidating Slovenia's status as an independent and sovereign country within the international community. It also symbolised the country's commitment to protecting human rights and fundamental freedoms, as well as upholding democracy and the rule of law.

The prevailing view was that membership in the CoE affirmed Slovenia's recognition as a state capable of meeting established standards in the protection of human and minority rights, the functioning of democratic institutions, and the safeguarding of the rule of law. Over the past three decades, this perception has largely been confirmed. Nonetheless, this does not mean that Slovenia could not have performed better in implementing the European Convention on Human Rights (ECHR) and other CoE conventions during this period.

Before joining the CoE, the Slovenian Assembly adopted the *Declaration on Compliance with the Fundamental Conventions of the Council of Europe*.[47] In this document, the Slovenian parliament acknowledged the vital role of the CoE in strengthening cooperation and coexistence among European countries and underlined the organisation's particular emphasis on the preservation and advancement of human rights and fundamental freedoms as essential means of achieving this goal.

The Assembly further declared that Slovenia recognised the CoE's extensive body of conventions on human rights, which form an integral part of the system of modern democratic Europe. These conventions were described as embodying the generally recognised principles of European civilisation and complementing the global framework for human rights established by the *Universal Declaration of Human Rights*, as well as the two *International Covenants* and their additional protocols. At the time of Slovenia's accession to the CoE, these instruments already constituted part of Slovenia's domestic legal order.[48]

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[47] Declaration on Compliance with the Fundamental Conventions of the Council of Europe (*Deklaracija o spoštovanju temeljnih konvencij Sveta Evrope*), *Official Gazette of the Republic of Slovenia*, No. 45/90.
[48] *Ibid*.

The Assembly also emphasised that CoE human rights conventions are open only to states that genuinely ensure the realisation of the rights they enshrine. In this context, it expressed the conviction that the introduction of multi-party parliamentary democracy in Slovenia represented a decisive step toward guaranteeing the protection and fulfilment of fundamental rights and freedoms, in line with CoE standards.[49]

Finally, the Assembly assessed that Slovenia had already met the conditions required of CoE member states, citing in particular the European Convention on Human Rights and its protocols and declarations as the most significant. The declaration concluded with a firm commitment that the Republic of Slovenia would fully respect the standards established by CoE conventions in its internal legal system.[50]

The Republic of Slovenia is represented at the CoE by its Permanent Representative. At sessions of the Committee of Ministers, Slovenia is represented by the Minister of Foreign Affairs, while other sessions and meetings of CoE bodies are attended by the Permanent Representative and members of the diplomatic staff.[51] The Permanent Representation closely follows the work of other CoE institutions, including the Parliamentary Assembly and the Congress of Local and Regional Authorities. It also monitors the implementation of judgments of the European Court of Human Rights (ECtHR) and actively promotes intergovernmental cooperation in the fields of human rights, the rule of law, and democracy. The current Permanent Representative of the Republic of Slovenia to the Council of Europe is Ambassador Berta Mrak.

In the Parliamentary Assembly, Slovenia is represented by a delegation of three representatives and three substitutes. While two representatives, including the chairperson, represent the government coalition, the third one represents the opposition. The national delegation to the Congress of Local and Regional Authorities also consists of three representatives and three substitutes.

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[49] *Ibid*.
[50] *Ibid*.
[51] The work of the Permanent Representation of the Republic of Slovenia to the CoE can be followed on their website. [Online]. Available at: https://www.gov.si/en/representations/permanent-mission-to-the-council-of-europe-strasbourg/about-the-permanent-mission-to-the-council-of-europe-strasbourg/ (Accessed: 14 November 2024).

By ratifying the ECHR, Slovenia recognised the right of individuals and other states to challenge decisions of its authorities before the ECtHR. The newly elected Slovenian judge at the ECtHR is Vasilka Sancin.

As a party to the vast majority of the treaties adopted by the CoE, Slovenia takes part in the monitoring and reporting procedures established under these treaties, which are carried out by the CoE Monitoring Committee and specialised monitoring bodies.

Although not on a regular basis, Slovenia—through its state institutions or, at times, private actors—also engages with the CoE's advisory bodies, such as the Venice Commission. In addition, it contributes to the reporting processes of the European Commission for the Efficiency of Justice and other specialised advisory bodies of the CoE.

3.2. The Council of Europe's pivotal human rights conventions ratified by Slovenia

Slovenia is a contracting party to the majority of the nearly 230 conventions and treaties adopted by the CoE. Unlike six of the nine core United Nations human rights instruments—already signed and ratified by the Socialist Federal Republic of Yugoslavia, Slovenia's predecessor state—all CoE treaties were ratified after 1991, following Slovenia's attainment of sovereignty and independence.

This section examines the timeline and process of ratification by the Republic of Slovenia of five CoE human rights conventions. These conventions have been selected as particularly significant, based on the criteria outlined by the Secretary General of the CoE in the *Report on the Review of Council of Europe Conventions*.[52]

3.2.1. The 1950 Convention for the Protection of Human Rights and Fundamental Freedoms

The *European Convention on Human Rights* (ECHR), the CoE's central and most important treaty, was opened for signature on November 4, 1950, and entered into force on September 3, 1953, following ratification by ten

[52] Council of Europe, 2012. Secretary General suggested in its Report to include under the criterion 'conventions considered as key' the conventions identified as 'core Council of Europe treaties' in the appendix to Parliamentary Assembly Resolution 1732(2010) on 'Reinforcing the effectiveness of Council of Europe treaty law' and for which the Committee of Ministers agreed that these were 'important conventions.'

member states. Slovenia signed the ECHR on May 14, 1993. Ratification followed on June 28, 1994, when the National Assembly of the Republic of Slovenia adopted, upon the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, the act on ratification of the Convention.[53] The Act ratified the Convention as amended by Protocols Nos. 2, 3, 5, and 8, and simultaneously ratified Protocols Nos. 1, 4, 6, 7, 9, 10, and 11.

Protocol No. 12, which establishes a general prohibition of discrimination, was signed on March 7, 2001. Ratification followed on July 7, 2010, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of Protocol No. 12.[54] Notably, Slovenia ratified the protocol before its entry into force.

Protocol No. 13, which prohibits the death penalty in all circumstances—including for crimes committed in times of war or imminent threat of war—was signed on May 3, 2002. Ratification followed on December 4, 2003, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of Protocol No. 13.[55] Slovenia ratified the protocol before its entry into force.

Protocol No. 14, which amended the Convention's control system, was signed on May 13, 2004. Ratification followed on June 29, 2005, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of Protocol No. 14.[56] Slovenia ratified the protocol before its entry into force.

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[53] Zakon o ratifikaciji Konvencije o varstvu človekovih pravic in temeljnih svoboščin, spremenjene s protokoli št. 3, 5 in 8 ter dopolnjene s protokolom št. 2, ter njenih protokolov št. 1, 4, 6, 7, 9, 10 in 11 (MKVCP) [*Act ratifying the Convention on Human Rights and Fundamental Freedoms as amended by Protocols Nos. 3, 5 and 8 and amended by Protocol No. 2 and its Protocols Nos. 1, 4, 6, 7, 9, 10 and 11* (MKVCP)], Official Gazette of the Republic of Slovenia – International Treaties, No. 33/94.

[54] Zakon o ratifikaciji Protokola št. 12 h Konvenciji o varstvu človekovih pravic in temeljnih svoboščin (MPKVCPB) [*Law on Ratification of Protocol No. 12 to the Convention on the Protection of Human Rights and Fundamental Freedoms* (MPKVCPB)], Official Gazette of the Republic of Slovenia – International Treaties, No. 46/10.

[55] Zakon o ratifikaciji Protokola št. 13 h Konvenciji o varstvu človekovih pravic in temeljnih svoboščin (MPKVCPB) [*Law on Ratification of Protocol No. 13 to the Convention on the Protection of Human Rights and Fundamental Freedoms* (MKVCP13)], Official Gazette of the Republic of Slovenia – International Treaties, No. 102/03.

[56] Zakon o ratifikaciji Protokola št. 14 h Konvenciji o varstvu človekovih pravic in temeljnih svoboščin, ki spreminja nadzorni sistem Konvencije (MPKVCP) [*Law on*

Protocol No. 15, which amends the Convention to help maintain the effectiveness of the European Court of Human Rights (ECtHR), was signed on June 24, 2013. Ratification followed on July 4, 2017, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of Protocol No. 15.[57] Slovenia ratified the protocol before its entry into force.

Protocol No. 16, which enables the highest courts and tribunals of contracting parties to request advisory opinions from the European Court of Human Rights (ECtHR) on questions of principle concerning the interpretation or application of the rights and freedoms defined in the Convention or its protocols, was signed on October 2, 2013. Ratification followed on March 26, 2019, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of Protocol No. 16.[58] Slovenia ratified the protocol before its entry into force.

In addition to the ECHR, the selection of the CoE's key human rights treaties includes the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Framework Convention for the Protection of National Minorities, the European Convention on the Exercise of Children's Rights, and the European Social Charter.

3.2.2. The 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

The *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, which established a preventive, non-

Ratification of Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (MPKVCP15)], Official Gazette of the Republic of Slovenia – International Treaties, No. 49/05.

[57] Zakon o ratifikaciji Protokola št. 15 o spremembah Konvencije o varstvu človekovih pravic in temeljnih svoboščin (MPKVCP15) [*Law on Ratification of Protocol No. 15 on amendments to the Convention on the Protection of Human Rights and Fundamental Freedoms* (MPKVCP15)], Official Gazette of the Republic of Slovenia – International Treaties, No. 28/17.

[58] Zakon o ratifikaciji Protokola št. 16 h Konvenciji o varstvu človekovih pravic in temeljnih svoboščin (MPKVCPB) [*Law on Ratification of Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms* (MPKVCP16)], Official Gazette of the Republic of Slovenia – International Treaties, No. 1/15.

judicial mechanism as an important complement to the system of protection already provided under the ECHR, was signed by Slovenia on November 4, 1993. Ratification followed on February 2, 1994, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of the Convention.[59] Slovenia ratified the Convention before its entry into force.

Protocol No. 1, which 'opens' the Convention by allowing the Committee of Ministers to invite non-member states to accede to it, and Protocol No. 2, which provides that members of the European Committee for the Protection Against Torture (CPT) may be re-elected twice, were both signed on March 31, 1994. Ratification followed on February 16, 1995, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of the First and Second Protocols.[60] Both protocols were ratified by Slovenia before their entry into force.

3.2.3. The 1995 Framework Convention for the Protection of National Minorities

The *Framework Convention for the Protection of National Minorities*, the first legally binding multilateral instrument devoted to the protection of national minorities in general, was signed by Slovenia on February 1, 1995. Ratification followed on March 25, 1998, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of the Framework Convention.[61] Slovenia ratified the Convention before its entry into force.

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[59] Zakon o ratifikaciji Evropske konvencije o preprečevanju mučenja in nečloveškega ali ponižujočega ravnanja ali kaznovanja (MEKPM) [*Law on Ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (MEKPM)], Official Gazette of the Republic of Slovenia – International Treaties, No. 2/94.

[60] Zakon o ratifikaciji Prvega in Drugega protokola k Evropski konvenciji o preprečevanju mučenja in nečloveškega ali poniževalnega ravnanja ali kaznovanja (MEKPMPDP) [Law on Ratification of the
The First and the Second protocol to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (MEKPMPDP)], Official Gazette of the Republic of Slovenia – International Treaties, No. 74/94.

[61] Zakon o ratifikaciji Okvirne konvencije za varstvo narodnih manjšin (MKUNM) [*Law on Ratification of the Framework Convention for the Protection of National Minorities*

3.2.4. The European Convention on the Exercise of Children's Rights

The *European Convention on the Exercise of Children's Rights* was signed by Slovenia on July 18, 1996. Ratification followed on March 28, 2000, when the National Assembly, acting on the proposal of the Ministry of Justice and the Ministry of Foreign Affairs, adopted the act on ratification of the Convention.[62] Slovenia ratified the Convention before its entry into force.

3.2.5. The European Social Charter (revised)

The *European Social Charter* (Revised) of 1996, which incorporates all the rights guaranteed by the 1961 Charter and its 1988 Additional Protocol while also introducing new rights and amendments, was signed by Slovenia on October 11, 1997. Ratification followed on May 7, 1999, when the National Assembly, acting on the proposal of the Ministry of Foreign Affairs, adopted the act on ratification of the revised Charter.[63] Slovenia ratified 95 of its 98 paragraphs. It accepted the system of collective complaints on 7 May 1999, but has not yet made a declaration enabling national NGOs to submit collective complaints. The Revised Charter was ratified before its entry into force.

3.3. Overview and assessment of reporting processes under the Council of Europe's conventions

Given that Slovenia is a contracting party to the vast majority of CoE conventions, including nearly all of the key human rights instruments, it is subject to extensive monitoring and reporting obligations before various treaty bodies and expert committees. These procedures—ranging from periodic reporting to state visits and follow-up recommendations—

(MKUNM)], Official Gazette of the Republic of Slovenia – International Treaties, No. 20/98.

[62] Zakon o ratifikaciji Evropske konvencije o uresničevanju otrokovih pravic (MEKUOP) [*Law on Ratification of the European Convention on the Exercise of Children's Rights* (MEKUOP)], Official Gazette of the Republic of Slovenia – International Treaties, No. 86/99.

[63] Zakon o ratifikaciji Evropske socialne listine (spremenjene) (MESL) [*Law on Ratification of the European Social Charter (revised)* (MESL)], Official Gazette of the Republic of Slovenia – International Treaties, No. 24/99.

constitute a central mechanism for assessing compliance with CoE standards in human rights, democracy, and the rule of law.

3.3.1. The European Convention on Human Rights

Under the ECHR, Slovenia must report to the Committee of Ministers on the measures it has taken to implement judgments of the European Court of Human Rights. This reporting does not take the form of regular periodic submissions but is instead based on case-specific execution reports, supplemented by surveys of states' main achievements prepared by the Committee's Department for the Execution of Judgments of the ECtHR. According to the most recent survey, Slovenia has generally shown a cooperative approach, maintained a relatively strong record of execution, and undertaken significant legislative and institutional reforms. The principal achievements have been identified in the following areas: the actions of security forces and the conduct of effective investigations; conditions of detention and the availability of effective remedies; the right to liberty and security; the functioning of the justice system; freedom of expression; protection against discrimination on grounds of nationality; and the safeguarding of property rights.[64]

Regarding the ongoing supervision of the execution of individual cases, the Committee's Department for the Execution of Judgments points out three cases. While two of these relate to the right to a fair trial, one case concerns the protection of property. For example, regarding the status of execution of *Bavčar v. Slovenia* (see *infra*. Section 6), the Department notes that the just satisfaction was paid and that in its decision of 7 January 2025, the Supreme Court decided not to grant the application's request for the protection of legality, as it held that the violation established cannot be remedied by amending or annulling the final judgment in the criminal proceedings. The judgment was translated, published and disseminated.[65]

In sum, Slovenia tends to cooperate with the Committee of Ministers' supervision, submit required action plans or action reports, and generally take steps to implement both individual and general measures. In several areas where Slovenia passed legislation to redress past violations, it demonstrates readiness to respond to the demands of the Committee and the ECtHR. Nevertheless, the implementation process can be lengthy, with

[64] Committee of Ministers, 2025a.
[65] Committee of Ministers, 2025b.

delays in fully addressing complex or politically sensitive judgments (i.e. remedies for excessive length of proceedings, Roma and other minority rights issues, etc.).

