



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

4.8 LONDON DECLARATION ON JUDICIAL ETHICS (2010)

The General Assembly of ENCJ, meeting in London on 2-4 June 2010:

Considering that:

- the ENCJ has as its aim the improvement of cooperation between, and good mutual understanding amongst, the Councils for the Judiciary and the members of the judiciary of the EU (candidate) Member States;
 - the affirmation of shared principles and values on a European level strengthens mutual understanding and thus mutual confidence between judges in the European Judicial Area;
1. Approves the report entitled **“Judicial Ethics – Principles, Values and Qualities”**, as guidelines for the conduct of European judges
 2. Requires the Steering Committee and the Executive Board to ensure that the distribution of the content of the report to the ENCJ Members and Observers and to the members of the European Judiciaries is as wide as possible
 3. Proposes that ENCJ Members and Observers should promote actively the content of the report on national and the European levels and report back to the General Assembly on their activities in this field with any comments that may have been received.

SUMMARY OF THE REPORT ON JUDICIAL ETHICS⁴ PRINCIPLES, VALUES AND QUALITIES

INTRODUCTION

The affirmation of principles of professional conduct for judges strengthens public confidence and allows a better understanding of the role of the judge in society. The judge’s role in European societies has come to encompass not only being the ‘mouthpiece’ of the law, but also a creator of

⁴*These ethical principles have been written according to the decision taken by the ENCJ General Assembly which took place in Brussels in June 2007. They are the result of a two years work. This document is an executive summary of the report which was adopted at the General Assembly by the ENCJ members.*

law. This dual function requires responsibilities and ethical rules. Moreover, our societies are demanding more transparency in the functioning of the public bodies.

Society's expectations of judges have caused the European Network of Councils for the Judiciary to reflect on the question of judicial ethics. It is concerned with striking a balance between the independence of justice which is not a privilege, the transparency of institutions, the freedom of the press and the public's right to information. Judicial ethics have been addressed in a positive manner, so that the duties of the judge encompass the common, founding values of the judge's work and preventive principles (Part I) and personal qualities (Part II), in response to the public's expectations.

PART 1 – T E A L U E S M E R I T S

INDEPENDENCE

Independence is the right of every citizen in a democratic society to benefit from a judiciary which is, (and is seen to be), independent of legislative and executive branches of government, and which is established to safeguard the freedom and the rights of the citizen under the rule of law. It is up to each judge to respect and to work to maintain the independence of the judiciary, both in its individual aspects and in its institutional aspects.

INTEGRITY

The judge fulfils his role with integrity, in the interests of justice and society. He has the same duty of integrity in his public life and in his personal life. Two duties can result from this principle of integrity: the duty of probity and the duty of dignity or honour.

Probity leads the judge to refrain from any tactless or indelicate behaviour, and not just behaviour which is contrary to law. Courtesy and intellectual probity govern his relations with all the professionals within the justice system. Dignity or honour dictates that the judge exercises his functions by applying loyally the rules of procedure, by showing concern for the dignity of individuals and by acting within the framework of the law. Honour requires a judge to ensure, through his professional practice and person, that he does not jeopardise the public image of the judge, the court and of justice system.

IMPARTIALITY

The impartiality of the judge represents the absence of any prejudice or preconceived idea when exercising judgment, as well as in the procedures adopted prior to the delivery of the judgment. A judge ensures that his private life does not affect his public image of impartiality of his jurisdiction. He is entitled to complete freedom of opinion but must be measured in expressing his opinions, even in countries in which a judge is allowed to be a member of a political organisation. In any event, this freedom of opinion cannot be manifested in the exercise of his judicial duties. A just balance is struck between his rights and his obligations so that he may be impartial.

RESERVE AND DISCRETION

A judge avoids any conduct likely to promote the belief that his decisions are driven by motives other than the fair and reasoned application of the law. At the same time, a judge is himself a citizen and entitled, as such, outside the exercise of his judicial functions to freedom of expression recognised by all international conventions protecting human rights.

