

Justice and courts

The Government will strive to increase public trust in the judicial system and its authorities to an extent which guarantees general acceptability of the judicial branch of power as the guardian of legality and justice, and of judges as truly professional and moral authorities. The judicial power must be exercised efficiently. To this end, and in line with the value-for-money principle, the Government will adopt various legislative, organisational and other measures designed to put in place an efficient system for the management and administration of courts and for the functioning of judicial processes aimed at ensuring that the judicial system is capable of protecting the rights and legitimate interests of all natural and legal persons within reasonable time limits. The Government believes that the operation of courts can become more efficient also by supporting the administrative functions of courts which are indispensable to the everyday work of judges. In coordination with other branches of power, the Government will adopt measures aimed at improving law enforceability as one of the main prerequisites for the proper functioning of the economy, business sector and society as a whole. The Government believes that effective law enforceability is not only a matter for courts and their decision-making, but also a matter for all the other authorities involved in ensuring the exercise of the right to judicial and other legal protection, and, in general, the reflection of an overall respect for law. This will entail, in particular, the elimination of undue delays in proceedings, which have an immediate impact on law enforceability.

The Government will meet the above objectives through the following measures:

Increased public scrutiny of the judiciary, from the selection of judges, through the evaluation of their performance, to disciplinary sanctions, strengthening the civil element in the Judicial Council. The Government avows the principles of open justice which provide for public scrutiny of judicial performance, i.e., scrutiny in those areas where neither the legislative nor the executive branch of power may intervene, as well as public scrutiny of the relationship between the legislative and, in particular, the executive branch of power in performing their tasks in relation to the judicial system. The Government will enhance public scrutiny of the judicial system by adopting measures which ensure that the process for the selection of court presidents, judges and judicial administrative staff remains transparent from its very beginning to the final decision, and which strengthen the objective elements in the selection procedure; the Government will implement measures ensuring that also persons from outside the judicial community participate in the process leading to the selection of court presidents and judges.

The open selection procedure for the post of a judge is a model which opens participation in the procedure also to lawyers who meet the essential requirements for the performance of the judicial profession but who are not directly active in the judicial system. The preparatory judicial training, which the lawyers who are not active in the judicial system must undergo to be able to submit their candidature for the post of a judge, represents a barrier which deters lawyers from being interested. The Government will amend the relevant

legislation to ensure that only those who have been successful in the selection procedure are required to undergo the judicial training. The selection of judges should also be under public scrutiny. In order to make the selection procedure more objective, the Government will reconsider the weight of the subjective element in the assessment (oral interview as part of the selection procedure), develop a uniform candidate assessment sheet for the oral interview, put a person from outside the judicial community on the selection jury (representative of the academia, legal profession or NGOs); the Government will propose an increase in the number of candidates in the database of jury members representing the National Council of the Slovak Republic and, later, it will propose a change in the composition of the jury so that one half of the jurors are judges and the other half are persons from outside the judicial profession; it will also consider a possibility of video-recording the oral interviews in the selection procedure. Only a real public scrutiny over the selection process is capable of ensuring objective selection of candidates. The Government will introduce the same level of public scrutiny over the selection processes leading to the appointment of judges and court presidents.

The regular assessment of the performance of judges, introduced in 2012, needs to be evaluated and elaborated on so that it fulfils its purpose. The performance of judges must be assessed in comprehensive manner; therefore, **every judge should be subject to comprehensive assessment once every five years**. Nowadays, judges are assessed by their peers and the results are not made public. The assessment system needs to be revised, mainly in relation to the assessors. The Government will consider the introduction of the so-called ‘assessment panels’ composed of judges who will act as full-time assessors. In the interest of ensuring public scrutiny, the Government will amend the relevant legislation in order to make the publication of assessment results mandatory. The Government will review the system for the publication of court decisions and assessment of judges’ performance in order to make it more transparent and facilitate further analyses; the review will be done with public participation. The Government will apply the same approach to reviewing the system for the publication of the results of disciplinary proceedings against judges. In the area of the open governance in justice, the Government will take measures to provide access to court decisions, to the available results of the assessment of judges, to disciplinary decisions across all legal professions, and to easy-to-use-and-search databases which should be made available, wherever possible, also in the form of metadata. In the interest of ensuring smooth course of disciplinary proceedings before disciplinary senates hearing cases against judges, the Government, subject to consultation with the Judicial Council and the Supreme Court, will adopt a legislative measure which will clearly designate an authority charged with the oversight over the smoothness of disciplinary proceedings, without changing the composition of disciplinary senates. The Judicial Council is primarily a body of judicial legitimacy. After separating the positions of the President of the Judicial Council and President of the Supreme Court, the Government will propose new provisions to clearly specify **incompatibility of the positions of a court president and Judicial Council member in line with the decision of the Constitutional Court**, because the President of the Judicial Council is part of the administration and management of the judiciary and, as such, is subordinated to the managing authority of the Minister. The Government will press for a system whereby the nominees of political powers (President, Parliament and Government) do not work as judges so as to eliminate any *a priori* suspicion of the judges thus nominated of having political allegiances. The maximum transparency of the activities of the Judicial Council is a precondition to public scrutiny.