3.3.2. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Under the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, following each periodic or *ad hoc* visit, the CPT issues a report with findings and recommendations. Member States must respond with a detailed report on measures taken. From recent and past visits (2012, 2017, 2024), the CPT's reports on Slovenia reveal several recurring strengths and areas of concern.

During the October 2024 visit, the CPT delegation examined the treatment of persons in two prisons, namely Koper and Ljubljana Prisons, and their conditions of detention. It also assessed the situation of persons living in the Lukavci Special Social Welfare Establishment. On the one side, the CPT established that the material conditions at Koper Prison are of a high standard. Treatment by staff (prison officers, welfare institution staff) was often assessed favourably (prisoners reported correct and professional treatment; there were no credible allegations of physical ill-treatment in recent periods in some visited institutions). Improvements were identified in regimes, such as increased efforts to provide out-of-cell time, organised activities for sentenced prisoners, and positive impressions in the social welfare establishments for care and treatment.[66]

On the other hand, a pressing and persistent issue is overcrowding. Ljubljana Prison has cells below the CPT's minimum standard of 4 m² per prisoner in multiple-occupancy cells (some prisoners were on the floor, etc). Remand prisoners (those not yet convicted) under a "closed-door" regime are sometimes locked up 22 hours per day. This raises concerns about legitimate restrictions, mental health, meaningful access to exercise, etc. Living conditions in prisons are inadequate. Some multiple-occupancy cells are extremely cramped, so prisoners sleep on mattresses placed on floors where beds are insufficient, etc. These deficiencies are more than occasional; caused by structural overcrowding, they are of a systemic nature. Another concern is related to inter-prisoner violence and mixing of prisoners (these include tensions among prisoners, mixing of persons from

[66] CPT, 2025.

different cultural backgrounds without sufficient oversight or separation, verbal abuse and isolated incidents). There are also mental health and social welfare institution issues.[67]

In its report, released in 2025, CPT further highlights that overcrowding negatively affects many other aspects of prison life (space, regime, staff performance). It notes both strengths (many prisoners said they were treated professionally; regime efforts) and persistent deficits (cells too cramped; long hours locked up; activity programmes too limited, especially for remand prisoners). At social welfare establishment Lukavci, while treatment was generally positive, CPT expressed concerns about the use of chemical restraint, unclear legal basis for certain restrictive measures, and risk to health from some medical practices.[68]

Overall, many of the problems identified by CPT in its reports on Slovenia are not isolated but systemic (overcrowding, understaffing, insufficient space, etc.). This suggests that remedies need to be legislative, resourcing, and administrative. Slovenia has cooperated with CPT visits and has implemented several reforms (including improvements in detention conditions and the introduction of independent investigative mechanisms after *Matko v. Slovenia*). However, challenges persist in areas such as prison overcrowding and police accountability.

3.3.3. The Framework Convention for the Protection of National Minorities

Under the *Framework Convention for the Protection of National Minorities* (FCNM), Slovenia submits regular state reports, which are assessed by the Advisory Committee. Civil society contributions and shadow reports also play a role. In general, the country has received positive evaluations for its legal framework protecting the Italian and Hungarian minorities. Yet, recurring criticisms highlight insufficient attention to the Roma community, particularly in access to housing, education, and utilities. Implementation of recommendations in this field has been uneven.

Slovenia's Sixth Report on the implementation of the Framework Convention was received by the Advisory Committee on 25 July 2023. The report covers the implementation of the FCNM in Slovenia during the period from submission of the Fifth Report (6 February 2020) until 6 July 2023. It responds to the Fifth Cycle's recommendations by the Advisory

[67] *Ibid*.
[68] *Ibid*.

Committee and the Committee of Ministers, and includes legislative, policy, and practical measures taken. Key topics addressed include: legal and institutional framework, especially constitutional protections and definitions of national minorities; measures to protect minority identities, languages, culture, media and education; implementation of anti-discrimination protections; participation of minorities in public life, including representation, advisory bodies, and local self-governance; specific attention to the Roma community's living conditions, basic utilities, infrastructure, and equal treatment in municipalities; measures to combat hate speech and hate-motivated offences; enhancement of media broadcasting and public service offerings for minority communities; personal data protection, census methods, statistical surveys and disaggregation of data relating to ethnic affiliation/language competence; awareness-raising and outreach.[69]

In sum, Slovenia's Sixth Report shows a generally strong commitment to implementing FCNM obligations, with many practical steps, legal reforms, and funding dedicated to minority rights. While the institutionally recognised protections for Italian and Hungarian national communities remain robust and Roma rights have been receiving increasing attention, persistent challenges revolve around ensuring equality in practice, not just in law, so that minority communities have actual access to services and infrastructure, that discrimination is effectively prevented and remedied, that minorities can fully participate in public life, and that data is available to track progress.[70]

3.3.4. The European Social Charter (Revised)

According to the provisions of the *European Social Charter (Revised)*, Slovenia submits periodic thematic reports to the European Committee of Social Rights (ECSR). Additionally, Slovenia is subject to collective complaints, although it has not accepted all related procedures (see *supra*, Section 3.2.). The reporting process has highlighted, *inter alia*, deficiencies in labour rights, health, social security and social protection, children and families, migrants, and non-discrimination.

The latest findings of the ECSR on Slovenia from March 2024 concern key findings, strengths, non-conformities, and recommendations on

[69] Advisory Committee on the Framework Convention for the Protection of National Minorities, 2023.
[70] *Ibid*.

Children, Families and Migrants (the conclusions relate to Articles 7, 8, 16, 17, 19, 27, and 31). The ECSR found 23 instances of conformity in Slovenia under the reviewed provisions. Some of these include: maternity protections (paid maternity leave provisions, protection against dismissal for pregnant women or on maternity leave, and safe working conditions for maternity); protection for young persons (prohibition of dangerous or unhealthy work for under-18s; other protections for minors in work); safe schooling and education (free primary and secondary education with equal access for foreign, stateless or temporary protection children under same conditions as citizens); child protection and welfare (examples include prohibition of corporal punishment in all settings, measures for assisting children in distress, and public awareness and services for victims of exploitation including digital). Additionally, the ECSR noted specific improvements in: (a) nursing breaks (legislative amendments were introduced so that nursing mothers up to 18 months old are entitled to paid nursing breaks – this was a prior non-conformity under Article 8 para. 3) and (b) mediation services for family law disputes (mediation is now mandatory in various stages of proceedings under the Family Code where relevant and state-funded mediation for families is available).[71]

The ESCR also identified 13 situations of non-conformity. Key ones include: (a) children under 15 may perform 'light work' during school holidays for seven hours/day and 35 hours/week, which the Committee considers excessive, hence non-conformity; (b) the duration of light work for children subject to compulsory education during holidays is still excessive (this may interfere with their education and welfare); (c) for young persons under 16, the permitted working hours are still excessive (exceeding acceptable daily/weekly limits); (d) apprentices' remuneration at the end of their apprenticeship period is not always sufficiently high (allowance schemes are not always aligned with the thresholds the Committee considers fair); (d) family benefits do not provide a sufficient income supplement for a significant number of families (in many cases the financial support is inadequate given cost of living); (e) a serious non-conformity was found with respect to immediate expulsion of children in irregular migration situations without providing them assistance.

[71] ESCR, 2024.

Based on the Conclusions, the Committee recommends that Slovenia should:

- review and adjust working-hour limits for children (especially under 15 or those in compulsory education) to comply with 'light work' limits in terms of hours/day and week;
- ensure apprentice remuneration at the end of training is sufficient relative to adult wage/minimum wage benchmarks;
- strengthen family benefit systems to ensure that they provide adequate income for families, particularly low-income ones;
- enhance protection and assistance for children in irregular migration situations, ensuring they are not expelled without assistance and receive legal/social support;
- continue to monitor implementation of existing reforms in education and health, particularly ensuring non-discrimination and inclusive access.

In sum, the ESCR report reflects both legal compliance (laws and amendments) and ongoing practical gaps. Slovenia performs well in many areas, including maternity rights, education access, certain protections for children and young persons, and legal and regulatory reforms in some domains. Nevertheless, some issues remain persistent: child labour standards (hours of light work, school holiday work), apprentice pay, and family benefits adequacy. The non-conformity findings tend to relate to quantitative limits (hours, amounts) and to vulnerable groups (young children, migrants).

3.3.5. Other Specialised Bodies

Venice Commission:

To date, the Venice Commission has issued only one opinion specifically concerning Slovenia: the 2000 *Opinion on the Constitutional Amendments Concerning Legislative Elections in the Republic of Slovenia*.[72] The Commission was asked to assess whether the amendments and proposed constitutional changes were compatible with democratic principles and consistent with European constitutional practice.

In this case, a qualified parliamentary majority had adopted a constitutional amendment establishing a proportional electoral system at the

[72] Venice Commission of the Council of Europe, 2000.

constitutional level. The political opposition—including part of the parliamentary minority and segments of the professional public—argued that the amendment conflicted with a prior Constitutional Court decision, which had held that the majority electoral system had received the strongest support in a legislative referendum.[73]

The Venice Commission found that the National Assembly's adoption of amendments to the Constitution, in strict compliance with the latter's relevant provisions, was not in conflict with European democratic standards.[74] This opinion is frequently cited in debates on electoral fairness and the constitutional role of elections in Slovenia. It continues to serve as a key reference point in subsequent scholarship and practice on electoral reform.

European Commission against Racism and Intolerance (ECRI):
Through country monitoring cycles, ECRI issues reports that require government responses. Slovenia has engaged constructively, though criticisms persist, *inter alia*, regarding the integration of Roma and the treatment of migrants.

The latest conclusions of the ECRI on the implementation of the recommendations in respect of Slovenia (adopted on 7 December 2021 and published on 3 March 2022)[75] deal with two interim follow-up recommendations chosen from ECRI's Fifth Monitoring Cycle: (a) recommendation on hate speech and incitement and its effective prosecution, and (b) recommendation on disaggregated equality data. These conclusions assess what Slovenia has done up to 30 June 2021 to implement them.

ECRI had noted serious shortcomings in prosecuting hate speech in Slovenia, particularly that potential hate-speech acts which could amount to criminal offences are rarely prosecuted. Legal barriers included a requirement under Article 297(1) of the *Criminal Code* that the conduct must '*jeopardise or disturb public law and order, or [use] force or threat, verbal abuse or insult*' and a legal opinion interpreting these conditions cumulatively. In relation to this recommendation, ECRI noted the following developments: (a) a working group on hate speech was established in the Supreme State Prosecutor's Office (2018), later transformed into a working

[73] *Ibid*.
[74] *Ibid.*
[75] ECRI, 2022.

group on hate crime (2021); (b) the Supreme Court's judgment of 4 July 2019 broadened the interpretation of Article 297, allowing for alternative (rather than cumulative) interpretation of conditions and removing the requirement that there be a concrete danger to public order; (c) guidelines have been issued from the Prosecutor General's Office to prosecution and police authorities reflecting the Supreme Court's interpretation.[76]

ECRI concluded that this recommendation has been only partially implemented for several reasons: (a) a proposal to formally align prosecutorial practice (via guidance) fully with the 2019 Supreme Court decision was rejected by the Council of Senior State Prosecutors; (b) though police handling of hate speech cases increased substantially, the number of indictments issued by prosecutors remains low; (c) victims still face difficulties in obtaining remedies when complaints are dismissed or prosecutions not initiated (there remains legal uncertainty about who qualifies as a victim, especially when speech is directed at a community rather than an individual).[77]

Regarding the recommendation on disaggregated equality data, ECRI recommended that Slovenia collect disaggregated equality data to help counter racial discrimination. Such data must be collected with respect for data protection rules, confidentiality, voluntary self-identification, etc. The following developments were identified: (a) Slovenia established an informal working group in 2019 including various bodies (Ministry, Information Commissioner, Equality Advocate, Ombudsman, NGOs) to examine data collection; (b) Prosecutor General's Office adopted a practice to mark prosecutorial files for criminal offences involving bias motives, which helps with identification for possible data processing; (c) a draft Personal Data Protection Act (May 2021) was published, including provision to allow processing of personal data on national or ethnic origin (with consent, etc.).[78]

Notwithstanding these developments, ECRI concluded that this recommendation has not been implemented. It noted several reasons for such a conclusion. First, the informal working group met only once (in 2019) and did not continue (institutional momentum appears weak). Second, the file-labelling system is in place, but data from it is not systematically analysed or made publicly available. And third, there is no legislation

[76] *Ibid.*
[77] *Ibid.*
[78] *Ibid.*

ensuring that disaggregated equality data is collected in all relevant cases; in particular, authorities express concerns about constraints imposed by personal data protection laws.[79]

Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) (Istanbul Convention monitoring):
Since ratifying the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, Slovenia is subject to Grevio's baseline evaluation procedure. Early reports emphasise the need for more robust support services for victims of domestic violence and gender-based violence.

Grevio adopted its latest (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Istanbul Convention in Slovenia in 2021[80]. This first full review of legislative and other measures examines how Slovenia has implemented its obligations under the Istanbul Convention. The report reflects developments up to about mid-2021, including a written state report, meetings with stakeholders, and a country visit.

According to Grevio, Slovenia had already enacted in 2008 the *Domestic Violence Prevention Act*, which moved domestic violence into a public sphere in law, introduced victim-centred protections, defined roles of state authorities and NGOs, etc. There have been amendments to this law (e.g. the law was amended in 2016 to widen definitions to include former partners and additions to criminal offences such as stalking and forced marriage) to align more closely with Convention requirements. Slovenia created a network of support services for victims of domestic violence, operating in cooperation with NGOs. Furthermore, rules and regulations have been adopted to define cooperation between authorities (rules for social work centres, police, health institutions, ministries, etc., for detecting, reporting, prevention, and responding to domestic violence). Grevio identified an increased attention to intersectional discrimination (Roma women, migrant women, women with disabilities) and introduced several measures targeting those vulnerabilities.[81]

Grevio also welcomes the fact that constitutional guarantees of equality and anti-discrimination legislation (e.g. the *Protection against*

[79] *Ibid*.
[80] Grevio, 2021.
[81] *Ibid.*

Discrimination Act) have been introduced, and an interministerial working group (IWG) since about 2016 to coordinate implementation, monitoring, and evaluation across ministries and stakeholders, has been established. Importantly, Grevio appreciates the participation of NGOs in policy making, service provision, awareness raising and victim support. Finally, Grevio noted that Criminal code reforms (stalking, forced marriage, and broader definitions of rape/sexual violence) moved away from force-based definitions toward consent-based or broader gendered understanding.[82]

Grevio assessed as a deficiency the fact that domestic violence is relatively well addressed, while other forms of violence against women (e.g. sexual harassment, sexual violence, forced abortion/sterilisation) are less comprehensively covered in policies and practice. Training of professionals (police, prosecutors, judges, social workers, health professionals) is mandatory for domestic violence, but less so or non-existent for many other forms of violence against women. The national programme on family/domestic violence (Resolution 2009-2014) expired and was not replaced in time. A broader 'umbrella' strategy covering all forms of violence against women was being drafted but not yet adopted as of 2021.

