

# Covid 19 and public participation:

## - Chalanges and opportunities

**Tenth meeting of the Task force on Public Participation in Decision-making under the Aarhus Convention**

**- Decision VII/2 on promoting effective public participation in decision making (adopted by the Meeting of the Parties at its seven session)**

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**10.10.-11.10.2022 , Geneve**

## Act on Non-Governmental Organizations (Official Gazette of the Republic of Slovenia, No. 21/2018)

- In Slovenia the position and rights of non-governmental organizations are regulated in **Act on Non-Governmental Organizations** (Official Gazette of the Republic of Slovenia, No. 21/2018), which is umbrella law.

- **ARTICLE 2 has a definition of non –governmental organization**

- 1) A non-governmental organization is an organization that **meets the following conditions:**

- is a **legal entity** under private law with its registered office in the Republic of Slovenia,
- it was founded exclusively by domestic or **foreign natural or legal persons under private law,**
- is non-profitable,
- is non-profit,
- is independent from other entities,
- is not organized as a political party, church or other religious community, trade union or chamber.

- 2) an organization is not a non-governmental organization if it was founded by a political party.
- 3) a non-governmental organization may be an organization established by a student organization pursuant to the Act on Student Communities (Official Gazette of the Republic of Slovenia, No. 38/94).
- 4) a non-governmental organization may also be a legal entity that is an integral part of a registered church or other religious community based on the law regulating religious freedom, if its main activity is not specified in the Business Register of Slovenia as activity of religious organizations.

## ●ARTICLE 6 (definition and conditions for granting the status of NGO in the public interest)

- (1) A NGO is granted the status of a non-governmental organization in the public interest in a certain area, if its activity in this area exceeds the interests of its founders or its members and if it is generally beneficial.
- (2) A NGO may be granted the status of a non-governmental organization in the public interest in the fields of **culture, education, health care, social care, family policy, development of democracy, protection against discrimination, protection of human rights, protection of the disabled and the performance of humanitarian activities, protection equal opportunities for women and men, protection of the elderly, integrity in the state and civil society, consumer protection, nutrition, promotion and organization of volunteering, youth sector, promotion of tourism, protection of cultural heritage, environmental protection, nature conservation, spatial planning, protection and protection of animals, agriculture, forestry, rural development, sports, defense, protection against natural and other disasters, traffic safety, international relations, foreign affairs, international development cooperation, international humanitarian aid, development of non-governmental organizations, development of the information society, science or other fields.**

(3) A non-governmental organization may be granted the status referred to in the first paragraph of this article in **several areas. – VEČ PODROČJI LAHKO IMA STATUS**

(4) A non-governmental organization is granted the status referred to in the first paragraph of this article if it meets the **following conditions:**

- its members, if it is a membership organization, are **not legal entities under public law**,
- has an activity that **is in the public interest, defined in the act of incorporation**,
- has been operating for **at least two years before submitting the application for granting status**,
- can demonstrate **significant achievements of his activity** in the field referred to in the second paragraph of this article in the last two years before submitting the application,
- in the last two years before submitting the application, **the funds were mainly used for carrying out activities in the public interest in the area referred to in the second paragraph of this article and regularly implemented programs, projects or other activities for the realization** of the purpose and goals that are in the public interest,
- has drawn up at least a **two-year program of future activities in the area referred to in the second paragraph of this article, which includes regular implementation of activities in the public interest**,
- she **has not been legally sanctioned with a fine for a serious tax offense** or an offense of a particularly serious nature, and she has not been legally convicted of a criminal offence, - no bankruptcy or liquidation proceedings have been initiated against it and - other conditions, if so stipulated by law.

(5) The ministers responsible for the areas in which non-governmental organizations operate shall determine in more detail the criteria for fulfilling the condition from the fourth indent of the previous paragraph in each area, if the criteria are not determined by law.

(6) Activities that are in the public interest may be defined in more detail by law.

## ● **ARTICLE 7 (ministry responsible for granting the status of NGO in the public interest)**

(1) The decision on status recognition is made by The ministry responsible for this area

(2) If a NGO applies for the granting of the status of a non-governmental organization in the public interest **in several areas under the jurisdiction of several ministries**, the granting of the status shall be decided by the ministry responsible for the area in which the NGO - mainly operates, after the prior consent of the ministries responsible for other areas. The ministry responsible for the area where the non-governmental organization does not operate predominantly issues consent if the non-governmental organization in the area for which it is responsible meets the conditions from the second, fourth and sixth indents of the fourth paragraph of the previous article.

3) If a non-governmental organization that already has the status of a public interest non-governmental organization in a certain area applies for the granting of status in another area that is under the jurisdiction of another ministry, the **ministry that already granted the status to the non-governmental organization shall decide** on the granting of status in another area, granted the status in the public interest, after the prior consent of the ministry responsible for another area. The ministry responsible for another area issues consent if the non-governmental organization in another area meets the conditions from the second, fourth and sixth indents of the fourth paragraph of the previous article.