In the interest of making sure that the judicial branch of power is really perceived as independent from the executive branch, the Government will put in place the conditions necessary for the Ministry of Justice and the Supreme Court to stop sharing the same building. In relation to the prosecution service, the Government will base itself on the European Standards as regards the Independence of the Judicial System, part “Prosecution Service”, adopted by the European Commission for Democracy through Law (The Venice Commission). In line with these standards, the Government will support increased public accountability of the prosecution service and public scrutiny over the process of prosecutors’ selection by a professional element outside the prosecutors’ community.

Increased personal accountability of judges

The Government will propose measures designed to increase the personal accountability of judges for their proven subjective failures. To this end, the Government will adopt measures ensuring, in particular, a thorough, expeditious and effective enforcement of the disciplinary liability of judges.

Introduction of fundamental measures to increase the efficiency of courts and expedite court proceedings.

The Government will adopt thoroughgoing measures of a legislative, technical, material, organisational and personnel nature to increase the efficiency of courts in order to expedite proceedings and make the functioning of courts more efficient, including the conditions for more efficient court administration. To this end, the Government will strengthen the analytical and strategic-planning capabilities of the Ministry of Justice in order to foster the ability of the state to create ample conditions for the administration of justice. In order to create proper conditions for the resolution of disputes, the Government will review the scope of the activities currently performed by courts, particularly those which do not have the nature of decisions on disputes and do not fall, based on the Constitution, under the obligatory remit of courts. This will mainly involve the transfer of responsibility for maintaining the Companies Register onto another public authority, fundamental changes in the procedural rules governing the execution proceedings (so that the court in these proceedings rules only on the dispute itself and, once the judgement has become final and enforceable, its enforcement (execution) may go ahead without any additional court authorisation. The Government will consider improving conditions for the mediation of certain types of disputes. The Government will also review the decision-making agenda of courts in other matters. In order to significantly improve the enforceability of claims, particularly trade receivables, the Government will put in place conditions which will substantially speed up court proceedings, namely through specialisation and digitalisation of processes, including the review of the available set of remedies, recovery of unpaid court fees, and the electronic service of documents (a court for judicial payment orders, execution court). The Government will prepare new and comprehensive rules for the conduct of the execution proceedings which will make the recovery of claims more effective for creditors and, at the same time, provide adequate protection of the debtors’ basic rights. To this end, the Government will propose new legislation which will clearly stipulate the manner and scope for determining the amount of execution fees and will introduce new rules enabling an expeditious and effective recovery of the claims protected by law. Based on an analysis, the Government will review the current rules for the split of decisions between judges and senior judicial officers so that judges are not overloaded by files which can be handled and decided on by senior judicial officers. The Government will review the current system for the electronic service of court documents and will take measures to introduce mandatory data mailboxes for selected professions and legal entities in order to make the eJustice system more efficient and court

