



## **SIGMA**

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# **POLICY DEVELOPMENT, MONITORING AND EVALUATION: THE ROLE OF MINISTRIES IN THE POLICY CYCLE SLOVENIA**

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## General

The responsibility for policy-making in the executive branch of power in Slovenia is with the government. On the basis of the Constitution, laws and other acts of parliament, the government determines, directs and coordinates the policy of the state (art. 2 of the Law on Government – LoG). Policy-making is a **systematic function of the government**, as the government synthesizes the policies that are prepared within the administration (ministries) and governmental offices. There are 15 ministries and 11 governmental offices (European affairs, local government and regional development, legislation, equal opportunities, nationalities, and statistics, among others).

To situate the general position of ministries and ministers, we have to look at the Constitution of the Republic of Slovenia (CRS). Each minister is a member of the government on the one hand and the head of the ministry on the other. In the framework of prescribed responsibilities, the minister (and the President of the Government) is **autonomous and solely responsible** to parliament (art. 110 CRS). The minister is appointed and dismissed by parliament on the proposal of the President of the Government (art. 112 CRS). Prior to appointment, the candidate for minister has to go before the responsible parliamentary commission. While the President of the Government is responsible for the unified policy of the entire government and harmonises the work of the ministers, the ministers are responsible as a group for the government as a whole, and each minister is solely responsible for the work of his/her ministry (art. 114 CRS).

The composition and work of the government, as well as the number, responsibilities and organisation of ministries, are prescribed by law. Interpellation of the work of a single minister is also a parliamentary tool for supervision of the minister. Tasks of the administration are executed directly by ministries (art. 121 CRS).

The government directs the work of the administration through the ministers. Currently (November 2004), in accordance with the LoG, the ministers – members of government – are as follows:

- Minister of Finance
- Minister of Economy
- Minister of University Education, Science and Technology
- Minister of Health
- Minister of Interior
- Minister of Foreign Affairs
- Minister of Justice
- Minister of Public Administration
- Minister of Labour, Family and Social Affairs
- Minister of Transport
- Minister of Agriculture, Forestry and Food
- Minister of Environment and Spatial Planning
- Minister of Culture
- Minister of Education and Sport
- Minister of Defence

In addition to the above ministers, there are up to two ministers without portfolio, who may be responsible for inter-ministerial co-ordination. At present there is one minister without portfolio responsible for local government and regional development.

## Policy Development

### *Policy-making*

The government is responsible for the **policy-making** of the whole administration. For this purpose, it passes regulations and other legal, political, economic, organisational and other measures needed for the development of the state. The government proposes to parliament draft laws, the state budget, national

programmes and other legislative acts setting out long-term policies in various areas of social life, which are under the responsibility of the state (art. 2 of the Law on Government – LoG).

In June 2005 the government adopted the **Development Strategy of Slovenia** for the period 2004-2013 (first ten years of EU membership), which is a policy paper covering the overall development of the whole country. The **Annual Government Programme** consists of a list of laws and regulations that are envisaged for adoption in the coming year. Each piece of legislation must have only a short explanation. The Annual Government Programme is more a work plan than a policy paper. A similar paper is the annual report that comprises a list of adopted laws and regulations.

The synthesis of policies at governmental level is carried out by means of various tools. The first and most common ways are **government sessions** and sessions of the **governmental working bodies**. Ministers and directors of governmental services are members of the working bodies of the government by virtue of their positions. Every matter that enters the governmental procedure has to pass through the working body and has to have the consensus of the members of that body. Working bodies of the government are permanent or temporary. There are currently three permanent working bodies:

- Committee for State Organisation and Public Affairs
- Committee for Economy
- Commission for Human Resources Management and Administration

The President of the Government may give to the minister an **obligatory directive** for the work of the ministry (art. 14 LoG). If the minister considers that the obligatory directive does not correspond to the policy set by the government, he/she can demand that the government discuss the question. Ministers are obliged to inform the government of all issues that are important for policy-making.

The double responsibility of a minister is emphasized once again in article 17 of the LoG. Ministers are responsible for government decisions as **members of a collective body** and also in terms of the implementation of these decisions within the administration (ministry). The minister can also be held responsible for the omission of measures that should have been taken or implemented.

