

ITALY

CODE OF ETHICS

PREAMBLE

The following text of the "Ethical Code of Judicial Conduct" was adopted by the Main Steering Committee of the "Associazione Nazionale Magistrati" (ANM), after an ample consultation among the members, according to the section 58 *bis* of the decree law n. 29/93 (introduced by the decree law n. 546/93).

The ANM, even though it considers this Code of doubtful constitutionality - both in the sense of the misuse of the power of attorney and in that of the breach of the absolute reserve of law in relation to the Judiciary - has considered to enact such code. Indeed, the ANM deems it necessary, on the base of the common feeling of judges, to individuate those ethic rules intended to govern their judicial and personal conduct.

They are indications of principles without a juridical effect, that are to be considered at a different level respect to the juridical regulations of the disciplinary torts.

The acted individuation of rules of conduct, inspired to the realisation of the basic moral values, peculiar to the organisation of the category itself, is unavoidably conditioned by the rules in force and by the acknowledgement of those present prominent questions: for any possible amendment and revision of the adopted rules, it shall be followed the procedure consistent with the submission of a project to the debate in the local divisions of the ANM, and its following approval by the Main Steering Committee.

I. General rules**Section 1 - Basic values and principles**

A judge shall behave with dignity, correctitude and sensitiveness towards the public interest, in his social life.

Section 2 - Relationships with citizens and with users of justice

A judge, in the relationship with citizens and with users of justice, shall hold a conduct open and respectful of the others' personality and dignity and reject any pressure, recommendation or solicitation aimed to influence wrongfully the time and system of administration of justice.

A judge shall not lend the prestige of the judicial office to advance his private interests both in the social and institutional relationships.

Section 3 - Duties about the activity and professional revision

A judge shall carry out his functions with diligence and industriousness.

He shall maintain and increase his own professional heritage, engaging himself to revise and master his knowledge in the field of his activity.

Section 4 - Procedure of use of the resources of the administration

A judge should take care that means, endowments and resources of the office are employed according to their institutional appropriation. He is expected to act avoiding any form of waste or maladministration, in the pursuit of those objectives of efficiency peculiar to the judicial service.

Section 5 - Information of office. Prohibition to use them for non-institutional objectives

A judge shall not wrongfully use the information at his disposal for reasons of office. Moreover he shall not provide or require confidential information regarding pending proceedings, nor shall he provide recommendations aimed to influence the course or the result of the proceedings themselves.

Section 6 - Relationships with the press and other mass-media

A judge shall not solicit publicity of news connected to his own office in the contacts with the press and with other mass-media.

When he is not obliged to maintain secret or reserve about information of which he has knowledge for reasons of his office, and he considers he should provide informations regarding the judicial activity, he shall then avoid to create or use personal reserved or privileged channels of information. He shall do so as to warrant a fair information of citizens and the assertion of the right to report, and also to protect the honour and the reputation of citizens.

Being firm the principle of full freedom of thought, a judge shall inspire himself to standards of balance and moderation in releasing declarations and interviews to newspapers and other mass-media.

Section 7 - Membership to associations

A judge shall not hold membership in associations that require a promise of allegiance or that do not grant the full clearness about the participation of members.

II. Independence, impartiality, correctitude**Section 8 - The independence of the judge**

A judge shall grant and defend the independent fulfilment of his duties and maintain an image of impartiality and independence.

He shall avoid any kind of involvement with centres of power related to parties or business activities that may influence the performance of his office, or in any case impair his image.

He shall not accept any office, nor fulfil activities, that may hinder the full and fair course of his own duties, or that may in any case condition his independence because of its nature, source and ways of conferring.

Section 9 - The impartiality of the judge

A judge shall respect the dignity of every individual, without any discrimination and prejudice on the basis of sex, culture, ideology, race and religion.

In the fulfilment of his functions he shall act to render effective the value of impartiality, engaging to overcome those cultural prejudices that may affect the comprehension and the evaluation of facts together with the interpretation and enforcement of laws.

