



Guidelines on Judicial Ethics (Teacher's Book)

Issues of judicial ethics and corrupt conduct can manifest themselves through a wide range of activities and approaches. The case-law reviewed from three countries can be grouped into five general categories according to their content. The categorisation identified below is relative and some of the activities indicated may fall within multiple categories.

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1. The importance of cooperation (acknowledgment of the fault)

1.1. On the duty of a judge to cooperate with the JEC during the examination of the actions of the judge (Opinion of the JEC of 26/11/2021¹ and Decision of the Judicial Disciplinary Committee of 07/01/2022²).

The Chief Justice of the Supreme Court received a complaint from an individual and asked the JEC to examine actions of a judge with regard to the decisions to recuse or not to recuse himself from several civil cases. The JEC asked the judge to provide explanations on those situations. In the first explanation, the judge did not provide information regarding each situation, but merely stated in general terms that his actions were in accordance with the law and ethical norms. The judge also pointed out that the complainant was dissatisfied with the judge's decisions in his cases, and that he was regularly writing various complaints. The JEC decided to invite the judge to its hearing. The judge informed the JEC that he had a doctor's appointment on that date and asked to decide the case in his absence. He provided some additional information regarding one of the situations. The JEC invited the judge to a hearing on another date. The judge repeatedly requested that the matter be considered in his absence and stated that he had already given explanations regarding his actions.

¹ Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

² Available in Latvian: <https://www.tiesas.lv/Media/Default/Page/D-1-2022.pdf>

The JEC decided to examine, on its own initiative, the judge's refusal to attend JEC hearings and failure to provide explanations.

The JEC stated that independent and impartial courts are an essential element of the rule of law and that the judiciary can only function effectively if society trusts the judiciary. The actions of each individual judge have an impact on that trust. It is, therefore, necessary to set higher standards for the conduct of judges, including higher standards for their conduct in situations where specific facts cast doubt on the judge's integrity and impartiality. It is the duty of the judge to do everything in his or her power to dispel doubts about his or her honesty and impartiality.

The JEC concluded that the judge avoided giving explanations regarding his conduct in specific situations and, as a consequence, the JEC was unable to perform its statutory function, namely, to assess whether the Code of Judicial Ethics has been violated by the conduct of the judge. It has to be taken into account that the JEC cannot obtain the information necessary in any other way. The JEC cannot accept that it is possible for a judge to avoid liability by not cooperating properly and by not providing explanations. The JEC concluded that the judge was not honest and respectful and that the judge's actions did not promote public confidence in the judiciary as a whole. Consequently, the judge has committed a gross violation of the Code of Judicial Ethics, which is the basis for initiating disciplinary proceedings.

The Judicial Disciplinary Committee agreed with the conclusions of the JEC and issued a reproof (disciplinary penalty).

Discussion topics & questions:

Duty to cooperate originates from general legal notions, is well established in procedural laws and applicable to every party to legal proceedings, however, this duty is also applicable to the judges in the course of disciplinary procedure.

In your view:

- a) In the present case, the judge whose activities were under examination seems to have intentionally tried not to appear before the investigating authority and not to cooperate with it. Evidently, such behaviour cannot be considered a legitimate position of defence. Could the lack of cooperation lead to disciplinary liability?
- b) Would you consider such behaviour to be an attempt to obstruct justice? Or an abuse of rights?
- c) What would be an advisable course of action to take for the investigative authority in such a situation?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Integrity

Imperative not to abuse of rights and freedoms

Principle of impeccable or exemplary behaviour / Principle of an irreproachable character

Principle of cooperation

Other choices are possible, if well-motivated.

1.2. On the importance of critical attitude towards one's own behaviour (Decisions of CJED of 26/03/2018 and 04/07/2018).

The Commission dealt with two similar factual situations.

In the first case, a journalist came to the announcement of the judgement. The secretary informed him that she would still ask the judge if she would announce the judgement, as no parties to the case had appeared, only the media representative. A few minutes later, the secretary returned and informed that the judge would not announce the judgement.

In the second case, the applicant complained that, after arriving at the court at the time indicated, the secretary informed him that there was no courtroom available for the announcement of the judgement. A copy of the judgement was offered to the applicant.

In the first case, the judge provided only a brief written explanation to the CJED denying the circumstances set out in the journalist's complaint and refused to attend the hearing, despite that Commission insisted actively on attendance. A decision was taken to initiate disciplinary proceedings, finding that the CJED was not in the position to verify the correctness of the different versions of the events referred to by the applicant, the judge and the secretary. However, the fact that the judge also confirmed that she did not publish the decision in due time and was not ready to publish it, was considered a lack of judicial responsibility and a penalty was imposed on the judge.

In the second case, the judge gave detailed explanations, stating that there were indeed organisational problems at the court. The judge also attended the hearing, gave detailed explanations and expressed regret. The CJED refused to initiate disciplinary proceedings and found that the hearing had a sufficient impact on the judge.

Discussion topics & questions:

Self-criticism is a key feature in judicial practice, which is useful in situations where the procedural rules were not well respected. Though errors do happen, the judge's approach should be to examine and rectify the situation.

In your view:

- a) As it is evident from the two cases, the approach taken by the two judges in defence of their positions during the proceedings was fundamentally different. How were they different and which one was more correct?
- b) Did the acknowledgment of the shortcomings by the second judge mitigate his professional responsibility?
- c) Self-criticism is a much more cooperative and constructive way of defending one's case than just blindly looking for your own interest or bluntly defending your case. What are the advantages of this approach for the judge under disciplinary examination? How does sincere behaviour affect the attitude of the disciplinary authority towards the judge under disciplinary examination?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Integrity

Honesty

Prohibition of abuse of rights and freedoms

Principle of cooperation

Other choices are possible, if well-motivated.

Intermediary conclusion.

Résumé. The duty of cooperation is of general application, however in terms of judicial ethics it assumes a set of particular qualities that judges should be aware of. In the course of a disciplinary examination, a judge is supposed to cooperate to the maximum, this includes but is not limited to giving detailed explanations on the issue at hand, participating in the examination, if requested so, providing to the investigative authority the necessary materials, not attempting to delay the disciplinary hearing, etc.

Judicial values & principles susceptible to being challenged in this regard:

Principle of cooperation – in the framework of a disciplinary procedure, a judge should work together for a common purpose – to justly resolve a disciplinary case, and thus to put every effort to make the investigation progress effectively by providing the necessary data, explanations, participating in the hearings of examination as well as following any directions from the investigative authority.

Integrity – in the framework of a disciplinary procedure, a judge should be honest and behave with the due dignity. The judge in question in such a situation should be trustworthy as if it was not him under the disciplinary examination. No matter the final decision of the disciplinary authority, a judge has to be loyal to the self-regulatory system of the judiciary and willing to accept any decision given by the competent authority in his case.

Prohibition of abuse of rights and freedoms – prohibition of abuse of rights and freedoms is a generic imperative of universal application, however in the framework of judicial discipline it assumes a particular quality. No misuse of any right or freedom should be tolerated, no attempt to prolong or delay the disciplinary procedure should be possible. No procedural right or freedom of defence in the context should be used in order to distort or make effectless the disciplinary procedure itself. The legal system should not defend the interests of a person who abuses his rights and freedoms.

Practical assignment. If someone suggested applying the below solutions (or suggestions) in your daily judicial practice, what would be your course of action? Would this be suitable in your daily work?

- Follow the orders of the disciplinary authority during a disciplinary procedure without any undue delay and fully.
- Present the evidence, documents, testimony and any other data timely.

- Not to give any excuse for appearance before the disciplinary authority.
- A judge under disciplinary examination should act cooperatively, in good faith and with sincere intentions.
- Be aware of the fact that in a case of non-appearance, the disciplinary authority would have a mandate to take a binding decision in absentia.

2. Social networks

2.1. On communication with the media and use of social networks (Decision of the CJED of 27/05/2021)³.

A judge was very active with the media and on social networks emphasising her negative attitude towards the judiciary. She stressed that judges perform poorly due to the heavy workload: they do not scrutinise case materials and case-law, write decisions using templates, without stating individual reasoning. The judge also accused the court presidents of nepotism alleging that their decisions on the career or discipline of judges were influenced by the relations they had with particular judges. On her Facebook account, the judge referred to her colleagues as swindlers, selfish, indifferent careerists, claiming that hypocrisy prevailed not only among judges but also in their behaviour towards litigants. Not only the judge tolerated but also “liked” the offensive comments left on her account by other people who called judges “degenerates“, “moral scums”, etc.

The Commission of Judicial Ethics and Discipline (hereinafter – CJED) stated that by accusing all judges or their particular group (presidents of courts) of abuse and improper performance of their duties, the judge publicly expressed contempt for the entire judicial system. Generalised statements in relation to a group of people, even if based on factual information available in individual cases concerning some group members, is unethical in relation to the group as a whole. A judge must avoid any unreasonable assessments that could discredit the work of other judges in the administration of justice. Such public statements promote distrust in the judiciary and discredit their authority, which is a cornerstone of a democratic state governed by the rule of law and must be respected and strengthened.

Discussion topics & questions:

The fundamental question in the above-described situation is the balance between the judge’s right to freedom of expression and the obligations imposed by judicial ethics. It goes without saying that there is no law that would specifically prohibit judges from publicly expressing their views, including on social networks, however this is subject to the requirements of judicial ethics.

In your view:

- a) What were the main or most egregious actions of the judge?

³ Accessible on the Internet on the official website of the National Courts Administration:
<https://www.teismai.lt/data/public/uploads/2021/05/tekd-sprendimas-i.s..pdf>

- b) What could have been an alternative way of expressing herself in the situation described in order to avoid a violation of judicial ethics?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Integrity

Judicial dignity

Judicial solidarity

Social awareness

Other choices are possible, if well-motivated.

