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JUSTICE 2020 STRATEGY

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1. Purpose of the document¹

The state and its overall performance, with society as its material and personnel substrate, are not static categories, but call for constant effort that encompasses continuous research, analysis and the deployment of improvements and innovations. If in the recent past the state could still be referred to as the *patria potestas*, i.e. the all-embracing paternalistic institution that takes care of all our needs while at the same time providing us with security and support to deal with the emergence of different kinds of social, material and societal deprivation (as a rule, these emerge through no fault of our own), then it can be argued today that the state is increasingly undertaking the role of coordinator of different support mechanisms. The nation state has not yet lost its role as the basic cell of social organisation and self-organisation in an increasingly globalised world; nevertheless, it has been slowly but persistently undergoing a redefinition in terms of its fundamental roles and missions. The basic patterns that once gave it meaning have steadily changed because the main areas of its performance and influence are being modified. Changes in the performance of the nation state are complex and intermittently disproportionate, but they do not involve a simple erosion of sovereignty and autonomy, since their meaning and main functions are still guaranteed,² which does not of course imply that there is no room for improvement.

The changes to structure and values outlined above testify to the dynamics of a gradual cultural, sociological and economic evolution of contemporary society. This means that it will be no longer possible in the future to direct social development in a creative and intelligent manner, and above all in an ecologically sustainable manner, using existing tools shaped in the past by different policies in specific areas of social life. European society may be expected to develop into a *post-material society* that creates social wealth mainly by trading in ideas, creativity, new knowledge and information on the basis of sustainable development and promotion of the use of green technologies and intelligent infrastructure. These guidelines have already been incorporated into the basic targets of the *Europe 2020 Strategy – A Strategy for Smart, Sustainable and Inclusive Growth*.

This will be a society in which trade in information is of greatest importance and in which fundamental principles dictate greater quantity and better quality, while at the same time emphasising difference, diversity and adjustment to specific individual needs. Post-material society will be strongly marked by the intelligent development of information technology in all areas of life, work and operation; this will further modify our way of life.

All this will have an important impact not only on the organisation of the working environment but also on how we think about and perceive the world. Modern technology in its present form already provides the kind of access to different sources of information and knowledge unimaginable a few decades ago. At the same time, this has sharpened the issue of accessibility, while the issue of being sufficiently qualified to be able to use advanced technology and make the information meaningful is becoming increasingly important. The period between the discovery of a particular solution and its actual use in practice has been persistently decreasing

1 The introductory text on post-material society was prepared on the basis of findings of the contribution by Andreja Barle: Characteristic features of contemporary society v model of effective management of a higher education institution [electronic source] / edited by Nada Trunk Širca; drawings by Alen Ježovnik. – El. book. – Koper: Faculty of Management, 2010. – (Scientific monographs of the Faculty of Management, ISSN 1855-0878), pp. 20 and 21.

2 See Roger Dale: Globalisation and the rescaling of educational governance: a case of sociological ectopia in Critique and utopia, ed. C. A. Torres and A. Teodoro, 2007, 25–42. New York: Rowman and Littlefield, p. 37.

in recent years. The exponential growth associated with the accumulation of knowledge has begun to create paradoxes to which our brains must respond ever faster; at the same time, however, special attention must be paid to moral and ethical dilemmas and to the increasing social problems. This is also felt in Slovenian society, particularly now when the economic and financial crisis is growing ever deeper.

In pondering the moral and ethical dilemmas, the key role will have to be played by a well-functioning and effective justice system as the guarantor of the rule of law within a European Union that is becoming increasingly integrated. In the area of justice, the ability of nation states to resolve and delineate the main disparities of interest in the basic social patterns that the development of post-material society demands from the contemporary state³ is being put to the test. All participants and stakeholders in justice must represent the rule of law through their work and a responsible attitude. The rapid development we are witnessing is accompanied by collateral damage – the erosion of existing traditional structures. Judicial institutions are among those most affected because they represent the most immediate and repressive facet of the state to an individual citizen. In proceedings conducted before judicial authorities, someone is almost always defeated by the very nature of things. During the period of accession to European and international institutions which brought a ‘hyperinflation’ of regulations and legal rules of a different hierarchical order, the Slovenian judiciary, for a variety of reasons,⁴ was not fully able to respond properly to the circumstances that emerged; in recent years, however, its statistical image has slowly but steadily begun to improve. Improvements to the situation within the judiciary in recent years can be attributed mainly to computerisation and to the automation of certain more straightforward judicial proceedings; for one such development, Slovenia even received a *Crystal Scales of Justice* award.⁵ Now it is time to take a step forward: to prepare solutions that will provide for the interoperability and modernisation of existing systems.

The purpose of this document is to prepare strategic bases for integration into the emerging development strategy of Slovenia for the period 2014–2020, to analyse the existing situation and the reasons for its emergence, and to redefine the development opportunities that exist throughout the justice system. A functioning, independent, effective and fair justice system which enjoys the confidence of Slovenia’s citizens is an essential factor and guarantor of social development.

The upcoming financial framework for 2014–2020 will place greater emphasis on the attainment of results, focusing on a limited selection of relevant targets in line with the *Europe 2020 Strategy – A Strategy for Smart, Sustainable and Inclusive Growth*:

- **Smart growth:** developing an economy based on knowledge and innovation.
- **Sustainable growth:** promoting a more resource-efficient, greener and more competitive economy.

3 Justice is the immune system of society and every national organisation. Therefore, the same principles apply to it as in the case of a person’s health: if the immune system is weakened, the existence of the person is threatened. For more, see Boštjan M. Župančič: *Tembatsu: the second of the lean cows*, ISBN/EAN: 9789612762902, published by the author, Strasbourg, November 2011.

4 One of the main mistakes was certainly a poorly-thought out reorganisation of courts in 1995, when the obsolete model of first-instance courts of ‘Austrian–Hungarian’ origin and characteristics was reintroduced into Slovenian justice. For more, see Zoran Skubic: *Evolving Justice: The Constitutional Relationship Between the Ministry of Justice and the Judiciary and a Short Overview of Recent Developments in the Area of Court Management in the Republic of Slovenia*, *International Journal for Court Administration*, Vol. 4., No. 1, Seventh Issue, December 2011, page 20.

5 See press release on the official page of the Council of Europe: <https://wcd.coe.int/ViewDoc.jsp?id=1694191>.

- **Inclusive growth:** fostering a high-employment economy delivering social and territorial cohesion.

In drafting the document, focus was placed on two levels of development:

- the implementation of measures, institutional and structural changes
- the shaping of new social values as the basis for the long-term development of Slovenia.

At the same time, we also want to provide the preconditions for effective implementation of certain narrower parts on the basis of this framework document:

- the setting-up of centres for the creation and exchange of innovation within the judiciary
- the exchange of experience, and familiarisation with and the transfer of good domestic and foreign practice
- the setting-up of partnerships internationally and at home, in judicial institutions as well as with others involved in the work of the judiciary and with representatives and organisations of civil society
- the personal and professional development of those employed at the ministry and within the justice system
- an upgrading of the system of electronic communications within the justice system as a key tool for securing and improving the performance and effectiveness of judicial operations, with due regard to the principles of cost-effectiveness, interoperability, economy, security, availability, reliability and trust in the judicial system, and subject to simultaneous efforts to protect the environment through energy-efficient solutions and the use of resources that pollute the environment to the minimum extent possible, in compliance with the principles of sustainable development
- the setting-up of sustainable frameworks and mechanisms to provide solutions to current and future challenges in the judicial system in an interdisciplinary manner and within a wider context, with special emphasis on the most sensitive and marginal social groups.

The main guiding principle in the preparation of the strategy involves an attempt to provide answers to the question of how justice, through a range of specific measures, can contribute to solving the crisis in the Slovenian economy and creating competitive conditions for economic growth and prosperity.

2. Introduction

Only a society whose citizens have trust in the state and its institutions can be efficient and effective – that is, a society that does not perceive the state simply as an alienated bureaucratic apparatus but, rather, as a ‘homeland’ to which ties of affiliation are due. In recent decades, the level of trust in national institutions has seen a continuous decline; there are several reasons for this, including degrading expressions by one branch of power about the other(s) branch(es) of power,⁶ the lack of transparency in certain selection procedures, and the uncritical reporting of certain media. Consequently, the old values have seemingly fallen apart, to be replaced by new values based exclusively on material goods. We are convinced that a society without universal human aims cannot survive as a community. We therefore believe that the social ‘atmosphere’ should be changed by proper targeted measures so that, instead of a continuous stream of ‘scandal’, we can begin to act in a spirit of constructive cooperation and benevolence towards our fellow citizens. In the staffing of national institutions, only professional criteria should be applied: the widest circle of civil servants and officials should be encouraged to participate in further development regardless of their rank or education, building a vision of responsibility, affiliation and creativity. A change of values is urgently required in order to ensure the healthy development of Slovenia. The justice system is by all criteria one of the main stakeholders in the creation of social values. If the state apparatus is unsuccessful in prosecuting those forms of criminal activity that are most unacceptable to society, and fails to settle those disputes that prevent the healthy development of the economy promptly and efficiently, the people’s trust in institutions will not be restored. An important role is played in this regard by the ministry responsible for justice, which is a cohesive link between the judicial branch of power and the judicial authorities, and other state institutions and branches of power; this makes it additionally responsible for the shaping of values within society in its widest context.

The judicial system has an important national and strategic role to play in protecting citizens’ rights and in economic development and prosperity. In order to improve the economic and social situation in which Slovenia has found itself, intelligent efforts to make the judicial system function more effectively are urgently called for; this connection, important factors such as the quality, extent and effectiveness of the protection of rights need to be taken into account. The judicial system must ensure that all mechanisms function within the rule of law; it must also strive to ensure that its own performance is effective and to contribute to the quality of life of citizens and the effective protection of their rights. In order to ensure competitiveness and sustainable economic growth, and the general prosperity of society as a whole, special emphasis must be placed on human resource management, on technologies and on processes.

The key value of a free and democratic society is human dignity. It originates in the realisation that every human being has his/her own value and that freedom and equality are permanent and fundamental values. The nature of an individual’s dignity also gives rise to respect for his

⁶ The latest case of the Czech Republic and the clear position expressed by the European Court of Human Rights in Strasbourg (ECtHR) – *Kinsky v. the Czech Republic*, Application no. 42856/06, 9 February 2012, shows that such inappropriate practice may also have a wider, ‘European’ echo. Namely, different holders of the other two branches of power in the Czech Republic commented in public on the course and content of actual judicial proceedings in an inappropriate way. Thus, the ECtHR in § 98 of its grounds clearly stated: ‘(...) Nevertheless, the Court reiterates that what is at stake here is not actual proof of influence or pressure on judges but the importance of the appearance of impartiality. (...) This is particularly worrying when considered in connection with some of the statements by politicians about the responsibilities of judges and their mental processes, and their assertions that they would do anything within their power to prevent the success of the applicant in the proceedings«’ (italics added for emphasis by the Ministry of Justice and Public Administration).

potential to develop in the professional and personal spheres of life; this includes the attainment and development of status and reputation in the living and working environment. This freedom also includes an economic dimension, in addition to personal physical freedom and freedom of thought, conscience and expression. It implies a wider concept of what an individual is allowed or prohibited to do. This is also crucial for economic freedom, which may be expressed in an individual's creative and innovative dynamism as recognised in his talents and capabilities.

The development of and increase in social prosperity, and therefore also individual prosperity, is possible only in an economic environment in which the production and exchange of goods or services are based on the rule of law, established and respected ethical standards, equality, freedom of choice, freedom of exchange, freedom of invention, and the right to enjoy the fruits of one's labour, savings, investments and so on. Greater competition provides consumers with cheaper access to better things, and the success of a company leads to successful sub-contractors and satisfied investors; company success also results in satisfied workers, because successful companies can pay their workers more. Such financial incentives are imperative if greater productivity and innovation on the part of workers are to be secured; at the same time, they help keep good workers in the company. As a result, society as a whole makes progress and, with higher living standards, people become more sensitive to the social and ecological circumstances at play within their environment.

A stimulating business environment can only be developed in a society in where a certain degree of trust in the rule of law has been established. In such a society, relations between people and business entities must be regulated by law and the methods of settling potential disputes firmly set out; moreover, the independence of the judiciary and, on the basis of the agreement of the parties involved, of competent independent courts must be guaranteed. In such an environment, the free arrangement of autonomous legal relations must be allowed. If legal procedures and the justice system as the holders of procedural responsibilities are ineffective in searching for correct and fair solutions, there is a danger of excessive state intervention in the regulation of these relations. If disputed legal relations cannot be effectively regulated by the judiciary itself, the state will usually regulate them by way of intervention through its administrative apparatus. However, by transferring the concrete regulation of different living relations and situations to the state, the abstract creativity involved in settling such legal disputes is neglected and legal regulation becomes subject to incessant legislative amendment and redevelopment – that is, the state responds to the new situation with ever-new legislative solutions, which leads to the over-regulation of specific areas. This is why, on the one hand, the justice system, and in particular the courts, is getting lost in its search for correct and fair solutions, which reduces the effectiveness and cost-efficiency of the judicial system, and on the other hand, why the setting-up of established court practice as a precondition for ensuring the proper level of legal certainty and trust in the law as components of the rule of law is becoming considerably narrower.

The judicial branch of power is the only branch which, by its nature, can be left to be creative in resolving specific disputed relations through the norms limited in terms of language and meaning, all in the light of seeking correct and fair solutions. Such creativity must necessarily be separate from the executive and legislative branches of power; if it is not, trust in the rule of law may soon start to crumble. The executive and legislative branches of power can provide for the abstract regulation of different areas of society. The legislative branch of power, of course, has by far the greatest legitimacy in the abstract legislative regulation of these areas. Notwithstanding the fact that legal theory contains differing ideas on the extent of the legitimacy of the judicial branch of power in the creative regulation of concrete legal relations, the judiciary (and justice in a wider context) have a key role in strengthening the rule of law and in the consistent exercise of the constitutional values of a free and democratic society.

Due to a lack of time and financial resources, and in particular due to an ignorance of regulations, an individual cannot satisfactorily implement and exercise his economic initiatives

in an over-regulated business and social environment. The functioning of an effective judiciary is one of the key measures for providing an environment that stimulates enterprise. In a society with an established trust in the rule of law, relations are regulated by obligational law procedures and/or broader civil law, in compliance with the principle of *pacta sunt servanda*. In order to reduce state intervention and eliminate over-regulation, which considerably limits the effectiveness of the judicial branch of power, a great many of the measures of state intervention should be limited and abandoned, thus liberalising the business environment. One of the important advantages in reducing the over-regulation of legal arrangements is that justice and the courts begin to function effectively.

A delayed court decision on rights, obligations and legal benefits may in itself constitute a violation of the right to trial without undue delay. A violation of this right does not only increase mistrust of the rule of law and justice, but also has an extremely negative impact on business and economic relations. If disputed relations between economic entities are not solved within an appropriate period of time, the relations already established cannot be continued and/or new relations between the economic entities involved cannot be set up. Economic and business life in global market conditions is rapidly changing, which makes it imperative that justice invest additional effort in settling disputes and relations efficiently and effectively.

Ideas and new developments are exchanged quickly in our globalised world. The development of new business practices and economic instruments also calls for the development of legal procedures, judicial practice and control mechanisms. The monitoring of new business and economic developments and changes requires the courts and other segments of the judiciary to participate in an ongoing and flexible education and training process. Education and training must be based on a multidisciplinary approach, as well as considering the different legal, social and sociological aspects of various legal and non-legal disciplines and sciences. This is particularly true of criminal justice, including its rapidly developing European dimension.⁷

It is not for justice and the courts to create social values; their mission is to ensure consistent implementation of the values of the Slovenian and European constitutional and legal order. The values on which a free and democratic society is based and which are the cornerstone of the Slovenian Constitution ensure the strengthening of an individual's personal and economic freedom, which in turn reduces the possibility of economic and, in consequence, social crisis. Increasing unemployment, worsening conditions for economic activity, poor financing opportunities and an absence of respect for the rule of law in business relations are also reflected in a worsened security situation at courts and in the functioning of other judicial authorities, as well as in certain segments of the enforcement of criminal sanctions. Unforeseeable security incidents and increasing security risk at courts and other judicial authorities can considerably affect the independence and impartiality of adjudication. An independent and effective justice system is also associated with a secure working environment for judicial officials, because adequate security ensures sovereignty in the implementation of their tasks. Security shall also be provided to parties involved in court proceedings. The security of judicial authorities forms an integral part of the common internal state security. The question

⁷ We can list some of the recent documents of the European Union in this area: EU Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism (OJ L 330, 9. 12. 2008, pp. 21–23); EU Council Decision of 7 October 2010 on the conclusion of the Agreement between the European Union and Japan on mutual legal assistance in criminal matters (OJ L 271, 15. 10. 2010, p. 3); Directive of the European Parliament and of the Council 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15. 4. 2011, pp. 1–11); EU Council Framework Decision 2008/919/JHA of 28 November 2008 amending Framework Decision 2002/475/JHA on combating terrorism (OJ L 330, 9. 12. 2008, pp. 21–23), etc.

of security provision is always also a question of the permissibility of interference with human rights and fundamental freedoms; a careful balancing of both values is therefore required. Providing the appropriate level of security to judicial officials and other justice staff is important if judicial power is to be exercised unhindered and effectively, whereby excessive interference in human rights must be limited by the principle of proportionality.

Priority in the implementation of security measures in justice is given to creating and ensuring a security environment in which judicial authorities exercise judicial power smoothly and consolidate the rule of law. Information security can contribute to the achievement of this objective. Data whose abuse, by the very nature of things, may involve a threat to human rights and fundamental freedoms and, in consequence, the rule of law, are transferred, processed, registered and archived at judicial authorities. One of the key policies relating to security in justice is progress in IT security.

In an information society, the public is provided with easier and more effective control over the functioning of the state and thus also of the justice system. Information technologies bring many benefits, in addition to potential dangers, because they provide greater transparency, effectiveness, speed and cost-efficiency in the functioning of judicial authorities. The general computerisation of public books and public registers in justice needs to be upgraded by a system of electronic operation. Subject to the principles of cost-effectiveness, economy, security, availability, reliability and trust in the judicial system, electronic operations facilitate, make cheaper and accelerate communication between judicial authorities and between those authorities and their clients, which in turn contributes substantially to ensuring and increasing the performance and effectiveness of the judicial system. At the same time, electronic operations, with their energy-efficient solutions and use of equipment that pollutes the environment to the lowest extent possible, have favourable effects on environmental protection.

Computerisation and electronic operations in the justice system make the exercise of justice considerably easier, and affect the integration of justice into a wider context. With the computerisation of procedures and the introduction of electronic operations, efficiency, economy and cost-efficiency are also transferred to the implementation of tasks by notaries and attorneys as important stakeholders in the judiciary. In this manner, cohesion between particular parts of the broader system justice is further strengthened and communication is improved. Faster and cheaper procedures of communication and the exercise of rights and legal benefits also outwardly show the efficiency and affiliation of judicial authorities. In order to ensure the operation of the wider judiciary, including notaries, lawyers and other important entities and participants, respect for the independence of legal and notary professions and appropriate consideration of the roles of other entities and participants in the judicial system needs to be provided, along with the computerisation of operations and wider integration with other judicial authorities.

This brings us to the so-called '*extended arm*' of the judicial branch of power – experts, interpreters, appraisers and enforcement officers whose lack of efficiency is often the reason for unreasonably lengthy adjudication in court proceedings. Greater cohesion and efficiency of the functioning of justice in the wider sense may also be provided by the introduction of appropriate intelligent IT solutions in the electronic operations of court experts, interpreters, appraisers and enforcement officers. With computerisation in justice comes more efficient communication between these experts, courts and other judicial authorities. The interoperability of their IT infrastructure needs to be ensured, including a simpler transfer of judicial material to these experts. The cost-efficiency, effectiveness and economy of judicial proceedings in operations between expert support staff and the courts can also be provided by electronic operation procedures.

We should also mention at this point the area of efficient enforcement of criminal sanctions, which also lies within the remit of the ministry. The regulations in force for the treatment of

prisoners against whom criminal sanctions and other measures have been enforced in criminal proceedings need to be changed. Slovenian legislation does not provide for a probation service as it exists in several EU Member States as well as other countries. The existing legislation and system of enforcement should be appropriately upgraded by means of a systemic regulation of post-penal treatment; this is because prisoners are a particularly exposed group requiring special attention and sensitivity, particularly in terms of social rehabilitation and the setting-up of appropriate mechanisms to increase their employability.

Moreover, the issue of juvenile delinquency must be dealt with in a more appropriate manner. This group of potential and actual perpetrators of criminal acts and offences has the best prospects for social rehabilitation and a change in their basic postulates of social interaction, provided their treatment is integrated, multi-disciplinary and inclusive by means of the appropriate existing or new mechanisms of maturity assessment and sustainable social rehabilitation.

2.1 List of regulations

In order to attain the goals set up by the Justice 2020 Strategy, the following legislative and implementing regulations referring to the security of judicial authorities in a broader sense, the jurisdiction of judicial administration, the status and jurisdiction of courts, the State Prosecutor's Office and State Attorney's Office, and the enforcement of criminal sanctions will have to be amended:

- Courts Act
- Judicial Service Act
- Court Rules
- State Prosecutor Act
- State Prosecutor Rules
- State Attorney Act
- State Attorney Rules
- Notary Act
- Attorneys Act
- Enforcement and Securing of Civil Claims Act
- Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act
- Compensation to Victims of Crime Act
- Protection of the Right to a Trial without Undue Delay Act
- State Law Examinations Act
- Civil Procedure Act
- Non-Litigious Civil Procedure Act
- Criminal Procedure Act
- Land Register Act
- Court Register Act
- Enforcement of Criminal Sanctions Act, and new legislation for the introduction and implementation of the probation service

3. Analysis of the situation

3.1. Security

The security of judicial authorities and of all entities involved⁸ is part of common national internal security; at the same time, however, the procedures and measures providing this security infringe on fundamental human rights and freedoms. The provision of security for judicial authorities is therefore one of the activities regulated by the state at the regulatory legal and organisational levels as being of major public interest whose implementation is supervised by the state.

