



EUROPEAN ASSOCIATION OF JUDGES
STATEMENT

on

Changes to the Judicial Map in Slovakia

1. In a Resolution adopted on 2 September 2021 the European Association of Judges (EAJ) expressed its concerns on a number of developments in the judicial reform process in Slovakia contained in certain recent amendments to the Constitution and draft legislation regarding the justice system.

2. One of those developments concerns the proposed changes to the judicial map. The Resolution stated:

“It should be pointed out that in any event such important reforms of the justice system call for an intense and substantial involvement on the part of the judiciary. Such involvement is in itself part of the European standards. Reforms of that nature should not be implemented hastily but require extensive and close examination. They should increase efficiency and improve the access to justice, and not the opposite.”

And

“EAJ therefore urges the Slovak authorities: - to take appropriate measures in accordance with European standards, and in the interests of their citizens, to restore all the above mentioned guarantees of the independence of the judiciary; and - to involve fully the representatives of the judiciary, including the Association of Judges in ongoing or future reform projects.”

3. At a meeting of the EAJ on 18 September 2022 in Tel Aviv, a representative of the Association of Judges of Slovakia (Zdruzenie sudcov Slovenska) addressed the delegates on the ongoing legislative process regarding the judicial map of Slovakia. This information increased the existing concerns of the EAJ regarding negative developments in the reform process in Slovakia, adversely affecting the independence of the judiciary.

4. The delegates were advised that during the legislative process the proposals for changes to the judicial map, which had earlier been discussed, were largely abandoned after the second reading in Parliament in favour of new, radically different proposals which had not been the subject of earlier consultation and which had been elaborated without any involvement of the judiciary. No opportunity was given to the judiciary to comment on or respond to those new proposals.

5. As it is mentioned in the Resolution, it is clear that European standards require that the judiciary, and particularly councils for the judiciary and associations of judges, are being involved in

the formulation of legislation which affects the status of judges or independence of courts. The EAJ considers that those standards also require involvement of the judiciary where proposals previously published for discussion are replaced by new and very different proposals, even if in the course of the legislative process.

6. Further, in addition to those concerns about the failure to involve the Slovakian judiciary in drawing up the changes to the judicial map, which became the subject of the last version of the draft law, the substance of those changes also rises serious concerns by EAJ.

7. As part of the changes to the judicial map effected by the revised legislation, a number of district courts were designated as “working places” attached to a central district court. Following these changes, the president of the remaining district court is enabled to draw up the work schedule of judges and by that means may determine that a judge is transferred to a certain working place without the consent of the judge concerned. The president is not required to seek the consent of the judge nor to pay regard to objections from or the views of the local council of judges. There are no statutory or regulatory provisions governing the decisions on such transfers.

Given that the president of a district court is appointed and dismissed from this function by the Minister of Justice, and in the absence of any applicable concrete legal provisions on conditions for transferring judges and in the absence of procedural safeguards for the judge concerned, the executive may now put undue pressure or influence on a member of the judiciary by imposing or threatening transfer without consent.

8. The irremovability of judges is an important pillar of their independence and consequently also of the rule of law. International standards do not permit the transfer of a judge without the consent of the judge in question otherwise than as result of a disciplinary procedure or a change in the court structure.

9. The same principle applies also to transfers between “working stations”. In its judgment of 6 October 2021 in Case C – 487/19 *W.Z* the Court of Justice of the European Union held that not only the transfer of a judge without his/her consent to another court, but also the reassignment of a judge without his/her consent between two departments of the same court (that is, even without changing the judge’s workplace), may potentially violate the principles of irrevocability and independence of judges.

10. The international standards referred to in the preceding paragraph include:

- Recommendation CM Rec (2010) 12 of the Committee of Ministers of the Council of Europe on Judges: Independence efficiency para 52
- European Charter on Statute of Judges, Article 3.4.
- CCJE Opinion No 1 on standards concerning the independence of the Judiciary and the Irremovability of Judges, para 57
- Universal Charter of the Judge adopted by the General Assembly of the International Association of judges (IAJ) Article 2.2.
- Minimum Standards for the Evaluation of Professional Performance and the Irremovability of Members of the Judiciary adopted by the European Network of the Councils for the Judiciary (ENCJ)

11. The EAJ therefore urges the authorities of the Slovak Republic, to engage with the relevant judicial organs and associations of judges in a review of the changes and, in particular, to introduce appropriate statutory or regulatory provisions on the transfer of judges with

procedural safeguards for the judge concerned, in order to prevent the possibility of an arbitrary transfer of judges without their consent and thereby infringing their independence and impairing the right of citizens to have their cases decided by an independent and impartial tribunal within the meaning of Article 6 of the European Convention on Human Rights and Fundamental Freedoms.

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