The Law on State Administration (LSA) provides a general provision for **policy development** in article 12, which stipulates that the administration is to direct policy development on the basis of the Constitution and in the framework of the law and other legislation.

On the basis of the common policy set down by the government, the minister leads and represents the ministry and gives policy direction for the work of the ministry and bodies within the ministry (more independent organisational parts of the ministry); he/she supervises the work of the ministry and passes regulations within its responsibility (art. 18 LoG).

Important for the policy cycle are the **strategic councils**, bodies formed for the purpose of advising and counselling the President of the Government on policy-making in certain areas. Members of the council are appointed by the President of the Government, who then informs members of the government of their appointment. The council strengthens the position of the President of the Government, as he has sole responsibility for the nomination of its members, and the council reports to and advises him directly. At present there are two strategic councils:

- Strategic Council for Economic Development
- Strategic Council for Culture, Education and Science

Ministers may be invited to participate in meetings of the strategic council.

Another form of inter-ministerial co-ordination is the **governmental council**. Various councils covering various areas of social life (e.g. education) are responsible for shaping and proposing policies and national programmes. Governmental councils are established to organise dialogue with organisations of civil society and non-governmental organisations.

There is also a set of documents passed by parliament which is very important for overall policy-making and where the role of ministries is significant, namely the **National Programmes**. The National Programmes are

documents for the preparation of national policy, based on the Parliamentary Standing Orders and various laws, referred to as material laws. At present there are 14 National Programmes in various areas of social development (research, social care, sports, protection of the environment, road traffic safety, etc.). Each National Programme is drafted by the responsible ministry and proposed to the government. Once approved, the government submits it to parliament, where it undergoes a special legislative procedure (and is finally passed as a parliamentary resolution). The National Programme is not a law, but it is adopted by parliament and has significant implications for the area of social life that it regulates.

Another means of co-operation among representatives of the administration (again, primarily senior civil servants from ministries) for policy analysis, policy development and preparation of legislative papers are **parliamentary committees**. Representatives of the submitter of a draft proposal (in most cases the government) and representatives of the government are invited to working sessions of the relevant parliamentary committee (art. 51 of the Parliamentary Standing Orders). The representative of the government (minister or state secretary) also presents the new draft law to the parliament (if the law is submitted by the government) and takes part in the whole legislative procedure. The administration gives expert support to the representative of the government during his involvement in the legislative procedure.

With regard to the Law on Public Finance, provisions have been made for planning (again, this is not policy-making). There are three areas of financial planning: development programmes, employment plans and procurement plans.

### **Legislative Drafting**

The general task of the administration (primarily ministries) concerning **policy development and legislative drafting** is prescribed in article 8 of the Law on State Administration (LSA). The LSA stipulates that, in the context of policy development, the administration prepares several materials for the government, in particular:

- draft laws;
- draft secondary legislation;
- other draft administrative acts and materials; and
- professional support in policy development.

The draft law text has formal components (art. 115 of the Standing Orders of Parliament): title, introduction, wording of the law and explanation. The introduction must comprise: analysis of the situation that has to be regulated; goals, principles and main solutions; cost-benefit analysis for the state budget and other fiscal consequences; comparative analysis with other countries (at least three cases are to be from EU countries) and the European Union. If the proposed draft law does not have these components, the President of Parliament will reject the proposal. The explanation of the wording of the law must elaborate on the purpose of each solution and on the interaction of solutions and their consequences.

The cost-benefit analysis of each draft piece of legislation (or draft law) focuses on the effect on the state budget only (art. 11 of the Standing Orders of the Government). Changes in the state budget must be estimated for the next three years and must include proposals for compensation of the increased expenditure or compensation for the decreased income of the state budget. When the financial analysis does not estimate the cost for the budget and the cost still occurs later on, this cost is compensated for from the budget provisions of the submitter of the analysis (usually a ministry). The Law on Public Finance has the same provision (art. 6).

The most important secondary legislation of the government is **enactment** (*uredba*, also translated as “decree”), which is mostly prepared (as a draft) within the responsible ministry. Enactment is a general administrative act aimed at a more precise regulation of rights and obligations (the basic regulation of rights and duties is, according to the Constitution, allowed only by law). A **decree** (*odlok*) is the second piece of a general administrative act, which is passed for single issues that have a general effect.

On the basis of the law, secondary legislation and the state budget, the administration stimulates and directs overall social and economic development.

