

## REFLECTIONS ON THE IDENTITY CRISIS OF THE JUDICIAL SYSTEM

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**Abstract:** Identity is the concept by which a system defines itself. A system outlines identity when it is able to identify values as *jus cogens*, perpetually strictly respected, able to remain determined, vertical and independent in the context of social antagonisms, able to form authentic and indisputable leaders, able to generate and promote collective will. Identity, as a subjective and tonic conviction of the unity and continuity of the system, gives it strength and stability. Opposite, the identity crisis, generating a state of conflicting tension within the system, but also in relation to other systems, leads to vulnerability and obstructs rationality. This article will address the identity crisis faced by the judicial system of the Republic of Moldova today.

**Keywords:** identity, judicial system, identity crisis, rule of law, reform.

JEL Classification: **K10, K40**

### Introduction

The identity crisis of the judicial system is a complex issue specific to each country or jurisdiction, which arises when there is tension between the values, functions, and societal expectations regarding justice and the reality in which the courts operate.

In particular, the judicial system of the Republic of Moldova is currently facing a severe identity crisis, becoming highly vulnerable to irrationalism. Populist politics, in its tendency to establish authoritarianism, fiercely struggles to take control of the judicial system, discrediting its role as the guardian of the rule of law, attempting to replace justice with flawed models such as surveillance, repression, and communication (defamation, demagoguery, fake news, etc.).

This study aims to clarify the concept of the judicial system's identity crisis, identify the causes and consequences of this crisis, and formulate solutions to strengthen the independence of the judicial system.

The primary concern from the perspective of international standards is that any regulatory intervention in the field of justice should not be used by political actors or government officials as a means to control the activities of judges. The main point of discussion revolves around safeguarding the independence of the judiciary by ensuring that no institution interferes with access to a fair trial provided by an impartial court. Additionally, any norm that holds judges accountable must be proportionate and should not interfere in any way with the judge's decision-making process in individual cases.

## The Identity Crisis of the Judicial System: Conceptual Approaches

*Identity* is the definition that a system formulates about itself.

A system establishes its identity when it identifies values as *jus cogens* and adheres to them strictly and perpetually, without allowing exceptions, when it remains resolute, identical to itself, despite changes in the value system, and when it produces indisputable leaders, true idea generators, and promoters.

*The identity of the judicial system* is shaped by the characteristics, functions, and attributes that define this system within a specific society or jurisdiction. The identity of the judicial system can vary from one country to another and is influenced by numerous factors, such as the promotion of the principles of the rule of law, judicial independence, access to justice, the efficiency and accessibility of judicial procedures, the level of transparency in judicial decision-making, the accountability of judges, legal culture, and so on.

Judicial independence is a constitutional principle and a defining feature of the rule of law, closely related to the separation and balance of powers within a state. It serves as a fundamental safeguard against abuses of power. Judicial independence can only be ensured when all those involved are committed to supporting the institutions of democracy. This requirement demands both the institutional independence of the justice system and the individual independence of judges. Without the independence of judges, authentic justice cannot be administered. A well-functioning justice system is essential for good governance, the reduction of corruption, economic growth, the efficient delivery of public services, and the protection of fundamental human rights and freedoms.

Transparency in the procedures for the appointment, evaluation, and management of judges' performance is crucial for the independence of the entire judicial system. Professional evaluations of judges should not be used to undermine their independence. Emphasis is placed on the fairness and transparency of the procedures, the application of clear and uniform criteria for professional evaluation, and a well-founded rationale for decisions. Ensuring a balance between the independence and accountability of judges is imperative. Sanctions against judges should be reserved for cases of serious alleged professional misconduct that discredit the judicial system. There is a strong emphasis on an effective and transparent practice of disciplining judges, free from influences or interference with a judge's duty to administer justice. Furthermore, litigants expect judges to conduct themselves fairly and impartially, with these qualities permeating the entire work conducted by all personnel directly or indirectly involved in the administration of justice. It is crucial that the judicial process remains uncompromised due to the behavior of judges or other members of the court staff, which could damage the reputation of the judiciary.

The identity of the judicial system is crucial for maintaining public trust in the justice system and its proper functioning within a democratic society and the rule of law.

The inability of the system to establish its own identity leads to an *identity crisis*, a concept introduced in 1968 by the German-American researcher Erik Erikson (Erikson, E.H., 1968). In essence, an identity crisis is a state of conflict and tension, both with one's own self and with the world around them.