It may be noted at all levels of the functioning of the state that the reputation of state institutions has declined considerably. Among other things, this lack of respect is demonstrated by a sharp rise in the number of security incidents directed against the work of courts, state prosecutor's offices and judicial officials in general. It is particularly alarming that threats and attacks against judicial officials have shifted from the area of organised crime and criminal proceedings, where threats to the security of judicial officials are expected and controlled, to the standard court environment. This means that security incidents have spread from large, high-security courts to all courts, and are therefore impossible to be fully anticipated, controlled and prepared for. The perpetrators are no longer simply criminals and persons known to present problems; rather, they are ordinary people whose inhibitions are released when they find themselves in distress, mainly owing to the general social crisis and to the practice of past decades, where all problems in society used to be attributed to the judiciary, the state prosecutor's office and the police.

It is most alarming that a large number of security incidents have recently taken place in the area of minor offences and enforcement, where the state affects people directly because it hits their pockets hard. This indicates that the phenomenon is closely associated with the current financial crisis, whose end is nowhere in sight. Judicial officials, particularly in smaller courts with less security equipment, may thus feel threatened – even more so given the fact that the court network in Slovenia is extremely diversified, with even small communities having courts with three or four judges, which means that the distance between local courts in particular areas is only 10 km or so.

At the same time, some local courts have so few judges that, in practice, they are not able to conduct larger court proceedings because of a lack of staff, because they are excluded on procedural grounds or for other procedural reasons. In addition, deciding in such court proceedings is often problematic from the perspective of the perceived impartiality of courts, which derives from the small size of the local environment. It should be emphasised that no circumstances in court proceedings have been established thus far that would corroborate the reasons for suspicion regarding the actual impartiality of judges in these courts. It is a fact, however, that for the purpose of restoring the reputation of the judiciary in the general public eye, the *perception of impartiality* is as much, if not more, important than actual impartiality.

It should also be noted that in small local environments,⁹ information spreads more rapidly. If a judge in one of these smaller courts feels threatened and shows it, this message spreads very fast, particularly to any potential new offenders in the environment in question. A frightened

8 A narrower, separate, but not a negligible security aspect in the prison system which also falls under the Ministry's jurisdiction, is presented in this specific chapter of the Strategy.

9 Given Slovenia's small size, this means the entire state, or, considering the current fragmentation of the courts' network, at least a major part of it.

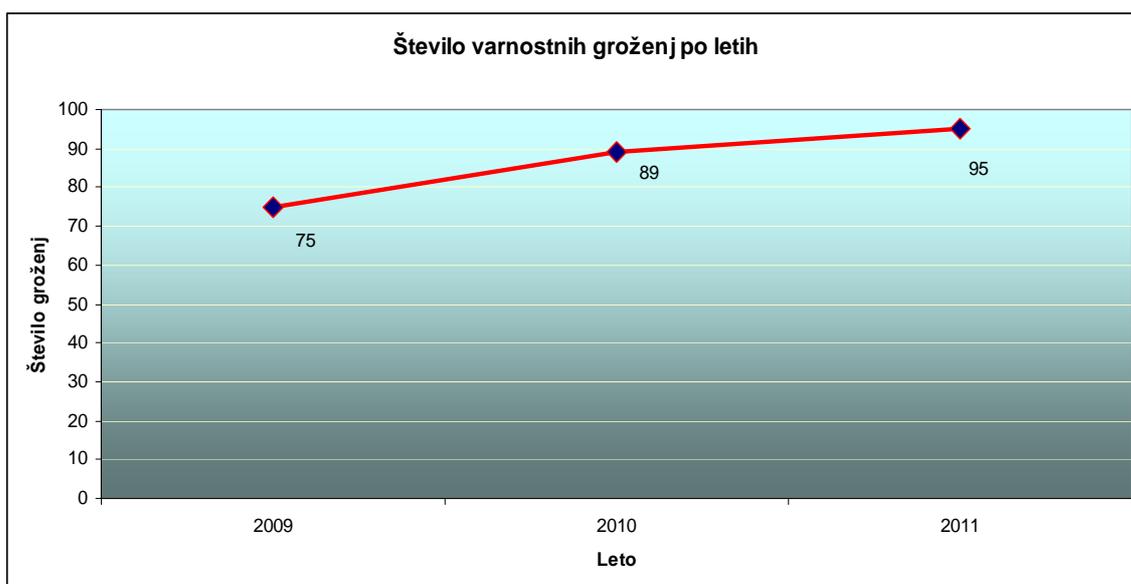
judge is by all means a poor judge. In view of the above, a reduced network of courts should perhaps be considered, particularly in relation to the smallest courts given their weaker physical and technical security. At larger courts, the exercise of judicial office is more impersonal – judges are less familiar to a wider circle of people and thus less involved with the local environment.

Judicial officials must feel safe when performing their judicial function in order to be able to secure their sovereignty and authority in judicial proceedings. Their feeling of threat has a strong and direct impact on the swiftness and quality of proceedings conducted in accordance with their responsibilities.

The issue of security of judicial authorities, employees and parties to judicial proceedings is a burning one in light of the increased number of security incidents, and the ministry responsible for justice, together with judicial authorities and other institutional entities responsible for security tasks, has to respond appropriately to this challenge. The measures taken have to provide a sufficient level of security so as to facilitate the safe and undisturbed operation of courts and other judicial authorities. The external security environment, particularly at the local level, will have a security impact on the smooth operation of the courts, because new security challenges are being shifted to the internal security environment of judicial authorities.

The ministry responsible for justice, along with judicial authorities, is aware of the importance of the security of judicial authorities; it concluded, on the basis of a threat assessment for courts conducted in 2005 and revised in 2007 and 2011, that Slovenia's judicial system was operating within a relatively stable security environment which, however, was changing dynamically under the impact of different external and internal security factors. Unpredictable security incidents, including anonymous bomb threats, threats to judges, state prosecutors and state attorneys, court staff and other employees, as well as other incidents (e.g. threats to parties to court proceedings), are now changing the security identity of Slovenian courts and causing pecuniary and non-pecuniary damage.

In 2006 and 2007, courts received 32 anonymous bomb threats, with 20 of these coming in 2007 alone (Ljubljana, Kranj, Koper and Murska Sobota). In 2007, 302 security incidents were recorded, affecting the work of the justice system and requiring increased security measures.



Vstaviti sliko:

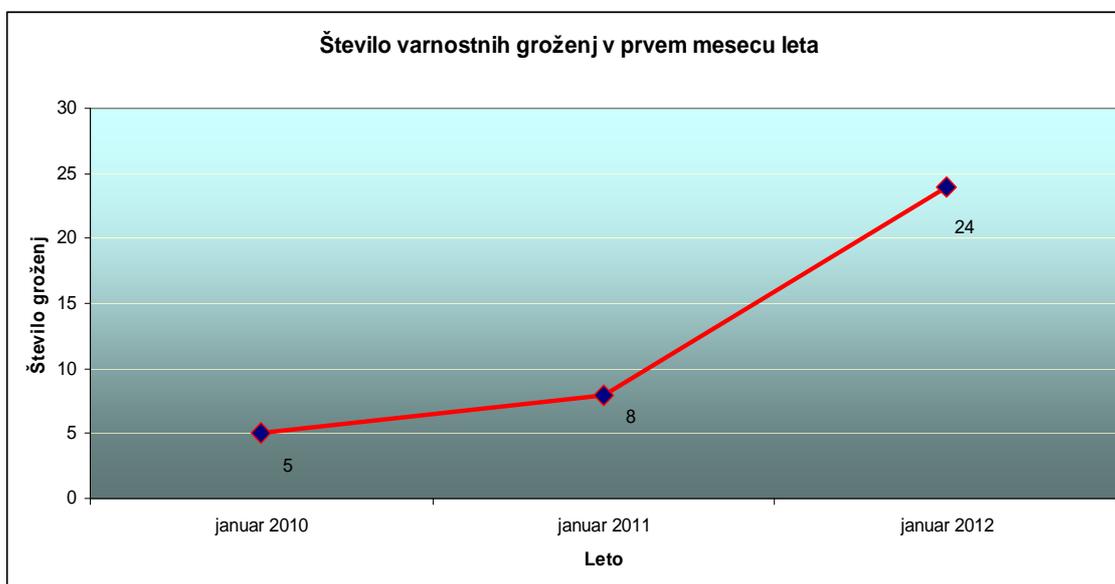
Number of security threats by year

Number of threats

Year

In 2007 the ministry responsible for justice began the systematic monitoring and upgrading of security policy at judicial authorities. Data and information submitted by courts and state prosecutor's offices under Article 36 of the Court Rules¹⁰ and the State Prosecutor Rules¹¹ indicate that in 2011 the number of security incidents increased in comparison with the preceding period as follows:

- in 2010: 89 threats
- in 2011: 95 threats
- in the first two months of 2012: 24 threats.



Vstaviti sliko:

Number of security threats in the first month of the year

Number of threats

January

10 Uradni list RS (Official Gazette of the Republic of Slovenia), nos. 17/95, 35/98, 91/98, 22/00, 113/00, 62/01, 88/01, 102/01, 22/02, 15/03, 75/04, 138/04, 74/05, 5/07, 82/07, 16/08, 93/08, 110/08, 117/08, 22/10 and 48/11. Article 36 of the Court Rules: 'The president of the court or director of the court shall immediately inform the ministry responsible for justice about the threat to the security of persons or property at the court. The judge and court staff whose security is threatened by an actual threat shall have the right to request the immediate protection of the court's security service or of another proper security authority and shall, within the shortest possible time, inform thereon the director of the court and the ministry responsible for justice which keeps the evidence on the notifications.'

11 OGRS, 7/12.

Year

An analysis of security incidents in the 2008–2011 period shows that security incidents have been increasing in number and intensity. Particularly problematic is the fact that security incidents are directed mainly against specific judicial officials. Moreover, there are currently several widely publicised proceedings being conducted before Slovenian courts which present a problem in terms of security, so that additional proportionate security measures have to be taken depending on the security risk assessment.

Further security policy-making and its upgrading through the development of security management as part of the management functions performed by judicial authorities will be based on the good practice and experience (security benchmarking) mainly associated with security policy and related guidelines in the European area. A strong reaction to security incidents that impede the operation of judicial authorities or threaten the security of judicial officials, other staff and parties to proceedings will constitute the common and priority task by 2020, which will set in place the means by which security breaches can be prevented in order to provide the highest possible security level for judicial authorities, staff, parties to proceedings and the relevant data.

The analysis shows that certain key objectives aimed at establishing a platform for the setting-up of an appropriate security structure in justice to help preserve the dignity of courts and other judicial authorities, while at the same time ensuring their security, have been already attained; however, the work in this vitally important area is far from finished. The above-mentioned changes in security patterns in the justice system, where the threat of occurrence of the most serious security incidents has been steadily moving from district to local courts, whose security infrastructure is weaker for a variety of reasons, call for constant vigilance and continuous efforts and improvements on the part of the state. The estimate that the present security situation within the judicial system is better than it used to be only a few years ago is a realistic one. However, the present (basic) security infrastructure and internal capacities of the system that provides security in justice and the judicial system in general are by no means advanced enough to allow a proper response, even to isolated serious security incidents, let alone to potential systematic and coordinated incidents¹² whose intensity is likely to grow owing to the current escalating economic and financial crisis. Moreover, the present situation shows a lack of a systemic approach to the implementation of secondary security activities (e.g. providing adequate specialised psychological support to potential victims of extraordinary security incidents in the administration of justice).

3.2. Judicial administration

For justice to function properly, the responsibilities of justice administration need to be implemented carefully and diligently; they include all supporting tasks and special supervising functions of the executive branch of power associated with the operation of courts and the general operation of the justice system. The tasks of this executive branch must always be performed without jeopardising the independent status of the judiciary within the institutional

12 For example, during grand trials staged against dangerous criminal groups notorious for their ruthlessness towards participants within the justice system. Such hints were first detected during the recent trial against two Italian post office robbers in Koper, where there were several organised attempts at escape, which, fortunately, did not occur; namely, the available data indicated that the two robbers were part of a larger organised criminal group in Italy.

and functional contexts.¹³ One segment of the principle of the separation of powers, which is subject to the principle of democracy, may be defined in terms of its method of implementation as the ‘checks and balances system’ between the different branches of power.

Justice administration¹⁴ includes the provision of general conditions for the successful exercise of judicial power, particularly the drafting of regulations on the organisation and operation of courts, the provision of staff education and training, the publication of professional literature, the provision of staff, material, technical and spatial conditions, the provision of international legal assistance, the enforcement of penal sanctions, the production of statistical and other studies on the operation of courts, and other administrative tasks provided by statute. Judicial administration in the broader sense also includes all control mechanisms associated with the work of the judiciary, covering all those who assist a judge in the conduct of judicial proceedings (court experts, appraisers, interpreters and enforcement officers), and notaries and attorneys. It is in these sensitive areas that the need for improvement in operation is particularly urgent, and this will be our focus in the coming years.

Important areas that call for better resolution and measures in the implementation of the tasks of judicial administration also include the responsibilities of the ministry concerning insolvency proceedings¹⁵ and the Compensation to Victims of Crime Act (Official Gazette of the Republic of Slovenia, 101/05 and 86/10).¹⁶

13 Zoran Skubic, *Evolving Justice: The Constitutional Relationship Between the Ministry of Justice and the Judiciary and a Short Overview of Recent Developments in the Area of Court Management in the Republic of Slovenia*, *International Journal for Court Administration*, Vol. 4., No. 1, Seventh Issue, December 2011, page 20.

14 The focus in this part is on the tasks performed by the ministry responsible for justice, in compliance with the different responsibilities of justice administration relating to the operation of courts and the judicial system as a whole. However, depending on the nature and interaction of activities performed by all types of judicial authority, certain issues included in this chapter also refer to the activities and responsibilities of the State Attorney’s Office and state prosecutor’s offices. It should be stressed that justice administration for the area of the state prosecutor’s office, in compliance with the Act Amending the Public Administration Act (OGRS, 21/12 – ZDU-1F), has been transferred to the Ministry of the Interior, which thus became one of the stakeholders.

15 More effective implementation of the ministry’s responsibilities in insolvency proceedings of debt write-off calls for computerisation of the records on debt write-off proceedings in personal bankruptcy proceedings. Recording such proceedings is of the utmost importance due to the substantive and procedural effects that are a consequence of debt write-off. Current records are not appropriately supported by IT, which hinders the effectiveness of administration, thus decreasing the legal security of parties in judicial proceedings. For the purpose of consistent and effective implementation of the ministry’s responsibilities, information interconnection should be established with the courts conducting the insolvency proceedings.

16 Concerning computerisation and the introduction of electronic operation in dealing with claims for compensation to victims of criminal acts, more prompt processing of these claims is urgently called for. Namely, the victims of intentional violent criminal acts in national and cross-border cases are in a most precarious situation because they often do not make use of the legal opportunities available for the obtaining of compensation and/or satisfaction. Records on applicants and issued decisions on compensation are not supported by IT, which hinders the effectiveness of administration, thus reducing legal security. Moreover, the above legal issue has a wider international dimension because it implies Slovenia’s obligation based on EU law. Between 2006 and 2007, the EU Commission started procedures against Greece, Italy, Latvia, Malta and Romania to identify breaches of Article 226 of the then Treaty Establishing the European Community on the grounds of a lack of notification of the Commission on the transposition of the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims into their national law. Subsequently Italy, Latvia, Malta and Romania complied with their

Pursuant to the responsibilities imposed by the Protection of the Right to a Trial without Undue Delay Act (Official Gazette of the Republic of Slovenia, 49/06 and 117/06 – Personal Income Tax Act, hereinafter: ZDoh-2, 58/09 and 38/12 – Protection of the Right to a Trial without Undue Delay Act: hereinafter ZVPSBNO) on the ministry in compliance with the responsibilities of judicial administration, on court management at courts and on the judicial system in its entirety, the need to set up uniform records of acceleratory legal remedies pursuant to the ZVPSBNO (supervisory appeals and motions for a deadline) clearly exists, but these records should be subject to consistent and clear respect for the constitutional principles of the separation of powers and the principle of checks and balances between the different branches of power, particularly between the executive and judicial branches. In view of the above, access to the database and data entry should be such as to facilitate anonymous reporting to the ministry and other responsible institutions on the one hand, and enable judicial administration, in line with the hierarchical structure of the judicial system and courts, to unify practice in this area, which is of vital importance for legal certainty.

This also implies a clear international interest on the part of Slovenia, particularly in terms of the case-law of the European Court of Human Rights in Strasbourg (ECtHR). The effectiveness of the system of acceleratory legal remedies pursuant to the ZVPSBNO will undoubtedly be reassessed by this Court before very long. In the meantime, ECtHR case-law has been imposing an increasing number of requirements regarding the national mechanisms of effective protection of the right to a trial within a reasonable time. The ECtHR does not only request an established, formalised and swift procedure of adjudication on the right to a trial within a reasonable time (right to a trial without undue delay), but studies in detail the case-law under the laws of the states parties. For this reason, it may happen that problems regarding the effectiveness of acceleratory legal remedies may be caused by a single ‘wrong’ judgment on the part of a national court. On the other hand, one ‘correct’ judgment by a national court (in the sense of a ‘leading example of case-law’ as understood by the ECtHR) may resolve these difficulties.

The precedent judgment of the European Court's Grand Chamber of 29 March 2006 in the case of *Scordino v. Italy* (no. 1)¹⁷ regarding an Italian law from 2001 (*legge Pinto*)¹⁸ indicates that the European Court's case-law holds a fairly stringent position on national regulation of the judicial protection of the right to trial within a reasonable time. In this judgment, the ECtHR commended certain countries such as Austria, Croatia, Spain, Poland and Slovakia on their full understanding of the situation regarding the protection of the right to a trial within reasonable time, choosing (enacting) a combination of two kinds of legal remedies, i.e. one aimed at accelerating judicial proceedings and one intended for the awarding of compensation.¹⁹ A

obligation and officially notified the EU Commission on the transposition of this Directive into their national law. Greece, however, failed to send such notification to the Commission; therefore, the Court of Justice of the European Union issued a judgment against Greece in July 2007 (Judgment of the Court of Justice of the EC (Sixth Chamber) of 18 July 2007 – Commission of the European Communities v Hellenic Republic, Case C-26/07). Even after this (first) judgment, Greece failed to take the necessary measures to transpose the directive's provisions into national law. In 2008 the Commission initiated (new) court proceedings pursuant to Article 228 of the-then EC Treaty, which resulted in a judgment issued by the ECJ ordering Greece to pay a penalty payment in the sum of EUR 3 million for the delayed (inappropriate) transposition of the directive into its national law (Judgment of the Court of Justice of the EC of 31 March 2011 – Commission of the European Communities v Hellenic Republic, Case C-407/09).
17 Judgment of the European Court of Human Rights, application no. 36813/97, 29 March 2006.

18 The law of the Italian Republic from 2001 on providing just satisfaction (pecuniary compensation) for breaching the right to a trial within reasonable time from the first sentence of Article 6 § 1 of the Convention.

19 § 186 of the above mentioned judgment.

similar and comparable mechanism is enacted in our ZVPSBNO by a combination of a supervisory appeal and a motion for a deadline on the one hand and, alternatively, a claim for non-pecuniary compensation on the other. In view of the above, it may be concluded that the essence of the ZVPSBNO's effect lies in implementation which is effective and beneficial for the parties. This is indeed a particular task of the judicial branch of power, and partly also of the State Attorney's Office, endowed by the ZVPSBNO with the appropriate tools to this end, and also of the ministry responsible for justice in its implementation of the tasks of judicial administration, such as maintaining records of acceleratory legal remedies pursuant to the ZVPSBNO and/or as stated in the final conclusion of the article from the expert literature:²⁰

'Considering ECtHR's case-law so far, it is reasonable to focus in particular on the issue of effectiveness of acceleratory legal remedies in practice, both in terms of backlog prevention and in terms of accessibility of claims for just satisfaction (in proceedings that have already lasted too long).'

Finally, it should be taken considered that the protection of the right to a trial without undue delay does in fact imply the protection of the right of parties to judicial proceedings, which may also play a key role in such parties' 'financial survival', social situation, reputation and similar.

3.3. Slovenian judiciary

The judiciary in Slovenia is an independent branch of power entrusted with impartial and independent trial without undue delay in order to preserve the rule of law and protect the rights and freedoms guaranteed by the Constitution and legislation of the Republic of Slovenia. For the purpose implementing its mission, the Slovenian judiciary has adopted the following fundamental values: independent and impartial decision-making, responsibility, integrity and fairness, trial within an optimum and foreseeable timeframe, and the provision of high-quality services for parties to court proceedings. The Slovenian judiciary can implement its mission only through smart and sustainability-oriented operation distinguished by the highest level of professional competence, effective administration and IT-supported case management.

The judiciary in Slovenia shares an economic situation with the rest of the country and the rest of Europe, and is aware that, as an independent branch of power, it is the key factor in ensuring legal certainty. Since joining the European Union, it has achieved significant progress in the elimination of backlogs, the more rapid adjudication of cases and greater efficiency as a whole. In December 2005 the ministry responsible for justice, in cooperation with the Supreme Court of the Republic of Slovenia, prepared a joint national project entitled *The Lukenda Project – Elimination of Court Backlogs*²¹ and drew up an operational action plan in which it defined individual measures for eliminating court backlogs as a development priority and included them in two fundamental strategic documents (*Reform Programme for Achieving the Lisbon Strategy Goals in Slovenia* and *Framework of Economic and Social Reforms for Increasing Welfare in Slovenia*), adopted in October and November 2005 respectively.²²

The **main measures** for providing an improved performance on the part of the judiciary the elimination of court backlogs as determined in *the Reform Programme for Achieving the Lisbon Strategy Goals* and *the Framework of Economic and Social Reforms for Increasing Welfare in Slovenia* were as follows:

20 Katarina Zidar Al-Mutairi, *Pravica do sojenja v razumnem roku* (Right to Trial Within a Reasonable Time), *Pravna praksa*, no. 42/09, p. VI.

