

EAJ Working Group on Judicial Salaries and Pensions

Summary

of the

Main topics raised by member associations on judges' salaries and pensions

I. SALARIES

1. Unequal salaries

The salaries of judges in first-instance courts and Appeal Court judges are lower than those of prosecutors and investigators (ARMENIA).

Public prosecutors earn more than judges (AUSTRIA)

2. A sufficiently significant pay gap in the salaries of judges from different levels

2.a. The remuneration is composed of basic salary (determined by the level of the court) and additional remunerations (depending on the judicial experience / duration of the service as a judge) (BULGARIA).

Salary increases occur only as a result of being appointed to a higher court, which is also held for pension calculation when a judge retires (CROATIA).

Salaries of high ranked judges and prosecutors compared to the salaries of judges and prosecutors at the beginning of their career (LUXEMBOURG).

The salary range/gap between Supreme Court judges and other judges (first instance and appellate court) (DENMARK).

2.b. Disproportionality of the supplementary allowance system, which is established in the legislation. The allowances at each level - District Court, Tribunal, Court of Appeal, Curia - are not proportional to each other (HUNGARY).

2.c. The low gap in judicial remuneration at different levels of the courts (it is basically 5%). It is not uncommon for a judge to have a lower income after transfer to a higher court than in a lower court, due to increased costs of travel and accommodation etc. (SERBIA).

2.d. The system of individually set salaries was introduced some twenty years ago and was motivated by expectations that the system would have a positive impact on recruiting judges as well as motivating judges to contribute more and achieve better. An incoherent part of that reform is that judges of the supreme courts, for some reason, does not have individually set salaries (SWEDEN).

3. Different pay for equal work

Lack of consistency/different pay for equal work (FINLAND).

Unclear, imprecise, unpredictable provisions regarding judges' salaries and pensions. Different interpretation of the same legal provisions, with the effect of creating and perpetuating unjustified differences between the salaries and pensions of judges who perform/carried out work under identical conditions (identical duties, identical competences, identical education, identical seniority, etc.) (ROMANIA).

4. Wage increase mechanism

The salary increase of judges depends first of all on the will of the executive, and then on the legislative power, as a result of which the salary increase is not based on objective, transparent and known criteria in advance (CROATIA).

No general discussions on how – in principle – the remuneration of judges apart from Supreme Court judges should be. It is difficult to compare judges with other groups with regard to remuneration and pensions and thus difficult to raise wages for judges (DENMARK).

5. Salary levels

Low salary base, which affects the salaries of judicial staff, legal secretaries and clerks (HUNGARY).

Salaries of judges are among the lowest in Europe. For judges, salary is the only source of income. Although they are among the lowest in Europe, judges' salaries have only been increased for 4,82% in real life (SERBIA).

Judges' salaries are clearly set too low and there is a significant contradiction with the principle of separation of powers. The judges' salaries have increased significantly more slowly than public sector salaries over the period 2012–2020 (SLOVENIA).

The salaries hadn't been revised for more than 20 years (FRANCE).

No salary increases for judges for 15 years. The review procedure remains at political discretion. The seniority supplement and bonuses for increased workload have been abolished (LITHUANIA).

No automatism built into the way judges' salaries are determined. Since 2018 all branches of government have had automatic pay increases except for judges (HUNGARY).

Lack of updating the salaries. Salary progression is very slow and, over the years, the lack of salary updates and inflation have led to its erosion (PORTUGAL).

Low wages/backwardness in relation to the demands, volume and responsibilities of the work. The pay system does not contain elements that would allow the system to consider the increased demands of the work (FINLAND).

The judicial salaries are not competitive in relation to the non-public sector. For the judiciary it becomes more and more problematic remain diverse and to attract lawyers other than people working in the public sector (NETHERLANDS).

6. Basis for setting/increasing salaries. Bonus Mechanism Issues

In order to strengthen the independence of judges, remuneration should be laid down by law. Requires broad support within the courts and political support (FINLAND).

The Minister of Justice feels very uncomfortable negotiating salaries of the judiciary due to judicial autonomy (NETHERLANDS).

On appointment the salary is set by representatives of a body lead by a deputy director appointed by the government, and i.e. not a body run by judges or courts. The proceedings usually mean that the judge is offered a salary and then may or may not have suggestions of a higher salary which may or may not lead to a slightly higher salary than first suggested. The final decision is always taken by the courts administration representative and is never motivated (SWEDEN).

Remunerations and pensions are not regulated on a federal level but are part of the legislative competence of the individual federal states (GERMANY).

Remunerations and pensions of all public servants incl. judges and public prosecutors do not meet the relevant constitutional criteria (not even in the “richer” states). If the legislator decides to give in to the most basic requirements of the court rulings it very often only makes minor adjustments (GERMANY).

No formal system in place to discuss pay and pay related conditions with the Government. So, if an issue arises with respect to expenses, taxes, or pensions etc., they do not have a formal process in place where these issues can be ventilated (IRELAND).

Yearly raises of salaries are set by the chief judge after having salary interviews with each judge on the court. The space of raise is set by a percentage centrally negotiated by representatives of employer agencies and unions. This percentage is then applied on the salaries for the whole group of judges on each court and the sum may in turn be distributed by the chief judge among different judges on the court. The system is open to the chief judges discretion (SWEDEN).