2.2. On the legal relevance of the status “Friend” on Facebook (Decision of the CJED of 14/01/2019⁴).

In a criminal case regarding a minor health impairment caused to a person, the judge was accused by the petitioner before the CJED of undue delay in the proceedings, partiality and improper behaviour during the trial. It should be noted that, with respect to the allegations of partiality (there were also additional allegations), the accusation against the judge was based on the circumstance that the judge and the cohabitant of the accused were linked by the status of “friends” on the social network Facebook. This was, *inter alia*, confirmed by the fact-finding statement. According to the petitioner, that fact raised doubts concerning the judge’s impartiality in the case.

The CJED referred to the case-law of the ECtHR in its reasoning and held that, in each case concerning judicial conduct, it must be determined whether the nature and degree of the relationship does not undermine the impartiality of the court. Subsequently, the CJED invoked the case-law of the Supreme Administrative Court of Lithuania stating that, in a situation where publicly available data show that the judge hearing the case and the claimant's representative actively communicate on a social network, such conduct can objectively raise doubts as to the independence of that judge. In such a case an application for the recusal of the judge is necessary, failing which the defendant’s right to impartial court is violated as the case is heard by a panel of judges which is deemed to be of unlawful composition. Nevertheless, the CJED held in the case at issue that, even though the evidence collected in the case confirmed the fact that the judge and the person in question were related by the status “Friends” on Facebook, in this case there was no evidence of active communication or friendly relationship between them, or of comments on the material shared on the social network, therefore, there was no basis for concluding that the judge was partial on this ground. In the above-mentioned case, the CJED provided recommendations for judges on social networking stating that neither legislation nor professional ethics practice prohibits or restricts judges from using social networks. However, judges are advised to distinguish between their private and professional profiles on social networks. The private profile of a judge should also comply with high standards of judicial ethics. The CJED also pointed out that judges can be subject to liability for breaches of conduct during their participation on

⁴ Accessible on the Internet on the official website of the National Courts Administration:

<https://www.teismai.lt/data/public/uploads/2019/02/tekd-2019-01-14-sprendimas-v.-b.-nuasmenintas-.pdf>

social networks. The notion of “friend” has changed with the advent of modern information technologies and today the list of friends on a social network can expand rapidly. Nevertheless, the CJED recommended to be vigilant when accepting persons on the lists of friends, not to publish any information that could discredit the judge, the court or the judiciary in general, and not to communicate on social networks with litigants. Any behaviour by a judge on a social networking site should not call into question the judge’s impartiality in the administration of justice or violate judicial ethics.

The CJED invited to comply with the aforementioned recommendations on the conduct of judges on social networks and concluded that a reprimand of the judge is sufficient in this that particular case and that no further disciplinary action was required.

Discussion topics & questions:

In this example, the focal point of judicial ethics seems to be related to the status “friend” on Facebook, however, this relationship was characterised by two factors. On the one hand, it was not the accused himself who was a “friend” on the social network with the judge hearing the case (it was his partner) and, on the other hand, there was no active communication between the judge and the person in question on Facebook (in fact, the relationship of “friendship” was the only connection). However, the circumstances in judicial practice can be very different.

In your view:

- a) Is the assessment of a disciplinary authority, in general, impacted because of the types of relationships and their proximity to the judge, e.g., if the accused is linked by a “friend” relationship to the judge or if the defendant linked in the same way?
- b) In the same respect, would the situation be different if there had also been clear signs of active communication between the them (chats, birthday wishes, “Likes” of personal photos)?
- c) Would the situation be different if the judge made a distinction between his/her personal and professional Facebook profiles?
- d) Should a judge take a clear preventive action to eliminate any likelihood of the issues of ethics (“unfriending” that person, informing the president of the court, etc.)?
- e) Can you think of any other possible solutions to preserve the integrity of the judicial office in such a case?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Impartiality

Avoidance of conflict of interest

Equilibrium between private and public spheres of life

Other choices are possible, if well-motivated.

2.3. On the judge's comments on Facebook (Opinion of the JEC of 14/05/2021⁵).

⁵ Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

A judge published pictures on Facebook concerning the creation of a monument to Gunārs Astra, an anti-Soviet dissident. The monument was planned to be erected in front of the court where he had been convicted in Soviet times. The judge asked to share opinions regarding the creation of the monument. In the comments section, the judge stated that Gunārs Astra deserved a monument, but the best monument would be to refrain from stealing public money for various unnecessary projects for a while. The judge also stated that she thought that the monument was not meant to commemorate anyone, but “to polish feathers” and “get access to money”. The judge also wrote: “Elections are coming, the party's coffers need to be filled and they have to show off in front of potential voters in every possible way”. It was clear from the comments, that the judge did not like how the monument was supposed to look like. All posts and comments were public.

The Minister of Justice asked the Judicial Ethics Committee (hereinafter – JEC) to assess the judge's comments.

The JEC pointed out that a judge, like any member of society, has the right to freedom of expression, which includes the right to criticise an object, idea or image. However, criticism must be expressed in a respectful manner. The JEC emphasised that it is necessary to set higher standards for the conduct of judges than other members of society and that the actions of one judge have an impact on the public opinion on the judiciary as a whole.

The JEC acknowledged that the opinion was expressed in an offensive manner. The judge accused the initiator of the creation of the monument of having selfish intentions. By using words such as “theft of public money”, “filling the party's coffers”, the judge also gave an impression that there was evidence of a theft or misappropriation of public funds. Those statements were unsubstantiated and offensive. It is not appropriate for a judge to make offensive public comments.

Consequently, the JEC concluded that the judge had violated the Code of Judicial Ethics.

Discussion topics & questions:

It is certainly the case that the judiciary is one of the three powers in a democratic state, which along with the legislative and executive branches performs its function in the society. Nevertheless, when it comes to judicial ethics, the comments and actions on the part of the judges on political issues do fall within its remit.

In your view:

- a. Why were the actions of the judge questionable from the ethical point of view (terminology employed, lack of tact or sensitivity, etc.).
- b. What could have been the correct and acceptable manner to raise this issue, if any?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Political neutrality

Respecting the principle of the separation of powers

Practising of social responsibility

Presumption of innocence (with respect to the part regarding public and premature accusations of the theft of public money)

Other choices are possible, if well-motivated.

Comparative aspect of judicial ethics

Japan

2.4. Disciplinary Action against a Tweeting Judge (Decision of the Japanese Supreme Court of 17 October 2018⁶).

A Tokyo High Court judge uploaded on his personal Twitter account, though he did not mention his profession, a photo taken of himself (“selfie”) in the bathroom wearing only white briefs and apart from that being completely naked; at the same time, he posted a comment under the tweet: “I will be posting more and more photos of my naked body, my body with only white briefs, etc.”. It should be noted that under the Japanese Court Act, judges can be disciplined under a special judicial procedure if they “violate official duties ... or behave disgracefully”. The Secretary of the Tokyo High Court filed a petition stating that such behaviour undermines the dignity of judges and the public trust in the court. The Supreme Court has twice taken disciplinary action against the judge, concluding that he had “undermined the public trust in judges”. The respondent was interviewed by the Commissioner of the Tokyo High Court regarding the posting. In the course of the disciplinary hearing, the accused judge stated that he was deeply remorseful. It is vitally important to point out that the Supreme Court of Japan explained that a judge, even in the life as a private person, must not do anything incompatible with judicial responsibilities. Consequently, it was decided to give the respondent a warning in accordance with the applicable Japanese legislation. Finally, it should be noted that this decision was accompanied by separate opinions of judges where they emphasised that the judge in question had previously come under the spotlight of judicial ethics for his ethically unacceptable behaviour, that the erotic tweets revealed the malicious attitude of the judge in question, and that while the Constitution protects the freedom of expression of all citizens, including members of the judiciary, such freedoms must not be misused.

Reflexive questions from the comparative point of view:

The above-referred case-law raises issues concerning judicial ethics already touched upon in the Guidelines. From the comparative point of view, in your opinion:

- Is the standard of judicial ethics (the set of rules and requirements that would apply in a similar case) in your jurisdiction different from the above in the circumstances of this particular case?
- Would the case described above have been resolved in a substantially different way in your jurisdiction?
- Are you aware of similar cases in your jurisdiction and what can be done to prevent such cases from occurring in the judiciary?

Intermediary conclusion.

⁶ Decision of the Japanese Supreme Court of 17 October, 2018: https://www.courts.go.jp/app/files/hanrei_jp/055/088055_hanrei.pdf

Résumé. The advent of the social networks on the scene of communication has transformed the means of expressing one's views in a major way. Under the examined case-law, it is to be maintained that the standards of judicial ethics apply while communicating via social networks *mutatis mutandis*. Although judges, like other individuals, are entitled to the fundamental rights and freedoms, like the freedom of expression and assembly, they should particularly bear in mind that the way they conduct themselves on social networks strongly impacts the public perception of the judiciary in corpore, thus judges, while communicating on the social networks, should always comport themselves duly, in accordance with the dignity of the judicial office and maintain their prominent status, as well as to refrain from any actions that could result in damaging the independence or impartiality of the judiciary, or cast perception thereof on the public.