There is no strategic policy yet that covers prevention, protection, prosecution, and all forms of violence in an integrated way, and variation in inter-institutional cooperation depends on region, personalities, or specific local actors (some areas are better coordinated than others). Grevio also found out that data collection is fragmented, tracking of cases through the criminal justice system is weak, and there is a lack of comprehensively disaggregated data (by form of violence, victim-perpetrator relationship, etc.). Monitoring and evaluation are still underdeveloped (since there is no fully separate evaluation body, there could be a conflict of interest if implementing authorities evaluate their own work). According to Grevio, vulnerable groups (women with disabilities, migrant or asylum-seeking women, and Roma women) face additional barriers (information, language, access, fear, and legal status) in accessing support services.[83]

According to Grevio's overall assessment, Slovenia has made strong progress in developing laws, policies, and services, especially regarding domestic violence and a cohort of protection for victims. The legal framework is relatively well advanced. However, implementation lags in certain respects: coordination, resources, evaluation, data, and coverage of

[82] *Ibid.*
[83] *Ibid.*

all forms of violence. To meet full obligations under the Istanbul Convention, Slovenia needs to push beyond domestic violence and address sexual violence, stalking, harassment, etc., in a gender-sensitive way throughout its legal, institutional, and service infrastructure.[84]

3.3.6. Conclusion

In conclusion, Slovenia submits reports on time and participates in dialogue with monitoring bodies, showing overall goodwill toward the CoE system. However, while reporting is regular, reporting processes are often technocratic, with limited public or parliamentary debate, and the domestic translation of recommendations into law and practice is inconsistent. More particularly, ECtHR judgments, backed by binding authority and the Committee of Ministers' supervision, receive sustained follow-up, while reports from 'softer' monitoring bodies (e.g. ECSR, ECRI) are less systematically implemented (i.e. politically sensitive issues—such as Roma rights, systemic judicial reforms, and prison conditions—often see slower implementation). Overall, Slovenia can be considered a constructive and generally compliant participant in the CoE reporting processes; however, its implementation remains uneven—stronger in judicially supervised areas, but weaker in the socio-economic and minority rights domains.

3.4. The scholarly discussion on the implementation of the European Convention on Human Rights

Slovenian scholars have made significant contributions to the study and discussion of the implementation of the ECHR in Slovenia. Their work spans books and scientific monographs, peer-reviewed and professional journal articles, as well as diplomas and master's theses, doctoral dissertations, and other academic writings. In addition, a range of practical publications—such as manuals, brochures, reports, and commentaries – address the ECHR and the case law of the ECtHR, and, to a lesser extent, other CoE conventions. Given the breadth of this body of scholarship, this section does not attempt to provide a comprehensive or systematic review. Instead, it highlights a selection of publications that the author considers particularly relevant.

Engaging with Strasbourg case law and its domestic impact, Slovenian scholarship covers a wide spectrum of issues. On one hand, doctrinal and

[84] *Ibid*.

constitutional studies – by authors such as Andraž Teršek, Matej Avbelj, Jernej Letnar Černič and Saša Zagorc – examine the status of the ECHR and ECtHR case law within the national legal system, their interpretive use by domestic courts, and the dialogic relationship between the Slovenian Constitutional Court and the ECtHR. On the other hand, much of the literature takes a case-driven approach, structured around landmark ECtHR judgments against Slovenia that have prompted legislative and institutional reforms. While the Constitution grants ratified treaties precedence over statutes and provides for their direct applicability, most authors agree that formal incorporation has not always translated into effective practice, even though Slovenian courts are generally viewed as receptive to Strasbourg jurisprudence.

A common theme in Slovenian scholarship is the call for the state not merely to comply reactively with ECtHR judgments, but to internalise Strasbourg standards proactively in its legislation, judicial reasoning, and administrative practice. Some authors—most notably Andraž Teršek, a constitutional law scholar and public intellectual who frequently engages with ECHR issues from the perspectives of constitutional theory, rights adjudication, and social justice—go further, arguing that Slovenia should treat the ECHR as a springboard for developing stronger positive obligations in areas such as social rights, equality, and welfare.

Teršek has written extensively on how the doctrine of positive obligations under the ECHR and constitutional law could be more vigorously applied in Slovenia. He places this discussion in the context of social rights, welfare, and periods of economic crisis. His central argument is that the state should not merely refrain from violating rights but must also take active steps to secure egalitarian social conditions, thereby protecting dignity, equality, and related values. In his view, the doctrine of positive state obligations should serve as a vehicle for the more determined and effective realisation of the constitutional principles of sociality, solidarity, and social equality. Within this framework, Teršek emphasises the crucial role of lawyers – especially legal scholars and judges – in advancing these objectives.[85]

The same author also examines the role of public administration – particularly in the post-pandemic context – in relation to human rights and constitutional duties. He addresses issues such as mental health, suicide prevention, the right to protection from fear, and the state's legal obligations

[85] Teršek, 2009.

in emergencies, emphasising the responsibility of public authorities to safeguard citizens' constitutional and human rights. In this regard, he highlights the relevance of the ECHR case law and constitutional doctrine in shaping the standards by which public administration should operate.[86]

In response to the COVID-19 pandemic, Teršek, together with co-authors, critically examined legislation and Constitutional Court decisions that restricted constitutional rights, questioning whether such measures satisfied the requirements of necessity, proportionality, and conformity with both the ECHR and the Slovenian Constitution. He argued that certain measures – such as quarantine and lockdowns – were unconstitutional, as they failed to meet the standards of legality, necessity, and proportionality.[87] In addition, through an online blog, he explored the issue of whether a general vaccination mandate against COVID-19 could be justified under constitutional and ECHR principles.[88]

Teršek has also made significant contributions to the analysis of freedom of expression as protected under both the Slovenian Constitution and ECHR jurisprudence. He examines how concepts such as 'hate speech' and 'incitement' are regulated and questions whether Slovenia's constitutional and legislative restrictions are properly aligned with Strasbourg standards. [89]

Overall, in his reflections on Slovenia's implementation of the ECHR, Teršek emphasises that the country's constitutional framework provides solid tools for compliance – direct applicability of treaties, constitutional priority, and constitutional court review. Yet he frequently stresses that a strong legal framework does not always translate into effective practice. In his view, public administration, local authorities, and other state bodies sometimes fail to comply fully, implement measures in a timely manner, or provide effective remedies to individuals whose rights have been violated. For Teršek, many of Slovenia's human rights challenges—particularly in the areas of social rights, equality, and dignity – require not merely passive respect for rights but active, positive measures by the state. He argues that ECHR jurisprudence is underutilised in Slovenia, especially with regard to socio-economic rights and structural discrimination. Rather than treating ECtHR case law only as an external judicial authority, Teršek regards it as

[86] Teršek, 2020a, pp. 1-4.
[87] Teršek et. al., 2021, pp. 147-173.
[88] Teršek, 2020b.
[89] Teršek, 2020c.

an essential resource for domestic constitutional debate. He calls on courts, legislatures, and civil society to engage more actively with Strasbourg jurisprudence as a means of refining and, where necessary, challenging domestic legal norms.

Another important author writing on the implementation of the ECHR in Slovenia is Matej Avbelj, originally an expert in constitutional law and European Union law. While not all Avbelj's works deal directly with the ECHR, his scholarship provides valuable context, critique, and doctrinal analysis relevant to how the Convention is internalised in Slovenian law and practice. For example, in a 2010 monograph chapter on the role and status of the ECHR and EU law within Slovenia's legal order, he described the position of supranational law in metaphorical terms:

> The atmosphere in the Slovenian legal fortress is, however, filled with disparate emotions. Some have gotten overexcited about the brave new European world, others are happy to let the supranational currents in, but insist on preserving national legal troops as well, whereas the majority is not sure of what to expect and quietly stands at the side, hoping that not much will change and that the old, familiar and cosy national law will ultimately continue to provide them with the essential normative frame of reference.[90]

Addressing the direct applicability of the ECHR, its priority over statutes, and its judicial interpretation, Avbelj provides a nuanced analysis structured around three dimensions: the legal, the judicial, and the academic.

In *The Impact of European Institutions on the Rule of Law and Democracy: Slovenia and Beyond*, a monograph co-authored with Jernej Letnar Černič, Avbelj examines the broader influence of European institutions on the rule of law in Slovenia. Although not limited to the ECHR, the book provides an alternative perspective on the state of democracy and the rule of law in the country. The authors argue that Slovenia's rule-of-law challenges are not recent phenomena and contend that the country should have been subject to the EU's strictest scrutiny from the moment of its accession. They further maintain that Slovenia's core problems stem from state capture by leftist post-communist elites who, in their view, have dominated and controlled nearly every sphere of Slovenian

[90] Avbelj, 2010.

society – including the economy, judiciary, media, higher education, and civil society – since independence.[91]

Avbelj is also very active as a blogger. In *The Inherent Limits of Law – the Case of Slovenia*, published in 2013, he reflects on the capacity of law to enforce constitutional and human rights norms, particularly considering political culture and institutional constraints. He offers insights into why, even where ECHR compliance exists de jure, practical implementation may face bottlenecks, delays, or resistance.[92]

Perhaps even more relevant is his 2018 blog *Slovenia's Supreme Court Rejects the European Court of Human Rights*. Here, Avbelj comments on a statement published on the website of the Supreme Court of the Republic of Slovenia regarding the ECtHR's judgment in *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* (no. 47072/15). To the surprise of professional, academic, and wider audiences, the Supreme Court declared that it respects the rulings of other courts only insofar as it finds them persuasive, and that such rulings may then be integrated into its case law. Although not phrased explicitly in these terms, the statement implied that rulings deemed unpersuasive—most notably the ECtHR judgment in question – would not be respected or incorporated into Slovenian jurisprudence.[93]

Veronika Fikfak and Ula Aleksandra Kos explore in their article *Slovenia – An Exemplary Complier with Judgments of the European Court of Human Rights?* the behaviour of the Republic of Slovenia with respect to the Court's judgments. They observe the actions of the state from two perspectives: first, they analyse the nature and pace of Slovenia's compliance with the Court's judgments, which often leads to a quick and successful closing of the case by the Committee of Ministers, and second, they investigate Slovenia's actual implementation and internalisation of adverse judgments into its (legal) system, aiming to remedy past and prevent similar future violations. The author portrays Slovenia as a comparatively high-compliance jurisdiction, tracing why and how the state implements Strasbourg judgments by pointing to systemic reforms, legislative fixes, and institutional learning. Their country study is the most-cited single overview in English.[94]

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[91] Avbelj and Letnar Černič, 2020. See also Kukavica, 2022, pp 267-278.
[92] Avbelj, 2013.
[93] Avbelj, 2018.
[94] Fikfak and Kos, 2021, pp II-XI.

Saša Zagorc's essay *Double Wake-up Call for Slovenian Authorities: Effective Legal Remedies for the Violation of the Right to a Trial within a Reasonable Time – Now What?*, published in *Revus*, is a key Slovenian-language analysis of *Lukenda v. Slovenia* (see *infra*, Sections 5 and 6), read together with a Constitutional Court decision that catalysed the Act on the Protection of the Right to a Trial without Undue Delay (2006).[95] It is frequently cited for showing how pressure from the ECtHR was translated into concrete remedial legislation.

Goran Klemenčič, a renowned criminal justice scholar and former Minister of Justice, uses *Matko v. Slovenia* (see *infra*, Sections 5 and 6) to argue for independent investigations into police ill-treatment and for institutional reforms that go beyond case-by-case solutions –scholarship that anticipated later structural changes in prosecution and oversight.[96]

In an article published in the *Central European Academy Law Review*, Maja Skočir focuses on Slovenia's convictions before the ECtHR for violation of Art. 3 of the ECHR and revisits the torture and ill-treatment statutory framework by evaluating legislative developments and domestic courts' uptake. By closely examining the genesis and the content of incrimination of torture, as it is known in the Slovenian *Criminal Code*, the article presents to foreign readers and the international professional audience the specific features of Slovenian incrimination of torture and its deviations from the international legal framework. Concluding with an analysis of the case law on torture, the author establishes that Slovenian courts have not yet encountered the crime of torture.[97]

In a 2012 monograph chapter, Jan Zobec, a judge of the Slovenian Supreme Court who also writes academically, discusses the political-historical circumstances in which the ECtHR pilot judgments were introduced. The author argues that the pilot judgment was imposed by the ECtHR and that it is not regulated by the Convention. In his opinion, the reasons for introducing the pilot judgment are the same as its purpose: to control the relevant cases and to assist states in implementing convention rights and thus to protect rights more effectively. The author presents the

[95] Zagorc, 2005, pp. 45-53. See also *infra*, Sections 5 and 6. Zagorc's study is complemented by empirical and management-oriented reflections of Zvonko Skubic on judicial reform in Slovenia by examining capacity, case-flow, and court organisation in the post-Lukenda era. See Skubic, 2011, pp. 1-19.
[96] Klemenčič, 2006. See also infra, Sections 5 and 6.
[97] Skočir, 2023, pp. 221-239.

institutional development of the institute, the actual (practical) course of the pilot procedure and some open questions. Zobec's monograph chapter concludes with a brief analysis of the advantages and disadvantages of the pilot judgment and its impact on the relationship between the Court and the constitutional courts of the member states.[98]

In another book chapter entitled *Just a Glass Bead Game?* a title likely inspired by Hermann Hesse's famous novel – the same author examines the impact of the ECHR on democratic change in Slovenia. He situates Slovenian constitutional practice within the broader regional narrative of democratic transformation and explains how domestic courts internalise the ECHR standards and case law in their adjudication.[99]

Recent work of the Slovenian scholarship has revisited the question of the international and supranational rule of law within Slovenia's legal system, examining how ECHR standards interact with constitutional and EU-law commitments. For example, Benjamin Flander (the author of this article) analyses how disparities between Slovenian domestic law and international or supranational law are addressed in both theory and practice, drawing on the "lessons" conveyed to Slovenia by European courts such as the European Court of Human Rights and the Court of Justice of the European Union. Placing particular emphasis on the role of the Constitutional Court, he explores whether this court sometimes positions itself as a guardian of Slovenian constitutional identity, noting that its interpretation of the rule of law does not always coincide with international and supranational understandings of the concept.[100]

In sum, these and many other writings of Slovenian (and international) authors present Slovenia as a country with a comparatively strong legal and institutional openness to the ECHR, yet one that has often relied on ECtHR judgments to catalyse reforms in practice. More precisely, Slovenian scholars' works tend to balance appreciation of Strasbourg's corrective function with concern for recurring challenges and practical implementation in areas such as excessive length of proceedings, effectiveness of investigations into ill-treatment, and systemic redress for minorities protection issues (e.g. Roma and the 'erased' residents). Scholars underline the gap between constitutional promise and administrative/judicial practice,

[98] Zobec, 2012.
[99] Zobec. 2016, pp. 425-456.
[100] Flander, 2024, pp. 53-80.

noting that reforms often follow external pressure from Strasbourg rather than proactive domestic initiative.

