

Call for inputs of the Special Rapporteur on the independence of judges and lawyers for the next thematic report on the undue influence of economic actors on judicial systems

ANSWERS OF THE SLOVAK REPUBLIC

(Answers to the questionnaire were prepared by Ministry of Justice of the Slovak Republic in cooperation with the Judicial Council of the Slovak Republic).

1. Do you consider there is a risk that corporations, economic interest groups or wealthy individuals will undermine the independence of judges, or the extent to which the justice system can function in the public interest? What forms does this risk take?

Such risk does not exist as long as all parties involved comply with the relevant legislation. In case of a breach there are possible criminal and/or disciplinary consequences.

2. Have you seen research or evidence demonstrating that judges are being offered benefits in exchange for desired outcomes by economic (rather than political) actors? Is there a perception that judges are engaged in such acts?

We are not aware of such research or evidence.

3. Is there research or evidence demonstrating that corporations, economic interest groups or wealthy individuals play an inappropriate role in judicial selection and promotion?

We are not aware of such research or evidence.

Information on the legislation on filling the vacancies of judges:

- Vacancies of judges are filled on the basis of a selection procedure or by transferring of a judge to a court of the same or a lower level.
- The selection procedure for the post of judge in the district court is conducted as a mass selection procedure for an unspecified number of vacancies of judges. The selection procedure for the post of judge at the Regional Court, the Administrative Court, the Specialised Criminal Court, the Supreme Court and the Supreme Administrative Court is carried out for a predetermined number of vacancies for judges.
- The selection procedure is open to the public except for the vote of the selection board and the psychological assessment.
- The selection procedure is announced publicly on the website of the Judicial Council of the Slovak Republic and the Ministry of Justice of the Slovak republic, in the periodical press of national scope and in other means of communication generally accessible to the public, with reference to the details set out in the announcement of the selection procedure published on the website of the Judicial Council and the Ministry at least 60 days before the procedure is to take place.
- The mass selection procedure consists of a written test, a case study, the drafting of judicial decisions, a translation from a foreign language, a psychological assessment and an oral part. On the day of the selection procedure, the written test, the case study, the court files for the purpose of drawing up the judicial decision and the translation from a foreign language is drawn by lot by the selection board from the databases

created and managed by the Judicial Academy of the Slovak Republic. The oral part of the selection procedure is recorded using technical equipment designed for sound recording.

As you can see, the selection procedure of judges in Slovakia is very transparent.

4. Is there research or evidence demonstrating that judges are improperly motivated in a way that undermines their independence, or are perceived to be improperly motivated, by incentives related to their career prospects after their retirement or exit from the judiciary?

We are not aware of such research or evidence.

However, we would like to point out that few years ago there was a change in legislation of the judges' salaries, which aimed at preventing them from being subject to corrupting influence.

According to the law:

- the basic salary of a judge of the Slovak Republic is equal to the salary of a MP, which is three times the average nominal monthly wage of an employee in the economy of the Slovak Republic.
- the basic salary of a judge of the Supreme Court, a judge of the Supreme Administrative Court and a judge of the Specialised Criminal Court is 1.3 times the salary of a MP.
- For the first quarter of 2024 the nominal monthly salary of the employee in the economy of the Slovak Republic was EUR 1447.

In this regards we would like to also refer you to the CEPEJ study (<https://rm.coe.int/cepej-report-2020-22-e-web/1680a86279>) , where you can see the comparison of the average yearly salary of judges in the Council of Europe state parties, where Slovak Republic is in a group of state parties where judges' remuneration ranges from 1,5 times to 3,5 times the average salary at the beginning of their career and from 2,5 times to 6,5 times the average salary at the end of their career.

5. Do judges frequently engage with corporations, economic interest groups or wealthy individuals in ways which risk undermining judicial independence, for example, at private donor retreats or members' clubs or with wealthy private actors?

We are not aware of such meetings or judges' engagement within economic interest groups.

6. Are people from disadvantaged or marginalized communities represented at all levels of the judiciary? If not, do these communities face obstacles to their appointment or promotion, for example lack of access to certain universities, social networks or professional opportunities? Is there evidence or research that judges' socio-economic status, professional or educational background has an impact on the public perception of the judiciary as an inclusive, independent, impartial, and fair institution?