Judicial values & principles susceptible to being challenged in this regard:

- **Integrity** – while communicating on the social networks a judge should ensure that his/her conduct is above reproach in the view of a reasonable observer, that is a judge should conduct himself/herself in such a way that a regular person would find it to be correct. In a case of a doubt on the appropriateness of an action to take on the social network, a judge should consider a possibility of withholding from taking that action.
- **Judicial dignity** – while communicating on the social networks a judge should behave in such a manner as to assure that his/her status of a judge or the judiciary at large would not be blemished or suffer in terms of credibility and importance in a democratic society, high moral standards and correctness.
- **Judicial solidarity** – while communicating on social networks a judge should ensure that his/her actions and choices would not be harmful to the shared purposes of the judiciary. A judge should not employ the tools of social networks to escalate any issues perceived as problems within the judiciary in a non-constructive manner.
- **Social awareness** – while communicating on the social networks a judge should bear in mind what societal consequences will cause his action, as well as pre-emptively project the likely reaction from the public. Judge's views made public on the social networks should be in line with the universally accepted social norms. Judges should specifically refrain from issuing any premature statements or assessments on the matters yet to be decided upon in order not to contradict the presumption of innocence and maintain impartiality.

Practical assignment. If someone suggested applying the below solutions (or suggestions) in your daily judicial practice, what would be your course of action? Would this be suitable in your daily work?

- To be mindful of the digital content which existed before becoming a judge and take due account of the standard of socially acceptable content has changed since becoming a judge, thus, the digital content that was previously acceptable may no longer be in line with judicial standards.
- In case of a direct attack or insult on a social network, to refrain from fighting back as this approach would only escalate the conflict. It is advisable to take steps to remedy the situation by respectfully presenting arguments and evidence to support your claims, expressing understanding of the concerns and, if possible, trying to find any common ground.

- To bear in mind that there are many ways to express oneself on social networks, not only by sharing content or posting a comment, but also by liking/disliking a post, offering the status of “friendship” or being a member of a particular group. Judges should be particularly careful if, during judicial proceedings, any of the parties to the proceedings is asks for “friendship” on a social network.
- Not to use social media tools to trivialise the concerns of other people or to provide a platform for any kind of public altercation on unsettled issues.

3. Different types of relations

3.1. On the use of a car owned by a lawyer or a law firm (Opinion of the JEC of 09/06/2017⁷).

A judge's partner (they are not married) and the father of her children is a lawyer who has also set up a law firm that employs several lawyers. The judge and her partner have been living together for many years. The judge uses the car belonging to her partner on a daily basis. The judge regularly parks this car in front of the court. In such a situation, a parking permit is placed in a visible place in the car, stating that it has been issued to the judge. Sometimes the judge's partner allows a lawyer employed by his law firm to use the car. Occasionally, the judge also uses a different car belonging to a law firm both as a passenger and as a driver. In most cases, these are joint family trips outside the judge's office hours or transportation of children.

At the request of the Chief Justice of the Supreme Court, the Judicial Ethics Committee (hereinafter – JEC) examined whether such a situation is in accordance with the Code of Judicial Ethics.

The JEC found out that the owner of the first car is the judge's partner and the owner of the second car is the law firm founded by the judge's partner (the partner is the sole founder and owner of that law firm). It is therefore clear that the judge uses both cars on account of family relationships between the judge and the lawyer and not on account of some other unknown and questionable grounds. At the same time, the JEC acknowledged that the sharing of one car by between a judge and a lawyer could, in principle, cast doubt on the impartiality of the judge in cases where a party to the proceedings or his/her representative would be such a lawyer. However, the judge's work is organised in such a way that either she is not assigned a case in which a participant or his/her representative is a lawyer from the law firm set up by the judge's partner, or she withdraws from the case if such cases are assigned to her. Consequently, a reasonable and informed person has no reason to doubt as to the integrity and impartiality of the judge. In view of the above, the JEC did not find any violation of the Code of Judicial Ethics.

Discussion topics & questions:

Even though judges do enjoy the right to private and family life as well as property-related rights, it can be assumed that the exercise of these rights and freedoms has to be reconciled with the fundamental obligations of judicial ethics.

⁷ Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

In your view:

- a) Does the shared usage of a car between the judge and her partner who is a lawyer (1) create conditions for the lack of impartiality of the judge, (2) presuppose the lack of impartiality of the judge, (3) lead to the lack of impartiality of the judge?
- b) Could it be fairly reasonably maintained that if the lawyer (partner of the judge in question) were to represent a party in the hearing presided by the judge in question the bounds of the judicial ethics would be trespassed?
- c) What measures could the judge and the lawyer have taken to remedy or at least mitigate the perceived incompatibility of this situation with judicial ethics?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Integrity

Propriety

Independence

Transparency

Other choices are possible, if well-motivated.

3.2. A lawyer working with the spouse of the judge (case-law of the Supreme Court of Lithuania (e3K-3-234-421/2019, 4 July 2019) and the Court of Appeal of Lithuania (e2A-401-1120/2020, 18 June 2020)).

In two different cases, a judge heard a civil case in which one of the parties was represented by a lawyer working in the same law firm as the spouse of the judge. The representative of the opposing party made a request for the removal of the judge. The judge did not withdraw from the proceedings himself, nor did the chairman of the civil division of the court grant the request for removal. After the judge had heard the case and rendered the judgement, the courts of higher instance found a violation of the procedure – unlawful composition of a court.

The fact that a close member of the judge's family, such as his spouse, had a close working relationships with the lawyers representing one of the parties to the case, weakened the impartiality of the court and did cast doubt on the opposing party's real exercise of his/her right to independent and impartial tribunal.

Discussion topics & questions:

Various types of relationships between a judge and those close to him or her – family members, friends, colleagues, former college mates, academic figures and various other acquaintances from different backgrounds – pose a challenge for judicial ethics. At the same time, it should be considered what is the level at which the relationship between a judge and another person is considered close enough to be sufficient for the judge to be disqualified from hearing a case. The question is how to strike a balance between the two.

In your view:

- a) In the present case, it was not the spouse of the judge who was representing the party at court but a lawyer from the same law firm. Do you consider that this connecting factor is sufficient for the recusal of the judge?
- b) If the judge subjected to a review by a higher instance court objected that the judgment declaring the unlawfulness of the composition of the court de facto established a requirement for a judge to know every colleague with whom his spouse worked and that such a duty was disproportionate or even impossible to be met, what would your answer be?
- c) Would the lack of knowledge by the judge that the party in the hearing where he/she was represented by a colleague of his/her spouse be a legitimate counter-argument in your view? What about a mitigating circumstance in terms of judicial ethics?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Avoidance of conflict of interest
Independence
Transparency
Equilibrium between private and public sphere of life
Other choices are possible, if well-motivated.

Comparative aspect of judicial ethics

United States of America

3.3. On the permissibility of issuing a letter of support for the public interest (Opinion of the Judicial Ethics Advisory Committee of the Florida Supreme Court of April 19, 2017⁸).

The Judicial Ethics Advisory Committee of the Florida Supreme Court (hereinafter – JEAC) was inquired by a judge whether a judge may submit a letter to a municipality supporting the dedication of a certain sports facility in the name of the judge’s deceased former bailiff. The judge’s former bailiff passed away. During his life, he was very active in little league baseball. The former bailiff’s family is petitioning the city to dedicate one of its little league baseball fields in his name. The City Council has suggested the family provide letters of support from the community, and the inquiring judge has been asked to write a letter supporting dedication of the ball field. The inquiring judge has certified that there is no solicitation of monetary contributions or other donations associated with the request to the city and that the judge’s letter will not be used for any of those purposes. It should be pointed out that the Canon 2B of the Code of Judicial Conduct provides that “[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others”. However, the commentary to the Canon 2B creates an exception for letters of recommendations. It provides in relevant part that although a judge shall be sensitive to

⁸ Op. of the Judicial Ethics Advisory Committee of the Florida Supreme Court of April 19, 2017: <https://www.jud6.org/LegalCommunity/LegalPractice/opinions/jecopinions/2017/2017-09.html>

possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. The aforementioned part of the commentary has led the JEAC to opine that judges may, based upon personal knowledge, write letters of recommendation to a potential employer or recommendation to an employee's personal file, or for an applicant for law school fellowship, or an applicant for law school, or letters of recommendation to the judicial nominating commissions. Judges, however, are not allowed by the judicial code to write such letters for investigatory and/or adjudicatory proceedings where legal rights, duties, privileges, or immunities would be decided. Therefore, the JEAC has opined that a judge could not write a letter of recommendation or good character to the Department of Business and Professional Regulation where the privilege of obtaining a professional licence would ultimately be determined, or in criminal sentencing proceedings, or recommending a parole to the Parole and Probation Commission, or to the Florida Bar in connection with a disciplined lawyer seeking a readmission to the Bar, or for judge's personal business interests or matters. According to the JEAC, the type of letter involved in this inquiry is more akin to those letters that are allowed by the Code and by the JEAC opinions referred to above. This letter will contain the judge's recommendation, based solely upon the judge's personal knowledge of the deceased bailiff. At most, the letter may be considered to be tangentially related or appealing to a government body which will decide to bestow an honorary title (a privilege) in memory of a deceased person. However, this is not the type of "privilege" contemplated by either the Code or the JEAC opinions. The prohibited type of privileges are those which would benefit a living individual or ongoing business interest who may be seeking to be granted a benefit or licence the likes of which, if awarded, would bestow on petitioner a legal right. In conclusion, the JEAC in this particular case concluded that the inquiring judge may write a letter to the city council based upon the judge's personal knowledge.

Reflexive questions from the comparative point of view:

The above-referred case-law raises issues concerning judicial ethics already touched upon in the Guidelines. From the comparative point of view, in your opinion:

- Is the standard of judicial ethics in your jurisdiction different from the above in the circumstances of this particular case?
- Would the case described above have been resolved in a substantially different way in your jurisdiction?
- Are you aware of similar cases in your jurisdiction and what can be done to prevent such cases from occurring in the judiciary?

Intermediary conclusion.

