



Marcela Kosová
President
Judicial Council
of the Slovak Republic

January 20, 2025, Bratislava

Ladies and gentlemen,

Allow me to convey to you the reaction of the Judicial Council of the Slovak Republic (hereinafter also referred to as the "Judicial Council") to some information presented at the conference organized by the International Commission of Jurists on 15 January 2025 by Mr. Petr Čuroš, a lawyer at VIA IURIS, and to some allegations of VIA IURIS against the Judicial Council of the Slovak Republic as a constitutional body of judicial legitimacy.

To begin with, I would like to remind you that at its meeting on 14 January 2025, the Judicial Council of the Slovak Republic adopted a resolution¹ responding to the forthcoming theme of the conference, as the Judicial Council was holding a public meeting on 14 and 15 January.

The Judicial Council strongly objects to some of the statements by Mr. Čuroš presented in his contribution and with deep regret it observes that the statements of this representative of a non-governmental organisation, the name of which means "By the Path of the Law," discredit and politicise in the European area not only the Judicial Council of the Slovak Republic as a constitutional body of judicial legitimacy, but also Slovak judges who have elected nine of their representatives to the Judicial Council, which is half of the members of the Judicial Council.

In his contribution, Mr. Čuroš pointed to the low rating of the rule of law, identifying that this was because in the last period in Slovakia there have emerged, among other phenomena, the politicization of institutions and attacks on the judiciary not only by the government but also from within the judiciary itself. In his statement, he also referred to the response of the Judicial Council and the government to the EC Rule of Law Report 2024, describing it as the same/identical. He suggested that it was as if the Judicial Council and the Ministry of Justice of the Slovak Republic

¹ <https://zasadnutia.sudnarada.sk/medzinarodna-komisja-pravnikov-nezavislost-sudnictva-a-strategicke-spory-v-eu/>

were cooperating/coordinating and the Judicial Council was on the side of the Government. Mr. Čuroš stated that after the new Government took office in 2023, all the representatives of the Judicial Council nominated by the Government, Parliament and the President were replaced without giving any reason. Mr. Čuroš sees these steps as an insidious interference in the independence of the Judicial Council and the independence of the judiciary itself.

In September 2024, after the Judicial Council adopted the Opinion on the Rule of Law Report 2024, VIA IURIS published on Facebook a collage of photographs showing the faces of the Prime Minister of the Slovak Republic, Róbert Fico, and the President of the Judicial Council of the Slovak Republic, Marcela Kosová, with the caption "*Find the difference*".² This happened only four months after the attempted assassination of the Prime Minister Róbert Fico.

We would like to remind that ³at its public meeting held on 14 September 2024, the Judicial Council adopted an opinion responding substantively and professionally to the Rule of Law 2024 Report. The Opinion of the Judicial Council contains expert arguments with references to the relevant legislation or decisions of the Constitutional Court of the Slovak Republic. The Judicial Council therefore objects to the claim of the VIA IURIS representative that it stands "on the side of the Government" and that it coordinates its opinions and actions with the Government of the Slovak Republic, or stands by its side. In its Opinion, the Judicial Council critically points to those parts of the Report in which the European Commission presents information contrary to codified law and reality. This can be seen in the Opinion that we also sent to the then European Commissioner for Justice, Didier Reynders. At the same time, we also invited the Commissioner to a public meeting of the Judicial Council, which did not happen, as the EC has been claiming for almost three weeks that the invitation and the Report were not delivered to them. Their position changed only after the President of the Judicial Council publicly demonstrated that both the invitation and the report were served electronically and by mail.