4. Protection of fundamental rights under the European Convention on Human Rights and the Constitution of the Republic of Slovenia

This section examines how, and to what extent, the human rights obligations arising from the ECHR are reflected in the 1991 Constitution of the Republic of Slovenia and in key national legislation. A comparison of fundamental rights protections in these foundational legal documents shows that the guarantees under the Slovenian Constitution are largely comparable to those of the Convention, and in certain areas even exceed the standards set by the ECHR. Nevertheless, case law before the ECtHR demonstrates that, in practice, the protection of fundamental rights afforded by domestic law and Slovenian courts has at times fallen short of the standards required under the ECHR.

Although some constitutional provisions are more concise than those in the ECHR, this does not diminish the scope or level of protection of fundamental rights and freedoms, as the Constitution incorporates essential safeguards. In Slovenia's legal system, international treaties – including the ECHR – ratified by the National Assembly must conform to the Constitution, but they take precedence over laws, government regulations, and other general legal acts. All legislation and general acts must comply with universally accepted principles of international law and ratified treaties. Ratified treaties, including the ECHR, are directly applicable. Where certain provisions of international treaties cannot be applied directly, they must be normatively clarified by the competent national authorities to ensure their effective legal applicability.[101]

Furthermore, the Constitution stipulates that no human rights or fundamental freedoms established in international legal instruments in force in Slovenia may be restricted on the grounds that they are not recognised by the Constitution, or are recognised to a lesser extent than in international human rights instruments.[102] This so-called non-enumeration clause implies that where an international treaty provides a higher standard of human rights

[101] Constitution, Art. 8. See also Grad et al., 2018, p. 743, Avbelj et al., 2019, pp. 82-87 and Committee Against Torture, 1999, para 27.
[102] Constitution, Art. 15, para. 5.

protection or rule of law than the Slovenian Constitution, the treaty takes precedence.[103]

Notably, under the *Constitutional Court Act*,[104] the Constitutional Court of the Republic of Slovenia is tasked not only with reviewing the compliance of laws and other general acts with the Constitution[105] but also with assessing their conformity with ratified international treaties and the general principles of international law.[106] In practice, when reviewing constitutionality, the Constitutional Court frequently examines the alignment of laws with both the Constitution and the ECHR. When laws are found to be inconsistent with the Constitution, the Court usually also identifies inconsistencies with the ECHR. [107]

The ECHR establishes a wide range of civil and political rights that member states are obliged to respect and guarantee within their jurisdictions. These rights include: the Right to Life (Art. 2); the Prohibition of Torture (Art. 3); the Right to Liberty and Security (Art. 5); the Right to a Fair Trial (Art. 6); the Right to Respect for Private and Family Life (Art. 8); Freedom of Thought, Conscience, and Religion (Art. 9); Freedom of Expression (Art. 10); Freedom of Assembly and Association (Art. 11); the Right to an Effective Remedy (Art. 13); and the Prohibition of Discrimination (Art. 14).

Additional rights are guaranteed by the Protocols to the Convention. For example, Protocol No. 1 guarantees the Right to Property, the Right to Education, and the Right to Free Elections, while Protocols Nos. 6 and 13 abolish the death penalty. Most protocols expand the catalogue of rights guaranteed under the Convention, while others refine the procedures for their enforcement.

Several provisions of the Convention are also of particular importance for the protection of rights, including Art. 7 (No punishment without law), Art. 15 (Derogation in time of emergency), Art. 16 (Restrictions on political activity of aliens), Art. 17 (Prohibition of abuse of rights), and Art. 18 (Limitation on the use of restrictions on rights). In addition, Art. 12

[103] See Avbelj et al. 2019, pp. 82-87.
[104] Constitutional Court Act (*Zakon o Ustavnem sodišču* [ZUS-1]), Official Gazette of the Republic of Slovenia, No. 15/94 of 18 March 1994.
[105] ZUS-1, Art. 21, para. 1, item1.
[106] *Ibid*., item 2.
[107] See, for example, Constitutional Court decision no. U-I-18/92, dated April 11, 1996.

guarantees two so-called second-generation rights: the right to marry and the right to found a family.

In the remainder of this section, selected provisions of the ECHR will be compared with corresponding human rights provisions in the Slovenian Constitution, with particular attention to similarities and differences in wording, substance, and standards of protection. Owing to space constraints, the analysis will be illustrative, focusing only on Articles 2 and 3.

4.1. The Right to Life

The definitions of the right to life in the ECHR and the Slovenian Constitution differ significantly. The ECHR's text is notably longer and more detailed. Article 2 of the Convention stipulates that everyone's right to life shall be protected by law and specifies the conditions under which deprivation of life is not considered a violation of the Convention (such as when it results from the use of force that is necessary to achieve certain legitimate objectives). The original text of the Convention also allowed for the death penalty as an exception to the right to life, provided it was prescribed by law and imposed by a court. This exception was later abolished by Protocol No. 13.

In comparison to the ECHR, Article 17 of the Slovenian Constitution is much more concise: 'Human life is inviolable. There is no capital punishment in Slovenia.'[108] The 'inviolability of life' is one of the so-called absolute fundamental rights – among the highest and most strongly protected constitutional rights and freedoms – which the Constitution forbids from being suspended or restricted, even in times of war or emergency. The protection of human life is essential for upholding human dignity, the supreme value and guiding principle of the Slovenian Constitution. Human life is a necessary prerequisite for the protection of the dignity of the human person, which is regarded as the supreme value and idea of the Slovenian Constitution. Without effective protection of life, the enjoyment of other rights and fundamental freedoms would not be possible.[109]

The scope of protection for the right to life under the Slovenian Constitution is identical to that provided by the ECHR. The Constitution imposes a general obligation on the legislature to enact laws that safeguard

[108] Article 17 of the Slovenian Constitution is titled 'Inviolability of Life', not 'Right to Life', as Article 2 of the ECHR.
[109] See Ivanc, 2019.

human life and ensure effective protection for all individuals throughout the national territory. The state is required to refrain from interfering with life, except in explicitly permitted exceptional cases. Additionally, the state must protect individual rights against unlawful interference by third parties.[110]

The constitutional right to life, therefore, mandates the enactment of appropriate legal regulations governing the operations of the police, judicial authorities, military, and other security agencies. These regulations protect the inviolability of human life and establish conditions for the use of firearms and other coercive measures. In cases of death resulting from the use of force by state authorities (e.g. police or military), the state is obligated to ensure an effective and independent investigation into the circumstances of the death. This requirement relating to the procedural aspect of the right to life also applies to deaths occurring during deprivation of liberty (e.g. detention or imprisonment), disappearances, or suicides during detention or imprisonment.[111]

Although the Constitutional Court's jurisprudence on the right to life is not as extensive or nuanced as that of the Strasbourg Court, it can generally be asserted that the substance and scope of the right to life under the Slovenian Constitution are equivalent to those under the ECHR.[112]

Notably, if the state fails to meet its obligations under the Constitution, the ECHR, or the EU Charter regarding the protection of the right to life, Article 26 of the Constitution establishes the state's liability for damages.[113] This liability also generally extends to cases of death caused by

[110] *Ibid*. See also Korff, 2006.

[111] *Ibid*.

[112] See, for example, Constitutional Court Decision No. Up-555/03, Up-827/04, dated July 6, 2006. The case concerned the death of an individual during the deprivation of liberty and the police search of his apartment. The Constitutional Court held that, in accordance with the fourth paragraph of Article 15 of the Constitution, in relation to Articles 2 and 13 of the ECHR, the procedural protection of the right to life includes the state's duty to ensure an independent investigation into the circumstances of the event and to enable the relatives to have effective access to such an investigation. The Constitutional Court also emphasised the procedural aspect of the protection of the right to life and the duty to conduct an independent and effective investigation in Constitutional Court Decision No. Up-679/12, dated October 16, 2014.

[113] See Constitutional Court Decision No. Up-680/14, dated May 5, 2016. The Constitutional Court emphasised that failure to fulfil the state's constitutional and convention obligations regarding the protection of the right to life leads to its liability for compensation under Article 26 of the Constitution, and the burden of proof rests with the state. In Up-680/14, the Constitutional Court highlighted the importance of the state's

environmental pollution or medical errors by third parties, provided it is shown that the state did not provide an adequate legal framework or sufficient oversight.

4.2. Prohibition of torture

The prohibition of torture in the Slovenian Constitution closely mirrors the language of Article 3 of the ECHR. Article 18 of the Constitution states that 'no one may be subjected to torture or to inhuman or degrading punishment or treatment.' Furthermore, the Constitution explicitly prohibits conducting medical or other scientific experiments on any person without their free consent.

The prohibition of torture is positioned similarly in the Slovenian Constitution as it is in the ECHR. It appears among the first provisions on human rights, immediately following Article 17 on the inviolability of human life and preceding Articles 19 and 20, which guarantee personal freedom. This provision is related to that from Article 34 of the Constitution, which ensures the right to personal dignity and security.

Since the prohibition of 'humiliating behaviour' outside of repressive procedures is already addressed by the right to personal dignity in Article 34 of the Constitution, the right under Article 18 of the Constitution should be interpreted more narrowly. It specifically prohibits the conduct of state agents when dealing with individuals deprived of their liberty.[114]

The Constitution, like Article 3 of the ECHR, distinguishes between three concepts: torture, inhuman treatment, and degrading treatment (or punishment), which vary significantly in terms of the intensity and cruelty of the treatment. In explaining the content and scope of the prohibition of torture under Article 18, including the definitions of torture, inhuman treatment, and degrading treatment or punishment, the new Commentary on the Constitution of the Republic of Slovenia fully aligns with the ECtHR's doctrine and jurisprudence.[115]

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constitutional and convention obligations to provide, within the procedural aspect of the protection of the right to life, an effective and independent investigation into the causes of a patient's death during hospital care. The Constitutional Court reached this conclusion only after the judgment of the ECtHR Grand Chamber in *Šilih v. Slovenia* (see footnote 160). In proceedings before the Slovenian courts and other institutions, the appellants, the Šilih couple, unsuccessfully argued that their son died due to medical error and sought to hold the doctor and the medical institution accountable.

[114] See Constitutional Court Decision No. Up-183/97, dated July 10, 1997.

[115] Šepec, 2019.

The scope of Article 18 of the Constitution, like that of Article 3 of the Convention, extends beyond the 'mere' obligation of the state to ensure that its authorities do not engage in torture, inhuman or degrading treatment, or punishment. Under the Slovenian Constitution, the state is prohibited from handing over, extraditing, or deporting an individual to a country where they are at risk of torture, inhuman or degrading treatment, or punishment, including the death penalty or police brutality. The extradition of an individual infected with AIDS to a country where they do not have access to adequate medical care can also constitute a violation of Article 18 (and Article 3 of the ECHR). However, the extradition of a sick person does not constitute a violation if the country requesting the extradition has poorer medical facilities or standards.

In accordance with Article 18 of the Constitution, the state must take special care to protect individuals who have been deprived of their liberty and ensure that adequate living conditions are provided in prisons. This includes addressing issues such as prison overcrowding, insufficient space for movement and sleeping, inadequate sanitary facilities, lack of food, poor ventilation, and inadequate lighting. Failure to provide essential or urgent medical assistance to an incarcerated person when their health visibly deteriorates, inadequate prison conditions for individuals with special needs, and the forced feeding of a prisoner – when not medically necessary to preserve their life – would constitute inhumane treatment. Additionally, the state has a positive obligation to protect individuals from domestic violence. [116]

Any evidence or statement obtained under torture in criminal proceedings must be excluded, and a judgment must not be based on such evidence. Evidence obtained through original illegality must also be excluded, in line with the doctrine of 'fruit of the poisoned tree.' However, exclusion is not required if the evidence was obtained through inhumane treatment that did not result in an unfair trial. [117]

When addressing the prohibition outlined in Article 18, the Commentary on the Constitution references ECtHR case law, including *Soering v. United Kingdom*, *Chahal v. United Kingdom*, and *D. v. United Kingdom*.[118] However, regarding jurisprudence, a similar conclusion can be drawn regarding the constitutional prohibition of torture as was made in

[116] *Ibid*.
[117] *Ibid*.
[118] See *ibid.*

relation to the inviolability of life: the Slovenian Constitutional Court's case law is not as extensive as the jurisprudence of the ECtHR. This is, at least in part, due to the fact that the Constitutional Court in Slovenia has never found torture to be the most serious form of violation under Article 18 in proceedings involving constitutional complaints. The Slovenian cases concerning Article 18 – some of which were later adjudicated by the ECtHR – primarily involve instances of excessive use of force during police arrests. In these cases, the Court in Strasbourg characterised the violations of Article 3 as inhuman treatment.[119]

5. Major law-making processes driven by the European Convention on Human Rights

Since ratifying the ECHR in 1994, Slovenia has progressively aligned its constitutional framework and legislation with Strasbourg standards. Following a review conducted by the Department for the Execution of Judgments of the European Court of Human Rights,[120] these reforms addressed the functioning of the justice system (including excessive length of proceedings), effective investigations and police accountability, conditions of detention, effective remedies, the right to liberty and security, protection of private and family life, freedom of expression, and protection against discrimination on grounds of nationality and property rights.

5.1. Functioning of justice

In *Lukenda v. Slovenia*,[121] the ECtHR found that violations of the applicant's right to a trial within a reasonable time were not an isolated incident but a systemic problem, stemming from court backlogs caused by inadequate legislation and ineffective judicial practice.[122] The Court called on the Slovenian authorities either to amend the existing legal framework or

[119] These cases will be addressed in Section 6.
[120] ECtHR, 2025b.
[121] *Case of Lukenda v. Slovenia*, App. No. 3032/02, 6 October 2006.
[122] By 2021, the Court found violations of Article 6 and Article 13 in 264 separate applications due to the unreasonable length of domestic judicial proceedings. The first judgment in this series was *Case of Majarič v. Slovenia*, App. No. 28400/95, 2 February 2000. With one leading (e.g. *Lukenda*) and 263 repetitive cases, judgments concerning the right to a fair trial within a reasonable time represent 72% of all adverse judgments against Slovenia. See Fikfak and Kos, 2021, p. 5.

introduce new mechanisms to ensure effective enforcement of this right in line with Convention standards.

Analysing the *Lukenda* judgment, Saša Zagorc argued that this ECtHR decision—together with a ruling of Slovenia's Constitutional Court declaring the *Administrative Dispute Act* unconstitutional—provided a solid basis for the National Assembly to adopt legislation guaranteeing effective remedies for violations of the right to a trial within a reasonable time. He strongly maintained that the Slovenian judiciary should, on its own initiative, begin resolving such cases to prevent further condemnations by the Strasbourg Court. Moreover, he argued that, had appropriate and non-discriminatory legislation been enacted and followed by effective administrative and judicial practice, the ECtHR could have declared many pending cases inadmissible for failure to exhaust domestic remedies.[123]

The law was adopted less than a year after the *Lukenda* judgment, on 26 April 2006, when the National Assembly passed the *Act Regulating the Protection of the Right to a Trial without Undue Delay*.[124] This act grants parties to all court proceedings the right to file an appeal accompanied by a motion to accelerate the proceedings, as well as the right to compensation if the "reasonable time" requirement has been exceeded.

