CCJE

Nina Betetto

President of the CCJE

The CCJE is a Council of Europe body, set up by the Committee of Ministers in 2000 as an advisory committee in order to promote the independence, impartiality and competence of judges.

The CCJE is composed of active judges from all 47 member States of the Council of Europe. Its main task is to adopt advisory opinions for the attention of the Committee of Ministers of the Council of Europe. Since its creation, it has adopted Opinions which address a wide range of subjects. Most of the Opinions contain innovative proposals for improving the status of judges and the service provided to people seeking justice. Often they have been used as models in the elaboration of national legislation and codes of ethics for judges. We are proud that over the past years they have been increasingly referred to in a number of decisions of the European Court of Human Rights. So far the CCJE has adopted 23 Opinions.

It is impossible to encompass the extensive work done by the CCJE in this short time. Let me mention only a few selected examples of its activity. Judicial independence, as stipulated in Article 6 § 1 of the European Convention on Human Rights, is a fundamental guarantee for a fair trial and a prerequisite for democracy and rule of law. The protection of judicial independence has been the guiding principle of the CCJE since its existence. Among the significant documents covering the judicial independence in Europe, it is Magna Carta of European Judges and the Opinion No. 1 on standards concerning the independence of the judiciary and the irremovability of judges that need to be emphasized. Some other Opinions are also relevant in this context. The state respecting the authority of the courts is an indispensable precondition for public confidence in the courts. This is one of the subjects dealt with in the Opinion No. 18 on the position of the judiciary and its relation with the other powers of state in a modern democracy. Let me share with you some thoughts that were inspired by the Opinion 18.

In recent years, organisations which serve the public have moved towards more openness and towards a greater explanation of their work to the public they serve. A public body will be “accountable” if it provides explanations for its actions and it assumes responsibility for them. This “accountability” is as important for the judiciary as for the other powers of the state. The two principles of judicial independence and accountability are not irreconcilable opposites. “Accountable” does not mean that the judiciary is responsible to or subordinate to another power of the state. First and foremost, the judiciary must be accountable through the work of the judges in deciding the cases brought before them, more particularly through their decisions and the reasons given for them. Judicial decisions must be open to scrutiny and appeal. The appeal system is the only way by which a judicial decision can be reversed or modified after it has been handed down and the only way by which judges acting in good faith can be held accountable for their decisions.

Each of the three powers of the state depends on the other two to work effectively. Discussion is crucial to improve the effectiveness of each power and its cooperation with the other two powers. Provided that such discussions are undertaken in an atmosphere of mutual respect and have particular regard to the preservation of the independence and impartiality, these discussions will be beneficial to all three powers of the state.