The Judicial Council of the Slovak Republic is extremely concerned that a representative of an organization, and the organization itself, which states on its website that "*We use law as an instrument of justice. We are bringing systemic solutions and advocating that the laws apply equally to all*" communicate facts

² <https://www.facebook.com/viaiuris/posts/n%C3%A1jdite-rozdiel-%EF%B8%8F%C3%BAdna-rada-%C3%BAstavn%C3%BD-org%C3%A1n-sudcovskej-legitimity-dnes-hodnotila-s/936320775208889/>

³ <https://zasadnutia.sudnarada.sk/prerokovanie-spravy-o-pravnom-state-2024/>
<https://www.sudnarada.gov.sk/24612-sk/sprava-europskej-komisie-o-pravnom-state/>
<https://www.sudnarada.gov.sk/the-judicial-council-of-the-slovak-republic-reacts-to-the-report-on-the-rule-of-law-2024/>

that are neither true nor supported by any evidence whatsoever, not only in Slovakia but also in Europe. Above all, however, they are at odds with reality, demonstrably applying double standards according to what suits them politically. We consider this to be a gross interference with the independence of the judiciary.

We would like to mention a few other examples of discrediting the Judicial Council of the Slovak Republic by VIA IURIS or its representatives:

1/ In April 2024, the Judicial Council dismissed Ján Mazák, its then President. Besides other reasons, he was dismissed for having interfered with the independence of the judiciary by lustrating judges unlawfully. VIA IURIS did not criticize Ján Mazák's actions after his dismissal on Facebook. On the contrary, she said *“The following voted in favour of the dismissal of Ján Mazák: Marcela Kosová, Ayše Pružinec Eren, Dana Jelinková Dudzíková, Peter Šamko, Peter Farkaš, Ľuboš Kunay, Marián Fečík, as well as the new nominees of the government of Robert Fico, Magdaléna Hromcová, Martin Bezák and Ľudmila Joanidesová. Two other members of the Judicial Council voted against, four did not vote and Ján Mazák himself left the meeting during the discussion of this item.”* They also stated that *“The process of dismissing the President of the Judicial Council was undignified and had nothing to do with a fair and quality debate of the constitutional body of judicial legitimacy. Not only Ján Mazák did not have adequate time to prepare his defence, but the petitioners did not even bother to question him before the vote.”* Yet none of this is true.

No member of the Judicial Council voted against the dismissal of Ján Mazák ⁵including no representative of the Parliament elected in 2020 and the representative of Zuzana Čaputová, the President of the Slovak Republic.

Regarding the defamatory and slanderous claim of VIA IURIS about the process of Ján Mazák's dismissal from the post of the President of the Judicial Council, we refer to the decision of the Constitutional Court of the Slovak Republic III. ÚS 255/2024-26 of 13 May 2024, rejecting the constitutional complaint by Ján Mazák. The latter sought a declaration of infringement of the fundamental right of access to elected and other public office under equal terms pursuant to Art. 30, par. 4 of the Constitution of the Slovak Republic in conjunction with the fundamental rights to judicial and other legal protection pursuant to Art. 46, par. 1 of the Constitution, legal aid under Art. 47, par. 2 of the Constitution and to comment on all evidence taken pursuant to Art. 48, par. 2 of the Constitution by means of a resolution of the Judicial Council of the Slovak Republic (hereinafter the “Judicial Council”), by which he was dismissed from the office of its President. He asked for the order to be cancelled and the case to be returned to the Judicial Council for further consideration, with financial compensation of EUR 50 000 for him. Pending the decision on the constitutional complaint, he sought an order requiring the Judicial Council to refrain from implementing the impugned resolution and the power to elect the President of the Judicial Council, which is scheduled to the next meeting on 14 May 2024.

