

**CONSULTATIVE COUNCIL OF
EUROPEAN JUDGES
(CCJE)**



Strasbourg, 10 February 2021

**Exchange of views between the President of the CCJE
and the Committee of Ministers**

(1395th meeting of the Ministers' Deputies, Strasbourg, 10 February 2021)

STATEMENT

by Ms Nina BETETTO, President of the CCJE

Dear Chairman,
Madam Secretary General,
Excellencies,
Distinguished guests,

I am very pleased by this opportunity to present the work of the Consultative Council of European Judges (CCJE) to the Committee of Ministers of the Council of Europe.

At the outset, I would like to quote Jean Monnet, one of the architects of the European Union, who said, in the middle of the 20th century, that nothing is possible without individuals, but nothing is durable without institutions. This saying, it seems, is at the very basis of everything that we in the Council of Europe are doing.

The CCJE has developed specific expertise and standards as a unique body, composed exclusively of serving judges, with a mandate focusing on practical aspects of the status of judges and their independence and impartiality. The CCJE standards help to create a conducive legal and institutional framework for judges and consequently to enable them to effectively resolve cases and disputes at national level in line with the European Convention on Human Rights. In this way, the CCJE has an important role as an advisory body of the Council of Europe which brings together and summarises the best European practices and transforms them into soft law standards. In addition, the particular added value of the CCJE is that its views represent the perspective of serving judges. Therefore, the CCJE plays a significant role in the overall structure of the Council of Europe bodies and institutions.

The twenty-three Opinions of the CCJE adopted so far are of utmost importance for the judicial profession and policy makers. Quotations and references to the CCJE Opinions are often used in various countries in official documents, including in the judgments of national courts, as well as of the European Court of Human Rights. For example, in the recent Grand Chamber judgment of the European Court of Human Rights in the case of *Guðmundur Andri Ástráðsson v. Iceland* (1 December 2020), the CCJE Opinions No. 1 (2001) and No. 18 (2015), as well as the CCJE Magna Carta of Judges (2010), were quoted at length. CCJE Opinions are also used in the reports and Opinions of the Venice Commission as well as other bodies of institutions of the Council of Europe.

Developments in a number of member States as regards respect for the fundamental principles of judicial independence and the separation of powers, brought to our attention by the CCJE members themselves or by national, international and

European associations of judges, confirm the importance of continued vigilance in protecting the independence of the judiciary. The CCJE is fully committed to this, and grateful for the support and trust of the Committee of Ministers in carrying out its work.

I would like to use this opportunity and to mention in particular the challenges for the judiciary in the context of the COVID-19 pandemic. In June 2020, I issued a special statement on the role of judges during and in the aftermath of the COVID-19 pandemic and relevant lessons and challenges ([link](#)).

Even though this is not a full-fledged Opinion of the CCJE, because it was issued as a quick response to the current sanitary crisis, however it does reflect the consensus among the members of the Bureau and also members of the CCJE in general on the role of judges. It has an added value since it highlights the challenges faced by judges in member States vis-à-vis the crisis and essential aspects of their work in these conditions including responses to those challenges during as well as after the pandemic.

Responding effectively to a sanitary crisis in full respect for human rights – and first of all for the European Convention on Human Rights - and the principles of democracy and the rule of law continues to remain challenging. Consequently, judges have to make sure that, in the course of their work, the public health emergency is not used as a pretext for human rights infringements but aims at protecting people, and that new legal measures are applied with strict respect for human rights obligations. A balance must be struck between public safety, on the one hand, and the enjoyment of fundamental rights and freedoms, on the other.

The CCJE standards for the appointment, promotion and disciplinary procedures of judges should be retained and observed at all times. In the aftermath of the crisis, no “interim” judges or “special courts” should be established as this would undermine judicial independence and create a risk of politicisation. The backlogs as regards the selection and promotion of judges should be resolved, and positions be filled based on the relevant CCJE criteria taking into account the urgency factor, however without politicising this issue in any way.

In the context of the pandemic, there is a risk that member States may overlook the significance of the role of courts, such as in relation to effective remedies against emergency measures and grievances caused by the pandemic - and also from the perspective of the economy. Already under-funded judicial systems struggle with resolving the challenges due to the pandemic and there is a risk that court budgets may further be reduced.

