

Judges' Charter in Europe (European Association of Judges) (1997)

JUDGES' CHARTER IN EUROPE

Introduction

The process of European integration has brought about an expansion of legislative and executive power, both at a national and international level. Furthermore, new pressure groups have grown up.

The political changes in some parts of Europe have demonstrated once more that a genuine separation of powers is indispensable for the proper functioning of any State that respects the rule of law. The principle of the separation of powers must form a vital part of the policy of European integration - all the more so because the member States look upon themselves as democracies.

The independence of the judiciary is one of the foundations of the rule of law.

In consequence, it is necessary to buttress the independence of the judiciary so as to ensure that the rights of the individual are protected against attack by the State or by other pressure groups.

In order to achieve this end, the Judges of the different European countries must work together to demonstrate their solidarity in pursuing their common interests.

From this point of view, the "Basic Principles on the Independence of the Judiciary" spelt out by the United Nations are no more than the most basic framework.

Taking the United Nations Charter as a starting point, it is necessary to embody certain common principles in a "Judges' Charter in Europe".

Although differences exist between one State and another as a result of differing legal traditions and practices, the European Association of Judges hereby vows to uphold the following fundamental principles:

1. The independence of every Judge is unassailable. All national and international authorities must guarantee that independence.
2. The Judge is only accountable to the law. He pays no heed to political parties or pressure groups. He performs his professional duties free from outside influence and without undue delay.
3. Not only must the Judge be impartial, he must be seen by all to be impartial.
4. The selection of Judges must be based exclusively on objective criteria designed to ensure professional competence. Selection must be performed by an independent body which represents the Judges. No outside influence and, in particular, no political influence, must play any part in the appointment of Judges.
5. Judicial promotion, decided by the above mentioned independent body, must equally depend upon the same principles of objectivity, professional ability and independence.
6. The administration of the judiciary must be carried out by a body which is representative of the Judges and independent of any other authority.
7. The other organs of the State have an obligation to give the judiciary all necessary means to perform their function, including adequate manpower and facilities. The judiciary must participate in decisions taken in relation to these matters.
8. Judicial salaries must be adequate, to ensure that the Judge has true economic independence and must not be cut at any stage of a Judge's service.
9. Disciplinary sanctions for judicial misconduct must be entrusted to a body made up of members of the judiciary in accordance with fixed procedural rules.
10. No Judge shall be directly liable to a civil suit in respect of the performance of his professional duties.

11. The Judge, after leaving his office, shall have the opportunity to practice another legal profession.

12. The Judges' Charter must be expressly embodied in legislation.

13. The above mentioned principles shall apply to the members of the Public Prosecution, according to their specific position in the national Judiciary.

_____ (*)In June 1992 the Portuguese Association of Judges organized a first meeting on the subject of the European Statute of Judges. At the congress in Seville in September 1992, the members of the European Association of Judges requested that this topic be addressed more closely. To attain this goal, a commission was established, which was received by the Association of Austrian Judges on November 20th, 1992 in Linz. The meeting was presided over by Mr Günter Woratsch. Mrs Pâquerette Girard, Mr Claus Larsen, Mr Ramon Rodriguez Arribas and Mr Antonio Texeira Martins participated in the compilation of a draft. At the meeting of March 20th, 1993, in Wiesbaden, the draft, presented by Mr G FCnter Woratsch, was discussed. The members of the European Association of Judges approved the text. The text was subsequently amended on april 20th, 1996, during the meeting of Bratislava, when articles 12 and 13 were added and article 11 was modified.

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