*The causes of the judicial system's identity crisis* are varied and complex, such as: excessive politicization, when the judiciary is subjected to undue political influences, such as the appointment or promotion of judges based on political affiliations; lack of resources, when the judicial system doesn't receive sufficient financial or human resources to perform its functions properly, leading to delays in proceedings and the inability to provide efficient justice; corruption, which can erode public trust in the integrity of the judicial system and create an identity crisis among honest judges who are fighting against corruption; frequent legislative changes and major reforms that can create uncertainty among judges about how they should fulfill their roles and apply the laws; public and media pressure that can affect the independence of judges and raise questions about their objectivity in decision-making; differences in values and expectations between the public, on one hand, and the practices of the judicial system, on the other.

Among these, excessive politicization, combined with the "eternal" system reform, most significantly affects the identity of the judicial system and leads to undermining the fundamental principles of democracy and compromising the rule of law.

*Excessive politicization* is a situation in which political power exerts influence or control over the judicial system in a manner that undermines its independence, objectivity, and integrity. The methods of political control over the judiciary can be quite diverse, such as: direct nomination and appointment of judges by political actors to influence the composition of the courts in their favor; exerting political pressure on judges to obtain decisions that serve their interests; individual interference in the conduct of trials and the adoption of judicial decisions; legislative changes to limit or expand the authority of judges based on political interests; lack of transparency in the processes of appointing judges, decision-making, and managing the judicial system, among others. Political control of the judiciary leads to the vulnerability of the system to political influences, erosion of public trust in the judicial system, and the violation of individual rights and freedoms.

In its essence, judicial system reform is a process that brings about significant changes in the structure, functioning, and culture of the judicial system to enhance independence, efficiency, and the fairness of justice. Judicial system reform is a complex and often long-term process, but it is essential for upholding the rule of law and ensuring equitable justice in society. Reforms can have various objectives, such as strengthening judicial independence, combating corruption, ensuring efficiency and access to justice, increasing transparency and accountability, developing professional skills, and safeguarding fundamental rights, among others. It is crucial for reforms to be carefully planned, taking into account the needs, context, and potential reactions of those affected. Successful implementation of reforms requires commitment from governments, justice professionals, and civil society. Indeed, excessive reform, when implemented rapidly or aggressively, can be counterproductive, significantly disrupting the judicial system or provoking substantial resistance from those affected by the reform.

### **The Judicial System of the Republic of Moldova: "Eternal" Reform**

The judicial system of the Republic of Moldova has had a challenging historical journey, marked by a pendulum swing between the remnants of Soviet traditions and the new systemic challenges of the era. The Constitution of the Republic of Moldova in 1994 initiated the long series of reforms in the administration and organization of justice in the newly-formed state.

Between 1994-1996, the constitutional provisions were developed through a package of framework laws, such as Law No. 514 of July 6, 1995, *regarding the judicial organization*, Law No. 544 of July 20, 1995, *on the status of judges*, Law No. 789 of March 26, 1996, *regarding the Supreme Court of Justice*, Law No. 947 of July 19, 1996, *on the Superior Council of Magistracy*, and so on.

Law No. 76 of April 21, 2016, *regarding the reorganization of the judicial courts*, restructures the judicial system. Starting from August 27, 1996, the new judicial system began to function, composed of the Supreme Court of Justice, the Court of Appeal, tribunals (5), sector and municipal courts (48), the Economic District Court, the Economic Court of the Republic of Moldova, and the Military Court.

Between the years 2001-2005, a reform program was developed, which was, in essence, regressive, substantially increasing executive control over the judiciary. In 2002, the levels of judicial courts were reduced from four to three, and the tribunals were liquidated. In 2003, the rules regulating the activities of the judicial system were modified.

In 2005, a new reform was adopted, which essentially reversed the regressive measures that came before. It strengthened the independence and modified the composition of the Superior Council of Magistracy while limiting the role of the country's President in the procedure for appointing judges.

Between the years 2011-2017, a new reform of the justice sector was launched, this time as an integral part of the EU-Moldova Association Agreement agenda (AAEURM, 2014). The reform strategy (Law No. 23/2011) aimed to strengthen the independence, accountability, efficiency, and transparency of the judicial system. Measures included the random allocation of cases, hiring assistants for each judge, increasing the salaries of judges and court staff. This was followed by the adoption of two significant laws, Law No. 154 of July 5, 2012, *on the selection, performance evaluation, and career of judges*, and Law No. 178 of July 25, 2014, *on the disciplinary responsibility of judges*.

