

Compendium of the Judiciary's Ethical Obligations

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2010

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ISBN: 978-2-247 09037-2

Article 20 of Organic Law n° 94-100 of
February 5th 1994 on the Supreme Council
of the Judiciary, modified by Law n° 2007-
287 of March 5th 2007

"It develops and publishes
a *Compendium*
of the Judiciary's Ethical Obligations."

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Presentation of the Compendium

It is the Constitution that renders judicial authority legitimate. This legitimacy is reinforced by the confidence that citizens have in it. This is why over the past twenty years many countries have developed a *corpus* of ethical rules for members of their judiciary.

In France, the Ministry of Justice set up a commission on ethics in the judiciary, which issued a report in 2003 recommending among other things the creation of a *Compendium of ethical principles*¹.

On June 6th 2006, a parliamentary select committee issued a report containing several proposals, one of which was to "incorporate a "code of ethics" into the Governing Regulations of the Judiciary"².

¹ Report submitted to the Minister of Justice on November 27th 2003, p.26

² National Assembly Report n° 3125, proposal 68.

When the bill for the Organic Law on the judiciary's recruitment, training and liability was submitted to the National Assembly, the Members of Parliament adopted an amendment instructing the Supreme Council of the Judiciary, an independent constitutional body, to develop and publish a *Compendium of the Judiciary's Ethical Obligations*. This amendment became Article 18 of Organic Law n° 2007-287 of March 5th 2007, adding to Article 20 of the Organic Law of February 5th 1994.

To fulfil its new mission, the Council compared various national approaches and concluded that for the judiciary as an institution, a set of national ethical references serves to regulate behaviour and communicate with the public via something they can clearly identify. It brings international legal instruments to life at a local level by creating a universal image of members of the judiciary.

The Council adopted a unique working method involving the public and the judiciary in the various phases of creating the *Compendium*.

It commissioned a study from a survey institute in May 2008 on French people,

members of the judiciary and ethics³. Judiciary members were also consulted on their activities and ethics in July 2008⁴.

The Supreme Council of the Judiciary also consulted various key people and encouraged debates and discussions between judiciary members within each Court of Appeal jurisdiction. The Council received summaries of these discussions from its correspondents.

Parliament called for the creation of a *Compendium of Ethical Obligations* and not a code of ethics, reflecting "the choice to avoid freezing the content of rules that by essence must be able to evolve, or listing them in detail in an exhaustive catalogue that would inevitably be incomplete. It indicates a desire to maintain the conception in place since 1958 of a statement of general principles linked to a few key, fundamental values (independence and impartiality)"⁵.

³ This survey by IFOP involved 1008 people as a representative sample of the French population. The survey report is included in the Supreme Council of the Judiciary's 2007 annual report.

⁴ The results of this consultation can be found in the Council's 2008 summary annual report.

⁵ Report of the Senate Law Commission n^o 176 of January 24th 2007.

Over and above these cardinal values, the ambition of a set of ethics for the judiciary is to establish references for discharging a function that is as delicate to perform as it is essential for a balanced society.

The professional behaviour of members of the judiciary cannot be left to their own discretion. It is determined by law and must comply with the ethical requirements of their office, which are specified in this *Compendium*.

Matters of judicial ethics are presented in a concrete manner and organised thematically, followed by comments concerning the same obligations or situations but approached differently.

As society and institutions evolve, the Supreme Council of the Judiciary will inevitably have to review its content in the future⁶.

⁶ The constitutional reform of July 23rd 2008 made this a permanent part of the council's jurisdiction.

Preamble

Dispensing justice is an essential function of a state of law. Members of the judiciary hold in their hands the freedom, honour, security and material interests of those living within the French Republic's territory. This eminent role entails certain demands and requires appropriate human, financial and material resources.

The objective of the following principles, comments and recommendations is to establish ethical references for the French judiciary. They are designed to support and guide them and provide the judicial institution with a framework for a better understanding of its ethics. Their purpose is also to offer representatives of the executive and legislative powers, as well as persons involved in the administration of justice and the public, a better understanding of the complexity of how the judiciary fulfils its role.

As members of the judicial authority, judiciary members draw their legitimacy from the law, which requires them to be independent and impartial, principles also imposed on the other powers. Disregarding

these imperatives would compromise public confidence.

By their integrity, members of the judiciary demonstrate that they are worthy of deciding how individuals may exercise their fundamental rights. More than any others, they are bound to demonstrate probity and loyalty.

Through their constantly updated knowledge of applicable texts and principles and their determination never to fail to protect the individual freedoms they safeguard, members of the judiciary affirm the pre-eminence of the law.

