

First of all, allow me warmly thank you for the invitation to be here in Prague.

We all know how the Czech association has been in the frontline to uphold Rule of Law and Judicial Independence in a region confronted with multiple problems in recent years.

The Czech Republic, its judges and this association have resisted, with resilience, determination and patience, on the attacks against Rule of Law;

I am confident that judiciary will remain firmly independent for years to come.

As president of the largest organization of judges in the world, the International Association of Judges, composed by national associations from 94 countries, let me express my gratitude for being among all of you.

Gratitude, being the only sentiment that one cannot exaggerate, represents the “memory of the heart”.

In name of that memory, I feel gratified for my presence today.

Let me start with a story with a very special, heroic, character. It is important to repeat it as much as possible.

This woman colleague should remain anonymous but I will call her Dike.

In Greek mythology, Dike is the goddess of human justice. Personally, I favour to name her Dike instead of the more famous Roman equivalent, Iustitia, always portrayed wearing a blindfold whilst Dike, daughter of Themis, is represented with eyes wide open exposing her permanent quest for truth.

Dike is a young European judge, around 35 years old; belongs to an EU country.

She spoke to me in a calm voice, gently unveiling the facts.

“Everything started in a late afternoon on a normal workday”.

“They appeared suddenly in my office holding a thick bulk of papers. They were nervous, agitated.

- The Public Prosecution Service – as stated in a solemn manner – has concrete evidences of a large corruption case involving five administrators of a public company. A previous Government opposite to the present one appointed these corrupt persons; the criminal facts are very serious and we are asking you to decide immediately for an extended pre-trial detention. We have those people already with us.

In recent years it became undisputable that prosecutors like the ones fronting me, standing in an increasingly gloomy office at dusk, operated on close affiliation with the

political power that control their hierarchical structure. The resemblance with Soviet times is only too obvious.

- I gain time explaining that I needed to study the files. In the end, after considering the facts for countless hours, into the long silent night, the conclusion was well defined. There were no real evidences; only suspicions and “wishful thinking”; in fact – she underlined with a slight shrug - the documents showed that the present board of directors, attached to the current Government, were much more dubious in their management.”

- What did you decide?

- Oh! The decision was simple and straightforward. I ordered their immediate release.

And now? – I clumsily asked.

My career is ruined – she bluntly stated. You know, José, I have two young boys. I do hope with the help of all European institutions and of my people, that, in the end, things will be better to them, to my sons.”

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This story is only one of many others that the International Association of Judges was confronted in the past few years in countries where populist politicians have cemented their grip on power.

Many of you would remember the case Lurdes Afuni in Venezuela arrested for applying the law by one of her rulings; incarcerated with common criminals, raped in prison, victim of all atrocities, she represents the horror of a despotic regime.

For sure, you all know the terrible ordeal of Turkish judges.

In Turkey, Rule of Law is totally dismantled, more than 4000 judges were expelled, around 2600, at least, were arrested, dozens died because of these persecutions. IAJ is now offering humanitarian assistance to hundreds of distressed Turkish Colleagues. The situation is so cruel that we are delivering less than a thousand euros to families of judges and prosecutors, mostly with small children, only for them to pay survival daily expenses. More than 250.000 Euros were spent on this Fund - we could not be prouder for having the privilege to assist these Colleagues.

You all know the present situation of Afghan women judges.

Their despair equals to none being in the centre of three major evils of our times: fanaticism materialized on the absurd concept of Islamism practiced by Talibans; prejudice and inequality, based on gender discrimination, and finally, a particular attack on us, judges,

as representatives of a State Power, always the most inconvenient for authoritarian governments.

You all know how what happened since 2015 in Poland.

There is now a confrontation ignited by the Polish Government against EU, clearly disregarding the rulings of European Court of Justice. The so-called “judicial reform” contradicts basic norms of Rule of Law.

You all know the situation in Hungary aggravated now by the dystopian temptations of the Government emulated by the pandemic crisis; a country that is no longer a democracy in the evaluation of Freedom House.

A worrisome situation was also the one lived by the Bulgarian judiciary namely on the item “freedom of association”. The interference of Secret Services in collecting information in disciplinary cases of judges could be mentioned as one example of undue interferences in judicial careers observed in Romania.

