

Opinion of the

Presidium of the Association of Judges of Slovakia to the Open Letter of Judges of the Slovak Republic

The open letter of judges from 7.1.2021, which received the support of a part of the judiciary, rightly points out the fundamental shortcomings of the forthcoming court map.

An essential fact of the reservations is the fact that the draft court map is being enforced not by force of argument but by political force, as the Ministry of Justice unacceptably violates its commitment arising from the approved research project "Case Weighing" based on the recommendation of CEPEJ the obligation of the ministry to carry out the evaluation of the project in the period from January to June 2021 is enshrined.

The absence of this analysis, carried out according to the CEPEJ criteria, whose recommendations are clearly respected in EU countries in solving problems of judicial efficiency, undoubtedly proves the political intention to unconditionally push for change (authoritative experiment), although it can really have a negative impact on citizens to ensure their constitutional law for timely and quality court proceedings.

The argument about the need for specialization of judges, which is met in practice in many courts, ignores the fundamental fact that excessive specialization is inadmissible (according to the CEPEJ), which jeopardizes the wider knowledge base of judges and the possible transfer of judges between branches.

At the same time, the enforced intention also ignores the extensive factually substantiated objections of the bodies of the administration of courts, judicial self-government and judicial association, which are based on the real conditions of the administration of justice.

The call of the authors of the Open Letter to prepare for a change in the system of courts unconditionally only on the basis of an extensive professional discussion with the priority of the judiciary is clearly justified.

The substantive expression of concern about the activities of the President of the Judicial Council, which may arouse distrust among judges, is rationally justified.

Several of its opinions do not ensure the constitutionally required independence of the judiciary, which is to be guaranteed by the Judicial Council, but in terms of content, it aims to subordinate the judiciary to the ideas of the current government coalition (constitutional majority).

In particular, his defense of several legal interventions of the governing coalition in certain standards of guarantees of judicial and judicial independence (approved amendment of the Constitution and laws related to judicial reform), rightly pointed out by the CCJE (Advisory Committee of European Judges) - Bu (2020) 3) rightly raises concerns about the position of the President of the Judicial Council on defending, in a legal state inadmissible, non-compliance with international documents (Recommendations) which have a reasonable degree of legal relevance (meaning) under Art. 1 paragraph 2 of the Constitution, which enshrines a positive commitment of Slovakia to their observance.

The fundamental fact is that the violation (threat) of guarantees of judicial and judicial independence in accordance with the criteria of the Constitutional Court and the European Court for Human Rights will have a negative consequence of endangering (violating) the inalienable, irrevocable and non-expiring fundamental human right to judicial protection by an independent and impartial tribunal.

Observance of the guarantees of the independence of the judiciary and judges is not an end in itself, since if they are not respected, it is impossible for a judge to actually fulfill his mission, to consistently protect the fundamental rights and freedoms of all citizens.

Interventions similar in content to the situation in Poland and Hungary, against which the European Commission is prosecuting for the rule of law, are being defended.

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Za Prezídium ZSS

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