Justice is dispensed in the name of the French people. Members of the judiciary are bound to be attentive to those they judge and those around them, without ever violating anyone's dignity, whilst preserving the image of the judicial institution and upholding their duty of reserve.

This *Compendium* does not constitute a disciplinary code but rather a guide for judges and prosecutors who, in France, are all members of the same judicial *corps*. Its publication is designed to reinforce public confidence in the independent and impartial functioning of the French judicial system.

A. Independence

A.1 Citizens and persons under a court's jurisdiction have a constitutional right to the independence of judicial authority, which guarantees that all are equal before the law because they have access to an impartial judiciary.

Independence is the first condition to be met for a fair trial.

It is applied and upheld at three levels: institutional, functional and personal.

INSTITUTIONAL LEVEL

Principles

A.2 Members of the judiciary uphold the independence of judicial authority because they know that this is what guarantees that they act and rule in accordance with the law and applicable procedural rules, based solely on the elements brought before them, free of any influence or external pressure, and with no threat of sanctions or expectation of personal gain.

One crucial guarantee of judicial independence is a judge's security of tenure and the rule that they shall only be promoted with their free consent.

A.3 Even with statutory guarantees of judicial independence, ruling in an independent fashion is also a state of mind. It involves know-how and behaviours that must be taught, cultivated and developed throughout an entire career.

Comments and recommendations

a.4 Members of the judiciary preserve their independence from legislative and executive powers by refraining from all inappropriate relations with the representatives of these powers and guarding against any undue influence on their part.

a.5 They must be seen by citizens and persons under a court's jurisdiction as respecting these principles.

a.6 Geographic mobility protects members of the judiciary against overly close relations with various local figures, in particular persons involved in the administration of

justice, institutions, partner associations, the local business community or the media.

a.7 Serving members of the judiciary shall not seek honorary distinctions for themselves, in order to avoid any suspicion in the public's mind as to their true independence.

a.8 Members of the judiciary may not be prosecuted or subjected to disciplinary sanctions for their court rulings.

FUNCTIONAL LEVEL

Principles

A.9 Members of the judiciary oversee proceedings, lead discussions before the court and hand down their rulings independently.

A.10 In the discharge of their duties, they shall make it a principle to banish and reject any intervention, outside of proper procedural and legal channels, liable to directly or indirectly influence their decisions.

Comments and recommendations

a.11 As guardians of individual freedoms, members of the judiciary shall apply legal

rules based on the elements in the proceedings, with no fear of displeasing or desire to please the executive, members of parliament, the judicial hierarchy, the media or public opinion.

a.12 Whenever he or she senses the possible exertion of influence or pressure from any source whatsoever, the member of the judiciary shall rely on collegiality whenever procedure allows.

a.13 Members of the judiciary must be aware of the impact of any cultural or social prejudices and political, philosophical or religious convictions they may bear, on their understanding of facts brought before them and on their interpretation of legal rules.

a.14 A judge's appointment or replacement must never be motivated by a desire to influence a decision. The only thing that should be taken into account is the official requirements of the department to which he or she is duly appointed.

a.15 Members of the judiciary are legitimately required to manage flows and process cases within a reasonable time limit, but these objectives do not exempt them from

providing the following guarantees of independent justice: compliance with procedural and statutory rules; quality of decisions; and listening to the persons under a court's jurisdiction.

a.16 When participating in bodies that elaborate local public policy, members of the judiciary shall abstain from any commitments liable to alter their freedom of judgement and judicial independence.

a.17 Despite the fact that they belong to the same judicial *corps* and discharge their duties in the same place, judges and prosecutors shall maintain and publicly demonstrate their mutual independence.

a.18 Prosecutors, just like judges, are guardians of individual freedoms. In cases where they have been instructed to prosecute, at the hearing, they shall freely present the oral submissions they deem of service to justice.

a.19 If in an individual case, a prosecutor requests that the Minister of Justice or Chief Prosecutor's instructions to prosecute be recorded in writing and attached to the case file in accordance with Articles 30 and 36 of

the Code of Criminal Procedure, this shall not constitute insubordination or a breach of loyalty.

PERSONAL LEVEL

Principle

A.20 Like any citizen, members of the judiciary have a right to privacy. They shall however refrain from any overt relationships or public behaviour liable to cast doubt on the independence with which they discharge their duties.

Comments and recommendations

a.21 Members of the judiciary enjoy the same rights as other citizens to join a political party, an association or a professional trade union, and to practice the religion of their choice.

a.22 Within the territorial jurisdiction of the series of courts to which they belong, they shall refrain from all forms of political, philosophical or religious proselytising liable to harm the judicial authority's image of independence.

a.23 Members of the judiciary shall refrain from incurring obligations or constraints liable to restrict their freedom of thought or action and their independence.

