

Conference »Judicial Integrity and Corruption« - conclusions

1. There exists a clear link between independence of judiciary and corruption and/or integrity. The independence is an essential guarantee to promote values the Council of Europe and its bodies, such as the CCJE, the Venice Commission and the GRECO, represent and stand for. The lack of independence leaves the door wide open to misuse and abuse, including corruption. The relation between the independence and integrity is a two-way process, the independence enables integrity, and integrity reinforces integrity.
2. Annual reports on the state of democracy, human rights and the rule of law of the Secretary General of the Council of Europe, the Council of Europe Plan of action on strengthening judicial independence and impartiality, adopted by the Committee of Ministers in 2016, and the Greco evaluation reports of the fourth evaluation round »Prevention of corruption in respect of members of parliament, judges and prosecutors« show that corruption is still widespread. In general, two groups can be distinguished in this respect, »old« and »new« democracies. Despite the absence of a detailed regulatory framework, the perception of corruption in the »old« democracies tends to be low and the perception of independence high. By contrast, despite the existence of respective legislation the »new« democracies suffer from low perception of independence of judiciary and high perception of corruption. Measures to tackle corruption and integrity are therefore badly needed. However, they must not be used as a rationale to weaken the strength of individual judges and judiciary as a whole.
3. There is a clear need to establish the culture of integrity. The transparency is the bedrock of the culture of integrity. However, although important, transparency should be balanced with a range of other important values, such as the right to privacy of a judge and his or her family.
4. Integrity may be conceived as a mirror opposite of corruption – the more corruption the less integrity. As Alexander Hamilton invoked (Federalist Papers No. 78), integrity is a virtue of importance in order to secure a steady, upright and impartial administration of laws. Integrity is the virtue of practicing what one preaches, so the judges should lead by example. The citizens can only trust judges if they live up to high standards of integrity.
5. What can we do to achieve these objectives? Recruitment and promotion of judges should be based on objective, clear and merit-based criteria. Active involvement of judges in development of ethical rules and resolution of ethical dilemmas is paramount.
6. In terms of enforcement and supervision of ethical behaviour of judges, it is essential that such rules and measures do not intervene with the independence of individual judges. Although breaches of ethical rules and disciplinary rules might overlap every breach of ethical rules should not lead to disciplinary proceedings. Judges should have a possibility to appeal against decision made in disciplinary proceedings.

7. Conflicts of interests of judges, such as holding a position in the judicial and legislative or executive power at the same time, remain a problematic issue. All situations where conflicts of interest arise cannot and should not be regulated by law, so special attention to such problems should be paid in ethical rules and their explanatory notes.
8. Prevention of corruption is better than cure. Public should be convinced that there is a clear political will to win the fight against corruption. Selection of competent people with necessary personal qualities entering judiciary is crucial. Acquiring professional culture deeply rooted in judges' mind-set and in-depth training is equally important. Criminalisation of corruptive acts followed by active prosecution and publication of decisions made in disciplinary proceedings may also have a clear preventive effect. Declaration of assets has the advantage to monitor assets and follow any unusual patterns in behaviour of judges. International cooperation in this field can help us to pinpoint weaknesses of national judiciaries and enhance the use of best practices.
9. The judiciary has an immense responsibility to prevent and fight corruption. To this end, much has been done and many important international documents have been adopted. Other two powers, however, also bear their share of responsibility. For example, inadequate resources and remuneration of judges, by making judges more vulnerable and exposed, are a major threat to integrity.

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