In its decision, the Constitutional Court also commented on the dismissal process, as follows: *“Therefore, it cannot be concluded that preparation of the complainant's*

⁴ <https://www.facebook.com/viaiuris/posts/súdna-rada-včera-odvolala-svojho-predsedu-jána-mazáka-návrh-siedmich-členov-a-čl/839223088251992/>

⁵ <https://zasadnutia.sudnarada.sk/156406-sk/4-zasadnutie-sudnej-rady-sr/>

response to the Judicial Council members' motion required more time than the period between the delivery of the motion to the complainant and the commencement of the Judicial Council meeting, either at the originally scheduled date or at the later date proposed by the Judicial Council member. Indeed, we cannot agree with the complainant's argument that the petitioners realized the lack of time as a possible procedural defect and only for that reason proposed a new date, namely 23 April 2024. The Judicial Council meeting made it clear that this was a constructive response by the petitioners to the complainant's arguments resulting from the improper analogy of the time needed to prepare the statement with the periods of time formally established in the various judicial processes. However, instead of responding constructively, the complainant responded by saying that he couldn't guarantee that he could prepare a statement in such a short time. This, however, is quite contrary to the clear legal position that the complainant states in his constitutional complaint delivered to the Constitutional Court on 23 April 2024, i.e. on the day on which, according to the petitioners, the Judicial Council could have held a meeting on their motion for dismissal. Four or five working days were not sufficient for the complainant to express his position on the motion for his dismissal, however they were sufficient to file the constitutional complaint. This implies that, following the submission of the motion by seven members of the Judicial Council to dismiss him from the office of the President of the Judicial Council, the complainant voluntarily decided not to present his arguments to the Judicial Council as the body which is to decide on the motion for his dismissal, but to present them in his constitutional complaint. The complainant could have exercised the components of the judicial fundamental rights in the decision-making process on the complainant's retention in the public office of President of the Judicial Council at a meeting of the Judicial Council. At the meeting of the Judicial Council, he could publicly state what he had stated in his constitutional complaint on the published motion for his dismissal. This would comply with the requirements of publicity, a discussion in the presence of the complainant and the complainant's right to comment on the background to the decision. The fact that this did not happen is not a consequence of the decisions of the Judicial Council, but a consequence of the actions of the complainant."

2/ In January 2025, after the meeting of the Judicial Council, in an article about the resolution of the Judicial Council, by which the Judicial Council rejected the attacks on judges by Štefan Harabin, VIA IURIS, ⁶ manipulates and misleads the public by the subtitle "*The Fifth column is worse than the attacks by the Minister?*". It gives the impression that the Judicial Council was not bothered by the attack by the Minister of the Interior on a particular judge in November 2023, which again suggests that the Judicial Council is going along with the Government of Róbert Fico. We would like to remind you that at the meeting of the Judicial Council held on 14-16 November 2023, the members of the Judicial Council elected by the judges – Marcela Kosová, Ayşe Pružinec Eren, Dana Jelinková Dudzíková and Peter Šamko – submitted promptly an agenda item dealing with attacks on a particular judge, including by the Minister of the Interior. The submitted resolution was not supported by a sufficient number of votes, however, we would like to emphasise that the members of the Judicial Council elected by the judges as well

⁶ <https://www.sudnarada.gov.sk/the-judicial-council-rejected-attacks-on-judges-of-the-regional-court-in-bratislava/>

as the members of the Judicial Council appointed by the (new) government voted in favour of the resolution. The resolution was opposed by Jan Mazák, who had several reservations about other people attacking the judges⁷.

3/ VIA IURIS claims in its Facebook status ⁸ that the judges referred to female members of the Judicial Council as the fifth column, which is not true. This is how Ján Mazák, the dismissed President of the Judicial Council, who had been elected to the Judicial Council in 2020 by the National Council of the Slovak Republic and who has never been elected to the Judicial Council by the judges, commented on the elected representatives of the judges on the Judicial Council ⁹. In this status, VIA IURIS even allegedly quotes from the discussion at the Judicial Council meeting as follows: *"Yes, he criticized him for his decision-making activities, but he did not say that he was a member of the fifth column (...) what the judges dared to say (about the three female members of the Judicial Council)," Judicial Council member Ayşe Pružinec Eren said in the debate"*. In fact, the following was said in the debate: *"Let us recall the statement of the former President of the Constitutional Court and the former President of the Judicial Council, who referred to the three of us as representatives of the fifth column"*.