B. Impartiality

B.1 As a right guaranteed to persons under a court's jurisdiction by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, members of the judiciary have an absolute duty of impartiality, designed to give effect to one of the French Republic's founding principles: that all citizens are equal before the law.

B.2 Just like independence, impartiality is an essential element in public confidence in justice.

B.3 Because the validity not just of the decision itself but also of the process that leads judges to that decision depends on it, impartiality is an obligation that requires certain principles to be applied at an institutional, functional and personal level.

INSTITUTIONAL LEVEL

Principles

B.4 The impartiality of the courts and their members implies that the nomination and appointment of members of the judiciary should rely on objective, transparent rules based on professional ability.

B.5 Court hearings must be public, unless statutory exceptions exist.

Comments and recommendations

b.6 The impartiality of judiciary members within any series of courts requires the rigorous application of rules on professional incompatibility.

b.7 Current provisions on incompatibility in the Governing Regulations of the Judiciary, the Code of Judicial Organisation, the Code of Civil Procedure and of Criminal Procedure apply to all situations encountered.

b.8 When returning to judicial activities after working outside the judiciary, members of the judiciary must ensure that their impartiality cannot be questioned.

b.9 Impartiality requires appropriate material, financial and human resources, allowing courts to function and judiciary members to work in conditions that exclude any form of dependency on public or private persons, even in exceptional circumstances.

b.10 Geographic and functional mobility contribute to judiciary members' impartiality.

b.11 Functional mobility, supported by steps to help adapt to the few function, must not lead to the institutional roles of judges and prosecutors becoming confused.

FUNCTIONAL LEVEL

Principles

B.12 Impartiality when discharging judicial functions is not restricted to an apparent absence of prejudice, it also and more fundamentally means a genuine absence of bias. Irrespective of their opinions, members of the judiciary must be open to and take account of all the viewpoints put before them.

B.13 Members of the judiciary demonstrate their impartiality by upholding the adversarial nature of hearings.

Comments and recommendations

b.14 In their professional activities, members of the judiciary shall set aside all prejudice and adopt an objective attitude.

b.15 Judges may not convey an opinion, either by words or behaviour, until they rule.

b.16 In their judicial activities, in particular in the area around the courtroom, judges and prosecutors must present an image of impartiality and there should not appear to be excessive proximity, much less complicity, between them in a layperson's eyes. The same caution must be observed as regards the parties' counsel and all those involved in the trial.

b.17 The presiding judge and the public prosecutor's representative shall address all those involved in the trial with the same objectivity.

b.18 A bench of judges hearing a criminal case should avoid ruling immediately after

the closing addresses, which would lend support to the idea that proceedings and deliberations serve no purpose. Only a free discussion between members of the bench guarantees that there has been true deliberation and that the arguments presented by both parties have been examined.

b.19 A judge who usually performs specialised functions should avoid participating in a criminal hearing involving a person with whom he or she has had difficulties in a previous dispute.

b.20 A judiciary member shall inform the other members of the trial bench of any facts personally involving him or her that are liable to weaken the image of impartiality that he or she must present to all parties.

PERSONAL LEVEL

Principle

B.21 While members of the judiciary enjoy the same rights as all citizens, they may not take on a commitment of any nature whatsoever (political, philosophical, religious, or within an association, trade union or business etc) that would subject

them to constraints other than those of French law and restrict their freedom of thought and analysis.

Comments and recommendations

b.22 When making personal commitments, members of the judiciary shall ensure that they reconcile the legitimate exercise of their rights as citizens with their duties as judiciary members. They shall behave and express themselves in public with caution and moderation.

b.23 Members of the judiciary shall ensure that their private commitments within associations do not interfere with their field of jurisdiction within their court of appointment. If they are unable to do so, they shall withdraw.

b.24 Members of the judiciary shall not accept any gifts or donations liable to undermine or cast doubt upon their impartiality, in particular those offered at events linked to their professional life.

b.25 Members of the judiciary shall avoid giving legal advice outside their close circle of relations.

C. Integrity

C.1 Being a member of the judiciary is a position of honour that demands integrity.

In their professional practice and in their private lives, members of the judiciary shall demonstrate such qualities of integrity as to render them worthy of discharging their mission, lend credibility to their authority and ensure confidence in justice.

Principles

C.2 By their professional and private behaviour, members of the judiciary help vindicate public confidence in that judiciary's integrity.

C.3 By their reserve, vigilance and discretion, members of the judiciary demonstrate that they are mindful of the image of justice.