Résumé. The modern world of social relationships has become very complex. Professionals of different sectors are frequently closely interconnected and interdependent. The borders between the realms of professional sphere and personal life do from time to time fade away. The phenomena of this sort surely pose difficulties from the point of view of judicial ethics and, unsurprisingly, in this environment of social relationships it is frequently very easy for a judge to make a misstep or to unintentionally cast an impression to the public thereof.

Judicial values & principles susceptible to being challenged in this regard:

Avoidance of conflict of interest – while interacting with other persons a judge should avoid any situation where his/her personal interests (or those of his immediate environment,

especially family) would enter into a collision with the interests of the judicial office, the judiciary in general or his/her status as a public official. In case of a potential conflict of interest, a judge should give precedence to the interests of the judicial office.

Equilibrium between private and public sphere of life – members of the judiciary, like any other segment of the society, enjoy the rights and freedoms regarding privacy and family life, however these rights and freedoms should be coupled with the duties deriving from the judicial status. The private life of a judge should not interfere with the execution of justice. A subtle balance should be struck between the private life and the professional one.

Independence – no social relationship of a judge should predetermine his/her dependence, be it a party to the proceedings before him/her, another judge, a friend or any other person. Judges should bear in mind that judicial independence manifests itself in a number of different forms and from a number of different points of view, such as an internal independence (within the court, such as the personnel), external independence (independence from the subjects outside the court, such as political parties), independence from the parties to the proceedings (such as a defence attorney), independence from other judges of the court (such as receiving an advice from a senior colleague), institutional independence (such as from the Ministry of justice), personal independence (such as from the acquaintances) etc., all of these categories fall within the remit of judicial ethics.

Transparency – no social relationship of a judge should cast doubts as to the transparency in the examination of the cases before that judge. The obligation of transparency of a judge from the point of view of social relations should be understood as meaning the actual nature of the relation between the judge and the person in question, the moral duties this relationship implies to the judge, as well as the possibly reduced range of action on the part of a judge caused because of partaking in that relationship, as a consequence disqualifying a judge from hearing a case.

Practical assignment. If someone suggested applying the below solutions (or suggestions) in your daily judicial practice, what would be your course of action? Would this be suitable in your daily work?

- To take steps to clearly define the boundaries between the private and public spheres of life in a way that the public can understand.
- Where a close relative of a judge (e.g., a spouse) is also in the legal profession, not to take for hearing any cases where not only the judge's close relatives but also his/her environment, colleagues or business partners are involved.
- In case of doubt as to the appropriateness of particular relationships or as to whether particular social relationships are sufficiently close or important to warrant recusal from a particular case, to interpret that relationship to one's disfavour and inform the president of the court or, if possible, request a consultation for guidance from the national judicial ethics institution.
- Not to use any public property or knowledge gained in the exercise of judicial duties, contacts or the special position for the interests of related persons; to be aware of the shadow (including also perceived by the public or the media) of nepotism, favouritism or preferential treatment.

4. Procedural (disciplinary) issues

4.1. Procedural actions / behaviour (Decision of the CJED, 17 December 2021, Court of Honour of Judges (CHJ) decisions 03/07/2020⁹).

In one case, a judge decided to arrest a suspect without the presence of his lawyer, while the prosecutor secured the participation of a state-guaranteed defence counsel.

In the second case, a judge systematically expressed her disagreement with the case-law developed by the higher courts, including decisions in cases in which she was involved as a defendant. After the higher court annulled her ruling and returned the case for rehearing, highlighting the procedural errors, the judge handled the issue in the same way, which was found to be unlawful. When the judge was involved in the case as a defendant, not only did she fail to comply with the statutory obligation to notify the president of the court in order to avoid conflicts of interest (in the situation where a judge receives a case between the parties with one of whom she is involved in litigation), but also failed to withdraw from the newly received case with that specific party. Moreover, after the deputy president of the court raised the issue, the judge alleged in her withdrawal from the case that the actions of the deputy president were illegal, that the pressure had been exerted on her, and that it was likely that there were illegal relations between him and the litigant involved in the case. In addition, the judge continued to actively pursue the case from which she had withdrawn and lodged a complaint with the CJED against the newly appointed judge questioning the procedural decisions taken in that case.

In the first case, the CJED decided that the application of disciplinary liability with respect to the judge for negligent performance of his or her duties, namely, for violations of procedural law where these violations are serious and obvious, cannot be interpreted as denying the principle of judicial independence. The performance of the duties of judges is essentially a matter of interpretation and application of the law, which may involve errors. This relates to an essential aspect of the judicial profession – decision-making. A judge who would be subject to disciplinary liability for a mistake in making a decision, in particular for the application of the conditions of liability of an evaluative nature, could not be independent. It follows that disciplinary liability for misconduct committed through manifest negligence or without proper justification may be imposed in cases where the misconduct relates to the application and interpretation of procedural law that does not involve a judicial decision. Disciplinary liability for errors of interpretation and/or application of the law and for violations of procedural law is possible when the errors and violations are serious and manifest, when the performance of specific judicial duties is clearly negligent or disregarded without a justifiable reason.

In the second case, the CHJ found an infringement and held that the judge had created the conditions for a conflict of interest, avoided resolving the issue by recusing herself; after the subsequent withdrawal from the case, she did not comment on the accusations of her own misconduct but rather made unfounded allegations of corruption and misconduct against the deputy president of the court. The CHJ emphasised that the judge was not inclined to change her behaviour, to admit and correct mistakes, to manage her private life so as not to damage

⁹ Accessible on the Internet on the official website of the National Courts Administration: https://www.teismai.lt/data/public/uploads/2021/12/tedk-sprendimas_1_t-s.docx.pdf, <https://www.teismai.lt/lt/teismu-savivalda/teiseju-garbes-teismas/sprendimai/179/results?sqid=c809487694ace9447e784d45347acbd96ebbd70>

the judge's reputation, to perform her duties in a professional manner, and to maintain relations with other judges based on trust, honesty, and tolerance.

Discussion topics & questions:

Procedural and disciplinary issues are a special subject of judicial ethics. On the one hand, it would not be lawful to impose a disciplinary sanction on a judge for a wrong application of a law or procedural error, but on the other hand, if such instances can be considered to be a gross or manifest violation of law, such actions may give rise to disciplinary liability. In the second case at issue, the judge not only did not show any remorse but seems to have committed the acts in question.

In your view:

- a) Is a judge's individual disagreement with the case-law of higher instance courts a legitimate basis for disregarding that case-law? And if a judge can provide reasonably valid arguments for disagreeing with that case-law?
- b) In the case at issue, the judge accused of misconduct used the defence strategy of attack, that is, the "attack is the best defence" strategy; is this way of presenting one's case in line with the principles of judicial ethics?
- c) In your opinion, judging from the data present in the description of the cases, is there any indication of malice on the part of the judge at any point of the description? Does malicious behaviour have any bearing in terms of judicial discipline?
- d) The description of the second case mentions that the judge continued to actively pursue the case from which she had withdrawn. In case this involves the use of tools owned by the court, such as case management programmes or software, would this in your view constitute a violation of judicial ethics?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Integrity

Propriety

Lawfulness

Imperative not to abuse of power or abuse of authority

Other choices are possible, if well-motivated.

4.2. On the importance of being particularly careful towards vulnerable people (Decision of the CJED of 28/05/2020¹⁰).

A judge was accused of misconduct and discrimination towards a vulnerable person. The petitioner, who participated in civil proceedings as a third person and whose presence was determined to be necessary by the judge herself, had informed the court at the beginning of the trial that he had a hearing disability. He also asked the court to pronounce the words more loudly or, eventually, write them down so that he could understand the meaning. During the trial, the judge did not take account of the petitioner's disability, did not pay special attention to him, was rude and at one point even questioned his ability to run an enterprise. The petitioner considered such behaviour to be grossly inappropriate and discriminatory.

The CJED invoked the Bangalore Principles of Judicial Conduct of 2002, inter alia, the standard for assessing the judge's conduct based on the opinion of a third person, i.e. whether an impartial observer would recognise such behaviour to be ethically objectionable, and noted that judges have a duty to respect other persons and this respect is exhibited through the judge's treatment of other people; it also explained that judges must be patient even in the most acute situations, communicate with others politely, delicately, not to use words or expressions that could cause misunderstandings, to always anticipate the potential consequences of their words, avoid personal bias, familiarity or moralising.

Possible discussion topics & questions:

It seems beyond discussion that the judiciary does not exist in a vacuum, but is an integral part of society as a whole. The judiciary should respect individuals during court hearings and pay even more attention to vulnerable persons and hear their special needs. In the present context, it should be noted that Article 13 of the Convention on the Rights of Persons with Disabilities states: "States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages".

In your view:

- a) Can the lack of courtesy towards vulnerable parties to legal proceedings, as described in the case at issue, be considered not only as a violation of procedural law by a judge (e.g., filing an appeal for such behaviour before a court of higher instance), but also as a breach of judicial ethics? If yes, under which conditions?
- b) In the present case, do you consider that the judge violated the principles of judicial ethics? If yes, which ones?
- c) How should a judge deal with a vulnerable person during the trial? What would have been your approach?

Formulation of judicial value:

¹⁰ Accessible on the Internet on the official website of the National Courts Administration (opt for the first selection): <https://www.teismai.lt/lt/teismu-savivalda/teiseju-etikos-ir-drausmes-komisija/sprendimai/184/results?sqid=cefc72e0021fddfd5aeddef27523b019eb8c6c07>

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Equality before the law
The principle of non-discrimination
Positive discrimination
Social awareness
Other choices are possible, if well-motivated.

