

The Experience of the Judicial Associations in the New Democracies

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Ladies and Gentlemen,

It is a great pleasure to be here with you today. I am grateful for the opportunity to participate in the MATRA project to strengthen the Bulgarian Judiciary. The experience of the Judicial Association in the New Democracies is an extremely important issue and I am very happy to analyse this very relevant subject.

The Judicial Association always plays an important role in the democratic society, but when we speak about the New Democracies, it is necessary to realize, that the role of the Judicial Association is tremendously important.

What are the main roles of such associations?

1. Protection of the independence of the judiciary
2. As a partner for the legislative process
3. Educational role
4. Social role
5. Cooperation with the International Associations of Judges
6. Cooperation with the Associations of Judges from other countries

Let me share with you the experience of the Czech Union of Judges. As you know, the Czech Union of Judges was established in 1990 as a voluntary professional Association of Judges.

Our goal is to protect the independence of the Judiciary, to protect judges and to strengthen their independence, impartiality, judicial ethics, and high professionalism. We have intended to be a partner in the legislative process. We pay much attention to increasing the public trust in the judiciary. One of the most important roles of our organization these days is the protection of the independence of the judiciary, protection of judges and increasing the public trust in judiciary. The judiciary is one of the three branches of power in the state and needs to be independent.

In the Czech Republic, we don't have any Supreme Judicial Council, so all the decisions concerning judges and judiciary has been made by the Ministry of Justice. This creates a problem and causes the excessive influence of the executive branch over the judiciary branch of the State.

There are three branches of the state power: the Executive, the Legislative, and the Judiciary. The separation of powers is the most important principle of a democratic society. The independence of the judiciary is a highly important principle. If all the power for decision-making concerning judiciary is in the hands of the Ministry of Justice, then it is not easy to keep and guarantee the independence of the judiciary, so we may often see a jeopardy of the judicial independence. In such a case, the Association of Judges as an independent professional body plays a very significant role. I can give you a revealing example, which is considered as a hot topic within the Czech judiciary these days. The Ministry of Justice intends to adopt a directive on the selection of judges, which would mean a significant strengthening influence of the executive branch over the judiciary branch. The Czech Union of Judges gave many comments and suggestions concerning this new legislation and we do hope for some positive results. If there is no association of judges, the Ministry could adopt such a legislation without any critical observations.

We, as the association of judges, are also very active in the standard legislative process. For example, the Ministry of Justice presents a draft of the new Civil Code these days. The Czech Union of Judges has been preparing lots of comments and suggestions concerning this issue. The Ministry of Justice used to take our remarks seriously. The Ministry of Justice as well as the Parliament and Senate have considered our Union as a serious partner for the necessary cooperation and began taking our comments and recommendations seriously. We had to work very hard to obtain this position. Some years ago, the executive branch did not want to consider the Union of Judges as a relevant partner. We are grateful for our success but know very well, how much work is still to be achieved.

I do believe that our Bulgarian colleagues have to face the similar problems and situations as we had to. I have mentioned that we don't have any Supreme Judicial Council. But if there is a Supreme Judicial Council not protecting the Judiciary enough or correctly, the situation is very similar. We have learned a lot from our Dutch colleagues. I do hope that our experiences might be useful and beneficial for our Bulgarian colleagues at least a little.

The educational role of the Association of Judges is also very important. I do remember, as we have organized many seminars to educate judges, court staff, etc. According to the Code of Courts and Judges, we have established a Judicial Academy in 2002 as an official judicial educational institution in the Czech Republic. Since then, we do cooperate with the Judicial Academy as an advisory body and we can evaluate this activity as greatly beneficial and fruitful.

The Czech Union of Judges is an active member of the International Association of Judges, organization MEDEL (European Judges for the Democracy and Liberty), International Association of Women Judges, European Association of Judges, and American Bar Association. We are also actively working with the CEELI Institute, which is a prestigious international non-profit provider of postgraduate professional legal education in Prague.

The Czech Union of Judges has been visited by the members of many judicial associations from around the world, who came to Prague to get some experiences with the Czech judiciary and also the association of judges. We met judges and other persons working in the legal field

from Japan, Kazakhstan, China, Albania, Norway, Romania, Egypt, and other countries. We have been participating at a workshop for Egyptian and Iraqi judges, organized by the CEELI Institute. Some of the judges want to visit the courts, to talk to the judges, and to get the experience of the judicial system, procedural rules, etc. The Union of Judges has always played a very important role in this field. We always used to organize all the meetings, invite judges to the interviews, manage the court hearing for the foreign judges, etc. All the judges and associations of judges, participating in such visits, have found new colleagues and valuable contacts, fruitful for the future cooperation in the professional work. All such benefits would not be possible without the Union of Judges.

The Czech Union of Judges used to be very active in giving the presentations to the public about the judiciary, new legislation, judicial ethics, procedural rules, and some other important issues. Public trust in the judiciary is a very sore and sensitive point in our society, and I am pretty sure that our Bulgarian colleagues have to face the similar obstacles. Many of the activities we have done in the past proved that. We thank to the Union of Judges, many people have a better view of the Czech judiciary.

We consider the cooperation with foreign association of judges to be very important and beneficial for the judiciary and the society in general. In our globalized era, it is more and more important to share and exchange the experience and to support each other. The independent, impartial, and efficient judiciary is our common goal.

The Czech Republic can share many common things with Bulgaria. Both of us had to face the communist era so we know how much valuable but also vulnerable the new democracy is. We can understand each other in creating new democratic principles, new ethical conduct, procedural rules, and so on. We do believe that our common work can help both of us. We enjoyed working on the MATRA project, have found new colleagues, new friends, and had many new experiences. We can never forget this time and we do believe in the continual work for the future. We have been talking about the cooperation between the Dutch, Bulgarian, and Czech associations of judges. We do support such cooperation as a start of the new international and European judicial cooperation.

Johan Wolfgang Goethe said:

“Thinking is easy, acting is difficult and to put one’s thoughts into action is the most difficult thing in the world”.

The pathway to the divine system is sure to be a long and treacherous journey. So let me finish with an encouraging sentence said by S.A. Exupery:

“Only the journey is worthwhile. It is the only thing that lasts....”

And also let me add with a sentence of an old wise Judge: “ The true judicial independency comes from the judge him/her self and not from the laws”.