C.4 The principle of integrity means that all members of the judiciary are subject to obligations of probity and loyalty.

Probity

Principles

C.5 Probity is the commanding element in professional practice, behaviour in society and private life.

C.6 For members of the judiciary, probity means an overall requirement of honesty. It implies compliance with the statutory provisions specific to members of the judiciary, their status and judicial organisation.

C.7 Members of the judiciary shall behave with tact.

Comments and recommendations

INSTITUTIONAL LEVEL

c.8 Members of the judiciary discharge their functions within an institutional framework that protects their integrity.

Applications for judicial office

c.9 Members of the judiciary involved in application proceedings for judicial office shall refrain from vouching for candidates' merits merely as a favour to them.

Court administration and management

c.10 When discharging their functions, members of the judiciary shall comply with applicable standards and best practices regarding the use of public funds and the rigorous management of justice as a public service. They shall ensure that their court of appointment functions optimally, in accordance with the administrative and financial resources allocated to the State's mission of justice.

c.11 Each court's first president is responsible for the organisation, administration and budget management of the various departments within his or her jurisdiction. This mission is shared by the diarchy and therefore requires judges and prosecutors to consult with each other and seek common solutions.

Each first president oversees the proper running of his or her courts, particularly by

ensuring a balanced distribution across departments.

First presidents are responsible for informing all members of the judiciary, and fostering dialogue.

c.12 All members of the judiciary shall ensure that the resources available to them are used in accordance with their institutional purpose and avoid waste, exclusive use or misappropriation.

c.13 By law, members of the judiciary shall oversee, among other things, the supervision of departments that manage funds belonging to persons under a court's jurisdiction, or departments responsible for holding property placed in the hands of the judicial authority, such as seized objects.

FUNCTIONAL LEVEL

c.14 Members of the judiciary shall allocate most of their working time to their judicial functions.

c.15 Certain extra-judicial activities are authorised in order to be open to the outside world and promote awareness of the institution. They require an individual

derogation issued by a President of a Court of Appeal, they must be compatible with the judiciary member's dignity and independence, and must not be detrimental to the service of the court. Any such activities liable to create a conflict of interest should be avoided.

c.16 Scientific, literary or artistic work may be performed without prior consent but must not restrict the judiciary member's professional activities.

c.17 Persons under a court's jurisdiction are entitled to expect the same integrity from members of the judiciary when appointing natural persons or legal entities to assist them with their tasks. The systematic selection of the same experts or agents may arouse suspicion of dependency.

c.18 Integrity prohibits doing favours, and all forms of favouritism and undue interference. Members of the judiciary shall protect the judicial authority from all forms of influence or pressure. They shall uphold the image of justice as independent, impartial and dignified, and refrain from giving any advantage, arrangement or preferential treatment whatsoever.

c.19 As a precaution and to comply with legal texts, members of the judiciary shall not handle cases that directly or indirectly involve either themselves or their close circle of relations. In such cases, they shall not wait for their disqualification but shall refrain from intervening in any proceedings of this nature or involving a party with whom their relationship is one of friendship, proximity or intimacy.

c.20 The applicable texts leave the decision to withdraw from a case up to the judiciary member's own conscience, with no obligation to explain.

c.21 Members of the judiciary who are invited to represent the justice system at external events shall avoid accepting any invitations liable to place them in a delicate situation as regards their integrity.

PERSONAL LEVEL

c.22 In their private lives, members of the judiciary are still subject to a strict obligation of probity, which includes tact. This requires that they show discernment and caution in their life in society, choice of relationships,

the performance of their private activities and participation in public events.

c.23 Members of the judiciary must in no circumstances lend support to the idea that they enjoy or might enjoy special treatment.

c.24 Members of the judiciary may not use their status to obtain any favours or advantages whatsoever for themselves, their acquaintances or their close circle of relations.

c.25 Interventions and recommendations are prohibited. Caution is the rule when giving character testimonials or formal declarations that may place the judge hearing a case in a difficult situation. The latter must not feel bound by a sense of professional solidarity.

Loyalty

Principles

C.26 In accordance with their oath of office, members of the judiciary discharge their functions with loyalty and concern for people's dignity.

C.27 Members of the judiciary have a duty of loyalty towards first presidents of courts and towards their colleagues. They fulfil this duty whilst respecting their mutual judicial independence.

C.28 From a procedural standpoint, the loyalty obligation requires members of the judiciary to exercise the powers conferred on them by law and refrain from overstepping them. They shall loyally apply the guiding principles for trial, in particular compliance with the adversarial principle and the rights of the defence. They shall base their decisions on the elements presented in the adversarial debate, and maintain an open mind.