Such an appeal must be submitted to the president of the court, who – if the appeal is admissible – must request a report on the case from the judge-rapporteur. The president may also order that the case be given priority or assign it to another judge-rapporteur.

Just satisfaction for a violation of the right to a trial within a reasonable time may take the form of monetary compensation, a written statement by the State Attorney acknowledging the infringement, or the publication of a court judgment recognising the violation.[125]

Following the *Lukenda* judgment, and in addition to adopting the Act on the Protection of the Right to a Trial without Undue Delay, Slovenia introduced numerous reforms and adjustments to its judicial system to ensure compliance. The state implemented a wide range of measures,

[123] See Zagorc, 2005, pp. 45-53.

[124] Zakon o varstvu pravice do sojenja brez nepotrebnega odlašanja (ZVPSBNO) [*Act regulating the protection of right to trial without undue delay* (ZVPSBNO)], Official Gazette of the Republic of Slovenia, No. 67/12 – officially refined text.

[125] See Supreme Court of the Republic of Slovenia, 2010. [Online]. Available at: https://www.aca-europe.eu/colloquia/2010/Slov%C3%A9nie_EN_conference_june_2010.pdf (Accessed: 14 November 2024).

including amendments to existing laws and the adoption of new ones, targeted projects, the expansion of judicial staff and resources, and changes in the functioning of the judiciary.

Nevertheless, despite this progress, judicial proceedings in Slovenia remain, in some instances, unreasonably lengthy even today.[126]

5.2. Police accountability and effective investigations

Significant legislative changes followed the ECtHR judgment in *Matko v. Slovenia*.[127] The Court found Slovenia responsible for inhuman treatment due to the excessive use of force during the applicant's arrest, as well as for the inadequate, slow, and negligent investigation of his allegations of police brutality by the police, prosecution, and judiciary.

In an article published in Slovenia's leading legal journal shortly after the *Matko* judgment, criminal justice expert Goran Klemenčič cautioned that it would be a serious mistake for the Slovenian state to "ignore the message from Strasbourg". He emphasised that, following *Rehbock* in 2000, *Matko* represented the second ECtHR conviction of Slovenia for a violation of Article 3— 'the most notorious and absolute prohibition of the Convention.' He also noted that the Constitutional Court had unequivocally reaffirmed the constitutional duty of state authorities to conduct an independent investigation into any incident in which torture or inhuman or degrading treatment by the police is suspected.[128]

Klemenčič further highlighted the concerns raised by international monitoring bodies and domestic non-governmental organisations regarding Slovenia's insufficient implementation of international standards on police oversight, as well as repeated calls for ensuring the independence of investigations into alleged police violence. He was critical of the police, who argued that the Matko case should not receive much attention because the events had occurred more than a decade earlier.[129]

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[126] See Fikfak and Kos, 2021, p. 18.

[127] *Case of Matko v. Slovenia*, App. No. 43393/98, 2 November 2006.

[128] See Constitutional Court Decision No. Up-555/03 and Up-827/04, dated 6 July 2006.

[129] Klemenčič, 2006, pp. 3-4; Bečir Kečanović, an expert in police law, also contributed to the debate. He suggested that an efficient and fair investigation can serve as a powerful psychological motivator, encouraging police officers to act legally, proportionately, professionally, and efficiently. Proactive supervision can help make the risks of violations in police procedures as predictable and manageable as possible. See Kečanović, 2006, p. 20.

According to Klemenčič, the *Matko* judgment was likely the most detailed and well-reasoned decision Slovenia had received from Strasbourg up to that point. Its scope, he argued, went beyond the implications of both the Rehbock and Mandić cases. The ECtHR held that the institution of the subsidiary prosecutor, as regulated in Slovenia, did not constitute an effective legal remedy for addressing violations of rights under Article 3 of the ECHR. Civil lawsuits were likewise deemed inadequate as effective remedies.[130]

Furthermore, given the hierarchical structure of the Slovenian police and its dependence on the Ministry of the Interior, investigations carried out by the police or the Ministry failed to meet the ECHR standard of independence. Klemenčič stressed that the message from Strasbourg was unequivocal: investigations into allegations of ill-treatment must be capable of identifying those responsible and establishing their criminal liability.[131]

Klemenčič outlined two possible solutions: the establishment of a police ombudsman with extensive investigative powers, or the creation of systemic and institutional conditions enabling the prosecution to effectively address suspected serious human rights violations committed by state authorities. The legislature chose the latter approach and, in 2007, established the Department for the Investigation and Prosecution of Officials with Special Powers. Its purpose was to ensure independent, impartial, timely, transparent, thorough, and effective investigations into criminal acts committed by police officers and other officials vested with repressive powers.

This structure was consolidated in 2011 with the adoption of the new *State Prosecutor's Office Act*.[132] The Department for the Investigation and Prosecution of Officials with Special Powers now functions as an independent organisational unit within the Specialised State Prosecutor's Office. Although it includes specially selected police officers – appointed by the State Prosecutor's Office – the department is organisationally separate from the Police. These officers work directly under the Prosecutor's Office and are not part of the Police's internal structure or chain of command. The department operates on the principle of professional and operational

[130] *Ibid*.
[131] *Ibid*.
[132] Zakon o državnem tožilstvu (ZDT-1) [*State Prosecutor's Office Act* (ZDT-1)], Official Gazette of the Republic of Slovenia, No. 58/11.

autonomy, explicitly guaranteed by the provisions of the 2011 State Prosecutor's Office Act.[133]

In addition to legislative changes aimed at improving the effectiveness of investigations, the Matko judgment spurred other important reforms in Slovenian law. The 2008 Criminal Code[134] defined ill-treatment, including by the police, as an independent criminal offence. In 2013, the National Assembly adopted a new Law on Police Tasks and Powers,[135] which requires police officers to respect human rights and to adhere to the principles of equal treatment, legality, and proportionality in the performance of their duties.[136]

5.3. Protection of property rights

Significant legislative developments followed the ECtHR pilot judgment in *Ališić and Others*.[137] The Court ruled that Slovenia must take all necessary measures to enable the applicants, as well as others in similar circumstances, to recover their 'old' foreign-currency savings held in Ljubljanska Banka branches in Bosnia and Herzegovina under the same conditions as those with savings in Slovenian domestic branches. A law implementing the judgment and introducing a repayment scheme was drafted and entered into force on 4 July 2015.[138]

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[133] A national survey conducted by the author of this article has shown that, in the three and a half decades since it became an independent and sovereign country, Slovenia has managed to establish a comprehensive system of police oversight, which is comparable to arrangements in other countries. Despite some shortcomings and weaknesses, a satisfactory level of synergy has been achieved between various forms of independent external control on the one hand and internal control on the other. The result of this synergy is a relatively consistent and efficient decentralised control system that maintains a high level of professional autonomy and, with the involvement of external supervisors, ensures a high level of independence. See Flander et al., 2021. p. 136.

[134] Kazenski zakonik (KZ-1) [*Criminal Code* (KZ-1)], Official Gazette of the Republic of Slovenia, Nos. 50/12 – officially refined text, 54/15, 6/16 and 16/23.

[135] Zakon o nalogah inpooblastilih policije (ZNPol) [*Law on Police Tasks and Powers* (ZNPPol)], Official Gazette of the Republic of Slovenia, No. 22/25 – officially refined text.

[136] In addition to the legislative changes, regular education and training sessions as well as awareness-raising activities were organised for police staff. Instructions and manuals for all police units relating to the use of coercive measures were issued and are regularly updated.

[137] *Case of Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and 'The former Yugoslav Republic of Macedonia'*, App. No. 60642/08, 16 July 2014.

[138] Zakon o načinu izvršitve sodbe Evropskega sodišča za človekove pravice v zadevi številka 60642/08 (ZNISESČP) [*Act on the Implementation of the judgment of the*

This law set out the procedures for enforcing the ECtHR judgment, requiring the Republic of Slovenia to undertake all necessary measures to repay unpaid foreign-currency deposits to depositors of Ljubljanska Banka. It explicitly excluded deposits—or parts of deposits—already paid out, transferred to other legal entities, or allocated for specific purposes under the regulations of the successor states of the former Socialist Federal Republic of Yugoslavia or on other legal grounds. More specifically, the law regulates the method of calculating payment amounts, identifies eligible beneficiaries, details the verification procedure, specifies the competent decision-making authority, and sets the method, deadlines, and record-keeping requirements for payments.

Approximately fifty cases remain pending before the ECtHR. In these proceedings, applicants argue that under the law implementing the Ališić judgment, they have been unable to recover their savings, alleging a violation of Article 1 of Protocol No. 1 to the Convention.

5.4. Legislative changes (and institutional measures) regarding protection against discrimination on the grounds of nationality, conditions of detention, effective remedies, the right to liberty and security, protection of private and family life and freedom of expression

In *Kurić and Others v. Slovenia*,[139] the Grand Chamber held that the 'erasure' of thousands of residents from the register breached Articles 8 and 13 (and 14) of the ECHR, identifying a structural problem. The case remains central in scholarly discussions of Slovenia's transitional justice and the role of Strasbourg in catalysing comprehensive domestic remedies. Follow-up legislative measures included status regularisation and compensation schemes with the adoption of the *Act on Compensation for Damages to Persons Deleted from the Permanent Population Register*.[140]

Following the *Mandić and Jović*[141] case, a preventive remedy was introduced in 2015 to provide judicial protection against poor detention

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European Court of Human Rights in the case no. 60642/08 (ZNISESČP)], Official Gazette of the Republic of Slovenia, No. 48/15.

[139] *Case of Kurić and Others v. Slovenia,* App. No. 26828/06, 26 June 2012 and 12 March 2014.

[140] Zakon o povračilu škode osebam, ki so bile izbrisane iz registra stalnega prebivalstva (ZPŠOIRSP) [*Act on Compensation for Damages to Persons Deleted from the Permanent Population Register* (ZPŠOIRSP)], Official Gazette of the Republic of Slovenia, Nos. 99/13, 85/18.

[141] *Case of Mandić and Jović,* App. No. 5774/10, 22 October 2011.

conditions for convicted prisoners, as well as a compensatory remedy for released prisoners. Additionally, in 2018, convicted and remanded prisoners were granted the right to claim compensation in court for non-pecuniary damages, with criteria for settling such claims established by the government.

The case of *L. M. v. Slovenia*[142] led to significant reforms regarding psychiatric confinement. The 2008 *Mental Health Act*[143] established procedures and time limits for decisions on involuntary confinement. Additionally, the Mental Health Act introduced regular monitoring of these time limits by the National Preventive Mechanism (Human Rights Ombudsperson). The 2009 *Patients' Rights Act*[144] introduced safeguards and regulations concerning admission to and medical treatment in open wards.

The cases of *Eberhard and M. v. Slovenia*,[145] *Furmann v. Slovenia and Austria*,[146] *A.V. v. Slovenia*,[147] and *S.I. v. Slovenia*[148] contributed significantly to legislative and normative changes regarding the protection of private and family life. In 2004, administrative access orders by Social Welfare Centres were abolished, partly due to a Constitutional Court decision that found several provisions of the 1976 *Marriage and Family Relations Act*,[149] applicable to custody and access arrangements, unconstitutional. The 2004 *Act on Amendments to the Marriage and Family Relations Act*[150] granted domestic courts the authority to adjudicate on child custody and access matters, giving priority to cases involving parent-child relationships. Additionally, the *Claim Enforcement and Security Act*[151] has

[142] *Case of L. M. v. Slovenia*, App. No. 32863/05, 12 June 2014.
[143] Zakon o duševnem zdravju (ZDZdr) [*Mental Health Act* (ZDZdr)], Official Gazette of the Republic of Slovenia, No. 77/08.
[144] Zakon o pacientovih pravicah (ZPacP).
[145] *Case of Eberhard and M. v. Slovenia*, App. No. 8673/05, 1 December 2009.
[146] *Case of Furmann v. Slovenia and Austria*, App. No.16608/09, 5 February 2015.
[147] *Case of A. V. v. Slovenia*, App. No. 878/13, 9 April 2019.
[148] *Case of S. I. v. Slovenia*, App. No. 45082/05, 13 January 2012.
[149] Zakon o zakonski zvezi in družinskih razmerjih [*Marriage and Family Relations Act*], Official Gazette of the Socialist Republic of Slovenia, No. 15/76.
[150] Zakon o spremembah in dopolnitvah zakona o zakonski zvezi in družinskih razmerjih (ZZZDR-C) [*Act on Changes and Amendments to Marriage and Family Relations* (ZZZDR-C)], Official Gazette of the Republic of Slovenia, No. 16/04.
[151] Zakon o izvršbi in zavarovanju (ZIZ) [*Claim Enforcement and Security Act* (ZIZ)], Official Gazette of the Republic of Slovenia, Nos. 93/07 – officially refined text, 28/09, 51/10, 26/11, 53/14.

been amended to allow fines to be imposed in cases where a parent obstructs the enforcement of court decisions regarding contact and access rights.

Under the amendments to the *Social Security Act*,[152] social work centres now also provide care services, professional counselling, and support to family members and children, as well as practical training for families. Succeeding the Marriage and Family Relations Act, the *Family Code*,[153] in effect since 2019, introduced, *inter alia*, mediation as a means of resolving family-related disputes.

In 2014, the Constitutional Court advanced its case law, expressly aligning it with the European Court's judgment in *Mladina d.d. Ljubljana*.[154] According to this judgment, domestic courts must convincingly establish a pressing social need to prioritise the protection of an individual's reputation over a publishing company's right to freedom of expression and the public interest in promoting freedom of expression, especially in matters of public interest.

