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THE JUDGES ASSOCIATION OF SERBIA

STANDARDS OF JUDICIAL ETHICS

Belgrade, 2003.

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Esteemed colleagues,

We believe that you too, while taking with pride the judges' oath at the National Assembly of Serbia, swore an oath to yourselves that you will perform your professional choice, a judge's function, to the best of your ability, professionally, ethically and diligently; exactly the way it is described in Article 48 of the Law on Judges: *„I swear on my honor that I will perform my duties in accordance with the Constitution and the law, to the best of my knowledge and ability, and that I will serve no one but truth and justice.“*

These words should be the imperative to every judge, reflecting his/her ethics and quality of work. These moral values and categories are contained in the first Code of Judicial Ethics of the Judges' Association of Serbia, adopted on May 9, 1998, one year after the Association was established.

That Code represents canons of judicial ethics adopted by the members of the Association as standards for their work and conduct. Unfortunately, other judges in Serbia, who are not members of the Association, did not have the opportunity to say what they thought about the Code; some did not and do not even know of its existence. Also, there is no other Code, or anything that resembles it, that applies to all the judges of Serbia.

For that reason, the Judges' Association of Serbia commenced work on the establishment of principles of judicial ethics, wishing that they should apply to all our judges. Ethical rules were shaped into *„Standards of Judicial Ethics“* and they are based, most of all, on principles from the previous Code as measures of values that do not have a

limited importance regarding time and space. Respecting the overall tendency to align legal and supporting systems at the international level, the Judges' Association of Serbia contributed by conforming the Standards to the international ethical standards as seen in the Bangalore Code of Judicial Conduct, adopted by the UN Judicial Group for Strengthening of Integrity of the Judiciary in November 2002.

Proposal of the Standards of Judicial Ethics was sent to the members of the Judges' Association of Serbia, who adopted it by voting on June 30, 2003 at the session of the Managing Board.

Standards of Judicial Ethics are a product of the Judges' Association of Serbia, but it is the idea of the Managing Board that they become the ethical imperative of all judges, a way of thinking, the inner standard of everyone who takes the law in his/her hands and says: „In the name of the people...“. In the name of the people, judges ought to be the healthiest, the best part of the society, with strong professional and human qualities, fair and just. In the name of the profession and the rule of law, every judge should recognize his/her moral standards in the *Standards of Judicial Ethics*. They will then direct his/her work, as well as conduct outside of the court. Every moment of his/her life, a judge carries the burden of his/her profession which obligates him/her to behave in a moral and honorable way, worthy of dignity that such a profession offers.

The Judges' Association of Serbia plans to offer Standards of Judicial Ethics to all the judges in Serbia, in hope that they will recognize the need to honor these standards and accept them as general, and the highest, ethical rules to be applied in their professional and private lives. That is how we shall all, together, protect the honor and dignity of our profession.

THE MANAGING BOARD OF
THE JUDGES' ASSOCIATION OF SERBIA

**THE CODE
OF JUDICIAL ETHICS**

*„All judges shall judge according to the law,
rightly, as it is written in the code,
and shall not judge out of fear of the emperor.“*

(Article 172 from The Code of
Emperor Stefan Dušan from 1347)

Aware that judges decide over life and death, freedom and detention, property and estate, human rights and suffering, truth and lies, the use and abuse of rights, constitutionality and legality, the members of the Judges Association of Serbia, accountable for the public trust they have and with responsibility required by their profession, define

THE CODE OF JUDICIAL ETHICS

Be independent

Canon 1

The judge shall decide matters in accordance with the law and on the basis of facts, without restrictions, outer or inner influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

Be just

Canon 2

The judge shall recognise what is rightful for everyone, in equal proceeding in equal matters, in unequal proceeding in unequal matters proportionally to their unequalness, and in treating others as themselves.

Be professional

Canon 3

The judge shall perform his / her duty expertly, conscientiously, impartially, objectively, diligently, efficiently and with dignity, paying attention to the chronology of acceptance of cases and their importance, i.e. their nature.

Be free

Canon 4

The judge shall be free to decide and therefore he / she must be able to resist day-to-day politics, centres of power, public opinion, prejudices, temptations, vices, passions, private and family interests and other inner and outer influences.