21 For more on the implementation of the Lukenda Project: http://www.mp.gov.si/si/zakonodaja_in_dokumenti/dokumenti/.

22 http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/projekt_Lukenda.pdf.

- (i) providing spatial conditions (premises) in compliance with the spatial development strategy of the judicial system
- (ii) additional provision and organisation of human resources or professional staff for a fixed period
- (iii) bonus-based remuneration of court staff for the elimination of court backlogs

Other measures aimed at improving the performance of the judiciary were defined as well:

- iv) simplification of legislation and the standardisation of judicial proceedings
- v) full computerisation of courts and the additional training of judges and prosecutors through the introduction of specialisation for judges
- vi) the reorganisation and better management of courts – performance of an analysis of the optimum size of an organisational unit, of the smallest still-effective court, and of the possibility for specialisation of courts in criminal matters – determining a court’s jurisdiction over a wider area
- vii) improving the quality of work and performance of prosecutors and state attorneys
- viii) amendments in the area of court fees and lump-sum court fees with the purpose of attaining a better balance between their amount and the actual costs of proceedings
- ix) amendments of the attorney’s price list in order to accelerate proceedings and grant the necessary costs in compliance with the work actually performed
- x) the establishment of a swift and effective system for the recovery of fines, lump-sum court fees and court fees
- xi) the establishment of a system that will accelerate and simplify the resolution of matters of minor importance
- xii) the promotion of citizenship awareness that emphasises trust and confidence in judicial authorities and their employees, and respect for them
- xiii) increased security at courts
- xiv) improving the retention rate for judges at courts both by the possibility of promotion to a higher salary grade and a higher judicial title at the same court and in the same legal field;
- xv) provision for mobility on the part of judges and/or court files.

In recent years, positive trends of operation have continued in Slovenian courts. In practically all courts, the performance indicators relating to caseload and pending cases of major importance are positive. The courts are focused on solving the older, usually more demanding cases affecting the performance of a particular court. Exceptionally positive indicators are achieved by local courts, the Higher Labour and Social Court, and the Supreme Court. In local courts in particular, this is also the result of a relatively favourable level of judicial post occupancy and work focused on the enforcement area, although these courts still have some systemic issues to cope with. The situation in district courts, however, is a cause for concern because they are not managing the new caseload in the medium term despite a reduction in quantity and increased court performance. The work of district courts is in many ways of key significance for providing effective solutions to the most vulnerable areas at the forefront of the current economic and financial crisis (e.g. commercial disputes, more demanding criminal proceedings and insolvency proceedings).

A comparative analysis of the level of judicial post occupancy in district courts with respect to caseload and to resolved and pending cases shows the need for additional measures in particular legal fields (above all, commercial law cases) and for additional judges in particular district courts (Ljubljana District Court in particular), and for a reduction in the number of judges in local courts.

At the national level, some areas require special attention, particularly commercial disputes, more demanding criminal proceedings, insolvency proceedings and immovable property enforcement. At the same time, individual poor performance indicators at particular courts are

being determined (e.g. inability to cope with the caseload, staff imbalance regarding different workloads of courts, inadequate age structure of pending cases).

Based on an analysis of the situation at courts, Slovenia's judiciary defined five medium-term priority areas and five measures for their implementation which will help improve the situation in backlog reduction, the resolution of older pending cases, acceleration of business processes at courts, relieving pressure from judges and balancing human resources even in 2012.

3.4. State Prosecutor's Office

Pursuant to Article 135 of the Constitution, the State Prosecutor's Office is regulated by the State Prosecutor Act (ZDT-1)²³, which was published on 22 July 2011 and entered into force on 6 November 2011. This is a new regulation that reflects the development of the State Prosecutor's Office in Slovenia. After the Second World War, this development progressed from an originally monocratic and centralised prosecutor's office as the guardian of legality that, in addition to powers in criminal proceedings, also had numerous powers in the field of civil law, to the existing concept of an independent state prosecutor as the holder of the criminal prosecution function. Moreover, this development moved the role of the State Prosecutor's Office as an organisation in criminal proceedings from the role of a (passive) national authority to the role of an active party in judicial proceedings. In terms of institutional organisation, the State Prosecutor's Office, in relation to the court, has remained a national authority that adopts sovereign and independent decisions on the initiation of criminal prosecution (while the decision on the initiation of criminal proceedings is in the hands of the court), which means it has a certain degree of (joint) responsibility for the scope of criminal proceedings and the quality of the groundwork on which an indictment is based; however, the task of prosecution has been entrusted to an independent state prosecutor who is bound by the Constitution and law only (Article 3 of the ZDT-1).

State prosecutors fulfil their mission at a specific district state prosecutor's offices, specialised offices of the state prosecutor for prosecution of the most demanding forms of economic crime, and the Office of the State Prosecutor-General of the Republic of Slovenia. Pursuant to the provisions of the Constitution and the ZDT-1 (Article 10), state prosecutor's offices are independent national authorities and part of the judicial system.

In this respect, the relationship between state prosecutor's offices and supervisory institutions in society is also important, in particular their relationship with the police as the law enforcement authority. The law determines that state prosecutors direct the work of the police in pre-trial criminal proceedings; however, it cannot be overlooked that the (joint) responsibility of a state prosecutor for the quantity and quality of data on which subsequent criminal proceedings is based is, by its nature, essentially associated with the data submitted to the prosecutor by the police.

The statistical data available to state prosecutor's offices show that the new caseload has been increasing for a number of years. There are certainly several reasons for this; however, in the current harsh economic climate, in which individuals are dealing with the lack of material means and with sharper distress than usual, one should be aware that this trend will continue for some time.

23 Ur. l. RS, nos. 58/11 and 21/12-ZDU-1F. In accordance with the provisions of the ZDU-1F, the tasks relating to the organisation and status of the State Prosecutor's Office, judicial supervision of the operation of the State Prosecutor's Office, judicial administration in the field of the State Prosecutor's Office, international cooperation and international legal assistance in that part referring to state prosecutor's offices were transferred to the competence of the Ministry of the Interior.

For all these reasons, the state prosecutor's organisation will have to direct its future activities into achieving a prosecution policy that provide for an expeditious and fair consideration of more straightforward forms of crime (i.e. those which are most numerous and have a significant impact on an individual's feeling of safety and the rule of law). In addition, it will have to deal efficiently with the most demanding forms of organised crime, in particular economic crime, which pose the greatest threat to society and cause most harm to the social fabric.

3.5. State Attorney's Office

The State Attorney's Office as a legal representative of the State is an important judicial authority whose original role was to safeguard the 'public treasury'. The State Attorney's Office as it is today was established by the State Attorney Act,²⁴ which was published on 10 April 1997 and entered into force on 25 April 1997.

The State Attorney's Office is a judicial authority representing Slovenia and other entities (the state, its bodies and administrative authorities with legal personality) before courts and administrative bodies. It also represents Slovenia before foreign and international courts, such as the European Court of Human Rights in Strasbourg and the courts of the European Union. Moreover, it can perform other tasks determined by special laws.²⁵ Within the national judicial system, it participates in the implementation of goals set up in the area of justice, which are the effective, peaceful and civilised settlement of disputes in the society.

As a legal representative of the State before international courts, the State Attorney's Office represents Slovenia before the Court of Justice of the European Union (CJ), the EFTA Court and the European Court of Human Rights (ECtHR). Experience shows that there is an increasing awareness of human rights law and the opportunities for safeguarding it, at the international court level as well, and that it is being applied more often. At the same time, however, European Union law is still perceived as 'foreign' law by popular opinion and remains largely unknown to the population. Consequently, Slovenia – except when it is compelled as the defendant – takes practically no part in procedures before the court, and the national courts almost never submit preliminary questions. In the eight years of EU membership, our courts have submitted only four requests for a preliminary ruling to the CJ, which places Slovenia at the very bottom of the list of Member States. The more familiar ECtHR is still mainly perceived as the fourth instance, i.e. the court that determines and eliminates mistakes of fact and mistakes of law by national courts and before which applicants assert claims that were unsuccessful before the national courts. This means that many applications are unsuccessful because the ECtHR has been unable to determine any violation of the rights protected by the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe²⁶ (ECHR).

The general economic crisis has meant that the number of bankruptcy matters and procedures for compulsory enforcement has been increasing, and the number of applications against Slovenia lodged with international courts such as the ECtHR and the CJ is also on the rise. Since the judgments passed against Slovenia by these two courts not only represent a violation

24 Ur. l. RS, no. 20/97.

25 For example, negotiating settlements on refunds due from investments in the public telecommunications network.

26 Convention for the Protection of Human Rights and Fundamental Freedoms Amended by Protocol No. 11 and additional Protocol and Protocols Nos. 4, 6 and 7 and Protocols Nos. 13 and 14, published in Ur. l. RS, no. 33/94 – International Treaties– Ur. l. RS, no. 102/03 – International Treaties, No. 22/03, Protocol No. 14 – Ur. l. RS, no. 49/05 – International Treaties, No. 7/05.

of the rights of individuals but also affect Slovenia's international reputation, it is even more important for the State Attorney's Office to be provided with the best possible conditions for its work in order to perform that work in accordance with the principles of professional competence and quality (despite an increasing caseload), and thus carry out the positive obligations of Slovenia, which are to guarantee respect for and the implementation of human rights (Article 5 of the Constitution) and implementation of the principle of the rule of law (Article 2 of the Constitution) in its territory. The duty has remained the same: to safeguard state property as one of the integral parts of the state and the property ownership interests of Slovenia.²⁷

3.6. Enforcement of criminal sanctions

The increase in prison capacities which Slovenia has been attempting recently (the recent construction of two new buildings at Dob Prison) does not mean that the state is seeking to fill that capacity. The goal of a democratic state should not be to increase the number of prisoners – quite the opposite. Slovenia's goal is to be ranked among those countries that are least repressive in terms of the number of prisoners as a percentage of the general population. Moreover, a country's level of democracy is surely also measured by how those who have broken the law are treated. The fight against crime is not just a task of the rule of law but also of the social state.

The structure of prisoners in Slovenia shows that they are often people from the margins of society, many of whom have found themselves in great distress, prompting them to commit a criminal act. For this reason, Slovenia will focus its future efforts on the social rehabilitation of convicts prisoners, with special emphasis on various post-release programmes and on the setting-up of preventive mechanisms targeted at the most vulnerable social groups (those for whom the experts believe that strict deprivation of liberty would be less useful or would even have the opposite effect, e.g. minors).

A probation service will be established in Slovenia in the future and will deal with the enforcement of penal sanctions implemented within the community. The data indicates that as many as 80% of prisoners newly admitted to prisons in Slovenia have been given sentences of up to two years, with approximately one third of them starting their sentence from a position of liberty. Alternative sentences could more frequently replace prison sentences, since with the majority of prisoners there are no special reservations against the imposing of alternative sentences; this would, at the same time, significantly unburden prisons in terms of available space and take the pressure off the national budget in terms of finance.

During its visit to Slovenia in 2006, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) wrote in its report that it trusted the Slovenian authorities would continue to implement different measures aimed at reducing prison overcrowding, taking action, *inter alia*, in compliance with the *Council of Europe Committee of Ministers Recommendation No. R (99) 22 concerning prison overcrowding*.²⁸

The increasing number of prisoners is therefore the main challenge for the prison system and the criminal justice system as a whole in terms of human rights and effective prison management. The increasing number of prisoners has many harmful impacts on life in prison.

27 At the moment one of the major deficiencies is information connection, or the lack thereof, between the State Attorney's Office and the courts, which in some areas have already switched to electronic operations with their customers, among them the State Attorney's Office.

28 Council of Europe Committee of Ministers Recommendation No. R (99) 22 of the Committee of Ministers to Member States concerning prison overcrowding and prison population inflation (adopted by the Committee of Ministers on 30 September 1999 at the 681st meeting of the Ministers' Deputies).

International supervisory authorities and the Ombudsman for Human Rights and Fundamental Freedoms also called attention to the lack of space and to overcrowding in Slovenian prisons. The Ombudsman's annual report for 2009 was debated by the Slovenian National Assembly, which subsequently adopted a recommendation that the Slovenian government continue its efforts to improve the situation in penal sanction implementation.

Prison security

Prison system security as a subsystem of the justice system is focused on the attainment of different goals to those of judicial system security in the narrow sense (see Section 3.1 of this document). The security of judicial officials and judicial buildings is aimed, in particular, at providing for the undisturbed operation of the judicial system, while security and protection in prisons are focused mainly on establishing basic conditions for the social rehabilitation of prisoners. In a closed environment, which is also a dangerous one, the prospects of genuine social rehabilitation involving a change in the main patterns of an individual's behaviour and thinking are very poor indeed. For this reason, it is even more important that this issue be given appropriate attention.

Providing security in the prison system is among the most demanding forms of protection provided to institutions and people within the broader European context. Prisons are a sociological phenomenon and a *sui generis* social community, where persons live together in a single place in which they do not want to be at all; at the same time, staff employed within the prison system also work and spend at least one third of their time there.

Prison security in terms of its mission and tasks includes the following:

- protecting society against the perpetrators of criminal offences who have been deprived of liberty
- protecting prisoners from other prisoners
- protecting prisoners from arbitrary behaviour on the part of particular employees and the prison institution itself
- protecting prison staff from prisoners
- protecting the rights and freedoms of all who, in one way or another, live or work within the prison system

This brief description shows how complex the security system in prisons is – and how it cannot be reduced even remotely to a simple issue of extensive architectural and technical protection. High-level security is the result of high-quality work by staff at all levels, from judicial police officers to prison governors. Extensive interdisciplinary knowledge of the social, medical and technical sciences by all participants involved in the provision of security is of key importance for the effective protection of all the categories listed above.

Architectural and technical protection only supplements security by disabling those activities of prisoners that cannot be limited or prevented in any other way. Such protection must be adjusted to the specific features of prisons, where security is focused mainly on preventing exit from the prison and not entry into the prison.

Treatment of violent perpetrators of criminal acts – treatment programme for perpetrators of criminal acts involving elements of violence and perpetrators who are violent in prison

In prisons there are also perpetrators of criminal acts involving elements of violence and those who are violent towards other inmates during their prison sentence. The majority of offenders

become aware of their inappropriate and harmful behaviour, and its consequences, for the first time in their life while serving their sentence.

This is an extremely demanding and comprehensive field of expertise which calls for the establishment of a programme that deals with the target group, one which, aside from drug addicts, is the most critical one in terms of its prospects for successful social rehabilitation and post-penal integration in the labour market. In particular, repeat offenders with elements of violent behaviour are anti-social personalities who have difficulty finding their way in a democratic and permissive environment and/or adapt to it inappropriately. Repeat offences are influenced by psychological factors (inability to be successful in society, low self-image, emotional instability, exclusion from society, rejection of the treatment method), unfulfilled emotional needs (frustration, regressive behaviour), dysfunctional mutual relations (absence of social status, security, solidarity and/or affiliation to a criminal subculture, problems in the family and the environment, e.g. abandonment), social, economic, education, vocational and employment factors, and finally also criminal socialisation within prison (the prisoner is supported by organised groups inside and outside prison).

A group of expert staff should be trained in prisons for the purpose of transmitting and acquiring the skills, methods, techniques and knowledge for working with prisoners who are violent or who have been convicted of criminal acts involving elements of violence. The treatment of such perpetrators calls for a multi-disciplinary approach at the stage of analysing the appropriate approach to a particular prisoner and planning his treatment, as well as at the stage of post-penal support.

Treatment of drug addicts and alcoholics in the prison system

Several studies indicate a high criminal risk among users of illicit drugs. Crime associated with drugs is divided into primary crime (i.e. directly associated with the illegal production of drugs and with drug-trafficking) and secondary crime (i.e. the consequence of addiction). The Offenders who are addicts are most prone to illegal ways of obtaining money for the purchase of illicit drugs.

In the prison system in 2011 there were 1,072 prisoners identified as drug addicts and 489 prisoners addicted to alcohol. In prisons, prisoners addicted to illicit drugs are treated in accordance with the established multi-disciplinary strategies that define the medical part of assistance, educational programmes, the motivational process and the deployment of high-threshold programmes. Expert staff in prisons have to undergo continuous training because of the broader medical and social implications brought about by the disease of addiction.

Treatment of perpetrators of sexual criminal offences

In Slovenian prisons, systematic treatment of perpetrators of sexual criminal offences was started in 2003. Psychiatric experts carried out the initial training of prison system staff involved in the treatment of perpetrators of sexual criminal offences. Over a number of years, psychologists working in prison consolidated their activities within a supervision team working under the mentorship of a well-known psychiatrist. In 2004 and 2005, an experimental education group was set up in Slovenia's largest prison under the leadership of this psychiatrist, with prison psychologists participating as co-therapists.

In 2005 and 2006, the supervision team set up an educational programme that has since been applied to groups of prisoners in that prison and that constitutes the basis for individual treatment. The individual treatment of perpetrators of sexual criminal offences is carried out in all prisons by fully employed psychologists, who meet as part of the supervision team on a monthly basis. The systematic work started with this group of prisoners should be properly

upgraded by setting up an appropriate umbrella mechanism that would facilitate the systematic and multi-disciplinary treatment of this sensitive group, while taking into consideration contemporary guidelines and the transfer of good practice from abroad.

Professional educational work and the education and training of prisoners

With regard to educational work, two aspects should be distinguished:

Professional staff/teachers

Professional staff (educationalists) can become involved in different training programmes (*sensitivity training, training in communication, team and interdisciplinary cooperation, etc.*), supervisions, lectures, seminars, conferences and consultation sessions. While his approach has yielded positive results, there is a need for an institutional framework for sustainable implementation to be set up to enhance the achievements and knowledge in this area.

Education and training of prisoners

Different forms of education, training and leisure activities are provided to prisoners within the Slovenian prison system. Proper adult education helps to balance the negative consequences of deprivation of liberty – depersonalisation, institutionalisation and desocialisation (the normalisation principle). Many prisoners have had very little and/or negative experiences with education in the past; for the purpose of ensuring equal opportunities, prisoners are offered an opportunity to compensate for their lack of education during their prison sentence. The third argument relates to rehabilitation: education has the power to arouse the positive capabilities of a student and to open up new possibilities and choices in life for him, thus increasing the probability that the individual will not commit a further criminal offence.

Counselling and assistance to prisoners in social inclusion during imprisonment and after release

Voluntary counselling is one form of work with prisoners and includes the participation of external providers. It is important for a person in distress that somebody listens to him, that he is able to talk about himself and thus reduce emotional tension. During the serving of the prison sentence, the counsellor (adviser) undertakes the role of a voluntary social network – a network largely taken away from him in prison. For a prisoner, this is an opportunity to establish at least a basic level of communication and social interaction with a person who is not part of the family or the prison system.

Counselling is one of specific features of the post-penal treatment and assistance offered to prisoners in Slovenia for their social inclusion after release; however, it is becoming increasingly difficult to preserve in practice, despite positive expert reviews.

In 2010, 79 prisoners had voluntary counsellors and 63 counselling sessions were introduced, mainly thanks to religious organisations and associations. The preservation and upgrading of good practice are important for effective social rehabilitation and for increasing the prospects of employment after prison, particularly at a time when Slovenia does not yet have an infrastructure of services for post-release assistance.

Providing work and occupational therapy to prisoners

Work by prisoners is an important part of their treatment because it helps preserve and acquire the capacity for paid work after release, while during a prison sentence it creates a rhythm similar to that of normal life outside prison. The educational process that unfolds through work is of key importance for socialisation and rehabilitation. It is therefore somewhat worrying that

in the prison system's present situation, work cannot be provided to every prisoner who wants to work. The lack of work opportunities provokes boredom because prisoners are often left with a lot of leisure time on their hands; this frequently leads to tension and conflict.

Moreover, the financial aspect of occupational therapy cannot be neglected, because work helps ease the financial distress of many prisoners in which they (and often also their family) find themselves. In prisons, prisoners are granted the right to work in particular in public utility organisations ('house chores'), and some prisoners are even permitted to work outside the prison. Data from the prisons' annual reports show that the proportion of prisoners provided with work and occupational therapy is far too low. The skills acquired by prisoners in occupational therapy may be important in their subsequent integration into the labour market.

Introduction of a probation service into the Slovenian criminal sanction enforcement system

Several security-sensitive and major incidents witnessed in the past, and more so those which are being seen today in the awakening and mass awareness displayed by several nations worldwide – namely, that freedom and the related security of life and creation are values per se but are not granted per se – remind us that a proactive approach is called for, as well as global preventive action, if we wish repressive measures to have a positive effect as well. The efforts and obligations of the state and its institutions are not enough for the establishment and existence of these two values as the main conditions for the development and progress of people and the social community; what are called for in particular are efforts to establish mechanisms that internalise, in all individuals and at all levels, an awareness of respect for the universal human values on which justice and equality are based, which in turn are the fundamental presumptions for establishing and preserving freedom and security within the global structure of integration, cooperation and co-existence. A democratic society cannot ensure freedom and safety within the framework of justice²⁹ without the actual embodiment of an awareness of what human rights and freedoms are based on.

Deprivation of liberty is the last measure – *ultima ratio* – for the sanctioning of criminal acts and is to be used only for serious criminal offences and when other sanctions or measures are ineffective. The increasing number of prisoners is thus the main challenge for the prison system and for criminal justice as a whole, in terms of ensuring and ensuring respect for fundamental human rights and of effective prison management. The increasing number of prisoners has many adverse effects on life in prison; moreover, the misguided and excessive use of prison sentences can reduce the level of security in society at large.

