



NACIONALINĖ TEISMŲ ADMINISTRACIJA

Biudžetinė įstaiga, L. Sapiegos g. 15, LT-10312 Vilnius, tel. (8 5) 268 5186, faks. (8 5) 268 5187, el. p. info@teismai.lt.
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Teisėjų tarybai

2018-04-13 Nr. 4R-591-(1.17)

DĖL BENDRADARBIAVIMO GALIMYBIŲ SU TURKIJOS RESPUBLIKOS AUKŠČIAUSIAJA TEISĖJŲ IR PROKURORŲ TARYBA

Nacionalinė teismų administracija informuoja, kad Teisėjų tarybos pirmininkas yra gavęs Turkijos aukščiausiosios teisėjų ir prokurorų tarybos l.e.p. pirmininko laišką, kuriame reiškiamas suinteresuotumas dvišaliu Lietuvos ir Turkijos institucijų bendradarbiavimu bei pateikiamas prašymas š. m. gegužės mėnesį priimti Turkijos delegaciją Lietuvoje. Laiško kopija anglų kalba pridedama.

Atsižvelgiant į tai, kad Mokymų ir tarptautinių ryšių komiteto nariai galimą atsakymo Turkijos atstovams projektą siūlė aptarti Teisėjų tarybos posėdyje, NTA teikia informaciją, kuri gali būti naudinga Tarybos nariams formuojant poziciją dėl Turkijos prašymo.

Dvišalis Lietuvos –Turkijos tarybų bendradarbiavimas

2013 metų rugsėjo 10-14 d.d. Lietuvoje lankėsi penkių Turkijos Aukščiausiosios teisėjų ir prokurorų tarybos bei teisingumo akademijos atstovų delegacija. Po vizito, 2013 m. gruodžio 2 d., Lietuvos Teisėjų tarybos pirmininkas G. Kryževičius kartu su padėkos laišku gavo Turkijos Aukščiausiosios teisėjų ir prokurorų tarybos kvietimą stiprinti institucijų bendradarbiavimą ir dvišalius santykius įforminti pasirašant bendradarbiavimo protokolą.

2015 balandžio 13-16 d.d. įvyko atsakomasis Lietuvos Teisėjų tarybos vizitas į Turkiją, į kurį vyko tarybos nariai: N. Meilutis, E. Laužikas, A. Gaižutienė, L. Garnelienė bei NTA direktorė R.Molienė. Šio vizito metu su sutarta artimiausioje ateityje pasirašyti Lietuvos ir Turkijos supratimo memorandumą, kuriame būtų apibrėžtos dviejų šalių bendradarbiavimo sritys ir apimtys. Turkijos Tarybos atstovų vizitas buvo numatytas 2016 m. rugpjūčio pabaigoje, tačiau dėl 2016 m. liepos 15 d. nepavykusio karinio perversmo, šis vizitas neįvyko. Turkijos delegacijos vizitą atidėti rekomendavo Užsienio reikalų ministerija. Tokiam pasiūlymui pritarė ir Teisėjų taryba. Atitinkamai, apie tai, kad vizitas atidedamas neapibrėžtam laikui buvo informuota Turkijos pusė.

Europos teisėjų tarybų tinklo pozicija Turkijos atžvilgiu

Europos teisėjų tarybų tinklas (toliau – ETTT), kuriam priklauso Lietuvos teisėjų taryba, 2016 m. gruodžio mėn. Hagoje vykusios neeilinės Generalinės asamblėjos metu vienbalsiai pritarė Turkijos stebėtojo statuso šiame tinkle suspendavimui, kadangi Turkija nebegali užtikrinti teisėjų ir prokurorų nepriklausomumo, nešališkumo ir nebeatitinka šio tinklo narėms keliamų standartų.



LIETUVOS
TEISMAI



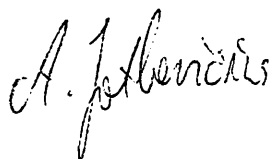
2017 m. birželio mėn. ETTT Generalinės asamblėjos priimtoje Paryžiaus deklaracijoje taip pat minima, jog jokių teigiamų poslinkių nuo 2016 m. gruodžio mėnesio, kai buvo suspenduotas Turkijos aukščiausiosios teisėjų ir prokurorų tarybos stebėtojo statusas tinkle, neįvyko. Deklaracijoje taip pat reiškiamas visų tinklo narių solidarumas su Turkijoje persekiojamais bei atleistais teisėjais ir prokurorais bei reikalaujama atviro, teisingo bei nešališko teisminio proceso įkaltintų teisėjų ir prokurorų atžvilgiu.