Starting from January 1, 2017, the judicial court system in the Republic of Moldova underwent a new reorganization with the aim of ensuring the quality of the judicial process, the efficiency of the judicial system, the equitable distribution of tasks among the courts, the efficient use of public funds, and creating conditions for the specialization of judges. As a result, the previous 44 first-instance courts were merged to create 15 new judicial courts. Currently, these courts are composed of central and secondary seats. According to the *Law on the Reorganization of Judicial Courts* (Law No. 76/2016), the unification will be carried out gradually until December 31, 2027, as the conditions are created for them according to the plan approved by Parliament. It is worth noting that as of September 2023, only one court out of the 15 newly formed ones (Ungheni Court) has completed the merger process and has a single seat. The probability of completing the reform within the specified timeframe is extremely low.

In September 2020, the Moldovan government approved a draft law for amending the Moldovan Constitution (Decision No. 730/2020). This amendment was aimed at strengthening the judicial system, fortifying the constitutional legal framework for ensuring the stability and immovability of judges' mandates, and guaranteeing the independence of the judiciary. The initiative was part

of the National Action Plan for the Implementation of the EU-Moldova Association Agreement for the period 2017-2019.

One year later, the Moldovan Parliament passed the *Law for Amending the Constitution of the Republic of Moldova* (Law No. 120/2021). The law aimed to amend articles 116, 121, 122, and 123 of the Moldovan Constitution by removing the term of 5 years for the appointment of judges and establishes a provision granting the President of Moldova the right to reject a candidate proposed by the Superior Council of Magistracy only once. Another amendment pertains to the appointment of judges to the Supreme Court of Justice, similar to judges in appellate courts and courts, by the President of Moldova upon the proposal of the Superior Council of Magistracy, and the removal of the requirement for judges to have at least 10 years of work experience in the position of a judge. The law stipulates that judges hold only functional immunity under the law. The composition of the Superior Council of Magistracy is altered, comprising 12 members: six judges elected by the General Assembly of Judges, representing all levels of judicial courts, and six individuals with a high professional reputation and personal integrity, with experience in the field of law or in other relevant areas, who do not serve in the legislative, executive, or judicial branches of power and are not politically affiliated. Members of the Superior Council of Magistracy are elected or appointed for a term of 6 years, with no possibility of holding two mandates.

In March 2022, the Parliament of the Republic of Moldova adopted the *Law on certain measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors* (Law No. 26/2022), which imposed the condition that only candidates who pass the evaluation of ethical and financial integrity can participate in the elections for the position of member in the Superior Council of Magistracy. The adoption of this law resulted in the blocking of elections for new members to the Superior Council of Magistracy.

Going beyond the scope of the current study, it's worth noting that national law places emphasis on integrity through the verification of assets and interests of actors in the judiciary by the National Integrity Authority, which is an independent public authority specialized in ensuring integrity in the exercise of public functions or functions of public office and preventing corruption through the control of assets and personal interests, and overseeing compliance with the legal framework related to conflicts of interest, incompatibilities, restrictions, and limitations (Law No. 132/2016).

Furthermore, by Law No. 246 of July 29, 2022, the mandates of former members of the Superior Council of Magistracy were extended. As a result, a Council member continues to exercise their duties even after their mandate has expired, until the new member who is to replace them takes over (Law No. 246/2022, Art. III(6)). This regulation, in our view, is unconstitutional, as the Constitution of the Republic of Moldova expressly states: "Members of the Superior Council of Magistracy are elected or appointed for a term of 6 years [4 years, in the previous version], without the possibility of holding two mandates" (The Constitution of the Republic of Moldova, 1994, Art. 122(5)), and it does not provide for the possibility of extension.

Law No. 26/2022 established the "Pre-Vetting" procedure, which is an integrity assessment of candidates for the positions of members of the Superior Council of Magistracy and the Superior Council of Prosecutors, as well as candidates for membership in their specialized bodies. The evaluation is carried out by a Commission composed of 6 members appointed by Parliament, with

3 members being citizens of the Republic of Moldova and 3 members being foreign citizens proposed by development partners. No judges or prosecutors are part of this commission. The members of the commission can request information from all state bodies regarding the candidates and their relatives. The commission has the authority to investigate any aspect of the candidate's private or professional life and determine their ethical and financial integrity. The criteria for assessing integrity are left to the discretion of the commission members. According to Law No. 26/2022, the Pre-Vetting Commission was supposed to conclude its evaluation of candidates for positions in the judicial administration bodies by December 31, 2022. This was not achieved, and by Law No. 354/2022, the term of the Pre-Vetting Commission's activity was extended until June 30, 2023 (Law No. 354/2022, Art. I(6)), leading to a further postponement of the elections for the position of a member in the Superior Council of Magistracy. The decision of non-promotion in the evaluation serves as a basis for disqualifying the candidate from the elections to the council. Moreover, the candidate's challenge to the decision does not suspend the elections for a position in the respective council, and the General Assembly is obliged to elect council members from among those selected by the Pre-Vetting Commission.

