JUDICIAL

SERVICE

SUPREME COURT OF CYPRUS

GUIDE TO JUDICIAL CONDUCT

(Fourth Revision, September 2020)

A. INTRODUCTION

Subject to the provisions of the Constitution, of statute law and of the case law, this Guide on Judicial Conduct is based on the Bangalore principles of Judicial Conduct and the Guide to Judicial Conduct of England and Wales. It contains core guiding principles on judicial conduct to enhance Judicial Integrity. These principles are intended to offer guidance and assistance to judges (the term includes both men and women of the judiciary) who are responsible for their own decisions as to whether a certain activity or conduct is appropriate or not.

This Guide to Judicial Conduct is issued within the spirit of the Commentary on the Bangalore Principles of Judicial Conduct, UNODC, September 2007 (comments in relation to paragraph 19), of MAGNA CARTA OF JUDGES (Fundamental Principle) issued by the Consultative Council of European Judge, CCJE (2010) 3 Final, Strasbourg, 17 November 2010 (paragraph 18) and of the Opinion No.3 of CCJE (Paragraphs 48[i]) and of the Guide to Judicial Conduct of England and Wales (Part 1: Introduction, Opening Remarks).

It contains a set of core principles which will help judges reach their own decisions as to whether a certain activity or conduct is appropriate or not. These principles entail that judges are accountable for their course of conduct, which may, depending on the severity of the misdemeanour/ misconduct, result to disciplinary action.

In cases of difficulty or uncertainty, judges should always seek advice from the President of their Court.

This Guide is also intended to assist the members of the executive and legislative power, lawyers, as well as society in general, in order to acquire a better understanding and to support the judicial system.

1. GFNFRAI PROVISIONS
2. This Guide to Judicial Conduct («the Guide») applies to all Judges of the Republic.
3. The legal nature of this Guide for Guidance and Assistance to Judges with a corresponding assignment of their own responsibility for their choice of course of conduct, is indicated in the INTRODUCTION.
4. Therefore, non-conformity with the provisions of the Guide does not necessarily constitute a disciplinary offence, but it would, depend on factors such as the severity of non-compliance, the consequences of it to third parties, or to the judicial system as a whole, or whether there is a consistent pattern of impropriety / misconduct of such kind. Nevertheless, these guiding principles are binding and constitute the quintessence of judicial conduct and any breach of them may result to disciplinary action, in accordance with Articles 133 and 153 of the Constitution in as far as the President and the Justices of the Supreme Court are concerned and Article 1 57 of the Constitution in as far as judicial officeholders of inferior courts are concerned. The applicable procedure is laid down in the Rules of Court of 2015 and 2000, respectively.
5. For this Guide's interpretation and better implementation, the Bangalore Principles of Judicial Conduct and the Commentary on the Bangalore Principles of Judicial Conduct, shall apply. Useful guidance may also be drawn from the Guide to Judicial Conduct of England and Wales, as revised from time to time (latest publication March 2019) and from relevant case law and bibliography.
6. In this Guide, the following meanings shall be attributed to the words used:

«Judge's family» includes a judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other close relative who lives in the judge's household.

«Judge's spouse» includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

1. A judge is always expected to demonstrate conduct that beseems the judicial office.
2. INDEPENDENCE

Judicial independence is not a personal judicial privilege but a right of the citizen. It is the cornerstone of a democratic society and a safeguard of the freedom and rights of the citizen under the rule of law.

The judiciary must be and be seen to be independent of the legislative and executive arms of government and of all other sources of power or influence in society, including the media and commercial interests.

* 1. A judge shall exercise the judicial function 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 parties to a dispute which the judge has to adjudicate.
  3. A judge shall not only be free from inappropriate connections with, and influenced by, the executive and legislative branches of government, but must also appear, to a reasonable observer, to be free therefrom.
  4. In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.
  5. A judge shall encourage and uphold safeguards for the discharge of judicial duties, in order to maintain and enhance the institutional and operational independence of the judiciary.
  6. A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

1. IMPARTIALITY

Impartiality is an utter commitment compelled by the judicial oath itself. Judges must ensure that their conduct, both in and out of court, must be and be seen to be, impartial and free from bias.