6. Slovenia before the European Court of Human Rights – An outline of selected landmark cases

Before 2006, Slovenia was convicted by the ECtHR for violating Convention rights only six times. After that year, both the number of filed complaints and the number of convictions increased significantly. By 2021, a total of 10,136 complaints had been filed against Slovenia with the ECtHR. Of these, 9,634 appeals were declared inadmissible or struck out. The ECtHR issued 392 judgments in total, finding no violation in 24 of them, while at least one violation was found in 342 cases.[155]

In 2022, 287 complaints were filed against Slovenia. The Court dealt with 275 applications, of which 271 were declared inadmissible or struck out. It delivered four judgments (concerning four applications), all of which found at least one violation of the ECHR.[156]

In 2023, the Court received 978 complaints against Slovenia. It dealt with 205 applications, of which 203 were declared inadmissible or struck

[152] Zakon o socialnem varstvu (ZSV) [*Social Security Act*], Official Gazette of the Republic of Slovenia, Nos. 3/07 – officially refined text, 57/12, 39/16, 54/17, 28/19, 82/23.
[153] Družinski zakonik (DZ) [*Family Code*], Official Gazette of the Republic of Slovenia, Nos. 15/17, 22/19, 5/23.
[154] *Case of Mladina d.d. Ljubljana v. Slovenia*, App. No. 20891/10, 17 April 2014.
[155] ECtHR, 2022a.
[156] ECtHR, 2025a.

out. The Court delivered two judgments (concerning two applications), both of which found at least one violation of the Convention. By the end of 2023, the Court had issued judgments in 379 cases concerning Slovenia, finding a violation in 348 cases (less than 4% of all appeals filed during this period were successful for the appellants).[157]

From January to July 2024, the ECtHR dealt with 64 applications concerning Slovenia, of which 62 were declared inadmissible or struck out. It delivered two judgments (concerning two applications), both of which found at least one violation of the Convention. By July 1, 2024, 1,079 applications concerning Slovenia were pending, with 174 before a single judge, 878 before a committee of three judges, and 27 before a chamber of seven judges. No applications concerning Slovenia were pending before the Grand Chamber.[158]

Between 1994 and 2021, the Court found that the most frequently violated rights were the right to an effective remedy (267 violations) and the right to a fair trial due to the length of proceedings (263 violations). The Court also identified 25 violations of the right to a fair trial for reasons other than the length of proceedings, 21 violations of the prohibition of inhuman or degrading treatment, 12 violations of the right to respect for private and family life, and 8 violations of the protection of property. Additionally, there were 6 violations of the right to liberty and security, 6 violations of the authorities' obligation to conduct an effective investigation in cases concerning the prohibition of inhuman or degrading treatment, 3 violations of freedom of expression, and 3 violations of the prohibition of discrimination. The ECtHR found that, on three occasions, domestic court decisions were not implemented by Slovenian authorities. Finally, the Court found 3 violations of the obligation to carry out an effective investigation in cases concerning the right to life, but it did not find any violation of the right to life itself (i.e., it found no deprivation of life in contravention of the ECHR). The ECtHR found no violations concerning other Convention rights.[159]

This section provides an overview of Slovenia's landmark cases before the ECtHR. The 'landmark cases' selected for this outline are those identified by the ECtHR Press Unit as 'noteworthy cases' involving Slovenia. The presentation begins with three of the four cases decided by

[157] *Ibid*.
[158] *Ibid*.
[159] *Ibid.*

the Grand Chamber, as well as one inter-state case. The remaining cases are categorised and discussed according to the relevant articles of the Convention (Articles 3, 5, 6, 7, 8, and 10) and its Protocol No. 1 (Articles 1 and 3). The section concludes with the outline of two pending cases.

6.1 Cases decided by the Grand Chamber and inter-state cases

In the case of *Šilih v. Slovenia*,[160] which I briefly drew upon in Section 4, the applicants complained that their son had died because of medical negligence and that their rights under Article 2 (right to life) and several other articles of the Convention had been breached by the inefficiency of the Slovenian judicial system in establishing responsibility for his death. More particularly, the applicants complained that the criminal and civil proceedings they had instituted did not allow for the prompt and effective establishment of responsibility for their son's death. The ECtHR held, inter alia, that if in the specific sphere of medical negligence there may be obstacles or difficulties that prevent progress in an investigation in a particular situation, a prompt response by the authorities is vital in maintaining public confidence in their adherence to the rule of law. It found that there has been a violation of Article 2 of the Convention in its procedural limb.

Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and The former Yugoslav Republic of Macedonia[161] concerned 'old' foreign-currency savings in the Sarajevo branch of Ljubljanska Banka, which were, following the dissolution of the Socialist Federal Republic of Yugoslavia and the enactment of the 1997 Claims Settlement Act in the Federation of Bosnia and Herzegovina (the FBH), transferred to a privatisation account administered by the relevant authorities of the FBH. The transfer appeared to have taken place e*x lege* for the citizens of Bosnia and Herzegovina who resided there on 28 November 1997. Following the amendments of the 1997 Act in 2003, the savers with unused claims on the privatisation account had, under section 20a of the amended 1997 Claims Settlement Act, the right to request their transfer back to their bank account. Subsequent legislative changes in Bosnia and Herzegovina expressly excluded its liability for savings in, *inter alia*, the Sarajevo branch of Ljubljanska Banka. In the Grand Chamber judgment, the ECtHR held unanimously that there had been a violation of Article 1 of Protocol No. 1

[160] *Case of Šilih v. Slovenia,* App. No. 71463/01, 9 April 2009.
[161] Cited *supra* (footnote 137).

(protection of property) and Article 13 (right to an effective remedy) by Slovenia. The Court confirmed that Slovenia (and Serbia) had been responsible for the debts owed to the applicants by the two banks, Ljubljanska banka Sarajevo and the Tuzla branch of the Investbanka and held that there had been no good reason for the applicants to have been kept waiting for so many years for repayment of their savings. It pointed out that this was a special case, as it was not a standard case of rehabilitation of an insolvent private bank, the banks in question having always been either State- or socially owned.

In *Kurić and Others v. Slovenia*,[162] the applicants belong to a group of persons known as the 'erased,' who on 26 February 1992 lost their status as permanent residents following Slovenia's declaration of independence and passing of the 'independence legislation', including a new law on aliens in 1991. On the basis of this new law, the Slovenian authorities erased 25,671 people from the Register of Permanent Residents because they had failed to apply for Slovenian citizenship within the prescribed time limit. After becoming aliens with no legal status in Slovenia, they experienced years of hardship: their identity papers were destroyed; they could not work, have health insurance or renew their identity documents and driving licences; they had difficulties securing pension rights; and some were even deported from Slovenia. The Court found a violation of Article 8 (right to respect for private and/or family life), Article 13 (right to an effective remedy) in combination with Article 8, and Article 14 (prohibition of discrimination) in combination with Article 8. The Court found that the Slovenian authorities had failed to regulate the issue of 'erased' people and to provide them with adequate redress for the years during which they had been in a position of vulnerability and legal insecurity. The Court also decided to apply the pilot judgment procedure, holding that the Government should, within one year, set up a compensation scheme for the 'erased' in Slovenia. It decided it would adjourn examination of all similar applications in the meantime. In the same case, by a Grand Chamber judgment of 12 March 2014 on the just satisfaction, the Court held, unanimously, that the Slovenian Government was to pay the six applicants whose rights under the ECHR had been violated amounts between 29,400 and 72,770 euros each.

Two years after the Grand Chamber judgment, the Court issued the decision in *Anastasov and Others v. Slovenia*,[163] another case concerning

[162] Cited *supra* (footnote 139).
[163] *Case of Anastasov and Others v. Slovenia*, App. No. 65020/13. 17 November 2016.

the so-called ‘erased’. Relying on Articles 8,13, 14 and 46, 121 applicants complained about their unsettled situation for several years because of having been arbitrarily deprived of their status as permanent residents of Slovenia. Having lodged their applications before the European Court in October 2013, they also complained that the Slovenian authorities had failed to set up a compensation scheme within the deadline (June 2013) indicated in the judgment *Kurić and Others* and that, in any event, the financial redress proposed had been neither prompt nor adequate. The Court observed that following the *Kurić and Others* judgment, the compensation scheme was set up in Slovenia by the legislation which entered into force in December 2013. This legislation essentially provides for financial compensation to the 'erased' to be claimed in administrative proceedings, so the remaining 'erased' persons who had regularised their legal status – such as the 212 applicants in this case – have a reasonable prospect of receiving compensation for the damage caused by the systemic violation of their Convention rights. It noted that the Committee of Ministers of the Council of Europe, responsible for supervising the implementation of the European Court’s judgments, had recently closed its examination of *Kurić and Others* as it was satisfied that all measures required in that judgment had been adopted. Thus, the Court believed the matter giving rise to the present application and the remaining applications against Slovenia lodged by the 'erased' – where the applicants had regularised their legal status – had thus been resolved at the national level. The Court did not find any special circumstances regarding respect for human rights as defined in the Convention and its Protocols, which required the continued examination of the case. In those circumstances, the Court decided to close the pilot-judgment procedure initiated in *Kurić and Others*, considering that it was no longer justified.

In *Slovenia v. Croatia*,[164] the Slovenian Government lodged an inter-State application against the Croatian Government, alleging a series of violations of the fundamental rights of Ljubljana Bank, founded in 1955 under the laws of the then Socialist Federal Republic of Yugoslavia and reorganised in the framework of the 1989-90 reforms, later being restructured by the Slovenian State after its declaration of independence. The Slovenian government complained that the Croatian authorities, including courts, had prevented and continued to prevent Ljubljana Bank from enforcing and collecting the debts of its Croatian debtors (mainly

[164] *Case of Slovenia v. Croatia*, App. No. 54155/16, 16 December 2020.

companies operating in the agricultural and food sectors) in Croatia. They alleged multiple violations of the right to a fair hearing and the right to an effective remedy, as well as the prohibition of discrimination and the protection of property. They also requested just satisfaction corresponding to the losses incurred by Ljubljana Bank as a result of the alleged violations. The ECtHR had previously established the general factual and legal background to the case in its judgments and decision in *Kovačić and Others v. Slovenia*, *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia*, and *Ljubljanska Banka D.D. v. Croatia*. In the latter case, the Court had declared inadmissible an individual application lodged by Ljubljana Bank itself, finding that, as it did not have sufficient institutional and operational independence from the State, it was not 'non-governmental' within the meaning of Article 34 of the Convention. The idea behind this principle was to ensure that a State Party could not act as both an applicant and a respondent in the same matter. Relying on its previous decisions, the Grand Chamber held that Article 33 of the Convention (inter-State applications) did not allow an applicant Government to defend the rights of a legal entity which did not qualify as a 'non-governmental organisation' and which, therefore, would not be entitled to lodge an individual application under Article 34. Accordingly, Article 33 did not empower the Court to examine an inter-State application alleging a violation of any Convention right in respect of this legal entity. The Court therefore lacked jurisdiction to hear the case.

6.2 Cases dealing with inhumane and/or degrading treatment or punishment (Article 3)

Rehbock v. Slovenia[165] concerned the applicant, a German national, who was arrested by the Slovenian police, detained on remand and accused of dealing with narcotics and smuggling. The applicant claimed that during the arrest, in the course of which he suffered injuries, the Slovenian police used excessive force. A doctor examined the applicant and diagnosed a double fracture of the jaw and facial contusions. The applicant refused to undergo the immediate surgery recommended by a doctor. During his detention, his first request for release was dismissed after 23 days. Another request for release lodged by the applicant on 29 November 1995 was dismissed on 22 December 1995. While in detention, the applicant’s correspondence with the

[165] *Case of Rehbock v. Slovenia*, App. No. 29462/95, 28 November 2000.

European Commission of Human Rights was monitored. He contended that, during this time, he was also subjected to inhuman and degrading treatment as he had not been provided with adequate medical care. The applicant was convicted of drug-related offences and sentenced to 17 months' imprisonment. The appellate court upheld the first instance judgment. The Court found that the treatment to which he had been subjected during his arrest had been inhumane and in violation of Article 3. The Court also ruled that there had been a violation of the right to liberty and security because the applicant had not been able to initiate proceedings to determine the lawfulness of his detention speedily, as required by Article 5 § 4, and that his right to compensation in this respect, as guaranteed by Article 5 § 5, had been violated. Finally, the ECtHR established a violation of Article 8 in that the applicant's correspondence with the Commission had been monitored during his detention.

In *Matko v. Slovenia*,[166] the ECtHR reviewed a 1995 police operation in Slovenj Gradec. During this operation, police stopped the applicant, who was driving fast, and injured him during the arrest. He sustained bruises, abrasions, and a broken bone. Following brief detention and questioning, he was released but charged with obstructing an official act. The Slovenian government claimed his injuries were due to lawful police force in response to resistance. The applicant, however, alleged that two vehicles blocked his path, and armed, masked men violently pulled him from his car, threatened to kill him, and used a taser. His complaint to the State Prosecutor's Office was dismissed after eight months on the basis of the findings of an internal investigation carried out by the Police and the Ministry of Interior. Although initially acquitted for lack of evidence, he was convicted on retrial. Neither the state prosecutor's office nor the court identified the officers who allegedly used excessive force. In his appeal to the ECtHR, the applicant claimed that he was the victim of inhuman treatment during his arrest and that the state authorities did not seriously investigate his statements, supported by a medical certificate. The Slovenian government argued that the applicant had not exhausted all legal remedies, as he could have continued proceedings as a subsidiary prosecutor or filed a civil suit after his complaint against the police was dismissed. The Court found Slovenia responsible for violating Article 3 due to ill-treatment during the police proceedings and the failure to perform an effective investigation into the applicant's allegations that he was ill-treated by the police. The ECtHR

[166] Cited *supra* (footnote 128).

dismissed claims under Articles 5 and 6, noting that the applicant missed the 6-month deadline to challenge his detention and ruled that the trial duration was reasonable, concluding within five years across four instances.

6.3 Cases regarding the right to a fair trial (Article 6)

6.3.1. Right to a fair hearing

Dolenc v. Slovenia[167] concerned an Israeli citizen who had been left paralysed after being operated on by the applicant, a well-known neurosurgeon, in a Ljubljana hospital and the ensuing proceedings in both Israel and Slovenia. After the patient brought proceedings in Israel seeking damages for medical negligence, the applicant refused to attend the trial in Israel or be examined via video link, insisting from the beginning that Slovenian law should apply in the dispute and that he and his witnesses be examined by the Slovenian courts via the Hague Evidence Convention procedure. The applicant was eventually found fully liable in 2005. He was ordered to pay approximately 2.3 million euros (EUR) in damages. In 2011, the patient applied to have the Slovenian courts recognise the Israeli court decisions, and in 2018, the Supreme Court found in his favour. A constitutional complaint by the applicant was subsequently rejected in 2019. In those proceedings, the Slovenian courts considered that the applicant had been given sufficient opportunities to present the evidence and defend himself in Israel. Relying on Article 6 (right to a fair trial), the applicant alleged that the Slovenian courts should have refused to recognise the Israeli judgments because they had been rendered in unfair proceedings. The ECtHR found in particular that, before recognising the Israeli judgments awarding the applicant's former patient more than 2 million euros, the Slovenian courts had failed to duly satisfy themselves that the trial in Israel had been fair. There had, in particular, been issues concerning evidence-gathering. The court in Israel did not hear crucial witnesses, such as the hospital staff and a Slovenian law expert, and excluded their statements from the case file. There had accordingly been a violation of Article 6 § 1 of the Convention.

[167] *Case of Dolenc v. Slovenia*, App. No 20256/20, 20 October 2022.