For a number of years, criminal legislation in Slovenia has made possible forms of sanctions that provide an alternative to a prison sentence. One of them is community service. These alternative methods were designed as measures to help reduce the system's repressive character by channelling an offender's positive actions towards the benefit of the community and remedying the consequences of short-term prison sentences, which are more negative than positive. All this is in accordance with the principle of limited repression in the enforcement of criminal sanctions.³⁰

29 Draft Resolution on the National Programme for the Prevention and Suppression of Crime 2012–2016, p. 1 (http://e-uprava.gov.si/e-uprava/pridobiDatoteko.euprava?datoteka_id=54714).

30 Judgment of the Supreme Court, ref. no. I Ips 124/2002: Article 106 of the Criminal Code: 'Persons against which criminal sanctions are being implemented may be deprived of or have their constitutional and legal rights encroached upon only as far as is necessary for a particular sanction to be implemented.'

Years ago, the state entrusted the enforcement of some alternative sanctions and measures to social work centres, which have since worked with the judiciary in drafting measures for the social rehabilitation of those given prison sentences and their reintegration into the community post-release. The system of enforcement of alternative sanctions has not yet been organised at the national level and is causing a great deal of difficulty in practice due to a lack of resources, a network, qualifications, supervision and performance assessment.

In the future, a probation service will be established in Slovenia and will deal with the enforcement of criminal sanctions carried out within the community. The data indicates that as many as 80% of prisoners newly admitted to prisons in Slovenia have been given prison sentences of up to two years and that approximately one third of them began serving their sentence from a position of liberty.³¹ Prison sentences could be more often replaced by alternative criminal sanctions because with many prisoners there are no particular security reservations against the imposition of alternative sentences; at the same time, this could take a significant amount of pressure off overcrowded prisons.

The Slovenian National Assembly has considered the issue of criminal sanctions enforcement on a number of occasions and adopted a variety of recommendations and conclusions, among them a recommendation to the Government to enact alternative sanctions and measures.³²

As a rule, sending offenders to prison, particularly when they have been sentenced to short prison terms, has no desired preventive effect; moreover, it is probably also one of the more costly options for the state in its fight against crime. It is reasonable for the state to lead a policy of crime prevention, which does not only mean the suppression of crime by means of repressive measures but, and in particular, the provision of systemic measures for crime prevention.

Slovenia deviates in a negative way from other European countries regarding the organisation of enforcement of community sanctions and measures, i.e. alternative sanctions, because it is almost the only Member State which does not have the organised uniform probation service familiar in the rest of Europe. Some probation activities and measures are currently implemented by state prosecutors, social work centres and prisons, while the enforcement of house arrest, which can replace a prison sentence of up to nine months, is supervised by the court or the police. Both the courts and the police therefore act as authorities that perform the probation activities which fall within the remit of a uniform probation service in other countries.

In view of the above, there is no central authority in Slovenia to take overall national responsibility for the area of probation, to develop it and to supervise the implementation of sanctions and measures, particularly those implemented by the ministry responsible for justice. Of course, this means that Slovenia has no authentic, uniformly maintained statistical data that would facilitate the monitoring of probation in compliance with the instructions of the Council of Europe, which processes data on alternative sanctions submitted to it by Member States at the European level. The data collected provides for a comparison between Member States and indicates the possibilities for further development in this area.³³

31 Prison Administration of the Republic of Slovenia, 2010 Annual Report, page 3.

32 As an example, let us mention again the draft Resolution on the National Plan on the Prevention and Combating of Crime 2012–2016.

33 Every year, Slovenia as a member of the Council of Europe, completes the SPACE questionnaire in the area of criminal sanctions enforcement (Council of Europe Annual Penal Statistics – enquiry concerning population of penal institutions). Every year Slovenia should also complete the SPACE II questionnaire regarding community-based sanctions and measures. Because there is no authority or coordination at the national level, the data is not collected or processed at the national level.

The effective social reintegration of people released from the prison is associated with a number of outstanding questions unrelated to the narrower meaning of probation (conditional release under custodial supervision). This involves people release conditionally without supervision and those released after they have served their sentence. The Enforcement of Criminal Sanctions Act (Official Gazette of the Republic of Slovenia, 110/06 – UPB1, 76/08, 40/09 and 9/11 – ZP-1G) determines that prisons shall offer assistance and guidance to prisoners in planning their social integration after release from prison. In addition to the prisoner and prison staff, competent social work centres, employment institutions, authorities and organisations providing accommodation opportunities, and public healthcare and education institutions, shall be involved in planning and carrying out social integration activities and programmes, unless such cooperation is rejected by the prisoner. All participants in the social integration process must act in a coordinated manner. The implementation of these provisions in practice shows that most problems occur during the transition to liberty: if custodial supervision is not imposed on the prisoner upon his conditional release, specialist institutions that help this vulnerable group will not offer him assistance in exercising his social rights. The release of prisoners from prison is a milestone in the treatment and implementation of social rehabilitation programmes within prison, being a critical time when all the efforts made towards social rehabilitation and a return to normal life are put to the test. If a released prisoner does not have support and services available to help him with his social reintegration, he is more likely to reoffend.

Probation services organised on the basis of legislation in all EU Member States³⁴ except Slovenia, and also in the majority of the European Member States of the Council of Europe, are an organisation which assists judicial authorities to make professional decisions concerning procedures against offenders. The system includes all probation activities in the criminal justice field that are implemented in pre-trial and trial procedures, during the enforcement of criminal sanctions and after release from prison. The main tasks of probation services are the organisation, preparation, enforcement and supervision of community sanctions and measures.

The role of probation services in a particular country depends mainly on the structure of the criminal procedure and the nature and diversity of the sanctions system in that country. The elements of professional work could include a wide range of activities, from the preparation of a risk-need assessment in pre-trial and trial procedures, efficient decisions on the type of sanctions and the enforcement of alternative and/or community sanctions and measures, to social work in the prison, preparation for release from prison, supervision of conditionally released prisoners and after-care, along with assistance programmes to victims of crime.

By being sentenced to prison, the offender is excluded from the social environment, loses his job, his contact with his family is restricted and his inclusion in the social network after the sentence is more difficult – consequently, his reintegration into society is difficult. The enforcement of sanctions and measures in the community allows the perpetrator not to interrupt the existing social network, not to lose his job on account of the sanction and to preserve his normal ties with the family and/or retain responsibility for the family. In the community, his integration into additional programmes and his performance of the measures imposed on him are easier.

Experts from the prison administration find that courts would issue alternative forms of enforcement (i.e. community sanctions and measures) more frequently if Slovenia had a uniform national programme for implementation and development of this area. In recent years, a tendency to issue longer prison sentences has been noticed. There is a high percentage of repeat offenders among the perpetrators of certain types of criminal offence; it can therefore be maintained that the social rehabilitation system for perpetrators is not fully successful. A

34 Probation in Europe, ed: A. M. van Kalmthout, I. Durnescu, Wolf Legal Publishers, Netherlands.

question arises as to whether the issuing of short-term prison sentences or conditional judgments has the desired effect on the perpetrators of criminal acts or whether more could be done in terms of assistance offered after the sentence has been served.³⁵

The most important international instruments defining the enforcement of community sanctions and measures were adopted by the United Nations,³⁶ the Council of Europe³⁷ and the European Union.³⁸ There is also the international *European Organisation for Probation – CEP*,³⁹ operating within Europe, which focuses on the development of alternative sanctions throughout Europe.

Bibliotherapy

Bibliotherapy⁴⁰ has been explained as a process of dynamic interaction between the personality of a reader and literature to help him solve his emotional difficulties, stimulate his creative capabilities and enable his personal growth.⁴¹ It is an interdisciplinary area in which a multi-disciplinary team is composed of different experts from the psychological-social and

35 Draft Resolution on the National Programme for the Prevention and Suppression of Crime 2012–2016.

36 Minimum rules of the United Nations Organisation on community sanctions adopted by the General Assembly in December 1990 (Tokyo Rules).

37 European Rules on Community Sanctions and Measures (Recommendation No. R (92) 16), adopted by the Committee of Ministers of the Council of Europe, Recommendation No. R (97) 12 of the Committee of Ministers on staff concerned with the implementation of sanctions and measures, Recommendation (1999) 22 of the Committee of Ministers concerning prison overcrowding and prison population inflation, Recommendations (2000) 22 of the Committee of Ministers on improving the implementation of European Rules on community sanctions and measures, Recommendations (2003) 22 of the Committee of Ministers on conditional release and Recommendation (2010) of the Committee of Ministers on the Council of Europe Probation Rules. The actual documents also include recommendations and conclusions of conferences by ministers of justice of the Council of Europe Member States and recommendations and conclusions of conferences by directors-general of the prison administrations (CDAP) of Council of Europe Member States.

38 Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions (27 November 2008, Official Journal of the European Union (OJ), 16 December 2008). EU Member States are getting ready for the implementation of the framework decision with cooperation of national probation services. The European Parliament Resolution on detention conditions in the EU calls on the European Commission to make recommendations in relation to greater recourse to alternative measures (15 December 2011, 2011/2897(RSP). The Stockholm programme – an open and secure Europe serving and protecting citizens, also calls on offering alternatives to imprisonment (OJ C 115, 4.5.2010, p. 0001–0038).

39 For more information: <http://www.cep-probation.org/>

40 For more details, see Tjaša Obal: *Kompetence bibliotekarja za izvajanje biblioterapije* (Librarian's competences in the implementation of bibliotherapy), Master's Thesis, 2007; Rhea Joyce Rubin: *Bibliotherapy Sourcebook and Using bibliotherapy: a guide to theory and practice*, Oryx Press, 1978, and Željka Bagarić: *Prava zatvorenika u Republici Hrvatskoj: percepcija zaposlenika u kaznionicama* (Prisoners' rights in the Republic of Croatia: prison staff's perception), Zagreb: University of Zagreb, Educational-Rehabilitation Faculty, Master's Thesis, 2009.

41 Bibliotherapy: A Tool for Helping Preschool Children Deal with Developmental Change Related to Family Relationships. *Early Child Development and Care*, 47, 107–29. [EJ 401 179], Cronje, K. B. (1993), *Bibliotherapy in Seventh-Day Adventist education using the information media for character development*, International Faith and Learning Seminar, Helderberg College, Somerset West, November/December, http://www.aiias.edu/ict/vol_12/12cc_049-066.htm, Adams, S. J., and Pitre, N. (2000): Who uses bibliotherapy and why? A survey from an underserved area. *Canadian Journal of Psychiatry* 45, 645–649.

educational fields. Research⁴² has shown that bibliotherapy is an important support theory in psychotherapy and counselling. It is used by psychotherapists, psychiatrists, psychologists, counsellors and librarians. It is particularly appropriate for use in closed environments in which introspection is of particular importance under the given circumstances (e.g. within the prison system). In guided reading, the role of the librarian in a multi-disciplinary team of experts, who come from different fields and guide individual readers through the application of mirrored multi-reflection with the help of selected and adjusted reading material within a process of self-improvement, is of major importance. The role of the librarian in guided reading is defined by Anglo-American studies.⁴³ The library is an environment that facilitates access to information and thus fosters the acquisition of new knowledge. The role of librarians is therefore to select reading material and implement life-long education and training in group work in the psycho-social field.

Bibliotherapy may have a developmental or clinical focus, so we can speak of two main types of bibliotherapy. Clinical bibliotherapy generally involves therapists using therapeutic methods with which to help individuals by addressing their emotional and behavioural problems. It is implemented as group-work therapy or as a form of voluntary therapy. The population concerned are patients in psychiatric wards, correctional facilities and various addiction centres. The role of therapists is undertaken by a team of experts in the fields of psychiatry, psychology, sociology and library science. The reading material is mainly literature. Bibliotherapy is based on discussions with patients, with the therapist focused on the observation of their reactions to the reading material. The goal is to understand and change the behavioural patterns in patients and/or their insight into problematic situations.⁴⁴ Developmental bibliotherapy⁴⁵ takes place, as a rule, in local communities (e.g. under the auspices of societies, associations and libraries). It is carried out as a form of voluntary group therapy. The users are people who find themselves in a momentary crisis during different life periods or who are simply striving for personal growth.

We believe that both forms of bibliotherapy⁴⁶ are appropriate to the prison system: the clinical form, if the required indications in a prisoner's personal plan exist; and the voluntary form, as a form of group therapy. Currently, bibliotherapy is not one of the forms of treatment among those provided to prisoners in Slovenian prisons. Its introduction at the institutional level would certainly greatly enhance the prospects of better social inclusion on the part of prisoners behind the prison walls and after release.

42 Adams, S. J., and Pitre, N. (2000): Who uses bibliotherapy and why? A survey from an underserved area. *Canadian Journal of Psychiatry* 45, 645–649.

43 Elkin, J., Train, B., and Denham, D. (2003): *Reading and reader development: the pleasure of reading*. London: Facet., Hicks, D. (2006): *An Audit of bibliotherapy Books on Prescription activities in England*, (unpublished), Fanner, D., and Urquhart, C. (2008), *Bibliotherapy for mental health service users Part 1: a systematic review*. *Health Information & Libraries Journal*, 25(4), pp. 237–252.

44 Cronje, K. B. (1993), *Bibliotherapy in Seventh-Day Adventist education using the information media for character development*, International Faith and Learning Seminar, Helderberg College, Somerset West, November/December, accessible at http://www.aiias.edu/ict/vol_12/12cc_049-066.htm.

45 Developmental bibliotherapy differs from clinical bibliotherapy in that the role of the bibliotherapist is not as demanding and active. He does not have to be so attentive and active in monitoring the users because they seek conversation that would indicate a path to resolving their current problems and not severe mental disorders. Literature and other learning material are used. The goal of developmental bibliography is the personal growth and self-realisation of an individual. See Arleen McCarty Hynes and Mary Hynes-Berry: *Bibliotherapy: The Interactive Process*. Boulder, CO: Westview Press, (1986).

46 John T. Pardeck and Jean A. Pardeck: *Bibliotherapy: a clinical approach for helping children*, Yverdon, Switzerland; Langhorne, Pa.: Gordon and Breach Science Publishers, 1993. XIII. p. 146.

More appropriate treatment of juvenile offenders – perpetrators of criminal acts and offences in Slovenia

By definition, young people are among the most vulnerable groups in society. They have not (yet) developed their personal identity, have no determined place in society and have limited opportunities for making decisions on their choices. They are exposed to different justified and unjustified expectations on the part of their families, the environment, society and so on. Personal uncertainty increases their tendency to (uncritically) accept different influences, including negative ones. Crises, social distress and the times they live in affect them in a very personal way. The key role in the personal fragility and vulnerability of young people is played by the family, since the absence of family support is one of the main factors in vulnerability and risk.⁴⁷

Studies on the social vulnerability of children thus indicate that those who are without the support of parents and who, at the same time, have no other adult whom they can trust are most vulnerable.⁴⁸ This is true for young people in general and even more so for juvenile offenders. Criminal offences committed by minors are (from a psychological-educational point of view) more often a cry for adult attention than anything else – a cry for somebody to stop them through moral authority, consistency and example, set limits on them and thus help them direct their youthful energy towards a determined goal.

In its regulatory framework, the Criminal Code⁴⁹ opens up opportunities for establishing new and alternative forms of work with juvenile offenders. In the procedure against juvenile offenders, it pursues educational measures as its main purpose – i.e. the education of young people and concern for their development. Despite the statutory opportunities for imposing out-of-prison, i.e. community and/or alternative sanctions on minors, these have yet to start functioning in practice. In order to increase the opportunities for imposing out-of-prison measures, more different programmes to foster the participation of minors (and their families) need to be developed for the purpose of improving their social inclusion and encouraging socially acceptable behaviour. The family is the most important safeguard for a minor that discourages him from delinquent behaviour. There is also a shortage of residential communities for minors on whom institutional educational measures have been imposed. In addition, judicial officials should be acquainted in detail with all programmes for minors and with the work and programmes of particular juvenile correctional institutions and facilities so that they may choose the correct measure in each particular case more easily.

Another important part of work with minors is a programme for coping with anger and aggression, which is as yet non-existent in juvenile correctional facilities. This means that staff often cannot cope with violent minors.

The treatment of minor offenders is an extremely demanding and comprehensive professional field that calls for the setting-up of appropriate programmes of treatment for this target group in juvenile correctional facilities and local communities. Moreover, a group of expert staff should be trained in Slovenian juvenile correctional institutions and facilities with the aim of transmitting and acquiring the skills, methods and knowledge for work with minors who are violent or who have committed violent criminal acts.

⁴⁷ Rener, T.: Ranljivost, mladi in zasebno okolje (Vulnerability, young people and the private environment); in Ule, M., ed.: Socialna ranljivost mladih (Social vulnerability of young people), 2000, Ljubljana, Aristej, p. 99.

⁴⁸ Ibid., p. 105.

⁴⁹ Uradni list RS, nos. 55/08, 39/09 and 91/11.

3.7. Information and communication support to the functioning of the judicial system, accessory subsystems and links with other stakeholders and participants in the justice system

The judicial system is conservative by definition and its main goal is to ensure quality of life for its citizens and effective protection of their rights. Nevertheless, in the last ten years a significant leap has been noticed in Slovenia in the area of computerisation, placing the judiciary ahead of many other national authorities and institutions in terms of the level attained. This implies a change in the basic patterns of thought and involves the actual introduction of IT solutions into the daily operations of the entire judicial system.

Computerisation and the introduction of various IT solutions into the judiciary, and its interaction with other stakeholders involved in its operations, provide for an intelligent increase in performance at two main levels in particular: the procedural and the substantive. On the one hand, we are referring to increased efficiency at the procedural level, where IT solutions are helping to create an environment that allows the detection and elimination of duplicated production processes, administrative obstacles and repeat work, thus speeding up the movement of cases through the hands of those implementing the procedure and accelerating procedures within the judiciary. On the other hand, information solutions, because they are bound to instructions and procedures entered into the information environment on the basis of the applicable regulations, and because of potential different safeguards, reminders and other intelligent solutions, may also affect the course of procedures in terms of substance, since the procedures are being improved by computerisation, enabling better decision-making with fewer possibilities for mistakes and thus ensuring higher quality of operation on the part of the justice system.

The increase in the effectiveness of justice at the procedural and substantive levels both in terms of time required for resolving matters and the provision of high-quality solutions is indicated mainly by the fact that justice, as a system, is intended mainly for natural and legal persons who need prompt and high-quality judicial services.

The effectiveness of a judicial system can also be assessed by studying the institutes of the rule of law, provision of the right to judicial protection and the right to a regular trial within a reasonable time, which are the foundations of a democratic state. Past experience and comparative foreign⁵⁰ and national⁵¹ studies indicate that by means of a mechanical increase in the number of judicial officials, the number of cases resolved within the judicial system in *general* does indeed increase in the short term; however, analyses also show that by reducing the caseload imposed on particular officials, their performance⁵² declines as well. Therefore, it is even more important that intelligent safeguards in the form of IT solutions are introduced into the system and appropriate subsystems in order to facilitate the control and management of the system's production processes, particularly in the direction of more efficient case management⁵³

50 See the study by Michael Beenstock and Yoel Haitovsky: Does the appointment of judges increase the output of the judiciary?, *International Review of Law and Economics* 24 (2004), Elsevier, pp. 351–369, where they analysed the functioning of courts in Israel from this perspective.

51 See the study by authors Valentina P. Dimitrova-Grajzl, Peter Grajzel, Janez Šušteršič and Katarina Zajc: Court Output, Judicial Staffing, and the Demand for Court Services: Evidence from Slovenian Courts of First Instance, (1 October 2010). 5th Annual Conference on Empirical Legal Studies Paper, SSRN.

52 Beenstock and Haitovsky, *Narodu in državi sovražni* (Hostile to the Nation and to the Country), p. 365 ff.

53 Dimitrova-Grajzl, Grajzl, Šušteršič and Zajc, p. 26. *Revija za kriminalistiko in kriminologijo* (he *Journal of Criminal Investigation and Criminology*), 26/2, pp. 157–170.

that enables better human resource management. This, however, is precisely the task of IT solutions in the form of the upgrading and interoperability of the existing solutions, the development and introduction of new intelligent solutions.

Several research studies have tried to measure and/or evaluate the rule of law concept. The European Union Agency for Fundamental Rights states that there is no standardised concept⁵⁴ for measuring the right to judicial protection. Based on three important documents⁵⁵, the EU Member States proposed five elements, which included:

- *right to a certain institution for the successful settlement of a dispute*
- *right to a fair trial*
- *right to the swift resolution of a dispute*
- *right to appropriate compensation*
- *principles of efficiency and effectiveness*

The research concludes that excessively lengthy procedures are the most common difficulty in all Member States, adding that EU activities within the e-justice mechanism are adequate, that they improve access to judicial protection (for example, through the EU e-justice portal), while at the same time pointing out that electronic methods cannot and may not be the only prescribed method of communication in procedures. We must always take into account those groups that do not have adequate access to information and communication technologies and the internet. In its recent decision, the European Court of Human Rights expressly wrote: '*However, the exercise of rights (...) might be rendered in practice impossible or excessively difficult for certain individuals – in particular those without access to the Internet – if the settlement procedure could be accessed only by electronic means*'.⁵⁶ For this reason, it is even more important that, in the future and particularly in the context of intelligent upgrading of the existing infrastructure, the interoperability of existing and future systems and records of different forms and functions, the efforts made in this area take into account the multi-functional dimension of operations with parties, state authorities and other stakeholders in the judicial system.

*The conceptual design of the e-justice project derives from the basic objective of the Programme to Improve the Performance of the Judiciary and Eliminate Court Backlogs – the Lukenda Project,*⁵⁷ which is to increase the efficiency of the justice system and eliminate backlogs at courts and state prosecutor's offices. The Government extended the project to 31 December 2012 owing to its good results.⁵⁸ In order to achieve this goal, the main and other measures have been planned, including full computerisation of the operations of courts and gradually also of other authorities and stakeholders in the judicial system.

