

Decision of the Bundesrat

Communication from the Commission to the European Parliament, the Council, the European Central Bank, the Economic and Social Committee and the Committee of the Regions on the EU Justice Scoreboard - a tool to promote effective justice and growth

COM(2013) 160 final

At its 910th session on 7 June 2013, under Sections 3 and 5 of the Act on Cooperation between the Federation and the Länder in European Union Affairs (EUZBLG), the Bundesrat adopted the following opinion:

1. The Bundesrat shares the Commission's view that effective justice is a key prerequisite for the rule of law and legal certainty and thus also for economic growth and competitiveness. Shortcomings in quality, independence and efficiency can undermine the confidence of citizens and enterprises in the justice system and result in decisions to relocate.
2. The Bundesrat stresses that respect for democratic principles in all Member States underpins the shared values of the Union. The justice systems of the Member States must, at all times after accession to the Union, reflect the set of values enshrined in Article 2 of the EU Treaty. Should deficits become apparent in the field of democracy, the rule of law and respect for human rights, the EU bodies must act to remedy them. The Bundesrat shares the Commission's view that to prepare and - where necessary - justify the appropriate measures, regular, thorough and objective data collection in the area of justice, inter alia, can be helpful.

3. However, the Bundesrat has doubts as to whether the EU Justice Scoreboard project takes account of the division of responsibilities between the EU and Member States. The Member States alone are competent for the organisation of their justice system. Their responsibility includes the task of regularly evaluating the justice system with a view to improving it on an ongoing basis.

Nevertheless, the Bundesrat shares the Commission's view that the more effectively the national justice system works, the smoother judicial cooperation operates. The Union must develop judicial cooperation in civil matters (Article 81(1) TFEU) and evaluate EU policy in the implementation of freedom, security and justice (Article 70 TFEU). It needs to be discussed whether the competence of implementation evaluation in Article 70 TFEU could also include the assessment, surveillance or coordination of the national justice systems at European level, independently of cross-border aspects and without the restriction to judicial cooperation in civil matters.

Against this background, the Bundesrat welcomes the Commission's proposal for an open dialogue and constructive cooperation, in particular the *Assises de la justice* conference planned for 21-22 November 2013, and assumes that only thereafter will further steps be taken.

4. In the Bundesrat's view, it is not appropriate to extend the coordination of Member States' economic policy, provided for under Article 2(3) and Article 5(1) TFEU, to national justice systems. While the Bundesrat agrees with the Commission that the structure of national justice systems has an impact on an economic location, it cannot accept the Commission's conclusion that justice is part of economic policy. The role of the 'third power' and its independence extend far beyond its importance for competitiveness and growth. The Bundesrat therefore considers it inappropriate to include the EU Justice Scoreboard in economic coordination instruments such as the European Semester.

5. The Bundesrat notes that the Commission used CEPJ data for the EU Justice Scoreboard. These surveys concentrate on statistical efficiency parameters, the uncommented use of which should be critically assessed. That the data provided by the Commission itself is not comparable, given the differences in the individual justice systems, and that the CEPEJ data survey period is every two years, in its view constitute further important reasons not to include the EU Justice Scoreboard in yearly economic policy coordination instruments such as the European Semester.
6. The Bundesrat asks the Federal Government to take its position into account in the Council negotiations on the future EU Justice Scoreboard. For the reasons set out above it must be ensured that the planned linking of economic governance and fiscal policy surveillance instruments does not take place. Care must also be taken to ensure that the EU Justice Scoreboard does not give rise to additional burdens for the justice system.
7. The Bundesrat is sending this opinion directly to the Commission.