4.3. On the boundary between judicial and non-judicial activities (Decision of the CJED of 29/01/2021¹¹).

A judge was accused of considerable procedural irregularities during civil proceedings regarding the adoption of children, including failure to respect the principle of the priority of the child's best interests, failure to observe the mandatory time limit of 10 days to adopt a procedural decision, and a number of other similar violations of procedural law, since under the applicable rules of civil procedure, such cases in the field of the welfare of children have to be handled under the urgent procedure.

The CJED, referring to the ruling of the Constitutional Court of the Republic of Lithuania, clarified that a disciplinary measure may be applied to a judge if the violations committed by him/her are related to significant and persistent errors in the interpretation and application of the law, violations of the procedural law, or negligence in the performance of his/her judge's duties. In the present case, the CJED stated that two cumulative conditions must be met in order to conclude that the judge's performance was clearly negligent: (a) the violation has to be manifest and (b) it must lead to negative consequences. Negative consequences are understood as violations of the rights of a litigant or other interested persons. In the case at issue, the CJED found that, even though there were indications of misconduct on the part of the judge, the level of irregularities did not reach the necessary level to conclude that there had been a violation of judicial ethics. It should be noted that, at the same time, the CJED has also clarified that, under Lithuanian procedure, delay in the performance of certain procedural acts may be a ground for disciplinary action when the delay was the fault of the judge and there is no justification for that.

In view of the fact that the judge in question admitted that he had committed errors and declared that he was determined not to commit such irregularities in the future, the CJED decided that the irregularities identified were not of the level of gravity necessary to find a violation of judicial ethics.

Possible discussion topics & questions:

There is a fine line between judicial and extrajudicial activities of a judge, for instance, the president of a court may act in the judicial capacity when hearing a case and later act in an

¹¹ Accessible on the Internet on the official website of the National Courts Administration (opt for the first selection): <https://www.teismai.lt/lt/teismu-savivalda/teiseju-etikos-ir-drausmes-komisija/sprendimai/184/results?sqid=fda3210cab194d0fb4a10ef6f6edf53e902a5865>

extra-judicial capacity when dealing with, for example, a contract for the supply of goods or services for the court. Nevertheless, this distinction should not be understood to mean that any of the two realms are exempted from the standards of judicial ethics.

In your view:

- a) Under Lithuanian national legal system, the criteria of “clarity”, “consequentiality” and “permanence” of judicial procedural misconduct are generally invoked to identify instances when the procedural violations committed by a judge give rise to disciplinary liability, is it the case in your jurisdiction?
- b) Do you foresee any danger for judicial independence as a consequence of the application of the above-described doctrine?
- c) Is the seniority of a judge whose judicial activities are under disciplinary examination relevant for the individualisation of the sanction or remedy to be imposed on the judge? Would the legal principle of “Iura novit curia” be applicable in such a case?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Competence and Diligence
Professionalism
Procedural lawfulness
Respect of the parties to the proceedings
Other choices are possible, if well-motivated.

4.4. On the judge's obligation to treat parties and witnesses with respect (Opinion of the JEC of 26/11/2021¹²).

The judge received several requests from the plaintiff, his lawyer and two witnesses to use videoconferencing in a court hearing in order to enable them to go to the court in city A and participate in a hearing from there. They indicated that Covid-19 and the elderly age of the witnesses (almost 80 years old) made it very difficult for them to travel from city A where they lived to the rather distant city B, where the court hearing was planned to take place. The judge decided not to use videoconferencing and summoned all the persons to a hearing in city B. These persons did not appear at the hearing. The judge fined all of them. In the decision imposing a fine on the lawyer, the judge stated that a lawyer, when undertaking to provide legal aid and represent a person before the court, must consider his or her ability to perform his or her professional duties properly. If a lawyer does not have such an ability because of his age or condition of health, he/she is in breach of the rules of ethics for lawyers when he/she undertakes to provide legal aid.

The president of the court asked the JEC to consider the judge's conduct.

¹² Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

The JEC stated that the Code of Judicial Ethics obliges a judge to treat the parties with respect and to perform all judicial duties without bias or prejudice, with patience and calmness and at the same time efficiently.

The JEC concluded that the judge did not treat the persons with respect and without bias. The judge gave priority to her own convenience without careful consideration of the reasonable requests. The judge did not explain why it was not possible to use videoconferencing. If the plaintiff, his lawyer and witnesses had gone to the court premises in city A, it would have been possible to ensure proper verification of their identity and to prevent witness tampering. Thus, the judge's conduct was an expression of power as it was not justified by the necessity to conduct the proceedings in an efficient manner.

The JEC concluded that the judge's decision to impose a fine on the lawyer also showed that the judge had not treated this person with respect and without bias. It was offensive to allude that the lawyer was unable to perform her duties due to her age or health condition and that the lawyer had violated the rules of ethical conduct of lawyers.

The JEC declared that the judge had violated the Code of Judicial Ethics, but did not consider the violation to be serious and did not initiate disciplinary proceedings. At the same time, the JEC noted that the judge had violated the rules of ethics in similar situations in the past. The JEC pointed out that repeated violations of the rules of ethical conduct may lead to a finding that the violation is severe, regardless of the individual circumstances of the case in question. Even if judgments in individual cases are correct and of high quality, systematic misconduct of one judge in the form of humiliation and disrespect to the parties has a negative effect on the public trust in the judiciary as a whole.

Discussion topics & questions:

On the one hand, a judge presiding over the case is autonomous and sovereign, however, on the other hand, under the current understanding of legal practice, the judge should also strive to achieve a consensus of the parties and to reconcile their the interests. Accordingly, any procedural decision taken by the judge should strive for substantive justice and for the actual resolution of the case.

In your view:

- a) Is the following situation possible: a judge takes a procedurally legal decision, which is unacceptable from the point of view of social justice, and the judge is subject to a disciplinary measure for this procedural decision?
- b) Do you see any danger for judicial independence, if such an interpretation becomes universally accepted?
- c) If you were the judge adjudicating the case described in this example, would you have taken a procedural decision to hold a remote court hearing or would you have had a regular hearing at the courtroom? What would be the impact of such factors as the age of the parties, distances between the cities, opinions of the parties for your decision?
- d) In the circumstances of this case, do you consider that the decision to have a remote court hearing is more ethical? Why?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Justice / Righteousness

Social awareness

Social justice

Procedural lawfulness

Respect of the parties to the proceedings

Other choices are possible, if well-motivated.

4.5. On the judicial conduct allegedly constituting grounds for a disciplinary action for discrimination (JU case № 21-109¹³).

The case concerned the conduct of a judge in a child custody case in a district court. The applicant, who was a party to the proceedings, stated that the judge treated the parties differently in connection with the parties' explanations thereby discriminating against them. The Supervisory Committee¹⁴ found no grounds for any disciplinary measures, stating that the judge was in the position interrupt the party's explanations on matters that were not relevant to the questions under consideration. Depending on the circumstances, it may also be necessary for the judge to give clear and firm direction in the management of the proceedings. As long as the interruption is professional and respectful, the judge will have a wide discretion in directing the proceedings. The applicant also claimed that the court book contained disparaging references to him and that the judge abused his powers. The Committee replied that it is the judge who keeps the record of the proceedings in the official court book and who, in this connection, also decides what is considered relevant. The judge's assessment of what should be entered in the court book is a procedural decision. Although this involved a decision that could not be appealed, it is beyond the Supervisory Committee's authority to review the content of such decisions of the judge. Thus, the Supervisory Committee came to the conclusion in this case that there were no grounds for disciplinary action.

Discussion topics & questions:

The present case undoubtedly raises the questions of ethics in communicating with the parties to the proceedings. It would seem appropriate to consider that the judge's actions, such as interruptions, could, on the one hand, be seen as part of the right and duty to preside over the hearing but, on the other hand, raise questions as to the behavioural ethics.

¹³ JU case № 21-109 in Norwegian language: <https://www.domstol.no/globalassets/upload/da/domstol.no/om-domstolene/tilsynsutvalget/avgjorelser/2022/sak-21-109.pdf>

¹⁴ In Norway the Supervisory Committee for the Judiciary is a disciplinary body which hears and decides on the complaints against judges. The Committee is appointed by the Government and the King (the "King in Council"). The Supervisory Committee is made up of two representatives of the general public, one lawyer, two judges from the ordinary courts of law and one land court judge. When the Supervisory Committee hears complaints concerning a judge of the land appeal court or the land court, a judge from the land courts will replace one of the judges from the ordinary courts of law. The land court judge does not participate in the examination of other complaints. The Committee's Secretariat is placed with the National Courts Administration in Trondheim. In addition to hearing complaints submitted thereto, the Supervisory Committee may take up misconduct at their own initiative. The Committee may make general statements on what is comprised by the concept "appropriate judicial conduct". It has also the character of an ethics council.

In your view:

- a) According to your understanding of judicial autonomy, should a judge's freedom to conduct a hearing also include the right to interrupt a party?
- b) Can the interruption be justified by the fact that the party to the proceedings was presenting data that was irrelevant to the matter under consideration?
- c) In this case, a peculiar notion of "abuse of power by the judge" is presented as a potential violation supposedly committed by the judge. In your view, should such procedural instances as interruptions of a party to the proceeding be sufficient to state that a judge has actually abused of power or authority?
- d) If you were sitting on the Supervisory Committee, what would have been your decision?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Procedural lawfulness
Respect of the parties to the proceedings
Principle of equality
Social awareness
Other choices are possible, if well-motivated.

4.6. On the conduct of a judge allegedly subject to disciplinary action for disrespect towards parties to the proceedings (TU-sak 20-090¹⁵).

