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Ladies and gentlemen,

It gives me great pleasure to have been invited to address the European Network of Councils for the Judiciary General Assembly about the topic "Public confidence and the image of the judiciary" I thank you for inviting me to share from my expertise. But before we go deeper in the subject I have to warn you first. I'm not a guru who knows it all. If that's was the case the politicians who I worked for would have been prime minister of the Netherlands and all my business clients would become companies worth billions of euro's. Instead what I'm going to tell you today is not an exact science. It's debatable and works different for every member of the ENCJ.

But there are a set off common values in communication. Some values and methodes if conducted well could gain the trust and confidence of the public. And I hope I can give you some insight in those values today.

The Judiciary everywhere in Europe has the common mandate of administering justice and of being the custodian of constitutionalism and the rule of law.

And to do that (effectively) you could say that public trust is key

"Public confidence in the judiciary" is a term that is often used but scarcely defined. A lot of times you will hear the phrases independency or/ and transparency connected with it.

But it is still one of those concepts where everyone has a different view on.

Ladies and gentlemen,

Today I'm going to look at it from a communication standpoint with you. What does it takes to handle the public image of the judiciary. How do you regain the public trust and confidence of the people and keep it while at the same time making it stronger?

And how to reflect on those factors that help you build the image of a strong, independent, efficient and impartial Judiciary that then gains the confidence of the Public. And all off this in approximately 10 to 15 minutes...

There are factors that are external and where the judiciary doesn't have a lot or at least minimum influence on

for example:

- Political instability in a country. (Turkey)
- Political interference in the work of the Judiciary. (Poland)
- Serious budgetary constraints when not enough funds are voted for the Judiciary
- Appointments of competent judicial officers by politicians can also be a factor that affects the performance of the Judiciary and has a strong bearing on whether the public have confidence in you.

You as Judiciaries can challenge the mentioned external factors that may negatively impact your work. You can do that by speaking out when and where it is appropriate. Or make genuine demands for appropriate budgetary allocations.

And still you are very much dependent of external stakeholders to decide about this issues. As I worked for the Dutch minister of Finance I know for a fact you can ask your Dutch colleagues about the do's and don't of certain lobby proceses regarding funding and budgets.

But there are definitely also internal factors within the Judiciary that play a role

And the best way to improve the image and public confidence is by checking your own internal weaknesses. You must have a clear vision and mission as to what you want to achieve as a Judiciary.

But with all things that concern creating an image it's crucial that it matches with reality and the true identity of the judiciary organization. Therefore internal factors are key to the success of image building. The image has to be aligned with the identity.

(I always like to use sport quotes or metaphors in my presentations and speeches) So you could say gaining trust all starts with the phrase from probably the best American Football coach Bill Belichick of the New England Patriots: "Do your job!"

Because you can't sell something with communication if it's not true. Or at least I can't.. There seems to be somebody in the White House who's pretty good at that... But that's a whole different story.

For the Judiciary it starts with authority. And not the kind of authority that derives from your appointment, nomination or status. But the authority that derives from your accomplishments and that is given by you by the people.

That authority is earned by your achievement as Judges, and only after a continuous critical test by the citizens who are subjugated to your decisions. It's those citizens who give authority to the judiciary from below; So it is at the mercy of their acceptance.

In an increasingly open democracy that kind of authority gains more importance. The mythical 'natural' authority, which is based on "naive trust" and a certain degree of passive submission, loses ground and strength. You see it in all professions who used to have a high trust among the people like: politicians, journalists and now even judges

Ladies and Gentlemen

Among you there are probably a few who might think that's regrettable. But I think it's okay. That old form of authority was based on perception. Authority from below is much better. It's a form that can be strengthened, continued and, if necessary, restored. By handling cases in a smooth and capable way, by writing statements in clear language, by communicating with society instead of standing at an unbridgeable distance.

When you make mistakes, you can show that you as judges and as an organization care about it and that you will try to fix it. And transparently disciplining of errant officers will help build public confidence.

Confidence that has its basis in authority from below is therefore many times more sustainable and more valuable than trust derived from a form of mythical authority based on power. Authority from below has far more strength because you have earned it.

Of course, the position of a judge will always be conceived with a certain myth and the basis for some of the mistrust will never completely disappear. That's not bad, on the contrary, that also gives some kind of authority in my opinion. But you should continue with the shift that many of you have already made to the authority from below. And this also includes that you must not fear or deter any well founded criticism coming from society.

Ladies and gentlemen,

Does this mean you have to popularize the judiciary? And open everything up? Become public figures and make a "Kardashian style real life soap" of the judicial system? Off course not.

But it does mean you cannot hold on the old thinking of the 'naive' authority of the judge and that the people just will abide by it because you are a judge. Yes the mystic distance of a judge is useful. It creates a figure which you could look up to if the right trust and admiration is there. And to achieve that you have to start with building that trust.

Off course every organization, company or political party is different. And even the judiciary councils in Europe are very different. So there is no one size fits all.

But in the communication theory there is a lot of consensus on some basics. "Because whether they realize it or not, all great and inspiring leaders and organizations think, act and communicate in the same way... and it is the complete opposite from everyone else."

This is a quote is from Simon Sinek and he has developed the theory "Start with why" - Now I'm not going to pretend that I can present it better than him so I'm not even going to try it. Therefore I will just show a little clip of his TED Talk he held a couple of years ago in the Netherlands

(clip)

He goes on with why it resonates so strong with our brain. And how to communicate from the inside-out and speak directly to the part of the brain that control emotions, behavior and decision-making.

Some of you might think. Ok this is quite commercial/ PR stuff and will this also work for the Judiciary. We have to stick to the legal facts and just pronounce the verdicts and apply the rule of law.

But that's the whole point of the 'start with why' theory. Before people can hear the facts they have to resonate with you. Like I said at the beginning it's not an exact science. But I'm a firm believer of "Starting with Why" when you communicate to the people.

If you look at all the successful politicians or companies they all communicate a set of basic values before they communicate the hard policy or try to sell their product. (Apple, Macron, Obama and even Trump)

So rounding off and coming to my conclusion.

You all have traditional communication tools like websites and press releases. But also try to think outside the box. Think about messaging and framing what kind of words you use.

For instance use far more common language, especially in verdicts. Make sure you don't have to be a legal scholar to understand the verdicts and decisions.

Don't be afraid to use social media (in the right way). It is a direct way to communicate unfiltered with the people. I said in the right way because judges, like everyone else, should be mindful of the information they post online for ethical as safety reasons. Of course you could have lengthy protocols but the best remedy is just common sense. And when in doubt don't post it or at least let somebody else read it first. It could save you a lot of trouble.... And afterwards you don't have to come up with the excuse: "I've been hacked"

Try to literally open the doors of the court. In the Netherlands and probably other countries as well, there is a day when everyone can take a look at the court and where people can experience the day to day practices in court. Among other things there will be an reenactment of a session in court. And people can get a tour through the courthouse and the judges chambers.

So If you achieve transparency and accountability

Does that mean that there won't be mistrust? - no

Does that mean that the people from now on will believe everything that you do? - no

Does communication make all your troubles go away? - no

But it will enable a basis for trust and will help you to achieve that high standard of authority from below that naturally belongs to a judge.

And with all that said I would like to end with a suitable quote from the American justice Louis Brandeis: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."

So in my own words: Don't be afraid of the light!

Thank you very much