(4) If a non-governmental organization applies for the granting of the status of a non-governmental organization in the public interest in an area for **which no ministry is responsible**, the decision on the granting of status in this area is the responsibility of **the ministry responsible for the operation of non-governmental organizations**. - Ministry of Public Administration

(5) **The Government of the Republic of Slovenia** decides on an appeal against the decision of the competent ministry on granting the status of non-governmental organization in the public interest – appeals body

# Building Act (Official Gazette of the Republic of Slovenia, no. 61/17, 72/17 - compr.)

## ● **ARTICLE 36 (customers)**

(1) The client in the process of issuing a building permit is an investor.

(2) Side participants in the process of issuing a building permit may be:

- the owner of the real estate and the holder of other real rights on the real estate subject to the issuance of a building permit;
- the owner of the land adjacent to the real estate on which construction is planned, unless the competent administrative authority for construction matters determines that the construction does not affect him;
- another person, if it turns out that the intended construction, due to its influence during and after construction, could affect his rights and legal benefits, or his real estate, whereby a legal benefit is considered in particular a benefit related to the intended use of the land or of the facility, to measures to reduce emissions, deviations from plot boundaries and neighboring buildings, measures to prevent the spread of fire to neighboring facilities, accesses and surfaces for firefighting and rescue, and mechanical resistance and stability of the property owned by the third party, and
- other persons, if so stipulated by law.

# Act on Amendments and Supplements to the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigate Its Consequences for Citizens and the Economy (ZIUZEOP-A), (Official Gazette of the Republic of Slovenia, No. 49/20, 61/2020),

- published on 30 April 2020, entered into force 31 April 2020.

## • ARTICLE 100.f (representing the interests of environmental protection and nature conservation)

(1) A person who has acquired the status of a non-governmental organization that operates in the public interest on the basis of laws regulating the protection of the environment or nature conservation or the protection or use of natural resources or the protection of cultural heritage (hereinafter: non-governmental organization) **has the right to participate in the procedure for issuing a building permit under this Act, if it also meets the following conditions:**

(a) if the non-governmental organization is organized in the status form of an association, it must have at **least 50 active members**, whereby a member is considered to be active if he or she is current and for the last two calendar years **has attended** the members' assembly and **paid the membership fee**;

b) if the non-governmental organization is organized in the status form of an institute, it must have in the current and in the last two past during the calendar year **at least three full-time employees** with a professional education of level 7 of the Slovenian Framework of Qualifications in the field of non-governmental organization activity;

c) if the non-governmental organization is organized in the form of an institution, it must have at least **EUR 10,000 in assets in the current and in the last two previous calendar years.**

(2) **The conditions** from the previous paragraph **must be fulfilled at the moment of notification of participation** in the process of issuing a building permit permits.

(3) A non-governmental organization organized in the status form of an association **proves the conditions by submitting authentic documentation**, from which **the attendance at the assembly of members** of the individual member, **the payment of the membership fee** of the individual member to the bank account of the non-governmental organization is derived.

(4) A non-governmental organization organized in the status form of an institute proves the conditions by submitting a certificate from the **Institute for health insurance of Slovenia on the inclusion of an individual in compulsory insurance** and by submitting a certified copy of the certificate of education for an individual employed person.

(5) A non-governmental organization organized in the form of an institution proves the conditions by submitting **annual reports or all financial statements with explanations**.

(6) Side participants and non-governmental organizations must, **regardless of the provisions of the GZ**, notify their participation in the **procedure with a request within 15 days of the public publication of the request for the issuance of a building permit and documentation on the e-government website**. If the request for participation in the procedure for issuing a building permit is submitted outside the deadline from the previous sentence, **it will be rejected by decision**. An appeal against the decision to reject the request does not delay its execution.

## ARTICLE 100.g (legal protection)

(2) A non-governmental organization that exercises legal protection against a building permit issued in compliance with the provisions of this Act on the basis of Article 58 of the Building act or the third paragraph of Article 137 of the Nature Conservation Act (Official Gazette of the Republic of Slovenia, No. 96/04 - officially revised text, 61/06 – ZDru-1, 8/10 – ZSKZ-B, 46/14, 21/18 – ZNOrg and 31/18), **must meet the conditions from the first paragraph of Article 100.f of this law.**

## DECISION OF THE CONSTITUTIONAL COURT U-I.184/20-27 of 2 July 2020

THEOREM:

1. **Initiative for the initiation** of the procedure for assessing the constitutionality of Article 2 of the Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic (Official Gazette of the Republic of Slovenia, No. 80/20) in relation to the fourth paragraph of Article 100.d of the Act on Intervention Measures for curbing the epidemic of COVID-19 and mitigating its consequences for citizens and the economy (Official Gazette of the Republic of Slovenia, no. 49/20 and 61/20) **is accepted.**

