



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

Lisbon

30 May-1 June 2018

# **THE LISBON DECLARATION On leading positive change**

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The Members of the European Network of Councils for the Judiciary gathered in LISBON between 30th May and 1st June 2018 HEREBY DECLARE that:

1. The ENCJ and its Members aim to improve justice systems across Europe for the benefit of citizens generally. 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.
2. 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.
3. As to the first point, key to making any initiative for change a success, is ensuring that all stakeholders are on board during the change process and, to this end, Councils should encourage stakeholders (in particular, judges) not merely to accept change but positively to embrace change by motivating them to support the change in any way possible. In this regard:
  - (1) Councils should make stakeholders understand why the process needs to be changed or how the outcome will benefit them in order to increase the likelihood that they will give the process their support.
  - (2) Councils should encourage all judges to take part in continuing education and be part of ever-evolving improvements to the way in which they do their job.
  - (3) In selecting judges for appointment, consideration should be given to candidates' willingness to embrace change and adopt a modern approach.
  - (4) Councils should act as a bridge between judges and the executive in relation to proposed reforms, so ensuring that judges' views are made known and that reforms are not made which take insufficient account of their impact on judges.
  - (5) Councils should also actively encourage judges to give their views as to what reforms would be worthwhile, conveying those views to the executive and impressing upon the executive the good sense of the judiciary 'buying in' to necessary changes.



4. As to the second, the ENCJ reiterates that a fundamental 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. In particular:

- (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.
- (3) This should be part of more general efforts to make the judiciary more visible, relevant and understood by the public, with the ENCJ serving as a platform through which the nature of the role of judges and the judicial system is known about by lawyers and non-lawyers alike.

5. In this respect, the ENCJ has been following the reform of the Polish National Council for the Judiciary (KRS) with growing alarm. To be a Member of the ENCJ the Statutes require that the national institution of a Member State of the European Union must be independent of the executive and legislature and shall ensure the final responsibility for the support of the judiciary in the independent delivery of justice. The ENCJ makes it clear that the presence at the General Assembly of representatives of the KRS does not mean that the ENCJ accepts that its Member status within our association will be maintained after the Executive Board has completed its review of the position concerning the KRS. Part of this review will involve a dialogue with the KRS. The Executive Board expects that the review will be completed within a few months from now. These results will be shared with the Members, together with a recommendation of the Executive Board on the continuation of the KRS as a Member of the ENCJ.

6. The situation in Turkey is also very disturbing. In December 2016 the ENCJ suspended the observer status of the High Council for Judges and Prosecutors for non-compliance with European Standards and the ENCJ Statutes. The ENCJ has more recently learned with great regret that one of the former members of the High Council for Judges and Prosecutors has passed away in detention. The ENCJ wishes to express, once again, its solidarity with the dismissed judges and prosecutors of Turkey and calls upon the relevant Turkish authorities to ensure speedy, open, fair and impartial judicial process for the detained judges and prosecutors. The first reports of the trials against judges and prosecutors give little reason to believe that justice is being valued.

#### **THEREFORE, THE ENCJ CALLS**

upon Councils for the Judiciary across Europe to initiate and lead a process of positive change with a view to promoting an independent, accountable and high quality judiciary (i) by engaging with stakeholders in the manner described above and (ii) by strengthening the role of the judiciary as regards other state powers.



Adopted in Lisbon, 1 June 2018