Meanwhile, by Law No. 252/2023, the term of activity of the Pre-Vetting Commission has been repeatedly extended. The commission will continue its activity until the examination of appeals filed against its decisions is completed (Law No. 352/2023, Art. 22(11)).

The experience of pre-vetting is a controversial one. Although the law on assessing candidates for membership in the Superior Council of Magistracy and in the Superior Council of Prosecutors was consulted with the relevant stakeholders, it was only partially accepted by the Venice Commission, which provided relevant recommendations on its implementation. It is evident that the implementation of the law is flawed, starting with the appointment of Pre-Vetting Commission members, the secrecy of the secretariat's composition, the application of double standards, differing criteria for assessing candidates in similar situations, and extending to the reasoning behind the Pre-Vetting Commission's decisions. The Commission decided to exclude 23 of the 28 candidates, effectively limiting the choice of the electorate and influencing the composition of the judicial section of the Council. Although the Supreme Court later quashed the Commission's decisions, this judgment has not been properly implemented so far. It is regrettable that the pre-vetting exercise has failed and has discredited the government's stated intentions of "cleansing" the judicial system. Essentially, pre-vetting serves as a political filter to identify the "loyal", while preventing the "independent" individuals from running for leadership positions in the judiciary.

As a result, although the Law Amending the Constitution of the Republic of Moldova came into force on April 1, 2022, its implementation has suffered serious deficiencies. In particular, the Superior Council of Magistracy still lacks its full constitutional composition as of today. Out of the 12 members, only 9 are present. It is noteworthy that the presence of one member from the ranks of judges was ensured by Law No. 246/2022. Furthermore, the term of office for this particular judge's membership in the Superior Council of Magistracy expired on December 1, 2021 (Decision No. 5/2017). We consider this presence to be abusive and unconstitutional.

In March 2023, the parliamentary majority adopted Law No. 64/2023, launching a new multidimensional reform of the Supreme Court of Justice. The governing party further intends to conduct a process of vetting of the private and financial circumstances of all judges of the Supreme

Court, the Court of Appeal and presidents and vice-presidents in the District Courts (Law No. 65/2023, Law No. 252/2023).

Indeed, international standards make it clear that the security of judicial office during its term and the immovability of judges are integral parts of the guarantees of judicial independence (UDIJ, 1983; UNBPIJ, 1985; Council of Europe, 2010a; Council of Europe, 2010b; Council of Europe, 2010c; Council of Europe, 2014b; JGSJI, 2002; OSCE/ODHIR, 2010).

When planning the organization and functioning of the judicial system, the legislative and executive branches should refrain from adopting measures that could endanger the security of the tenure of judges or their immovability and thus constitute an interference with judicial independence.

The principle of the security of tenure for judges also applies when circumstances seemingly dictate the necessity of replacing a significant number of judges or require the implementation of radical assessment measures to improve the integrity and quality of the judicial system.

However, in such cases, it is necessary to establish a strict set of safeguards to provide protection for judges who diligently perform their duties. Applying measures to purify the judicial system without considering international standards for a fair trial or the fundamental principles of judicial independence will, on the contrary, undermine rather than strengthen the judicial system.

We note that currently in the Republic of Moldova, there is a parliamentary majority from a single party in the Parliament. This comfort has led to the disregard of the Venice Commission's recommendations, which emphasize that for an extraordinary external evaluation of national judges, there needs to be a broad consensus in society on this matter, involving the affected judges, parliamentary and non-parliamentary opposition, and civil society. In the absence of such a consensus, the Government of the Republic of Moldova insisted that the extraordinary assessment of judges take place based on an organic law, which is adopted with the vote of the elected majority of deputies. Public consultations were simulated, and critical opinions were not reflected in the final text of the law. Furthermore, the introduction of these vetting procedures takes place against the background of constant attacks, abuse and threats directed by politicians and the media against judges and the judiciary as a body. The political nature from the outset of this judicial reform compromises its stated purpose. The public perception is that it seeks the political screening of judges and the political subordination of the judiciary system.

