



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

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It is a great honour for me to address you at this Congress of Polish Lawyers.

The principal objectives of the ENCJ are the improvement of cooperation between Councils for the Judiciary and the members of the Judiciary and the promotion of best practices to enable the judiciary to deliver timely, effective and quality justice for the benefit of all citizens.

Over the last 13 years, the ENCJ has laid down a whole series of standards, best practices and guidelines in every area of judicial activity: appointment, promotion, evaluation of judges, judicial ethics, judicial discipline, and the establishment of Councils for the Judiciary to name but a few. Regarding the election of the judicial members of a Council for the Judiciary the standard of ENCJ is that they have to be elected by their peers. I would also like to point out that in our report on judicial ethics we have established that judges have to speak out when democracy and fundamental freedoms are in peril.

We have been following the developments in Poland with growing concern. The ENCJ held its General Assembly last June in Warsaw and was duly informed about the situation by the National Council of the Judiciary and various other stakeholders. In this General Assembly we adopted the Warsaw declaration in which it stated that: *“In relation to the developing situation in Poland, the ENCJ emphasizes the importance of the executive respecting the independence of the judiciary, and only undertaking reforms to the justice system after meaningful consultation with the Council for the Judiciary and the judges themselves. The ENCJ will continue to monitor developments in (...) Poland to ensure that the core principles underlying the independence of the judiciary are respected.”*

Since 2012, the ENCJ runs a system whereby it could provide assistance to Councils for the Judiciary in the implementation of its recommendations, guidelines and standards, and in solving problems. On 30th January 2017 the ENCJ Executive Board adopted an opinion upon the request of the Polish KRS. The opinion deals with the draft laws that the Minister of Justice of Poland sent to the KRS for their views and sets out European and ENCJ Standards in the justice field. In particular the opinion deals with need to involve the Council for the Judiciary in the judicial reform, with the preliminary termination of the mandate of Judicial Council members and the composition and election process of members of Judicial Councils and with the role of the Minister of Justice in the selection and appointment of judges. Regarding the comparison with the appointment of the members of the Spanish Council for the Judiciary I would like to stress that there is only one chamber in my Council, composed by the President and 20 members, eight of them elected by the Parliament among different

legal professionals with more than 15 years experience and 12 of them elected among judges by the Parliament on the basis of candidatures introduced either by a judicial association or by judges themselves supported by at least 25 other judges. The Parliament has to choose among these candidatures. In the last election there were more than 50 of them. The election in both cases (lay and judicial members) is by 3/5 majority.

In the communication on the establishment of a EU framework to strengthen the Rule of Law, which is now applied by the European Commission in relation to Poland, the ENCJ is mentioned as one of the organizations that might be consulted in order to advice the European Commission. In line with this Communication, the ENCJ, along with the Network of Presidents of the Supreme Courts of the EU and the Association of Councils of State and Supreme Administrative Jurisdictions (ACA-Europe), participated in a meeting last 9th March with the First Vice-President of the European Commission, Mr. Timmermans, to analyze the situation of the Judiciary in Poland. The networks expressed their solidarity with the Polish judicial authorities and offered their support to the European Commission in its efforts to uphold the Rule of Law and to promote fair and impartial courts for the benefit of all.

On the day that the European Union was celebrating the 60th anniversary of the signing of the Treaties of Rome, the ENCJ made a statement to reiterate that the rule of law is at the core of the European Union and that it is one of the fundamental values upon which the EU is founded, together with democracy and fundamental rights. To uphold and protect the rule of law is a responsibility for both the judiciary and other state powers. The ENCJ called on the Member States to respect fair and impartial courts, as the key institutions of an independent judiciary. For the effective implementation of the rule of law, independent and accountable justice systems are needed.

On the 24th April a meeting took place in Brussels with representatives from ENCJ and from the Polish Judiciary that informed us that the draft legislation currently being considered by the government includes the possible dismissal of all presidents and vice-presidents of common courts and subsequent appointment of new presidents by the executive; the setting up of disciplinary chambers consisting of peoples' representatives in the Supreme Court and the dismissal of the Presidents and a substantial number of judges of the Supreme Court. In addition, there are reports of regular attacks upon the judiciary in the media by the executive and intimidation of individual judges.

The Board of the ENCJ published last 26th April a statement expressing its grave concerns by the developments, which are taking place in Poland and pointing out 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 the judicial systems and respect for the rule of law.

As a result of these actions undertaken by ENCJ a vast number of our Members have adopted individual statements to support the Judiciary in Poland and many of them have also approached their Governments to express their concerns.

In closing, I want to underline that for an efficient judicial system that allows the correct functioning of the Area of Freedom, Security and Justice an independent Judiciary is required. Therefore, we will devote all our efforts to defend the independence of the Judiciary in Europe and to cooperate with the Judicial Councils to enhance public confidence in a high quality justice system.