



# 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 Athens 1 – 3 June 2022

#### THE ATHENS DECLARATION

#### On judicial solidarity in times of crisis

The Members of the European Network of Councils for the Judiciary gathered in ATHENS between 1<sup>st</sup> and 3<sup>rd</sup> June 2022 HEREBY DECLARE that:

1. Solidarity is a unity, especially among individuals with a common interest. Solidarity is one of the main values on which the EU is based. It is mentioned amongst others in the Charter for Fundamental Rights: “The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.”
2. Judicial solidarity<sup>1</sup> is an important value in Europe. European judiciaries share common values. Judicial solidarity contributes to the stability of democratic institutions and the Rule of Law in Europe.
3. Judicial solidarity is based on the belief that there is shared sense of destiny and a common identity. It is closely related to the promotion, preservation and defence of the Rule of Law and Judicial Independence.
4. Preventive solidarity is characterized by collective actions to safeguard and ensure the Rule of Law and Judicial Independence. Actions may include the sharing of good practices to create common values, standards and objectives for the judiciaries in Europe. It also entails a focus on the promotion of understanding of and respect for the Rule of Law and the independence of the judiciary. A proactive attitude of the judiciary itself is indispensable for the benefit of all citizens of Europe. Outreach activities such as the organisation of open court days could assist in explaining the Rule of Law to the public<sup>2</sup>.
5. Reactive solidarity entails an understanding that assistance should be offered within the European Judicial community in response to attacks on Judicial Independence and the Rule of Law. If a national judiciary is under significant pressure from governmental or other domestic actors, international support is critical. Judiciaries should support any judiciary which is under attack and do all they can to persuade the executive and legislature to support the action which they are taking in this regard. The

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<sup>1</sup> Judicial solidarity in this declaration refers to solidarity between judges and judiciaries across national borders.

<sup>2</sup> See ENCJ reports on Public Confidence and the Image of Justice

prudent convention that judges should generally remain silent on matters of political controversy should not apply when the integrity and independence of the judiciary is threatened.<sup>3</sup>

6. The ENCJ, if appropriate in cooperation with other networks, can play a pivotal role in organizing such support and in publicizing it. It can express the objective best standards applicable in the particular crisis and thereby assist and support the stance taken by the national judiciary. It may receive requests for support or report on the needs to their Members. It may organise formal or informal dialogues with all entities able to provide assistance and it could act as an intermediate in the implementation of the assistance.
7. Acts of solidarity may take many forms and depend on the specific situation. Some crisis may even call for speedy actions. On the national level these acts may involve public statements, the organisation of targeted donations (of money or materials needed in the courts), organisation of court twinning, the set-up of a buddy system where judges are connected to assist on an individual level or writing letters to judges in need as act of moral support.
8. On the European level actions may include; raising awareness, publishing statements and seeking dialogue with the European Institutions. In addition, acts of solidarity could involve the organisation of conferences and publishing as widely as possible the outcomes of these exchanges and suggested solutions, joint press conferences with other judiciaries, support visits, any other actions within the competences of associations<sup>4</sup>.
9. Legal action may also be undertaken by joining procedures of judges at the European Courts as a 3<sup>rd</sup> party intervener. Judicial networks could act as intermediaries and ensure that assistance efforts and cooperation aimed at strengthening the Rule of Law or post-conflict rebuilding and recovery actions are co-ordinated for maximum effect.
10. Whilst there are no limits to judicial solidarity, there may be limits to the actions that the judicial community can undertake, in particular if it would cause a perception of interfering in a political process.
11. The ENCJ believes that cooperation between judiciaries and judges in Europe assists in a growing social cohesion between judiciaries which enables them to unite in solidarity. Judiciaries in Europe should actively seek cooperation and coordination to assist those jurisdictions that need support. In addition, the ENCJ believes that there is collective duty on the European judiciary to state clearly and cogently its opposition to any acts that would undermine the independence of individual judges, the judiciary or Councils for the Judiciary.
12. Given current developments in Europe, the ENCJ calls on all governments to refrain from any form of prosecution or persecution of judges (through criminal trials, disciplinary proceedings or other forms of intimidation) for speaking out in favour of the Rule of Law and Judicial Independence. It is a judges' duty to speak out when democracy, Rule of Law and fundamental freedoms are in peril.
13. The ENCJ stands in solidarity with all judges and judiciaries in Europe defending the Rule of Law and independent courts that guarantee the respect for fundamental rights and freedoms.

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<sup>3</sup> From ENCJ Compendium on Councils for the Judiciary 2021

<sup>4</sup> In September 2018 the ENCJ suspended the KRS (National Judicial Council of Poland) followed by an expulsion decision in October 2021, for not complying with the ENCJ Statutes and acting as a guarantor of Judicial Independence.