4/ In December 2024, following the meeting of the Judicial Council, VIA IURIS published a public call ¹⁰ entitled: *"Statement of Lawyers: Criticism of court decisions also belongs to freedom of expression"*. This is in response to an item in which the Judicial Council defended a judge who was attacked by Denník N daily and linked to fascism for a particular decision. ¹¹ The aim of the VIA IURIS call is to

⁷ <https://zasadnutia.sudnarada.sk/a-nepripustne-zasahy-politikov-a-advokatov-proti-konkretnym-sudcom-ako-reprezentantom-jednej-z-troch-moci-v-state/>

<https://zasadnutia.sudnarada.sk/data/att/14756.pdf>

⁸ https://www.facebook.com/photo/?fbid=1021108693396763&set=a.501039412070363&locale=sk_SK

⁹ <https://www.pravnelisty.sk/clanky/a1345-reakcia-na-vyjadrenia-jana-mazaka-o-desivom-mlcani-statocnych-sudcov-alebo-ked-sa-clen-piatej-kolony-tvari-ako-filip-rawlings>

¹⁰ https://www.mojapeticia.sk/campaign/vyhlasenie-pravnikov:-aj-kritika-sudnych-rozhodnuti-je-sucastou-slobody-prejavu/1df0e52e-0e45-46ca-b87f-b7ada9efac1?fbclid=IwZXh0bgNhZW0CMTEAAR25J3TSDc-SsWUO978p5K94iBj4HgwYoO7eqhe1BfvUF2VAj_ir9mL6rA_aem_fXJ6aeFf7jJgluHMbPOfQ

¹¹ <https://zasadnutia.sudnarada.sk/stanovisko-sudnej-rady-slovenskej-republiky-k-medialnym-utokom-na-sudkynu-vieru-hadrbulcovu/>

<https://www.sudnarada.gov.sk/stanovisko-sudnej-rady-slovenskej-republiky-k-medialnym-utokom-na-sudkynu/>

<https://www.sudnarada.gov.sk/the-statement-of-the-judicial-council-of-the-slovak-republic-on-media-attacks-against-the-judge/>

obtain at least 1,000 signatures, which they have not managed as of the date of writing the response. A quarter of the signatures obtained so far are anonymous, while Denník N daily attacked a particular judge and stated her full name. However, it is significant that the adopted resolution of the Judicial Council also states that *"the Judicial Council of the Slovak Republic publicly calls on the media in particular to reasonable restraint, which allows for professional and factual criticism of court decisions, but in no case does it allow any conduct capable of endangering the judges and their relatives"*.

5/ Mr. Čuroš referred to the fact that after the 2023 elections, the Government, the Parliament in May 2024 and after the 2024 presidential elections, the President dismissed their representatives in the Judicial Council as an insidious interference in the independence of the Judicial Council. However, he has withheld a number of important facts in this regard.

The idea to change the Constitution of the Slovak Republic in 2020 so that the members of the Judicial Council could be dismissed at any time came from Ján Mazák, the dismissed president of the Judicial Council¹², one month before the Parliament elected him as a member of the Judicial Council in 2020. This was not the first time that representatives of the Government, Parliament or the President were dismissed from the Judicial Council. This was also done in the past, for example, by the Government of Iveta Radičová or the former President Andrej Kiska just one week after taking his office, which VIA IURIS did not label as politicization of the judiciary.

After the 2020 general election, before the government had been appointed and before appointed the Minister of Justice, Maria Kolíková telephoned all the members of the Judicial Council on behalf of the Government and the Parliament and informed them that they did not have the confidence of the Government. She urged them to resign from the Judicial Council and asked them not to attend any further Judicial Council meetings¹³. Shortly thereafter, in the express legislative procedure, the legislation was changed so that the mandate of a member of the Judicial Council expires on the second day after the resignation instead of two months, as originally established in legislation. Thanks to this change, the new Government and the Parliament could appoint and elect new members of the Judicial Council as early as in April 2020. Even then VIA IURIS remained silent.

