

STATEMENT ON THE REACTION OF THE JUDICIAL COUNCIL FROM 20.01.2025

VIA IURIS is a civil association whose members exercise the constitutional right to association. VIA IURIS is not a state authority, a local government body, or any other public authority or public institution, and unlike the Judicial Council, it does not have any competencies about the judiciary. VIA IURIS, as a private law entity, only exercises its right to freedom of expression and the exercise of public control. In this context, the statements of VIA IURIS cannot threaten the independence of the judiciary, as the Judicial Council states in its extensive opinion.

We want to answer the following objections coming from the Judicial Council:

The Judicial Council objected to some of the statements made by our colleague Peter Čuroš at the conference, claiming that his statements "*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.*"

This statement is surprising since our colleague Peter Čuroš not only did not attack judges, the judiciary, or the Judicial Council, but on the contrary, in his contribution, he spoke about the actions of representatives of the executive and legislative branches of government towards judges that may threaten their independence and impartiality.

The Judicial Council's letter further states that "*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."

This statement is false.

Our colleague Peter Čuroš spoke about the low level of trust in the independence of Slovak courts in connection with the ENCJ (European Network of Councils for the Judiciary, of which the Judicial Council of the Slovak Republic is a member) report from 2022 focused on the independence and accountability of the judiciary.

The report has its sub-chapter on Slovakia. At the same time, the colleague stated that the table shows that most of the formal guarantees of the independence and accountability of courts and judges are established. The only figure that does not correspond to these set guarantees is the level of public trust in the independence of courts, which is unusually low (33%) considering the guarantees.

Source: official conference minutes

The Judicial Council also stated, *"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 were cooperating/coordinating and the Judicial Council was on the side of the Government."*

This statement is false.

Peter Čuroš stated that the Judicial Council of the Slovak Republic's official reaction and the Slovak government's official reaction were negative towards the Rule of Law Report 2024 and used similar arguments. He also said the Judicial Council "sided" with the government's argumentation.

Source: official conference minutes

It is necessary to add that the Judicial Council representative was present at the conference and could have publicly formulated their reservations, contradicted the claims of colleague Peter Čuroš, or asked him additional questions. However, this did not happen.

In the next paragraph, the Judicial Council refers to one of the VIA IURIS statuses published on the social network Facebook regarding the position of the Judicial Council on the Rule of Law Report, in which a photo of the faces of the Prime Minister and the Chairwoman of the Judicial Council is published. The Judicial Council states that "*This happened only four months after the attempted assassination of the Prime Minister Róbert Fico.*"

It is not clear what the Judicial Council is aiming for with this paragraph, nor how the attempted assassination of the Prime Minister is related to the status of VIA IURIS on social networks. In this context, one cannot help but feel that this connection on the part of the Judicial Council is manipulative and purposeful.

The Judicial Council published a position on the Rule of Law Report; VIA IURIS compared this position with the position of the government of the Slovak Republic and stated that they are almost identical. We substantiated this statement with statements by government representatives and Judicial Council representatives. Finally, the Judicial Council did not deny that these positions were similar. It only objected to the claims that it "coordinates its positions and actions with the government" and that it "stands by its side" - however, we did not mention such claims either in the status on the social network or at the conference.

Regarding other points of alleged "discrediting" of the Judicial Council, we state:

To point 1, in which the Judicial Council returns to the topic of the dismissal of the former Chairman of the Judicial Council, Ján Mazák.

Our criticism was directed at the fact that the dismissal of Ján Mazák from the post of Chairman of the Judicial Council was undignified in terms of the process. We are aware of the decision of the Constitutional Court in the matter of the constitutional complaint of Ján Mazák and respect it, but this does not mean that we fully identify with it. In a democratic and constitutional state, having a different opinion than the constitutional court is perfectly okay. It also applies, for example, to the constitutionality of fast-track legislative procedure, where VIA IURIS has a different opinion than the Constitutional Court. We reiterate that the judiciary and judicial decisions are open to criticism in a democratic society, and criticism or other views, if they are not hateful or disparaging, cannot be suppressed, even if they concern the judiciary.

The Judicial Council is right that we incorrectly stated the voting conditions in the status on the social network. The fact is that no one voted against the dismissal; two members abstained. We apologize for the error in the status. However, this error does not change the meaning of the status in question and cannot in any way discredit the Judicial Council.

Regarding points 2 and 3, in which the Judicial Council responds to another VIA IURIS status with the subtitle "The Fifth column is worse than the attacks by the Minister?":

The Judicial Council states that VIA IURIS is "manipulating and misleading the public" and "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." This is clearly only an "impression" of the Judicial Council, the status does not mention compliance with the government.

