

Translation

Bundesrat Decision 171/14

Date: 23 May 2014

Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions: The 2014 EU Justice Scoreboard

Ref.: COM (2014) 155 final; Council document 7910/14

At its 922nd Session on Friday 23 May 2014, pursuant to 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* refers to its opinion concerning the 2013 Justice Scoreboard, BR document 244/13 (Decision), and reiterates in principle the objections it expressed in that opinion regarding publication of the 2014 EU Justice Scoreboard, COM (2014) 155 final;
2. The *Bundesrat* still has concerns as to whether the EU Justice Scoreboard project takes due account of the distribution of powers and responsibilities between the EU and the Member States.
3. Moreover, the *Bundesrat* is particularly critical of including the EU Justice Scoreboard in the European Semester. One reason against its inclusion is that the particular role of the judiciary and its independence goes far beyond its importance for a competitive economy. Another is that linking the EU Justice Scoreboard, which is in itself non-binding, with the European Semester is tantamount to actually giving it advance effect.
4. The *Bundesrat* recognises that the methods of the 2014 EU Justice Scoreboard have been improved in part as compared with the 2013 Scoreboard. For example, a clear effort has been made in Figures 11 and 12 to use comparable data for comparisons between the length of proceedings in cases involving competition law and consumer law.
5. The *Bundesrat* also welcomes the fact that the 2014 EU Justice Scoreboard contains more explanatory references (using asterisks) to differences in the individual legal systems or uncertainties regarding data.
6. However, this fails to remedy the lack of comparability of data in the 2014 EU Justice Scoreboard, leading, in the *Bundesrat*'s opinion, to incorrect assessments.

The EU Justice Scoreboard does not, for example, take into account that, in Germany, European law is already included in both university law courses and traineeships in the legal profession. Moreover, in all German *Länder*, issues of European law are also covered in specialised further training on civil, criminal or public law matters. In addition, employees in the judiciary are allowed to attend training provided by the German Judges' Academy on special aspects of European law. There is not enough appreciation of the major reasons why compulsory further training for judges in Germany is only limited, inter alia due to the independence of judges. If these reasons are not taken into account, Figures 22 and 23 give a distorted picture and the comparison is not valid.

The 2014 EU Justice Scoreboard also fails to take account of the different procedural principles of administrative jurisdiction in the Member States. For example, applicability of the principle of

ex proprio motu investigation varies, as does the depth of examination. This also makes it difficult to reliably compare the length of proceedings indicated.

7. The *Bundesrat* asks the German Federal Government to take account of its position in the negotiations in the Council, and to ensure that the EU Justice Scoreboard does not result in any additional work for the judiciary.

The *Bundesrat* will forward this opinion directly to the Commission.