Rules for ethical conduct of judges, their application and observance

A. General Aspects

1. Are there any ethical rules/rules of conduct for judges/magistrates explicitly expressed in the law?
   
   O Yes       X NO

   If your answer is positive, are these rules made in the shape of
   
   O a catalogue       O a general wording       O both

   Quote some examples:

2. Are there ethical rules for judges/magistrates outside the law (e.g. in a code of ethics, code of conduct etc.)?
   
   X YES       O No

   How is this “code” called?


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

   The Association of Judges
   The High Council of Justice?
   The Supreme Court?
   Parliament?
   Government?
   Others The National Council Of Judiciary

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?

   In Poland we do not have a legally fixed ethical rules for judges therefore there is no issue of complementing one another.

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:

   a) Independence   X   Yes   O   No   O   No, but should
   b) Impartiality in general   X   Yes   O   No   O   No, but should
   c) Impartiality and conduct of judges in the exercise of their judicial functions   X   Yes   O   No   O   No, but should
   d) Impartiality and extra-judicial conduct of judges   X   Yes   O   No   O   No, but should
   e) Impartiality and other professional activities of judges   X   Yes   O   No   O   No, but should
   f) Impartiality and the media   O   Yes   X   No   O   No, but should
   g) Party politics and judges   O   Yes   X   No   O   No, but should
   h) Propriety   O   Yes   O   No   X   No, but should
   i) Equality   X   Yes   O   No   O   No, but should
   k) Competence   O   Yes   O   No   X   No, but should
   l) Diligence   X   Yes   O   No   O   No, but should
   m) Others:

In case your answer is “yes”, please give some examples.

The Code of Ethics and Code of Judicial Conduct implements the most important rules guarding in the way of behavior of judges and stressing on the most crucial judicial guaranties. Therefore a significant stress has been put on independence, impartiality both general and in exercise of judicial functions as well as in extra-judicial conduct of judges. As an example, could be given the obligation of fulfilling the highest moral standards either in the way of judicial behavior or extra-judicial conduct. Special emphasize has been put on status and prestige in the light of impartiality and the pressure that can be put on judges while fulfilling their duties. A significant number of the provision has been set to underline duty of judges to explain the procedure clearly to the parties and duty to improve judges knowledge and professionalism.

C. Violation of the Code of Ethics

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

   As was mentioned above no legal provision has been adopted so far concerning ethics and judicial conduct.

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

   No legal measures or punishment has been elaborate in the Code. In the case of violation of the Code, judge himself has obligation to take all necessary measures for removing the consequences of unwilling behavior. (Provision no. 4 of The Code).

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

   There is no strictly explicit influence of the Code of Ethics on disciplinary procedure. However, in the case of disciplinary proceedings the provisions stated in the Code of Ethics and their violence by a judge must be understand as an additional pejorative circumstances during judge unwilling behavior.

10. Are violations of the Code of Ethics made public?    O   Yes   X   NO
D. Judicial Ethics

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

Judicial ethics has played a major role in the time of elaborating The Code of Judicial Conduct and The Code of Ethics. Recently, however, rather seldom the issue of judiciary ethics has been brought among the judiciary unless the unwilling behavior of a particular judge is brought in public. However, the ethics of a judiciary is constantly the matter of high concern in the Association Of Polish Judges “IUSTITIA”, who was a pioneer of an idea of setting the Code of Judicial Conduct and who elaborated those Code as a first non-governmental organization.

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

Yes. The judicial ethics is an issue to the public as the inadequate behavior of judges has been brought to the public through the media and in the light of protecting judicial independence some of the heavy breaking of a judicial conduct is presented to the public.

E. Analysis

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

The Code of Ethics has been set for the judiciary to emphasize the most important rules for the judicial independence as well as for helping judges in their day-to-day behavior. Specially, in the light of extra-judicial behavior, the Code of ethics, in case of doubt, might be helpful to solve the problems.

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

Yes. It should be useful for those countries with out that long tradition of independent position of Judiciary.

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.).

The Code of ethics should consider basic values and principles as behavior in the light of independence and dignity as well as the relationship with other activities that judges might carry out. The important think is to refer to the conduct in the judicial performance and stressing the impartiality of a judge. Some examples of the behavior out of the office might be also very useful.

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Please send the answers to this questionnaire by E-Mail to the presidency of the First Study Commission and to the Secretariat of the IAJ not later than by 30-06-2004