



**INTERNATIONAL ASSOCIATION OF JUDGES
UNION INTERNATIONALE DES MAGISTRATS
UNIÓN INTERNACIONAL DE MAGISTRADOS
INTERNATIONALE VEREINIGUNG DER RICHTER
UNIONE INTERNAZIONALE DEI MAGISTRATI**

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**European Association of Judges
Message from the IAJ President
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Thank you for the invitation to be present at this meeting of the European Association of Judges in such difficult times. It is, of course, a wonderful thing that technology has developed so far that we can be holding a meeting in which we are able to see each other in real time even though we cannot, indeed are not permitted, to be in the same room together.

It is human nature to take important things for granted. These are difficult times in which we have been reminded of many things we have taken for granted. We have taken for granted the freedom of movement we had before we developed the fear of catching an insidious virus that cannot be seen but causes so much destruction. We have taken for granted the many other freedoms which we have had before states of emergency were declared for the purpose of protecting us against unintended contamination that could possibly lead to the collapse of health systems and deaths. We have taken for granted the strengths in our economies, even those less strong than others, which have now all suffered dramatically through economic restrictions that will take a long time to rebuild. We have come to realise how important those things are which we have taken for granted because we have seen the horrible impact of this virus for which we presently have no cure. The stories of that impact will be told for a long time amongst family members as many continue to grieve. Some will grieve economic loss, some will grieve family loss, some will live with continual scars both physical and mental. I am overcome by a deep sadness every time I think of every lonely old person who has been forced to die alone, lonely and without family members. It is difficult to imagine just how horrible it must be to die alone knowing that someone who would like to be with the dying person, is just on the other side of a wall or a building.

The Rule of Law and an Independent Judiciary are also taken for granted. The importance they have in the circumstances of a pandemic is more subtle than the obvious aide given by health workers to a person needing assistance. But it is the Rule of Law and the Independence of a Judiciary that gives confidence to a community in the context of a pandemic with its restrictions. Restrictions are imposed and followed because the law allows them to be. They are followed voluntarily in substantial part because the people know that the rules are imposed lawfully and for their benefit. They know also that the rules can be enforced by an independent judiciary whose role, at least in part, is fundamentally to ensure that the rules are enforced in accordance with the Rule of Law and for the purpose for which they have been made.

The justice system has suffered much by the emergency measures that have been imposed through the pandemic. The judiciary, however, has continued to work as best it can in the difficult circumstances. Judges have been adaptable to those circumstances. Proceedings have taken place, where possible, in virtual platforms. But there may be many casualties. Some of the aspects fundamental to a judicial system have had to be compromised. The ability of the public to see justice being done has been curtail. The speed at which justice has been done has slowed down, leaving injustice unresolved for longer.

As restrictions ease, however, we also return to that part of our world which has not improved. We should not forget that before the declaration of the pandemic, and before the declaration of any of the emergency measures, there were judiciaries within Europe, and elsewhere in the world, whose independence was seriously at risk. The Rule of Law in some places in Europe, and in other parts of the world, before the pandemic and the states of emergency, were also at risk and in need of support and defending. The effect of the pandemic, the declaration of the states of emergency, the diminution and restriction of the ability in which we all worked before those events will leave open occasions for the Rule of Law and the Independence of the Judiciary to be at risk after the pandemic has been resolved. We cannot think that we will all go back to where we were or, indeed, that we will be better off than we were before. The pandemic will give many occasions for some to maintain some of the restrictions which were imposed even when they are not strictly necessary. But even so, the threats to the Independence of the Judiciary and to the Rule of Law which were present before the restrictions will continue to be there afterwards and with, no doubt, renewed vigour.

There is always a tension between those who wish to restrict the Rule of Law and the Independence of the Judiciary on the one hand, and those who maintain its importance on the other hand. Some of the pressure to restrict the rule of law is understandable and flows from other things which have value such as efficiency and economic cost. That tension always requires that a balance needs to be struck so that the social good of efficiency and economy does not overwhelm the importance to society of its citizens being confident that what applies to them, their country and their family is rule by law and not rule by force or arbitrary power. It is fundamental to society to know that the Rule of Law is capable of enforcement through a judiciary which is independent from government or powerful interests whether that be direct or indirect. We must, therefore, always be vigilant to ensure that the fundamental core values of the Rule of Law and of an independent decision-making judiciary are maintained. That vigilance needs to be greater as we slowly emerge from the pandemic. We must emerge from it maintaining the centrality of the Rule of Law and the independence of judicial determination.

The Hon G T Pagone QC

President, International Association of Judges