The case concerned the judge's behaviour in a case on the allocation of parental custody of children. The complainant was a legal representative in the case. The Supervisory Committee found it probable that the judge was at times very active in managing the proceedings, that this was not done in a sufficiently attentive and respectful manner towards all parties. In this context, the Supervisory Committee found it was probable that the judge managed the proceedings so differently in relation to the different proceedings that the case took an unfortunate turn. After an overall assessment, it was concluded that it was not sufficiently probable that the judge's behaviour in this case exceeded the threshold at which the Committee should take disciplinary action. The Supervisory Committee nevertheless found that the judge's behaviour in this case was of such a nature that there was a basis for making a statement on what constitutes good judicial practice.

Discussion topics & questions:

Considering the example at issue, it seems that the judge has to strike a balance between being proactive and refraining from disproportionate interference. In the present case, despite the proactive technique of managing proceedings, the disciplinary authority concluded that the balance was maintained.

¹⁵ JU case № TU-sak 20-090 in Norwegian language:

<https://www.domstol.no/contentassets/41ab12a88ea54932a45269780049ee3e/vedtak-20-090.pdf>

In your view:

- a) Could the judge's propensity to take an active role during the hearing potentially lead to a breach of judicial ethics?
- b) Could the opposite be argued, i.e. that passive behaviour or failure to take an active role could lead to a breach of judicial ethics?
- c) Do you agree in principle that a threshold (or a "red line") should exist beyond which the disciplinary authority should take a disciplinary action against a judge for the way in which the proceedings are conducted? Is there such a threshold or a similar concept in your jurisdiction?
- d) Are you aware of any similar case-law in your national jurisdiction?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Procedural lawfulness
Respect of the parties to the proceedings
Principle of equality
Principle of judicial autonomy
Other choices are possible, if well-motivated.

The comparative aspect of judicial ethics

Canada, the Province of Quebec

4.7. On the recurrent objectionable behaviour during the examinations of criminal cases (Decision of the Judicial Council of Quebec of August 25, 2020¹⁶)

The judge of the Court of Quebec (in French: *Cour du Québec*) was accused by the director of criminal investigations before the Judicial Council of Quebec ("CMQ") (in French: *Conseil de la magistrature du Québec*) of gross judicial misconduct while examining a number of criminal cases. According to the complainant, the judge spoke in an intimidating and scornful tone, was sarcastic and sometimes angry, and in some cases showed disrespect and obvious partiality when hearing cases. The complainant made four separate allegations of the misconduct by the judge. In the first instance, the judge was asked by the public prosecutor to prohibit the disclosure of the identity of a victim of a sexual assault crime. In this particular case, the judge did agree to make the requested decision but also reproached the public prosecutor, in a rather harsh tone, for not having raised this issue earlier. The CMQ did not find any violation of the judicial ethics in that case. It should be emphasised that the CMQ has expressly stated that it is not within its remit to evaluate the merits of any judicial decision. However, the CMQ did find violations of judicial ethics with respect to all the other three instances where the judge in question was disrespectful to the defence attorney and public prosecutor during a remote court hearing via teleconference, accused the public

¹⁶ Decision of the Judicial Council of Quebec of August 25, 2020, № 2020-CMQC-034: https://conseildelamagistrature.qc.ca/roles_audience_conseil_magistrature_du_quebec.php

prosecutor of bypassing her because the hearing was assigned to another judge and, when deciding on probation and obligatory therapy, the judge accused the public prosecutor of trying to convince her or get an authorisation from her. Consequently, the CMQ concluded that the previous three instances did indeed call into question the judge's ethics and her duty to act in a calm and reserved manner, and therefore decided to initiate an investigation of the above-mentioned cases.

Reflexive questions from the comparative point of view:

The above-referred case-law raises issues concerning judicial ethics already touched upon in the Guidelines. From the comparative point of view, in your opinion:

- In your jurisdiction, can a gross judicial misconduct while examining a significant number of criminal cases lead to the application of disciplinary measures or is it outside the realm of the judicial ethics?
- How the above-described case would have been resolved in your jurisdiction?
- Are you aware of similar cases in your jurisdiction and what can be done to prevent such cases in the judiciary?

The comparative aspect of judicial ethics

Italy.

4.8. On habitual and repeated procedural violations (Decision of the Superior Judicial Council of Italy of March 27, 2015¹⁷).

A judge at the court of Florence (in Italian: *Tribunale di Firenze*) has been accused before the Superior Judicial Council (in Italian: *La Sezione Disciplinare del Consiglio Superiore della Magistratura*) ("CSM") of gross procedural violations as he repeatedly, gravely and unjustifiably failed to render judgements in the cases assigned to him. The investigation found that the judge had a very large backlog of cases pending where procedural deadlines had been considerably missed. The CSM relied heavily in its reasoning on the case-law of the Supreme Court of Italy (in Italian: *La Corte Suprema di Cassazione*) and recalled that for the procedural faults to amount to a violation of ethics, they must be repeated. In order to establish a violation of judicial ethics, the misconduct should be habitual, i.e., there should be a sequence of similar misconduct leading to an unlawful pattern. The CSM clarified that the aforementioned pattern of procedural breaches consists of irregularities which, if considered individually, i.e. in isolation, would not constitute a violation in the deontological sense. The CSM explained that, as regards delays in procedural actions, for a violation of ethics to be present, a significant delay must be established to show a habitual tendency to breach procedural deadlines. Accordingly, the CSM found that the judge in question was responsible for the violation of judicial ethics and issued him an official reprimand (in Italian: *censura*).

Reflexive questions from the comparative point of view:

The above-referred case-law raises issues concerning judicial ethics already touched upon in the Guidelines. From the comparative point of view, in your opinion:

¹⁷ Decision of the Superior Judicial Council of Italy of March 27, 2015:
https://www.questionegiustizia.it/data/doc/741/sentenza_disciplinare_minuti.pdf

- In your jurisdiction can a huge backlog of pending cases while examining a significant number of criminal cases lead to the application of disciplinary measures or is it outside the realm of the judicial ethics?
- How the above-described case would have been resolved in your jurisdiction?
- Are you aware of similar cases in your jurisdiction and what can be done to prevent such cases from occurring in the judiciary?

Intermediary conclusion.

Résumé. Under the reviewed case-law in this chapter, it follows that the various procedural matters, such as regarding procedural rights and duties of the parties, necessity of recusal of a judge, format of the proceedings and similar procedural matters which arise during an examination of the case, are susceptible to cause ethical consequences, hence judges should be aware of this aspect of the judicial practice and accord due importance thereto by regarding on the daily basis the procedural matters not only from the point of view of legality under procedural laws or codes, but also from the point of view of judicial ethics. Even though in most jurisdictions procedural faults are disciplinary imputable to judges only if they amount to gross and systematic ones, judges practising law nowadays should absolutely avoid even rudimentary elements thereof.

Judicial values & principles susceptible to being challenged in this regard:

Justice / Righteousness – procedural decisions adopted in the course of examination of a case should not only be formally legal (comply with the statutorily established norms), but also be materially just or equitable. Any procedural choice of a judge adopted at any point of the examination of the case should serve the ultimate goal of justly resolving the case.

Social awareness – judges in performing their judicial functions should be attentive to the various aspects of social realities. Tailored procedural decisions are more adequate to the specific needs of the parties to the proceedings. Judges should be free to use the wide gamma of the procedural choices envisioned by the law to best meet the interests of the state and of the parties.

Social justice – no procedural matter or question should be regarded to be an end in itself, but should serve the ultimate purposes of resolving a conflict in the society, reconstituting the balance of interests between the parties or restoring the material justice. From the procedural behaviour of a judge it should be clear for a regular observer that the courts are not a bureaucratic or closed entity, but are delivering justice to the society.

Procedural lawfulness – procedural legality should be maintained under any consequences. Procedural choices should be tailor-made, clear to the parties and motivated, especially when a procedural decision is susceptible not to allow a party to benefit from its potential rights. Procedural legality should not only be maintained, but also has to be visibly maintained.

Practical assignment. If someone suggested applying the below solutions (or suggestions) in your daily judicial practice, what would be your course of action? Would this be suitable in your daily work?

- Not only procedural laws, but also judicial ethics require that procedural decisions should be reasoned and timely; serious and systematic non-compliance with

requirements can lead to disciplinary liability. Strong reasoning of procedural decisions enhances confidence in them.

- Procedural decisions should, to the extent possible, be individual and tailored to the specific needs of the parties.
- Vulnerable parties should be given special attention by the court and arrangements to allow them to effectively participate in the hearing should be put in place.

5. Additional activities (supplementary income, teaching etc.)

5.1. Additional activities – seminars (Decision of the CJED of 12/03/2021).

A judge as a lecturer conducted legal training (seminars) on the basis of agreements concluded with private companies specialising in training. He was paid for conducting these seminars. The seminars were open to everyone interested (after registering and paying a fee set by the organisers). The judge also leased the real estate belonging to him, received income from the lease, paid taxes on this income, but did not disclose the lease in his declaration of public and private interests.

In one of its consultations, the CJED stated that a judge is not prohibited from engaging in and receiving income from educational or authorial activities, but it is important that in all cases the remuneration paid to a judge should be clearly set and proportionate, all mandatory taxes must be deducted and other legal requirements (e.g., declaration of income, avoiding conflicts of private and public interests, etc.) complied with. Such activities may not interfere with or obscure the performance of direct functions. In addressing the issue of disciplinary proceedings, the CJED emphasised that there was no evidence that the judge had provided individual legal consultations or training for individuals or specific companies.