More narrowly, for the preparation of policies within the competence and responsibility of the ministry, the minister is entitled to appoint an **expert council** as his/her advisory council.

The ministry must exercise its duties according to the political directives of the government, which can also instruct the ministry with regard to a particular task or issue. A ministry must report to the government on the situation in the area of its administrative responsibility and on the execution of legislation and measures taken (art. 57 LSA). The ministry constantly proposes policies, drafts and measures in the area of its administrative responsibility for regulation by the government or parliament. The ministry may also ask the government to take a position on a particular issue or to provide it with a political directive in a specific area.

**Inter-ministerial relations** are regulated in a separate chapter of the LSA. Ministries (and other administrative bodies) have to co-operate on issues where responsibilities are shared between two ministries or a group of ministries. For that purpose they can establish **inter-ministerial working bodies** (groups or other forms of teamwork) in all matters that by their nature demand the co-operation and co-ordination of more than one ministry. When preparing and passing a regulation or preparing draft legislation for the government, the ministry must consult other responsible ministries. If the ministry does not accept major remarks or suggestions from other ministries, it must inform the government to that effect (even if responsibility for the legislation lies with that ministry).

In some particular cases the responsibility for regulation of a certain area lies with two or more ministries (working in agreement). In case of disagreement, the ministry responsible for passing the regulation must inform the government to that effect and demand its decision. If there is a dispute (positive or negative) between ministries as to which ministry is responsible for a certain issue, again the government will decide. For policy development, execution of an inter-ministerial project or co-ordination of administrative tasks and duties in an area where more than one ministry is involved, a single minister could be authorised to take a leading and co-ordinating role.

### ***Policy Implementation***

According to article 9 of the Law on State Administration (LSA), ministries implement the following:

- laws and regulations passed by parliament;
- ratified international treaties;
- the state budget; and
- regulations and other acts of the government.

The implementation of the above documents is carried out through the preparation and enactment of the ministries' own sub-regulations or administrative decisions. The sub-regulations of ministries are **general administrative acts**, while administrative decisions are **individual acts**. Internal acts of the ministries are the second means of implementation. Ministries also enter into civil contracts on behalf of the state.

Very important parts of central state government on a level closer to citizens are **administrative units**. Administrative units are organised territorially (there are 58 administrative units in Slovenia), and basically they are responsible for **decision-making in the first instance** in all administrative procedures. Other organisational units of the central government (branch offices, territorial units and others) serve as tools of deconcentration of central government and as such are important in the overall policy cycle.

Line ministries monitor and control administrative units (each in their own area of responsibility). They can issue obligatory directives that the head of an administrative unit has to follow. If the directive is not followed, the ministry executes the administrative task itself. If failure to execute the task would have had harmful consequences for the lives or the health of citizens or would have damaged the environment or property, the ministry reports the incident to the Minister of Public Administration. In disputes between the line ministry and the administrative unit, the government makes a final decision. The Ministry of Public Administration has the responsibility of exercising overall control of administrative units and other territorial organisations; the head of the administrative unit is directly responsible to the Minister of Public Administration. Again, in disputes between the Ministry of Public Administration and an administrative unit, the government will decide.

For the co-ordination of policies on the territory of the administrative unit, a **co-ordination council** is established. The members of the council are representatives of the administrative unit (head of the unit), local government (mayor or directors), and other public legal entities that are executing public tasks. The head of the administrative unit chairs the sessions of the council and reports to the Ministry of Public Administration on decisions and proposals concerning general administrative issues and to line ministries when the decisions and proposals are within their competences.

The ministry or a **body within the ministry** is responsible for **decision-making in the second instance** in administrative procedures where the administrative unit had decided in the first instance. Bodies within ministries can be organised to discharge specialised expert duties, implementing and developing administrative tasks for inspections and other duties in the area of public services. These bodies are semi-independent; they execute duties on the basis of a programme prescribed by the minister on the proposal of the body's director. Again, a minister can give them obligatory directives, and they must report on their execution. Also, the body within the ministry is represented before parliament by the minister. Following the latest administrative reform in Slovenia, responsibility for the establishment of a body within a ministry is with government (previously they had been established by law, i.e. by parliament). This change provides the executive branch with more flexibility for its own organisation. The Enactment on Bodies within Ministries established 44 bodies, which include administrations (e.g. customs, tax); inspectorates (e.g. market, environment, health); offices (e.g. metrics, chemicals); agencies (e.g. drugs, agriculture), police and army.