* 1. A judge shall perform his or her judicial duties without favour, bias or prejudice.
  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 litigants in the impartiality of the judge and of the judiciary.
  3. A judge shall, so far as is reasonable, conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.
  4. A judge shall not, while a proceeding is before or could come before the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.
  5. In accordance with the Judicial Practice Direction of 17th March 1 988, as it was subsequently amended, a judge, shall apply the principles as laid down by the case law in relation to actual or objective bias and shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:
     1. The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings,
     2. The judge previously served as a lawyer or was a material witness in the matter in controversy, or
     3. The judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy.

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1. INTEGRITY
   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 trust in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.
2. PROPRIETY
   1. A judge shall avoid impropriety and the appearance of impropriety in all of his or her activities.
   2. 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 general, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
   3. A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.
   4. A judge shall not participate in the determination of a case in which, knowingly to the judge, a member of the judge's family is associated in any manner with the case.
   5. A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.
   6. A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
   7. A judge shall not participate in the determination of a case in which, he or she, or, knowingly to the judge, a member of the judge's family has any sort of significant financial interest in the outcome of the case. A judge shall inform himself or herself about his or her personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of his or her family.
   8. A judge shall not allow the judge's family, social or other relationships to improperly influence his or her judicial conduct and judgment as a judge.
   9. A judge shall not use or lend the prestige of the 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.
   10. Confidential information acquired by a judge, in the judge's judicial capacity, shall not be used or disclosed by the judge for any other purpose not related to the judge's judicial duties.
   11. 1. Subject to the proper performance of judicial duties, a judge may:
   12. .1. Write, lecture and participate in activities concerning the law, the legal system, the administration of justice or related matters.
   13. 1.2. Appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters.
   14. 1.3. Serve as a member of an official body, or commission, or committee or advisory body, if such membership is not inconsistent with his or her duties, the perceived impartiality and political neutrality of a judge, or
   15. 1.4. Engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.



C. GUIDING PRINCIPLES

* 1. 2. A judge shall not practise law whilst the holder of judicial office.
  2. 3. A judge may join associations of judges or participate in other organisations representing the interests of judges.
  3. 4. A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour 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.
  4. A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
  5. ό. Subject to any law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of his or her judicial duties or otherwise give rise to an appearance of actual partiality.
  6. A Judge shall avoid, when invited by advocates' chambers or other firms, or chambers or offices, to take part in activities, whose purpose may be or may be perceived to be the professional or marketing promotion of the chamber, firm or office.

1. EQUALITY
   1. A judge shall be aware of, and understand, diversity in society and differences arising from various sources including, but not limited, to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes.
   2. A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

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* 1. A judge shall carry out his or her judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.
  2. A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.
  3. A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.
  4. For the purposes of paragraph 5, "irrelevant grounds" refer to the grounds mentioned in the aforementioned paragraph 5.1, such as race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes.

1. COMPETENCE AND DILIGENCE
   1. The judicial duties of a judge take precedence over all of his or her other activities.
   2. A judge shall devote his or her professional activity to judicial duties, which include, not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.
   3. A judge shall take reasonable steps to maintain and enhance his or her knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.
   4. A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.

C. GUIDING principles'^

* 1. A judge shall perform all judicial duties, including the delivery of reserved judgements, efficiently, fairly and with reasonable promptness.
  2. A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, 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 his or her influence, direction or control.
  3. A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

D, GUIDANCE on specific issues

Subject to what was mentioned above, this Part of the Guide, contains guidance on a number of specific issues.

