



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Address Mr Kees Sterk, President of the ENCJ

**Conference Shaping the future of European judicial training: Fit for the 21st
century justice**

Brussels, 18 June 2018

Dear Mr Csonka, European Commission for Justice and Consumers,
Dear Mr Marinho e Pinto, member of the European Parliament,
Dear Ms Tacheva, Director of the National Institute of Justice
Dear Ladies and Gentlemen,

1. First of all, I would like to say what a great honour it is to have been invited to speak at this important conference organised by the European Commission on shaping the future of European judicial training: fit for a 21st century justice.
2. From the perspective of the judiciary, the main objective of any judicial training is to enable judges, and court staff, to deliver high quality justice for the benefit of the citizens. This applies to training in national law and for training in EU law.
3. To be able to assess how we should train legal professionals we should therefore first look at the second part of the title of today's conference. A 21st century justice. What does this entail? What do our citizens expect from their justice systems? Have citizen's expectations changed? Have societies' needs changed? And if the needs have changed, how can the judiciary accommodate these needs.
4. These questions need to be scrutinised in the national context, but in ENCJ we feel that there is also a need for a European wide debate about the role and the position of the judiciary.
5. Before I continue, let me briefly introduce the network that I represent here today. The ENCJ gathers the Councils for the Judiciary or similar

autonomous bodies that ensure the final responsibility for the support of the judiciary in the independent delivery of justice. The ENCJ deals with justice systems and not judges individually. It is a network of the Councils for the Judiciary that provide the all-important buffer between the judiciaries on the one hand and the executive and legislative branches of government on the other.

6. Our objective, having spent the first 10 years concentrating on laying down a series of standards and guidelines for independent, accountable and effective justice systems, is now to take effective measures to help our member Councils for the Judiciary and Observers to put these standards fully into practice. In this way the ENCJ also contributes to the objective of the European Commission in promoting effective justice systems.
7. Coming back to the issue of the role and position of the judiciary in the 21st century, the general belief in ENCJ is, that in democratic states there should be 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 – a form of interdependence. We observe that there is still some reluctance to accept that the judiciary is an institution and not merely a group of individual judges. Therefore, it is important that each judiciary should have a structure of governance that can protect its institutional independence and the independence of individual judges. Councils for the Judiciary, particularly if structured to be in harmony with the hierarchy of the judiciary, are the obvious answer. No country should be without one in these times.
8. However, a structure and constitutional and legal guarantees alone do not earn the trust and respect of the citizens in the judiciary. The judiciary achieves legitimacy and the respect of its citizens by delivering high quality justice in the form of timely, impartial and well-reasoned decisions. Independence goes hand in hand with accountability. A judiciary that claims independence, but refuses to be accountable to society, will not gain its trust. At the core of the relationship with citizens is trust. Trust is not earned by leaning back and staying in an ivory tower far away from the daily lives of citizens. In order to establish trust, it is first important that the judiciary is trustworthy. A judiciary that resists change and is perceived to be backward looking will ultimately lose the trust of the people and become vulnerable to external attacks in particular from the other state powers and the media. The judiciary must be willing to modernize, in order to remain relevant in modern society.

9. Recently the ENCJ has found itself in a position where it had to take a stand on developments in certain Member States. The ENCJ has and will in the future always speak out to defend the Rule of Law which 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. To uphold and protect the rule of law is a responsibility for both the judiciary and other state powers. Fair and impartial courts, as the key institutions of an independent judiciary, need to be respected and defended.
10. In this regards ENCJ has reiterated several times recently, 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 each of the judicial systems and respect in every state for the Rule of Law.
11. The question is how Councils for the Judiciary can identify and meet the changing needs of society. ENCJ believes, as recently stated in the Lisbon Declaration on leading positive change, that Councils for the Judiciary should initiate and lead a process of positive change with a view to promoting an independent, accountable and high quality judiciary, so enabling judiciaries to optimize the timely, impartial and effective delivery of justice for the benefit of all. There are two aspects to this: first, the internal in the sense of the engagement of stakeholders; and secondly, the external in the sense of the judiciary's relationship with other state powers and strengthening the role of the judiciary within the State.
12. As for the latter;
 - (1) Councils should assume a new role, both as regards their own countries and more generally, to achieve a better balance of powers and strengthen the position of the judiciary by expressing and explaining the role of an independent and accountable judiciary within a State governed by the Rule of Law. The Rule of Law is universal; it does not end at the border of any particular country but is transnational.
 - (2) Councils should be instrumental in helping educate society about what judges do by building on existing efforts in several countries where judges go into schools and talk to children, as part of an overall effort to explain how the judiciary is a vital, and independent, part of any democracy. There is, unfortunately, a general lack of understanding of the importance of justice and the rule of law which makes it easy for others to

attack the judiciary. It is not always possible to promote this understanding through judgments.

(3) This should be part of more general efforts to make the judiciary more visible, relevant and understood by the public.

