

## **The Council of Europe celebrates the bicentenary of the French Civil Code – 21 and 22 October 2004**

### **Universality, eternity and codification?**

#### **Opening address by Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe at the Conference “The Civil Code and Europe: influence and modernity”**

Ladies and gentlemen,

In our changing world few things are both eternal and universal. Yet eternity and universality are part of our quest.

When we celebrate the anniversary of a happy event, the past joins up with the present and looks ahead to the future. That is probably a way of seeking eternity.

We invite our friends, family and neighbours, and share our joy and hopes with them. That is perhaps a way of seeking universality.

Today we are celebrating the 200th anniversary of the French Civil Code. We have many reasons for doing so, but why at the Council of Europe?

The Council of Europe is the home of human rights, democracy and the rule of law, so it was quite natural for it to respond to your invitation and celebrate the bicentenary at European level.

The 1804 Civil Code probably marked the birth of contemporary France, but it also had an immense international impact.

This first major instance of codification since the drafting of the Justinian Code expressed the legislator’s desire to frame a genuine legal policy.

In abolishing the arbitrariness of the old order – the Ancient Régime – the Civil Code acted as a catalyst for liberation and constituted a major step towards democracy in all the countries that adopted it.

The 1804 Civil Code first means clear and understandable language: a code for all citizens. Thanks to this code, which is often described as the ancestor of all codes, codification showed itself to be a means of democratising and simplifying law.

Codes necessarily adapt to changes in our society. The civil codes drawn up since 1804 on the model of the French Civil Code have organised our interpersonal relations around a number of universal values: individual freedom and the protection of property, to which, in the twentieth century, were added respect for privacy, the presumption of innocence, the integrity of the human body, equality between women and men in marriage and, to quote just one last example in which the Council of Europe was fully involved, equality between all children.

For a long time, of course, the French Civil Code was the only model, then other codes appeared, and now the recent civil codes, which themselves combine various influences, are in turn becoming models. The codes drawn up in the various countries copy one another and influence one another more or less directly. This results in some surprising influences from one country, or even continent, to another. To cite just one example, Turkey's code is modelled on the Swiss Civil Code.

As we know, the sources of law in our societies are increasing in number. Domestic laws, regulations and case law are supplemented by international and European law and the case law of international courts (including, of course, the European Court of Human Rights in Strasbourg). That is what President Jacques Chirac described as "legal polyphony" at a colloquy held at the Sorbonne this year.

I am convinced that international sources of law enrich civil codes. Thus, the articles of a civil code are now scrutinised in the light of the provisions of the European Convention on Human Rights.

This is quite natural, since the convention applies directly in all the Council of Europe member states and in many cases ranks higher than the law or even than the Constitution.

Codification does not mean closure in terms of time and space. On the contrary, it can be a means of opening up to the future and to the rest of the world. The Civil Code, which is the citizen's first landmark, can incorporate universal features while retaining its own specific characteristics. With its ability to adapt and evolve, it can cross the years while fully retaining its *raison d'être*.

Mr Perben,

This year 2004 bears the strong imprint of the many events held in France and across the world to celebrate the bicentenary of the French Civil Code. The Council of Europe is proud to host this major colloquy covering the European continent.

So it is an honour and a pleasure for me to welcome you to your home for this colloquy on "The Civil Code and Europe", held in partnership with your ministry and the French Court of Cassation and with the support of France's national legal service training college.

Over these two days we shall be rereading the Civil Code with a European focus, especially that of the European Convention of Human Rights.

Mr Canivet,

You recently asked whether, thanks to the pendulum of history, the spirit of codification which France spread across Europe in 1804 might be returning to it, precisely through Europe.

Together I am sure we shall answer "yes".

Ladies and gentlemen,

Napoleon said “My true glory is not that I won forty battles. What nothing will erase, what will live forever, is my code”.

Today’s gathering resoundingly confirms this prediction. And it explains why this colloquy is truly suited to its venue at the Council of Europe, which for more than fifty years has helped to create an area of freedom, security and justice.

Lastly, it demonstrates –if that were necessary – that real strength lies only in the ability to bring about the sharing of ideas, not in the din of battle. In celebrating the 200th birthday of the French Civil Code, Europe is celebrating both the universality and the eternity of the values we share.

Happy birthday!