1. Personal relationships and perceived bias

Subject to the compelling provisions of the Judicial Practice Direction of 17th of March 1988, as amended by the Supreme Court's decisions up to the date of 1 1th of February, 2019 (Official Gazette of the Republic of Cyprus, Annex II, Part I, Procedure Rules, Number 4120, 15th of February, 2019) and, subject to the provisions of paragraph 2.5 above, guidance in relation to a judge's personal relationships, when he or she is called to adjudicate / sit on a particular case, with parties to litigation, lawyers or witnesses, is to be provided by the settled principles of the case law (a non-exhaustive reference is made to the following cases: Pitsillos v. Evgeniou (1989) 1 CLR 691, Apostolidou v. Republic (2002) 3 CLR 80, Michaelides v. Republic, Criminal Appeal 125/2017, 26/4/201 8, De Cubber v. Belgium [ 1984] 7 EHRR 236, Hauschildt v. Denmark [1989] 12 EHRR 266, Nicholas v. Cyprus, No. 63246/10, 9/2/2018, Locabail (UK) Ltd v Bayfield Properties Ltd [2002] QB 451, R v Bow Street Magistrates ex parte Pinochet (No.2) [2000] 1 AC 1 19, Re Medicaments and Related Classes of Goods (No. 2) 1 WLR 700, M v Islington LBC [2002] 1 FLR 95 and Lawal v Northern Spirit Ltd [2003] UKHL 35).

Where appropriate the judge may confer and consult a colleague.

Specifically:

1. A judge shall not try a case in which he or she has a close family relationship with a party or the spouse or domestic partner of a party. The term «spouse of a party» has an equivalent meaning to the term «Judge's spouse».
2. Friendship with, or personal animosity towards a party is also a compelling reason for disqualification. Friendship may be distinguished from acquaintanceship which may or may not be an adequate reason for disqualification, depending on the nature and extent of such acquaintanceship.

D. GUIDANCE ON SPECIFIC ISSUES

1. A current or recent business association with a party will usually mean that a judge should try a case. Members of the judiciary should disqualify themselves from a case in which their lawyer, accountant, doctor, dentist or other professional adviser is a party to the case. A business association would not normally include that of insurer and insured, banker and customer or council taxpayer and council.
2. Friendship or past professional association with counsel (lawyer) acting for a party is not generally to be regarded as an adequate reason for disqualification.
3. The fact that a relative of the judge, other than those to whom the aforementioned Judicial Practice Direction applies, is a partner in, or employee of, a firm of lawyers engaged in a case before the individual judge does not necessarily require disqualification. It is a matter of considering all the circumstances, including the extent of the involvement in the case of the person in question.
4. Past professional association with a party as a client need not of itself be a reason for disqualification but the judge must assess whether the certain circumstances could create an appearance of bias.
5. Where a witness (including an expert witness), is personally well known to the judge, all the circumstances should be considered that may entail the risk of undermining impartiality, including whether the credibility of the witness is in issue, the nature of the issue to be decided and the closeness of the friendship.
6. A judge should strive to ensure that his or her conduct does not encourage unjustified disqualification objections from lawyers for sitting on a case. It is settled precedent law that in order to safeguard the clarity / transparency of the procedure for the proper administration of justice, a correct appraisal to the judicial duty must be given and not to any subjective judicial sensitivity. A different approach would result in acknowledging a right to the party to litigation to choose his or her trial judge.

D. GUIDANCE ON SPECIFIC ISSUES

1. If under the circumstances, a well-founded ground of lack of actual impartiality or lack of apparent impartiality arises, the judge must, subject to the below, disclose it to the parties at the earliest possible convenience.
2. Whilst, generally, the consent of the parties is a relevant and significant factor, a judge should avoid putting the parties to such position since it might appear that consent is sought in order to remedy a reason for disqualification. Therefore, in clear cases where the judge does not have any doubt that he or she should disqualify himself or herself, the judge should not seek to know the position of the parties, since by doing so he or she is conveying the impression that he / she is seeking their consent despite having a good reason for disqualifying himself / herself. Even in situations where the parties, consent to the case being tried by a certain judge, the individual judge may find that there is sufficient reason to disqualify himself / herself. On the other hand, the judge may find that despite lack of consent, he or she should continue to hear the case.
3. Contact with the Legal Profession

Subject to the provisions of paragraph 4.3 above, as a matter of common sense, judges should avoid direct association with individual members of the profession who are engaged in current or pending cases before them. They should also bear in mind that too close a social relationship with a practitioner who is regularly involved in litigation before the judge's court may create a perception of bias.