54 European Agency for Fundamental Rights – FRA, Access to Justice in Europe: an overview of challenges and opportunities. Luxembourg: Publications Office of the European Union, ISBN 978-92-9192-676-3, p. 14. The Agency was founded in Vienna by Council Regulation (EC) No 168/2007 of 15 February 2007 (OJ L 53/2, 22 February 2007).

55 These are above all the European Convention for the Protection of Human Rights and Fundamental Freedoms, International Covenant on Civil and Political Rights and Charter of Fundamental Rights of the European Union.

56 See the judgment Rosalba Alassini and Filomena Califano v Wind SpA, Lucia Anna Giorgia Iacono v Telecom Italia SpA, Multiservice Srl v Telecom Italia SpA, Joined Cases C-317/08 to C-320/08, 8 March 2010, § 58 (bold added for emphasis by the Ministry of Justice and Public Administration).

57 Ministry of Justice, 2005.

58 See Decision of the Government of the Republic of Slovenia No. 70000-6/2010/3 of 26 August 2010.

The most significant progress has been noted in connection with the coordinated management of projects. The Ministry responsible for justice established the e-Justice Project Council in 2008. Its members are representatives of all judicial authorities in Slovenia: the Supreme Court, the Constitutional Court, the Office of the State Prosecutor-General, the State Attorney's Office and the Prison Administration. The Council's principal tasks are:

- to guide, monitor and coordinate the main activities in the implementation of e-justice projects
- to decide on detailed project plans and technical and expert matters important for project implementation
- to check the progress and status of projects and make a comparison between actual and planned implementation
- to decide on changes to and/or the expansion of projects when additional activities are required for project implementation that were not foreseen at the launch of a project
- to resolve disagreements and decide on matters of contention between different stakeholders in an e-justice project

In an e-justice project, the main index established as the computerisation benchmark is the reduced average time of a particular judicial proceeding (in months), as defined in the *Operational Programme for Human Resources Development 2007–2013*.⁵⁹ This is known as the Cappelletti-Clark index, which is calculated as the ratio between the number of pending cases at the end of the year and the number of resolved cases per year, multiplied by 12. It is particularly useful when the actual average length of proceedings conducted before a court cannot be established. However, while being by no means the only criterion of efficiency, it is rather useful for its simplicity, since it has proved to yield a proper estimate of the length of court proceedings in a particular country.⁶⁰

The *Information on the Implementation of the Programme to Improve the Performance of the Judiciary and Eliminate Court Backlogs* (August 2010)⁶¹ states that the number of court backlogs was halved in comparison with 2000. This is also indicated by a reduction in the average time required for adjudication of a case, which was 6.1 months in 2009 (down from 14.1 months in 1998) and 4.5 months in 2011.⁶² It is difficult to accurately measure and quantify, in a direct and empirical way, the actual contribution made by computerisation to the above achievements; however, it can be argued with good reason that it was certainly one of the major factors.

The introduction of audio recording of court hearings is believed to have contributed a great deal to reducing the length of judicial proceedings (this refers to main hearings which, as a rule, are the most time-consuming part of proceedings). According to figures from Koper District Court, where criminal proceedings have been recorded since 2006, court proceedings have been

⁵⁹ Government Office for Local Self-Government and Regional Policy of the Republic of Slovenia, 2007 and 2010.

⁶⁰ See Buscaglia, Edgardo and Maria Dakolias: *Comparative International Study of Court Performance Indicators: A Descriptive and Analytical Account*. World Bank: International Bank for Reconstruction and Development, 1999. See *The Risk of Poverty and Material Deprivation indicators*.

⁶¹ Downloadable at:

http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/110623_94sv32_gradivo_Lukenda.pdf.

⁶² Public opening of the judicial year 2012, Supreme Court of the Republic of Slovenia, February 2012.

Downloadable at:

http://www.sodisce.si/mma_bin2.php?nid=2012021314361045&static_id=20120213142603.

shortened by 30 to 40%, or even more. This contributes to the prompter adjudication of cases and, in consequence, to a reduction in court backlogs.

Audio recording of court hearings was introduced in October 2010. In 2011 main hearings were recorded by 185 judges. It can be noted that some judges have adapted faster to the advantages of the new system than others, since the data shows that audio recording is often used by the same judges. As a result, hearings take less time, their quality is improved because recording encourages more orderly conduct on the part of the parties and removes doubts as to the content and context of the words pronounced at the hearing, while the judge is relieved of the obligation to summarise the statements for the records; the main advantage, however, remains the reduced length of hearings for all parties to court proceedings.

The enormous impact of land register computerisation on the average time required for the settlement of cases is well established, because the length of these procedures began to decrease rapidly after the introduction of the electronic land register in 2003. In 2011 a new IT solution was introduced to the electronic land register whose results are not yet evident from the statistical data. The number of land register matters reaching resolution has also increased dramatically since 2003, remaining at around 250,000 per year since 2004.⁶³

Since the courts began monitoring enforcement matters in accordance with the principles of project management, the trend of an increase in pending enforcement matters reversed in 2008 and has continued since as indicated in Figure 1. It is clear that, since 2008, when the electronic lodging of enforcement requests based on an authentic document at the Central Department for Authentic Document of Ljubljana Local Court – COVL was introduced, the number of cases reaching resolution has increased considerably, to approx. 350,000 cases in 2011.

Vstaviti v sliko:

Trend in enforcement matters (Gibanje izvršilnih zadev)
Caseload (Pripad) Settled (Rešeno) Pending (Nerešeno)

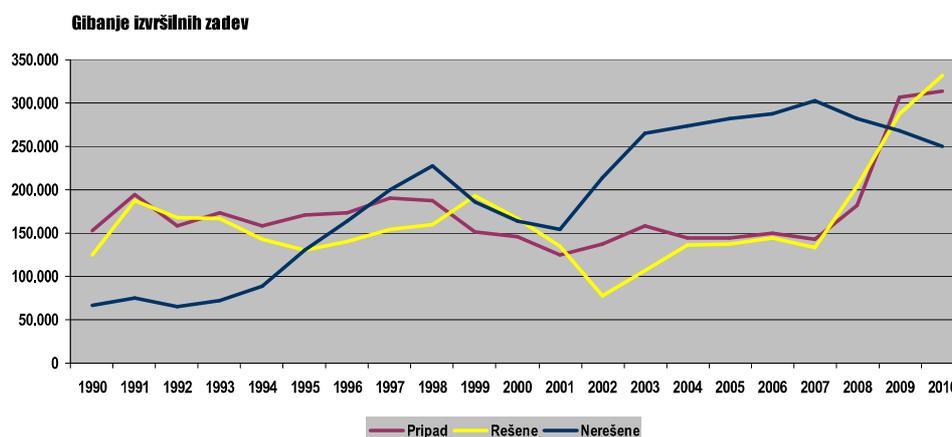


Figure 1: Trend in enforcement matters (Supreme Court of the Republic of Slovenia, 2011)

Considering the definition of court backlogs in the statistical context from the Lukenda Project, a reduced average length of particular judicial proceedings, i.e. faster adjudication of cases, is accompanied by a reduction in the number of pending files at a particular court.

Vstaviti v sliko:

⁶³ Study of impact of computerisation on the performance of the judicial system, target research programme *Slovenia's Competitiveness 2006–2013*.

E-justice (E-pravosodje)

Average adjudication time for a particular case (povprečni čas reševanja posamezne zadeve)

Lukenda

Elimination of court backlogs (odprava sodnih zaostankov)

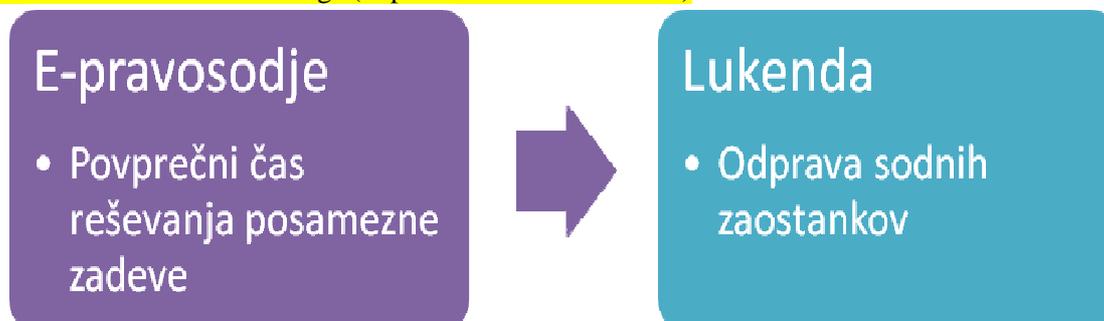


Figure 2: E-justice, with a selected index of average adjudication time for a particular case, facilitates the elimination of court backlogs

Considerable effects have been introduced by the *Introduction of Video Conferences in Justice* project. This project has provided opportunities for hearing children in all types of judicial proceedings, hidden or anonymous witnesses, witnesses who cannot come to court (e.g. persons in hospital or retirement homes), and persons abroad (Slovenian soldiers, diplomats, officials employed with EU institutions, other persons living and/or working abroad, etc.) The project has also provided an opportunity to conduct hearings with prisoners, meaning that in certain cases there is no need to arrange relatively expensive transport to court when the physical and technical protection of prisoners has to be ensured. The project's short-term effects are demonstrated in the length of procedures, particularly cross-border procedures; the project's long-term effects are reflected mainly in the immediate savings being made by the state, the commercial sector and, of course, by all parties involved in judicial proceedings. By pursuing the principle of economy in the conduct of proceedings, judges can also take evidence that objective reasons might otherwise have prevented them from taking. Accelerated proceedings help eliminate court backlogs and reduce the number of pending cases. The use of video-conferencing equipment in special cases involving the testimony of at-risk witnesses also has an immediate effect on improving the security of judicial proceedings and protecting witnesses exposed to threats originating from different forms of organised crime. The last but by no means negligible effect of using video-conferences in justice procedures is the reduction in carbon emissions brought about by not having to use transport to and from court.

3.8. Increasing environmental awareness throughout the whole judicial system and other relevant implementation and support systems

The European Union has one of the most stringent sets of environmental standards anywhere in the world. In 2000 the European Commission adopted the European Climate Change Programme (ECCP), which enabled the adoption of new policies and measures, including the European Union Emissions Trading Scheme (EU ETS). In 2007 the heads of EU Member States adopted a comprehensive approach to climate and energy policy and committed themselves to a transition to an energy-efficient and low-carbon society. They undertook the commitment to reduce emissions by 20% **by 2020** compared to 1990 levels; and if other developed countries adopted comparable targets and if developing countries contributed their fair share, the European Union would be prepared to increase its emission reduction target to 30%. The European Union climate and energy package was adopted in 2008 to serve as the basis for realisation of the commitment to reduce emissions by 20%.

The Lisbon Treaty, which entered into force in December 2009, was the first time a European Union treaty stated that combating climate change would be one of the objectives of EU environmental policy.⁶⁴ At the end of October 2010, the European Commission launched a public debate on the *Roadmap for Moving to a Competitive Low-Carbon Economy in 2050*, in which it defined the most efficient methods of the transition to a low-carbon society.

At its third regular session on 3 February 2011, the Slovenian Government adopted a position for talks with the European Climate Change Commissioner and welcomed the preparation of the EU low-carbon strategy (Roadmap 2050). This strategy, which is expected to be ready for adoption in 2013, is supposed to enable a reduction in greenhouse gas emissions in the European Union by between 80 and 95% by 2050 (compared to 1990 levels). In the European Union, a debate is taking place on the possibility of transitioning to a more ambitious objective of a reduction in greenhouse gas emissions by more than 20%, i.e. the option of a 30% reduction of greenhouse gas emissions by 2020 (compared to 1990 levels).

One of the commitments is also the transition by the EU as a whole to an energy-efficient low-carbon economy. **To kick-start this process, the following demanding climate and energy targets by 2020**, also known as '*20-20-20 by 2020*', were adopted: a reduction in greenhouse gas emissions by at least 20% by 2020 compared to 1990 levels; an increase of the share of renewable energy sources in final energy consumption by 2020 to 20%; a 20% reduction in primary energy use by 2020 compared with projected levels, to be achieved **by improving energy efficiency**. The priorities today are combating climate change, the conservation of biodiversity, the prevention of pollution-related health problems, and the responsible use of natural resources. In addition to environmental protection, these goals promote innovation and enterprise and, thus, economic growth.

This is an area that will be of key significance for our future survival. In raising popular awareness an important role is played by the bodies and organisations of the European Union (European Commission, European Parliament, Council of the European Union, European Environment Agency, European Investment Bank), Slovenia's non-governmental organisations and government offices (ministries, inspectorates, agencies),⁶⁵ local self-government offices (municipal traffic wardens) and judicial authorities (courts, State Prosecutor's Office, State Attorney's Office).

Under the Constitution, everyone has the right to a healthy living environment. This area is also under the protection of criminal law. A healthy living environment is therefore protected by the regulatory framework; however, there are problems with inefficient implementation, which makes efficient operation of the criminal justice system difficult and places pressures upon it. In addition, there are difficulties with the implementation of provisions on providing evidence of liability for damages resulting from unlawful activities affecting the environment. This means that the state is not efficient enough in enforcing damages due to unlawful and harmful activities that affect the environment. Often, the reasons given for this are the inadequate powers of all the parties involved (inspection, State Prosecutor's Office, State Attorney's Office, the court), poor knowledge of the issues and, in particular, insufficient awareness on the part of society about what more can be done. In a broader sense, it is clear that the level of environmental awareness

⁶⁴ First paragraph of Article 191 of the Treaty on the Functioning of the European Union.

⁶⁵ Due to global climate change, the Government has adopted and has been implementing the measures for reducing greenhouse gas emissions and preventing their negative impact. One of these measures is the introduction of environmental performance in state administration based on the Recommendations for an Environmentally Efficient State Administration. See Decision of the Government of the Republic of Slovenia No. 35400-3/2010/13 of 22 July 2010.

of society as a whole is one of the key indicators of its development, as well as its economic performance.

In implementing the tasks of judicial administration, the ministry responsible for justice secures the conditions of work of judicial authorities. In addition to regulatory activities, it has to provide appropriate spatial capacities for the operation of judicial authorities and the whole prison system. In carrying out these activities, the ministry strives to achieve the best possible use of all types of ecological and biological material, products, innovations and other investment structures to take the country on the path towards a future 'green judicial system'.

4. Goals in the area of justice by 2020

4.1. Security

Slovenia's preeminent interest lies in providing a high degree of security for all judicial authorities and other participants in justice and the smooth operation of the entire judicial system, and therefore the functioning of the rule of law, which is also associated with the policy of ensuring the country's internal security. Slovenia aims to set up and operate an effective but streamlined internal security system in the broadest sense. It is thus in Slovenia's interest to enhance and encourage partnership relations between the state and private security mechanisms in order to additionally strengthen the legitimacy, authenticity and functioning of the social system as a whole. A proper level of institutionalised security⁶⁶ is the platform for the further development of democratic institutions within society.

Slovenia will also prioritise these interests in pursuing the following goals in **the area of security in justice**:

- systemic security regulation of judicial authorities, the judicial system and other legitimate stakeholders
- high-quality and sustainable education and training, and the establishment of mechanisms of sustainable training and the regular upgrading of knowledge for all those employed in justice and security staff
- the establishment of intelligent mechanisms for the provision of quality control over private security entities charged with carrying out security-related tasks
- the attainment of synergy in the security area of judicial authorities and the judicial system through the setting-up of partnership relations between the state and private security mechanisms
- the implementation of security management at all levels: strategic, organisational and operational
- the provision of an appropriate security architecture for court buildings and buildings occupied by other judicial bodies, including security-technical equipment and appropriate preventive mechanisms
- the creation of circumstances for the intelligent optimisation of staff capacities and capacity-building for current and future security managers, whereby the majority of their tasks will be organised and set up within existing court districts, not only for the courts but, to a relevant extent, for other judicial authorities and stakeholders within and outside justice as well (emphasis will be on the utilisation and optimisation of existing knowledge and human resources in the public sector)
- a modular approach to the formulation and resolution of security issues within the justice system in its entirety
- the setting-up of appropriate mechanisms of intelligent information security for the transfer, dissemination, entry and storage of data in the judicial system
- the setting-up of an appropriate umbrella institutional framework for the security of judicial bodies and, where appropriate, of the judiciary in the broader sense as well.

In the period up to 2020, the security architecture of judicial authorities will be set up purposefully, proportionately and comprehensively in line with valid international security

⁶⁶ Provided it is limited and appropriately placed within the structure of other equal human rights and fundamental freedoms as acknowledged by the Constitution of the Republic of Slovenia and wider international documents on the protection of human rights.

standards, taking into account the regulations and the principle of proportionality and depending on the security challenges.

The security policy of judicial authorities will be implemented by means of the main security system institutions, with an emphasis on protecting the life, personal security and property of employees and parties in the judiciary, and on protecting all main institutions of the judicial system and other stakeholders in the judiciary.

The Ministry will strive to establish a uniform security policy for all judicial authorities in Slovenia according to their degree of risk. To this purpose, cooperation between all ministries responsible for judicial authorities and institutions that possess appropriate knowledge and experience in this area will be set up.

Due to the increasing number of security events, particularly during the last months of 2011 and the first three months of 2012, problems are already appearing in staff management of the security policy area in all 120 judicial authorities across the country – currently, these tasks are carried out by only one civil servant at the responsible ministry. For this reason, we suggest that the Government in due time study the alternative of relocating⁶⁷ at least one properly qualified expert for security issues from the police or another authority to the ministry responsible for justice, thus providing urgently needed security advice to judicial authorities.

In light of the security trends in Europe associated with the smooth and secure operation of courts and other judicial authorities, along with the security challenges of a globalised world, particularly the operation of criminal organisations, organised crime, various forms of terrorism, uncontrolled migration flows and trafficking in human beings, and the persistent and ongoing economic and social crisis, special attention should be paid to security.

Europe is slowly but steadily becoming a uniform area in terms of security issues as well; therefore, a systemic, comprehensive and standardised security environment also needs to be provided. In Slovenia and some other EU Member States, the directors and presidents of courts and other security managers within the judiciary have not yet had any experience of the security policy area because the need was not so pressing. However, the changing environment calls for an active security approach by 2020 with the purpose of making security challenges manageable through a variety of different measures.

Up to 2020, the tasks of the ministry responsible for justice will be based, in particular, on cooperation with judicial authorities and the coordination of adequate and proportionate security measures with the institutional entities responsible for security tasks, subject to the consideration of judicial authorities' security requirements. The adequate and appropriate degree of security culture among employees and self-protective measures at the workplace will be the priority task of those charged with performing individual tasks. Particular attention should be focused on the upgrading of the normative area of work, the professionalisation associated with education and training, appropriate security architecture for judicial buildings, appropriate and advanced security and technical equipment, security advice, and the

⁶⁷ We are well aware that in the current crisis, no additional recruitment can be considered. Therefore, it is even more important to set up a basic mechanism within the existing human resources and security infrastructure in the public sector that will serve the special needs of justice and that will provide and maintain the appropriate level of security protection against current and potential future security challenges. Only such a mechanism may guarantee that the worst security incidents do not take place and that, in the event that they do happen, it will be possible, by recourse to this mechanism, to respond to them properly and secure compensation for their consequences from material and human perspectives.

performance of supervision and other implementing and organisational solutions that form the basis for security risk management in the judiciary.

The key objective of the implementation of security measures by 2020 will be to provide and create a security environment in which judicial bodies can implement their judicial powers and statutory responsibilities without hindrance, and provide for the effective functioning of the rule of law. In this context, IT security is also very important. In terms of IT, justice is an extremely sensitive area because it mainly involves the transfer, dissemination, entry and storage of data that is important from the perspective of the protection of fundamental human rights, and thus the rule of law *in concreto*.⁶⁸ The ministry responsible for justice will therefore introduce into the work and operations of judicial bodies the principles and standards of protection of classified information which is determined as such by internal laws and regulations, and data that is defined as confidential under the provisions of the Council Decision of 31 March 2011 on the security rules for protecting EU classified information (2011/292/EU).⁶⁹ In the state prosecutor's area, this will be carried out in cooperation with the responsible ministry.

4.2. Judicial administration

The strategic goals in the area of **judicial administration in Slovenia** by 2020 are as follows:

- increasing the level of provision of general conditions for the successful implementation of judicial power
- providing intelligent technological solutions for efficient implementation of the tasks of judicial administration
- eliminating administrative barriers to the keeping the records in the area of judicial administration
- improving mechanisms of supervision of the work of the judiciary in the wider sense, including, in addition to court appraisers, interpreters, enforcement officers and experts, notaries as well
- providing appropriate institutional opportunities for the transfer of foreign legislative solutions, guidelines and good practice.

By increasing the level of the provision of general opportunities for the successful implementation of judicial power, improved performance on the part of all participants in the judiciary will be attained, which will result in enhanced public trust in the work of the judicial authorities. The opportunities for ensuring the integrity and transparency of operation of the state and its institutions will thus be provided, which will also have indirect concrete economic effects by increasing the trust in the work of Slovenian institutions at home (greater trust in the rule of law) and abroad (trust of foreign countries and foreign investors).

Computerisation and improved communication at different levels and the setting-up of control mechanisms through the amendment of regulatory solutions should ensure that the separation of duties between the judicial administration and court management⁷⁰ are taken into account in the

⁶⁸ For example, transactions involved in the transfer of the property right to immovable property can have, in the case of the inadequate entry of the legal and material features of immovable property in the records, dire consequences not only for the property's legal security but often also for the survival of an individual.

⁶⁹ Council Decision 2011/292/EU of 31 March 2011 on the security rules for protecting EU classified information (OJ L 141, 27 May 2011, p. 17).