Summary of the evolution of the judicial system in the Republic of Moldova since independence clearly demonstrates a state of "eternal reform". These reforms have deprived the judicial system of stability and legal security. We have witnessed a significant number of "major" system reforms over a relatively short period of about 30 years, without these reforms yielding tangible progress. Any reform requires time to produce results. Some reforms have taken the form of counter-reforms, undoing previous changes, regressing significantly the state of affairs in the field. Some changes have significantly diminished the constitutional guarantees of judicial independence, leading to the weakening and vulnerability of the system to external influences. At times, reforms overlapped with going ones, a new reform was initiated without completing the one already in progress. The speed and manner of implementing reforms, as well as the large number of legal framework modifications, speak to the flawed quality of the reform concepts and processes themselves.

For example, as of September 2023, the *Law on Judicial Organization* had been amended 49 times; the *Law on the Status of Judges* - 76 times; the *Law on the Superior Council of Magistracy* - 44 times; the *Law on the Selection, Performance Evaluation, and Career of Judges* - 6 times, subsequently repealed by the *Law on the Selection and Performance Evaluation of Judges* (Law No. 147/2023), which has already been amended by Law No. 200 of July 31, 2023; the *Law on Disciplinary Responsibility of Judges* - 11 times. Furthermore, none of these reforms has undergone a post-factum institutional evaluation. We're not even discussing the existence of any form of accountability for the adoption of flawed reforms or their poor implementation.

### **The Identity Crisis of the Judicial System: Consequences and Solutions**

*The consequences of the judicial system's identity crisis* can be significant and may impact both the judiciary itself and society as a whole. To avoid or manage the consequences of such a crisis, it is essential for authorities, judges, and civil society to collaborate in promoting the independence, integrity, and effectiveness of the judicial system.

*Erosion of the Rule of law*, or in other words, the gradual weakening or undermining of the three constitutive elements of the rule of law: legality, democracy, and human rights, entails the disregard of the exercise of public power by the control of the law. The Rule of law requires that the main powers - executive, legislative, and judicial - should be separate. An essential requirement of the rule of law is the presence of an impartial and independent justice system. Judges must decide according to the law and only on the basis of the law, impartially and free from external pressures. On the other hand, judges must adhere to codes of integrity and professional conduct and be accountable for rendering judgments fairly.

The rule of law demands that laws are applied strictly and visibly, respected by those in power, and protected from those in power. Fundamentally, the rule of law is a premise of mutual trust. Widespread disregard for the law generates distrust and indifference towards the justice system. An independent justice system plays an important role in ensuring the congruence between applicable rules and actual behaviour.

*The decline in public trust* can undermine the authority of the judiciary and compromise the adherence to laws and judicial decisions. Independence, impartiality, and integrity of judges are the prerequisites for building trust among citizens in the judicial system. A society that trusts its judicial system, the effectiveness of the rule of law, and the application of the principle that all are equal before the law is a strong and prosperous society. Unfortunately, Moldovan society does not enjoy the comfort of such trust. However, the actual state of the Moldovan judiciary, as reflected in official reports from various authoritative bodies, is critical. It's already a cliché to say that Moldovans don't have trust in the judiciary. According to the latest Public Opinion Barometer (BOP, 2023), 72.5% of respondents do not have trust in the judiciary. This is an alarming figure. Behind the numbers and perceptions are facts. In recent years, the justice system has seen setbacks in key indicators related to the independence and quality of judicial acts, such as human rights violations, selective justice, double standards application, and more.

When the judiciary system is weakened or in crisis, there's a risk that *justice won't be applied fairly*. Equal treatment is a value that characterizes the rule of law. If authorities and judges apply the law correctly, they can't treat people who are identical under the law differently. They can't treat an individual or a group differently because of prejudices, corruption, or bad intentions. The



rule of law is fundamentally based, in part, on a sense of fairness, which dictates that similar cases should be treated similarly. Otherwise, citizens may perceive that there are twelve different units of measurement for the law for various groups or individuals, which can lead to dissatisfaction and social tensions.

*Delayed justice is denied justice*, and a crisis of identity within the judicial system can lead to delays in proceedings and the inability to provide swift and fair justice. It is of great importance that the duration of cases is not excessively long and that they are resolved within a reasonable timeframe. Delayed justice, in turn, can generate social tensions and protests among citizens, including in the streets, to demand reforms or to express their frustrations regarding how justice is administered.

