



## Resolution 1703 (2010)<sup>1</sup>

Final version

# Judicial corruption

Parliamentary Assembly

1. The Parliamentary Assembly observes that a corrupt judicial system undermines the rule of law, which is the backbone of a pluralist democracy; calls into question equal treatment before the law as well as the right to a fair trial, and erodes the legitimacy of all the public authorities.
2. Judicial corruption favours impunity, the eradication of which the Assembly demanded as a priority in its [Resolution 1675 \(2009\)](#) on the state of human rights in Europe: the need to eradicate impunity.
3. Judicial corruption and corruption of other public institutions, as well as of the private sector, nurture and reinforce each other. Eradication of corruption, once it becomes entrenched, is much harder than its prevention, hence the importance of combating the first signs of corruption, especially in the countries unaffected by this scourge.
4. Corruption in general is to be fought by eradicating it in the courts. The courts are responsible for imposing sanctions on all corrupt individuals equally and objectively, and for protecting the whistle-blowers who are indispensable for an effective drive against all forms of corruption.
5. The Assembly stresses the importance of real political resolve, to be expressed by tangible, energetic measures and not just by speeches and largely token laws. An unsullied, independent justice system fosters a political climate in which corruption and cronyism become less frequent because they are riskier for everyone involved.
6. The Assembly deplores the fact that judicial corruption is deeply embedded in many Council of Europe member states which are also beset with serious problems of corruption in other public and private institutions. According to the 2009 Global Corruption Barometer published by Transparency International, some of these countries – Armenia, Bulgaria, Croatia, Georgia and “the former Yugoslav Republic of Macedonia” – distinguish themselves very alarmingly in that it is the justice system itself which is perceived by their population as the most corrupt institution. This also applies to Kosovo,<sup>2</sup> which is not a member state of the Council of Europe.
7. The Assembly urges the authorities of all the states mentioned above to take stringent exceptional measures to restore the public’s confidence in the judicial system.
8. The Assembly is preoccupied by a tendency in some states to deny outright that any judicial corruption exists within them. As no state is fully immune from corruption, particularly at the present time of economic crisis, the Assembly invites all Council of Europe member states to be self-critical and to undertake – as in Germany – an in-depth study of the level of corruption in their judicial systems and to take preventive and remedial measures at the first sign of danger.

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1. *Assembly debate* on 27 January 2010 (5th Sitting) (see [Doc. 12058](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Sasi). *Text adopted by the Assembly* on 27 January 2010 (5th Sitting). See also [Recommendation 1896 \(2010\)](#).

2. This reference is to be construed in full conformity with United Nations Security Council Resolution 1244.



9. With respect to prevention, the Assembly encourages all member states to establish a framework minimising the risks of judicial corruption by:
- 9.1. ensuring that judges, prosecutors and all agents of the justice process – especially the representatives of the law-enforcement agencies – are aware of the importance and dignity of their role, by guaranteeing commensurate remuneration and by providing them with adequate human and material resources;
  - 9.2. developing professional and ethical standards for judges and prosecutors, together with effective monitoring machinery;
  - 9.3. reviewing the private assets and income of judges and prosecutors through a mechanism which is suited to the situation in each country and must honour the independence and dignity of justice officials;
  - 9.4. ensuring that the procedures for recruiting, promoting and dismissing judges and prosecutors are clear and transparent, founded solely on qualification and merit, having regard to the European Charter on the Statute for Judges and the recommendation by the European Commission for Democracy through Law (Venice Commission) that all member states should have independent judicial councils comprising members elected principally by the members of the judiciary;
  - 9.5. ensuring that judges' and prosecutors' terms of office are of sufficient length and are not linked with an external appraisal of their decisions;
  - 9.6. giving all judges and prosecutors specific training in matters of corruption and ethics;
  - 9.7. conducting public campaigns and/or programmes aimed at increasing general respect for the judiciary and improving citizens' understanding of the importance and implications of judicial independence and the separation of powers.
10. In order to be effective the fight against corruption must comprise investigations, prosecution and ultimately convictions. Accordingly, the Assembly invites the member states to:
- 10.1. devise specific machinery to ensure the accountability, criminal accountability included, of judges and prosecutors without impairing their independence and impartiality;
  - 10.2. ensure that the immunities of members of the judiciary do not impede effective proceedings against them;
  - 10.3. provide specialised investigators with proper training and adequate resources.
11. By way of a preventive as well as a punitive measure, the Assembly invites all member states to sign and ratify, as appropriate, the Criminal Law Convention on Corruption (ETS No. 173) and the Civil Law Convention on Corruption (ETS No. 174) and to co-operate effectively with the supervisory and advisory mechanisms prescribed by these instruments.
12. The Council of Europe has a duty to participate actively in the fight against judicial corruption in all its forms, including politically motivated abuses of the judicial system. The Assembly particularly encourages its Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) either to draw up thematic reports on the subject or at least to dedicate a substantial chapter to this issue in its country reports for all countries undergoing a monitoring procedure and in the context of post-monitoring dialogue.