



SLOVENSKO SODNIŠKO DRUŠTVO

**Slovenian Association of Judges
Republic of Slovenia
EU**

European Association of Judges

Report on the situation of judicial independence in the Republic of Slovenia

In the Republic of Slovenia, the independence of the judiciary is truly endangered; not in its entirety, because it has several aspects, but in this case its material aspect is highlighted. Judges' salaries are clearly set too low and there is a significant contradiction with the principle of separation of powers, because judges' salaries are not regulated in a way that is comparable to the salaries of the representatives of the other two powers of the state. This problem has been known for decades. Governments have repeatedly addressed this issue since the early 2000s, but none has really done anything about it.

The Slovenian Judges Association has been working on this problem for years. As a last resort, it turned to the Constitutional Court, but was dismissed for lack of standing. Nevertheless, our submission was the core of the appeal that the Judicial Council filed with the Constitutional Court.

The Constitutional Court ruled in an expedited and extremely urgent procedure on the request of the Judicial Council to examine the constitutionality of the legal regulation of judges' salaries in June 2023 (No. U-I-772/21 1 June 2023). Accessible at <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-772-21-z-dne-1-6-2023/>

The Constitutional Court reiterated the established position that the determination of the level of salaries of civil servants and employees (including judges) is in principle within the discretion of the legislature. The Constitutional Court cannot

make an assessment on the basis of the level of judges' salaries alone, but by taking into account several criteria which, individually or collectively, provide information on whether judges' salaries meet the requirements arising from the constitutional principle of judicial independence with regard to the substantive independence of judges.

The Constitutional Court stated that the judge's income must be such as to protect him or her from pressures that could influence his or her decision-making; it must be of an appropriate level to ensure the judge's personal or family needs; it must be compatible with the dignity of the judicial profession and commensurate with the judge's role and responsibilities; it must adequately compensate for the severe restrictions imposed on judges in terms of the possibility of obtaining additional sources of income; it must be relatively stable and follow the general economic development of the country or the development of the standard of living in the country.

The Constitutional Court found that the regulation of judges' basic salaries was incompatible with the constitutional principle of judicial independence, due to non-compliance with the constitutional requirement of stability of judges' salaries. These have lost considerable real value over the last ten years. With regard to the principle of judicial independence, the Constitutional Court also considered that, from the point of view of this principle, complaints may also be relevant that the development of judges' salaries lags behind the development of the average salary in the country or in a certain narrower segment that is even more closely associated with judges; that there is an inappropriate relationship between judges' salaries and other salaries; that the (excessively) low judges' salaries affect the (in)attractiveness of the judicial profession.

The Constitutional Court set a six-month deadline for the legislature to remedy the identified unconstitutionality, as the legislature and the government had long been familiar with the issue in question.

The Slovenian Judges Association (SAJ) works closely with the Judicial Council and the Supreme Court of the Republic of Slovenia. The President of the Supreme Court has appointed a special advisory group in which SAJ plays an important role. The group is in constant contact with government representatives, especially with the Minister for the Public Sector. At the General Assembly of SAJ in March 2023, the Prime Minister publicly stated that he was aware of the unacceptable situation regarding judges' salaries and promised a temporary increase of EUR 600 gross as of 1.1. 2023 as a sign, as he explicitly stated, of a "good intention of this government to solve this problem systemically". However, the bill was later withdrawn for the legislative process, officially due to some concerns expressed by the parliamentary committee, all of which were unfounded.

An arduous negotiation ensued, ending with a handshake in the beginning of July - a new salary scale for judges that would mean a substantial increase, effective 1 Jan 2024. However, a “minute before midnight”, the government struck the date from the agreement. The Constitutional Court's ruling followed, and the judges were relieved. However, only for a brief moment. Severe floods have hit some parts of Slovenia in the beginning of the August, and although the damage is not yet known, the government has announced that public sector salary raises will be cancelled without exception. It is unfortunately true that the floods were the worst ever in Slovenija. A few judges and employees have also suffered great losses. On the other hand, judges have shown great solidarity, several actions have been carried out, direct and indirect aid has been provided; SAJ has set up a special fund to support the victims. However, the judges are worried, discouraged, even angry, they feel cheated (once again). For now, we can only “hope” that the government respects and follows the Constitutional Court's ruling.

Thank you for your attention.

Your sincerely,

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