We are not aware of such study or research available on this issue in Slovakia.

7. What steps do you recommend to safeguard judges from economic capture, or the perception of economic capture? Are financial, asset, and business disclosures adequate to the task? What is the role of ethical codes and rules concerning recusal and conflict of interest in preventing this

form of capture?

The publication of judges' property declarations and, in particular, their verification by the Judicial Council is one of the most rigorous processes in Europe and is subject to strict criteria:

- According to the legislation the judge has to within 30 days from the date on which he or she took office as a judge and during the term of office always by 31 March of each calendar year, submit to the Judicial Council a written declaration in which he or she shall state, whether he or she fulfils the conditions on incompatibility of the performance of judicial duties, what emoluments or other benefits accrue to him in respect of the activities and functions from conditions on incompatibility of the performance of judicial duties, a list of persons close to him/her who are judges, employees of courts or the Ministry of Justice, including budgetary or contributory organisations under the competence of the Ministry of Justice, in the scope of name, surname, function and designation of the institution. This information should also include additional data on indication of when and how performance of functions and activities incompatible with the office of a judge has ended or will end, the name and registered office of the legal person and the name, surname and residence of the natural person for whom the activity or function is performed by the judge and a quantification of the income earned in the preceding calendar year from the functions and activities which the person making the declaration will continue to perform after taking up his or her duties as a judge.
- As regards assets declaration, a judge is obliged to declare his/her assets during the entire period of his/her office as a judge within 30 days of the date on which he or she takes up the office of judge and by 31 March of each calendar year in which he or she holds office as a judge.
- The declaration includes details (price, legal title and date of acquisition) on immovable property, on movables exceeding value of EUR 6,600, on property right and other asset the value of which exceeds EUR 6 600, on movables, property rights and other property values, even if their value individually does not exceed EUR 6 600, if their aggregate value exceeds EUR 16 600, income earned in the previous calendar year from the performance of the judicial function and from the performance of other activities, the judge's relations of commitment, if their value exceeds EUR 6 600.
- The judge is also obliged to declare in the assets declaration the assets of his/her minor child and of the spouse living in the household with him/her, even if the spouses have concluded an agreement on the reduction or extension of the statutory extent of the community of property or on the administration of the community property. The declaration of assets shall also include an affidavit by the judge that he/she has no knowledge of any income of persons living in his household which may be regarded as untaxed income or income from non-statutory sources.
- The information on the financial circumstances declared in the assets declaration are communicated by the judge to the Judicial Council in electronic form, whereby the Judicial Council verifies the financial circumstances of the judge in accordance with the procedure laid down in law.
- The declaration of assets is published on a freely accessible website in accordance with the protection of personal data pursuant to a law by 30 June of each year for the preceding calendar year.

8. Are you aware of SLAPPs being used by private actors to stifle advocacy on issues of public interest? What steps can be taken to deter SLAPPs, or limit their detrimental impact? Are economic interests distorting justice systems in other ways, such as through litigation financing?

Slovak legal order does not have the definition of the SLAPPs, therefore any data on this particular issue are not available at the moment. However, the EU has recently adopted the Directive which aims to provide protection for natural and legal persons involved in public participation in matters of public interest, in particular journalists and human rights defenders, against legal proceedings brought against them with a view to discouraging them from public participation in cross-border matters.

The Ministry of Justice is at the moment in preparatory phase of the transposition of the Directive. During the transposition we plan to implement also the EU recommendation on SLAPPs as well as Council of Europe recommendation on SLAPPs

9. Are you aware of examples of transnational corporate actors and their legal advisors driving the creation of new dispute resolution processes or remedy frameworks that undermine human rights protections? For example, the creation of grievance mechanisms for mega-projects that divert claims from domestic courts to privatized remedy processes.

We are not aware of such examples.

10. Is there research or evidence demonstrating that economic actors promote and control systems of arbitration, denying people and States access to independent tribunals to determine their rights and obligations?

We are not aware of such research or evidence.

11. Are there any additional issues you wish to raise with the Special Rapporteur in this context?

No.