⁷⁰ Court management in Slovenia, as one of the state's major functions for ensuring effective justice, includes the operation, duties and responsibilities of different factors in the area of court management and decision-making, which is carried out by presidents and directors of courts and, to a limited extent, also

implementation of the responsibilities of the executive branch of power. With reference to providing institutional opportunities for the transposition of foreign legislative solutions, guidelines and good practice, in particular those of the authorities of the European Union and the European Court for Human Rights, such institutes and mechanisms as will strengthen administrative assistance to the parties involved in judicial proceedings should be provided for within the planned new statutory solutions regarding the establishment of new control mechanisms at all appropriate levels, subject to consistent separation of judicial administration and court management. In strengthening the responsibilities of judicial administration, the checks and balances system should be taken into consideration as part of the basic constitutional principle of the separation of powers. The institute of judicial administration, which is part of the implementation of the checks and balances system, has a supportive, (limited) controlling and also independent creative role (preparation of draft acts and implementing regulations).

The introduction of intelligent technological solutions for the efficient performance of judicial administration tasks will increase their performance, efficiency and effectiveness.

4.3. Slovenian judiciary

The strategic goals in the area of **judiciary in Slovenia** by 2020 are as follows

- ensuring equal access for all citizens
- offering and promoting the amicable settlement of disputes, while taking into account the right to an independent and impartial judge
- ensuring that the work of the Slovenian judiciary is of a quality that accords with the expectations of the public, towards whom it should display a polite, respectful and dignified attitude
- preserving independence and strengthening relations with the general and professional publics and the other two branches of power
- organising business processes in such manner that judges are relieved of non-judicial and routine tasks
- encouraging every individual employed at the court to undergo training in the use of information technology
- strengthening the sense of affiliation
- respecting and increasing the trust of the general and expert publics in the work of the judicial system

At the operational level, the Slovenian judiciary, along with other competent authorities, will make efforts to ensure that the expected time for the settlement of cases of major importance in 2020 will be six months and for other cases three months, and that the number of judges per 100,000 inhabitants will fall from 53 to 42,⁷¹ whereas the ratio between judges and court staff will increase from 3:6 to 4:3.

4.4. State Prosecutor's Office

by the Judicial Council and staff councils in the area of court administrative self-government that refers to the rights, duties and responsibilities of judges. Court management must ensure the effective management of courts by granting independence to judges in the institutional and functional context on the one hand, and impartiality of trial on the other hand, while at the same time ensuring that all procedures are concluded within a reasonable time and without undue delay. See Zoran Skubic, *Evolving Justice: The Constitutional Relationship Between the Ministry of Justice and the Judiciary and a Short Overview of Recent Developments in the Area of Court Management in the Republic of Slovenia*, *International Journal for Court Administration*, Vol. 4., No. 1, Seventh Issue, December 2011, page 20, note 14.

⁷¹ Under the assumption that the responsibilities and caseload will remain unchanged.

The strategic goals in the **State Prosecutor's Office** area by 2020 are as follows:

- strengthening the principle of the rule of law
- ensuring appropriate criminal prosecution for all criminal offences
- using human and material resources in a cost-effective manner
- strengthening the quality of state prosecutors' work
- maintaining the independence of state prosecutors
- optimising the organisation of business processes
- strengthening the trust of the general and expert publics in the operation of the Prosecutor's Office

Given the constant increase in the number of criminal offences being committed, the appropriate and efficient criminal prosecution of all criminal offences will be possible only through the rational use of all available resources. Accordingly, the priority tasks in criminal prosecution will have to be determined and the consideration of particular types of crime will have to be adapted accordingly so that most of the resources available are earmarked for the most dangerous types of crime. By means of the planned use of alternative forms of criminal prosecution and by strengthening the role of the state prosecutor in pre-trial criminal proceedings at the expense of the police as the law enforcement authority, it will also be possible to develop a doctrine on the regulation of the influx of criminal charges to the courts and, in consequence, achieve a partial unburdening of the latter.

4.5. State Prosecutor Administration

The strategic goals in the area of **State Prosecutor Administration** in Slovenia by 2020 are as follows:

- increasing staff levels and technical capacities for the provision of state prosecutorial services
- amending legislation in the area of the organisation and operation of state prosecutor's offices in order to eliminate administrative barriers and simplify procedures
- the introduction of more efficient cooperation between the State Prosecutor's Office as the law enforcement authority and the police as the authority charged with detecting offences and offenders so that, when a criminal investigation is launched, police work may be directed towards a legally relevant, cost-effective and economically sound path under the new guidelines and through the transfer of good practices from abroad
- promoting professional training and education in specific areas of criminal prosecution

4.6. State Attorney's Office

The strategic goals in the area of the **State Attorney's Office** in Slovenia by 2020 are as follows:

- strengthening the role of the State Attorney's Office and its independence in making decisions before international courts and in preliminary proceedings
- strengthening the legal order by means of the efficient execution of powers under the Forfeiture of Assets of Illicit Origin Act (Official Gazette of the Republic of Slovenia, 91/11) for the purpose of preventing the acquisition and use of assets of illegal origin and in order to protect the legal acquisition of assets and the economic, social and environmental impact of property
- relieving state attorneys of administrative tasks and transferring them to specialist staff and state attorney clerks

- increasing occupational mobility and the ability to adapt more quickly to work processes
- introducing the training and education of state attorneys in the relevant areas
- provision of information and training to state institutions and the general public
- improving the public image of the State Attorney's Office
- establishing a search engine for state attorney and court case-law

In addition to the general goals, which other judicial authorities also set themselves in the performance of their tasks (settlement of disputes in society, enhancing legal certainty and respect for human rights), the State Attorney's Office endeavours to protect the state's financial and physical assets as one of the most important elements of the state, and its property ownership interests.

4.7. Intelligent and inclusive enforcement of criminal sanctions

The strategic goals in the area of **enforcement of criminal sanctions** are as follows:

- *introduction of a probation service* as a new instrument of integrated social rehabilitation of offenders
- *an appropriate and balanced security level in the prison system* – an adequate number of judicial police officers and other staff employed in the prison system, trained in a range of disciplines and able to respond properly to dynamic, stressful and responsible work while fully respecting human rights and entrusted with major responsibility for the security of prisoners
- *peaceful conflict resolution in prisons* – training in coping with violent prisoners in order to reduce the use of coercive measures and instruments of force
- *reducing the use of coercive measures and instruments of force* – acquiring additional knowledge and skills in order to reduce the risk of abuse of powers on the part of staff
- *appropriate treatment of violent offenders* – training of staff to handle violent prisoners and those convicted of a violent criminal offence
- *appropriate treatment of drug addicts and alcoholics in the prison system* – acquiring new knowledge, skills and information to help addicts change their habits and way of life, regulate their social status, reduce their morbidity rate and thus reduce the incidence of crime
- *appropriate treatment of sex offenders* – setting up appropriate mechanisms for penal and post-penal treatment
- *increasing the effectiveness of educational professional activities and the education of prisoners* – multi-disciplinary training of education experts/teachers in prisons for individual and group sessions with prisoners; ongoing implementation of educational and leisure programmes and progress in these programmes in terms of the number of prisoners taking part and higher-quality sessions/learning opportunities, and increasing the number of educational programmes
- *upgrading the counselling mechanisms and penal and post-penal assistance to prisoners in their social inclusion* – setting up and upgrading the appropriate support network of volunteers for the provision of counselling assistance and assistance to prisoners in their social inclusion during and after their sentence
- *work and occupational therapy for prisoners* – introducing new forms of occupational therapy for prisoners and properly upgrading existing forms of work and occupational therapy for prisoners; systemically regulating post-release job seeking; encouraging the active inclusion of vulnerable groups into society and the labour market; improving access to employment and social security

- creating circumstances in which people have more confidence in the functioning of the rule of law and, in particular, in the functioning of criminal courts and of criminal sanction enforcement authorities
- creating an effective system for the implementation of all criminal sanctions and measures
- coordinating the operation of services providing for vulnerable groups at the national level
- encouraging alternative forms of punishment and monitoring their enforcement efficiently (e.g. electronic systems of control of movement and tracking systems to support the enforcement of out-of-prison sentences – considerable savings in terms of staff, premises, fixed expenses, etc.)
- *bibliotherapy* – setting up an institutional structure at the level of the entire prison system for the central implementation of bibliotherapy programmes; raising awareness of the expert public and setting up multidisciplinary groups of experts to draft a plan for the introduction of bibliotherapy into individual institutions on the basis of domestic and foreign experience; education and training of sample groups – expert teams whose task will be the gradual introduction of these programmes into prison on a trial basis and whose conclusions will serve to redefine targets and methods for introduction into the whole system. (the specifics of other forms of institutions, such as correctional facilities, and the actual introduction of bibliotherapy programmes into the entire prison system will be considered as well)
- *increasing the quality and diversity of programmes in order to ensure more appropriate treatment of juvenile offenders* – greater social inclusion of juvenile offenders; increasing the quality and diversity of programmes for young people; sustainable capacity building in terms of recruiting expert staff to conduct the treatment of minors convicted of violent criminal offences; developing programmes to coping with anger and aggression, and providing intelligent support to these programmes; reducing the number of reprimands issued to juvenile offenders and aiming to include them more thoroughly in appropriate social training and skills programmes; improving family functionality and providing more accessible residential communities to this population (methods of sustainable social rehabilitation)

4.8. Computerisation of the judicial system, support subsystems and links with other stakeholders and participants in the justice system

The strategic goals in the area of **computerisation of judicial system** in Slovenia by 2020 are as follows:

- providing successful and efficient functioning of the judicial system by means of IT solutions for electronic operations
- increasing the use of electronic services by external users of judicial system
- developing standards and mechanisms to ensure the secure and controlled exchange of data and documents within the judicial system, as well as between the judicial system and other public authorities and managers of databases from which justice draws data required in order to conduct proceedings on the basis of its powers
- providing electronic support to cross-border judicial services

The first area of strategic goals emphasises the importance of using electronic operations as a key tool for ensuring and increasing the efficiency and effectiveness of the judicial system. In this process, the principles of cost-efficiency, economy, security, availability, reliability and trust in the judicial system will be implemented. Special attention in the development of IT solutions in justice will be paid to the protection of the environment through the application of energy-efficient solutions and the use of resources whose pollution impact on the environment is minimal, in compliance with the principles of sustainable development.

Special attention in the development of electronic services will be paid to services that have a positive impact on economic growth and that increase the economy's competitive edge and take into account the needs of citizens and business entities.

Standards defined for public administration in Slovenia will be applied to the development of IT solutions in justice. The development of IT solutions will include the common building blocks already developed, as far as possible in order to reduce the investment costs (modular approach to computerisation).

Integration with other European countries in the area of justice is of strategic importance for ensuring the protection of rights and economic development; therefore, special attention will be paid to IT solutions in terms of cross-border interoperability, data exchange and the transfer of good practices from abroad to domestic IT solutions in the area of justice.

Taking into consideration the principles of rationality, economy, security, availability, reliability and trust in the judicial system, increased computerisation, including electronic transactions and electronic communications, should be provided in justice as well. Computerisation facilitates operation and makes it cheaper; at the same time, it accelerates communication between different judicial bodies and between judicial bodies and clients, which contributes considerably to increasing the efficiency and effectiveness of the judicial system. At the same time, IT operations have a favourable impact on environmental protection by means of their energy-efficient solutions and the use of resources which have a minimum impact on the environment.

The computerisation of procedures and the introduction of electronic operations ensure the efficiency, economy and cost-efficiency of operations, thus additionally strengthening cohesion and better cooperation between particular parts of the judiciary. Faster and cheaper communication procedures and the exercise of rights and legal benefits also outwardly reflect the efficiency and interaction of judicial authorities.

4.9. Increasing environmental awareness throughout the whole judicial system and other relevant implementing and support systems

The strategic goals in **increasing environmental awareness throughout the whole judicial system in Slovenia** by 2020 are as follows:

- increasing efficiency in implementing the standards of criminal law protection of the environment
- increasing awareness of society regarding environmental issues by introducing ecological and biological innovations in the provision of premises for the work of judicial authorities (particularly courts)
- implementing activities aimed at increasing environmental awareness by means of education and training mechanisms and by the transfer of good practices and intelligent solutions into the whole area of justice and related systems
- promoting intelligent environmental solutions for the premises and furnishings of judicial authorities and prisons

By increasing the efficiency of implementation of appropriate standards of environmental protection, the state will contribute to ensuring one of the fundamental human rights – the right to a healthy living environment, which is also a constitutional right in Slovenia.⁷² The Ministry will, in compliance with its responsibility to provide appropriate opportunities for the work of judicial authorities and solve the issue of prison overcrowding, focus on seeking and

⁷² See Article 72 of the Constitution.

introducing the most appropriate environmental solutions, innovations and other investment structures to help create a state ‘with a green future for justice’.

The introduction of intelligent environmental solutions in providing spatial capacities for the work of judicial authorities will have a positive influence on the environmental awareness of all users of judicial services and, indirectly, all citizens.⁷³

4.10. Indicators of Strategic Goals

Goal:	Indicators	Baseline situation	Target situation
Security	Number of security workshops conducted	0	50
	Number of new technical security systems introduced	0	20
Judicial administration	Reducing the number of cases pending	374,760 ⁷⁴	-25%
	Number of regulatory amendments	0	20
	Preparation of systemic analyses for the efficient establishment and maintenance of control mechanisms	0	50
Slovenian judiciary	Reducing the number of court cases pending	374,760 ⁷⁵	-25%
	Increasing the number of court cases of major importance reaching resolution	190,636 ⁷⁶	+15%

⁷³ Inadequate spatial capacities were assessed as one of the risk factors in the implementation of the *Programme to Improve the Performance of the Judiciary and Eliminate Court Backlogs – The Lukenda project*, because such a situation considerably reduces the positive effects of an increased number of staff. The Supreme Court of the Republic of Slovenia therefore proposes that the spatial issues of courts be resolved in a similar way as the spatial issues of other state authorities (e.g. *Plan for Resolving Spatial Issues for the Operation of State Administration at the Secondary Level for 2008–2018 Period*). The existing housing stock of judicial authorities is, for the most part, old and obsolete in terms of technology, environment and energy, and fully inadequate in terms of contemporary guidelines regarding sustainable and ecological development. This sometimes also includes environmental non-compliance and the inadequacy of in-built materials, parts and installations of buildings. Environmentally inadequate heating devices and heating systems as a whole, including energy-generating products, the inappropriate heat insulation of buildings and/or architectural and construction designs, are the cause of the cost- and energy-inefficiency of buildings and unnecessary strains on the natural environment, which sometimes turns into pollution.

⁷⁴ Data on the number of pending cases for all courts, including minor offence cases, as at 31 December 2011 from the Court Statistics for 2011 (p. 264).

⁷⁵ Ibid.

⁷⁶ Data on the number of pending cases for all courts, including offence cases, as at 31 December 2011 from the Court Statistics for 2011 (p. 266). To put it simply, matters of major importance are all those court cases in which the courts decide on the merits of the case.

	Reducing the period for the resolution of court cases	8.7 months ⁷⁷	-15%
	Number of optimised business processes of courts	0	15
	Centralisation of business functions of courts	0	5
State Prosecutor's Office	Share of measures implemented from the national policy on the prosecution of criminal offences	0%	50%
	Share of institutes for the alternative prosecution of criminal offences applied	0	+25%
State Attorney's Office	Share of cases settled involving protection of the right to trial without undue delay before the responsible national institutions compared to the share of judgments passed by the European Court of Human Rights due to a violation of the right to trial within a reasonable time	0	+45%
	Number of side interventions in the procedures conducted before the Court of Justice of the European Union and the General Court	0	10
Intelligent and inclusive enforcement of criminal sanctions	Number of security incidents in the prison system	0	-25%
	Number of prisoners involved in alternative forms of punishment	0	+20%
	Number of prisoners involved in occupational therapy programmes and programmes in prisons	0	+20%
	Reducing the number of drug addicts in prisons	0	-25%
	Number of adolescent repeat offenders	0	-25%

⁷⁷ The expected time for the settlement of a court case in 2011 according to the data of the Supreme Court of the Republic of Slovenia, published in 'Opening of the court year 2012', Ljubljana, 13 February 2012, p.2 (http://www.sodisce.si/mma_bin2.php?nid=2012021314361045&static_id=20120213142603).

	Number of joint projects with external providers	0	20
Computerisation of judicial system, support subsystems and links with other stakeholders and participants in the justice system	Share of IT processes	80%	98%
	Share of IT links between stakeholders in the justice system	50%	90%
	Share of computerised registries	54%	95%
	Share of computerised registers	45%	90%
Increasing environmental awareness throughout the judicial system and other relevant implementing and support systems	Number of education and training events to increase efficiency in the implementation of standards of criminal law protection of the environment	0	100
	Share of energy saved due to the introduction of environmental and sustainable energy solutions	0	25%

5. Path to achievement of the goals

5.1 Security

In order to achieve the goals in the area of **security**, opportunities should be provided for the following:

- preparation and implementation of the *Plan of Requirements for Technical Security Systems for Judicial Bodies for the 2012–202 Period*
- implementation of security workshops for judicial officials and other justice employees (preparation of security modules of training programmes for presidents and directors of courts and other security managers within the framework of education and training in accordance with the programmes of the Judicial Training Centre and other appropriate programmes in other areas, whereby great emphasis will be placed on interoperability, a multi-disciplinary approach the exchange of good practice from abroad)
- intelligent monitoring and upgrading of security standards for court operations, and their upgrading and implementation (Article 73(b) of the Courts Act)
- organisation of security conferences and seminars for directors of courts and other security managers within the justice system on the topic of *Security in Justice*, in cooperation with external institutions and selected experts from abroad, in particular from other EU countries and comparable countries in Central Europe and the Western Balkans
- survey of threat assessments (Article 35 of the Court Rules) and, as a consequence, the elimination of the major existing security problems by means of proportionate measures and the anticipation of future security problems for the purpose of their prevention
- monitoring of the security operations of courts, the keeping of records of security incidents that threaten the safety of persons and property (Article 36 of the Court Rules) and the proportionate introduction of additional security measures depending on the changing security environment and type of threat, both in terms of repression and preventive activities
- the upgrading of security memoranda and other documents as constituent parts of security plans for judicial bodies, and appropriate changes to security infrastructure in this respect
- the preparation of security opinions in the purchase of security and technical equipment and the refurbishing of the architectural design of court buildings and the corresponding infrastructure
- survey of and assistance in supplementing the security plans of judicial authorities in compliance with the provisions of Chapter III of the Decree on the Obligatory Organisation of Security Services (Official Gazette of the Republic of Slovenia, 43/08, 16/09, 22/10, 17/11 – ZZasV-1)
- planning of measures by judicial authorities for protection against natural and other disasters, which includes prevention, readiness, action and the provision of opportunities for the smooth operation of judicial authorities
- introduction of principles and standards of protection of classified information in the work and operations of judicial authorities, where the information is determined as such by domestic laws and regulations, and of information which is defined as confidential under the provisions of the Council Decision of 31 March 2011 on the security rules for

protecting EU classified information (2011/292/EU),⁷⁸ including the appropriate level of equipment for their implementation

- introduction and upgrading of modular systems for the provision of IT security in the judicial system, particularly in terms of the secure transfer, dissemination, entry and storage of data, which will also take into consideration the environmental aspect⁷⁹
- implementation of judicial supervision in the area of security tasks carried out by judicial authorities
- the implementation of other measures and tasks in compliance with the current practice and recommendations, particularly from the aspect of:
 - the development of security management
 - the development of a security culture and of forms of self-protection for all those employed in justice

In order to achieve the goals by 2020, the following implementing measures are needed in the area of security of judicial authorities in Slovenia:

- intelligent capacity-building at the level of the ministry responsible for justice and district courts (with due regard to existing resources in the judicial police, police, military and other state institutions)
- education and training of directors and presidents of courts and other judicial managers, judicial officials and other staff employed by judicial authorities
- education and training of entities responsible for security tasks (security staff in the form of a public-private partnership)
- the creation, search for, transfer and intelligent implementation of good practice, in particular from other EU Member States and comparable countries in Central Europe and the Western Balkans

Strategic, organisational and operational security levels should be set up as follows:

Strategic level

Stakeholders:

- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- Office of the State Prosecutor-General of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- ministry responsible for the State Prosecutor's Office
- ministry responsible for internal affairs

Tasks:

- preparation of legislation and implementing instructions
- setting-up of training programmes
- systemic solutions that shape security policies in judicial authorities
- provision of funds for a security architecture for court buildings and technical security systems
- provision of funds for the setting-up of security management in court districts

⁷⁸ Council Decision 2011/292/EU of 31 March 2011 on the security rules for protecting EU classified information (OJ L 141, 27 May 2011, p. 17).

⁷⁹ Particularly within the context of archive issues and archiving in general.