The politicization of Judicial Councils is another threat dispersed in several countries. In Spain, the Council of Europe criticized, again and again, the politicization of their Judicial Council that politicians want to control and refuse to accept any law that could determine its autonomy from them.

The lack of financial and human resources for the judiciaries are an additional pressing problem in several countries like France, Belgium or UK; the economic crisis caused by Covid-19 restrictions determined major constraints for the judiciary, always the weakest of the three State branches.

As American Founding Father Alexander Hamilton stated centuries ago, we do not hold neither the purse strings of the Legislature nor the sheer force of the Executive.

Depending on the electoral success of populist proposals, politicians from several European countries are eager to undermine democratic societies seen now as archaic and out-dated. Courts are living uncertain times in particular in Central and Eastern Europe not to mention the even more challenging situations lived repeatedly by judiciaries on Africa, Latin America or Asia.

This is our historical context; difficult and defying.

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Democracy is based on two major pillars.

One is free elections providing legitimacy to political authorities.

But the other, equally decisive, are the values assembled by “Rule of Law”, as opposite of rule of men, in which the principles of separation of powers and judicial

independence are vital prerequisites. The arrival of so-called illiberal democracies has, since the early stages, neglected, if not dethroned, this second pillar of democracy, denying its very essentials.

Our continent, and in particular the European Union, will assume decisive options in the near future.

As IAJ always defended, the EU must enforce, in the aftermath of the coronavirus crisis, a Marshall Plan for Rule of Law or, at the very least, the European judges would like to perceive the “Marshall Plan” levels of determination to solve the economic crisis being employed for the crucial topic of judicial independence.

It exists - have no doubt about it - a concrete danger of a copy-paste phenomenon of the examples of Poland and Hungary to other countries, including EU states.

The Network of Presidents of Supreme Judicial Courts, the European Network of Councils for the Judiciary and the European Association of Judges (a regional branch of IAJ) have shown, on different occasions, a strong determination in defence of judicial independence in Europe, particularly in Poland. On a letter signed by the three presidents to the president of the European Commission our words could not be more explicit: without an independent judiciary in all Member States, the Union will end as a common space for Democracy.

We must realise that the so-called illiberal democracies are here to stay and some politicians will continue to do their best to undermine the foundations of Rule of Law.

We must also deal with the cynical approach of forged judicial systems, with no independence or impartiality, masterly portrayed by Franz Kafka, your genius writer, that wrote about these false courts, false Justice: it is not necessary to accept everything as true, one must only accept it as necessary.

In recent weeks, the ruling of the so-called Constitutional Tribunal of Poland (a biased institution that cannot be considered a court) along with the confrontational attitude by the national Government was seen by many has a clear indication for a future Poliexit.

Let me be very clear on this regard.

We do not want the “Poliexit” - we absolutely want and need that the brave Polish judges - the vast majority independent and impartial colleagues - remain with us being Poland a full member of European Union.

This is the best option to preserve an independent judiciary shield by the membership of a Union based on democracy and Rule of Law.

However, to achieve this purpose, EU authorities must be firm and determined.

The Marshal Plan for Rule of Law imposes a clear stand by EU authorities. It is impossible to deal with the economic recovery plan while ignoring the decisive importance of judicial independence.

In European Union, where the law is the main vehicle for achieving integration, only the existence of an independent judicial system (both centrally and nationally) can guarantee a genuine legal system.

In the terrible winter of 1943, during the fascist era of Mussolini, Piero Calamandrei - a great jurist, a great lawyer – explained that against the "dreadful chaos of a world in ruins" hope must always be based on the restoration of the rule of law as, in his own words, a "method of government".

"Without legality there is no freedom" - he wrote. We must learn from History lessons.

Dear Colleagues and Friends

Let me finalize, with joy and companionship, expressing confidence about our common future.

Judges around the world know well the battles ahead - with serene determination, complying with the law and assuming an ethical commitment, with prudence and integrity, we will preserve our essential values.

Because, at the end of the day, as Francis Bacon adverted more than four centuries ago: "If we do not maintain justice, justice will not maintain us".