



## **MEDEL Resolution on Training of Judges and Public Prosecutors**

Training of judges and prosecutors is a task that MEDEL has been engaged in since its establishment. The idea of establishing such an association offered itself after the international exchange programs organized at the beginning of 1980's at the *National Judicial School in Bordeaux (l'Ecole nationale de la magistrature à Bordeaux)* and during a simposium organized by the University of Lille in 1983.

The Recommendation of the Committee of Ministers of the Council of Europe CM/Rec(2010)12 on judges says :

- *judges should be provided with theoretical and practical initial and in-service (continuous) training, entirely funded by the state. This should include all economic, social and cultural issues related to the exercise of judicial functions. The intensity and duration of such training should be determined in the light of previous professional experience.*
- *an independent authority should ensure, in full compliance with educational autonomy, that initial and in-service (continuous) training programmes meet the requirements of openness, competence and impartiality inherent in judicial office.*

### **For training in the spirit of European judicial culture**

National judges and prosecutors shall implement European law. It is an issue of knowledge, but also an issue of culture.

Emerging of a single European judicial space implies new demands in training requirements. Strengthening mutual legal aid implies professionalism. However, a truly effective cooperation implies also a single, shared judicial culture: the unity of action, thoughts and values, common thinking, meetings without which there can be no mutual trust.

European judges must be trained in order to become free and independent interpreters of the common values defined in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Comparisons between different laws and practices, the knowledge of the European jurisprudence should encourage critical views that are indispensable for building a living law based on social and humanitarian values. Re-examining certain practices, expressing critical views from the European point of view together with our partners (including those who are not judges or prosecutors) in an effort to improve the

judiciary, represent all integral parts of the training project serving the *imaginative forces of law* that Europe may convey.

### **For a deontological and practical training**

A judge must be qualified in the fundamentals on which the legitimacy of justiceships resides: impartiality, independence, equality, respect for a contradictory procedure, the quality of reasoning in judgements. Training should prepare judges to become an enlightened interpreters of the law.

Therefore, the initial training must introduce the prospective judges to procedural and social context in which they will need to hand down their decisions. Thus, in terms of deontology, the training shall have to be focused on deliberations about the role and function of a judge in a modern society. It should be also based on specific examples and endeavour to motivate deliberations and discussions on judge's behaviour in conducting the proceedings, his relationship with the lawyers, officials, witnesses, expert witnesses, and parties in the proceedings.

### **For a pluralistic and open training**

Through their involvement in developing the training curriculum in schools or through an initiative of their own, the NGOs of judges and prosecutors shall reinforce a pluralistic character of training, making it possible for different opinions to be heard: this is an opportunity for judges and prosecutors to acquire awareness on the plurality of possible solutions, about the margin of appreciation they have at their disposal in decision-making, about the imperative to keep explaining and presenting their own reasoning on the points of law. This is a way to acquire a healthy reflex for critical views of the law and the manner of its application.

The NGOs also offer a work style that is far from academism. In this manner, numerous gatherings that need not explicitly have a pedagogical form may also contribute to training of those who attend them, through an exchange and confrontation of experiences that they will be able to disseminate among their own colleagues later on.

Training cannot be limited to the techniques of handling the case files; it should enable a judge or a prosecutor to make decisions in accordance with its legal system while being aware of the out-of-court and, in particular, social implications and consequences.

To this aim, opening ourselves towards the rest of the world is also one of the ways of precluding the risk of endogamy and reproducing a paragon, presented and interiorized as the only possible one. It is also an opportunity to consider specifically what is it that society demands and expects from justice.

### **For a joint training of judges and prosecutors**

Defence of fundamental freedoms does not refer only to trials, but also to investigations where prosecutors have an important role to play. A single culture,

shared jointly by judges and prosecutors is the best security against abuse of the repressive apparatus, for better protection of the law and civil liberties of individuals.

A joint training should also educate judges how to create other options, apart from those offered by the law enforcement or the prosecutor's office, thus enabling an effective rule of the law, without any detrimental effect on the quality of investigations. Therefore, judges must acquire experience that would allow them to understand and evaluate investigative techniques, as well as available knowledge. This is a precondition for judge's independence from all other actors in the proceedings.

*Belgrade, July 7th 2014*