



EUROPEAN COMMISSION

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C(2017) 6450 final*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion concerning the 2017 EU Justice Scoreboard {COM(2017) 167 final}.

The EU Justice Scoreboard is an information tool which contributes to promote the rule of law by helping Member States to improve, where necessary, the effectiveness of their justice system. At a time when a number of Member States are taking measures to adapt or reform their justice systems, the EU Justice Scoreboard helps them to learn from each other.

The Commission welcomes the Bundesrat's continuous emphasis on the EU Justice Scoreboard and appreciates its specific comments. The detailed work that the Bundesrat has undertaken constitutes an important contribution to the open dialogue with Member States on how the European Union can contribute to the improvement of national justice systems, which is one of the objectives of the EU Justice Scoreboard.

The Commission will take the specific comments expressed by the Bundesrat in its Opinion into account as it continues to refine its approach in future Scoreboards. The Commission is pleased to note that the Bundesrat shares its view that effective justice systems are a precondition for the rule of law and legal certainty. In that respect, the Commission recalls its commitment to uphold the rule of law which is one of the fundamental values upon which the Union is based.

The Commission also recalls that the comparative overview provided by the EU Justice Scoreboard is complemented by deeper country-specific assessments, carried out in bilateral dialogue with national authorities in the context of the European Semester.

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President of the Bundesrat
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These country-specific assessments make it possible to take into account the particularities of a legal system and the context of the concerned Member State.

In response to the more technical comments in the Opinion the Commission would like to refer the Bundesrat to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing the dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Věra Jourová
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Bundesrat in its Opinion and is pleased to offer the following clarifications:

With regard to the complexity of figures 56, 57, 59 and 60, the Commission would like to stress that the objective of these figures is to provide an overview of structural safeguards relating to judicial independence. Figures 56 and 57 supplement figures 59 and 60 which were contained in previous editions of the EU Justice Scoreboard. The design of these figures aims to provide a good balance between the need to remain simple for the reader while being comprehensive in covering a complex subject matter. The Commission will consider how far, based on the Bundesrat's comments, the readability of these figures can be further improved.

As regards the Bundesrat's view on a possible shortage of reliable data, in particular referring to the specific areas of law, the Commission would like to stress that the data concerning these specific areas of law reflect the amount of actual cases, including in the figure on provisional measures, and therefore provide a robust overview of the reality of the functioning of the national justice system in these areas. The fact that a low number of cases in one year may have an impact on the overall average is recognised in the footnotes (see the footnotes to figures 13, 14, 15, and 16).

The Bundesrat states that the effective prosecution of money laundering can indirectly benefit investment, business and the general public. It also considers that by adding the figure on money laundering crimes the Commission would engage in a general comparison of justice systems. The Commission would like to remind the Bundesrat that the EU Justice Scoreboard is not meant to provide a general comparison of justice systems. Figure 19 is clearly focussing on the average length of first instance court cases relating to money laundering criminal offences. As recognised in more general terms by the Bundesrat, the effective prosecution in this area of EU law is important not only for contributing to the fight against crime but also for the soundness, integrity and stability of the financial sector, the confidence in the financial system and fair competition in the single market. As regards the Bundesrat's concern regarding the data gap, the Commission agrees that there is still certain data missing, including data for Germany. As the Anti-Money Laundering Directive obliges Member States to provide the relevant data in this area, the Commission is confident it will be able to further reduce this data gap in the future.

In relation to the appropriateness of certain individual indicators to demonstrate the efficiency of justice systems, the Commission would like to recall that indicators should be looked at jointly to provide a clear picture. The methodology applied in the general efficiency part (§3.1.1.) of the EU Justice Scoreboard is the same as the one for the European Commission for the Efficiency of Justice (CEPEJ) data collection exercise in which Germany has participated for more than ten years.

Concerning the tables on standards, in particular figure 47, the Bundesrat is of the view that the selection of standards would not duly take into account the different legal traditions and the complexity of judicial disputes. The Commission would like to recall that this figure only intends to factually examine the practices in Member States in this area. It appears that most Member States are using standards on timing. However, it is up to each Member State to decide to use such standards. As for all indicators provided in the EU Justice Scoreboard, the results in table 47 should not be seen as standing alone but they should be read in context with other indicators contained in the EU Justice Scoreboard. For Member States considering the introduction of standards, this information may be useful in their own reflections.

The Bundesrat also raises a point in relation to the number of indicators covered in table 30 on promotion and incentives for alternative dispute resolution. The objective of this figure is to show the efforts engaged in Member States to promote the use of voluntary alternative dispute resolution methods. For this reason, the figure has to take into account the various promotion methods used by Member States. The Commission is ready to further improve the informative value of this table in cooperation with Member States and stakeholders.

The Bundesrat takes the view that it is hard to judge the extent to which the improvement in justice systems over the past five years of the existence of the EU Justice Scoreboard has been prompted by the EU Justice Scoreboard. The Commission would like to recall that the EU Justice Scoreboard is part of a wider policy aiming to encourage Member States to improve the effectiveness of their justice systems, in particular through the country specific monitoring carried out every year in the context of the European Semester, the country specific recommendations addressed by the Council in that context, the support of justice reforms through the European Structural and Investment Funds in 14 Member States and the exchange of good practices on justice reforms. The Commission considers that these tools help Member States in their efforts to carry out the appropriate justice reforms and have contributed to the progress presented in the EU Justice Scoreboard.

The Bundesrat proposes that the Commission should undertake further efforts to improve the presentation of objective, reliable and comparable data. As illustrated by the evolution of the EU Justice Scoreboard, the Commission has welcomed ideas from Member States and other stakeholders on how the presentation can be further improved.

Finally, the Bundesrat proposes that the Commission uses more of its own resources for the review and validation of the data. The Commission reminds the Bundesrat that the EU Justice Scoreboard uses different data sources which are subject to their own quality and validation processes. Most of the data are provided and validated by the relevant national authorities, either by the judiciaries themselves (e.g. Supreme Courts or

Councils for the Judiciary) or by the Ministries of Justice. As regards the Bundesrat's reference to a lack of comparative legal definitions, it may be noted that the underlying definitions are in great part based on common definitions agreed by the relevant sources, including by CEPEJ. The Commission has drawn the attention of the CEPEJ secretariat on the importance of this issue.