proceedings more expeditious. Apart from making the work of courts more efficient, the **accelerated implementation of e-Justice** will also facilitate communication between courts and parties to the proceedings (electronic court files). The Government is also proposing the **introduction of electronic registers**, mainly the register of execution proceedings and the register of bankruptcy proceedings. The Government will expand the scope of the standard forms used for the initiation of court proceedings. The Government will promote alternative dispute resolution by creating conditions for the specialisation of commercial arbitration across individual sectors of the economy. In order to expedite court proceedings and enhance the quality of judicial decisions, the Government will propose, based on an analysis, a set of measures, including measures specifically designed for small courts, to increase the specialisation of judges, with particular emphasis on the first-instance general courts, while maintaining the system of random assignment of cases to judges. The Government will adopt measures to increase the transparency of decisions on the staffing of courts, stabilise human resources at courts, particularly those under heavy caseload, and create conditions to introduce an obligatory staff replenishment mechanism; it will also make the system for the filling of judicial vacancies more efficient and provide judges with adequate ancillary staff in order to respect a principle whereby decisions should be taken by the lawful judge. With the objective of stabilising human resources at courts, the Government will prepare a law on judicial civil servants, which will clearly specify their competencies. The Government will evaluate the effects of new procedural rules and, based on the evaluation, will take the necessary measures. Being aware of the need to adopt a new Civil Code as a modern civil-law basis, the Government will continue the recodification exercise, with broad participation of professional public and in coordination with the application of new procedural rules. Executors, notaries, attorneys, trustees, mediators, experts, interpreters and translators represent an important element for the exercise of the right to judicial protection. The Government will create conditions for a proper, effective and responsible performance of their functions and for their adequate remuneration. The Government will introduce elements of public scrutiny over the proceedings which involve the drawing of consequences against certain professions which are licensed to perform public functions. The Government will consider options to improve the bankruptcy, restructuring and liquidation proceedings in order to grant adequate protection to honest creditors and increase the personal liability of company directors and partners. The Government will adopt more appropriate rules governing the bankruptcies of private individuals (so-called 'personal bankruptcies'). In the interest of protecting small and medium enterprises and combating tax fraud, the Government will create conditions to suppress dishonest practices in company liquidations and mergers. The Government will promote alternative dispute resolution by creating conditions for the specialisation of commercial arbitration across individual sectors of the economy. The Government will support the introduction and functional interconnection of public registers for the business sector (for example, register of public-sector partners, insolvency register, register of court decisions under enforcement) in order to make business environment more transparent and provide businesses with the relevant information on persons entering into contractual and/or other legal relations, and will press for the introduction of modern trends in commercial-law relations. The Government will review the present setup of criteria for access to legal aid with a view to making it more accessible; it will give specific consideration to increasing the access

of crime victims to legal aid. Based on a review of the existing legislation, the Centre for Legal Aid will also perform a preventive role to eliminate the escalating legal problems through law-awareness programmes in those areas where the Centre provides legal aid (through a call centre, through the Internet and through the regional contact points of the Centre). The Government will adopt measures to stabilise and, gradually, increase the Centre's human and technical resources and improve the overall conditions for the work of the Centre given the enormous surge in caseload, assuming further expansion of the Centre.

Penal policy and prison service

The Government will adopt measures designed to create a functioning model for the support and protection of the victims of crime and their compensation. For this purpose, the Government will ensure that the proceeds from penal sanctions against the assets of perpetrators are used specifically to support crime victims and fund their compensation. The Government will propose amendments to the laws governing penal proceedings in order to make the detection of the proceeds of crime more effective; it will also take the measures necessary to facilitate seizures and subsequent confiscation of the proceeds of crime. In order to ensure effective international judicial cooperation, the Government will review the current legislative framework and propose a comprehensive package of amendments. The Government will propose a solution to the law-application issues connected with the prosecution of drug-related crime, namely the determination of the quantity of narcotic and psychotropic substances in the suspect's possession, and will also consider the introduction of a more effective drug-policy model with focus on the prosecution of illicit trade in drugs. In the area of criminal law, the Government will also consider new options for the adoption of effective instruments to evaluate the application of criminal law regulations in practice. The Government will reflect on the needs of the prison service. The Government will create conditions to meet the targets set in the Slovak Republic's Prison Service Concept for 2011–2020 regarding the increase in the capacity, reliability and security of prison establishments and optimisation of their operation. The Government will continue to reconstruct existing prison establishments and, subject to available resources, prepare the construction of new establishments in order to maintain, upgrade and increase the current accommodation capacities in line with the recommendations of the CPT committee. The list of the Government's priorities also includes the building of an institutional detention centre for the placement of inmates suffering from mental disorders who need special conditions and treatment for the sake of their own protection and protection of society.

Effort to enact a constitutional statute on the formation of the Constitutional Court

The Government will propose the adoption of a constitutional act concerning the creation of the Constitutional Court, revision of the length of the term of office for judges, qualification criteria for the selection of judges (with emphasis on the professional and moral profile of candidates), and clarification of the powers of the President in the process leading to the selection of judges.