Delivered on 19 December 2024, the judgment in *X and Others v. Slovenia*[168] concerned custody decisions and contact rights following the separation of X from her children's father in 2018. It also concerned the reassignment of X's court case to a particular judge. The applicants were the mother (the first applicant) and her three children (the second, third and fourth applicants). Following the separation of the first applicant and the applicant children's father in 2018, the applicant children lived with the first applicant based on an interim care order by a judge, which was later overturned by another judge, to whom the case had in the meantime been allocated, in favour of the father. The latter order was based on a finding that the first applicant had obstructed the execution of the applicant children's contact with their father and had probably sought to alienate them. On 16 March 2020, the same judge issued a decision ordering the removal of the applicant children from the first applicant and the removal was carried out the next day despite the applicant children's strong resistance. One of the applicant children even required medical attention during this event. Since then, the applicant children have had either no or very limited contact with the first applicant. The first applicant's requests for a new interim care order were dismissed by the same judge on 17 November 2020 and 8 January 2021. During the proceedings concerning the custody and contact rights, which are still ongoing, the first applicant made several requests for the exclusion of the judge from dealing with the case. She alleged and continues to allege that the judge is biased and has not been appointed in line with the rules set out in the applicable legislation. The first applicant's requests were dismissed first by the president of the Ljubljana District Court and later by the Ljubljana Higher Court. The Constitutional Court decided not to accept for consideration the first applicant's constitutional complaints relating to the Ljubljana Higher Court's decision by observing that the first applicant's allegations concerning the allegedly unlawful allocation of her case to the judge and the latter's bias were unfounded. It also noted that the applicant children's wish expressed to the welfare authorities had not necessarily reflected their true opinion and that the first applicant had failed to make a request for an extended contact. The Constitutional Court also dismissed her petition in which she challenged the legislation regulating the enforcement of care orders. In their complaint to the ECtHR, referring to the proceedings which ended by the Constitutional

[168] *Case of X and Others v. Slovenia*, App. Nos. 27746/22 and 28291/22, 19 December 2024.

Court's decision, the applicants complained, under Article 6 paragraph 1 of the Convention, that the case was allocated to judge at stake unlawfully, that the judge lacked impartiality, and, under Article 8 of the Convention, that the applicant children have been unable to enjoy family life with the first applicant. The applicants also complained that the applicant children were subjected to treatment incompatible with Article 3 during their forcible removal based on the decision of 16 March 2020. The European Court of Human Rights held, unanimously, that there had been a violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, as regards X's right to a tribunal established by law, and violations of Article 8 (right to respect for private and family life) with respect both to: (a) the applicant children, as regards the order to remove them from X's (their mother's) care in March 2020, their lack of representation in the contact and custody proceedings, and their not being allowed contact with their mother; and (b) X, for not being allowed contact with her children. The Court found in particular that the President of the District Court, in assigning the applicants' cases to a particular judge, contrary to objective pre-established criteria, had defied the clear purpose of the law – namely, to ensure randomness in the assignments of cases. It also considered that two interim orders and a judgment prohibiting contact between the children and their mother had not been justified and that the removal of the children from X had not been supported by relevant and sufficient reasons. Moreover, the national courts' failure to ensure proper representation of the children's interests during the contact and custody proceedings had amounted, in itself, to a breach of the children's right to respect for their family life.

6.3.2. Right to a fair hearing within a reasonable time

Lukenda v. Slovenia[169] is a key Slovenian case regarding the right to a fair trial within a reasonable time. In 1994, the applicant was injured while working in a mine. Due to the consequences of the injury, partial disability was established (13 percent). He received compensation for partial disability from the insurance company. His claims for an increase in compensation were repeatedly rejected by the insurance company. In December 1998, on the basis of an expert opinion, he initiated proceedings against the insurance company before the District Court in Celje for an increase in compensation by 7 percent and later by an additional 2.5 percent. In the court proceedings

[169] Cited *supra* (footnote 121).

at the first instance, which lasted four years, the court partially granted his claim. The applicant appealed to the higher court, where the proceedings lasted a year and three months. The court granted his claim again, only partially. The applicant filed an appeal with the ECtHR before exhausting the remaining legal means in Slovenia, i.e. appeals at the Administrative Court, the Supreme Court and the Constitutional Court. In the appeal, he claimed a violation of the right to a fair trial within a reasonable time due to the excessively long duration of the proceedings and a violation of the right to an effective legal remedy, which would enable the elimination of the violation of the right to a trial within a reasonable time. The court rejected the Slovenian government's objection that the applicant had not exhausted domestic legal remedies. It concluded that the remaining remedies neither individually nor in combination meet the efficiency criteria set by the ECtHR in past decisions. On the main point, it ruled that the procedures, in which the courts and other authorities decided on the applicant's case, were unreasonably long. The ECtHR found violations of the first paragraph of Article 6 (the right to a fair trial within a reasonable time) and Article 13 (the right to an effective legal remedy) of the Convention. The Court additionally found that these violations in Slovenia at that time were not an isolated case, but a systemic problem of dealing with court backlogs due to inadequate legislation and ineffective judicial practice.

6.3.3. Presumption of innocence

Bavčar v. Slovenia[170] concerned the applicant Mr Bavčar, a former Government minister, who was found guilty of abuse of a position or rights when carrying out an economic activity and money laundering in 2016. He received a prison sentence and was ordered to return the illegally obtained assets. In 2015, the Supreme Court ordered a retrial as it was not clear that all the elements of the offence had been met in the case. In September 2016, the Ljubljana District Court acquitted the applicant of the criminal offence of inciting abuse of a position or rights but found him guilty of money laundering. The applicant's prison sentence had been stayed owing to his poor state of health. However, footage later emerged of him allegedly playing basketball. On the day the footage emerged the then Minister of Justice, Goran Klemenčič, gave a television interview to POP TV (a commercial television station) where he stated, *inter alia*, that '*[If] the*

[170] *Case of Bavčar v. Slovenia*, App. No. 17053/20, 7 September 2022.

Bavčar case becomes time-barred, a lot of people will have to answer for that' and that he, as the minister, '*will be the first to demand answers*.' The applicant appealed against the retrial judgment, arguing that money laundering could not be a result of indirect intent and that the televised statements by the minister had exerted pressure on the Higher Court judges. That appeal was dismissed, and so were his application for the protection of legality to the Supreme Court and two complaints to the Constitutional Court. Considering the applicant's complaint, the ECtHR reiterated that the presumption of innocence was violated when public officials made statements that an individual was guilty before he or she had been tried. As regards the influence of those statements on the proceedings before the Slovenian courts, the Court noted that the cumulative effect of those statements had been capable of prejudicing the Higher Court in its judgment in the case. As the presumption of innocence had been violated in the applicant's case, there had therefore been a violation of Article 6, paragraph 2.

6.4 Principle of legality (Article 7) and property rights (Article 1 of Protocol No. 1)

Rola v. Slovenia[171] concerned the applicant, Mr Štefan Rola, who was granted a licence to work as a liquidator in insolvency proceedings. However, in 2011, the Minister of Justice revoked his licence because he had been convicted of two counts of violent behaviour in 2003 and 2004. He was thus struck off the register of liquidators and could no longer be assigned any insolvency proceedings. He brought an administrative action before the Slovenian courts against this decision by arguing that at the time he had acquired the licence, the law had not provided for revocation if convicted of a criminal offence. He argued that the revocation of his licence had been based on new legislation introduced in 2008. The national courts dismissed his action in 2012, finding that the revocation had been entirely lawful. In 2013, the applicant applied for a new liquidator's licence, which the Ministry of Justice rejected because, under the new 2008 legislation, a licence could not be granted once it had been revoked. He lodged another administrative action, which was also ultimately unsuccessful, in a decision before the Supreme Court in 2015. After unsuccessfully challenging previous decisions before the Constitutional Court, the applicant filed a petition at the ECtHR. He claimed that the Slovenian authorities violated

[171] *Case of Rola v. Slovenia*, App. No. 12096/14, 4 June 2019.

Article 7 (no punishment without law), Article 1 of Protocol No. 1 (protection of property) and Article 4 of Protocol No. 7 (right not to be punished twice for the same offence). The Court found that the measure had been imposed under administrative law, completely separately from the ordinary sentencing procedure and that therefore the revocation of the applicant's licence had not amounted to a criminal punishment. According to the Court, Article 7 was not applicable and there had, therefore, been no violation of that provision. The Court also rejected as inadmissible the applicant's complaint that the revocation of his licence and his conviction for violent behaviour had constituted double jeopardy (Article 4 of Protocol No. 7). However, the ECtHR considered that Mr Rola could not have reasonably foreseen that his conviction would have automatically led to the revocation of his licence. The revocation had thus not been lawful, and Slovenia violated his rights under Article 1 of Protocol No. 1.

In *Ribič v. Slovenia*,[172] the ECtHR held that the overall prison sentence of thirty years imposed on the applicant by the judgment of a national criminal court was in breach of the principle of legality enshrined in Article 7 of the Convention. The Court noted that the provisions of the Criminal Code were deficient and that the domestic courts interpreted them by resorting to the canons of interpretation that were clearly to the detriment of the applicant and led to the conclusion that the provisions should be understood as imposing a sentence of thirty years. The domestic courts did so despite the fact that such a penalty was heavier than the maximum sentence explicitly provided for in the applied legal provision and that, having regard to the actual wording of that provision, it was clearly to the detriment of the applicant. Accordingly, the Court concluded that the domestic courts failed to ensure the observance of the principle of legality enshrined in Article 7 of the Convention. It further found that the overall penalty imposed on the applicant was in violation of both the principle that only the law can prescribe a penalty and the principle of retrospectivity of the more lenient criminal law. The Court stated, inter alia, that the guarantee enshrined in Article 7, which is an essential element of the rule of law, occupies a prominent place in the Convention system of protection, as is underlined by the fact that no derogation from it is permissible under Article 15 of the Convention in time of war or other public emergency. It should be construed and applied, as follows from its object and purpose, in such a way as to provide effective safeguards against arbitrary prosecution, conviction

[172] *Case of Ribič v. Slovenia*, App. No. 20965/03, 19 October 2010.

and punishment (the Court referred to *Del Río Prada v. Spain* and *Vasiliauskas v. Lithuania*).

6.5. Private and family life cases (Article 8)

Benedik v. Slovenia[173] concerned the applicant, Mr Igor Benedik, who was involved in a peer-to-peer file-sharing network, which included the sharing of child pornography pictures or videos. After being informed by their Swiss counterparts about a dynamic IP address that was being used in a peer-to-peer file-sharing network, the Slovenian police asked the local Internet service provider for information about the user who had been assigned that IP address, which the company handed over. The police used a provision of the Criminal Procedure Act, which allowed them to request subscriber data from an electronic communication provider without a court order; however, this provision had no rules covering the link between subscriber information and a dynamic IP address. Although the IP address at first identified the applicant's father as the subscriber to the Internet service in question, it transpired that it was the applicant who used the service himself and had downloaded files with child pornography. He was formally placed under investigation, and in December 2008, he was convicted of the offence of the display, manufacture, possession or distribution of child pornography. He made unsuccessful appeals to the Ljubljana Higher Court, the Supreme Court, and the Constitutional Court. The latter found, inter alia, that such information was in principle protected by constitutional data privacy safeguards, but that Mr Benedik had waived his right to protection by revealing his IP address and the content of his communications on the file-sharing network. The applicant alleged throughout the domestic proceedings, as well as in his petition to the ECtHR, that the evidence about his identity had been obtained unlawfully because the authorities did not have a court order to obtain subscriber information associated with the dynamic IP address in question. The ECtHR found that the provision of the Criminal Procedure Act used by the police to access subscriber information relating to the dynamic IP address had lacked clarity and had not offered sufficient safeguards against arbitrary interference with his Article 8 rights. The Court drew upon the Constitutional Court, which had ultimately found that it had not been necessary to get a court order in the applicant's case as he had effectively waived his right to privacy by revealing his IP address and the contents of his communication on the file-sharing network. The

[173] *Case of Benedik v. Slovenia*, App. No. 62357/14, 24 April 2018.

ECtHR did not find that decision to be reconcilable with the scope of the right to privacy under the Convention, and that the police should have obtained a court order, as nothing in the law had prevented them from seeking one. The interference with the applicant's rights had therefore not been 'in accordance with the law' and had led to a violation of Article 8 of the Convention.

Škobrne v. Slovenia[174] concerned the applicant Mr Milko Škoberne, a former district-court judge who was arrested in January 2011 following an undercover operation into his allegedly accepting bribes to intervene in proceedings against E.Ć. for fraud and prostitution related crimes. Two others, E.R. and M.S., were arrested at the same time for acting as intermediaries. The applicant, who had received EUR 8,000 from M.S. in repayment of a loan, said in his defence that he had meetings with E.Ć., E.R. and his friend, M.S., and had given legal explanations regarding their criminal case, but at no point had there been any talk of money. On 23 December 2013, the first-instance court found the applicant guilty as charged. The applicant's challenges to his conviction, ultimately before the Constitutional Court in 2015, were all unsuccessful. The applicant argued that he had been denied the possibility of putting questions to E.R. and M.S. in court, and that the trial judge had not stepped down, despite her having accepted his co-defendants' admission of guilt, raising doubts over her impartiality. The applicant also complained that the first-instance court had relied on data to convict him, which had been obtained from electronic communication providers who had been obliged by law at the time to retain data for a period of 14 months. The courts dismissed that complaint, however, concluding that the data in question had been accessed before this retention regime had been declared invalid by a Constitutional Court ruling of 2014. Relying on Articles 6 and 8, the applicant complained that the first-instance court had refused to allow the examination of two witnesses, that the judge in the trial had been partial as she had been involved in the proceedings against those witnesses, and of the retention of his telecommunications data. The ECtHR found that although the retention regime had been declared invalid by the Constitutional Court and the CJEU after his data had been accessed, that did not mean that it had complied with Article 8 at the time and that he had enjoyed the legal protection to which he had been entitled under the Convention. Overall, the retention, access and processing of telecommunications data at the time of the applicant's

[174] *Case of Škobrne v. Slovenia*, App. No. 19920/20, 15 February 2024.

conviction had been in violation of Article 8 of the Convention. Regarding the fact that the applicant had been deprived of the opportunity to effectively adduce witness evidence and that the higher courts had not redressed that shortcoming, the Court found that this had rendered the trial proceedings unfair. There had accordingly been a violation of Article 6 paragraphs 1 and 3 of the Convention. Following that finding, the Court considered that it was not necessary to examine the merits of the complaint under Article 6 paragraph 1 concerning the trial judge's alleged lack of impartiality.

Another case pertaining to the protection of private and family life and also the minorities' rights was *Hudorovič and Others v. Slovenia*.[175] The case concerned complaints by the applicants, who are all Slovenian nationals of Roma origin, about an alleged lack of access to drinking water and sanitation, taking into consideration their lifestyle and minority status. Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to respect for private and family life), and Article 14 (prohibition of discrimination) in conjunction with Articles 3 and 8, the applicants complained of a lack of access to basic public utilities, notably drinking water and sanitation. They also argued that they had been subjected to a negative and discriminatory attitude by the local authorities. The Court noted that access to safe drinking water was not, as such, protected by Article 8; however, water was necessary for human survival and a persistent and long-standing lack of access to it could have adverse consequences for health and human dignity, effectively eroding the core of private life and the enjoyment of a home. The Court was therefore unable to exclude that a convincing allegation of such stringent conditions could trigger the State's positive obligations under Article 8. In the given case, a diesel generator and a water tank were purchased and placed in the settlement and water was provided by the fire brigade. However, the applicants stated that the tank had become mouldy and unusable and that residents had had to replace it. Some applicants argued that they have not even taken part in that system, partly due to opposition from a neighbour to their accessing it. They obtained water from a fountain in the village. The ECtHR noted that the municipal authorities had taken some concrete steps to ensure the applicants had access to safe drinking water and that the applicants were also in receipt of social welfare benefits and were not living in a state of extreme poverty.