14. The ENCJ aims to initiate a dialogue with the other State Powers on the national and the European level. I personally, strongly, believe that we need to re-establish what an independence judiciary entails and how Councils for the Judiciary can strengthen the independence. The 2016 ENCJ survey among judges shows that judges do not feel respected by the other State Powers. In the most recent Flash Eurobarometers 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. This is an issue that needs to be addressed and discussed by all stakeholders.
15. Other issues that Councils for the Judiciary (where relevant) and judiciaries need to address to ensure a 21st century justice are:
 - a. Justice must be delivered speedily and efficiently and the system for the delivery of justice must modernise when appropriate.
 - b. Its own system of internal discipline (with input from members of society) must deal with judges who do not live up to the high ethical standards embodied in a judicial code.
 - c. The judiciary must do what it can to be seen to be addressing more general problems in society such as the need to improve diversity and to reach out to communities and strengthen links.
 - d. Lastly, an important element of Councils for the Judiciary is that they should support any judiciary that is under severe attack, as the ENCJ has done in the cases of Poland and Turkey. It is important that Councils for the Judiciary in other states do what they can to influence their executives and legislatures to support the action they are taking. Judiciaries need to support each other.
16. I have focused thus far on the demands put on the judiciary, and Councils, as an Institution. Let me now turn to the individual judge. What are the changing demands society puts on individual judges? If almost every thing you want, is just one swipe away on your smart phone, what does this

mean for judicial proceedings and as a consequence for judges? To give you just an idea of some of the skills and characteristics that ENCJ discussed in recent years that judges should possess- besides being outstanding lawyers-:

- a. Judges should be independent and resilient;
 - b. Judges should be open to change and innovation and support modernisation of procedures;
 - c. judges should not only be institutionally and individually independent, but they should also cooperate with each other and other state powers.
 - d. Judges should have the highest ethical standards
 - e judges should be empathic towards parties and victims
 - f. judges should be good communicators and know how to talk to the media
 - g. judges should ensure that procedures are understandable
 - h. judges should have knowledge of IT, of new technologies and be scientifically aware to understand the kind of problems that the digital age is likely to create.
 - i. judges should be aware
 - j. judges should be representative of the populations they serve both in ethnic and gender balances;
 - k. judges should take part in training in national and EU Law
 - l,. judges should have knowledge of other legal systems and speak at least one foreign language
 - m. judges should defend and promote the Rule of Law
17. These are just a few of the many demands. Training is important to teach the right skills to judges as part of a broader strategy to ensure high quality justice. Councils for the Judiciary, where they exist, are responsible for promoting the quality of justice and as such should promote judicial training by setting guidelines and ensuring that judges are given the opportunity to partake in training, both on the national and European level.

18. Some of the demands on judges are difficult to train and call for the responsible selection and appointment bodies to ensure that the best candidates are selected. This is also an issue that touches upon the functioning of Councils for the Judiciary. Selecting and promoting judges and support staff, securing budgets and innovating/digitalizing the courts, setting guidelines for training of judges and court staff are examples of responsibilities of Councils in the area of quality. Depending on its formal responsibilities, each council should adopt an approach that fits within its mandate, but all should develop quality standards as part of a quality framework for the judiciary.
19. A similar integrated approach could be adopted on the European level. The European Commission strives to promote effective justice in terms of independence, quality and efficiency as a condition for upholding the Rule of Law. The training of judges is an indispensable element of promoting and enhancing the quality of justice. Such an integrated approach to promote effective justice systems might also be reflected in the next EU budget. European co-operation between judicial authorities and the judiciaries is of high importance in maintaining the conditions necessary to enable the rule of law to prevail in member states. It needs continuous support by the EU Institutions. This continuous financial support would acknowledge the central role of the judiciary in a democratic state governed by the Rule of Law as one of the founding principles on which the EU is based.
20. As for the future of European Judicial training, I believe that interaction between the judiciaries in Europe is key to discover differences, but more importantly to discover which values are shared and which practices can be commonly implemented to enhance trust in the administration of justice in Europe. Exposure to other judicial systems and interacting with foreign judges not only leads to a better insight into the foreign system but also to a reflection on ones' own system and ones' own performance. As such, it gives an impulse to the quality and the improvement of the functioning of the judiciary.
21. The EU is a Union of shared values. This also applies to the judiciaries. Each judge needs to have a thorough understanding of these shared values in the field of justice. To achieve this objective, ENCJ will continue its co-operation with EJTN to promote training on non-substantive issues such as judicial ethics and knowledge of justice systems of other Member States.

22. I conclude. The main point I want to make here today, is that society is changing, and this has an influence on the role and position of the judiciary. We all struggle with this. Together we must find a way to redefine that role. The principle of the independence of the judiciary is well worth defending, but at the same time must be adapted to modern times. I will, both as a European judge myself, and as President of the ENCJ continue to support the independence of the judiciary in the European Union, for we are all European Judges with the duty to uphold the fundamental values of the European Union.

I thank you for your time.