



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Statement by the Executive Board of the ENCJ

The Executive Board of the ENCJ welcomes the milestones set by the European Commission that aim to strengthen Judicial Independence in Hungary. The Board particularly supports the milestone with the objective to strengthen the powers and competences of the National Judicial Council (OBT). The ENCJ delegation that visited Hungary¹ recently ascertained the structural weaknesses and the lack of checks and balances in the judicial system. The milestones seem to address these weaknesses. How and to what extent the reforms will achieve the aims set out in the milestones in practice, remains to be seen and should be scrutinised thoroughly.

The Board reiterates that the Rule of Law is at the core of the European Union. Respect for the Rule of Law is a prerequisite for the protection of all fundamental values listed in the Treaties, including democracy and fundamental rights. To uphold and protect the Rule of Law is a responsibility for the judiciary and the other state powers. For the effective preservation of the Rule of Law, independent and accountable justice systems are needed. The Board emphasizes that fair and impartial courts are the key institutions of an independent judiciary.

The fundamental role of a Council for the Judiciary is to safeguard the independence of the judiciary; it has a distinctive position vis-à-vis other democratic institutions as it has the legitimacy to defend the judiciary, as well as individual judges, in a manner consistent with its role as guarantor, in the face of any measures which threaten to compromise core values of independence and autonomy. A Council for the Judiciary can only fulfill this role, if it is independent of the legislature and executive and is attributed with sufficient powers. In addition, a Council should also act to guarantee and defend the Independence of the Judiciary. These general rules do not only apply to Hungary, but to all Members States. The ENCJ General Assembly expelled the Polish KRS in October 2021 for not acting to safeguard independence of the Judiciary or individual judges, in a manner consistent with its role as guarantor. Sadly, no positive developments have been observed in Poland in this regard since.

The Board wishes to point out that it is essential for the OBT to be involved at each stage of development and implementation of the necessary reform. This is to ensure the independence of the judiciary and that the reforms are effective and instil confidence.

Lastly, the Board regrets the ongoing smear-campaign against the OBT and some of its members. In a State governed by the Rule of Law, all state powers should support each other carrying out their functions, and all should refrain from interfering with the competence of others. The three state powers should cooperate on an equal basis and the communication should be based on mutual respect, and each party shall give only constructive criticism. The Board finds that attacks on the judiciary and judges by the pro-government media outlets hinder any dialogue based on mutual respect.

Brussels, 2 December 2022

¹ [Report of ENCJ solidarity visit of 18 October 2022](#)