Be brave

Canon 5

The judge must resist threats, blackmail and other attacks on his / her personality and the dignity of the court.

Be appropriate

Canon 6

The judge shall refrain from any proceeding which is not appropriate or appears to be inappropriate, as well as proceedings which cause mistrust, rouse suspicion, weaken confidence or in any other way deteriorate trust in the court and its objectivity.

Be incorruptible

Canon 7

The judge shall not arbitrate gaining or expecting any benefit for him / herself or anyone else.

Be committed

Canon 8

The judge must be committed to his / her vocation; therefore he / she cannot be engaged in some other service, work or activities if this deteriorates trust in the court, the reputation of the court and the independence of judicial authority. However, in accordance with this Code the judge may be engaged in scientific, professional, literary or artistic work.

Be apolitical

Canon 9

The judge is allowed to have his / her persuasion, but he / she must restrain from improper political activities and must not allow politics to influence decisions of the court.

Be loyal to the code

Canon 10

Standards of ethical conduct of judges, established by this Code, shall become a philosophy and way of life of all judges.

THE JUDGES ASSOCIATION OF SERBIA

**STANDARDS OF
JUDICIAL ETHICS**

STANDARDS OF JUDICIAL ETHICS

*„All judges shall judge according to the law,
rightly, as it is written in the code,
and shall not judge out of fear of the emperor.“*

(Article 172 from The Code of
Emperor Stefan Dušan from 1354)

All judges of Serbia, aware that, in performing their judicial duties, they decide over life and death, freedom and detention, property and estate, human rights and suffering, truth and lies, the use and abuse of rights, constitutionality and legality, in order to enhance and maintain the dignity of the profession, and accountable for the public trust, hereby adopt these Standards of Professional Conduct to which all judges should aspire in the realization of the universal principles of judicial power - judicial independence, impartiality, justice, rule of law, public confidence in the judiciary and respect for the court.

1. INDEPENDENCE

Canon

Each judge should uphold and exemplify judicial independence at an individual and at an institutional level, this being a pre-requisite to the rule of law and to the fundamental guarantee of a fair trial. A judge shall decide matters in accordance with the law and on the basis of facts, without restrictions, outer or inner influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

Principles:

1. A judge shall exercise his or her judicial functions independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

2. A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.

3. A judge shall encourage and uphold safeguards for the discharge of his or her judicial duties in order to enhance public confidence in the independence of the court.

4. A judge shall on every occasion defend the independence of the court from political pressure and influence, so that a reasonable person would find the judge to be independent from political influences.

2. IMPARTIALITY

Canon

A judge shall recognise what is just for everyone, proceeding proportionally according to the circumstances and treating others as them-

selves. A judge shall be and appear to be impartial. This is essential not only to the decision itself but also to the process by which the decision is made.

Principles:

1. A judge shall perform his or her judicial duties without favor, bias or prejudice, particularly with regard to race, sex, national origin, religion or age. Judicial decisions shall be reached by taking into account all considerations material to the application of the relevant rules of law, and excluding from account all immaterial considerations.

2. A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession, and the litigants, in the impartiality of the judge and of the judiciary, and creates an appearance of impartiality in the eyes of average citizens.

3. A judge shall not knowingly, while a proceeding is or could come before him or her, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the court. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

4. A judge must avoid participation in political activities that could compromise the independence of the judge or impair the impression of impartiality. A judge must also refrain from any conduct that may give rise to an appearance of improper political activity. A judge should not take part in political public discussions, except in respect to matters directly affecting the operation of the courts, the independence of the judiciary, or fundamental aspects of the administration of justice.

5. A judge is free to participate in civic, charitable and religious activities, but should avoid any activity or association that could reflect adversely on his or her impartiality or interfere with the performance of judicial duties.

6. Except as provided by law, a judge shall not communicate with any party to the proceedings in a case before the judge without either including the other parties to the proceedings or obtaining their consent.

