

First Study Commission of the IAJ

Annual Meeting in Valle de Bravo (October 31<sup>st</sup> to November 4<sup>st</sup> 2004)

**RULES FOR ETHICAL CONDUCT OF JUDGES, THEIR APPLICATION AND OBSERVANCE**

**Report from Estonia**

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A. General Aspects

1. Are there any ethical rules/rules of conduct for judges/magistrates explicitly expressed in the law?

Answer:  **Yes, in the Courts' Act**  No

If your answer is positive, are these rules made in the shape of

Answer:  a catalogue  **a general wording**  both

Quote some examples:

**A judge shall carry out his functions with impartiality and disinterestedness. He shall follow official interests out-of-office likewise.**

**A judge shall behave impeccably and shall avoid any act that may impair the image of the judiciary.**

2. Are there ethical rules for judges/magistrates outside the law (e.g in a code of ethics, code of conduct etc.)?

Answer:  **Yes**  No

How is this "code" called? –

Answer: **It is now called Code of ethics of Estonian judges. Before that, since 1994 we have had Rules for ethical conduct of Estonian judges, elaborated and adopted by the Association of Judges.**

3. Who did elaborate and enact/make the "code"?

Answer: **The Code was elaborated by the Association of Judges, but was enacted by the General Assembly of Judges on February 13<sup>th</sup> 2004.**

The High Council of Justice?

The Supreme Court?

Parliament?

Government?

Others?

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4. If you have both a code of ethics and legally fixed ethical rules for judges/magistrates in what way do they complement one another?

Answer: **The law constitutes the most important general rules, the code enacts guidelines and regulations for judges more explicitly.**

5. If you don't have any code of ethics, are there plans in your country to introduce one?  
O Yes O No.

## **B. Contents**

6. Does your code of ethics include the following principles/aspects (1):

Answer:

a) Independence

O **Yes** O No O No, but should

b) Impartiality in general

O **Yes** O No O No, but should

c) Impartiality and conduct of judges in the exercise of their judicial functions

O **Yes** O No O No, but should

d) Impartiality and extra-judicial conduct of judges

O **Yes** O No O No, but should

e) Impartiality and other professional activities of judges

O **Yes** O No O No, but should

f) Impartiality and the media

O **Yes** O No O No, but should

g) Party politics and judges

O **Yes** O No O No, but should

h) Propriety

O **Yes** O No O No, but should

i) Equality

O **Yes** O No O No, but should

k) Competence

O **Yes** O No O No, but should

l) Diligence

O **Yes** O No O No, but should

m) Others:

In case your answer is "yes", please give **some examples**.

a)

b) **A judge shall avoid the conflict of interests. He shall not let his family, social nor other relationship influence on his activities as a judge.**

- g) **A judge shall not support the political partys or their candidates oral nor written. He shall avoid the political neither commercial lunches.**
- k) **A judge shall take care of his professional competence and he shall participate in additional training.**
- m) **A judge shall not exposure himself neither his family in mass-media.**

### C. Violation of the Code of Ethics

7. What happens if a judge/magistrate violates a duty explicitly stated in a provision of law?

Answer: **A judge who fails seriously in his duties (those rules), inside or outside the office, will be a subject to disciplinary procedure and will be punished.**

8. What happens if a judge violates a duty stated in the Code of Ethics?

Answer: **Please see the previous answer**

9. Is there any influence of the Code of Ethics on a disciplinary procedure?

Answer: **Yes, it is.**

10. Are violations of the Code of Ethics made public?

Answer: **O Yes O No**

### D. Judicial Ethics

11. Is judicial ethics an issue among the judiciary? Why? Why not?

Answer: **Not really. It was an important issue bevor and during the elaboration and adoption of new Code. Now judicial ethics generally will be discussed only when something bad in judiciary happens. Between particular colleagues one or other rule will be discussed more frequently as result of ordinary problems and cases.**

12. Is judicial ethics an issue in the public? Why? Why not?

Answer: **Yes, quite often and important. Because the independence and impartiality of judiciary, how the judiciary is formed and how it functions is an important matter of public interest. For that reason most interest achieves every shameful case, into involved is a judge.**

### E. Analysis

13. Do you consider a code of ethics an useful institution for the judiciary? Why? Why no?

Answer: **Yes, no doubt. Even when in some countries there are long-time traditions and good practice of judiciary, it would be still useful and more simple for every single judge to have such written guidelines. Otherhand, a code of ethics, adopted by the judges themselves, gives a good signal to publicity, that the judiciary really cares about his image.**

14. Should the IAJ elaborate and adopt a code of ethics which could serve the national associations as a model? Why? Why not?

**Answer: Yes, a model code as standard would be good. It could be helpful for elaboration such a code or for updateing of already existing codes.**

15. If you have a code of ethics, give some practical hints to those who are willing to introduce one (what should they take care of etc.).

**Answer: There is a danger of over-regulation! A problem may be also, at which extent and how precisely it is necessary ethical rules for judges, explicitly expressed in the law, to express in such a code.**

16. Other remarks on the topic

**Unfortunately the Code of ethics of Estonian judges exists only in estonian and it is not translated into english. Therefore it was difficult to give some more examples.**

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