

Paper- Duro Sessa

SOME REMARKS ABOUT INDEPENDENCE OF JUDGES AND THEIR EFFICIENCY WITH SHORT LOOK OVER CROATIAN EXPERIENCE

1. Dear distinguish guests and colleagues,
2. It is my great pleasure and privilege to speak today in front of You at this Conference which will speak about eternal topics for all judiciaries of the world, efficiency and quality of justice.
3. We all agree that beside independence, impartiality and autonomy of judges and judiciary, effectiveness and quality of justice are two of these five cornerstones which ensure rule of law in any state in the world.
4. This necessity to have these values or elements is undisputable between all of us, and, I could dare to say, that representatives of other two state powers would also agree on it.
5. Then, one could ask, where is the problem, and we all know that there are problems, or challenges how new correctness and dictate to think positive will advise to say.
6. The problem lays in the fact that we cannot agree what each of this elements means, what is content of each of them and when the judiciary can be defined as independent, impartial, autonomous, efficient and of high quality.
7. Disputes in many countries in the world between judges on one side, politics and general public lead with populist spirits on other side show that there is no

consensus how to have, maintain and preserve five crucial elements for judiciary or in worst scenarios question which also gets it's attention in some societies worldwide, is there a real need to have them.

8. In the European context at least there are standards developed in the frame of intergovernmental and international associations and alliances like Council of Europe, EU, OSCE and so on and so on.

9. To mention only most important instruments like, European Convention on protection of Human Rights, EU Convention on Human Rights, Recommendation 2010(12) of Council of Ministers of CoE, Kyiv Declaration, Venice Commission standards, case law of supranational courts and last but not the least Opinions of CCJE, 21 of them so far.

10. Effectiveness and quality of justice depends on many factors where all of them have to be well balanced and set up in the way that they work together in harmony towards same goal.

11. This means that working conditions for judges, case load, case distribution, specialization, education, procedural rules, fair evaluation of judges, system and hierarchy of courts, number of judges and supporting staff have its important and equal place in pursuit towards efficient judiciary.

12. Allow me to share with you an example from my Country, Republic of Croatia how with one rather simple and not so complicated measure we increased effectiveness in appellate proceedings in Croatia.

13. For better understanding just couple of facts about organization of appellate jurisdiction in Croatia,

- 15 appellate courts mainly covering territorial administrative organization of the country,
- One or at two first instance courts as inferior courts,
- Around 200 judges dealing with appeals,
- 4 of appellate courts in bigger cities including capital city had a huge backlog and other 11 were absolutely efficient.

14. Recently Croatian judiciary introduced so called ICMS or Integrated Case Management System which in short completely automatized administration of case load and files in courts in Croatia.

15. Beside time saving and accuracy with file managing in all courts in the Country including the Supreme Court there are in my opinion three most important advantages in introducing this system in Croatian courts:

- a. parties at any time can on line check the status of their case which brings transparency of work of courts on another higher level,
- b. within court system judges can find all necessary information about their case load, case load of the court and of other courts,
- c. Presidents of courts and others with a duty to manage the court work can control and compare efficiency of judges, courts and court system as a whole and react in due time if there is necessity for any action.

16. Precisely this third advantage allowed to equal case load of each appellate judge in all appellate courts in the Country, 15 of them.

17. To explain this just small introduction is needed. In Croatia appellate proceedings are with out hearing in principle, so panel of judges, three in the panel,

decide upon the appeal “*in camera*”. When decision is reached case is returned to the first instance court who has a duty to inform parties about the decision and to proceed accordingly to second instance court decision.

18. The ICMS showed that appellate courts are not equally loaded with cases and that all judges are not equally burdened with number of cases, even though all judges have same qualification, they have in principle same salaries and same rights and obligations.

19. Saying that we come to the conclusion that system is not fair, and that judges, mostly in courts in bigger cities have twice more cases on their docket than judges in relatively smaller court in the smaller cities with smaller territorial jurisdiction.

20. Beside unfairness among judges more important is that parties were not in the same position before courts and that length of the procedure depended before which court case was heard.

21. Procedural rules mentioned before, where appellate court hears the case in camera, brought us to the conclusion that case in the appeal process can be solved before any judge regardless in which court he or she sits.

22. For that reason ICMS system was adjusted in such manner that automatically when first instant court enters appeal in the system, it automatically assigns case to the one of the appellate courts and a judge at that particular court taking in account all number of cases before the court and number of cases which each individual judge already has on his list of unsolved cases.

23. It took some time, around 12 months to see full results of the introduced innovation and now each appellate judge in the Country has around 100 cases and resolution time has been shortened to approximately 3 months on the national level.

24. Now all parties before all appellate courts are in same position their right that their dispute should be resolved in reasonable time is protected, and what is also extremely important system is excellent source of jurisprudence and improves harmonization of case law on the national level.

THANK YOU FOR YOUR ATTENTION