



EUROPEAN COMMISSION

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Does power rule the law?

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Presidents, Ladies and Gentlemen,

It is a great honour for me to be with you for the 43rd European Presidents' Conference.

As the European Union's first Justice Commissioner from one of the "newer" Member States, I am especially conscious of the historic role of the European Presidents' Conference in Vienna in establishing contacts between lawyers from across Europe and building trust between them.

Today, we face new challenges to international law on our continent, and to the rule of law in some European countries. I believe the European Presidents' Conference can continue to play an essential role in providing a forum for dialogue and upholding the values of the legal profession.

Power rules law?

Your invitation to open this year's European Presidents' Conference is accompanied by a thought-provoking title: Power rules law?

The relationship between law and power has been on philosophers' minds since ancient times. When Thrasymachus argued that justice is simply the interest of the stronger, it sparked a long debate with Socrates, who said that rulers

sometimes mistakenly pass laws that are not in their own interests...

Be that as it may, I reply to this question both as a lawyer and as a politician who believes in the need for justice to be more than an abstract concept. It must be a tangible reality in the everyday lives of citizens across Europe.

So, does power rule law? My reply to this question is a firm "No"! It is not for power to rule law. On the contrary! I am a firm believer in the precedence of the rule of law over the rule of power.

On the EU as a Community of Law

The European Union is one of the most successful attempts in history to overcome the spirit of domination that, to quote Jean Monnet in his memoirs, *"caused many of the world's greatest ills"*.

The European Union is a Community based on the rule of law! Neither its institutions nor its Member States can disregard the legal framework on which the European Union is founded: the Treaties.

Walter Hallstein, the first President of the Commission of the European Economic Community, already defined it as a Community of Law (*"Rechtsgemeinschaft"*). A cornerstone of such a community is the respect for the rule of law, as explicitly confirmed today in Article 2 of the Treaty on European Union.

We are part of a community which acknowledges the superior strength of law over that of power – regardless of the many challenges that still lie ahead of us.

This achievement was not obtained easily and should never be taken for granted. The contribution of the case-law of the European Court of Justice was essential. More recently, the Charter of Fundamental Rights of the European Union has become legally binding. As a result, EU institutions in all their actions, and Member States when implementing EU law, are legally bound to ensure that fundamental rights are respected.

One of my specific tasks as Justice Commissioner is to ensure that any legislative initiative by the European Commission is in compliance with the Charter of Fundamental Rights.

New challenges and the EU Rule of Law Framework

The need to respect and uphold the Community of law is more present than ever.

In recent years the Union has been confronted with serious threats to the rule of law in some Member States. The different constitutions and judicial systems of the EU Member States are, in principle, well designed and equipped to protect citizens against any threat to the rule of law. However, in the past years we have seen crisis events which have demonstrated that respect for fundamental values, and in particular for the rule of law, cannot be taken for granted. To address these situations

more effectively, the Commission has established the EU Rule of Law Framework.

Whenever the rule of law is under threat in a Member State, the Framework allows the Commission to react swiftly, following an objective assessment of the situation and with respect to the principle of equal treatment of Member States. The Commission enters into a political dialogue with the Member State concerned to prevent the emerging systemic threat to the rule of law from escalating further.

Guaranteeing rights in practice

The Union also upholds the Community of law by ensuring that citizens and businesses reap the full benefits of the rights granted to them by EU law. For example, in case of violation of EU law, citizens and businesses can invoke the fundamental right to an effective remedy before a tribunal. There would be no law and there would be no rights in practice if the end-users - citizens and companies - did not have effective remedies at their disposal to defend these rights.

For me, the law is therefore not an instrument of the strong, but a means of protecting the most vulnerable in society. And as new Commissioner for Justice, Consumers and Gender Equality, I see myself as advocate of the vulnerable. I will therefore pay particular attention to issues such as the rights of victims, non-discrimination (notably of minorities) and the protection of vulnerable consumers.

Promoting well-functioning justice systems

I am convinced that a properly designed EU justice policy should ensure that individuals and businesses can effectively benefit from their rights.

In a community of law it must be possible for everyone to assert their individual rights before the courts. Since national courts act as Union courts, the effectiveness of national justice systems is a prerequisite for the effectiveness of EU law in general. Well-functioning justice systems are also essential for attracting investment, growth and jobs. Structural reforms, including in the justice area, are therefore among the components of the new Commission's new Investment Plan for the EU.

Whatever the model of the national justice system or the legal tradition in which it is anchored, quality, independence and efficiency are essential parameters of an effective justice system.

For these reasons, the improvement of the quality, independence and efficiency of judicial systems has also been a priority for the "European Semester", the EU's annual cycle of economic policy coordination, since 2012. Last year, twelve Member States have received Country Specific Recommendations from the Council to improve the functioning

of their justice systems. The Commission monitors and assists these Member States in implementing the necessary reforms. EU funds are also available to Member States to support these efforts.

For this purpose, the EU Justice Scoreboard is an information tool aiming to assist the EU and Member States to achieve more effective justice. It does so by providing objective, reliable and comparable data on the quality, independence and efficiency of justice systems in all Member States. I know that such data is essential to support reforms in national justice systems that are required to render justice systems more effective for citizens and businesses. I will present the updated (3rd) version of the Justice Scoreboard in early March.

Alternative Dispute Resolution

Let me add that a true Community of law goes beyond the justice systems. To have effective remedies at hand also included promoting rapid and less costly dispute resolution. It is important to promote the use of non-judicial redress mechanisms and alternative dispute resolutions to offer a swift, efficient and cheap solution to disputes. Pre-trial dispute resolutions, often facilitated by you as lawyers or by other legal professions contribute to an important extent to this objective.

Furthermore, redress by national administrative or enforcement authorities can help ensure the effectiveness of law, also in the context of EU legislation. Close cooperation between

administrative bodies is also essential for certain rights, such as the right to free movement, the protection of personal data or consumer rights. The independence of enforcement authorities, when required by EU law, as is the case for data protection authorities, must be ensured.

European legal training and e-Justice

Finally, national actors can only make EU laws effective if they know them. They have to be capable of interpreting and effectively enforcing EU law, alongside their own domestic law. In the Union's decentralised legal system, national lawyers and judges often need to become "Union law lawyers and judges" to be able to fulfil their responsibilities. Training legal practitioners in EU law is thus of utmost importance to ensure EU law is implemented and applied correctly, to build trust in each other's judicial systems and to enable practitioners to cooperate and trust each other across borders. Therefore the Commission puts an emphasis on funding legal training.

As you are well aware, practitioners across Europe need to work together to exchange information in a fast and secure way and to obtain assistance from their counterparts. Enhancing operational cooperation between all parties involved is crucial. Existing mechanisms and networks in civil and criminal matters, such as the European Judicial Networks, should be strengthened and their potential fully exploited, including online. This means that we also need to move on with e-justice.

It will not only facilitate operational cooperation but also contribute to promoting access to justice and knowledge of justice systems, to the benefit of the legal practitioners and ultimately to the advantage of the end-users of the law.

Conclusion

All the examples I have referred to show that the EU is working on improving the effectiveness of EU law for its final beneficiaries. And you, lawyers, are at the forefront of the efforts to render rights for citizens and businesses tangible. You are essential actors in the justice system and very often the first persons users of the system turn to for guidance to preserve their rights.

So allow me, Ladies and Gentleman, to conclude my speech with a call to all of you to pursue our joint efforts to uphold a community of law. For those who may still claim that power rules law, let us have faith – quoting Abraham Lincoln's words - that "right makes might (and in that faith, let us, to the end, dare to do our duty as we understand it)".

Thank you.