

EUROPEAN ASSOCIATION OF JUDGES

STATEMENT

on the

SITUATION of JUDGES in HUNGARY

Background

1. On 22 February 2025 a demonstration organized by the Hungarian Judges Association (Magyar Bírói Egyesület - MABIE) took place in Budapest under the headline "Demonstration for the Independence of the Judiciary". Thousands of people protested against the government's plans to alter the legislation affecting the judiciary. Speakers at the demonstration included the Presidents of the International Association of Judges (IAJ) and the European Association of Judges (EAJ).
2. At the plenary meeting of the EAJ in Yerevan on 9 May 2025 representatives of MABIE reported on further developments which have taken place since the demonstration.
3. Put briefly, attacks by politicians and the media on the Association and judges generally have intensified. The organizers of the demonstration were slandered and wrongly accused of having financed the event from abroad. Individual judges have been severely attacked, reaching judicial decisions which did not meet the government's expectations. Such attacks not only criticized the decision but advance personal attacks on the judge concerned.
4. Moreover, while the general retirement age in Hungary is 65, a change in the relevant legislation allowed judges and prosecutors to continue in work until the age of 70. But judges who wish to remain in office after 65 require to pass a psychological test and to be given one of the two highest possible grades in a performance assessment by the president of the respective court and may continue after 65 only if it is necessary due to the workload and budget of the court. Prosecutors on the other hand may continue in work unconditionally.
5. Additionally, rules have been introduced stipulating that even the most minor breach of deadlines, which are foreseen in the procedural laws (such as the deadlines for issuing decisions, may require compensation to be paid to the parties to the case. This puts judges under severe pressure.
6. Finally, it is to be noted that at no point has the government consulted with judges or the Hungarian Judges' Association about its intentions for reform.

Assessment

7. The EAJ considers this approach by the government to be in breach of international and European standards as follows -

s(i) Although objective criticism of the courts and their decisions is of course permissible, the executive and legislative powers should avoid criticism that would undermine the independence of the judiciary or public confidence in the justice system.¹

¹ Committee of Ministers CM Recommendation (2010)12 on judges: independence, efficiency and responsibilities, para 18

(ii) The interpretation of the law, assessment of facts or weighing of evidence carried out by judges to determine cases should not give rise to civil or disciplinary liability, except in cases of malice and gross negligence.²

(iii) Making the continued exercise of office after reaching the general age of retirement dependent on a psychological test and or an assessment by a court president constitutes an interference with judicial independence (as was recognized in the case of the Hungarian judiciary some years ago with the result that such tests were abolished).

(iv) Statutory deadlines may contribute to the efficiency of proceedings. However, they must be set in such a way that they can realistically be met, given the available resources and existing procedural rules. If this is not the case, the courts are being made responsible for circumstances beyond their control and trust in the judiciary declines. Giving parties to a litigation compensation for even minor delays is counterproductive and not common practice in any other country. It could even be abused by giving an incentive to the parties to cause delays.

(v) European standards require that the judiciary at large and associations of judges should be consulted whenever laws concerning the judiciary are being drafted (especially those regarding the status, rights and duties of judges, the organization of courts and procedural provisions which judges must apply.^{3, 4, 5}).

8. The EAJ therefore considers that the developments regarding the Hungarian Judiciary which have been reported to it constitute a clear setback in the development of the independence of the judiciary and the rule of law in Hungary. Once again, the EAJ urges the Hungarian authorities to reconsider the matters mentioned above and to commit to observing the European standards.

Yerevan

9 May 2025

² Ibid para 66

³ Recommendation CM/Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe, preamble, para 2. 37 Ibid., para 77.

⁴ CCJE Opinion (2015) 18 on the position of the judiciary and its relations with the other powers of state in a modern democracy, para 32

⁵ Recommendation CM/Rec(2007)14 on the Legal Status of Non-Governmental Organisations in Europe, para 77