7. A judge shall make reasonable endeavors to behave in such a way as to minimize the occasions in which it will be necessary for the judge to be disqualified from hearing or deciding cases, and shall disqualify himself or herself when the judge is unable to decide a matter impartially, or when it may appear to a reasonable observer that the judge is unable to decide the matter impartially.

8. A judge shall, in his or her personal relations with individual members of the legal profession who practice regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or of partiality.

9. A judge should show circumspection in relations with the media. A judge should maintain independence and impartiality by refraining from exploiting any prior relations with the media or making any unjustified comments on the cases the judge is handling.

3. PROFESSIONALISM

Canon

A judge should maintain a high degree of professional competence and shall perform his or her duties professionally, conscientiously, impartially, objectively, diligently, efficiently and with dignity, paying close attention to the chronology of the acceptance of cases and to their nature.

Principles:

1. A judge shall endeavour to constantly advance his or her professional skills and competences through basic and further training, in order to improve the quality of judicial protection.

2. The professionalism of a judge shall be determined by knowledge, skills, personal qualities, preparedness, efficiency, promptness, quality and timeliness of decisions, literacy and diligence.

3. A judge shall take reasonable steps to maintain and enhance professional awareness, skills and personal qualities necessary for the proper performance of judicial duties.

4. A judge shall perform all judicial duties efficiently, fairly and with reasonable promptness.

5. A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.

6. Confidential information acquired by a judge in his or her judicial capacity shall not be used or disclosed by the judge for any purpose not related to the judge's official duties.

4. INTEGRITY

Canon

A judge should strive to conduct himself or herself in such a way so as to enhance the integrity of high judicial office, to be brave, to resist threats, blackmail and other attacks on his or her personality and dignity, and to avoid impropriety in all activities.

Principles:

1. A judge should conduct himself or herself with integrity, in both professional and personal life, and shall not use hate speech, impolite and rude behavior, or any other improper conduct.

2. A judge shall refrain from any conduct that is or appears to be inappropriate with his or her office, as well as conduct that causes mistrust, rouses suspicion, weakens confidence or in any other way erodes trust in the court or its objectivity.

3. As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.

4. A judge shall not use or lend the prestige of judicial office to advance the private interests of the judge, a member of the judge's family, or of anyone else; nor shall a judge convey or permit others to convey the impression that anyone is in a special position to improperly influence the judge in the performance of his or her judicial duties.

5. In carrying out his or her official duties, a judge shall not gain or expect any benefit, either for himself or herself or for anyone else, and shall refrain from any conduct which might create or maintain the appearance of corruption in the court.

6. A judge and members of the judge's family shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties, nor knowingly permit court staff to do so.

5. COMMITMENT

Canon

The judge must be committed to his or her vocation, and therefore cannot be engaged in some other service, work or activities if this erodes trust in the court, the reputation of the court or the independence of judicial authority.

Principles:

1. The judicial duties of a judge take precedence over all other activities.

2. A judge shall devote his or her working time to judicial functions, which include not only the performance of judicial duties and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.

3. Subject to the proper performance of judicial duties, a judge may:

- write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
- appear at public hearings before official bodies concerned with matters relating to the law, the legal system, the administration of justice or related matters;
- serve as a member of official bodies or other government commissions, committees, or advisory bodies, if such membership is consistent with the perceived impartiality and political neutrality of the judge;
- take part in scientific, literary and artistic work and other activities, provided that such activities do not undermine the dignity of judicial office or otherwise interfere with the performance of judicial duties.

4. A judge may receive compensation and reimbursement of expenses for extra-judicial activities that are consistent with these Standards, if such payments do not give the appearance of influencing the judge in the performance of his or her judicial duties, or otherwise give the appearance of impropriety. Any compensation or reimbursement shall not exceed an amount that a person who is not a judge would receive for the same activities

**6. COMMITMENT TO THE STANDARDS
OF JUDICIAL ETHICS (TO THE CODE)**

Canon

These Standards of judicial ethics shall govern the conduct and dictate the values, ideas, and way of life of all judges.

Principles:

1. A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.

2. The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

3. A judge, in addition to observing personally these Standards, shall encourage and support their observance by others.

THE JUDGES ASSOCIATION OF SERBIA

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