

## **The winter is coming?**

First of all, allow me to warmly congratulate OSCE for organizing such an impressive conference.

For me, personally, and especially for the organization I preside, the International Association of Judges, the biggest judge's association in the world comprising national associations of 94 countries, the topics in discussion summarize our primordial mission in public life: Democratic Institutions, Rule of Law, Fundamental Freedoms.

The countries belonging to the OSCE area are now on a crucial crossroad.

Either to align on the devastating trend of challenging established Principles created in the aftermath of the chaos of death and destruction inherited by the II World War due to the madness of monocratic policies or, instead, to affirm, decisively, a choice for the protection of human rights and liberal democracy.

Today, the choice is clearer than ever before: Rule of Law or Rule of Men; Rule of Law or Rule by Law.

In the worrisome world we are living, it is vital to claim that the Judiciary is a pivotal factor in the affirmation of fundamental rights guaranteeing its implementation.

Allow me to express it in a plain and simple language.

Enough of grandiloquent and innocuous statements of intentions while the world out there is a stage for an open disdain for basic rules like separation of powers and judicial independence, announcing a debacle of democracies.

Enough of toxic procedures for the appointment of judges based not in merit criteria but on political loyalty, guarantying a silent complicity while corruption and abuse of power proliferates.

Enough of the multiplication of attacks on independent judges, victims of arbitrary disciplinary procedures.

Enough of sanctions to judges that insist, in name of their fellow citizens, in defending Rule of Law being, many times, mistreated, expelled or even arrested by despotic authorities.

Enough of the existence of so-called Tribunals, some even named as Constitutional, designed not to guard the fundamental laws but only to shield the government of the day.

Democracy cannot be the tyranny of the majority; judges exist exactly to avoid that minorities are treated in an imbalanced manner – we are all equal under the Law.

A majority cannot turn what is wrong into right.

Judicial independence is not an open concept, to be reviewed or negotiated. It should not be readapted or re-evaluated. Let us avoid ambivalence when dealing with such an essential value.

As Cicero stated centuries ago: “more is lost by indecision than wrong decision. Indecision is the thief of opportunity.”

All countries must ensure that national courts exercise their judicial functions without being subject to any hierarchical constraint and without taking orders or instructions from any source whatsoever.

In an era of “fake news” propelled by social media, we need to ask ourselves what does, actually, means Human Rights?

A decorative piece, to comfort aesthetic eyes, or an efficient tool able to unlock what remains closed, to move forward when everything seems blocked.

There is a decisive distinction between a bibelot that embellishes an artificial version of the Rule of Law and a screwdriver that aims to be operative, efficient, effective.

Zygmunt Bauman warned that the solutions can never arise by the handling of magic wands; they require “a cold head, nerves of steel and a lot of courage: above all, we will need a truly long-term vision – and a lot of patience”.

The current crisis of Rule of Law constitutes an immense challenge for the new generations of jurists, for lawyers, for the legal professions. But also, a definitive test to all of those belonging to civil society.

A few days ago, the International Association of Judges held its General Assembly in Israel. An impressive gathering of national associations of 73 countries signified the biggest conference of public officers by the hosting country of the last 37 years.

Once again, we condemn the illegal invasion of a sovereign country showing our support to Ukrainian judges some of them attended the conference.

On a different context, the Presidential Committee also decided to deliver a special price, the Judicial Independence Award, to three judges, victims of populist autocracies.

The resounding words of one of those winners summarized the danger we are facing:

*“If societies do not wake up in time, they find themselves suddenly in a situation of enslavement. That is why the solidarity of people of good will is so important, the solidarity of those who believe that personal freedom of a human being is a value that cannot be sacrificed for autocracy.”*

But let me bring a more positive approach to the tribulations of the current times.

The phenomena of globalisation have undoubtedly triggered a promising multiplication of claims for rights of a supranational nature in different parts of the world;

in this particular context, regarding the judiciary, we witnessed what Antoine Garapon called “the mundialization of judges”.

This largescale dialogue of judges can take the most diverse forms ranging from the vertical relationship – in the case of the indispensable empowerment of supranational courts - to the horizontal affiliation based on an open and interdisciplinary cooperation and solidarity, helping judiciaries in grave risk.

Similarly, to the judiciary, other legal professions – particularly lawyers –, civil societies organizations, in general, must concur for a common pledge: to uphold the values consecrated in OSCE’s mission, guaranteeing fundamental freedoms.

Also, to actively confront those – too many, too close - that perceive these principles as decoration pieces, an ornament, to be disregarded on shelves, either cynically forgotten or, in fact, brutally persecuted.

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