



Resolution 2098 (2016)¹

Judicial corruption: urgent need to implement the Assembly's proposals

Parliamentary Assembly

1. The Parliamentary Assembly considers judicial corruption a matter of great concern. It undermines the foundations of the rule of law and the very possibility of fighting corruption in other sectors of society.
2. Judicial corruption severely impedes the protection of human rights, in particular judicial independence and impartiality. It also undermines public trust in the judicial process and infringes the principles of legality and legal certainty.
3. While recognising that the perception of judicial corruption cannot serve as the sole indicator for the actual extent of this phenomenon, the Assembly is alarmed that public trust in the integrity of the judiciary continues to be very low in a number of member States, with the judiciary being perceived, according to Transparency International's 2013 Global Corruption Barometer, as being among the most corrupt institutions in Albania, Armenia, Azerbaijan, Bulgaria, Croatia, Georgia, Lithuania, the Republic of Moldova, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Spain and Ukraine. In the case of Romania, this may be partly explained by the country's considerable efforts to increase transparency. It is important, however, that the existence of judicial corruption be assessed in the context of the relevant legal framework which exists in a given country and, more importantly, the effectiveness of tools used to combat corruption.
4. Judicial corruption takes complex forms and comprises corruption related both to cases and to the career of a judge. Council of Europe member States must channel their efforts with regard to both of these aspects and provide effective mechanisms which allow for identification and investigation of cases of corrupt practices in the judiciary, and adequate sanctions for perpetrators.
5. The Assembly deplores the fact that crucial aspects in the fight against judicial corruption, most notably concerning the implementation of anti-corruption legislation and access to data, identified in its [Resolution 1703 \(2010\)](#) and [Recommendation 1896 \(2010\)](#) on judicial corruption, are still left unaddressed by member States.
6. In order to fight judicial corruption, the Assembly invites member States to, in particular:
 - 6.1. sign and ratify, if they have not yet done so, the relevant conventions of the Council of Europe, namely the Civil Law Convention on Corruption (ETS No. 174) and the Criminal Law Convention on Corruption (ETS No. 173) and its Additional Protocol (ETS No. 191);
 - 6.2. implement fully and in a timely manner all relevant recommendations of the organs and monitoring bodies of the Council of Europe, especially:
 - 6.2.1. the Assembly's resolutions and recommendations, most notably [Resolution 1703 \(2010\)](#) and [Recommendation 1896 \(2010\)](#), and [Resolution 1943 \(2013\)](#) and [Recommendation 2019 \(2013\)](#) on corruption as a threat to the rule of law;

1. *Assembly debate* on 29 January 2016 (9th Sitting) (see [Doc. 13824](#) and [addendum](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Kimmo Sasi). *Text adopted by the Assembly* on 29 January 2016 (9th Sitting). See also [Recommendation 2087 \(2016\)](#).



- 6.2.2. the recommendations issued by the Committee of Ministers, in particular Recommendation No. R (2000) 10 on codes of conduct for public officials and Recommendation CM/Rec(2010)12 on judges: independence, efficiency and responsibilities;
 - 6.2.3. the recommendations adopted by the Group of States against Corruption (GRECO), in particular those emanating from its fourth evaluation round which focuses, *inter alia*, on corruption within the judiciary;
 - 6.2.4. the recommendations contained in the opinions on national legislation issued by the European Commission for Democracy through Law (Venice Commission);
 - 6.2.5. the guidelines and reports adopted by the European Commission for the Efficiency of Justice (CEPEJ) in its work on the evaluation of judicial systems;
 - 6.2.6. the recommendations issued by the Council of Europe Commissioner for Human Rights with regard to the administration of justice, the functioning of judicial systems and the prevention of corrupt practices within the judiciary;
- 6.3. give full effect to the judgments of the European Court of Human Rights, especially those which impact on the prevention and eradication of judicial corruption;
 - 6.4. align their national legislation and practice with the standards developed in the relevant international instruments and monitoring bodies, especially with regard to the criminalisation of corruption, immunities of judges, organisation of disciplinary bodies, conflicts of interest, declaration of assets and aspects related to a judge's career (recruitment, promotion, dismissal);
 - 6.5. strengthen legislation to sanction corruption and provide all necessary means and support for its proper implementation by effectively investigating and prosecuting those responsible for corruption in the judiciary;
 - 6.6. adapt legislation and practice so as to allow an appropriate assessment of corrupt practices within the judiciary that are particularly difficult to decipher, such as those related to exchange of favours, hierarchical pressure or external interference;
 - 6.7. improve the status of the judicial profession as well as the selection and training of judges, so as to ensure ethical behaviour of judges, and strictly scrutinise any practices related to a judge's career which pose a risk of corruption or affect the independence and impartiality of judges throughout their careers;
 - 6.8. put into place appropriate procedures to eradicate political interference and undue influence in the judicial process;
 - 6.9. keep track of, and follow up on, the implementation of anti-corruption measures by making available data pertaining to the number and nature of alleged and proven cases of judicial corruption, in order to make a proper assessment of the phenomenon;
 - 6.10. where perception of the existence of widespread judicial corruption persists, take all necessary measures to restore public trust in the judicial system; monitor closely and consistently the evolution of perception indicators and develop a viable strategy to remedy the lack of public trust in the judiciary;
 - 6.11. continue to collaborate closely with the Council of Europe monitoring bodies, especially GRECO, and provide them with all the information needed for their work, and engage actively in redressing the shortcomings identified;
 - 6.12. guarantee an environment in which cases of (alleged) judicial corruption can be uncovered, so as to foster a climate in which the root causes of judicial corruption can be eradicated.
7. The Assembly notes that the Secretary General of the Council of Europe has explored, in his two annual reports on the "State of democracy, human rights and the rule of law in Europe" published to date, the existence of corruption in member States, and urges him to indicate clearly, in future reports, the member States in which problems relating to, in particular, judicial corruption have been identified.
 8. The Assembly will continue to monitor closely the progress made by member States in the implementation of this resolution.