The crisis of identity within the judicial system, leading to an imbalance of power among governmental branches, poses a *risk to political stability*. It is unacceptable for the political sphere to act arbitrarily, as in a dictatorship. The exercise of governmental power should be in accordance with the law, as the law facilitates a stable and predictable environment. As policy-makers, politicians should not favour the idea of having the freedom to act as they please, but should advocate to be, entirely, constrained by the law. It is extremely important for politicians to publicly acknowledge and respect the independence and impartiality of the judiciary. *Oppositum*, any form of interference in the judiciary's activities can lead to its failure. Political pressures on the judiciary can erode public trust in the system. As a result, citizens may protest or lose confidence in political institutions. This context can lead to political instability as political parties may become polarized, conflicts between government authorities may arise, or public dialogue can become challenging. Maintaining political stability can only be ensured by restoring trust in the judicial system.

*Resolving the crisis of identity within the judicial system* can be a lengthy and complex process, but it is crucial for upholding the rule of law and restoring public trust in the judiciary. To implement the necessary reforms, it's essential for all stakeholders to collaborate. The process often involves a combination of legislative, structural, and cultural measures aimed at: creating robust mechanisms to protect the independence of the judiciary from political or external influences; evaluating and revising judicial procedures; ensuring transparency in judicial processes; developing accountability mechanisms for judges; on-going training and professional development of judges; international cooperation; fostering a culture of integrity.

In the circumstances where the judicial system of the Republic of Moldova is facing a severe identity crisis, reflected in the extremely low level of public credibility, generated by its lack of independence, fairness, and integrity, reforming the system has become imperative. The political agenda in Moldova has included the objective of identifying feasible and urgent solutions to the issues within the justice system. It is noteworthy that since its independence, the Republic of Moldova has been continuously reforming the justice sector, with most of these reforms being compromised and deeply politicized.

*In mens legis*, the principles of liberal democracy limit any intrusion into the judicial system. The democratic vocabulary includes constitutional barriers and strong rhetoric against actions that might violate the "separation of powers" or "judicial independence". Any reform targeting the judicial system must strictly adhere to the principles of the rule of law.

We argue that the rebuilding or, more so, self-reconstruction of the system through the identification and implementation of comprehensive and transparent solutions is crucial to increase the trust of litigants in the judicial courts and the act of justice itself. Additionally, restoring the noble image of judges can be achieved through strengthening the independence and accountability of the judicial system, with a crucial role assigned to the Superior Council of Magistracy.

The Constitution of the Republic of Moldova establishes the role of the Superior Council of Magistracy as a guarantor of the independence of the judiciary. As an integral part of the judicial authority, the Superior Council of Magistracy is vested with essential decision-making powers by law, aiming to ensure the organization, functioning, and guarantee of the judiciary's independence to achieve equitable justice. In its role as the "executive" of the judicial system, the Superior Council of Magistracy, in its authentic form, is tasked with maintaining a balance between protecting the authority of the judicial power and upholding the constitutional rights of judges. Charged with protecting the independence of the judiciary and ensuring its efficiency and quality, while possessing definitive competencies within the judicial system, the Superior Council of Magistracy can and should shield the judiciary from any interference, influence, pressure, or threats. It should also ensure that all those involved in the justice process are engaged in upholding professional principles directly and unequivocally. Thus, situated in a pivotal position for the entire judicial system, the Superior Council of Magistracy bears primary and direct responsibility for the state of the judiciary.

Rebuilding requires willpower, time, and consistency, as well as rational and responsible behaviour. Today, more than ever, it is time to move beyond the reductive view of justice, highly politicized and polarized preferences, and make way for a constructive and pragmatic approach.

## **Conclusion**

Identity is the definition a system develops about itself.

A system that is incapable of identifying values as *jus cogens*, strictly perpetually respected, unable to remain determined, upright, and independent in the context of social antagonisms, unable to create authentic and undisputed leaders (not those inflated by NGOs or secretariats), unable to generate and promote collective will, is a system without identity.

Inevitably, a system in a state of "eternal reform" and subject to political whims is bereft of identity, doomed to be replaced by erroneous models.

But what populist politics has not grasped is that, in the end, on that inevitable day, which will surely come, it will find its own beheading at the hands of the servant who, overnight, becomes the executioner! Why? Because the subject cannot do without the master!

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