

STATEMENT TO THE PUBLIC

At the General Assembly held on 18 May 2021, the judges of the Supreme Court of the Republic of Croatia considered the atmosphere in the public in relation to the judiciary and considered it necessary to inform the public about their views.

The media space is mostly left to individuals who, with minimal or no experience in judiciary, express calculated and rigid views on the functioning of the judiciary and on professional and moral deficits allegedly widespread among judicial officials. We can hear such views from the President of the Republic of Croatia, individual members of the Croatian Parliament, the academic community and lawyers based on incomplete and superficial impressions appropriate to the layman level, without being based on serious and complete analyses.

There is also a large number of completely inappropriate and disparaging stylistic figures and expressions in circulation, which with their aggressiveness cover up the lack of expertise and reveal the lack of responsibility and seriousness. This has very serious consequences.

That is why the judges of the Supreme Court of the Republic of Croatia point out the following.

Admittedly, there are certain negative occurrences in the judiciary of the Republic of Croatia that need to be eradicated. Appropriate changes should allow for real, sustainable progress without random and irresponsible experimentation.

We find it unacceptable to encourage and promote general intolerance towards judges in the public space by portraying them as an isolated hedonistic community that is self-sufficient and does not answer to anyone. On the contrary, judges are primarily responsible for their work in legal proceedings and through legal remedies. In addition, judges are accountable to the public, but also in disciplinary, civil and criminal proceedings in accordance with the law. This is evident from the proceedings already completed, but also from the pending proceedings against individuals from the judiciary.

Therefore, the re-actualized theses that the judiciary has become “an autonomous and isolated, professional or guild organization that chooses itself, based on criteria set by itself and evaluated, that educates and examines itself, then disciplines itself and finally dismisses itself” (Prof Zlata Đurđević, PhD), are incorrect. Ideas about the need to reduce the achieved independence and autonomy of the judiciary are in conflict with the Constitution of the Republic of Croatia, which prescribes the independence and autonomy of the judiciary. At the same time, such theses are directly contrary to the *acquis communautaire*, which we have committed ourselves to respect when joining the European Union.

It is completely neglected that, in their activities, the courts apply the regulations adopted by the Croatian Parliament in the procedures prescribed by law, and not the courts. Regulations governing the organization of courts and the financial position of judges are not passed by judges but again by the Croatian Parliament. Material conditions for the work of courts are provided by the Ministry of Justice and

Administration (executive power). Courts and judges do not have material and financial independence, and the basic criteria as well as the procedure for electing judges and terminating their duties are also regulated by regulations issued by the legislature.

We warn that exaggeration in unfounded criticism leads to a public's propensity for tendentious extremes. This may be due to the lack of experience and knowledge gained by working in the courts or the lack of full knowledge of the work of judges. It is also motivated by the desire of public actors to gain popularity in the political environment, counting on the fact that professional position of judges dictates their restraint from participating in conflicts played out in public life.

The vast majority of judges in the Republic of Croatia prove their integrity on a daily basis with honest efforts to legally and fairly resolve specific, often very complex factual and legal problems and relationships with a dramatic effect on the actors in these relationships. In doing so, they are faced with pressures, well-founded and unfounded criticism of the participants in these relations, and media attention.

We believe that the right to a compliment of integrity belongs first of all to those judges who are not shown any respect in public and are instead seen as someone's "suitables".

We do not deny anyone the right to free opinion and expression, but we expect government officials and other stakeholders who believe that their thoughts can contribute to the progress of our society (including the judiciary) to make that contribution primarily where their professional position determines it (in the legislature or the executive, faculties, etc.), rather than in destructive public appearances, without meaningful ideas of what to do and how to proceed.

Finally, the General Assembly of the Supreme Court of the Republic of Croatia refers to Opinion No. 18 of the Council of Europe - Advisory Council of European Judges on "The position of the judiciary and its relationship with other state authorities in modern democracy" in which the paragraph 52 states as follows:

"Politicians and others in public positions in member states often make comments that either demand that judicial powers be restricted or show little understanding of the role of an independent judiciary. Such comments are made especially during election campaigns, when decisions on constitutional issues have been given, or on pending cases. In principle, the judiciary must accept that criticism is a part of the dialogue between the three powers of the state and with the society as a whole. However, in the view of the CCJE, there is a clear line between freedom of expression and legitimate criticism on the one hand, and disrespect and undue pressure against the judiciary on the other. Politicians should not use simplistic or demagogic arguments to make criticisms of the judiciary during political campaigns just for the sake of argument or in order to divert attention from their own shortcomings. Neither should individual judges be personally attacked. Politicians must never encourage disobedience to judicial decisions let alone violence against judges, as this has occurred in some member states. The executive and legislative powers are under a duty to provide all necessary and adequate protection where the

functions of the courts are endangered by attacks or intimidations directed at members of the judiciary. Unbalanced critical commentary by politicians is irresponsible and causes a serious problem because public trust and confidence in the judiciary can thereby be unwittingly or deliberately undermined. In such cases, the judiciary must point out that such behaviour is an attack on the constitution of a democratic state as well as an attack on the legitimacy of another state power. Such behaviour also violates international standards."