



DIDIER REYNDERS
MEMBER OF THE EUROPEAN COMMISSION
JUSTICE

Rue de la Loi, 200 B-1049 Brussels
Phone: +32-2 295 09 00
Didier.Reynders@ec.europa.eu

Brussels, 25/10/2021
Ares S(2021)6839858

Honourable Judges,

I would like to thank the European Association of Judges for the transmission of its resolution of 2 September 2021 concerning legislative changes in the justice area in Slovakia.

The Commission is closely monitoring developments linked to the justice reforms in Slovakia, also in the context of the new Rule of Law Mechanism. This is a preventive mechanism applicable to all Member States to promote the rule of law and prevent problems from emerging or deepening. As part of the Mechanism, on 20 July 2021, the Commission adopted its second annual Rule of Law report¹. The aim of the Rule of Law report is not only to monitor the significant developments but also to contribute to the debate on the rule of law at national and European level and to foster a rule of law culture in all the Member States, including Slovakia. The Commission is grateful for the information received from the Slovak Association of Judges in the context of the preparation of the report and is looking forward to continuing this cooperation in the future.

The section on the justice system in the report's country-specific assessment for Slovakia² covers most of the issues and concerns raised in your letter.

¹ 2021 Rule of Law Report The rule of law situation in the European Union, COM(2020) 580 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:700:FIN&qid=1627045980857>.

² 2021 Rule of Law Report Country Chapter on the rule of law situation in Slovakia, SWD(2021) 727 final, https://ec.europa.eu/info/sites/default/files/2021_rlr_country_chapter_slovakia_en.pdf, pp. 1-9, 17-18.

International Association of Judges
Palazzo di Giustizia
Piazza Cavour
00193 Rome, Italy
Email: secretariat@iaj-uim.org



As regards the possibility to remove the members of the Judicial Council before the expiry of their term of office, the report refers to the concerns expressed by stakeholders and states that it is important that the Judicial Council be subject to sufficient guarantees as regards its independence in relation to the legislature and the executive including with respect to the way its Members can be dismissed³.

On the amendment of the criminal liability regime of judges, the report notes that whereas European standards provide that subjecting judges to liability for their decision making may occur in exceptional cases of malice and gross negligence, any regime governing liability of judges must provide clearly and precisely the necessary guarantees to prevent any risk of it being used as instrument of pressure on judicial activity or a system of political control of the content of judicial decisions. It is important that when applying these new provisions in practice, these safeguards are duly observed in line with European standards⁴.

As regards the amendment of the regime of transfer of judges without their consent, the report states that pursuant to European standards, it is possible, in exceptional cases, to transfer judges without their consent, provided that sufficient safeguards are in place. These safeguards include a requirement that the judge may not be transferred to a court of a lower instance and that he or she has recourse to judicial review. It will be important that the implementing law provides sufficient safeguards taking into account European standards⁵.

Let me assure you that the Commission will continue to follow closely the developments in Slovakia and remains strongly committed to upholding EU law and values. Let me also thank the European Association of Judges at this occasion for its continuous efforts to promote and protect the independence of judges in our Union.

Yours sincerely,

(e-signed)

Didier REYNDERS

³ See note 2, pp. 3-4

⁴ See note 2, pp 4-5.

⁵ See note 2, pp. 5-6.