

SPEAKING POINTS

- Thank you for inviting me today to open the Plenary Session of the Council of Bars and Law Societies of Europe.
- Over the past five years, as Justice Commissioner, I have had many inspiring exchanges with you on issues that concern the core of the legal profession.
- For today's event, you have asked me to set out my objectives on the rule of law, which is as key part of my new portfolio.
- It is an honour for me to address this assembly and always a pleasure to interact with those who are directly involved in ensuring respect for the rule of law on a daily basis.
- First, I would like to stress that upholding the rule of law is a key priority for President-elect von der Leyen.
- In her political guidelines, President-elect von der Leyen has stated that (and I quote) *“Europe must stand up for justice and for our values. Nowhere is this more important than when it comes to the respect of the rule of law. There can be no compromise when it comes to defending our core values. Threats to the rule of law challenge the legal, political and economic basis of how our Union works. I will ensure that we use our rule of law toolbox at European level, and I support an additional comprehensive European rule of law mechanism.”*
- To make this a reality, President-elect von der Leyen has designated two Commissioners to deal with the rule of law. Implementing this will be a shared task between Justice Commissioner Reynders and myself.
- I will be Vice-President for values and transparency. This portfolio concerns what I would call Europe's soul. This portfolio is about the European people.

- My goals will be to make Europe more democratic and transparent; to make Europe more resilient against new threats, including digital ones; and to make Europe more capable of defending the values we cherish, including the rule of law, fundamental rights, democracy and media freedom.
- As Timothy Snyder wrote: ‘The Constitution is worth saving, the rule of law is worth saving, democracy is worth saving, but these things can and will be lost if everyone waits around for someone else.’
- This portfolio is testimony that the new Commission will not wait. Strengthening the rule of law will make Europe stronger and more united by building bridges between different parts of our Union.
- European values are our common foundation. They bind us together, from north to south, from east to west. They enable us to overcome our differences of language, of culture, of traditions. This is why upholding our values, our fundamental rights, our rule of law, must be our key objective. This should be a driver of European unity, rather than a source of division. I will uphold this spirit in my new role as Vice-President for values and transparency.

So, what are we planning to do?

- The Commission will develop a number of concrete actions to step up our joint capacity to safeguard the rule of law. The common objective must be to develop a coordinated and coherent strategic approach for the Union involving all relevant actors.
- Key elements of such a strategic approach include the promotion of a shared rule of law culture across the EU, an effective capacity to address problems early on through preventive measures, and a commitment for effective joint action wherever needed to contain problems when preventive measures fall short.
- And here the new European rule of law mechanism will play a prominent role. It will be a new element in addition to the rule of law toolbox already in place.

- The mechanism will cover all Member States on an objective basis, and will set up a process involving close dialogue with national authorities and an annual report highlighting significant developments covering all Member States.
- This reinforces the approach set out in the Commission's Communication of 17 July 2019 on Strengthening the rule of law within the Union – a blueprint for action. The Council of Bars and Law Societies of Europe made a very welcome contribution to the debate leading to this Communication.
- The focus of the proposed new rule of law mechanism will be to act as a preventive tool, aimed at improving dialogue and joint awareness of issues and developments.
- Let's be clear: the primary responsibility to ensure respect for the rule of law at national level lies within each Member State. Nonetheless, the EU has a legitimate role to play in supporting national authorities and ensuring that negative developments are addressed at an early stage.
- The Commission will therefore very soon begin the process of setting up dialogue and monitoring in relation to rule of law developments. It will cover all the different components of the rule of law, including for example systemic problems with the process for enacting laws, lack of effective judicial protection by independent and impartial courts, or non-respect for the separation of powers. It will also cover the capacity of Member States to fight corruption and, where there is a connection with the rule of law and EU law, look at issues in relation to the media.
- The Commission will work with Member States on this and I would find a debate early in 2020 in the GAC important on it.
- In particular as the Commission is planning to issue its first report in the second half of 2020.
- Also the European Parliament will play its role in this process.

- Our objective is to find a solution that protects the rule of law, with cooperation and mutual support, but without ruling out an effective, proportionate and dissuasive response as a last resort.
- The new European rule of law mechanism is therefore a preventive tool, complementing other existing rule of law processes, such as the Article 7 procedure and the 2014 Rule of Law Framework and infringement procedures. Those processes apply one step further down the chain, if needed, when prevention has not succeeded.
- And let me be clear: the ongoing Arts. 7 procedures regarding Poland and Hungary will continue.

What about the lawyers and the CCBE? How can you be involved? How can we work together?

- The national bars play a fundamental role in assisting the judicial system. In the rule of law checklist, the Venice Commission has therefore emphasised the independence and impartiality of the Bar.
- Those who are part of the system are ideally placed to see what works well and where it could be improved, including in their own organisations.
- Specific attention is also needed on the operational aspects of an effective judicial protection. The national bars and the Council of Bars and Law Societies of Europe can therefore help specifically, providing ‘early warning’ of attempts to restrict the effectiveness of judicial protection.
- Other important questions also relate to what the national bar can do when the rule of law is threatened in a Member State, or when there are attacks on judges and prosecutors or when there are smear campaigns in the media against the judiciary.

I firmly believe in networking and peer support. The Council of Bars and Law Societies of Europe could therefore provide best practices and specific support by their peers to national bars and lawyers’ organisations based on relationships of trust.

- With respect to promoting the new mechanism, the Commission stressed the need to strengthen the rule of law culture among the general public. Part of this is also to promote a better knowledge of the requirements of EU law and European standards relating to the rule of law. The Commission has already financed a project on judicial training related to the rule of law standards.
- Lawyers, and associations of lawyers like yours (the CCBE), can play an important role here, as you can help communicate to the public the importance of democracy and the rule of law – the building blocks of the European Union – in our everyday lives. And I encourage the CCBE to take this communication challenge to heart.
- This is also why I welcome your initiative, in partnership with the European Network of Council for the Judiciary, to produce a video explaining the importance of the rule of law for the everyday lives of citizens.

Conclusion

- We are now at the start of a new process, and I am very keen to begin putting the new European rule of law mechanism into place, together with Commissioner-designate Reynders.
- I strongly believe in the important role that lawyers can play in this process and I can only reiterate my desire to include you in our initiatives on the rule of law.