In politics, a judge, like any citizen, has the right to have a political opinion. His task, through his reserve, is to ensure that individuals can have every confidence in justice, without worrying about the opinions of the judge. A judge exercises the same reserve in his dealings with the media. At

the same time, the obligation of reserve cannot provide a judge with an excuse for inactivity. He has an obligation to explain the law and its application in other than his own cases and to assume an educational role, when needed. When democracy and fundamental freedoms are in peril, a judge's reserve may yield to the duty of indignation.

In his private life

Like any person, a judge does have the right to his private life and to maintain a social life. It is enough if he takes some common sense precautions in order to avoid undermining the dignity of his office or his ability to exercise it.

DILIGENCE

Diligence is necessary to obtain and increase public confidence in justice. The judge is diligent, prompt in handling cases and never ceases to learn and update his knowledge. The judge makes every effort to conduct proceedings efficiently and to make his decisions without delay.

RESPECT AND THE ABILITY TO LISTEN

Society and its members expect a judge in the exercise of his functions to respect them and hear them. The judge interacts with the public, lawyers, his colleagues and administrative staff in a manner which is dignified, correct and receptive.

EQUALITY OF TREATMENT

Equality of treatment requires the judge to give everyone that to which he is entitled, both in the process and in the result of any case, through recognising the uniqueness of each individual. When the Constitution, national laws or international rules provide for it, a judge may apply positive discrimination; in other cases he ensures that equal treatment prevails.

COMPETENCE

Society is entitled to a competent judge with a broad professional ability.

TRANSPARENCY

Information on the functioning of justice and the presence of the public at judicial proceedings contribute to their social acceptance. Equal access of individuals involved in claims or defence to civil and criminal proceedings promotes transparency and enhances public confidence. The judge ensures this transparency thereby refusing to let the public hearing become a spectacle. In his private life and in society, the judge is always vigilant to avoid any conflict of interest.

PART II: THE QUALITIES OR VIRTUES OF A JUDGE

Confidence in justice is not only guaranteed by an independent, impartial, honest, competent and diligent judge. That confidence is also won by a judge who performs his role with wisdom, loyalty, humanity, courage, seriousness and prudence, and who has the capacity to listen, communicate and work. These requirements are not specific to the judge but they are essential to guarantee the right for everyone to have a judge.

WISDOM

Through his knowledge of the realities, of the law, and by his reasonable, fair and prudent behaviour, a judge shows his wisdom. This virtue enables him to be calm and prudent when dealing with disputes, and allowing him to discern and distance himself from parties and facts that he judges.

LO ALT

A judge is loyal, both to the rule of law in general and to the rules of the organisation of the judicial system in his State. A judge loyally meets two requirements: not to exceed the powers entrusted in him and to exercise them. This loyalty cannot be demanded of a judge when democracy and fundamental freedoms are in peril.

UMANIT

The sense of humanity of a judge is manifested by his respect for persons and their dignity in all circumstances of his professional and private life.

COURAGE

A judge shows courage in order to execute his duties as a judge and to respond to those seeking justice.

SERIOUSNESS AND PRUDENCE

The essence of the seriousness and prudence of a judge consists in his behaving appropriately. Seriousness means behaving respectfully during legal proceedings, being courteous, without excessive solemnity, and without inappropriate humour, thereby not compromising humanity. Prudence guides the judge both in his professional and private lives in order to maintain public confidence in the judiciary and courts.

OR

Judicial office involves sustained hard work and persistent intellectual effort.

LISTENING AND COMMUNICATION

Judges are expected to listen carefully to the parties at all stages of the proceedings. Listening implies absence of bias and of prejudice. This quality implies not only real open-mindedness and receptiveness but also the ability to call into question oneself. This listening remains neutral, distant but without being condescending or scornful, humane but dispassionate.

A judge ensures that he is able to communicate with others. Good communication is also present in his judgments (written or oral). A judge ensures that his judgments are intelligible and well-motivated.

