



European Network of Councils for the Judiciary (ENCJ)

Réseau européen des Conseils de la Justice (RECJ)

The General Assembly of the European Network of Councils for the Judiciary

**Bratislava
7 June 2019**

THE ENCJ BRATISLAVA MANIFESTO

For the European Commission and European Parliament 2019 – 2024 mandate

The ENCJ is the body which unites all Councils for the Judiciary, or similar autonomous bodies, of the EU Member States and represents them in the EU.

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.

The ENCJ has co-operated since 2014 with the European Commission on the EU Justice Scoreboard in the field of judicial independence in particular in relation to Councils for the Judiciary, the appointment and transfer of judges and disciplinary proceedings.

The ENCJ Bratislava Manifesto sets out the issues that the ENCJ believes should be addressed by the European Institutions in the 2019-2024 mandate, taking into account the Communication from the European Commission of 3 April 2019 on the `Further Strengthening of the Rule of Law within the Union State of Play and Possible Next Steps`. The manifesto addresses three issues that are central to the work of the ENCJ:

- Upholding, preserving and restoring the Rule of Law
- Promoting access to justice and fair and impartial courts
- Promoting a European Judicial Culture based on shared values

1. To uphold, preserve and restore 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 also laid down in European Law and is fundamental to the functioning of the Area of Freedom, Security and Justice together with the internal market.

The ENCJ 2019 survey among judges on their independence shows that judges do not feel respected by the other branches of state.

Judicial independence matters for society as a whole. In the most recent Flash Eurobarometer 474 (April 2019) on the perception of the general public about the independence of the judiciary, interference from politicians and the government is mentioned most frequently as reason for a negative perception of the independence of the judiciary.

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 respective 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 needed on the national and EU level. The newly elected Commission and Parliament could play an important role in positioning the judiciary of Europe.

The ENCJ therefore calls for a **European dialogue between the state powers as a means to achieve effective protection against intervention by other branches of state**. The ENCJ stands ready to **play its part** in that dialogue.

Furthermore, there is a need for a formalised status within the EU, for judicial networks as representatives of the European judiciaries. The other branches of state have their own formalised EU level bodies that enable them to advise the EU Institutions. The national judiciaries of the EU do not have such a representative body.

The ENCJ calls for a **formalised consultation status** within the European Union for national Judiciaries through the ENCJ and other relevant EU level judicial networks.

Over the last few years, ways to better protect and promote the Rule of Law have been debated by the European Institutions. It is important to involve the judiciaries of the European Union in this process. The ENCJ and the other judicial networks are best placed to help understand the situation on the ground and provide a judicial perspective on relevant developments.

The ENCJ therefore urges the European Institutions to **endorse the central role the judiciaries and judicial networks play in promoting and protecting the Rule of Law** and formalise their role in any future Rule of Law evaluation mechanism.

2. To promote access to justice and fair and impartial courts

The latest ENCJ survey among judges shows that, across the European Union, judges feel that a lack of available resources for the judiciary is affecting their independence. For the judiciary to remain relevant in society investments and innovations are crucial.

The 2019 EU Justice Scoreboard showed that, generally, governments' total expenditure on law courts remained mostly stable in Member States. Member States tend to use historical or actual cost for determining financial resources for the judiciary, while few rely on the actual workload and court requests.

Where reform or modernisation plans are being developed by Member States, it is essential that the executive and legislature respect the independence of the judiciary and only undertake reforms to the justice system after meaningful consultation with the judiciary.

The ENCJ calls upon the European Institutions, in particular the European Commission, **to encourage further investments by the Member States in their judiciaries** and to ensure that Member States involve judiciaries in relation to reform or modernization plans.

3. To promote a European Judicial Culture based on shared values

Every national judge in the European Union is also a European judge. National judges have a central role in applying EU law in the Member States.

Interaction between the judiciaries in Europe is key to understanding which values are shared and which practices can be commonly implemented to enhance trust in the administration of justice in Member States.

That understanding facilitates judges when assessing judicial independence across Europe.

To this end, the ENCJ believes that relevant information on national judicial systems such as any European Commission synthesis of the information gathered in the preparation of the EU Justice Scoreboard, the European Semester, the information collected and the standards developed by the Council of Europe, the ENCJ and other EU judicial networks should **be promoted through e.g. raising public awareness, and be made available in a centralised and easily accessible place.**