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CONSULTATIVE COUNCIL OF EUROPEAN JUDGES
(CCJE)

**FRAMEWORK GLOBAL ACTION
PLAN FOR JUDGES IN EUROPE**

*Prepared by
the EUROPEAN COMMITTEE ON LEGAL CO-OPERATION (CDCJ)
in consultation with
the EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)
taking into account the opinions
of the CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)
and adopted by the COMMITTEE OF MINISTERS at its 740 meeting (Strasbourg, 27 February 2001)*

A. INTRODUCTION

1. The functioning of judicial systems in the Council of Europe's member states is one of the Organisation's prime concerns.

2. In 1998, the Committee of Wise Persons recommended that the Committee of Ministers strengthen direct co-operation with the national judicial institutions, having regard to the independence of the judiciary and to existing judicial bodies' own status within their states.

3. The need to strengthen the judiciary and to work towards improving judicial systems has been confirmed by the Committee of Ministers, particularly in view of the results obtained from monitoring the commitments entered into by member states regarding the functioning of their judicial systems.

4. In the context of the Stability Pact for South-Eastern Europe, strong support has been expressed for the activities proposed by the Council of Europe with a view to strengthening the judiciary, enhancing the competence of judges and improving the administration of justice.

5. It is also appropriate to note that a joint effort by all the states concerned to consolidate the independence and impartiality of the judiciary corresponds with the statutory requirements of the Council of Europe as set out in Article 1 of its Statute and confirmed in the Preamble to the European Convention on Human Rights.

6. Accordingly, Resolution N° 1 of the 22nd Conference of European Ministers of Justice invited the Committee of Ministers to adopt a framework global action plan to strengthen the role of judges, to be prepared in consultation with judges, and to set up within the Council of Europe a consultative group composed of judges to assist in implementing the priorities identified in this plan and to advise the steering committees on whether and how to update the Council of Europe's legal instruments.

7. At its 681st meeting (29-30 September 1999) the Committee of Ministers agreed to bear the content of that Resolution in mind when examining the draft intergovernmental programme of activities and proposals on programmes to reinforce democratic stability in Europe (ADACS) for the year 2000.

8. The framework global action plan for judges in Europe is a follow-up to the Conference Resolution. Under its specific terms of reference (see Appendix B for the current terms of reference of the CCJE), the Consultative Council of European Judges (CCJE) has the tasks of furnishing an opinion on the draft framework global action plan and, from 2001, contributing to the implementation of the programme adopted by the Committee of Ministers.

9. The framework global action plan takes account of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms which provides that "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". It also takes account of the Council of Europe's *acquis* in the field of justice as summarised in document in MJU-22(99)5. This concerns in particular Recommendation No. R(94)12 on the independence, efficiency and role of judges.

Furthermore, it takes account of the Report on cost-effective measures to increase the efficiency of justice (prepared by the Committee of experts on efficiency of justice (CJ-EJ) and presented at the London Conference of European Ministers of Justice in June 2000 by the CDCJ and the CDPC).

B. OBJECTIVES

10. The purpose of the framework Global Action Plan is to strengthen the role of judges in Europe by promoting their independence, impartiality and competence.

11. The framework Global Action Plan is also intended to provide the Committee of Ministers with information about important questions concerning judges in Europe.

C. MAIN ACTION AREAS

12. The CDCJ (together with the CJ-EJ) and the CDPC, in consultation with the CCJE, will identify the priority areas as regards the independence, impartiality and competence of judges in member states and applicant states at both a legislative and an institutional level. This means that main areas of action will be identified, inter alia, to protect and promote the independence and impartiality of judges by law and to identify the important role of judges in the law-making process (e.g. with the case law, giving opinion concerning law reform).

13. Since it is a framework, this Action Plan is a developing document to which more detail can be added, in particular to Appendix A, as work progresses. A non-exhaustive and dynamic list of issues to be examined with a view to establishing priorities is at Appendix A.

D. ACTIVITIES AIMED AT STRENGTHENING THE INDEPENDENCE, IMPARTIALITY AND THE COMPETENCE OF JUDGES

14. The CDCJ (together with the CJ-EJ) and the CDPC, in consultation with the CCJE, will propose practical activities aimed at strengthening the independence, impartiality and competence of judges. These might include:

- (a) Providing opportunities for judges from different parts of Europe to interact, to compare experiences, to consider legal and practical aspects of judicial independence and impartiality, to identify problems and propose solutions, to co-operate and to maintain contact;
- (b) Preparing opinions on the priority action areas identified under part C of this Plan;

E. CONSULTATIONS WITH JUDGES ON MEASURES TO BE TAKEN WITH A VIEW TO IMPROVING THE FUNCTIONING OF JUSTICE

15. The CDCJ (together with the CJ-EJ) and the CDPC, will, where appropriate, seek the opinion of the CCJE on measures to be taken with a view to improving the functioning of

justice and, in particular, whether it is necessary to update the legal instruments of the Council of Europe and, if so, how.