1. Gifts, Hospitality and Social Activities

Subject to the provisions of paragraphs 4.1 4 and 4.16 above:

1. The acceptance of a gift or hospitality of modest value, as a token of appreciation, may be unobjectionable, subject to the provisions of the aforementioned paragraphs. For example, a judge who makes a speech or participates in some public or private function should feel free to accept a small token of appreciation.

D. GUIDANCE ON SPECIFIC ISSUES

1. Subject to the provisions of paragraph 4.17 above, the acceptance of invitations to lunches or dinners by legal and other professional and public bodies or officials, where attendance can be reasonably seen as the performance of a public or professional duty, carrying no degree of obligation, is entirely acceptable.
2. Judges who are in any doubt as to the propriety of accepting any gift or hospitality should seek advice from the President of their Court.
3. Commercial and other activities

Subject to the provisions of paragraph 4.1 1.4 above:

1. Judges may not hold commercial directorships, other than ones concerned with the management of family assets and may only hold non-commercial directorships where they relate to organisations whose primary purpose is not profit-related, and whose activities are of an uncontroversial character.
2. Judges may, with caution about the extent and nature of their involvement, involve in educational, charitable, religious and other organisations, on the condition that the involvement must not compromise judicial independence or put at risk the status or integrity of judicial office, it should not be so onerous or time consuming as to interfere with the judge's performance of his or her duties, the judge's role should not involve active business or other improper activities. Also, he or she shall not become a public spokesperson for an organisation, nor shall he or she get involved with the purpose of lending status or propriety / respectability to an organisation by virtue of judicial office.
3. Judges should avoid allowing the use of their name and capacity to be associated with a public appeal for funds, even for a charitable organisation. Such an appeal could amount to an inappropriate use of judicial prestige in support of the organisation and may also be seen as creating a sense of obligation to donors.
4. Judges may not accept office in governing bodies of universities, schools and similar institutions.
5. Judges should not accept invitations to sit on disciplinary panels.

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1. Political activity

Subject to the provisions of paragraph 4.6 above and subject to the self-evident prohibition of judges undertaking any kind of political activity or having ties with a political party:

1. A judge shall not have, nor shall he or she appear to have, any political ties, e.g. by attending / participating in political gatherings or events of a political cause.
2. Judges should not participate in public demonstrations which would associate them with a political viewpoint or cause, diminish their authority as a judicial officeholder or cast doubt on their independence and create a perception of bias.
3. Where a close member of a judge's family is politically active, the judge needs to bear in mind the possibility that, in some proceedings, that political activity might raise concerns about the judge's own impartiality and detachment from the political process and should act accordingly.
4. If a judge is known to hold strong views on topics relevant to a case, by reason of public statements or other expression of opinion, he or she should consider whether it would be appropriate to hear the case irrespective of whether the matter is raised by the parties. The risk will arise if a judge has taken part publicly in a controversial or political discussion.
5. Public Debate and the Media

Subject to the provisions of paragraphs 4.6 and 4.1 1.1 and 4.1 1.2 above:

1. Judges should exercise their freedom to talk to the media or in a public debate with caution.
2. Judges should be aware that, they should not comment publicly or in the press on politicly sensitive or controversial matters.

