**QUESTIONNAIRE - SLOVAKIA**

**Disciplinary liability**

**1. The disciplinary liability of Judges, the merits of disciplinary offenses and the types of disciplinary measures are regulated by Act no. 385/2000 Coll. on Judges and Lay Judges and on Amending and Supplementing of Certain Acts (hereinafter referred as “Act on Judges”), which also refers to the principles of judicial ethics adopted by the Judicial Council of the Slovak Republic.**

The facts of the disciplinary offenses are set out in Section 116 of the Act on Judges, and according to their seriousness we distinguish:

* **disciplinary offense**,
* **serious disciplinary offense**,
* **serious disciplinary offense incompatible with the office of Judge**.

**Disciplinary offense** according to Section 116 para 1 letter a) of Act on Judges is:

1. causing failure to meet or infringement of obligations of Judge,
2. actions, which evoke valid doubt about independence and impartiality of Judge during decision-making, about non-bias against parties to the proceedings, and about effort to conclude Court hearing fairly, and without undue delays,
3. failure to show expected work results as a Judge based on evaluation of Judge with the verdict “unsatisfactory”,
4. failure to meet the obligation of lodging asset declaration pursuant to Section 32 para 1[[1]](#footnote-1) even within deadline laid down in Section 33 para 1[[2]](#footnote-2) or inability of Judge to provide a trustworthy proof of property increase, which obviously exceeds the sum of his salaries and other quantified incomes,
5. presence at workplace under the influence of alcohol, intoxicating, or psychotropic substance, except if it concerns a disciplinary offense pursuant to para 3 letter a); if Judge, upon the request of the Court President or Court President of higher instance Court, will refuse to take a breath test to determine alcohol content in his blood or have his blood or other biological material taken for examination, it has the same legal consequence as though he was under the influence of alcohol or other intoxicating substance,
6. failure to meet the obligation of lodging written statement pursuant to Section 31 para 1[[3]](#footnote-3) within the specified deadline or providing incomplete data or false data in the statement pursuant to Section 31 para 1.

**Serious disciplinary offense** according to Section 116 para 2 is:

1. wilful infringement of obligation of Judge to rule independently and without bias,
2. actions stipulated in para 1 except for actions stipulated in para c) and d), if due to the nature of infringed obligation, manner of actions, degree of guilt, repeated infringement, or other aggravating circumstances, the harmfulness of such actions is increased,
3. repeated infringement of obligation to lodge asset declaration pursuant to Section 32 para 1 even within deadline laid down in Section 33 para 1, wilful provision of incomplete data or false data in asset declaration or declaration on oath pursuant to Section 32, or repeated inability of Judge to provide a trustworthy proof of property increase, which obviously exceeds the sum of his salaries and other quantified incomes,
4. actions caused by Judge having the consequence of delays in disciplinary proceedings,
5. arbitrary decision of Judge, which is in contradiction with law, if by such decision Judge caused considerable damage or another especially serious consequence,
6. actions caused by Judge having the consequence of delays in Court proceedings,
7. repeated infringement of obligation to lodge written statement pursuant to Section 31 Para 1 within the laid down deadline or providing incomplete data or false data in the statement pursuant to Section 31 para 1,
8. repeated failure to show expected work results as a Judge based on evaluation of Judge with the verdict “unsatisfactory”, if it concerns evaluation of Judge pursuant to Section 27a para 1 letter e),
9. breach of the obligation to satisfy the conditions of judicial competence throughout the term of office of Judge.

**Serious disciplinary offense incompatible with the office of Judge** pursuant to Section 116 para 3 is:

1. exercise of judicial office during mandated standby service and during working hours under the influence of alcohol, intoxicating, or psychotropic substances,
2. committing serious disciplinary offense despite the fact that disciplinary measure was already imposed for disciplinary offense,
3. inability of Judge to provide a trustworthy proof of source of substantial increase of assets, which obviously exceeds the sum of his salaries and other quantified incomes,
4. actions stipulated in para 2 letter a), c), and i), if due to the nature of infringed obligation, manner of actions, degree of guilt, repeated infringement, or other aggravating circumstances, they are incompatible with the office of Judge,
5. infringement of lawful conditions of random case assignment to panels, Judges, and court clerks, and of random redistribution of cases already assigned,
6. failure to show expected work results as a Judge based on evaluation of Judge with the verdict “unsatisfactory”, if two preceding evaluations of Judge were with the verdict “unsatisfactory”.

**2.Disciplinary proceedings shall commence upon motion.**

Motion to commence disciplinary proceeding can be lodged by

* **the Minister of Justice of the Slovak Republic**,
* **the President of the Judicial Council**,
* **the Public Defender of Rights**,
* **the Regional Court President** also against Judge within his circuit and a hosting Judge acting as a Judge in a designated District Court within his circuit,
* **the Court President** against Judge of respective Court and hosting Judge acting as a Judge in the respective Court, including after the termination of his duties as hosting Judge in that Court,
* **the Judicial Board** against Judge of respective Court including the President of such Court, and the hosting Judge acting as a Judge in the respective Court, including after the termination of his duties as hosting Judge in that Court.

Motion to commence disciplinary proceedings may be **lodged at Disciplinary Panel** within one year from the day when the body authorised to lodge such motion had learned of misdemeanour offense, up to the maximum of three years from the day the misdemeanour was committed on, and if it concerns a misdemeanour offense the Judge had committed by fault, which had the consequence of delays in judicial proceedings up to the maximum of five years from the day the misdemeanour was committed on.

