

EUROPEAN ASSOCIATION OF JUDGES

RESOLUTION

on

INDEPENDENCE OF JUDGES IN

SLOVENIA

1. At its meeting in Warsaw on 26 April 2024 the European Association of Judges (EAJ) noted with concern the current situation in the Republic of Slovenia regarding the violation of the basic principles of judicial independence and the separation of powers.

2. The EAJ was informed by the Slovenian Association of Judges (SAJ) that according to the decision of the Constitutional Court of Slovenia from June 2023 (U-I 772/2021) *the regulations governing the salaries of judges violated the Constitution because these salaries are so low that they violate the principles of judicial independence and separation of powers*. The Constitutional Court accordingly set a six-month deadline to remedy the unconstitutionality, taking into account that the legislator and the government had been aware of the problem in question for a long time. This deadline had passed on the 3rd of January 2024 without any steps being taken and the Government and the National Assembly continue to ignore the decision of the Constitutional Court.

3. The EAJ emphasizes that the effective enforcement of a judicial decision, resulting from its binding effect, is a fundamental element of the rule of law. The very concept of an independent tribunal set out in Article 6 of the European Convention on Human Rights implies the power of that tribunal to adopt a binding decision, which is not subject to any change, approval or ratification by a non-judicial authority. As regards the enforcement of judgments of the Constitutional Courts in particular, their final and binding character is a corollary of the supremacy of the Constitution.¹ They have to be respected by all public bodies and individuals. Disregarding a judgment of a Constitutional Court is disregarding the Constitution.

4. Furthermore, the EAJ points out that proper remuneration for judges is an essential element of an independent judiciary and the rule of law. The remuneration of judges *should be commensurate with their profession and responsibilities, and be sufficient to shield them from inducements aimed at influencing their decisions*.² These principles are recognized by several other standard setting documents³ and are contained in settled case

1 Venice Commission Opinion on the Law of 16 October 2015 amending the Organic Law No. 2/1979 on the Constitutional Court of Spain, adopted by the Venice Commission at its 110th plenary session (Venice, 10-11 March 2017), para 8.

2 Council of Europe: Recommendation CM/Rec (2010) 12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities para 54.

3 CCJE Magna Carta of Judges, principle 7; CCJE Opinion No.1 para 61; Universal Charter of the Judge Article 8 et alt.

law of the Court of Justice of the European Union and therefore binding for all European Union´s member states.⁴

5. As declared by the Constitutional Court of Slovenia, the unbalanced and insufficient state of remuneration of judges in Slovenia does not meet the mentioned principles and requirements. The EAJ further emphasizes that there is an obligation on the State to adequately staff the judiciary with the necessary resources.⁵

6. The EAJ therefore urges the Slovenian Government and National Assembly to immediately implement the decision of the Constitutional Court of Slovenia and provide appropriate material conditions for the independent work of judges, thus putting an end to the violation of the principles of independence of the judiciary and separation of powers in a democratic society.

4 The Grand Chamber in its landmark decisions in the case Associação Sindical dos Juizes Portugueses stated: “Like the protection against removal from office of the members of the body concerned (...), the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence.” Judgment of 27 February 2018 in Case C-64/16 Associação Sindical dos Juizes Portugueses, paras 44 and 45; see also: Judgment of 7 February 2019 in Case C-49/18 Carlos Escribano Vindel, para 66.

5 Council of Europe: Recommendation CM/Rec (2010) 12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para 33, 35.