In this context, member States should provide the necessary resources for courts to fulfil their functions, to address and recover from the pandemic taking into account the fact that chronic underfunding undermines the foundations of a democratic society. The need to have adequate resources, equipment and software for effective teleworking and teleconferencing becomes particularly important.

There is, or will be, an effect also on supra-national courts. Human rights concerns in member States are likely to increase the caseload of the European Court of Human Rights. That is why it will be in the interest of this Court that as many cases as possible are resolved at national level.

I would now like to proceed and to mention the CCJE Opinion No. 23 (2020) ([link](#)) on the role of associations of judges in supporting judicial independence adopted in November 2020 by the plenary meeting of the CCJE.

In this Opinion, the CCJE calls upon the member States to provide a framework within which the right of judges to associate can be effectively exercised, and to refrain from any interventions which might infringe the independence of the associations of judges. The CCJE notes that a great variety of judges' associations exist in Europe, be it in relation to their aims, the size of their membership, and the qualifications for membership. However, a common feature for them all is that they are self-governing non-profit organisations whose most important and overarching objectives are to establish and defend the independence of judges, to safeguard their status and, to ensure adequate working conditions for judges. In this way, the associations help foster and improve the rule of law. The CCJE also notes that associations of judges should be closely involved in any judicial reform efforts, and that training and ethics are important areas of work for them as well.

As regards the co-operation of the CCJE with other bodies and institutions, the CCJE members are in a very high demand on international arena and they participate in many international events and highlight the standards of the CCJE, as well as of the Council of Europe (i.e. Recommendations of the Committee of Ministers and Opinions of the Venice Commission). The CCJE closely co-operates with the Venice Commission and takes part in its missions and elaboration of Joint Opinions. The CCJE also co-operates with the European Court of Human Rights and other key bodies and institutions of the Council of Europe. A number of high-profile and important international judicial and advocacy associations have an observer status with the CCJE and thoroughly co-operate with it.

In 2020, I took part in several important events including, for example, the Conference of Ministers of Justice on Independence of Justice and the Rule of Law in November 2020 and the Conference on functioning of courts in the aftermath of the COVID-19 pandemic organised by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in May 2020.

Most importantly, I took part in the meeting of the Chairs of the Council of Europe Monitoring and Advisory Bodies with Secretary General of the Council of Europe in June 2020 which was designed to define the four-year strategic framework of the Council of Europe. I provided, at this event, an insight into the key priorities of the Council of Europe as seen by the CCJE given the challenges faced by European societies, how to support the implementation of the European Convention on Human Rights, lessons learnt from the sanitary crisis caused by the COVID-19 pandemic and how to protect core values and standards of the Council of Europe in the context of this pandemic.

The CCJE extensively contributed to the elaboration of the Council of Europe Plan of Action on strengthening judicial independence and impartiality (Sofia Action Plan) adopted in 2016 by the Committee of Ministers and remains guided by this Plan of Action when carrying out its activities. The CCJE members also co-operate at national level with key policy makers (Ministries of Justice, judicial administrations, High Justice Councils and others) and courts and promote implementation of the CCJE standards. The CCJE receives requests of targeted assistance from its members or judicial associations of various countries regarding the situation of the judiciary and will continue to respond to such requests, taking into account available resources and capacity.

In 2021, the CCJE decided to focus its Opinion No. 24 (2021) on the evolution of the Councils for the Judiciary and their role for independent and impartial judicial systems to be adopted at its 22nd plenary meeting in November 2021.

To highlight the background, I would like to mention that in 2007, the CCJE adopted its Opinion No. 10 (2007) on the Councils for the Judiciary at the service of society providing a number of recommendations for the effective functioning of these key bodies of judicial self-governance. The Opinion No. 24 (2021) is called upon to respond to an increasing number of inquiries, including from the European Court of Human Rights, as regards the evolution in Europe of such bodies and the current state of affairs. Thus, this Opinion will take stock of all developments in member States, including those where such Councils were newly established and those where they existed but were reformed, and provide respective roadmap for future.

Dear Chairman,
Madam Secretary General,
Excellencies,
Distinguished guests,

I would like to thank you for your attention and look forward to addressing any questions you might have.