

Mr President of the Constitutional Court of Spain,

Dear Vice president Constitutional Court of Spain,

Dear Chairs, Speakers, Discussants and Rapporteurs

Excellencies, Presidents and Justices,

Distinguished guests, dear colleagues and friends,

I have had the immense privilege to listen to your presentations, questions, comments and discussion during the last two days. And I wish to thank you all.

While the session rapporteurs will present you their summary and conclusions of each of the panels, I would like to share with you some general reflections which have come to my mind during the conference.

The Congress examined three specific topics –

- the preservation of natural resources and the environment,
- the preservation of the cultural heritage of humankind, and
- access to scientific knowledge and new technologies

which are all of particular relevance in the context of ensuring that today's choices do not prejudice in an irreparable manner the freedom of the younger generations and future generations to take care of their needs through their own choices.

The higher risk for these three specific areas to have an irreversible impact on future generations stems in my view for several features that they have in common (all at the same time):

- They transcend the present: at the same time they have a considerable immediate impact and they will clearly have a considerable – and largely unpredictable – impact in the long term they develop at a very fast pace
- They transcend national borders;
- They involve both state and non-state actors
- They require interdisciplinary responses
- They raise novel challenges
- Even when framed as a fundamental individual right, they transcend individual interest
- They present a tension with other rights (especially economic rights) and raise considerable stakes. For this reason, they are met with resistance.

The protection of the environment, the protection of cultural heritage, the protection “from” digital technologies are challenges everywhere, but do not present themselves everywhere in the same manner.

There are considerable differences linked to geography, to territory, and to history.

Responsibility may be only at state level, or also at sub-state level or levels

There are also considerable differences in the applicable domestic constitutional and legal framework: the environment, cultural heritage, scientific and technological developments may be enshrined as general principles, or specific fundamental rights, with more or less specific

state obligations. Some constitutions enshrine the protection of the interest of future generations.

There also different models of judicial review.

These differences naturally affect the manner in which the courts may tackle these issues.

The perspective of this Congress, as was recalled, is the perspective of the judge: judges do not simply consider or discuss legal problems, they do so with a view to solving them. And it is clear that courts, and constitutional and equivalent courts in particular, have an important role to play, within their constitutional competences, to provide solutions to these problems.

Through the interpretation of the constitution as a living instrument, for example; through the careful balancing of conflicting rights, or conflicting aspects of the same right; through the appropriate use of scientific evidence.

As was underlined, the judicial protection of the rights of future generations requires commitment and courage, which in turn require independent and strong judiciaries.

It is essential that appropriate safeguards be provided for effective judicial independence, in the texts in the first place, and also in practice. Courts must be given sufficient means and resources. Judicial decisions must be implemented despite difficult social realities and political contexts. Courts and the judiciary must be respected and must be protected, including from what has been referred to as digital populism.

Human Rights protection cannot be separated from the protection of the rule of law.

The Venice Commission has devoted a very special attention to operationalising the protection of the rule of law. It has embarked in a process of updating its Rule of Law Checklist, as was recalled. Between its adoption in 2016 and nowadays, many things have challenged. The updated version will contain a section specifically devoted to the guarantees for constitutional justice. The updated checklist also strengthens its attention to the separation of powers.

It also contains new indicators under legal certainty, legality, equality and non-discrimination and access to court, which address the use of digital technologies. I will underline that Courts are called to review the rule of law compliant use of digital technologies by the state authorities, but also to make themselves use of digital technologies in a rule of law compliant manner.

Clearly the effective implementation of the judicial decisions is particularly complex in a **transnational dimension**.

When problems are transnational, multilateralism is an essential component of their effective solutions.

Role of international bodies (the United Nations, the Council of Europe, the European Union).

The Council of Europe has prepared specific international treaties – for example on the protection of cultural heritage. It is also preparing a convention on countering Foreign information manipulation and interference.

International courts – the ECtHR, the African court on Human and Peoples' Rights, the Inter American of Human Rights are developing international standards which are designed to steer toward a more uniform interpretation of the obligations of national authorities.

These international judgments refer to the national judiciaries. As the President of the ECtHR underlined, the Court respects the **principle of subsidiarity**: it is primarily for the national authorities and courts to protect effectively these rights.

I will conclude by underlining that **Human Rights protection cannot be separated from the protection of democracy.**

Failure to tackle and to provide effective responses to these problems which the young generations consider as a priority creates disaffection,

indifference to political participation,

frustration, anger that may even lead to unrest.

The use of digital technologies – or rather the abuse of these technologies, especially during elections has a direct adverse impact on democracy.

Public trust in the institutions, in the courts, but also in the democratic processes as such, is directly threatened.

Failure to tackle these issues thus also contributes to the risks of backsliding of democracy.

The stakes are high, your task is complex and crucial. I am confident that this Congress has provided you with new ideas and new focus. ****

Gratitude

None of this happens by itself.

To the Constitutional Court of Spain and its President and his cabinet: our sincere thanks for generous hospitality and exemplary organisation.

To the speakers, discussants, and chairs of the four sessions: thank you for the clarity of your presentations and the fairness of your exchanges.

To our rapporteurs—who now undertake the most delicate synthesis—your work is essential to giving this Congress a practical legacy.

And to every delegation that travelled—some from very far—thank you for the openness and goodwill you brought to the table.

And last but not least to the interpreters who have done a marvelous job.

Let me also thank my colleagues in the Secretariat and in the Spanish tribunal —many of whom you do not see on this podium—whose professionalism and patience are the invisible structure of our common effort.

With that, I thank you for your attention. I invite our rapporteurs to present their conclusions, and I look forward to the deliberations of the General Assembly.

Thank you.