F. PROGRAMMES TO IMPROVE THE FUNCTIONING AND EFFECTIVENESS OF JUSTICE BY PROVIDING APPROPRIATE TRAINING OF JUDGES

16. The CDCJ (together with the CJ-EJ) and the CDPC, in consultation with the CCJE and with the Lisbon Network on training of judges in Europe, will promote programmes aimed at improving the functioning and effectiveness of justice by providing appropriate training of judges. These might include:

- (a) Arrangements to enable judges to acquire experience in other European jurisdictions
- (b) Ways of assisting Member States provide appropriate national arrangements for the training of judges
- (c) Seminars and other training events
- (d) Events within the context of the programme of activities for the development and consolidation of democratic stability

Appendix A

MAIN ACTION AREAS FOR THE PURPOSES OF ESTABLISHING PRIORITIES WITHIN THE GLOBAL ACTION PROGRAMME

In this context, prepare opinions notably on:

I. The rule of law, separation of powers, independence of the judiciary, practical application of the principles of the Rule of Law, impartiality of judges

- i. General questions
 - a) the institutional guarantees of judicial independence in the member states, including the principle of the irremovability of judges
 - b) the importance of observing the principle of the separation of powers with regard to the judiciary in the member states
 - c) judges' participation in decisions concerning the functioning of the judiciary and their advisory role in preparing legislative and institutional reforms intended to ensure the independence of the judiciary
 - d) possible disparities between the fundamental principles of an independent judiciary and law provisions in the member states
 - e) the setting up or strengthening of authorities, which are independent from the legislative or executive authorities, with responsibility for managing judges' careers (particularly their selection and recruitment, promotion, termination of office and disciplinary procedures), and encouraging co-operation between these bodies
 - f) appointment procedures
 - g) Recommendation No. R(94)12 on the independence, efficiency and role of judges.
- ii. Judges' careers
 - a) the status and career of judges in the member states, notably the optimal conditions for their recruitment or selection
 - b) the criteria for the appointment of court presidents and deputy presidents and of supreme court judges
 - c) the development of judges' careers and working conditions

II. Administration and management of the courts

- a) the funding of courts in Europe
- b) the powers of judges in the administration and management of the courts
- c) models for the administration and management of the courts having in particular regard to new information technology matters and the use of statistical methods
- d) the organisation and role of inspection services
- e) case management

III. Competences of judges

A. Initial and in-service training, teaching structures and training curricula

- a) the right for judges to appropriate training
- b) the needs of judges with regard to initial and in-service training
- c) ways of raising judges' awareness of the need to improve their professional skills
- d) the possibility of strengthening and developing training institutions for judges (creation of permanent public structures)
- e) financial responsibility for the initial and in-service training of judges
- f) the training of trainers
- g) training programmes for judges
- h) the feasibility of preparing guidelines for the setting up of judicial schools

B. Rights and responsibilities of judges, professional conduct and ethics

- a) the rules of professional conduct for judges and their professional duties
- b) the concept of judges' liability, including judges' civil, criminal and disciplinary liability in the member states
- c) the effectiveness and transparency of existing disciplinary procedures in the member states
- d) the regulations of incompatibilities with judicial functions in the member states and the principles governing the appointment of judges to extra-judicial functions
- e) cases in which judges' impartiality or the appearance of impartiality may be called into question
- f) methods of disseminating information to judges about measures to preserve their impartiality

C. Role of judges and powers of the courts, the role of the case law

- a) the judge's role in the trial (the mechanisms of judicial decisions, decision-making: evidence, debates, deliberations, the giving of reasons in decisions)
- b) the role of case law (legal certainty, uniform application of the law by all courts, creative role of case law, sentencing policy)
- c) the powers and responsibilities of courts

D. SPECIALISED JUDGES

- a) the advantages and disadvantages of the specialisation of judges either in or outside a specialised jurisdiction
- b) the problems encountered in each field of specialisation and proposed measures for dealing with them
- c) training programmes for specialised judges

IV. Judges and international dimension

- a) increasing the international dimension in the initial and in-service training of judges
- b) the application by national judges of the European Convention on Human Rights and its case law, European community law and other international legal instruments
- c) dialogue between national and European judicial institutions
- d) the availability of information and documentation on all relevant international texts