Comments and recommendations

INSTITUTIONAL LEVEL

Statutory loyalty

c.29 The statutory rules on judicial organisation that govern relationships between judiciary members within the different courts must be faithfully applied, in compliance with the missions and responsibilities of the courts' first presidents and the authority and attributions of judiciary members.

c.30 In compliance with Article 15 of the Declaration of the Rights of Man and of the Citizen, members of the judiciary are accountable for their diligence in administering justice.

c.31 Members of the judiciary shall alert first presidents of any situation - particularly interventions, intimidation or threats - liable to affect their professional practice, the functioning of the court and the independence of judicial authority.

The first presidents shall ensure that any members of the judiciary unfairly accused can discharge their functions serenely,

without prejudice to any protection from the State.

c.32 Prosecutors shall ensure that members of their hierarchy are able to exercise their authority by faithfully informing them of the existence of investigations and of their developments.

c.33 In accordance with statutory rules, the duty to assess members of the judiciary lies with the first presidents. This assessment is an opportunity for a complete review of the judiciary member's professional practice.

Procedural loyalty

c.34 Procedural loyalty means compliance with the laws and guiding principles of civil and criminal procedure that determine judiciary members' powers and duties.

FUNCTIONAL LEVEL

Statutory loyalty

c.35 All members of the judiciary shall faithfully accept and discharge the share of work allocated to them, as well as other constraints and on-call requirements.

The first presidents are responsible for ensuring compliance with this obligation.

c.36 Relations between members of the judiciary shall be loyal and respectful of their duties and authority. They shall not renounce the responsibilities conferred on them by law.

Judges and prosecutors shall ensure that their functional proximity and the fact that they belong to the same judiciary does not lead to attitudes or behaviours liable to give persons under a court's jurisdiction the impression that there is any kind of confusion between the two distinct missions of prosecution and judgement.

Procedural loyalty

c.37 Members of the judiciary shall exercise their authority efficiently, whilst faithfully complying with their obligations regarding proceedings, the holding of hearings and the elaboration of court decisions. They shall not misuse procedures to prolong proceedings or defer decisions.

c.38 Judiciary members guarantee procedural compliance for all parties. They exercise their authority serenely, without abusing it, in order for proceedings to reach their conclusion in a way that respects the adversarial principle and the parties' rights. Judges and prosecutors shall guard against

any real or apparent form of connivance with a party, expert, attorney or any other persons involved in the administration of justice.

This is why, for example:

- the systematic refusal or acceptance of parties' requests should be avoided;
- only justified referrals should be accepted;
- appropriate measures of inquiry are entrusted to skilled professionals liable to inform the decision as to whether to intervene. These measures are overseen by the judiciary member and taken within reasonable time and cost limits;
- judiciary members oversee or participate in hearings with tact, serene authority and impartiality.
- they treat all parties equally: prosecution, defence, plaintiffs claiming damages in criminal proceedings and attorneys.
- the reporting judge must show that he or she has not already reached an opinion and that the parties' explanations are still necessary in order to reach a decision.

c.39 To comply with the adversarial process, members of the judiciary must refuse to allow any off-the-record information in proceedings they handle.

c.40 The judge shall maintain complete freedom of mind to reach a decision. He or she shall review the evidence in a demanding and rigorous manner, to hand down a judgement based on the faithful application of the law and equal consideration for the parties' explanations. In all cases, this must be apparent in the grounds of the judgement.

c.41 In all their professional activities and particularly when directing investigations and supervising police officers' activities, prosecutors shall endeavour to objectively seek evidence that will establish the truth.

D. Strictly upholding the law

Principle

D.1 Members of the judiciary are bound by the rule of law, which they shall faithfully apply.

As the guardians of individual freedoms, they have a duty to be competent and diligent.

INSTITUTIONAL LEVEL

d.2 Strictly upholding the law means those rules of law applicable in France, including international norms.

d.3 Judiciary members' obligation to always place priority on applying the law in all circumstances is based on the right against arbitrary decisions of the judge, which guarantees citizens' equality before the law. Judiciary members cannot stop merely at their own idea of fairness.

d.4 The rule of law is applied without reserve. Members of the judiciary may not make up their minds based on considerations other than the law, nor may they pass on their responsibility to rule to other experts etc.

d.5 Although it is for members of the judiciary to interpret the law, they cannot substitute themselves for the legislator. The Constitution, the guardian of individual freedoms, stipulates that they shall only exercise their judicial powers in compliance with applicable rules of law. Members of the judiciary may not refuse to apply the law in the name of an idea of justice based on personal convictions.

