

S P E E C H

Konrad-Adenauer-Stiftung e.V.

RULE OF LAW PROGRAM
SOUTH EAST EUROPE
THORSTEN GEISSLER

October 2011

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“Strengthening Magistrates Associations in South East Europe – Managerial Development, Participation in Decision- Making and Cooperation”

SPEECH HELD AT THE OPENING OF THE FIRST REGIONAL CONFERENCE
DEDICATED TO MAGISTRATES ASSOCIATION IN SOUTH-EAST EUROPE
(BUCHAREST, 26-28 OCTOBER 2011)

On behalf of the Rule of Law Program South East Europe of the Konrad Adenauer Foundation I would like to welcome you to our conference. It is a great pleasure for us that you have come to Bucharest and I look forward to our discussions and deliberations. [...]

“Strengthening Magistrates Associations in South East Europe – Managerial Development, Participation in Decision-Making and Cooperation” is the motto of our conference and it was carefully chosen. We invited organizations from all of the countries that are part of our program region but as a German NGO we also invited the Deutscher Richterbund, the German Association of Judges and Prosecutors because it is our task to strengthen ties and cooperation between your countries and the Federal Republic of Germany. It is a great pleasure for me to welcome the Vice Presidents of Deutscher Richterbund, Mr Lothar Jünemann and Ms. Andrea Titz to this conference.

We want to strengthen civil society. If you don't have a working civil society there will always be a huge gap between

the government and parliament on one side and the people on the other one. And if government and parliament are disconnected from the people they will be unable to identify and address the concerns of the people. If this leads to discontent not only with politicians or political parties but to discontent with democracy itself, the results of the process of democratisation which started in 1989 is at stake.

Magistrates associations are an important part of civil society and have important tasks. They represent the key players of the judiciary and without a working judiciary the rule of law cannot work.

Conditions and judicial systems in the countries represented today are different and such are the organizations that are represented at this conference. But generally speaking you all have the same tasks which are:

- Supporting law making by providing expertise and opinion
- Supporting the administration of justice and jurisprudence
- Protecting the independence of judges and an impartial jurisdiction

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- Promoting professional, economic and social concerns and interests of judges and prosecutors.

As a state legislator I was involved in law making for many years. During these years I learned to appreciate the statements of the German Judges Associations in parliamentary proceedings. I am not only referring to oral and written hearings during committee deliberations but to regular meetings with their board and by taking part in conferences and panel discussion organized by that organization.

We did not always agree but we were guided by the same principles and objectives: to ensure that the legislature passed laws only after careful reflection and in full conscience of its implications and consequences. Laws must not be passed overnight and they should only be changed when everybody oversees what these changes mean for the democratic and political system and in our particular field of interest, for the judicial system.

I was always impressed by the quality of their contributions which meant a great and indispensable help for me in building my own opinion. We would also have overlooked many problems if they had not attracted our attention on them.

Protecting the independence of judges is of outstanding importance in a democratic society. State institutions must respect each other otherwise they mutually undermine the respect and authority they must enjoy among the citizens if a democratic system wants to work well.

That does not mean that I agree with every proposal made by Deutscher Richterbund in this context. I have always rejected the idea of introducing self-government of the judiciary in my country. The independence of judges is not under attack of politicians in Germany. The Global Competitiveness Report 2011-2012 issued by the World Economic Forum features 142 countries and in regard of judicial independence Germany ranks 7 which is not a bad

record. "if it ain't broke, don't fix it", is an English saying. And furthermore as a former state legislator I want a fully accountable and responsible Minister of Justice should something go wrong.

But the independence of judges can be threatened by other parts of society. It is a point of concern for me that in Germany parts of the media try to impose pressure on judges in cases, usually criminal cases, that attract the attention of a substantial part of the population. This is sometimes not only populist but unethical and very often irresponsible. It is the job of Ministers of Justice and other politicians who should see themselves as guardians of the independence of judges to call for order.

The same is of course true for the countries that are represented today. In this context we must, however, not forget that in young democracies there is a huge challenge for the whole society. The transformation of the political system and of the economy, the reform of the judiciary, the professionalization of the administration and the building up of a political culture had to be started at the same time and we should appreciate what has been achieved and express our acknowledgement to those who worked hard for improvement. But it is also true that there are still substantial deficits and there is a huge need for further reform especially in regard of democratic institutions including the judiciary.

The independence of judges has to be respected but people will only do this if they have confidence in the judiciary, their professionalism, impartiality and unconditional integrity. It takes a long time to build up confidence but you can lose it in a single moment. In this context the self-governing bodies of the judiciary but also the organizations represented here today have an enormous responsibility.

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During today and tomorrow you will have the opportunity to study carefully common problems, share experience, learn from each other, build up a network, and develop strategies for further improvement but also a close cooperation both within the region and with the country that I come from – Germany.

We as Konrad Adenauer Foundation are more than happy that we can provide the venue for such an important work which can and will strengthen democracy and the rule of law- I hope that you will ac-

cept that we want to be more than just an observer or donor. We fully respect that decisions must be taken but you but we also offer you our support by providing information, advising, warning and encouraging.

I hope that you will find this conference beneficial for your work in the future and will travel home with many new ideas and fresh enthusiasm.

I thank you for your attention and I wish this conference every possible success.