The CJED also emphasised that the exercise by a judge of the rights of the owner of immovable property by leasing one unused dwelling to third parties was not in conflict with the requirements of the Constitution and the Law on the Courts. It is important that renting real estate does not show signs of entrepreneurship, i.e. the judge would not seek to earn from it as an entrepreneur by acquiring real estate, renting it, selling it, and so on. Also, the rent received must be clearly identified, paid in accordance with the law, with all mandatory taxes deducted and in compliance with other legal requirements.

Discussion topics & questions:

Similarly like in the case of rights and freedoms relating to the freedom of speech and self-expression, members of the judiciary are entitled to their economic rights, but the very exercise of these rights and freedoms by judges has practical implications in terms of compatibility of these activities with judicial ethics. As far as educational activities of a judge are concerned, it is fairly common for judges, especially of higher instance courts, to partake in the educational or academic activities, which may raise ethical issues.

In your view:

- a) In terms of judicial ethics, do you differentiate between teaching at a public university and giving seminars via a private agency? Which of these situations is more difficult and why?

- b) How does the fact that the remuneration for seminars is received indirectly, i.e. through a private intermediary, affect the overall relationship?
- c) What preventive measures would you recommend to a judge giving seminars through a private agency in order to avoid potential conflict of interests (e.g., reviewing the list of participants in advance to see whether there are parties to the proceedings or their representatives)?
- d) What would be a due course of action for a judge if he/she encounters a litigant or his/her representative during a lecture, seminar or presentation? What if that person asks a question that you know to be related to the case under your examination?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Prevention of conflict of interest
Impartiality
Propriety
Equilibrium between private and public spheres of life
Other choices are possible, if well-motivated.

5.2. Participation in flamenco dance performances (Consultation of the CJED of 14/01/2019¹⁸).

A judge asked the Commission whether it was compatible with her judicial status to participate in the dance competitions of flamenco with cash prizes for high places. The events were paid, however, the dancers were not paid for their performances.

The CJED explained that a judge must set an example in his or her conduct, language, discipline and appearance in accordance with generally accepted moral standards and ethical requirements; to protect the honour and prestige of his/her profession, to manage his/her private life in such a way as not to harm the interests of the courts and the reputation of the judge.

The CJED recognised that it is not possible to draw up an exhaustive list of prohibited activities for judges in the context of judicial ethics. Therefore, judges must adhere to the extremely high standards of ethics and morals, also must be of impeccable reputation in their private lives. CJED considered that participation in flamenco dance performances without receiving any remuneration is not in itself contrary to the ethical principles of a judge.

The Commission pointed out that participation in performances requires a responsible assessment of the context of the event – the place, the audience and other circumstances – and how such behaviour will be understood in the eyes of a reasonable person in society.

Discussion topics & questions:

¹⁸ Accessible on the Internet on the official website of the National Courts Administration: https://www.teismai.lt/data/public/uploads/2019/02/konsultacija_-2019-01-14-.pdf

Hobbies, sports and similar physical activities are a part of personal life, however, that can have influence on the public status of a judge. In the present case, the disciplinary authority decided that such an activity is not in itself contrary to judicial ethics, but must be exercised in an appropriate manner so as not to damage the status and image of the judiciary, however in practice the dividing line can be difficult to draw.

In your view:

- a) Are there lawful activities that would be unacceptable or inappropriate for a judge in private life? If yes, would it be proportionate to simply prohibit judges from engaging in such activities?
- b) In the present case, should the fact that the judge did not receive any remuneration be regarded as important or relevant?
- c) If participation in dance contests is allowed for a judge, what precautions should a judge take to avoid violations of judicial ethics?
- d) Imagine that a judge is faced with an ethically challenging situation in one of the contests, for example: one person from the audience expresses his gratitude to the dancer, says that she is his favourite dancer in the field, and then it turns out that this fan is a defence attorney in one of the pending cases; or a fan of the dancer sends a bouquet of flowers to the judge as a dancer, the judge reads the enclosed card and realises that this person is a convict in the appeal proceedings before her? What corrective measure could the judge take?

Formulation of judicial value:

According to you, which value of judicial ethics could be gleaned from the case under examination?

Possible solutions of primary relevance:

Equilibrium between private and public spheres of life
Prevention of conflict of interest
Impartiality
Judicial solidarity
Public image of the judiciary
Other choices are possible, if well-motivated.

5.3. Judge as representative in court proceedings (Opinion of the JEC of 17/06/2015¹⁹).

Judges asked the JEC for an opinion on whether a judge can represent his or her spouse in civil proceedings where the spouse was a defendant in the proceedings initiated by the estate's creditors to recover money, and in criminal proceedings where the spouse had the status of a victim.

The JEC stated that the professional experience and knowledge of a judge should be used for the performance of his or her professional duties. A judge should not normally use his or her professional knowledge outside the performance of judicial duties. However, in view of the inner sense of justice, moral norms (responsibility, duty, compassion, assistance) towards

¹⁹ Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

people very close to the judge, it would be permissible for him or her to undertake representation in exceptional cases. The existence of an exceptional case could be indicated by objective circumstances such as the age, physical disability, psychological maturity or material deprivation of the person close to the judge.

At the same time, the judge should be cautious about becoming involved in court proceedings. There is a risk that a judge's participation as a representative in court proceedings may give the impression that the judge is using his or her office for private interests, which would undermine confidence in the judge and the judicial system as a whole, as well as would pose a risk that the decisions of fellow judges may undermine confidence in the judiciary. In addition, the judge must consider whether extrajudicial activities on behalf of family members interfere with the performance of his or her judicial duties, as those duties take precedence over all other activities.

Discussion topics & questions:

In the present case, the disciplinary authority concluded that where the judge's close relatives are concerned, it is possible for the judge to represent their interests at court, however, much prudence is necessary and judicial office must take precedence. In this context, in practice, this permission may raise legitimate questions of judicial ethics.

In your view:

- a) In the present case, it is not specified whether the court at which the judge wanted to represent his spouse was the same where he worked as a judge. In your view, is this factor relevant in terms of judicial ethics?
- b) What measures could be taken by a judge who represents a close relative at the court in order to avoid a conflict of interest (e.g., in a situation where it turns out that the judge hearing the case is an acquaintance)?
- c) What specific measures would you recommend for the judge in such a situation in order to preserve the confidence in the judge and the image of the judiciary (e.g., not use or demonstrate any special knowledge obtained because of the judicial office)?
- d) In case representation concerns a family member, what is the benchmark of closeness in the relationship, e.g., is a cousin be close enough to be allowed to be represented by a judge on this basis?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Prevention of conflict of interest
Equilibrium between private and public spheres of life
Impartiality
Public image of the judiciary
Integrity
Other choices are possible, if well-motivated.

5.4. On the attendance of full-time studies during the official working hours of the court (Opinion of the JEC of 16/03/2018²⁰).

The president of the court asked the JEC for an opinion on whether it is permissible for a judge, in parallel with the performance of his/her judicial duties, to study in a non-law-related educational programme at an educational institution and to attend full-time studies during the official working hours of the court.

The JEC stated that a judge may plan his/her working time flexibly. At the same time, judicial duties of a judge should take precedence over all other activities. In particular, a judge should avoid activities which would interfere with the effective performance of his or her judicial duties by requiring too much time, by raising concerns about the judge's impartiality or by otherwise jeopardising the interests of the administration of justice.

Accordingly, a judge must organise his or her studies during the working hours of the judicial institution in such a way that it does not interfere with the effective performance of the judicial duties, i.e.:

- 1) the judge should take into account that he/she should be available to the court staff (e.g., the assistant of the judge), colleagues and the president of the court for various matters related to the performance of his/her judicial duties. The judge's absence from the court premises during working hours of the court must not interfere with or impede the performance of the duties by the court staff, colleagues and the president of the court. Furthermore, in order to ensure that the performance of the duties of the staff, colleagues and the president of the court is not hindered or interfered with, a judge must inform others of his/her absence, including if it is related to training or studies. This also follows from the obligation of a judge to act in such a way as to avoid any doubt as to his or her integrity, i.e. to avoid the impression that he or she is acting without regard to anyone and that he or she is absent from the court premises during the official working hours of the court without any objective reason;
- 2) the judge's training or studies should not impede prompt disposition of cases;
- 3) the training process or studies should contribute to the development of knowledge, skills and capacities conducive to the proper performance of judicial duties.

Discussion topics & questions:

In the present case, the disciplinary authority, though with certain reservations, has given green light to the request to undertake an educational programme during working hours. This approach seems innovative and proactive on the one hand, but on the other hand it raises questions regarding judicial ethics and related issues, such as the use of public resources.

In your view:

- a) Should there be a different treatment of a judge's request to study a law-related subject and a request to study any other subject?

²⁰ Opinions of the JEC are available in Latvian: <https://www.tiesas.lv/tiesnesu-etikas-komisijas-sedes>

- b) In view of the fact that judges are considered to be public officials, should considerations such as the rational use of public working time, personal energy, dedication and any other resources be an object of a review?
- c) Should non-performance of judicial duties by a judge due to studies be considered as a more severe violation of judicial ethics than a regular one, e. g, when a judge is not accessible during working hours because of his studies or when he/she has a large backlog of pending cases?
- d) Should there be a statutory limit of working time allowed for attending courses to prevent judges from abusing their rights? If yes, what limit or amount would you suggest?

Formulation of judicial value:

In your opinion, what value of judicial ethics can be inferred from this case?

Possible solutions of primary relevance:

Imperative not to abuse of rights and freedoms
 Prevention of conflict of interest
 Equilibrium between private and public spheres of life
 Public image of the judiciary
 Imperative of rational usage of the public resources
 Other choices are possible, if well-motivated.

Intermediary conclusion.

