



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)



European Association of Judges

**To the Ministers of Justice of the trio Presidency of the Council of the EU
Germany-Portugal-Slovenia**

Brussels, 18 January 2021

Your Excellencies,

We have taken note of the decision by the European Council of Justice Ministers at their meeting of 2 December 2020, by which it is being considered to set up a forum for judges in Europe to enter into dialogue on topics such as Rule of Law and Judicial Independence.

It is beyond doubt that dialogue between judges will foster mutual confidence and will further judicial cooperation in Europe. It is one of the reasons that a number of Judicial Networks has been set up over the years. There are judicial networks gathering formal judicial institutions such as the Councils of State, Councils for the Judiciary, Presidents of Supreme Courts and Judicial Training Institutes. Other Judicial Networks gather Judges Association's from different European countries. Most of these networks receive financial support from the European Commission through Operating Grants under the Justice Programme of the EU.

Judicial networks in Europe are decisive in bringing together judges and other professionals that form the judiciary of Europe; one of the branches of the State. Within the framework of these networks the exchange of best practices and the development of European judicial standards contribute to the European Judicial Culture that is the core foundation for the Rule of Law.

Access to fair, independent and impartial courts as the key institutions of an independent judiciary is a fundamental right which is laid down in European Law and is fundamental to the functioning of the Area of Freedom, Security and Justice and the internal market. As an effective protection against intervention by the other branches of state, a democratic state governed by the Rule of Law should be based on a proper understanding of the autonomous roles and responsibilities of each of the branches of the state and the need for them to work together. The other state powers need to accept that the judiciary as a whole is itself a branch of state. This recognition is indispensable on the national and EU level.

The proposal for setting up a judges@europe forum states that the discussions between legislative and executive institutions of the Union and the Member States should be complemented by a direct exchange of the judiciary at practitioner level. The judiciaries of Europe, however, would like to see the judicial power of the EU included in the dialogue between legislative and executive institutions of the Union and the Member States. So instead of, or rather in addition to promoting dialogue among judges in Europe, we call for a European

dialogue between the state powers as a means to promote the Rule of Law and effective judicial protection in all Members States.

We would like to point out that the other branches of state have their own formalised EU level representation, the national judiciaries of the EU do not have such a representative body. We therefore call for a more formalised status within the EU, for judicial networks as representatives of the European judiciaries as they undoubtedly are. Had such a status already been in place the European Council might have considered consulting the judiciaries of Europe on the issue of setting up a forum for European judges prior to deciding on this issue. Notwithstanding the above the judicial networks that we represent herewith offer our full collaboration with the upcoming EU presidencies to see how to best organise a dialogue among judges in Europe and how to best achieve the aim of the dialogue.

In recent years the judicial networks have found themselves in a new position, where promoting and defending the Rule of Law and in particular Judicial Independence has become one of the main issues for the networks. The Judicial Networks are providing input for the EU Justice Scoreboard and the EU Rule of Law report. They also make constant public statements on developments in some Member States and express, in many ways, solidarity with judges whose independence is being jeopardized, unfortunately, in most cases, by the other branches of the State.

The rule of law is at the core of the European Union. It is one of the fundamental values upon which the EU is founded, together with democracy and fundamental rights. These common values have been debated and settled in legislations and laws, enabling peaceful cooperation for the last 60 years. Respect for the rule of law is a prerequisite for the protection of all fundamental values listed in the Treaties, including democracy and fundamental rights. Without Rule of Law the European Union will cease to exist as such. To uphold and protect the rule of law is a joint responsibility for the judiciary and other state powers. We therefore reiterate that we believe that the way forward is a genuine dialogue between the three branches of the State on the challenges faced in this area. Our networks stand ready to take their responsibility and play their part.

Yours sincerely,

Filippo Donati
President of the European Network of Councils for the Judiciary

Jose Igreja Matos,
President of the European Association of Judges

Annex



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The ENCJ unites the national institutions in the Member States of the European Union which are independent of the executive and legislature, and which are responsible for the support of the Judiciaries in the independent delivery of justice.

The ENCJ aims to improve cooperation between, and good mutual understanding amongst, the Councils for the Judiciary and the members of the Judiciary of the European Union Member States.

Central to the mission of the ENCJ is the reinforcement of independent, yet accountable judiciaries in the European Union to guarantee access to fair, independent and impartial courts. To this end, the ENCJ is working systematically to promote and further develop standards and guidelines for the self-governance of the judiciary and the legal and practical arrangements of essential functions such as the appointment of judges.

Within the framework of protecting the Rule of Law, the ENCJ provides support for the independence, accountability and quality of judiciaries in Europe and promotes understanding of and respect for judicial independence. To this end, the ENCJ and its members follow developments in relation to the Rule of Law the Member States closely and [issues statements](#) when needed. In September 2018 the ENCJ suspended the membership of the KRS (National Judicial Council of Poland) for no longer fulfilling the conditions of ENCJ membership, namely that that members institutions are independent of the executive and legislature and ensure the final responsibility for the support of the judiciary in the independent delivery of justice.

The ENCJ (together with the Network of Presidents of the Supreme Courts and ACA-Europe) has co-operated since 2014 with the European Commission on the EU Justice Scoreboard in the field of judicial independence.

The ENCJ has an office in Brussels.



European Association of Judges

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The European Association of Judges is a regional organization within the International Association of Judges. The forty four members are the most representative national associations or national groups of judges whose countries are wholly or partially in Europe or who have been admitted as such by the General Assembly of the European Association of Judges.

The European Association of Judges works to promote closer European cooperation in all areas pertaining to the judiciaries of the member states and international and supranational judiciaries, It aims to strengthen and support the rule of law as well as judicial independence and impartiality within the European scope and to defend and represent the interests of European judges and magistrates as well as other members of the judiciary enjoying judicial status.

The Association [regularly expresses its concern](#) about developments in relation to the independence of judges.