Motion shall include first name and family name of the Judge against whom the motion is directed, description of the conduct, due to which it is proposed to commence disciplinary proceedings, and identification of evidence the motion is based on, including facts giving proof that the motion to commence disciplinary proceedings is lodged on time. The description of the conduct for which the initiation of disciplinary proceedings is proposed must, with regard to the specific circumstances, state the place, time, manner of its commission, consequence, or other facts, so that the conduct is sufficiently specified and cannot be confused with another and that the motion of a disciplinary measure is justified. The proposal also contains the legal qualification of the conduct with an indication of the relevant legal provision.

Judge, who is defendant in disciplinary proceedings shall be notified of commencement of disciplinary proceedings against him by the Chairman of Disciplinary Panel, by serving the motion to commence disciplinary proceedings to his own hands within 10 days from the day the motion to commence disciplinary proceedings was lodged, and in case of decision on temporary suspension of judicial office, such decision is delivered together with the motion to commence disciplinary proceedings. At the same time, the Judge shall be advised of his right to select legal counsel from amongst attorneys or Judges, to respond to facts, which are laid to his charge, and propose evidence for his defence.

**Appeal may be lodged against the decision of Disciplinary Panel within 15 days from the day of the decision being delivered to the appellant.** Appeal against the decision of Disciplinary Panel on temporary suspension of judicial office and on cancellation of temporary suspension of judicial office may be lodged within 5 days from the delivery of the decision. Disciplinary Panel shall decide on such appeal without delay and deliver its decision to the Judge to his own hands within three days from announcement of its decision on appeal. Appeal shall be lodged at the Disciplinary Panel. Appeal lodged in time has **suspensive effect**.

Appeal is decided by the **appellate Disciplinary Panel**, the decision in question is **not** **subject to review by another general Court of the Slovak Republic**.

**3. The Disciplinary Panel may impose on a Judge disciplinary measures specified in Section 117 of Act on Judges, namely:**

For **disciplinary offenses**, the Disciplinary Panel shall impose:

* **admonition**,
* **reduction of functional salary** by up to 30 % for maximum of three months and with repeated disciplinary offense Judge had committed during the time prior to expunging of disciplinary sanction, for maximum of six months,
* **issuing and publishing of decision on the Judge** under consideration failed had in that particular year to submit in lawfully prescribed manner the source of increase of his assets.

Disciplinary measures may be imposed **individually** or **in parallel**.

For **serious disciplinary offenses**, the Disciplinary Panel shall impose some of the following disciplinary measures:

* **reassignment** of Judge to **lower instance Court**,
* **reduction of functional salary** by 50 % to 70 % for the period of three months to one year,
* **issuing and publishing of decision on the Judge** under consideration failed in that particular year to submit in lawfully prescribed manner the source of increase of his assets, by which he could have harmed the seriousness and dignity of judicial office or threaten the confidence in independent, impartial, and fair decision-making of Courts.

Disciplinary measure for **serious disciplinary offense incompatible with the office of Judge** is always **recall from the office of Judge**.

When imposing disciplinary measures, Disciplinary Panel takes into consideration mainly the scope and nature of infringed obligation, manner of actions, consequences and degree of guilt.

**4.** Ministry of Justice of the Slovak Republic has only **data on the number of motions to commence disciplinary proceedings against Judge filed by all of entitled subjects** to do so. Altogether it was **222 motions** during the period of 10 years (2010 - April 2020); below we state the year and overall number of these motions.

More detailed and disaggregated data on disciplinary proceedings can be acquired from the Judicial Council of the Slovak Republic for which we would need more time to acquire them.

2010 - 22

2011 - 17

2012 - 17

2013 - 18

2014 - 25

2015 - 29

2016 - 29

2017 - 30

2018 - 14

2019 - 13

2020 - 8

**Civil and criminal liability**

**5. Judge can be subject to civil liability and criminal responsibility**, and also to a **disciplinary responsibility** as a result of the exercise of his or her functions in the case of **any criminal offense connected with the performance of the function of Judge**.

In the case of criminal liability, the prosecution is sued by a **prosecutor**. In the case of civil liability, an action is brought against a Judge by the **person to whom the Judge has caused**, for example, **damage or other harm**. In the case of disciplinary liability, a proposal to initiate disciplinary proceedings shall be made by the President of the Judicial Council, the Minister of Justice, the Ombudsman, the President of the Court or the Judicial Council.

Authority responsible for adjudicating such cases is the **Court** in the case of criminal and civil liability and a **Disciplinary Panel** in case of disciplinary proceedings.

**6.** Unfortunately, we cannot provide requested disaggregated data because the Ministry of Justice of the Slovak Republic does not have such data.

1. Section 32 para 1 of the Act on Judges states:

*„Judge is obliged during the entire term of judicial office to declare the status of his assets:*

*a) within 30 days from the day of assuming judicial office,*

*b) by 31 March of each calendar year of his term of judicial office.“* [↑](#footnote-ref-1)
2. Section 33 para 1 of the Act on Judges states: *„If Judge does not lodge written statement pursuant to Section 31 or asset declaration pursuant to Section 32, Chairman of the Judicial Council shall remind him to perform such duty no later than within 30 days.“* [↑](#footnote-ref-2)
3. Section 31 para 1 of the Act on Judges states:

*„Judge is obliged to lodge, within 30 days from the day of assuming judicial office and during execution thereof always by 31 March of each calendar year, written statement to Judicial Council, stating the following:*

*a) whether he meets conditions stipulated by Section 23,*

*b) what functional or other benefits is he entitled to according to his activities and functions pursuant to Section 23,*

*c) list of related persons who are Judges, employees of Court or the Ministry, including budget-funded or contribution-funded organisations under the jurisdiction of the Ministry, stating their name, family name, function held and designation of institution.“* [↑](#footnote-ref-3)