A judge shall assure that his image of impartiality is fully granted at any time in the fulfilment of his office. To this aim, he shall value with the utmost rigour the occurrence of circumstances to eventually disqualify himself for serious reasons of opportunity.

Section 10 - Duties of correctitude of the judge

A judge shall not use the prestige of his office to obtain benefits or privileges.

A judge that aspires to promotions, removals, assignments of seat and to any kind of appointments, shall not act to improperly influence the concerned decision, nor shall accept others to act in his favour.

A judge shall abstain from any interference not corresponding to institutional requirements regarding promotions, removals, assignments of seat and conferment of offices.

A judge shall behave with politeness and correctitude; shall maintain formal relationships in the respect of the office performed by each one; shall respect and recognize the role of the administrative employees and that of all the others assistants.

III. The conduct in the performance of the office**Section 11 - The conduct in the proceedings**

In performing his office, the judge, aware of the service to render to the society, shall observe the timetable of hearings and of the activity of office, as to avoid unnecessary inconveniences to citizens and to lawyers and providing them with all the necessary explanations.

He shall fulfil his office with full respect of the others' office, and act recognising the equal dignity of the role played by the others actors of the proceedings, granting them the best condition to exercise them.

A judge shall take care to attain, complying with the law, results of justice for all the parties; he shall act with the highest scruple, especially when the question regards the freedom and the reputation of people.

Section 12 - The conduct of the Judge

A judge shall guarantee to the parties the opportunity to fully perform their role, also taking into consideration their practical requirements.

He shall always behave with reserve and assure the secretness of the Court Chambers, and an orderly and unbiased development of the proceedings. In the fulfilment of his office he shall hear others' opinions as to subject them to a continuative verification of his own convictions, and to draw occasion for a professional and personal enrichment by the dialectic. When drawing the grounds of a joint judgement he shall accurately explain the reasons for the decision elaborated in Court Chamber, and examine adequately fact and arguments stated by parties. He shall not solicit or receive any informal news concerning the proceedings he is carrying on.

When drawing the grounds of his actions or hearing a case, he shall avoid to express his opinion about facts or people external to the subject of the hearing, nor shall he express any judgement or evaluation concerning the professional ability of other judges, lawyers or the parties subject to the proceeding, when it is not necessary to reach a decision.

Section 13 - *The conduct of the Public Prosecutor*

A Public Prosecutor shall behave with impartiality in the fulfilment of his office.

He shall direct his inquiry researching the truth, and acquiring all those evidence for the defence of the person subject to the inquiry. Moreover, he shall not omit to the judge the existence of evidence for the defence of the person subject to the inquiry or of the accused.

A Public Prosecutor shall avoid to express evaluations concerning parties and witness in contrast with the decision of the judge, and shall refrain from any criticism or opinion regarding the professionalism of the judge and of lawyers.

He shall not inquire the judge to anticipate information about his decisions, nor shall he informally communicate to the judge acknowledgements about the current proceedings.

Section 14 - *The duties of the supervisor*

The judge that supervises a judicial office shall take care of the organization and of the use of both the available personal and material resources as to obtain the best result, according to the public service that his office must assure. He shall also guarantee the best cooperation with the other public offices in the respect of the authority of each institution. He shall assure the independence of judges and the unbiased fulfilment of the duties of all those assigned to the office, guaranteeing the clearness and impartiality in the supervision of the office and rejecting any external interference.

He shall take care to acknowledge what occurs within his office so that he may assume responsibility and explain the reasons for it.

He shall examine complaints by citizens, lawyers and by other judicial or administrative offices sifting their evidence and adopting all the necessary measures to avoid inefficiencies. To this aim he shall be available in his office.

The Judge supervisor of an office shall supervise the conduct of judges and of the administrative employees intervening, in the exercise of his powers, to prevent incorrect behaviours.

He shall draw unbiased, complete and impartial judgement and reports about the judges of his office. In this way he shall fairly cooperate with those to whom is referred the supervision of judges, with the judiciary Council and the High Council of the Judiciary.

He shall solicit advice from the judges, the administrative employees and, if it is the case, the lawyers about the questions of the office. He shall care for the enforcement of the principle of the natural judge.