D. GUIDANCE ON SPECIFIC ISSUES

1. Judges should be aware that, they should not comment publicly or in the press on the merits of individual cases. They should also, refrain from answering public criticism of a judgment or decision. Judges should not air disagreements over judicial decisions in the press.
2. Judges should refrain from commenting publicly or in the press in a manner that risks undermining public perception in the impartiality and integrity of the judiciary or in a manner that a judge's comments may lead to recusal from a certain case in the future.
3. Social networking and blogging
4. Whilst the use of social networking is a matter of personal choice, judges' attention is drawn to the security aspects of this medium to personal and family safety as well as to the risks posed to the independence, integrity of the judiciary and to a judge's own dignified standing and reputation and of the judiciary as a whole.
5. Judges should not only refrain from posting information about their personal and family life but should also try to ensure that information about their personal and family life is not available online, such as e.g. their home address details, holiday plans and photographs of themselves or of their family members and their children which could potentially put them at risk.
6. Judges who blog or who post comments on other people's blogs must not identify themselves as members of the judiciary. They must also avoid expressing opinions which, were it to become known that they hold judicial office, could damage public confidence in their own impartiality or in the judiciary in general.
7. In any case, the use of social networking, either in a personal or judicial capacity, should be conducted in a manner that abides by, promotes and adheres to the Bangalore Principles of Judicial Conduct whilst taking into account the non-binding Guidelines on the Use of Social Media by Judges, issued in November 2018 by the Global Judicial Integrity Network which operates under the auspices of the United Nations.

D. GUIDANCE ON SPECIFIC ISSUES

1. Without prejudice to the aforementioned genera! rule that failure to conform with the guiding principles of this Guide may result in disciplinary action, it is hereby expressly stated that failure to adhere to this particular guidance, in relation to social networking and blogging, could ultimately result in disciplinary action.
2. Reporting personal involvement in court proceedings and criminal charges
3. Judges have an obligation to notify the President of their Court if they are aware of any matters relating to conduct which may affect their position or may reflect on the standing and reputation of the judiciary at large.
4. Without prejudice to the generality of the above, they must also notify the President of the Supreme Court if they are cautioned for, or charged with, any criminal offence other than a parking or minor traffic offence without aggravating circumstances.
5. Judges have an obligation to report to the President of their Court their involvement in any civil proceeding including family proceedings.
6. References

There is no objection in principle to a judge giving references for character or professional competence for people whom he or she knows well. Consideration should be given as to whether the judge is the appropriate person to give the reference requested.

1. Use of equipment

Judges should not use equipment, including IT equipment, provided by the Judicial Service for their official use, for other purposes which could bring them or the judiciary in general into disrepute.

E. COURT APPEARANCES BY MEMBERS '41^

OF THE “JUDGE’S FAMILY”

Judicial Practice Direction

dated 17th of March 1988, as amended by the Supreme Court's decisions of 21.7.1989, 18.9.2003, 30.1 1.200ό, 4.10.201 1, 8.3.2018, 28.1.2019 and 1 1.2.2019

By virtue of the constitutional provisions for securing equality before Justice (Article 28.1) and in order to safeguard the impersonal character of the Courts in the exercise of their judicial functions and in view of the acquired experience from the hitherto application of this judicial practice direction, the Supreme Court, acting within its competences, issues the following amendment:

1. A judicial officeholder should not try a case either singly (single-judge bench) or as a member of a judicial panel exercising jurisdiction of any instance, in which a member of the "judge's family" appears as an advocate as well as when the advocate before the Court is the employer of or an employee of or a partner in or a tenant in the same chamber, working under the same roof as the advocate in question.
2. (a) The term "judge's family" for the purpose of this judicial practice direction includes parents, spouse, children, children's spouses, siblings, siblings' children and siblings' spouses, as well as persons who have an in-law relationship with the judicial officeholder; parent-in-law - son-in-law/daughter-in-law, brother-in-law/sister-in-law or a co-parent-in-law relationship as well as a relatedness of spiritual affinity.
3. The term "judge's spouse" includes the judge's partner, regardless of gender or any other person who is in a close personal relationship with the judicial officeholder.
4. The term "spiritual affinity" means the relationship between a godparent and a godchild.

Any other relationship created by the holy sacrament of baptism is governed by the judicial recusal principles as laid down by the case law and the Guide to Judicial Conduct.

1. This judicial practice direction does not apply to cases before the Plenary of the Supreme Court or to court appearances of a typical character. The Plenary of the Supreme Court means the Full Bench of the Court, composed of at least seven of its members.
2. It is understood that this judicial practice direction bears no retrospective effect with regard to cases already pending before the Court for hearing continuance and/or judgment.
3. It is further understood that the term "chamber" does not include the Law Office of the Republic of Cyprus.