



EUROPEAN COMMISSION

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*Dr Dietmar WOIDKE
President of the Bundesrat
Leipziger Straße 3 - 4
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Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the 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 2019 EU Justice Scoreboard” {COM(2019) 198 final}.

The Commission welcomes that the Bundesrat continues to give attention to the EU Justice Scoreboard and appreciates the specific comments expressed in its Opinion.

The Commission is pleased to note that the Bundesrat continues to share the Commission’s view that independent and efficient justice systems are indispensable for the rule of law. Upholding the rule of law is essential to guarantee fundamental rights and values, to ensure the uniform application of EU law, and to support an investment-friendly business environment.

On 17 July 2019, the Commission adopted a Communication on “Strengthening the rule of law within the Union – a blueprint for action”¹, which sets out a number of concrete actions for promoting a common rule of law rule culture, preventing rule of law problems, and responding effectively to breaches of the rule of law. In particular, the Commission decided to set up a Rule of Law Review Cycle, which will include an annual Rule of Law Report. This report will provide a synthesis of significant rule of law-related developments in all Member States and at EU level and will be based on all relevant sources, including the EU Justice Scoreboard. The Commission could further develop the EU Justice Scoreboard to better cover relevant rule of law-related areas.

The Commission appreciates the concrete proposals by the Bundesrat, which aim at improving the readability and the informative value of the EU Justice Scoreboard. The EU Justice Scoreboard is an evolving tool and the Commission is constantly striving to

¹ COM(2019) 343 final.

improve it. As the Bundesrat recognises in its Opinion, progress has already been made in this regard, with a notable reduction of the number of charts in the 2019 EU Justice Scoreboard compared to the 2018 edition.

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,

*Maroš Šefčovič
Vice-President*

*Didier Reynders
Member of the Commission*

Annex

The Commission welcomes the assessment of the 2019 EU Justice Scoreboard carried out by the Bundesrat. The detailed work that the Bundesrat has undertaken constitutes an important contribution to the open dialogue with Member States on the improvement of national justice systems, which is one of the objectives of the EU Justice Scoreboard.

As regards the points to which the Bundesrat has drawn the Commission's particular attention, the Commission would like to make the following comments:

In its Opinion, the Bundesrat reiterates its view on an alleged fragmentation of the EU Justice Scoreboard, with sometimes overly complex graphics and very long footnotes. The Commission appreciates the Bundesrat's proposals to contribute to further improving the readability of the EU Justice Scoreboard. The Commission would like to recall that the footnotes serve to complement the charts and provide further explanations to better reflect the specificities of national justice systems. They are closely coordinated with the Member States' authorities, either with members of the group of contact persons on national justice systems or the representatives of the judicial authorities, depending on the source of data, to best reflect the different national situations, while at the same time keeping the charts as clear and comprehensive as possible. The fact that some graphs may appear complex may also be a consequence of merging previously separated graphs in order to follow the demand to have less graphs in the EU Justice Scoreboard. As the Bundesrat notes positively in its Opinion, there has already been a notable reduction of the number of charts in the 2019 EU Justice Scoreboard compared to the 2018 edition. However, as the Commission continuously tries to improve the EU Justice Scoreboard, it is ready to continue reflections with the Member States on how to further improve its readability.

The Bundesrat is of the opinion that the EU Justice Scoreboard should concentrate more on certain key issues. It notes that the 2019 Scoreboard takes a stronger focus on the independence of the judiciary, but considers that further streamlining is possible, naming figure 1 as an example for a chart that could be removed. The Bundesrat also considers that when designing questionnaires, the availability of valid data for all Member States as well as the comparability of national justice systems need to be considered. The Commission agrees with the Bundesrat that the availability of valid data is a key consideration when designing the questionnaires for the EU Justice Scoreboard. The EU Justice Scoreboard does not promote any particular type of justice system. The effectiveness of justice systems is composed of three main elements: the efficiency and the quality of the justice systems as well as the independence of the judiciary. Consequently, the EU Justice Scoreboard aims at providing comparable valid data on indicators related to all three elements. As concerns figure 1, it should not be understood as evaluating the quality of the measures adopted or announced. It only intends to give a factual overview of the 'who does what'. A qualitative assessment of reforms undertaken by a Member State may rather be carried out in the context of the country specific reports of the European Semester, which allow for specific evaluation of reforms carried out in individual Member States.

The Bundesrat also takes a more sceptical view regarding the possibility to further develop the EU Justice Scoreboard as a tool for monitoring the situation of the rule of law in Member States. As mentioned above, in its Communication “Strengthening the rule of law within the Union – a blueprint for action”, the Commission has announced its decision to set up a Rule of Law Review Cycle, including an Annual Rule of Law Report. For this purpose, it will draw on all relevant sources, including on the EU Justice Scoreboard, as a part of the EU’s rule of law toolbox. In this Communication, the Commission has also announced that it will further develop and improve the EU Justice Scoreboard, including to better cover relevant rule of law related areas, such as in criminal and administrative justice. The Member States, through the group of contact persons on national justice systems, will of course remain closely associated to the preparation of the EU Justice Scoreboard.

In its Opinion, the Bundesrat also takes the view that certain charts in the EU Justice Scoreboard appear to constitute a ranking and refers to chart 24, which provides information on standards on information about case progress. The Bundesrat specifically considers that the focus should only be on ensuring access to information, not how many different methods are available. The Commission, to meet these concerns, has already been in discussion with Member States about improving this specific chart in the process of collecting information for the 2020 EU Justice Scoreboard. Concretely, the Commission has suggested adjustments to the weighting of different options in line with the respective degree of access to information they provide, which should alleviate the concerns raised by the Bundesrat.

As regards the Bundesrat’s critical approach in view of further extending the EU Justice Scoreboard in sensitive areas such as criminal justice, the Commission is aware of the sensitivity of this issue. It would like to recall, however, that the effectiveness of national justice systems is key for the implementation of EU law. This applies just as much for civil law resulting from EU law as it does for criminal law or any other area of law following from EU law. Data on the functioning of the criminal justice system is also very relevant for assessing the investment and business environment. The effective fight against money laundering, for example, is crucial in protecting the financial system and ensuring fair competition.

The Bundesrat is in favour of organising the data collection for the EU Justice Scoreboard in a cycle of two years or more. It considers that there are few changes on a year to year basis so that this would be sufficient to show long-term developments in judicial systems and this would serve to reduce the burden of data collection on Member States, in particular federal states. The Commission is aware of the workload caused by filling in the questionnaires and it takes this opportunity to thank the Länder for their very valuable contribution to this important exercise. At the same time, the Commission would like to recall that the EU Justice Scoreboard is linked to the European Semester, the European Union’s annual cycle of economic policy coordination. It will also provide comparative information for the Commission’s forthcoming Annual Rule of Law Reports. Therefore, annual data collection is indispensable. In addition, the Commission would like to note that the EU Justice Scoreboard uses various sources of information. By

distributing questionnaires to various sources, the Commission aims to reduce the workload for each individual source and to ensure that the EU Justice Scoreboard does not constitute an undue burden for the judiciary. It should be noted in this regard, that in 2019, in order to allow more time for response, the Council of Europe European Commission for the efficiency of justice (CEPEJ) questionnaire that will provide data for the next EU Justice Scoreboard, was launched three months earlier than previously. The methodology for the Scoreboard has been further developed in close cooperation with the group of contact persons on national justice systems. The Commission is looking forward to continuing this cooperation, including with the objective to reduce the work based on the questionnaires.