

VILNIUS 28.10.21

Honourable Host,

Dear Colleagues,

It is my great honour and real privilege to speak in the name of European Association of Judges (EAJ) in the capacity of newly elected president of this organization which gathers 44 national associations of judges in Europe. EAJ is a part of great worldwide family of Associations of Judges - International Association of Judges (IAJ) which brings together 94 associations in the World from all five Continents to work together.

The International Association of Judges was founded in Salzburg in 1953.

It is a professional, non-political, international organisation, bringing together national associations of judges, not individual judges approved by the Central Council for admission to the Association.

EAJ has active role even in status of observer with Council of Europe (CCJE and CEPEJ, Conference of NGO-os) and with OSCE's (Special Representative for Combating Trafficking in Human Beings.)

In EU context EAJ participates in work and activities of Judicial Networks which consist of ENCJ, Network of Supreme Courts Presidents and ACA. Monthly meetings were established since September 2020.

EAJ is member in Expert Group on European Judicial Training - Academy of European Law (ERA)

EAJ cooperates with other judges' associations in Europe (MEDEL, JUDGES OF JUDGES, EAAJ) and those Associations formed a Platform for independent judiciary in Turkey, but also with CELLI Institute and European Lawyers Union.

Also worth mentioning is our participation with UNODC Judicial Integrity Network and Special UN Rapporteur for the Independence of Judges and Lawyers - Diego Garcia-Sayán.

The main aim of the Association is to safeguard the independence of the judiciary, which is essential for the principle of rule of law and for proper performance of the judicial function, guaranteeing human rights and freedoms.

IAJ Universal Charter of a Judge 2017 summarizes the necessities to establish independent judiciary and gives common judges' view on different issues on independence and states of judges.

Of course Councils for the Judiciary are an important and unavoidable topic of the Charter.

In Article 2.3 of the Charter it is said:

“In order to safeguard judicial independence a Council for the Judiciary, or another equivalent body, must be set up, save in countries where this independence is traditionally ensured by other means.

The Council for the Judiciary must be completely independent of other State powers.

It must be composed of a majority of judges elected by their peers, according to procedures ensuring their largest representation.

The Council for the Judiciary can have members who are not judges, in order to represent the variety of civil society. In order to avoid any suspicion, such members cannot be politicians. They must have the same qualifications in terms of integrity, independence, impartiality and skills of judges. No member of the Government or of the Parliament can be at the same time member of the Council for the Judiciary.

The Council for the Judiciary must be endowed with the largest powers in the fields of recruitment, training, appointment, promotion and discipline of judges.

It must be foreseen that the Council can be consulted by the other State powers on all possible questions concerning judicial status and ethics, as well as on all subjects regarding the annual budget of Justice and the allocation of resources to the courts, on the organisation, functioning and public image of judicial institutions.”

This is what IAJ and EAJ see as essential on role, functioning and position of Councils for judiciary. But foremost it has to be stressed once more; all those guarantees cannot be effective if Councils are not independent from other state powers. This independence must be of course embodied in the laws of highest strengths, but this is not enough. The body as a whole and each of its' member must be really independent, really free to decide in her/his best ability and knowledge. If this is not a case we are not speaking about Councils of Judiciary, as they are envisaged not only in IAJ Charter but in many many international standards.

The Consultative Council of European Judges (CCJE), for example, in its Opinion No 10 on the Councils for Judiciary very clearly identifies the general mission of such Council as “to protect the independence of the judiciary and the individual judge”

Not everywhere do Councils meet this central task.

In Poland politicians - among which most prominently was the deputy minister of justice - started a smear campaign against judges.

The Polish Council did not react on these attacks.

The Polish government refused to publish decisions of the Constitutional Court.

The Polish Council was silent.

The Polish parliament changed the disciplinary procedure against judges, established two new chambers of the Supreme Court with an increased influence of the executive power in the appointing of their members.

The Polish Council did not protest but in the opposite played its limited role in this destructive mission to undermine judicial independence.

And last but not least the Polish politics ignores and obstructs the implementation of judgments of the European Court.

And the Polish Council does not stand up against this final stab in the back of the judiciary but tries to argue in favour of such unbelievable developments.

Such performance of a Council does not meet the general mission as expressed by the CCJE.

It is also not what EAJ and its member associations, among which is the Polish judges association IUSTITIA, expect from a Council.

Judges and their brave struggle, their uproar, their resolutions and statements are not enough, institutions have to take their responsibility and act accordingly using all legal means to ensure same standards and same principles in all Europe.

At the end I can only repeat what EAJ stated in it's letter of support to "IUSTITIA" but also to all polish judges:

"The struggle of IUSTITIA is inspiration for all judges in Europe, and in line with, numerous statements, resolutions and opinions delivered by EAJ, EAJ stays alongside today and in days to come with Polish judges."

EAJ therefore is grateful to see that ENCJ is considering if a body which performs like the Polish Council can be seen as a Council for the judiciary.

Thank you ...