Europos Komisijos projektai Turkijoje

Pagal Europos Sąjungos finansuojamą ir paskelbtą kvietimą Dvynių projektams Turkijoje (a call for proposals under the Instrument for Pre-Accession Assistance (IPA) 2014 (Indirect management) TR 14 IPA JH 08 17 Improving the Effectiveness of the Administrative Judiciary (PROSPECT reference code 158826)) Lietuvos vyriausiasis administracinis teismas kartu su Lietuvos teisės institutu, Vilniaus universiteto Teisės fakultetu bei Centrine projektų valdymo agentūra yra pateikę projektinį pasiūlymą, kurio nugalėtojai turėtų būti paskelbti gegužės pradžioje.

Atsižvelgiant į aukščiau išdėstytą informaciją bei ypač turint omenyje, kad Lietuvos Teisėjų taryba pretenduoja tapti šio tinklo Vykdamosios valdybos nare, Nacionalinės teismų administracijos nuomone, atsakymas Turkijos tarybai turėtų būti formuluojamas laikantis nuoseklios ETTT ir Lietuvos teisėjų tarybos pozicijos, kuri buvo išreikšta Hagos neeilinėje Generalinėje asamblėjoje 2016 m. bei įtvirtinta 2017 m. Paryžiaus deklaracijoje. Tai reikštų, kad dvišalis Teisėjų tarybų bendradarbiavimas aukščiausiuoju lygiu nėra rekomenduotinas, tačiau ši rekomendacija netaikytina atskirų teismų ar Teismų savivaldos institucijų atžvilgiu.

Direktoriaus pavaduotojas,
atliekantis direktoriaus funkcijas



Antanas Jatkevičius

Aušra Bernotienė, tel. (8 5) 210 7325, el. p. ausra.bernotiene@teismai.lt

(originalas siunčiamas nebus)



JUDICIAL COUNCIL OF THE REPUBLIC OF LITHUANIA

15 L. Sapiegos St., LT-10312 Vilnius, Lithuania, ph. +370 251 4188, fax. +370 268 5187

2018-04- No.

Mr. Mehmet Yilmaz
Acting President
Council of Judges and Prosecutors of Turkey
burcusinoplu@gmail.com

PROJEKTAS

Honourable Mr. Mehmet Yilmaz,

On behalf of the Judicial Council of Lithuania let me express our sincere appreciation for your willingness in continuation of bilateral cooperation between the Lithuanian and Turkish judicial councils. Moreover, we are very delighted because of your interest in the Lithuanian judicial system and our experience in the area of judicial ethics.

However, please be informed that this year Lithuania celebrates a Centenary of the Restoration of the State as well as a Centenary of Lithuanian Courts. Within this context we would like to inform that the schedule of the Judicial Council for the year 2018 is fully booked and with the regret we should state that the Judicial Council of Lithuania is unable to accept your delegation due to its prior commitments.

With all due respect let me suggest that potential dates for the visit of Turkish delegation to Lithuania might be discussed between the representatives of our institutions in the beginning of next year.

Yours sincerely,

Rimvydas Norkus
Chairperson of the Judicial Council of the Republic of Lithuania



European Network of Councils for the Judiciary (ENCJ)

Réseau européen des Conseils de la Justice (RECJ)

THE PARIS DECLARATION On resilient justice

**The Members of the European Network of Councils for the Judiciary gathered in PARIS between 7th and 9th June 2017
HEREBY DECLARE that:**