FUNCTIONAL LEVEL

Principle

D.6 Members of the judiciary are the guardians of individual freedoms.

This is a constitutional mission: "The judicial authority, guardian of the freedom of the individual, shall ensure compliance with this principle in the conditions laid down by statute" (Art. 66 of the Constitution).

Comments and recommendations

d.7 This duty to strictly uphold the law is permanent and binding on judges and prosecutors, within the limits of their respective remits.

d.8 It carries with it specific obligations designed to ensure comprehensive, vigilant oversight when a freedom of the individual is at stake, in particular in matters of police custody, detention, involuntary hospitalisation and legal protection measures, and more generally whenever the legislator has given the judicial authority jurisdiction.

d.9 Members of the judiciary share their experience and their own knowledge of the applicable rule of law with their colleagues.

d.10 The hierarchy shall ensure that members of the judiciary receive useful information (about new legislation, case law developments, circulars etc).

d.11 Members of the judiciary shall allow persons involved in the administration of justice to fulfil their statutory remit fully.

d.12 Members of the judiciary shall fully exercise their jurisdiction as regards

investigations departments, without abandoning any part of it, in particular for the benefit of other authorities.

d.13 According to the nature of their appointment and activities, members of the judiciary shall have full knowledge of the legislative and regulatory provisions governing their relations with national or local elected officials, the regional or departmental prefects and their departments, and with public corporations.

d.14 Members of the judiciary shall not renounce any of their legal prerogatives.

Their relations with local authorities shall comply with their respective fields of jurisdiction and the highest quality of public service.

d.15 Members of the judiciary shall reject all forms of individual intervention, in accordance with the constitutional rule of separation of powers.

d.16 When so empowered, members of the judiciary shall provide the media with such information as is useful to securing justice and public confidence. When discharging their functions, they shall not allow

themselves to be influenced by the media, nor shall they seek to draw attention to themselves.

d.17 The mission of members of the judiciary is to apply the law in the name of the French people. Whilst they cannot ignore public opinion, they shall not act under its pressure nor to satisfy its real or imagined expectations.

Principle

D.18 Members of the judiciary shall maintain their level of professional competency.

Comments and recommendations

d.19 Members of the judiciary shall fulfil their obligation to pursue continuing education. To maintain their level of competency, members of the judiciary shall make a permanent effort to update their knowledge and question their practice. This obligation is particularly strong when they hold multiple functions. It is a fundamental requirement.

d.20 Throughout their entire career and in particular when they change functions, members of the judiciary shall attend individual or group training courses to maintain their professional abilities.

d.21 Whilst they must take account of each department's requirements, members of the judicial hierarchy shall make every effort to facilitate judiciary members' access to training, by taking account of this obligation when allocating tasks, missions and appointments and when assessing members of the judiciary.

Principle

D.22 Members of the judiciary shall act with diligence within a reasonable time limit.

Comments and recommendations

d.23 Members of the judiciary shall handle all cases submitted to them without neglecting any.

d.24 They shall handle them without delays, in particular when drafting submissions and handing down rulings.

d.25 Members of the judiciary shall rule within the given deadline, irrespective of any imperfections, contradictions or loopholes in the law.

d.26 The confidence of persons under a court's jurisdiction depends on judiciary members complying with their obligation of diligence, which mitigates the risk of the State being sued.

E. Attention to others

E.1 Members of the judiciary shall show tact in their relations with persons under a court's jurisdiction, victims, persons involved in the administration of justice and partners of the judicial institution, by behaving in a way that respects an individual's dignity and by listening to others.

Dignity

DIGNITY OF THE INDIVIDUAL

Principle

E.2 Members of the judiciary must refrain from using misplaced, condescending, hurtful or contemptuous expressions or comments, be they spoken or written.

Comments and recommendations

INSTITUTIONAL LEVEL

e.3 The obligation to respect a person's dignity and ensure that others do the same stems from their oath of office where they swear to behave "as dignified, loyal members of the judiciary".

FUNCTIONAL LEVEL

e.4 Public hearings, when so required, serve as a guarantee of a proper court hearing. Members of the judiciary shall not allow a hearing to turn into a circus. They shall ensure that the parties, attorneys and the public respect basic rules of courtesy.

e.5 Judges overseeing proceedings or directing court hearings, and prosecutors acting in criminal or civil matters, shall do so with a form of authority that respects the dignity of the individual.

e.6 Any member of the judiciary who observes discriminatory language or language punishable by law during a hearing shall have it placed on the record so that the necessary consequences may be drawn.

RESPECT FOR OTHERS

Principle

E.7 Members of the judiciary are in a position of authority, which is only accepted if they themselves respect everyone they address, in particular the judiciary members and civil servants under their own authority.