Judicial productivity pay, establishing an increase in the amount paid for productivity up to 5%, which is what is foreseen in the Law on Remuneration. Currently, productivity pay does not exceed 2% of a judge's or magistrate's salary, and to receive it, productivity is required to be equal to or greater than 120% of the averages established by a regulation that calculates the average number of decisions to be handed down by a judge, according to his or her position and jurisdiction (SPAIN).

The Ministry of Justice announced that the salaries of 220 judges will be supplemented by 60% of their base rate, aligning their pay with that of anti-corruption court judges: adjustment largely based on bonuses (ARMENIA).

An increasingly large part of a judges' salary consists of supplements rather than a fixed or permanent pay grade, which has negative implications for the size of pensions (DENMARK).

Part depending on individual performance: modular bonus based on individual performance (FRANCE).

7. Wage level and inflation

Judicial salaries have not kept pace with inflation.

In real terms judicial pay would need to increase by over 20% merely to put judges back in the position they were in some 15 years ago (ENGLAND&WALES).

Adjustment of the basis for calculating judges' salaries in accordance with the increase in the cost of living, inflation, etc. (CROATIA).

Salaries of judges and prosecutors compared to the average annual salary in the country and the living costs (LUXEMBOURG).

Salaries are not adequately adjusted to the cost of living: the data used are faulty; the method of calculation is based on a weighted average system, which gives lower results than the arithmetic average system (ITALY).

Loss of purchasing power since 2003 (SPAIN).

The value of remuneration has dropped very significantly over recent years, in terms of purchasing power (UK).

A new law has been passed partially freezing the indexation of judges' salaries for a few years (ESTONIA).

8. Social guarantees

Judges were deprived of social guarantees, including compensation in case of incapacity for work. Changes made without discussing the results with judges (ESTONIA).

Impact of sick leave on remuneration: after a while, depending on the type of illness, its causes (due to work conditions or not) and the time you've been off, you lose a big part of your salary and your "modular bonus" quickly falls down to zero (FRANCE).

A significant item of salaries, the so-called judicial allowance, is not granted in case of a leave due to illness or injury (ITLAY).

9. Discrimination

The severance pay is paid in three yearly instalments if the service is terminated after the reach of the retirement age (old-age pension) or in four yearly instalments if a judge terminates their service after reaching the length of service required for retirement, whereas for private workers the entire severance pay is granted immediately after retirement (ITALY).

Starting salaries for trainee judges are discriminatory because they are being based on the last earned income. The judiciary seems reluctant to address this issue in a proper manner because it would increase the difficulties experienced in attracting non-governmental practising lawyers (NETHERLANDS).

10. Non-enforcement of court and administrative decisions on judges' salaries

The denial of the executive power to allocate the necessary sums of money for the payment of current and outstanding salaries of judges and court staff (ROMANIA).

II. PENSIONS

1. Inadequate Pension System

Judges' salaries are largely based on a bonus mechanism, which does not ensure a pension commensurate with their work (ARMENIA)

2. Relatively large (and growing) pension gap

Over the last 25 years, the pension law for judges has been "harmonised" with that of private sector employees, leading to lower pensions for judges (AUSTRIA).

3. The amounts of pension that can be paid are decreasing

Judges experience significant income losses of 50% or more between their last active income and the highest pension they can get (AUSTRIA).

The pension is currently about 60% of the last earnings (HUNGARY).

The pensions, compared to the salary, they are approximately 40-50% less (SERBIA).

The pension is usually reduced by approximately half net of their active service (depending on the last post served) (SPAIN).

Upon retirement, judges fall into a lower social category, so staying on as a judge is often motivated by salary to avoid a worse financial status of judges after retirement (CROATIA).

4. Judges were deprived of special pensions since July 1, 2013 (ESTONIA)

5. Aggressive public campaign against judges' special pensions

In the context of the law amending the conditions for the retirement of magistrates and reducing the amount of service pensions in payment, the representatives of the political parties involved in the legislative process have developed an extensive and aggressive public campaign against magistrates. Under these circumstances, a considerable part of public opinion has adopted a critical stance against the profession of magistrate and the aspects which, according to the case law of the Constitutional Court, are part of the statute of material independence of magistrates. Fortunately, the law was declared unconstitutional (ROMANIA).

6. Discrimination

The manner in which pensions are taxed, operates at a serious disadvantage to judges (IRELAND).

Discriminatory taxation of magistrates' pensions, with the effect of lowering their amount (ROMANIA).

7. Setting/reviewing pensions

A review of state pensions has been initiated. The government has prepared a draft law which has not yet been adopted. The first part of the problem aims to worsen the calculation; the second part of the problem is related to the law's entry into force (LITHUANIA).

Judges' pensions are determined by the average of the best 15 years of payments. For the judges retiring today, those "best years" are from the beginning of their careers, since the payments (or their net value) were lowering over time (SLOVENIA).

While the current judicial pension scheme is an improvement on its immediate predecessor, neither compares favourably, in terms of the benefits provided, with schemes which were in place before 2015 (UK).