1. There is a strong need for resilient justice systems which can withstand external pressure whilst at the same time having the ability to adjust to the changing needs of society.
2. The outcomes of ENCJ's activities and developments across Europe show that these are challenging times for justice systems throughout Europe and, specifically, the judiciaries which operate within those systems. Respect for fair and impartial courts, as the key components of an independent judiciary, is being challenged in a number of countries. The Judiciaries will have to stand together to emphasise the role and position of the Judiciary. Councils for the Judiciary have a pivotal role in this regard.
3. The application of the ENCJ Independence and Accountability indicators show that there is still room for improvement in this field. The perspective of court users is largely lacking, whilst the perception of corruption persists. Funding of the judiciary is generally not well arranged, and judiciaries are dependent on discretionary decisions by governments. Court management is still often in the hands - directly or indirectly - of Ministries of Justice. On a more positive note, judges are generally positive about their independence and in nearly all countries trust in the judiciary is higher than trust in the other state powers.
4. The 2016/2017 ENCJ survey among judges shows that, on average, judges rated their own independence as being 8.9 out of 10 and the independence of judges generally in their own country as being 8.3. The survey also revealed a number of other important issues. These included: a perception by judges across Europe that judges have been appointed and/or promoted on grounds other than on capacity and experience; a perception that judicial independence is not adequately respected by other state institutions; a perception that judges are under pressure from a media which similarly does not respect their independence; and, finally, a perception on the part of substantial number of judges that their Council lacks appropriate mechanisms and procedures to defend judicial independence effectively.
5. The ENCJ considers that it is important that Councils for the Judiciary should take action to address the issues which have been identified in order to strengthen and maintain the Rule of Law, in particular by providing support for judicial independence, accountability and the quality of the judiciary. They will strive to ensure the maintenance of an open and transparent system of justice for the benefit of all.

6. First, it is essential that judiciaries have appropriate structures of governance in the form of Councils for the Judiciary.

7. Second, Councils for the Judiciary should support any judiciary which is under attack and do all they can to persuade the executive and legislature to support the action which they are taking in this regard.

8. Third, in any democratic state it is essential that there is a proper and informed understanding of the respective roles and responsibilities of each of the branches of the state and the need for them to work together in an effective and mutually respectful manner.

9. Fourth, Councils for the Judiciary should encourage the promotion of high quality performance of all aspects of the work of the judiciary.

10. Fifth, the judiciary should take action to ensure that the general public understands the central importance of justice to democracy and to the wellbeing and prosperity of the state. This can be achieved by education and outreach initiatives.

11. Sixth, the judiciary should adopt a focused communication strategy to engage pro-actively with the media and the public.

12. Two other important matters must be mentioned.

- In December 2016, the ENCJ suspended the observer status of the Turkish High Council for Judges and Prosecutors for non-compliance with European Standards and the ENCJ Statutes that require that institutions are independent of the executive and legislature and ensure the final responsibility for the support of the judiciary in the independent delivery of justice. Since then no positive change has been reported. The ENCJ wishes to express its solidarity with the dismissed judges and prosecutors of Turkey and calls for a speedy open, fair and impartial judicial process for the detained judges and prosecutors.
- The developments and planned judicial reform in Poland continue to raise serious concern as they could seriously endanger the separation of powers which is vital to the maintenance of the Rule of Law. The ENCJ reiterates that a key requirement for maintaining and enhancing mutual trust between judicial authorities in the EU, as a basis for mutual recognition, is the independence, quality and efficiency of each of the judicial systems and respect in every state for the Rule of Law.

In the circumstances, the European Network of Councils for the Judiciary CALLS upon the EUROPEAN INSTITUTIONS and MEMBER STATES to guarantee judicial independence in accordance with the Rule of Law, and, furthermore, CALLS upon Councils for the Judiciary and Judges at all times to be resilient in the face of the challenges which face them.

Adopted in Paris, 9 June 2017



European Network of Councils for the Judiciary (ENCJ)

Mr Mehmet Yilmaz
Acting President of the HSYK
Mevlana Bulvari Eniyet Mahallesi 36
Besevier
Ankara
Turkey

The Hague, 8 December 2016

Dear Mr Yilmaz,

The ENCJ unites the national institutions in the Member States of the European Union which are independent of the executive and legislature, and which are responsible for the support of the Judiciaries in the independent delivery of justice. It aims to improve cooperation between, and good mutual understanding amongst, the Councils for the Judiciary and the members of the Judiciary of the European Union (or candidate) Member States.