- a search for new solutions in the form of implementing work programmes
- links with educational institutions in the area of security – transfer of good practice, acquisition of new knowledge
- principle of consistency – compliance of measures adopted by justice, police and other entities responsible for security tasks
- Centre for Security Training – Judicial Training Centre

Organisational level

Local level:

- formation of a security architecture at the local level – in the court district (Council of Europe security recommendations)
- Under the amended Courts Act that came into force on 1 January 2010, court districts were re-introduced as the basic organisational unit at the level of first-instance courts, whereas all district and higher courts were furnished with court directors. In every court district, there are one or several local courts, while for the area of the whole court district, court management is headed by the president and director of the court. The main purpose of the amended act was to concentrate court management and allow the president and director of a court to simplify the organisation of work throughout the whole district, set out an annual work schedule, determine the specialisation of judges for the whole district and, within the topics considered in this chapter, also set up a security policy at the level of court district
- preparation of documents on security services with appropriate contents and measures concerning the estimated security risk level in association with the local level
- preparation of security plans (physical, technical, operational security)
- In a particular court district, security managers are classified within the staffing structure as assistants to directors in district courts – professional function (in terms of coordination associated with the ministry responsible for justice, in order to tie the strategic and operational levels through the transfer of good practice)
- streamlining of public administration – path for recruiting human resources – abolition of the Schengen border, customs service, reducing the size of the Slovenian army, etc.
- implementation of the provisions of the Court Rules
- creation of a new security culture – appropriate level of control, ongoing efforts aimed at eliminating discord, cooperation and the systemic elimination of discord

Operational level:

- education in all its appropriate forms
- creation of a security culture and forms of self-protection (staff employed in judicial authorities; adapted self-protection programmes for judicial officials during potential security incidents)
- introduction of mandatory forms of education
- intelligent introduction of security standards in justice
- technical equipment – modernisation of equipment

5.2 Judicial administration

In order to attain the strategic goals by 2020, the following measures will have to be implemented in the area of **judicial administration**:

- setting-up and appropriate upgrading of control mechanisms, with well-planned changes in regulatory solutions based on a preliminary analysis of the situation, clear goals and implementing activities
- setting-up of intelligent technological solutions, with an emphasis on interoperability with the existing systems
- setting-up of mechanisms for more effective and fairer work on the part of enforcement officers
- upgrading of the existing mechanisms of supervision of the regulatory activities of notaries
- setting-up of mechanisms for enhancing the professional reliability of the work of court experts, appraisers and interpreters, including through the transfer of foreign and existing good domestic practice and experience
- search for, transfer and intelligent implementation of good practice, particularly from other EU Member States in the areas of good justice management and the corresponding appropriate control mechanisms
- multi-disciplinary training of responsible staff
- joint projects with external stakeholders, including non-governmental organisations

Strategic level

Stakeholders:

- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- ministry responsible for the State Prosecutor's Office
- Office of the State Prosecutor-General of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- court experts, court appraisers, interpreters
- Chamber of Notaries of Slovenia, notaries
- Bar Association of Slovenia, lawyers

Tasks:

- appropriate adjustment of legislative and implementing acts in the area of justice administration, where this is appropriate and justifiable and depending on the circumstances, with an emphasis on the efficient implementation of the changes adopted
- search for new solutions in the form of implementing work programmes
- assumption of the leading role in planning the contents of IT support to the activities of justice administration
- upgrading of existing good practice and the introduction of new programmes conducted by external providers
- formulation of new training programmes and approaches
- multi-disciplinary training of responsible staff
- presentation of the case-law of the European Court of Human Rights and the Court of Justice of the European Communities in the area concerned

Organisational level

The following activities will be called for at the organisational level:

- strengthening of a multi-disciplinary approach to the performance of judicial supervision

- preparation of documents and the provision of intelligent IT support to the operations of judicial administration
- preparation of an optimisation plan for the exchange of appropriate data based on the advantages offered by electronic operations between judicial authorities
- preparation of an interoperability plan in the area of judicial administration
- organisation of joint projects with external stakeholders, including non-governmental organisations.

Operational level

The following activities will be called for at the operational level:

- intelligent setting-up of new control and steering mechanisms in the area of judicial administration
- education and training in all their appropriate forms
- ongoing capacity-building targeted at ministry staff in order to secure effective and sustainable implementation of tasks in compliance with the responsibilities of judicial administration
- intelligent IT support for the keeping of records in justice administration
- engagement of foreign experts/advisers and the transfer of foreign good practice

5.3 Slovenian judiciary

Stakeholders:

- ministry responsible for justice
- Supreme Court of the Republic of Slovenia, all courts
- Office of the State Prosecutor-General of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- other stakeholders in justice

Tasks:

- sustainable development of the Slovenian judiciary
- planning and use of advanced accessible online services to improve the business environment, particularly for small and medium-sized companies, **among other things through efforts to ensure that court fees reflect the actual costs of particular judicial proceedings**, while taking into account the principles of accessibility and a reduction in administrative obstacles for companies
- improvements to the business environment for all users and stakeholders in the Slovenian judiciary
- effective use of IT in the operations of the Slovenian judiciary, whereby proper emphasis will also be given to environmental aspects

Organisational level

- measures concerning the network number of courts, number of judges and judicial staff
- relieving judges of their non-judicial duties
- providing an appropriate number of support staff per judge
- encouraging and introducing mobility on the part of judges and court staff, including the possibility of work from home if appropriate in terms of work organisation and the work schedule

- optimising the number of courts subject to an assessment of costs and benefits, and maintaining the appropriate level of accessibility of courts
- providing enhanced court performance, in particular by introducing systemic approaches to the management of courts and court matters (e.g. introduction of *fast-track* judicial proceedings, monitoring operations through a uniform business intelligence system, relieving judges of administrative and routine tasks, concentration and centralisation of particular business functions)
- developing and encouraging the use of interoperable building blocks of courts, particularly for the purpose of eliminating administrative barriers, easing access for external users to court information systems, introducing additional user-friendly electronic services that help enhance the performance of the business environment (e.g. e-court fees, e-information, e-service, e-lodging and e-auctions)

Operational level

- setting up knowledge databases in order to improve the quality of work and the provision of information, in particular by introducing different forms of internal electronic communication for the exchange of expert opinions between expert groups at the level of particular courts, types of court or the Slovenian judiciary as a whole
- providing information services for the general public in order to increase the quality of submissions, stimulate active participation in judicial proceedings and enhance users' experience
- encouraging the use of intranet, particularly for the purpose of ensuring openness to the public, equality and enhanced transparency on the part of the functioning of the Slovenian judiciary, and promoting trust in the principles of the rule of law and the amicable settlement of disputes, including out-of-court settlements
- linking key registers of courts with specific European registers and information centres (e.g. EU Land Register, EU Business Register, EU Insolvency Register, European Payment Order)
- ongoing court staff capacity-building, particularly in terms of education and training and the redirecting of certain categories of employees resulting from a reduced volume of work, the abolition of or changes to the content of work and/or the introduction of new technologies or amended legislation
- exchange of data between particular information system providers in the criminal procedure area (Criminal Justice X_change) in order to set up a uniform exchange of contents, particularly from the aspect of the interoperability of key information systems

5.4 State Prosecutor's Office

Strategic level

Stakeholders:

- ministry responsible for the State Prosecutor's Office
- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- Office of the State Prosecutor-General of the Republic of Slovenia, all state prosecutor's offices
- police and partly also other supervisory institutions

Tasks:

- sustainable development of the Slovenian State Prosecutor's Office as part of justice within a wider context
- strengthening of the elements of the principle of the criminal prosecution opportunity
- strengthening of the role of the state prosecutor and his competence to decide in pre-trial procedures
- strengthening of the role of state prosecutors at the expense of courts as the entities responsible for the criminal procedure and the police as the law enforcement authority
- effective use of IT in the operations of the State Prosecutor's Office

Organisational level

- setting up priority tasks in the prosecution of criminal offences
- developing doctrine and setting up mechanisms to balancing the influx of criminal charges to courts
- encouraging the use of alternative forms of criminal prosecution, including negotiations on guilt and criminal sanction, in order to release capacities for court hearings relating to priority forms of crime
- relieving state prosecutors of administrative tasks and delegating these tasks to specialised staff members
- encouraging state prosecutors to specialise in more demanding areas in particular
- providing a number of state prosecutors that is appropriate to the number of criminal judges
- providing an appropriate number of state prosecutorial staff
- encouraging and establishing the mobility of state prosecutors and state prosecutorial staff
- introducing efficient use of IT in operations, in particular through the integration of interoperable building blocks for the provision of uniform IT support to the entire procedure, from police to court

Operational level

- setting up knowledge databases in order to improve the quality of work and the provision of information, in particular by introducing internal electronic communication the exchange of expert opinions between the appropriate experts and/or groups
- setting up IT-supported automated operations with the police and courts
- setting up IT communications between state prosecutor's offices and international authorities for the coordination of criminal prosecution (Eurojust)
- setting up IT support for international cooperation (e.g. EJM, ARO, CARIN, etc.)
- planning work and monitoring the attainment of the objectives set
- ongoing capacity-building of state prosecutors and state prosecutorial staff, in particular in terms of education and training and the redirecting of certain categories of employees resulting from an increased volume of work and/or changes to the content of work due to the introduction of new technologies or amended legislation
- greater occupational mobility and the ability to adapt more quickly to work processes
- additional training and education of state prosecutors in relevant areas

5.5 State Attorney's Office

In order to attain the strategic goals by 2020, the following measures will have to be implemented in the area of the **State Attorney's Office**:

- promoting the role and enhancing the expertise and implementation of tasks of the State Attorney's Office as the state's representative before national courts and the appropriate international judicial authorities
- improving the business environment for the work of state attorneys and support staff
- more efficient communication and cooperation with other stakeholders in justice and public administration in order to improve the opportunities for effective representation of the state's interests before national courts and the appropriate international judicial authorities
- effective use of IT in operations

Strategic level

Stakeholders:

- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- other stakeholders in justice and public administration (in particular, ministries and the Government)

Tasks:

- more appropriate implementation of competences in the representation of Slovenia before international courts and the presentation of the operations and case-law of international courts (in particular, the ECtHR and ECJ)
- promoting and strengthening Slovenia's role in procedures conducted before European courts in which Slovenia is not one of the parties but where its active participation is called for by wider interests of a national and supranational nature
- strengthening the role of the State Attorney's Office and its independence of adjudication in preliminary proceedings
- strengthening the legal order by means of the efficient execution of powers under the Forfeiture of Assets of Illicit Origin Act (Official Gazette of the Republic of Slovenia, 91/11) for the purpose of preventing the acquisition and use of assets of illicit origin in order to protect the legal acquisition of assets and the economic, social and environmental role of property
- promoting the role of the State Attorney's Office as the 'guardian of fiscus'

Organisational level

- relieving state attorneys of administrative tasks and delegating these tasks to specialist staff members and clerks
- more effective use of IT in operations
- strengthening and better organisation of the European Department at the State Attorney's Office
- better regulation of the office and responsibilities of the agent of the Republic of Slovenia before the European Court of Human Rights
- provision of better performance and more effective operation of the State Attorney's Office, in particular by introducing systemic approaches to the management of the State Attorney's Office and the respective cases

Operational level

- setting up knowledge databases in order to improve the quality of work and appropriate provision of information, in particular by introducing different forms of internal electronic communication for the exchange of expert opinions between the appropriate expert groups
- setting up a uniform database of case-law and decisions of international courts, particularly of the European Court of Human Rights and courts of justice of the European Union (and especially the European Court of Justice and General Court) to facilitate structured search across the appropriate areas and institutes and the comparison of the decisions of these courts concerning comparable institutes;
- stimulating the use of intranet, particularly for the purpose of ensuring openness to the public, equality and enhanced transparency of the functioning of the State Attorney's Office and promoting trust in the principles of the rule of law and the amicable settlement of disputes, including out-of-court settlements
- ongoing capacity-building at the State Attorney's Office, particularly in terms of education and training and the redirecting of certain categories of employees resulting from a reduced volume of work, the abolition of or changes to the content of work and/or the introduction of new technologies or amendments to legislation
- greater occupational mobility and the ability to adapt more quickly to work processes
- additional training and education of state attorneys in relevant areas

5.6 Intelligent and inclusive enforcement of criminal sanctions

In order to attain the strategic goals by 2020, the following measures will have to be implemented **in the area of criminal sanctions enforcement**:

- security and protection in the prison system
- treatment of violent offenders – treatment programme for those who have committed violent offences and violent prisoners
- treatment of drug addicts and alcoholics in the prison system
- treatment of sex offenders
- professional educational work with prisoners, and their training and education
- counselling and assistance to prisoners in their social inclusion during imprisonment and after release
- providing work and occupational therapy to prisoners
- introduction of a probation service and the promotion of alternative forms of criminal sanctions enforcement
- introduction of a bibliotherapy programme
- more appropriate treatment of juvenile and other criminal offenders in Slovenia

In all the above areas, the following approaches and methods of work will be used and implemented:

- introduction of appropriate programmes and/or the appropriate upgrading and implementation of existing programmes
- joint projects with external stakeholders, including non-governmental organisations
- multi-disciplinary training of responsible staff
- regular supervision of the implementation of specific programmes
- engagement of external experts/advisers and the transfer of good practice from abroad

Strategic level

Stakeholders:

- ministry responsible for justice
- ministry responsible for education
- ministry responsible for social affairs
- ministry responsible for the State Prosecutor's Office
- prison Administration
- Supreme Court of the Republic of Slovenia
- Office of the State Prosecutor-General of the Republic of Slovenia
- ministry responsible for internal affair
- non-governmental organisations
- social work centres

Tasks:

Security and protection in the prison system:

- *developing the system of selection and proper training of prison system staff* – people are of key importance in carrying out the mission of security and protection in prisons, but they need to have the proper personality traits for work in the prison system; therefore we want to develop a selection system that will allow the optimum selection of candidates for employment in the prison system
- *providing a safe prison environment and the appropriate treatment of all persons who have been deprived of liberty*
- *protecting human rights and fundamental freedoms in compliance with the adopted and ratified international documents in this area*

Treatment of violent offenders – treatment programme for violent offenders and those who are violent in prison:

- more appropriate treatment of this part of the prison population
- increasing the prospects of social rehabilitation and better social inclusion of these persons during imprisonment and after release

Treatment of drug addicts and alcoholics in the prison system:

- more appropriate treatment of this part of the prison population
- increasing the prospects of social rehabilitation and better social inclusion of these persons during imprisonment and after release

Work and occupation for prisoners:

- creating conditions for the employment and training of prisoners
- providing work and occupational therapy in prisons

Counselling and assistance to prisoners in their social inclusion during imprisonment and after release:

- encouraging the public to perform voluntary counselling work for prisoners
- providing supervision of implementation and evaluation
- more efficient implementation and upgrading of existing programmes and good practice

Introduction of a probation service:

- implementation of a study on the existing practice of issuing and enforcing alternative sanctions and measures (inclusion of criminal judges, social work centres, prisons, strengths and weaknesses of the existing model)
- implementation of a comparative study of the organisation and practice of probation services abroad, with a draft model of the one most appropriate for Slovenia
- provision of opportunities for the establishment of a probation service (statutory aspect)
- provision of preliminary and subsequent further training and education of entities involved in this area

Introduction of a bibliotherapy programme:

- introducing the programme into the compulsory treatment of appropriate groups of prisoners
- providing preliminary and subsequent further training and education of entities involved in this area

More appropriate treatment of juvenile offenders – perpetrators of criminal acts and offences:

- providing continuing forms of education and training for the qualification of staff on the guided treatment of juvenile offenders
- providing urgently needed funds for the training of staff in correctional institutions and juvenile correctional facilities for the treatment of those who have committed violent offences and those that are violent in prison
- upgrading training programmes for judicial officials in the area of the treatment of juvenile offenders
- transferring good practice from the most advanced and comparable states in the area of the treatment of juvenile offenders

Organisational level

Security and protection in the prison system:

- *establishing an education and training centre*, because the present education and training centres have no appropriate or comparable programmes or qualified staff to suit the specific needs of education and training in the area of criminal sanctions enforcement
- *developing a training system* that will provide new employees with all the necessary knowledge that they may otherwise not obtain through training in external institutions, in particular the acquisition of practical experience for work with prisoners in different situations and circumstances
- *developing more advanced architectural and technical security for prison institutions* which, on the one hand, will ensure basic security against prisoners' escaping and, on the other, will not unnecessarily restrict freedom of movement within the prison building, subject to restrictions for ensuring the security of other prisoners and staff, and will not infringe on privacy and fundamental human rights

Treatment of violent offenders acts – treatment programme for violent offenders and those who are violent in prison:

- preparing adapted programmes which take into account the specific needs of different categories of such persons
- involving civil society organisations in education, training and activities related to the treatment of prisoners prior to and after release
- involving external experts/advisers and transferring good practice from abroad
- group supervision for expert staff/programme providers

Treatment of drug addicts and alcoholics in the prison system:

- preparing adapted programmes which take into account the specific needs of different categories of such persons
- involving civil society organisations in education, training and activities related to the treatment of prisoners prior to and after release
- group supervision for expert staff/programme providers
- involving external experts/advisers and transferring of good practice from abroad

Work and occupational therapy for prisoners:

- encouraging work during a prison sentence by assigning benefits to prisoners as they serve their sentence and in order to encourage prisoners to provide for themselves
- potential financial, fiscal and other incentives offered to legal entities willing to employ prisoners after release

Counselling and assistance to prisoners in their social inclusion during imprisonment and after release:

- preparing adapted programmes
- involving civil society organisations in education, training and activities related to the treatment of prisoners prior to and after release
- setting up operational subgroups for voluntary counselling work with prisoners

Introduction of a probation service:

- implementation of a study on the existing practice of issuing and enforcing alternative sanctions and measures (inclusion of criminal judges, social work centres, prisons, strengths and weaknesses of the existing model)
- implementation of a comparative study of the organisation and practice of probation services abroad, with a draft model of the one most appropriate for Slovenia
- implementation of a pilot project involving the introduction of a probation service into prison on a trial basis, perhaps within the potential framework of a **complementary project** with a state having comparable regulatory framework that has already introduced the probation service
- establishment and introduction of an appropriate institutional framework for the implementation of a probation service
- supervision of implementation and evaluation
- provision of opportunities for the establishment of a probation service (statutory and organisational aspects)
- provision of preliminary and subsequent further training and education of entities involved in this area
- supervision of implementation and evaluation

Introduction of a bibliotherapy programme:

- implementation of a test project involving the introduction of bibliotherapy into a prison on a trial basis, perhaps within the potential framework of a **complementary project** with a state having comparable regulatory framework
- provision of appropriate opportunities for introduction of the programme into prisons (organisational aspect)
- provision of preliminary and subsequent further training and education of the entities involved in this area

More appropriate treatment of juvenile offenders – perpetrators of criminal acts or offences:

- organisation of group supervision for expert staff/programme providers
- organisation of individual counselling sessions and individual supervision for expert staff

- appropriate inclusion of external experts/advisers
- organisation of education and training in the area of the treatment of juvenile offenders within the framework of education and training by the responsible judicial officials

Operational level:

Security and protection in the prison system:

- *setting up a system of initial and continuous training of staff* focused on learning and on changing and consolidating values and ethical conduct as generally applicable values within the prison system
- *developing more appropriate methods of coping with violent prisoners* through the application of physical force and instruments that will reduce the danger of bodily harm on both sides

Treatment of violent offenders – treatment programme for perpetrators of criminal acts involving elements of violence and those who are violent in prison:

- multidisciplinary forms of training expert staff to carry out social skills training
- individual counselling and individual supervision for expert staff
- involving external experts/advisers and transferring good practice from abroad
- multidisciplinary approach to training and supervision in prisons and the acquisition of new skills and knowledge

Treatment of drug addicts and alcoholics in the prison system:

- multidisciplinary and continuous forms of training and the expert upgrading of skills and methods of work for expert staff who carry out social skills training
- group supervision for expert staff/programme providers
- individual counselling and individual supervision for expert staff
- multidisciplinary approach to training and supervisions in prison and the acquisition of new skills and knowledge

Treatment of sex offenders:

- training of expert staff for the treatment of sex offenders and offenders in related areas
- group supervision for expert staff/programme providers
- individual counselling and individual supervision for expert staff
- involvement of external experts/advisers
- involvement of external experts/advisers and the transfer of good practice from abroad
- elaboration and/or translations of psychological-diagnostic studies from this field and acquisition of the respective licences
- adaptation of existing foreign programmes for the treatment of sex offenders to Slovenia's requirements

Educational professional activities and education of prisoners:

- training expert staff for the implementation of appropriate educational and training contents
- group supervision for expert staff and direct programme providers
- individual counselling and individual supervision for expert staff
- involvement of external experts/advisers
- involvement of external experts/advisers and the transfer of good practice from abroad

Counselling and assistance to prisoners in their social inclusion during their prison sentence and after their release:

- multi-disciplinary training of volunteers/advisers
- regular implementation of supervision of volunteers
- involvement of external experts/advisers and the transfer of good practice from abroad

Providing work and occupational therapy for prisoners:

- upgrading existing good practice and introducing new occupational therapy programmes carried out by external providers
- joint projects with external providers, particularly non-governmental organisations
- multi-disciplinary training of responsible staff
- regular implementation of supervision of the implementation of particular programmes
- involving external experts/advisers and transferring good practice from abroad

Introduction of a probation service:

- providing supervision of implementation and evaluation
- providing training and education of entities players involved in this area
- potential financial, fiscal and other incentives to legal entities willing to employ prisoners after release

Introduction of a bibliotherapy programme:

- providing an appropriate level of supervision of implementation and evaluation of the knowledge acquired
- taking account of security aspects in the implementation of the programme
- providing training and education of entities involved in this area

More appropriate treatment of juvenile offenders – perpetrators of criminal acts and offences:

- training of expert staff to carry out social skills training
- payment of travel expenses to experts/advisers from other governmental and non-governmental institutions that provide training and supervision in prisons
- implementation of various additional social and family programmes intended for juvenile offenders
- introduction of a programme within the framework of instructions and prohibitions to minors, along the lines, for example, of Family First in the Netherlands
- setting-up of a residential community for minors sentenced to a term in a juvenile correctional facility or institution

5.7 Computerisation of the judicial system, accessory subsystems and links with other stakeholders and participants in the justice system

Computerisation and the introduction of different IT solutions into the judiciary help to increase the performance of the judicial system at two main levels in particular, the procedural and the substantive. On the one hand, we are referring to an increase in the performance of the procedure, where IT solutions help create an environment that eliminates duplications, administrative obstacles and repeat work, thus speeding up the progress of matters through the hands of those implementing the procedure and accelerating procedures within the judiciary. On the other hand, IT solutions, because they are subject to instructions and procedures entered into the information environment on the basis of the valid legislation for the purpose of different safeguards, reminders and other intelligent solutions, also affect the course of procedures in terms of substance, because the latter are improved by computerisation that enables better decision-making with fewer opportunities for faults, thus ensuring higher quality of operation on the part of justice.

