



European Commission

Directorate General Justice and Consumer

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Honorable Sirs,

Developments in Europe and the needs to strengthen the rule of law as well as to promote it, show the importance of judicial associations on the European level.

The communication of the European Commission of 3<sup>rd</sup> of April 2019 is an extraordinarily relevant initiative concerning issues of rule of law in Europe. Therefore

- The Association of European Administrative Judges (AEAJ),
- the European Association of Judges (EAJ) and
- Magistrates Européens pour la Démocratie et les Libertés (MEDEL)

Strongly agree on the importance of this initiative of the European Commission and therefore forward the present joint statement listing a set of suggestions and proposals.

The mentioned associations would like to present this joint statement and bring in proposals based on the above mentioned communication from the Commission of 3<sup>rd</sup> of April 2019. In general, “rule of law” strengthening cannot take place by unidimensional measures. As the concept as such is complex also the means in order to strengthen it are equally complex. Many different approaches can only altogether jointly have more concrete and positive effects. Nor can it be taken for granted that there is always an immediate result of an action to strengthen the rule of law. As judicial associations on the European level – working bottom-up – have the practical knowledge on detailed practical issues (concerning effective judicial protection by an independent judiciary), they are one of the main stakeholders and should contribute in this initiative:

- a) We do not only see the need of the associations to proceed in joint and separated basis, but we also welcome that also the Council of Europe and EU see the need to increase their co-operations in this field with organizations of judges. Joint forces from European institutions and their know-how have an decisive impact on the promotion of rule of law in Europe.

- b) "Rule of law", its relevance, its benchmarks and its high relevance must be visible for the society, what is often difficult to break down into a clear and concrete example. However, practice shows that it is not only difficult for general society, but also sometimes for judges to intervene submersed by their daily routine. Therefore some proactivity can be put forward in order the increase of awareness.

Some proposals on this domain could be:

- to award individual judges who actively stand up to defend the rule of law
- or to award a prize for the best idea how to promote the rule of law
- or that the president of the CJEU would send a welcome address to every newly appointed judge within the EU in order to stress that all judges are also EU judges
- "To join and support the Council of Europe's "Day of Justice" initiative , which could be used to organize events like the following ones :
  - o to open up courts for the public, to have other activities (with co-operation of the European Commission) in joint activities (with European Commission and/or other stakeholders) in order to inform the general public (i.e. society) about the relevance of the rule of law. Among others judicial associations could organize one relevant event on this specific day.

These initiatives should be shown to the public and also to actors in this field, including judges, prosecutors or lawyers.

- c) Early warning mechanisms should be strengthened. As the Commission has clearly brought forward: it is most relevant to have early warning mechanisms. Judicial Associations (working bottom-up), together or separately, must bring their inputs in this area. By way of example:
- an alarm triggering automatism: automatic a warning should lead to a closer observation when in a country a certain situation (e.g. reducing the retirement age of certain judges) has already led to a violation of the rule of law and then in another country the same changes are made (reducing retirement age of certain judges). Having a comprise list and spreading knowledge about such triggering facts need to be spread so that there is broad information and sensitivity to be able to initiate this early warning mechanism.
  - In general: a more direct approach to concrete countries is needed. It is also relevant to address the general public, also via social media. There is this need for judicial associations as well in order to make informal or formal structures, sensitive developments etc. visible by sharing information at an early stage.
  - Regular, institutionalized exchange in between the decisive stakeholders: i.e. in between representatives of judges (= judicial associations) and representatives of the Council of Europe and European Commission
  - Judicial association representatives are experts coming from a very practical field with a in-depth knowledge about the different menaces to Rule of Law and should have an advisory role.
- d) The need to raise awareness is a central pillar in order to strengthen the rule of law on the European level. This involves different issues:
- It is relevant to stress the importance of a qualitative justice and promote such an approach (in contrast to a purely quantitative approach).
  - Also the decisiveness of raising awareness about "rule of law" topics and also of "judicial integrity" among judges. EJTN trainings and seminars organized by judicial associations

themselves can be very supportive to reach this goal and to approach this purpose. Judicial associations can also give an input to the topics and specific issues concerning future trainings. A closer cooperation could be also foreseen between judicial associations and the European Network for Councils of Judiciary.

- In general peer-to-peer approach is the best method in order to make judges more sensitive and familiar with these issues. Meeting colleagues in peer to peer exchanges is highly valuable to promote and raise awareness. Most of all the institutionalized, continued personal exchange in between of colleagues (“trust”) is very helpful. E.G. also trainings (specifically concerning integrity issues) on a bilateral basis would be an additional asset (having experienced judges of state A to give a peer-to-peer training/seminar with young colleagues from state B). However the peer-to-peer reviews at a State level should be clearly avoided since they will create divisions within EU countries.
  - Awareness-raising activities of judicial associations to address the general public are also helpful. Here, not only judicial associations as such, but combined efforts together with other stakeholders could be made.
- e) We want to stress that there is no particular need to create new structures, but there is a concrete need to strengthen dialogue between all actors in this field. This can be done by existing mechanisms that must be improved.
- An institutionalized meeting of the Boards of European Judicial Associations and Networks to discuss on concrete issues of problems/weaknesses of the Rule of Law in Europe and on actual challenges. Such meetings will end with a public statement listing all the remarks and suggestions to the European Commission (and EU members in general) in order to have a more vivid and meaningful dialogue with EU on one hand and with the Networks/Associations on the other.
  - There is a clear and urgent requirement to exchange and share information also among judicial associations and networks.
- f) In general, concerning the optimization of the associations and networks to help them to fulfill their tasks, it was stressed that there is also a demand for sufficient resources which implies more efforts also at this level.

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