Comments and recommendations

INSTITUTIONAL LEVEL

e.8 By law, civil servants working for the clerk of the court are there to witness and record judiciary members' actions and words.

Their presence is a safeguard both for people appearing in court and the judge.

Members of the judiciary and civil servants shall demonstrate mutual respect, without authoritarianism or misplaced familiarity.

Members of the judiciary shall adapt their presence within the courts to take account of their departments' needs and the clerk of the court's constraints.

FUNCTIONAL LEVEL

e.9 Respect for others begins with respecting one's own commitments: members of the judiciary shall rule on the set date, respect the scheduled times for hearings and honour appointments.

e.10 At hearings, respect for others, in particular for members of the judiciary, attorneys and persons under a court's jurisdiction is a prerequisite for justice to be dispensed serenely. The presiding judge shall police the hearing, ensuring that everybody has the possibility to speak freely and in turn without pressure or collective attempts at intimidation. They have a general duty to explain.

e.11 In hearings with a bench of judges, the president of the bench leads deliberations. Each judge has one vote and abides by the majority decision. Deliberations are anonymous, which ensures their confidentiality and protects against any attempt to seek individual liability, but this does not authorise a judge to abuse his or her authority.

Listening to others

Principle

E.12 Attention to others demands a receptive mind and a real ability to question oneself and accept in advance the risk of being criticised.

Comments and recommendations

INSTITUTIONAL LEVEL

e.13 Attention to others is expected of members of the judiciary. It is a quality to be maintained by practice and is part of their training.

e.14 General Meetings and select committees are forums for institutional debate about all important matters concerning the life of the courts. This implies that all members should enjoy full freedom of expression there, subject to the requirements of courtesy and listening to other participants, which should be a constant concern. Questions regarding the courts' organisation and functioning must be discussed there in

accordance with the conditions set by the Code of Judicial Organisation, in order to allow a fruitful discussion and ensure that the court functions optimally.

FUNCTIONAL LEVEL

e.15 Members of the judiciary shall take care to use language that is intelligible for the person they are addressing, whatever his or her culture, situation or condition.

e.16 At hearings and during deliberations, members of the judiciary shall show that they are listening to their colleagues (reading of the report, prosecution's submissions, opinions during deliberations etc), and to the attorney's closing addresses or the parties' statements. They shall remain vigilant and avoid showing impatience, and adopt a calm attitude at all times.

Parties and counsel are free to choose their mode of defence, but this is restricted by the judge's obligation to act with impartiality to ensure respect for individuals and uphold the dignity of the hearing.

e.17 In all circumstances, members of the judiciary shall adopt a neutral attitude. They shall not show any personal feelings,

sympathy or antipathy towards persons involved in cases they hear.

e.18 Members of the judiciary shall endeavour to create conditions that foster mutual listening and shall act with tact and humanity.

e.19 In long and complex proceedings, members of the judiciary shall remain vigilant, be careful not to form fixed opinions and show that they are listening attentively even when it is late.

e.20 Members of the judiciary shall ensure that the development of paperless proceedings and the use of new information and communication technology do not diminish the parties' or their counsel's rights.

F. Discretion and Reserve

F.1 As members of the judicial institution, the individual behaviour of judiciary members should be such as to preserve the image of justice.

F.2 When speaking publicly, members of the judiciary shall show moderation to avoid compromising the image of impartiality that is essential for maintaining public confidence.

Principles

F.3 "Members of the judiciary are prohibited from manifesting any form of hostility towards the principle and form of the Government of the Republic, and from any political demonstration that is incompatible with the reserve that their role requires", Article 10 paragraph 2 of the Governing Regulations of the Judiciary.

F.4 Members of the judiciary may exercise the same rights as all citizens, while remaining bound by their ethical obligations.

F.5 Members of the judiciary have the right

to join trade unions and freely express themselves within that context.

Comments and recommendations

INSTITUTIONAL LEVEL

f.6 The duty of reserve is a statutory provision that is the same for judges and for prosecutors. While Article 5 of the Governing Regulations of the Judiciary and Article 33 of the Code of Criminal Procedure allow judges to publicly express a personal position at the hearing, this must be formulated in language that does not harm the dignity of the judicial function.

f.7 Members of the judiciary shall not comment on their own decisions. The grounds of the judgement alone should suffice. They shall not criticise their colleagues' court rulings, even within the same series of courts, as these rulings should be analysed through the normal appeals process.

f.8 Members of the judiciary shall respect the confidentiality of court hearings and proceedings discussed in their presence. They shall not divulge information in their

possession, even anonymously or anecdotally. They may not be held liable for the breach of this confidentiality by third parties, whatever the form or objective of such a breach. However, being aware of these risks, members of the judiciary must take material precautions (locking their office, turning off their computer, shredding documents that are no longer required etc.), and they have a duty to call attention to any problems they may observe in this respect.

f.9 The duty of reserve does not preclude the judicial hierarchy from intervening when a member of the judiciary is the object of unfair accusations, in particular by the media.

f.10 The justice system and the courts have institutional communication tools and organised means of expression that must be used. This institutional communication should never be used to pursue personal aims.