### ***Policy Implementation Monitoring and Control***

**Policy implementation monitoring** is prescribed in a very general way in article 11 of the LSA, which indicates that the administration monitors areas for which it is responsible. In these areas, it must ensure that developments are made according to adopted policies. For that purpose, the administration can collect data and keep registers. The second part of direct monitoring is **inspection control**, aimed at controlling the implementation of legislation. Inspection control is prescribed in detail in the Law on Inspection Control. This law is based on the principles of independence, protection of the public interest and the interest of private persons, publicity and proportionality. Inspections are organised in ministries as a body within the ministry.

With regard to the overall policy cycle process within the administration, **para-governmental** bodies should be mentioned. In Slovenia these bodies, following the recent reform, are **public agencies and public funds**. Ministries exercise their **control function** over these public legal entities, even though they are relatively independent. Public agencies can be established for the implementation of administrative tasks under two conditions:

- if the public agency can execute administrative tasks more effectively and efficiently than a ministry or other state administration body, especially when a fee must be paid for the administrative service; and
- if these kinds of services do not require constant control by political bodies.

A **public agency** is established (by the state or by a local government authority) for the execution of regulatory, developmental and expert tasks in the public interest. Public agencies must function by the same principles (legality, independence, political neutrality, impartiality, etc.) as the bodies of state administration, as prescribed by the Law on State Administration and other regulations. When the public agency is established by the state, its duties are executed by the government, but always on the basis of proposals of the responsible line ministry or ministries (if the scope of responsibility of the public agency involves more than one ministry). The public agency can – by law – pass regulations or administrative decisions. The founder of the public agency (the state or local government authority) could withhold such a regulation or decision if it considers that it is not in accordance with the Constitution or the law. In that event, the public agency can insist on its publication, but it must initiate a procedure before the Constitutional Court within 15 days.

Overview and control of the public agency's legality of work, efficiency and effectiveness are ensured by the responsible line ministry. In addition, the Ministry of Finance supervises the agency's financial operations and expenditure, while the Ministry of Public Administration controls decision-making in administrative cases and the overall operation of the agency.

A **public fund** is established for the stimulation of development in a particular area. Similarly, when the founder of the public fund is the state, its duties are executed by the responsible line ministry. The minister chairs the supervisory board of the fund, while a representative of the Ministry of Finance is a member of the board. A public fund is empowered to make administrative decisions in the first instance, while the line ministry decides on legal remedies. Overview and control of the public fund's legality of work, efficiency and effectiveness are ensured by the responsible line ministry.

### **Conclusion**

The role of ministries in policy development, monitoring and evaluation is significant. Ministries are key players in the preparation of policy within the administration. They execute core administrative tasks and participate in the application of every tool for policy development within the administration, in co-operation with the legislative branch (governmental working bodies, strategic councils, parliamentary committees, governmental councils, expert councils, boards of public agencies and funds, etc.). Nevertheless, systematic responsibility for (and the systematic function of) policy development in the administration is with the government.

The policy cycle in the administration is highly formalised and legalistic. Activities in policy development, monitoring and evaluation are prescribed; there is not much room for the preparation of policies as options serving a variety of stakeholders. Only a few policy papers have been prepared (e.g. governmental strategies, national programmes). Policy development consists mainly of legal drafting. In the process of legal drafting, the use of techniques of impact assessment and the preparation and analysis of different options are rare. Regulatory impact assessment is limited to the impact on the state budget; consequences for other stakeholders (e.g. economy, citizens, environment) are not assessed systematically.

To conclude, policy development is narrowed down to legislative drafting; policy monitoring is limited to the control of implementation, while policy evaluation is weak or non-existent.

*List of regulations used as references:*

- Constitution of the Republic of Slovenia (translated text — pdf)
- Standing Orders of Parliament
- Law on Government
- Standing Orders of the Government (translated text)
- Law on State Administration (translated text — original, without amendments)
- Enactment on Bodies within Ministries
- Law on Inspection Control
- Law on Civil Servants (translated text — original, without amendments)
- Law on Public Agencies (translated text — original)
- Law on Public Funds
- Law on Public Finance
- Law on General Administrative Procedure.