In order to attain the goals by 2020, the following implementing measures are required in the area of **computerisation of the Slovenian judicial system**:

- setting-up of an interoperable electronic spine (see Figure 3) in the justice system – in particular within the system of the organised internal enforcement of criminal sanctions and its interoperability with external participants
- introduction of an integral approach when introducing IT solutions
- updating of IT solutions in justice
- simplification and automation of work processes by means of new IT solutions
- provision of high-availability IT systems
- provision of high level of IT security
- updating of mechanical and communications equipment
- inclusion and adaptation of central horizontal functions of e-administration for the purpose of reduced joint costs of ownership⁸⁰

One of the key measures is the setting-up of electronic interoperability between the judicial authorities. A relatively high level of computerisation for the support of operational work processes has so far been established. The judicial authorities will derive great benefit from the systematic interoperability of work processes and IT solutions:

- acceleration of work processes
- an increase in the quality of decisions of judicial officials through more rapid availability of adequate and the most recent data
- an increase in transparency and opportunities for the process monitoring of interorganisational procedures in justice

The necessity of interoperability of judicial authorities and interoperability of electronic operations originates in connected work processes and needs for the acquisition of data which contains the personal data of individuals from the central registers. The need to set up links between work processes and the acquisition of data from central registers is based on the existing legislation.

Vstaviti prevod slike:

Državno tožilstvo RS = Office of the State Prosecutor-General of the Republic of Slovenia

Državno pravobranilstvo RS = State Attorney's Office

Ministrstvo za pravosodje = Ministry of Justice

Sodišča = Courts

URSIKS = Prison Administration of the Republic of Slovenia

Interoperabilnostna hrbtenica v pravosodju = E-justice interoperable spine

Policija = Police

Prekrškovni organi = Minor offence authorities

Drugi viri specifični za pravosodje = Other justice-specific sources

Druge interoperabilnostne hrbtenice = Other interoperable spines

Drugi viri = Other sources

CRP (MNZ) = Target research programme (Ministry of the Interior)

PRS (AJPES) = Business Register of Slovenia (Agency of the Republic of Slovenia for Public Legal Records and Related Services, AJPES)

Drugi viri = Other sources

⁸⁰ E-Government Development and Register Data Exchange Strategy (SREP), working group SRITES, 24 March 2009, downloadable at:

http://e-uprava.gov.si/eud/e-uprava/Strategija_razvoja_elektronskega_poslovanja_ter_izmenjave_podatkov_iz_uradnih_evidenc_SRE_P.pdf

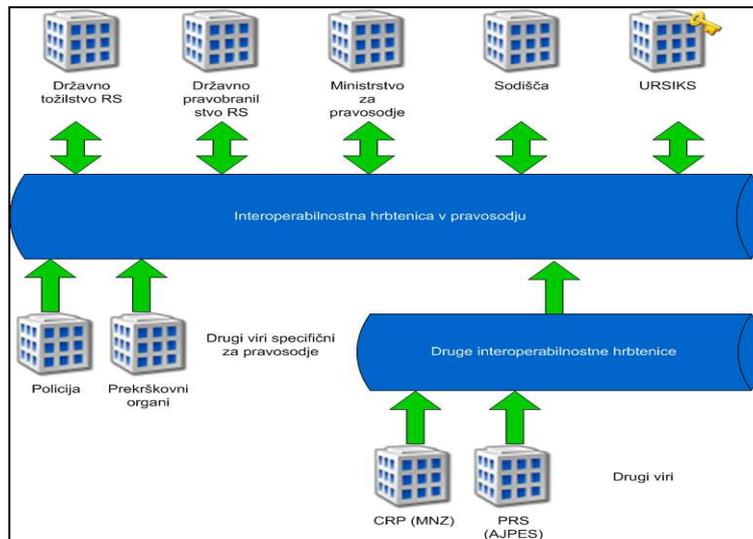


Figure 3: Organisational scheme of the e-justice interoperable spine

In order to fully attain an interoperable framework, two solutions are required:

- interconnection between work processes when one judicial authority, through its activity, triggers a work process in another judicial authority (e.g. the State Prosecutor's Office triggers a procedure at court by making a request for the initiation of an investigation). The trigger for the exchange, which is usually in the form of a document, is in this case the judicial authority, which is the sender of data
- interconnection resulting from a request to obtain certain data, when a judicial authority demands certain data required for its work from another national or public authority

On the basis of the main processes, a concept of technological, organisational and, where appropriate, regulatory solutions will be prepared, with the main focus being on ensuring the security of sensitive data to be exchanged between particular entities. The setting-up of technological solutions will take into account the experience obtained in the area of interoperability in other sectors and in EU Member States.

Strategic level

Stakeholders:

- ministry responsible for the State Prosecutor's Office
- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- Constitutional Court of the Republic of Slovenia
- Office of the State Prosecutor-General of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- indirectly, lawyers, notaries and enforcement officers
- citizens and legal entities as users of judicial services

Tasks:

- legislative changes for the effective computerisation of justice
- optimisation of business processes for better performance of the judicial system
- introduction of standards in the area of the computerisation of justice
- planning of common building blocks and adaptation of existing ones

- introduction of new business models for electronic operations in the justice system while taking into consideration good practice from abroad
- setting-up of an interoperability framework in justice
- provision of ongoing education and training for the development and use of IT solutions
- provision of urgently required financial resources for the development and maintenance of IT solutions and equipment
- transfer of good practice from the most advanced states in the area of e-justice solutions
- promotion of e-content by including modern technological resources in work at law faculties

Organisational level

The following activities will be required at the organisational level:

- upgrading of the system of project coordination and management in e-justice
- strengthening of support units for the financial management of IT projects
- use of external resources and services in the computerisation of judicial system
- appropriate systemic reorganisation of the Judicial Training Centre for the implementation of education and training in the area of effective use of e-justice services
- setting-up of mechanisms for effective promotion of the audio recording of hearings and videoconferences at courts
- setting-up of mechanisms to improve the monitoring of implementation of indicators at the project level

Operational level:

The following activities will be required at the operational level:

- introduction of creative mobile solutions in justice
- education and training in IT project management
- education and training for staff employed in justice to foster the proper use of IT solutions
- encouraging judges to use audio recording of hearings and videoconferences at courts
- introduction of green information technologies in the provision of information support for the operations of judicial authorities and the development of IT solutions, including the introduction of multi-user network hardware (e.g. central multi-function networking devices)
- provision of information and training for external users of e-justice solutions
- advanced management of contents in the judicial system, particularly in terms of the creation, dissemination and storage of documents, the standardisation of information systems, the provision of external access to information systems for the management of judicial matters, efficient traceability and secure storage
- concentration of business functions and e-operations, particularly in terms of the modular concept design of IT solutions and their integration into service modules
- uniform data storage, particularly in terms of providing uniform platforms for management decisions and in terms of upgrading following changes in information systems for justice management
- voice recognition and a sustainable approach to audio recording of hearings, particularly in terms of relieving pressure from recording clerks, ensuring the transcription of audio recordings of main hearings and providing solutions for the storage of recordings and access to stored recordings

The computerisation of records of acceleratory legal remedies originates in a tendency to increase effective implementation of the law which provides for acceleratory legal remedies to protect the right to trial without undue delay in Slovenia.

5.8 Increasing environmental awareness throughout the judicial system and other relevant implementing and support systems

In attaining the aims of sustainable development, appropriate mechanisms of cooperation with all entities in justice and other stakeholders in the judicial system will be set up according to the principles of partnership and subsidiarity. To this end, openness in the formulation and implementation of policies and measures of sustainable development by encouraging cooperation between the responsible institutions and individuals and civil society groups and organisations will be ensured. Above all, we will strive to enhance awareness of our joint responsibility for the state of the environment, nature and the living environment with all stakeholders in the judiciary and beyond.

In order to attain the strategic goals by 2020, a number of measures will be implemented to increase environmental awareness throughout the judicial system and other relevant implementing and support systems:

- management of environmental awareness throughout the judicial system, including the prison system
- strategic management of environmental issues within the framework of judicial educational mechanisms
- introduction of sustainable spatial solutions associated with working conditions in judicial authorities
- provision of permanent spatial solutions, with an emphasis on a high-quality working environment
- refurbishment of existing housing stock and building furnishings
- new investments in the use of contemporary materials, the incorporation of advanced ecological and technical standards, and public-private partnership

Strategic level

Stakeholders:

- ministry responsible for justice
- Supreme Court of the Republic of Slovenia
- ministry responsible for the State Prosecutor's Office
- Office of the State Prosecutor-General of the Republic of Slovenia
- State Attorney's Office of the Republic of Slovenia
- prisons and comparable institutions

Tasks:

- elaboration and implementation of an umbrella strategy for the entire judicial system, including the prison system, associated with environmental awareness, and the setting of interim goals and the determination of subprojects and implementing activities
- inclusion of environmental issues in judicial education and training mechanisms for all stakeholders in justice (judges, state prosecutors, state attorneys)
- systemic solutions to increase efficiency in implementation of the standards of criminal law protection of the environment
- securing of funds for the introduction of ecological and biological innovations in the provision of premises for the work of judicial authorities

- provision of the appropriate level of quality and environmental awareness in the provision and organisation of alternative forms of punishment that are not within the exclusive jurisdiction of the Prison Administration of the Republic of Slovenia
- multi-disciplinary approach to the solution of environmental issues, with an emphasis on energy sustainability and the promotion and introduction of appropriate environmental solutions
- transfer of good practice from abroad in the optimisation of energy efficiency and the reduction in greenhouse gas emissions associated with the operation of judicial authorities

Organisational level

- streamlining operations in spatial terms (premises) and examining the opportunities for the centralisation of adjudication in certain types of matters; the Act amending the Courts Act,⁸¹ which defines a court district as the basic unit for planning across an entire court district, also facilitates the centralisation of operations in terms of premises, offering an opportunity for the centralisation of adjudication in certain types of case
- preparing plans for implementing activities aimed at raising environmental awareness throughout the judicial system, including the prison system
- examining the existing housing stock of judicial authorities originally built for other purposes, and their adapting them appropriately in order to make it fit for use
- setting up environmental standards in the construction and/or refurbishing of buildings in the justice system
- creating new environmental awareness on the part of the wider judicial public

Operational level

- incorporating integrated systems for reducing excessive energy use in judicial authority buildings (incorporation of intelligent systems for energy-saving and the promotion of more efficient use of different recycling mechanisms)
- updating and/or replacing environmentally inadequate heating devices, heating systems and heat insulation in buildings and/or architectural and construction layouts
- providing standards of ecological acceptability in IT appliances and other comparable equipment in terms of power consumption and efficiency, the quantity of heat released over a determined period of time, noise generation, recyclability and/or the return of obsolete equipment, and the compliance of components of different types of material with regulations in the field of ecology
- education and training of all stakeholders in justice in the field of environmental issues and awareness
- setting up forums for the exchange of ideas, solutions and good practice, and the problem-oriented resolution of particular limited sets of environmental issues
- organising a nationwide conference with the participation of representatives of local communities, state authorities (courts, state prosecutor's office, state attorney's office), accessory judicial profiles (court experts, appraisers, interpreters and enforcement officers) and government services (inspectorates, agencies, ministries) associated with environmental issues in any way. By exchanging experience and opinions, calling attention to problems identified in practice, becoming acquainted with good practice and positive thinking, a step in the right direction could be made. It is expected that certain issues will start to be addressed and short-term solutions will be found that may

⁸¹ Amended Court Act (ZS-I); Ur. l. RS, no. 96/09.

immediately strengthen the state's activities in relation to the protection of our environment.

6. Contribution to attainment of the *Europe 2020 Strategy* goals

The justice system is aware that it is subject to economic circumstances, that economic growth may not depend only on the utilisation of resources and that it should act in compliance with the principle of the more cost-effective exploitation of resources. Therefore, the justice system takes the given situation as a challenge – that is, that it has to adjust its whole strategy and organisation to the main initiatives of the *Europe 2020 Strategy*, while taking account of the fundamental values and mission of the Slovenian judiciary.

The measures from the justice strategy will help enhance the quality and performance of the judicial system, which will thus provide a firm platform for the economic, social, educational and all other activities that promote the development of a society and state which is part of the European Union.

The targets of the justice strategy outlined above involve horizontal measures, and therefore consistent support for the operation of the system and the provision of enhanced performance of the rule of law. By implementing a strategy of intelligent and sustainable development of the judiciary, we will contribute to attainment of the goals set by the *Europe 2020 Strategy*, i.e. the attainment of smart, sustainable and inclusive growth.

Smart growth

The smart growth of the economy may also be promoted by a more effective judicial system. Measures in the judiciary will be based on sustainability and economy, which will also form the platform for particular approaches applied in the organisation and management of the Slovenian judicial system. All the planned measures and goals are based on a systemic approach to better performance and a long-term reduction in the number of judicial officials, and to the changed structure of judicial staff, with a view to enhancing their competence and organising operations in such away as to relieve judges of non-judicial and routine tasks. In the period leading up to 2020, the Slovenian judiciary is planning to transfer responsibilities to inferior levels of adjudication, to increase the role of judicial staff and assistants, including mainly judicial matters, and to reduce the workload of judicial staff working in the area of the land register and companies register (owing to the electronic operation of both public registers). In particular, judicial staff at courts will strengthen their role and status by acquiring new knowledge and skills. This will enable them to adapt more easily to new work requirements or any potential changes in their career paths later on, which will in turn help reduce unemployment and increase performance in a sustainable manner.

IT projects in the judiciary that enhance the competitive edge and reduce operating costs, thus contributing to sustainable economic growth, are among the long-term austerity measures aimed at extracting Slovenia from the financial crisis. In order to attain the goals of the *Europe 2020 Strategy*, the education and training of employees is urgently needed to enable able to use IT innovations effectively, which is a prerequisite for a high-quality judicial system. All this will bring considerable savings to the state, but above all it will strengthen citizens' trust in the efficient operation of the judicial system and all national institutions. The above-mentioned measures will also contribute to faster and more sustainable economic growth and the faster and more effective development of an innovation-based society that stimulates all kinds of investments in our economy and infrastructure.

Among the horizontal measures for attaining smart growth, security is of key importance; security is a human need, an asset and, above all, a right as defined in Article 34 of the Constitution of the Republic of Slovenia (Ur. l. RS, nos. 33/91-I, 42/97, 66/00, 24/03, 69/04,

68/06).⁸² Security is a fundamental human value which is the first condition for the existence and development of particular social subsystems, to which judicial authorities and society as whole also belong. Security must therefore be properly provided by the state, striving to ensure the highest possible level of security in society through its national security system (defence, internal security, protection and rescuing, justice) in an organised and efficient manner. For the smooth and efficient implementation of judicial power as defined by the Slovenian Constitution, an appropriate level of security must be provided to judicial officials and other employees of judicial authorities, as well as to the parties of proceedings representing their interests within the framework of the smooth operation of the rule of law. By attaining the goals, we are striving to achieve the implementation of the Council of Europe's security recommendations regarding the prevention of crime in local communities, which will have a direct impact on the provision and maintenance of an appropriate level of security in the physical, spatial and information infrastructure of judicial authorities and the judicial system.

In accordance with the two leading initiatives, *Innovation Union* and the *European Programme for Digital Technologies*, the Slovenian justice system will begin implementation of European partnerships for innovation between the European Union and Member States in order to foster the development and use of technologies required for resolution of the problems detected in justice. In cooperation with similar systems of in EU Member States, the Slovenian justice system will seek synergies and answers to challenges facing the judicial systems of EU Member States and candidate countries.

Sustainable growth

Within the framework of sustainable growth, the judiciary will strive to set up a competitive and green economy that will utilise resources more economically. In justice, we will pursue the goals in accordance with the *Europe 2020 Strategy*, placing emphasis on the development of a more competitive low-carbon economy, environmental protection and the strengthening of the pan-European network, and the competitive advantages of the enterprise environment (in particular, small and medium-sized companies).

By 2050 the Slovenian justice system will also strive to implement the vision of the structural and technological changes required for the transition to a low-carbon economy which utilises resources in a cost-effective manner and is resistant to climate change. Such action by Member States will allow the EU to meet the goals set for achieving reduced emissions of greenhouse gases and preserving biodiversity.

Updating the existing housing stock of judicial authorities in terms of technology, environment and energy pursuant to the contemporary trends of sustainable and ecological development will have a direct impact on reducing government expenditure and increasing the energy efficiency of buildings, consequently reducing the burden on the natural environment. By implementing the centralisation of judicial authorities based on the Courts Act, we will promote the reduction of negative impacts on the environment. In this manner, we will help implement the basic goal of the *Europe 2020 Strategy*, which is to reduce greenhouse gas emissions.

In compliance with the leading initiative of *an industrial policy for the globalisation era*, the Slovenian judiciary will strive to introduce and use accessible modern e-justice services and to improve the business environment, particularly for small and medium-sized companies, among other things by making court fees reflect the actual costs of judicial proceedings, subject to a

⁸² Article 34 of the Constitution reads as follows: 'Everyone has the right to personal dignity and safety.'

proportionate consideration of the principles of accessibility and a reduction in administrative obstacles for companies.

Inclusive growth

An inclusive economy with high levels of employment enhances economic, social and territorial cohesion; therefore, in the justice system, we will strive to ensure higher employment levels, particularly of difficult-to-employ categories, which also includes ex-prisoners. It is indispensable that in this area, in compliance with the goals of the *Europe 2020 Strategy*, a quality breakthrough is achieved that will ensure better use of the existing knowledge and experience, and at the same time upgrade the system in terms of increased efficiency of existing programmes, effective social rehabilitation and the employability of prisoners post-release, as well as the transfer of good practice from comparable European Union Member States and countries from the Western Balkans and its implementation.

Recommendation No. R (99) 22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding contains, *inter alia*, measures following the judgment, with an emphasis on the greater use of alternative criminal sanctions and measures for the benefit of the community. The Human Rights Ombudsman also refers to this Council of Europe Recommendation in his report for 2011,⁸³ stating, even in his other annual reports, that it would be beneficial if prison sentences were replaced by community service more frequently, because this would contribute significantly to the elimination of prison overcrowding and to the reduction of government expenditure on prisoners, while providing an opportunity for doing work of benefit for society. By being given a prison sentence, an offender is excluded from the social environment, loses his job, contact with his family is restricted and inclusion in the social network post-release is more difficult, as is his reintegration into society, which leads to poverty. Within the framework of one of the leading initiatives of the *Europe 2020 Strategy*, i.e. the *European Platform against Poverty*, a higher level of social cohesion, and in consequence increased employability, will be achieved by the introduction of a uniform probation service such as is known elsewhere in Europe.

⁸³ 16th Regular Report of the Human Rights Ombudsman of the Republic of Slovenia for 2010, Ljubljana, June 2011.

7. Sources of financing

In justice, the goals of the *Europe 2020 strategy* will be attained above all by means of cohesion funds, public-private partnership and EU instruments in the area of justice and home affairs policy (e.g. civil justice, criminal justice, Daphne III, fundamental rights, gender equality and the fight against discrimination, etc.) and programmes that will substitute these programmes within a multi-year financial framework 2014–2020 in compliance with the amended Decree on the Introduction of a Programme for Justice and the Decree on the Introduction of a Programme for Rights, Equality and Citizenship, and also by means of national budget funds. By implementing the *Justice 2020 Strategy*, we will help attain these horizontal goals from the draft proposal for the general common regulation for the ERDF, ESF, CF, EAFRD and EMFF.⁸⁴

- **ensuring gender equality and non-discrimination:** All activities based on the strategy of justice will also include activities related to the fight against discrimination and efforts aimed at equal opportunities, with an emphasis on target groups of ex-prisoners. In the refurbishment of court buildings, special emphasis will be placed on providing access to disabled people and the development of e-services
- **sustainable growth:** by specific measures which are within the responsibility of institutions in charge of ensuring the rule of law, we will contribute to the fight against climate change and the sustainability of environmental impact.

The activities of the strategy are planned to be financed in part by means of cohesion funds from the new 2014–2020 financial framework in three current areas:

- **improving access to IT services and their use and quality:** within the ERDF framework, e-services in justice, updating the judicial system and increasing the accessibility of judicial services for citizens, plus supplementary activities, are planned; within the ESF framework, promotion of the use of e-services in formal education at law faculties and in other informal training is planned
- **supporting the transition to a low-carbon society:** within the ERDF framework, investments in buildings of judicial authorities for the improvement of energy efficiency, including the use of renewable energy sources for heating and cooling, are planned
- **promoting social inclusion and the fight against poverty:** within the ESF framework, we will implement measures for the socially marginalised group of prisoners and ex-prisoners, and thus provide them with equal opportunities for education and training, and also with work and occupational therapy to assist them in their social rehabilitation and their fight against poverty, whereby the key factors will be the establishment of a probation service and the promotion of social enterprise. Within the ERDF framework, new business models of alternative forms of criminal sanctions enforcement through the introduction of a probation service as a new method of addressing social challenges will be set up

⁸⁴ ERDF – European Regional Development Fund; ESF – European Social Fund; CF – Cohesion Fund; EAFRD – European Agricultural Fund for Rural Development; EMFF – European Marine and Fisheries Fund.

- **strengthening institutional capacity and providing effective public administration:** within the ESF framework, the measures for updating the judicial system will be carried out in order to enhance the efficiency and performance of the judicial system, eliminate administrative obstacles and provide enhanced transparency, optimisation and computerisation of judicial processes. Within the ERDF framework, measures for updating the judicial system by means of investments in IT equipment are planned.

Estimated funds for attaining the goals set by the *Justice 2020 Strategy* are given in the table below:

Strategy goals	Estimated funds (in million EUR)
Security of judicial authorities	2
Judicial administration	1
Slovenian judiciary	16
State Prosecutor's Office	2,7
State Prosecutor Administration	0,5
State Attorney's Office	1
Intelligent and inclusive enforcement of criminal sanctions	50
Computerisation of the judicial system, support subsystems and links with other stakeholders and participants in the justice system	20
Increasing environmental awareness throughout the judicial system and other relevant implementing and support systems	30

The above estimated funds are of an informative nature. The resources and required funds will be defined in more detail when the contents of the *Justice 2020 Strategy* are included in the development documents of the Republic of Slovenia. If the funds for the attainment of goals are not provided, the justice strategy cannot be implemented.