FUNCTIONAL LEVEL

f.11 Members of the judiciary shall avoid discussing any cases liable to come before them, even with caution and moderation. Members of the judiciary shall not communicate individually with the media

regarding cases before them. However, by application of Article 11 of the Code of Criminal Procedure, prosecutors may publicise objective matters related to proceedings as long as they convey no judgement as to whether or not the charges are well founded.

f.12 The duty of reserve does not preclude members of the judiciary from participating in drafting legal texts. As a law professional, it does not preclude them from freely analysing texts.

Nor does it prevent a legally constituted grouping of judiciary members from publicly expressing their collective opinion.

PERSONAL LEVEL

f.13 Members of the judiciary shall not join any body or grouping with commitments that are incompatible with those of the judiciary.

f.14 Members of the judiciary may stand for election subject only to the restrictive provisions of the Governing Regulations of the Judiciary. Nevertheless, they shall avoid publicly expressing political convictions within their courts' jurisdiction that could

prejudice the discharge of their judicial functions.

f.15 Members of the judiciary, when expressing themselves in their official capacity via any media accessible to the public, must show the greatest caution in order to avoid harming the image and credit of the judicial institution. The same is true for members of the judiciary publishing their own professional memoirs.

Conclusion

This compendium was compiled between 2007 and 2010 at the request of Parliament, which decided to make the document public.

Its public nature ensures that this document will be known not only to members of the judiciary, who have made a significant contribution to it, but also to those in charge of the French Republic's institutions, to persons under a court's jurisdiction and more generally to our fellow citizens and all those living in France. Publishing the ethical principles to which members of the judiciary adhere will help reinforce public confidence in the justice system.

Ethical requirements cannot be set in stone. In the future, the Supreme Council of the Judiciary will re-examine, amend and add to them, and matters of ethics now fall within the remit of the Council's plenary panel.

This text will provide the French National School of the Judiciary with useful material for developing teaching programmes on this key training topic for members of the judiciary.

Presidents of Courts of Appeal and First Presidents will also be able to refer to it to develop ways of monitoring ethics.

It will make it easier for every member of the judiciary to identify the specific requirements of the judicial function.

Members of the Supreme Council of the Judiciary

OJ of June 4th 2006

President

The President of the French Republic.

Vice President

The Minister of Justice.

Joint members of both panels

Mr. Francis Brun-Buisson, Master of the Court of Auditors, appointed by the President of the French Republic.

Mr. Jean-Claude Bécane, honorary Secretary General of the Senate, appointed by the President of the Senate.

Mr. Dominique Chagnollaud, university professor, appointed by the President of the National Assembly.

Mr. Dominique Latournerie, honorary member of the Council of State, elected by the Council of State.

Elected judges, members of the panel responsible for judges

Mr. Jean-François Weber, Division President at the Court of Cassation.

Mr. Hervé Grange, First President of the Court of Appeal of Pau.

Mr. Michel Le Pogam, President of the Court of First Instance of Sables d'Olonne.

Mr. Luc Barbier, judge at the Court of First Instance of Paris.

Mrs. Gracieuse Lacoste, judge at the Court of Appeal of Pau.

Elected prosecutor, member of the panel responsible for judges

Mr. Xavier Chavigné, Assistant Public Prosecutor at the Bordeaux Court of Appeal.

Elected prosecutors, members of the panel responsible for prosecutors

Mr. Jean-Michel Bruntz, Deputy Public Prosecutor at the Court of Cassation.

Mr. Jean-Claude Vuillemin, Chief Public Prosecutor at the Grenoble Court of Appeal.

Mr. Jean-Pierre Dréno, Chief Prosecutor at the Perpignan Court of First Instance.

Mr. Yves Gambert, Assistant Chief Prosecutor at the Nantes Court of First Instance.

Mr. Denis Chausserie-Laprée, Vice-Prosecutor at the Bordeaux Court of First Instance.

Elected judge, member of the panel responsible for prosecutors

Mrs. Marie-Jane Ody, judge at the Caen Court of Appeal.

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