

Draft

EUROPEAN ASSOCIATION OF JUDGES

RESOLUTION

on the

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 in its decision of 1 June 2023 (U-I 772/2021) the Constitutional Court of Slovenia found that the regulations governing the salaries of judges in Slovenia violated the Constitution because those 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 for the authorities to remedy this breach of the Constitution, taking into account that the legislator and the government had been aware of the problem in question for a long time. This deadline passed on the 3 January 2024 without any remedial steps having been 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 judicial decisions, resulting from their 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 that the tribunal has the power 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 Those judgments have to be respected by all public bodies and individuals. Disregarding a judgment of a Constitutional Court is to disregard the Constitution itself.

¹Venice 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.

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 law of the Court of Justice of the European Union and therefore binding on all Member States of the European Union.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 above-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 implement immediately the decision of the Constitutional Court of Slovenia and to provide appropriate material conditions for the independent work of judges, thereby ending the current violation in Slovenia of the principles of the independence of the judiciary and the separation of powers in a democratic society.

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

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

⁴The 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.

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