However, at the meeting of the Judicial Council in November 2023, it was said by a member of the Judicial Council, Ayşe Pružinec Eren, that "*Minister Eštok only said at that time that it was possible that this judge would face criminal prosecution for bending the law and possibly a disciplinary motion. In my opinion, he did not say anything dishonorable about him. Yes, he criticized him for his decision-making activities, but he did not say that he was a member of the fifth column ... which the judges allowed themselves to do.*" In this context, the Judicial Council's conclusion that VIA IURIS "manipulates and misleads the public" is incomprehensible and unfounded.

It is not clear why the Judicial Council describes the transcript of the statements of the Judicial Council member as false. We have included in the status that part of the statement that concerned, on the one hand, the downplaying of the attack on the judge by the Minister of the Interior and, on the other hand, the increasing importance of the statements of other members of the Judicial Council. The fact that the Judicial Council member did not express herself accurately at her meeting is not our responsibility. The Judicial Council member considered the statements of Ján Mazák, a former judge and chairman of the Judicial Council, to be more serious than the statements of a representative of executive power who threatened the judge with disciplinary and criminal proceedings for his decision. The Judicial Council does not contradict this fact in its statement.

Regarding point 4, where the Judicial Council responds to the call of lawyers on the MojaPetícia.sk website.

It is not entirely clear what the Judicial Council intended to say with this point, but it is misleading and wrong. The Judicial Council stated that VIA IURIS published the appeal "Lawyers' Statement: Criticism of court decisions is also part of freedom of expression". First of all, this is not an initiative or a signature campaign of VIA IURIS. The organizers of the public appeal are transparently listed in the signature campaign; please see for yourselves. The fact that the appeal is published on the petition website MojaPetícia.sk,

which we operate, does not mean that we are the authors of the petition, just as we are not the authors of hundreds of other signature campaigns published on this website.

In this context, it is also amusing to note that it was not possible to reach at least 1,000 signatures (we emphasize again that the organizers of the appeal requested the signatures, not VIA IURIS, as the Judicial Council incorrectly states), as of today, there have been 937 signatures.

However, several VIA IURIS lawyers have supported this appeal because they identify with its content.

Regarding point 5, which concerns the dismissal of members of the Judicial Council:

VIA IURIS has consistently criticized how Robert Fico's government approaches dismissing members of the Judicial Council, but not that these dismissals took place. We criticized the fact that the government replaced members of the Judicial Council even before it gained confidence in parliament at its first session.

We also criticized the fact that the dismissed members learned about their dismissal from the media. We also drew attention to the fact that SMER-SD representatives had previously initiated proceedings before the Constitutional Court, where they objected to the unconstitutionality of the change in the method of dismissal of members of the Judicial Council. However, they changed their minds after coming to power and immediately applied the initially rejected provision.

We also criticized the manner in which the National Council of the Slovak Republic dismissed Ján Mazák and Andrej Majerník because the stated reasons for dismissal were not based on a proper factual basis, which Andrej Majerník also stated during his hearing at the Constitutional Committee of the National Council of the Slovak Republic.

In our public statements, we did not state that this was a procedure in violation of the law or the constitution.

This position is not influenced by the fact that Andrej Majerník is a member of the VIA IURIS Council. Finally, our position and that of Andrej Majerník are in agreement in that, after his dismissal from the position of a member of the Judicial Council, Andrej Majerník did not file a constitutional complaint, by which he would object to the unconstitutionality of his dismissal. Combining his dismissal with the constitutional complaints of some dismissed members of the Judicial Council sounds awkward.

In its letter, the Judicial Council uses expressions such as "gross interference with the independence of the judiciary," "discrediting the Judicial Council," "defamatory and slanderous claim," and "manipulating and misleading the public," as if they were just empty words without content.

However, these expressions have their specific content. Nevertheless, they are unfounded and lack support in facts and the factual situation in the letter of the Judicial Council. The Judicial Council uses them as synonyms for the terms "criticism," "critical opinion," "feedback," and even just "disagreement."

We have already stated in the introduction that the Judicial Council, or even the judiciary, is not immune to criticism; on the contrary, critical feedback from the public is desirable and even necessary in a democratic and constitutional state.

And in this context, it sounds non-standard if a constitutional body cannot accept the public's critical view. At the same time, it sends a signal about the dangerous withdrawal of one of the three powers in the state when, under the guise of fighting against interference with the independence of the judiciary, it rejects any other point of view.

However, we believe that in the case of the Judicial Council and its letter addressed to us, this is only an isolated, although not trivial in its scope, misunderstanding.

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Executive director of VIA IURIS