¹² <https://www.postoj.sk/52911/ustavny-sud-brani-odvolaniu-clenov-sudnej-rady-v-rozpore-s-ustavou>

¹³ <https://www.sudnarada.gov.sk/clenstva-v-sudnej-rade-sa-vzdalo-pat-jej-clenov/>

However, in November 2023, they issued a press release¹⁴, stating that the dismissal of members of the Judicial Council is politicization of the judiciary.

However, above all, Mr. Čuroš forgot to mention an important disclaimer which, in the eyes of the public, has a fundamental impact on the assessment of the criticism by VIA IURIS on the dismissal of the members of the Judicial Council, which, unlike in the past, they are now presenting. One of the dismissed members of the Judicial Council – Andrej Majerník is a long-standing member of the VIA IURIS Board. At the same time, it seems to have escaped the attention of VIA IURIS that the Constitutional Court of the Slovak Republic rejected the complaints of all the dismissed former members of the Judicial Council of the Slovak Republic, namely Ján Mazák, Eva Mišíková, Katarína Javorčíková and Ľudovít Bradáč, who filed the complaints.¹⁵

We would also like to remind that the Constitutional Court of the Slovak Republic, in the context of its curtailed competences due to constitutional change in 2020, has stated ¹⁶ that it considers *“as unjustified the concern based on the claim that by strengthening the power to dismiss members of the Judicial Council at any time during their term of office, the constitutional legislator introduces an unacceptable intervention of both the executive and the legislature in the operation of the independent judiciary, even in view of the fact that half of the members of the Judicial Council, consisting of judges, could only be dismissed from their offices (e.g. due to loss of confidence) by judges, i.e. the influence of the legislative and executive bodies on the functioning of the Judicial Council is not increased in any way by the contested provision of the second sentence of Art. 141a, par. 5.”*

In this regard, the Judicial Council reminds that the only way to change this is to amend the Constitution with a constitutional majority in Parliament so that members of the Judicial Council cannot be dismissed at any time. By no one, not even the politicians related to VIA IURIS. However, unlike VIA IURIS, the Judicial Council has been consistent in this position.

Ladies and gentlemen, We believe that this information clearly demonstrates that the Judicial Council of the Slovak Republic is a constitutional body of judicial legitimacy without any connection to politicians or politics, and that any contrary and in particular false information presented at the Conference in January 2025 have the sole purpose to attack the Judicial Council in an unacceptable manner

¹⁴ <https://viaiuris.sk/aktuality/smer-sd-v-roku-2021-odvolanie-clenov-sudnej-rady-pred-uplynutim-funkcneho-obdobia-je-politizacia-justice/>

¹⁵ <https://www.teraz.sk/slovensko/us-odmietol-staznosti-byvalych-cle/799404-clanok.html>

¹⁶ Resolution of the Constitutional Court of the Slovak Republic from the preliminary hearing PL. ÚS 12/2022, paragraphs 66-67

without any relevant supporting documents and to create an unacceptable impression among the public in Slovakia and in the European area of some kind of collaboration between the Judicial Council and the executive, including by ad hominem attacks. The Judicial Council of the Slovak Republic is well established in the context of the three branches of power, it belongs to the judiciary, and will not allow any false information to the contrary to be presented to the public by individuals or by institutions.

We would like to note that we will also inform the European Network of Councils for the Judiciary (ENCJ), of which the Judicial Council of the Slovak Republic is a member, of these facts.

A handwritten signature in blue ink, consisting of a stylized 'A' or 'G' shape with a long diagonal stroke extending upwards and to the left.

Bratislava, 20 January 2025