Résumé. Additional activities per se are allowed to be undertaken for the members of the judiciary, however certain fundamental conditions have to be observed in order for this process to comply with the requirements of judicial ethics. Any additional activity should in no way, shape or form be harmful to the judicial status of a concrete judge or to the judiciary in general, it should not cast a shadow of a doubt neither on the judge undertaking an activity of this sort, nor on the judiciary who is tolerating this choice. All requirements regarding filling in declarations in the public registries and paying of the applicable taxation should be met in full. Judges taking part in the additional activities should particularly vet the context of the event and take into consideration how the entirety of the setting will look like from the point of view of a regular observer. Insofar as the nature of the additional activity is concerned, activities that are more germane to the judicial work are to be favoured, like teaching of law or academic work, instead of activities that do not have direct relevance with law.

Judicial values & principles susceptible to being challenged in this regard:

Prevention of conflict of interest – while partaking in the additional activities, judges should make sure that they find a way to accord the duties determined by the judicial office and the duties determined by the additional activities. Finding a way to accord the two is an obligation of the judge in question.

Imperative of rational usage of the public resources – considering the public nature of the judicial office, when taking a decision on the additional activities, it is vitally important to assess how much working time and other resources will the additional activities require. A particular attention should be given to the perspective of a third person on the situation, that

is how this usage of the public resources would be viewed by a regular person, would it be acceptable and rational.

Equilibrium between private and public spheres of life – participation in additional activities should not determine a situation where there is an apparent conflict between the private and public spheres of the life of a judge. Additional activities of a judge, be it educational, academic, legal representation in cases it is allowed by law, should not cast such a doubt in the public and the priority should be given to the main activities, that is to the judicial activities.

Prohibition of abuse of rights and freedoms – right and freedom to benefit from the additional activities should be exercised by judges moderately, not necessarily to the degree allowed but to the degree appropriate. Even during the exercise of the additional activity on the part of a judge, the idea should be that this possibility is a special situation in comparison to the usual one, that is the judicial one.

Public image of the judiciary – even though when a judge takes part in the additional or supplementary activities he/she is acting in the private capacity, in practice it is impossible to completely separate the public and private “faces” of a judge, therefore a judge, when taking part in any additional activity, should be aware of the fact that his performance will intentionally or unintentionally reflect upon the judiciary in general, thus the judge in question is held to an even higher ethical standard.

Practical assignment. If someone suggested applying the below solutions (or suggestions) in your daily judicial practice, what would be your course of action? Would this be suitable in your daily work?

- When taking part in additional activities, try to find out more about the context of the event, the participants and, if possible, get a list of participants in advance to lessen the possibility of the conflict of interest; in the case of representation in legal proceedings, find out about the parties and the judge presiding over the case in advance; in the case of events and competitions, find out whether they are free of charge or for a fee.
- Bear in mind Point 50 of Opinion No. 3 of the Consultative Council of European Judges (CCJE) on the principles and rules governing judges’ professional conduct, in particular ethics, incompatible behaviour and impartiality, where it is stated that judges should devote most of their working time to their judicial functions, including associated activities – in other words, an ancillary activity must remain “additional”, it has to remain secondary.
- In case of doubt, request a consultation with the competent national authority, if this is possible under national law.
- In case of a conflict of interest, inform the president of the court.
- Refrain from any additional activities, if you consider that such further activities would compromise your judicial status or the judiciary in general.
- Additional activities may not interfere with or obscure the performance of direct judicial functions, nor may additional activities take on entrepreneurial character, i.e. a judge may not act in socio-economic relations as a businessman.
- Additional activities that are related to judicial functions should be given preference (e.g., teaching law) over those that do not fall within this category (e.g., sports).

6. Table of sources:

In the course of preparation of the Guidelines on Judicial Ethics, the following sources have been invoked:

1. Normative (hard law) legal instruments:

- 1.1. The Law on Courts of the Republic of Lithuania (Seimas of the Republic of Lithuania, consolidated version as of 20/01/2022), accessible on the Internet in Lithuanian: <https://www.e-tar.lt/portal/lt/legalAct/TAR.522B3E415B52/asr>, a version in English language: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.338141?jfwid=>;
- 1.2. The Code of Ethics of the Judges of the Republic of Lithuania (General meeting of Lithuanian judges, 2006), accessible on the Internet in Lithuanian: <https://www.teismai.lt/lt/teismu-savivalda/teiseju-garbes-teismas/apie-garbes-teisma/177>, a version in English language: <https://www.teismai.lt/data/public/uploads/2020/06/code-of-ethics-of-the-judges-of-the-republic-of-lithuania.doc>;
- 1.3. The Law on Prevention of Corruption of the Republic of Lithuania (Seimas of the Republic of Lithuania, consolidated version as of 01/01/2022), accessible on the Internet in Lithuanian: <https://www.e-tar.lt/portal/lt/legalAct/TAR.4DBDE27621A2/asr>, a version in English language: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/cf4e54225ce611e7a53b83ca0142260e?jfwid=bkaxlvme>;
- 1.4. The Law on the Adjustment of Public and Private Interests in the Public Service (Seimas of the Republic of Lithuania, consolidated version as of 11/07/2020), accessible on the Internet in Lithuanian: <https://www.e-tar.lt/portal/lt/legalAct/TAR.C0E550D6ADF0/asr>, a version in English language: <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=&documentId=TAIS.46177&category=TAD>;
- 1.5. Law on Judicial Power (Supreme Council of the Republic of Latvia, consolidated version as of 17/12/2020), accessible on the Internet in Latvian: <https://likumi.lv/ta/id/62847-par-tiesu-varu>, a version in English language: <https://likumi.lv/ta/en/en/id/62847-on-judicial-power>;
- 1.6. Judicial Disciplinary Liability Law (Saeima of the Republic of Latvia, consolidated version as of 01/07/2020), accessible on the Internet in Latvian: <https://likumi.lv/ta/id/57677-tiesnesu-disciplinaras-atbildibas-likums>, a version in English language: <https://likumi.lv/ta/en/en/id/57677-judicial-disciplinary-liability-law>;

- 1.7. Law on Prevention of Conflict of Interest in Activities of Public Officials (Saeima of the Republic of Latvia, consolidated version as of 01/07/2021), accessible on the Internet in Latvian: <https://likumi.lv/ta/id/61913-par-interesu-konflikta-noversanu-valsts-amatpersonu-darbiba>, a version in English language: <https://likumi.lv/ta/en/en/id/61913-on-prevention-of-conflict-of-interest-in-activities-of-public-officials>;
- 1.8. Norwegian court system law (Forskrift om inndelingen av rettskretser og lagdømmer, version as of 26.04.2021): <https://lovdata.no/dokument/SF/forskrift/2021-01-22-163>.

2. Facultative (soft law) legal instruments:

- 2.1. The Bangalore Principles of Judicial Conduct (Judicial Group on Strengthening Judicial Integrity, 2002), accessible on the Internet: https://www.judicialintegritygroup.org/images/resources/documents/ECOSOC_20_06_23_Engl.pdf;
- 2.2. Magna Carta of Judges (Consultative Council of European Judges, 2010), accessible on the Internet: <https://rm.coe.int/16807482c6>;
- 2.3. Compilation of Venice Commission Opinions and Reports Concerning Courts and Judges (The Venice Commission, 2015), accessible on the Internet: https://www.venice.coe.int/WebForms/pages/?p=04_Compilations&lang=EN;
- 2.4. London Declaration on Judicial Ethics (European Network of Councils for the Judiciary (ENCJ), 2010), accessible on the Internet: <https://www.encj.eu/index.php/node/258>;
- 2.5. The Doha Declaration: How to Develop and Implement Codes of Judicial Conduct (Global Judicial Integrity Network, 2020), accessible on the Internet: http://www.act4ruleoflaw.org/sites/default/files/2020-08/codes_of_conduct.pdf;
- 2.6. The Doha Declaration: Non-Binding Guidelines on the Use of Social Media by Judges (Global Judicial Integrity Network, 2020), accessible on the Internet: http://www.act4ruleoflaw.org/sites/default/files/2020-08/Non-binding_Social_Media_Guidelines_EN.pdf;
- 2.7. Commentary on the Bangalore principles of judicial conduct (Office on Drugs and Crime of the United Nations, 2007), accessible on the Internet: https://www.unodc.org/documents/nigeria/publications/Otherpublications/Commentary_on_the_Bangalore_principles_of_Judicial_Conduct.pdf;
- 2.8. The Practical Guide of the Code of Ethics of the Judges of the Republic of Lithuania (National Courts Administration of Lithuania, 2018), accessible on the Internet in Lithuanian: https://www.teismai.lt/data/public/uploads/2019/04/d3_tek-praktinis-vadovas.pdf;
- 2.9. Code of Judicial Ethics (Conference of the Judges of Latvia, 02/02/2021), accessible on the Internet in Latvian: https://www.at.gov.lv/files/uploads/files/9_Tieslietu_padome/Dokumenti/Tiesnes

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https://www.at.gov.lv/files/uploads/files/9_Tieslietu_padome/Dokumenti/CODE%20OF%20JUDICIAL%20ETHICS_EN.pdf;

- 2.10. The Basic Principles on the Independence of the Judiciary adopted on 6 September 1985 by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>;
3. Ethical principles for Norwegian judges, adopted by the Norwegian Association of Judges, Tekna's Sector Union for the Land Consolidation courts and the National Courts Administration on October 1, 2010, <https://www.juristforbundet.no/globalassets/dokumenter/organisasjon/dommerforeningen/ethical-principles-for-the-proper-conduct-of-norwegian-judges.pdf>;
4. Various papers (communications, reports, etc.) issued by the United Nations Special Rapporteur on the independence of judges and lawyers, <https://www.ohchr.org/en/special-procedures/sr-independence-of-judges-and-lawyers>;
