

## **Conference on Evaluating European Judicial Systems, The Hague - 2-3 May 2005**

### **Speech by Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe**

The Hague, 2 May 2005

European justice systems: How well do they protect our citizens?

Minister,  
Excellencies,  
Ladies and Gentlemen,

In her speech opening the parliamentary year in the Netherlands for 2003-2004, Her Majesty Queen Beatrix said: "The development and maintenance of the Rule of Law is one of the central tasks of the government. The Rule of Law has to be maintained and where necessary adapted to a changing society. The starting point is a justice system that where possible offers space but where needed offers boundaries. Parties need first of all to find their own solutions to their disputes. Clear legal norms are necessary for this, and an efficient legal system as guarantor is essential."

Today, two years later, her words still ring true. We need to adapt our judicial systems to respond to the challenges of the changing society, and we need to make sure that justice is not only served, but is served efficiently. Maintaining the Rule of Law, together with developing pluralist democracy and protecting human rights, is the *raison d'être* of the Council of Europe which I represent here today.

Article 6 of the European Convention on Human Rights and the case law of the European Court of Human Rights show clearly that the concept of a fair trial encompasses the need for judicial efficiency. However, let us ask ourselves whether justice in Europe today will be served for someone who cannot afford a lawyer, for someone who does not have access to the court, or for someone who has to wait long years before the court takes a decision, or when the court's decision is not enforced? Without effective access to independent and impartial justice, without the possibility for all European citizens to defend their rights in court, without a fair trial within a reasonable time, and without an effective enforcement of the court's decision, the Rule of Law becomes an empty concept.

The Rule of Law is not upheld where judicial systems do not operate efficiently. Delivering justice not only means administration of the law through judicial mechanisms, but also fairness and effectiveness of treatment when justice is served.

That is why we in the Council of Europe attach so much importance to the question of improving the efficiency of European judicial systems, and that is why we have created the European Commission for the Efficiency of Justice, CEPEJ, a unique structure for evaluating judicial systems across our continent.

We have before us today the first report of this Commission evaluating the European justice systems, and I would like to thank the Research Centre of the Dutch Ministry

of Justice, under the supervision of Roland Eshuis, for assisting with the production of this report.

“Evaluating European judicial systems” is the theme of this Conference, which is an excellent follow-up to the Conference on the efficiency of justice within the Council of Europe and its member states, organised last year by the Dutch Presidency of the Council of Europe’s Committee of Ministers here in The Hague. Today, thanks to the work carried out by the CEPEJ, we have concrete information on the way the judicial systems are functioning in 43 out of our 46 member states. Today's event is a very good opportunity to address specific issues regarding their operation and to offer to all European States pragmatic solutions to improve their judicial organisation of fair trials within a reasonable time.

Ladies and Gentlemen,

Let us ask ourselves: what does it take for justice to be efficient?

I would say that:

- Justice must be accessible for the citizens; complexity and costs of justice can be real obstacles to access to a court. The Report shows for instance that the expenditure on legal aid in several member States remains at very low levels, and that in a small number of our member States legal aid schemes do not even exist;
- Justice must operate through fair trials; independent and well qualified judges should deliver justice only by reference to the law and be immune from external influence. In practice, this requires - among other things - that judges should be paid appropriate salaries. However, we can see from the Report that unfortunately this is not the case in all our member States;
- Justice must be effective: reasonable timeframes of proceedings must be organised and court decisions, when delivered, must be properly enforced. Yet, the Report indicates that in many member States the average length of court proceedings is too long. Does it mean that, despite the abundant jurisprudence of the European Court of Human Rights on this subject, judicial systems cannot be improved to be more effective? A look at the Report tells us that several of our member States have found solutions in order to guarantee to the parties a timely conclusion of proceedings.

I would encourage our member States to consider carefully the difficulties highlighted by the Report and address them in the spirit of the shared objectives of all European judicial systems. We do not preach that Europe must have one uniform system, but that all systems, in their diversity, must be based on the same principles.

Ladies and gentlemen,

The Council of Europe, as a truly pan-European organisation, plays a pre-eminent role in promoting the efficiency of justice, on the basis of the European norms which define the common values and rules of a unified judicial area across the whole continent.

We have been working on a number of recommendations to solve this issue. I could mention European standards on legal aid and legal advice, common rules for mediation in family and civil matters as well as in administrative law and criminal issues, and measures to prevent court workload, simplify criminal justice or improve the efficiency and role of judges, to name but a few.

We are also paying particular attention to the practice of the profession of lawyer, and to assist our member states in setting up legal aid mechanisms, organising Bar associations and training lawyers, judges and court clerks.

In our constant search for new approaches and our efforts to raise awareness of the need for more efficient justice systems, we have recently established, together with the European Commission, a European prize “The Crystal Scales of Justice” for innovative practice contributing to the quality of civil justice, which will be awarded for the first time this year.

I am convinced that the CEPEJ can make an important contribution towards relieving the case-load of the European Court of Human Rights, which is one of our top priorities today, by offering to States effective solutions to prevent violations of the right to a fair trial within a reasonable time. The work of CEPEJ may provide useful inspiration to member States in their efforts to meet their obligations under Article 46 of the ECHR.

A better knowledge of the operation of judicial systems and a comparative analysis of the information regarding the organisation of these systems should help achieve these objectives. The philosophy of the action is, first: studying to know, and second: proposing solutions for improvement.

The report which you have before you is a forerunner of what must become a regular exercise carried out by the CEPEJ to evaluate the European judicial systems.

I would like to launch a call to the Ministries of Justice and the relevant judicial circles in the member States to rely on the findings of this pilot exercise, and later on the analysis to be drawn from the forthcoming reports, to define the judicial public policies.

Ladies and gentlemen,

The efficient administration of justice is central to advancing the rule of law and democracy in Europe. It is only natural that the European Union devotes more and more attention to these issues.

I therefore welcome the statement made by Vice-President of the European Commission Franco Frattini at the hearing, organised in January this year, by the Commission on civil liberties, justice and home affairs of the European Parliament, on promoting a better quality for justice in Europe and his call for synergies in this respect, in particular as regards the work of the CEPEJ and the future work of the European Union in this field.

Ladies and Gentlemen,

The efficiency of justice is crucial to maintaining and fostering the rule of law on our continent, for the benefit of 800 million Europeans – people who will enjoy access to justice, who will see justice served and who will thus place confidence in its administration.

Thank you.