It is a condition of membership, and for the status of observer, that institutions are independent of the executive and legislature and ensure the final responsibility for the support of the judiciary in the independent delivery of justice.

The ENCJ became concerned that the procedures adopted by the High Council for Judges and Prosecutors of Turkey (HSYK) indicated that this condition was no longer satisfied.

The ENCJ has been following developments in the judiciary in Turkey since 2014 and has expressed its concern both in its correspondence with the HSYK and publicly in the Declaration of the Hague (June 2015), the Declaration of Warsaw (June 2016) and more recently after the mass-suspension of judges and prosecutors and again following their dismissal.

We have given your institution ample opportunity to explain its actions. We have taken into account the Resolution of the General Assembly of 31st August and the explanations provided at the extraordinary General Assembly in the Hague on 8th December 2016.

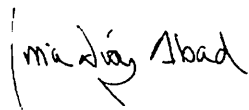
The ENCJ acknowledges the huge impact and subsequent national trauma caused by the events on 15th July 2016. Those responsible should be made accountable through an open, fair and impartial judicial process conforming with international standards.

It is no part of the function of the ENCJ to take a position on the internal political situation in Turkey. However, taking into account the failure of the HSYK to satisfy the ENCJ that its standards have been

complied with, the statements of the HSYK, as well as information from other sources including the reports and statements of the European Parliament, the European Commission, the Human Rights Commissioner of the Council of Europe and Human Rights Watch and the Venice Commission, the ENCJ decided that the actions and decisions of the HSYK, and therefore the HSYK as an institution cannot be seen to be in compliance with European Standards for Councils for the Judiciary. Therefore, the HSYK does not currently comply with the ENCJ Statutes and is no longer an institution which is independent of the executive and legislature ensuring the final responsibility for the support of the judiciary in the independent delivery of justice.

The General Assembly accordingly resolved to suspend, with no Council voting against, the observer status of the HSYK. Therefore, the HSYK is, for the time being, excluded from participation in ENCJ activities. The ENCJ is however open to staying in contact with the HSYK and is prepared to offer its assistance and guidance in setting out and compliance with the European Standards for Councils for the Judiciary.

Yours sincerely,

A handwritten signature in black ink, reading "Nuria Díaz Abad". The signature is written in a cursive, flowing style.

Nuria Díaz Abad
President of the ENCJ



22.03.2018, Ankara

Esteemed President of the Judicial Council of Lithuania,

Having had a new structure in consequence of the constitutional amendment that took place on 16 April 2017 in our country, the Council of Judges and Prosecutors (CJP) attributes great importance to international bilateral and multilateral cooperation works. While on the one hand CJP is in the search of new cooperation, on the other hand it makes an effort to continue its cooperations that it carried out during the previous periods and which it believes to be useful.

I am pleased to express that the equivalent judicial bodies of the Republic of Lithuania are among those to which we attach the greatest importance.

Within this context, I would like to state once again that we were honoured to host the Former President and Members of your Council in our country during an official study visit on 13-16 April 2015. Unfortunately, though, our plan to visit your Council on 29-31 August 2015 to strengthen the mutual relations had to be postponed to a later date with a request made by Turkish side.

It has come to our knowledge over the time that the new members of your Council have begun their terms of office after the election of November 2016. On this opportunity, we wish to visit your council to meet the new members of the Council, and to refresh and strengthen our mutual relations which had begun earlier in a sincere and friendly manner.

We consider that this visit will enable us to contact with other judicial bodies in your country, as well.

In addition, the code of ethics and professional conduct for judges and prosecutors, determined within the context of the Project called “Strengthening Judicial Ethics in Turkey”, which is co-financed by the European Union, the Republic of Turkey and the Council of Europe, will soon

enter into force. Before the put of the code into force, though, it is our wish to receive information from you regarding your experiences in judicial ethics in Lithuania as an example of good practice.

Within this framework, we kindly would like to arrange a study visit to your country between the dates which will best for you during the first or second two week of May to resume and strengthen the cooperation we had already commenced, to see on sight the functioning of the judicial system in Lithuania, to receive information regarding the existing applications on judicial ethics in Lithuania, and to exchange opinions regarding the judiciary in both countries.

Warmest regards,



Mehmet Yilmaz

The Acting President of the Council of Judges and Prosecutors