3. The **procedure for assessing the constitutionality of Article 2** of the Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic in relation to Articles 100.e and 100.f and the second paragraph of Article 100.g of the Act on Intervention Measures to Contain the COVID 19 and mitigating its consequences for citizens and the economy **is being initiated .**

4. **Until the final decision** of the Constitutional Court, **the enforcement of Article 2 of the Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic is suspended** in relation to the fourth paragraph of Article 100.d, Article 100.e and 100.f and the second paragraph of Article 100.g of the Act on Intervention Measures to Contain the COVID-19 Epidemic and Mitigation of Its Consequences for Citizens and the Economy.

●The Act on Intervention Measures to Mitigate and Eliminate the Consequences of the COVID-19 Epidemic (Official Gazette of the RS, No. 80/20) has ceased to be valid on 31.12. 2021.

●So constitutional court didn't say anything about that, since regulation is no longer valid.

# Nature Conservation Act (Official Gazette of the Republic of Slovenia, No. 82/2022), published on 5 June 2020, entered into force on 21 June 2020 Limiting / determining stricter conditions for obtaining the status of a non-governmental organization

- **ARTICLE 3:** - Article 137 is amended to read:

## **"137. ARTICLE“ (performing activities in the public interest)**

(1) Non-governmental organizations in the field of nature conservation perform activities in the public interest in the part in which the purpose of establishment and the operation of the organization itself go beyond the realization of the interests of its members or founders.

(2) A non-governmental organization in the field of nature conservation may acquire the status of a non-governmental organization in the public interest, if it meets the requirements of the law governing the status of a non-governmental organization in the public interest, and the following conditions:

1. with its activities, it contributes significantly to nature conservation by actively participating in nature conservation, carrying out the promotion of nature conservation or spreading expert knowledge in the field of nature conservation through education and training, and

2. if the non-governmental organization is organized in the status form of an association, it must have at least 50 active members, whereby a member is considered active if he/she is current and for the last two calendar years has participated in the assembly of members and paid the membership fee, or

3. if the non-governmental organization is organized in the status form of an institute, it must have at least two full-time employees, who have at least the sixth level of education and two years of work experience in the field of nature conservation, employed at all times in the current and in the last two previous calendar years, or

4. if the non-governmental organization is organized in the form of an institution, it must have at least EUR 10,000 in assets in the current and in the last two previous calendar years.

(3) A non-governmental organization, organized in the form of an association, proves the conditions by submitting documentation from which the participation of an individual member at the assembly of members is derived, a record of paid membership fees with attached authentic accounting documents or an annual report containing a balance sheet and a profit and loss statement with explanations to the statements in which income from membership fees is disclosed.

(4) A non-governmental organization organized in the status form of an institute proves the conditions by submitting a certificate of inclusion of an individual in compulsory health and social insurance and by submitting a copy of the certificate of education for an individual employed person.

(5) A non-governmental organization organized in the form of an institution proves the conditions by submitting annual reports or all financial statements with explanations

(6) Regardless of the provisions of the second paragraph of this article, a non-governmental organization or an association of non-governmental organizations that does not meet the prescribed conditions from the second to fourth points of this paragraph may also acquire the status of a non-governmental organization in the public interest in the field of nature conservation, if:

- has a concession agreement concluded with the Republic of Slovenia for the implementation of sustainable management or management of natural resources,
- has a concession agreement with the Republic of Slovenia or a self-governing local community on the management of protected areas,
- organizes units, services and other operational formations for the performance of tasks of protection, rescue and assistance or public service based on the decision of the competent body of the local community or state body. The non-governmental organization or the association of non-governmental organizations proves the condition by submitting the concluded concession contract or the concluded concession contract of its members or evidence that it or its members perform the tasks of protection, rescue and assistance or the contract on the provision of public service.

(7) A non-governmental organization that operates in the public interest in the field of nature conservation has the right to represent the interests of nature conservation in administrative proceedings and administrative disputes in the manner prescribed by law.

(8) More detailed conditions from the first indent of the second paragraph of this article shall be prescribed by the minister with a rulebook.,,

## **Act on Reducing Inequality and Harmful Policy Interventions and Ensuring Respect for the Rule of Law (ZZNŠPP) (Official Gazette of the Republic of Slovenia, No. 105/2022), published on 3 August 2022**

- "137. Article
  - (status of non-governmental organization in the public interest)
- A non-governmental organization that acquires the status of a non-governmental organization in the public interest in the field of nature conservation in accordance with the law regulating the status of a non-governmental organization in the public interest has the right to represent the interests of nature conservation in all administrative and judicial proceedings. THE COVID LAW HAS CANCELED!

THANK YOU!!