[175] *Case of Hudorovič and Others v. Slovenia*, App. Nos. 24816/14 and 25140/14, 10 March 2020.

The Court considered that the authorities had recognised the applicants' situation and, through their system of social benefits, had ensured that they were guaranteed a certain basic level of subsistence which was, or could have been, used, among other things, for improving their living conditions. It was thus found that the measures adopted by the State in order to ensure their access to safe drinking water and sanitation had taken account of their vulnerable position and had satisfied the requirements of Article 8 of the Convention. It also considered that even assuming that Article 14 applied, there had been no violation of that provision in conjunction with Article 8. Finally, the Court stated that it could not exclude the possibility that State responsibility could arise for 'treatment' where an applicant, in circumstances wholly dependent on State support, found himself or herself faced with official indifference when in a situation of serious deprivation. However, establishing that the positive measures taken by the domestic authorities had provided the applicants with the opportunity to access safe drinking water, it found no violation of Article 3, taken alone and with Article 14.[176]

A noteworthy Article 8 case, as identified by the ECtHR's Press Unit, is *Eberhard and M. v. Slovenia*.[177] In this case, the Court found a violation of the Convention after a father was unable to see his daughter for more than four years owing to the prolonged inactivity of the Slovenian authorities.

6.6. Freedom of expression (Article 10)

Cimperšek v. Slovenia[178] concerned the applicant Mr Jernej Cimperšek, who applied for the title of court expert on the assessment of the effects of natural and other disasters. He passed the test and was waiting to take his

[176] The *Hudorović* case attracted a number of third-party interventions (e.g. from the European Roma Rights Centre and the Human Rights Centre of Ghent University). This was the first time that the ECtHR had to examine whether the right to access safe drinking water and sanitation is protected by the ECHR (particularly under Article 8). Although the judgment does not question the restrictions imposed by Slovenian legislation on access to water and sanitation services, it recognises that such legislation may have disproportionate effects on members of the Roma community who, like the applicants, live in illegal settlements and rely on social benefits for their subsistence. In this particular case, the ECtHR found that those risks had been sufficiently mitigated. However, the precedent may prove significant for future complaints brought by Roma or other disadvantaged groups living without access to basic utilities. See Juhart and Sancin, 2022, pp. 446–447.

[177] Cited *supra* (footnote 145).

[178] *Case of Cimperšek v. Slovenia*, App. No. 58512/16, 30 June 2020.

oath in 2014, when the Minister of Justice refused his application as he did not have the personal qualities required to be an expert under the *Court Act*. The Minister found that comments in the applicant's blog, which were about social and political issues, and in emails to other candidates, which were about delays in the oath ceremony, had been offensive and incompatible with the work of a court expert. Mr Cimperšek contested this decision in the courts, alleging that it had breached his freedom of expression. He also argued that the assessment of his personal qualities should not be limited to his emails and blog and requested that the court hear witnesses on his moral character and about the fact that the blog was read only by his friends. The Administrative Court's dismissal of the applicant's claim, which upheld the Minister's conclusion about his fitness to be a court expert, was followed by the Supreme Court rejection of his appeal and the Constitutional Court's decision in 2016 not to accept a constitutional complaint for consideration. The ECtHR considered that the decision in question had essentially related to the exercise of freedom of expression and not access to public service. Finding out that there had been no detailed reasons in the Minister's decision or the Administrative Court's judgment as to why the applicant's exercise of his right to free expression had been offensive and incompatible with the work of a court expert, the ECtHR could not accept an argument by the Government that the Minister's decision had been necessary to secure morals and the reputation of court experts. Neither the Minister nor the Administrative Court had carried out any assessment of whether a fair balance had been struck between the competing interests at stake, and the Court had thereby been prevented from effectively exercising its scrutiny as to whether the domestic authorities had implemented the standards established in its case-law on the balancing of such interests. That was sufficient for the ECtHR to conclude that the interference with the applicant's freedom of expression had not been 'necessary in a democratic society' and that there had been a violation of Article 10. Additionally, the Court concluded that there had been a violation of Article 6, paragraph 1, on account of the lack of an oral hearing in the proceedings before the Administrative Court.

6.7. Right to free elections (Article 3 of Protocol No. 1)

Zevnik and Others v. Slovenia[179] concerned three Slovenian nationals and two political parties, which formed a coalition and submitted lists of

[179] *Case of Zevnik and Others v. Slovenia*, App. No. 54893/18, 5 December 2019.

candidates for the early parliamentary elections in 2018. The electoral commissions of two out of eight election constituencies rejected the coalition's lists, which included the two applicants, as they had not met the required level of 35% gender representation, in this case for females, as a share of the total actual number of candidates on each list. The applicants appealed to the Supreme Court by arguing that the number of women on both lists was more than 35% of the total number of candidates, as the same female candidates would run in more electoral districts in the constituencies in question. Alternatively, the electoral commissions should have given the party time to correct the problem. The Supreme Court dismissed their appeals, and the Constitutional Court voted seven to two against considering the case. It found that election lists had to be submitted in good time and be in conformity with the law, which was clear on the quota requirements. In its decision in the case, the ECtHR stated that rejection of the two lists had thus interfered with the passive electoral rights guaranteed by the Convention. However, it held that the advancement of equality of the sexes was a major goal among Council of Europe States and that the interference in question had pursued the legitimate aim of strengthening democratic legitimacy by ensuring a better balance of women and men in political decision-making. The Court also noted that Slovenia's two highest domestic courts, relying on a literal reading of the Election Act and on their own case-law, had held that the provisions and the penalties for non-compliance with them were clear and foreseeable. The ECtHR has unanimously declared the application inadmissible. It found, in particular, that the rules on gender representation for party lists on which the rejections had been based and the penalties for non-compliance with the rules were clear, and that the coalition party should have been aware of them. According to the Court, such quotas helped ensure democratic legitimacy and were compatible with the Convention. The ECtHR also rejected the applicants' claim that the electoral commissions should have given the party time to correct the problem. The Court accepted the Slovenian government's argument that the decision not to allow the corrections had been based on the legislature's legitimate concern to ensure the timely completion of the electoral process and respect for the principle of equal suffrage.

6.8. Noteworthy pending cases

Landika v. Slovenia[180] is related to the ECtHR judgment in *Ališić and Others* delivered in 2014 (see above). The applicants' predecessor (husband and father), L., had foreign-currency savings in the Sarajevo branch of Ljubljanska Banka. Neither he nor the applicants have recovered any of these savings nor used them in the privatisation process. In *Ališić and* Othes, the Grand Chamber adopted a pilot judgment regarding 'old' foreign-currency savings in, *inter alia*, the Sarajevo branch of Ljubljanska Banka. It found, in respect of Slovenia, a breach of Article 13 of the Convention and Article 1 of Protocol No. 1 and held that Slovenia should make all necessary arrangements in order to allow the respective applicants and all others in their position to recover their savings under the same conditions as those who had such savings in domestic branches of Slovenian banks. On 4 July 2015, the law on the implementation of the *Ališić and Others* judgment entered into force. Relying on its provisions, L. made a request for verification with a view to recover his 'old' foreign-currency savings. The Succession Fund of Slovenia rejected his request by finding that the savings which had been transferred to the privatisation account were excluded from the repayment scheme. L. and, after his passing, the applicants challenged that decision before the domestic courts, including, ultimately, the Constitutional Court. The latter found that the applicants' constitutional complaint should not be accepted for consideration. The majority of the Constitutional Court judges opined that in *Ališić and Others,* the Grand Chamber had not addressed the situation such as the one in the present case because the savings of the applicants in that case had not been transferred to a privatisation account. It further found that the debtor-creditor relationship between L. and the bank had ceased to exist on the basis of the FBH's action – that is, the transfer of the savings to the privatisation account – and not the actions of the Ljubljanska Banka or Slovenia. Relying on *Ališić and Others* (outlined above), the applicants complain that they have been unable to recover L.'s 'old' foreign-currency savings, alleging a breach of Article 1 of Protocol No. 1 to the Convention. About fifty similar applications are currently pending before the Court.[181]

Janković v. Slovenia[182] concerns the findings of the specialised Anti-Corruption Commission (the Commission) regarding the applicant, a well-

[180] *Case of Landika v. Slovenia,* App. No. 45987/22, 23 September 2022.
[181] ECtHR, 2025a.
[182] *Case of Janković v. Slovenia,* App. No. 15118/22, 4 October 2022.

known politician who has served as mayor of Ljubljana since 2006. In 2011, under the framework of anti-corruption legislation, the Commission reviewed the assets of the presidents of all parliamentary parties in Slovenia. It published its conclusions in 2012, but in respect of the applicant, these were set aside by the Supreme Court on the grounds that he had not been given the opportunity to comment on them beforehand. On 26 November 2015, the Commission issued fresh conclusions concerning the applicant, finding that between 2006 and 2012 he had violated the law by failing to report property (or changes thereto) relating to real estate, shares, and cash. The Commission also concluded that certain business transactions carried out during that period presented a high risk of corruption and conflict of interest, as they had been initiated by a company that was simultaneously engaged in business with the Ljubljana Municipality. It was further determined that the applicant had received EUR 208,000 in his bank account as a result of those transactions. On 5 January 2018, the Administrative Court dismissed the applicant's appeal against the Commission's conclusions, holding that there had been no violation of his rights in the proceedings. His further appeal to the Supreme Court was rejected on 3 July 2019, and the Constitutional Court declined to consider the case. The applicant complains, under Article 6 of the Convention, that the Administrative Court's review of the Commission's conclusions was too limited in scope and, therefore, did not afford him genuine access to a court.[183]

According to statistics from the CoE's Department for the Execution of Judgments of the European Court of Human Rights, a total of four Slovenian cases are currently pending.[184]

7. Conclusion

The Slovenian Constitution explicitly recognises the primacy of international law and treaties, including the ECHR, over national laws and other general acts within the domestic legal system. Article 8 of the Constitution states that '*laws and other regulations must conform to generally accepted principles of international law and to international*

[183] ECtHR, 2022c.

[184] Council of Europe Department for the Execution of Judgments of the European Court of Human Rights (2025) Slovenia and the Council of Europe' [Online]. Available at: https://www.coe.int/en/web/execution/slovenia (Accessed: 29 March 2025).

treaties that are binding on Slovenia.' This constitutional setting ensures the direct applicability of ECHR (and other CoE conventions') provisions in domestic law and the enforceability of ECtHR decisions within the Slovenian legal system.

While all CoE treaties were ratified after 1991, following Slovenia's attainment of sovereignty and independence, the reporting processes under CoE instruments have significantly contributed to strengthening human rights and the rule of law in Slovenia. They have facilitated major legislative reforms (e.g. judicial remedies for delayed proceedings, establishment of independent investigative mechanisms for police misconduct, minority protection frameworks, etc.). However, persistent challenges highlight that reporting alone is not enough, given that reporting processes are often technocratic, with limited public or parliamentary debate. Without strong domestic political will and institutional capacity, recommendations risk remaining on paper and without broader impact on political culture and public awareness. Accordingly, academic experts (and NGOs) play an increasingly important role in providing expertise and shadow reports that help international bodies identify blind spots in state self-reporting.

With only four cases currently pending before the ECtHR and a compliance rate of 96% for adverse ECtHR judgments, Slovenia has one of the highest compliance rates among all current member states and may be considered an example of 'good practices,' especially given the thousands of cases pending before the Committee of Ministers. A closer look at the state's compliance record reveals that Slovenian authorities have taken concrete steps to improve the promotion and coordination of the enforcement of ECtHR judgments.

In 2014, an amendment to the *State Administration Act*[185] designated a body (the Ministry of Justice) responsible for promoting and coordinating the enforcement of judgments from international courts. This was followed in late 2015 by the adoption of a resolution establishing the Interministerial Working Group for the Coordination of the Enforcement of ECtHR Judgments.

In 2015 and 2016, the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs, sent a national expert to Strasbourg for an internship at the Council of Europe's Department for the Enforcement of

[185] Zakon o spremememba in dopolnitvah zakona o državni upravi (ZDU-1I) [*Act on changes and amendments to the State Administration Act* (ZDU-1I)], Official Gazette of the Republic of Slovenia, No. 90/14.

ECtHR Judgments to acquire the necessary skills. Additionally, the legal advisor from the Ministry of Justice at the Permanent Representation of the Republic of Slovenia to the Council of Europe is actively involved in the field of judgment enforcement. [186]

Furthermore, the *Act on the State Attorney's Office*[187] introduced more detailed provisions regarding the representation of Slovenia before international courts and international arbitrations. This law defined the role of the international department within the State Attorney's Office, including co-representation of Slovenia before the ECtHR, the enforcement of financial obligations related to settlement procedures before the ECtHR, and participation in the enforcement of ECtHR decisions. According to this law, only a Slovenian citizen may represent Slovenia before the ECtHR and other international bodies.

Slovenia's strong compliance record may also be related to the compensation provided to successful applicants. On average, the country pays €7,000 to compensate victims of human rights violations, with the most common amount awarded in cases against Slovenia being €4,200. This sum includes both pecuniary and non-pecuniary damages, along with costs related to the ECtHR procedure. Since the first adverse judgment in 2000, the state has paid a total of €2.4 million in just satisfaction awards.[188] While compensation amounts awarded to applicants before the ECtHR are generally too low to significantly encourage faster and more efficient compliance or to prevent future violations, Slovenia presents a different case, showing that compensation can indeed act as an incentive for compliance.[189]

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[186] Government of the Republic of Slovenia, 2025.

[187] Zakon o državnem odvetništvu (ZDOdv) [*Act on the State Attorney's Office* (ZDOdv)], Official Gazette of the Republic of Slovenia, No. 23/17. See Chapter 2, Section 3, Arts. 20-23.

[188]See Fikfak and Kos, 2021, p. 6. That amount does not include the additional compensation schemes that the state was required to create under the Court's express order in response to two pilot judgment procedures in the *Kurić* and *Ališić* cases. The sum of 400,199.42 EUR was paid in the *Kurić* case, where the Court ruled that the erasure of residents was not in accordance with the Convention.

[189] *Ibid*. For example, since the first adverse ruling in 1959, the UK has paid a total of 11 million EUR to compensate victims of human rights violations. Generally, these violations have cost the UK more than they have cost Slovenia. However, compared to Slovenia, the UK compensates its victims more than twice as quickly—on average, in less than a year, while in Slovenia it takes two years for just satisfaction awards to be paid. See *ibid*.

However, compliance with, or the execution and enforcement of, ECtHR decisions must be distinguished from their implementation, which occurs only when the state adopts (rather than merely plans) appropriate measures that lead to changes within the domestic system, preventing future violations. While Slovenia's record of compliance with the ECHR is generally very positive, there have been several significant cases in which the ECtHR found violations of the Convention. These cases have resulted in legislative reforms, policy changes, and/or administrative measures that have enhanced the protection and respect of human rights. As Slovenia continues to evolve within the European human rights framework, ongoing and future reforms will be essential to ensure the full realisation of the rights guaranteed under the ECHR.

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