V. JUSTICE AND SOCIETY

- a) improving the transparency of justice and publicity of the activities of courts
- b) the educational role of the courts in a democracy, relations with the public
- c) relations with all those involved in court proceedings (represented or not represented parties, accused persons, victims, witnesses, children, etc.)
- d) accessibility, simplification and clarity of the language used by the courts in proceedings and decisions
- e) justice in the locality
- f) participation of judges in other functions in civil society
- g) the role of associations of judges

VI. Co-operation with national judicial institutions

- a) implementation of main recommendation N° 23 of the Committee of Wise Persons

In its report to the Committee of Ministers, the Committee of Wise Persons, established in 1998 to propose structural reforms to the Council of Europe, recommended *reinforcing direct co-operation with national judicial institutions with the aim of consolidating the rule of law in all European countries, having regard to the principle of the independence of judiciary powers and to existing judicial bodies' own status within their states*. Accordingly, the Committee of Wise Persons recommended that *full use should be made of existing structures and networks both at national and Council of Europe level with the aim of building up a genuine European network of interlocking relations with courts, ombudspersons, etc.*

- b) methods of co-operation between national judicial institutions and the Council of Europe and between the various judicial institutions in Europe, including international twinning arrangements between judicial institutions
- c) the European Charter on the Statute for Judges

VII. Relations with professional persons dealing with justice involved in the various stages of judicial proceedings

- a) relations with the prosecution service
- b) relations with others professional persons dealing with justice (lawyers, judicial experts, court clerks, bailiffs)
- c) relations with the police and similar bodies

Appendix B

SPECIFIC TERMS OF REFERENCE OF THE CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Specific Terms of Reference

Legal co-operation

1. Name of committee:

Consultative Council of European Judges (CCJE)

2. Type of committee:

Consultative body

3. Source of terms of reference:

Committee of Ministers

4. Terms of reference:

Pursuant to:

- main recommendation No. 23 in the Wise Persons' report, which urges the need to reinforce direct co-operation with national judicial institutions, while respecting the independence of the judiciary and the status of existing judicial bodies in the states,
- the conclusions and the follow-up action agreed upon by the Committee of Ministers at Deputy level in September 1998 (639th meeting, item 2.3) and in January 2000 (693rd meeting, item 2.3) on the respect of commitments of member states concerning the functioning of the judicial system,
- Resolution No. 1 on measures to reinforce the independence and impartiality of judges in Europe, adopted by the European Ministers of Justice at the end of their 22nd Conference, concerning the adoption of a global action plan to strengthen the role of judges, to be prepared in consultation with judges, and the setting-up within the Council of Europe of a consultative group composed of judges to assist in implementing the priorities identified in this programme, and to advise the steering committees on whether and how to update the Council of Europe's legal instruments,

- the conclusions of Working Table III – Security Issues, Sub-table "Justice and Home Affairs" of the Stability Pact for South-Eastern Europe, at its meeting in Sarajevo on 15-16 February 2000, confirming vigorous support for the action plan proposed by the Council of Europe to strengthen the judiciary, enhance the competence of judges and improve the administration of justice,

the CCJE has the task of:

- i. furnishing the European Committee on Legal Co-operation (CDCJ) and the European Committee on Crime Problems (CDPC) with opinions on the draft framework global action plan in 2000 for judges in Europe to be adopted by the Committee of Ministers;
- ii. contributing to the implementation as from 2001 of the programme adopted by the Committee of Ministers.

5. Membership of the committee:

a. All member states may be represented on the CCJE. Members should be chosen, in contact, where such authorities exist, with the national authorities responsible for ensuring the independence and impartiality of judges and with the national administration responsible for managing the judiciary, from among serving judges having a thorough knowledge of questions relating to the functioning of the judicial system and personal integrity.

Travel and subsistence expenses for one representative per state will be covered by the Council of Europe.

b. The European Commission and the General Secretariat of the Council of the European Union may take part in the work of the CCJE, but without the right to vote or to reimbursement of expenses.

c. The following Council of Europe observers may send a representative to meetings of the CCJE, but without the right to vote or to reimbursement of expenses:

- Holy See,
- United States of America,
- Canada,
- Japan,
- Mexico.

d. The following may participate in the work of the CCJE according to the specific rules of the Committee of Ministers:

- Armenia,

- Azerbaijan,
- Bosnia and Herzegovina.

6. Structures and working methods:

The CCJE is an advisory body of the Committee of Ministers which prepares opinions for that Committee on general questions concerning the independence, impartiality and competence of judges. For that purpose, the Consultative Council works in co-operation with, in particular, the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), the Committee of Experts on the Efficiency of Justice (CJ-EJ) and also, depending on the subjects dealt with, other committees or bodies.

To discharge its terms of reference, the Consultative Council may set up working parties and organise hearings. It may also make use of scientific specialists.

7. Duration:

These terms of reference expire on 31 December 2001.