



May 23, 2013

A Europe of Justice that Fosters Democracy and Freedom As A Response to Crisis

The Lisbon Treaty has established a zone of justice, freedom and security between the European Union country members, which are required to honour the Charter of Fundamental Rights.

By publishing the Stockholm Programme for an area of freedom, security and justice at the service of its citizens in 2009, The European Union set before itself an ambitious task.

Justice has to be a force for democracy, effective both for the promotion of citizens' rights and for the prevention of crime and corruption.

In Favour of a Europe of Justice

The Stockholm Programme provides mechanisms for facilitating people's access to justice and asserting their rights throughout the EU.

However, the rights of all citizens to effective recourse cannot prosper amidst reduction of resources intended for justice. The CEPEJ report from 2012 thus points out that the budgets for justice in several EU member countries have been slashed (among others, in Bulgaria, Finland, the Netherlands, Latvia and Lithuania), whereas in Greece, the adopted budgets have not been implemented.

On top of the reduction of funding came the crisis, which prompted a rise in litigation cases stemming from overindebtedness, redundancies and bankruptcies.

Judicial systems must be more efficient in order to be able to respond in due time to the demands of parties involved in court procedures. Efficiency, however, does not imply subjecting the judiciary to a market model that relies only on the production of rulings and a culture centered on statistical results.

The recommendation of the Council of Europe relative to judges reads, inter alia, that:

"Each country should allocate adequate resources, equipment and facilities in order to allow tribunals to operate in observance of requirements set forth in Article 6 of the Convention on the Defense of Human Rights and Fundamental Freedoms and to

enable the effective work of judges.

Judges should be able to procure the information that they require for competent procedural decisions, whenever such decisions may affect expenses. The power of a judge to rule a case should not be strictly limited to the obligation of efficient use of resources.

Courts should be entitled to a sufficient number of judges and support personnel with appropriate qualifications. Judges' salaries should be sufficient to protect them from any form of pressure aimed at influencing their decisions".

MEDEL underlines that there can be no justice in Europe without the necessary means to ensure regular judicial functioning.

The respect of judicial independence and its efficiency are prerequisites for mutual recognition of judicial decisions, which cannot be rendered effective without ensuring mutual trust in judicial authorities among EU member states.

In Favour of a Europe that protects

An internal security strategy has to be developed in order to further improve security within the EU. But while corruption is gaining momentum, courts are often impeded in dealing with sensitive cases; to the detriment of the principle of equality of all in front of the law. While the European territory is becoming a unified economic space, judicial cooperation is all too often inefficient in economic and financial matters.

In order to improve efficiency, the status of prosecutors, like that of the judges, must be guaranteed by law at the highest level. Prosecutors must remain independent and autonomous in making decisions in order to exercise their authority in a just, objective and impartial way.

Setting up a European Prosecution Office might be necessary for a more efficient prevention of damage to EU's financial interests and of cross-border criminality. Envisaged by the Lisbon Treaty, this prosecution office could be set up as part of enhanced cooperation procedures.

This European Prosecution Office would boost fraud prevention efficiency and be vested with the authority to conduct investigations throughout European territory, under the same terms. This could also strengthen the legitimacy of fraud prevention; with this Office operating as an unbiased, independent and responsible institution guaranteeing the observance of fundamental rights, under jurisdictional control.

The EU and member states must also fight tax and judicial havens, among other things, by maintaining automatic data exchange systems between countries, by ensuring a European coordination for the prevention of fraud and illicit capital flight and by neutralizing 'shell' companies. Member states should also put an end to harmful fiscal competition.

In MEDEL's view, at times when austerity has been imposed on so many of its

members, Europe and member states should do everything in their power to prevent the embezzlement of wealth.

In Favour of Citizen Rights' Promotion

Social rights, so much needed in times of crises, have been altered. However as stated contained in the Charter of Fundamental Rights, these rights should not remain just a statement of principles.

In this sense, MEDEL advocates the development of a European social contract. The EU must be a region of solidarity, not an arena of struggle among employees of member states, further aggravated by the introduction of social rights competitiveness, social dumping, opacity of subcontracting chains, and even illegal employment.

In the Vilamour Manifest adopted in 2012, MEDEL emphasises that, in response to the crisis, the judiciary must, more than ever, act as the guardian of promises inscribed in the spirit of the laws and conventions related to the protection of fundamental rights. The solution is not to abandon rights but to engage in their defense.

MEDEL recalls the EU obligation to observe and promote fundamental social rights guaranteed by the Charter of Fundamental Rights of the European Union, in particular the right to work, to freely exercise selected professions and to protection against unjustified redundancy. The right to negotiation and collective action must be interpreted in accordance with related ILO conventions, ratified by all EU members.

Efficient implementation of these fundamental social rights is a prerequisite to economic and social development and to the progress of the European Union and its member states. Ensuring high standards in social matters and labour rights is necessary for the recovery of economies, for supporting revenue and as an incentive for investment.

For these reasons, today we should pursue an objective of impartial evaluation of the implementation of EU policies in the areas of freedom, security and justice by member states, in line with Article 70 of the Treaty on the Functioning of the European Union.

Today, as we commemorate the anniversary of the assassination of judge Falcone, which also marked the starting point of civil societies' raising of awareness, MEDEL appeals to engage all means envisaged by the Treaty in order to allow the development of a European justice system that effectively protects the fundamental rights of citizens.