

CODE OF ETHICS FOR THE BEHAVIOUR OF BULGARIAN MAGISTRATES

THE MAGISTRATES WORKING IN THE JUDICIAL SYSTEM OF THE REPUBLIC OF BULGARIA

Guided by the understanding that **rules** on the ethical behaviour of magistrates are an important factor for:

- developing higher public confidence in the judicial system;
- protecting human rights and upholding the rule of law;
- preventing and limiting corruption in the judicial system.

undertake as their commitment before Bulgarian society the requirement to comply with and introduce in their professional work and in their **personal life** the rules of ethical behaviour described herein.

The Supreme Judicial Council, as the highest administrative and guidance body of the judicial system in Bulgaria, shall adopt the CODE OF ETHICS FOR THE BEHAVIOUR OF BULGARIAN MAGISTRATES and shall be mainly responsible for the implementation of the rules of behaviour enshrined in it in the magistrates' work and personal life.

FIELD OF APPLICATION

The Code of Ethical Behaviour shall apply to all judges, prosecutors and investigators, members of the Supreme Judicial Council, inspectors at the Inspectorate of the Supreme Judicial Council, referred to hereinafter as Magistrates

SOURCES

This Code has been drawn up in compliance with the Constitution of the Republic of Bulgaria, the Judicial System Act, the recommendations of the Committee of Ministers of the Council of Europe on the status of judges, prosecutors and investigating authorities as well as with all other national and international acts which regulate the work of magistrates in the Republic of Bulgaria.

Section I

MAIN PRINCIPLES

The main principles establish the standards and draw the framework for regulating the magistrates' behaviour both at work and outside it.

INDEPENDENCE

In the meaning herein independent shall be a magistrate who in the course of performing his/her official duties is guided solely by his/her inner conviction and the law and does not succumb to pressure, threats, incentives, direct or indirect influence by representatives of any other power – public or private, internal or external to the judicial system.

IMPARTIALITY

Impartial shall be a magistrate who establishes the truth of the facts solely on the basis of an objective analysis of the evidence in the case, **creates conditions for equality between the parties and their procedural representatives and avoids** behaviour which might be accepted as offering privileges, predisposition, bias or prejudice based on race, origin, ethnicity, gender, religion, education, beliefs, political affiliation, personal or public status or property status.

FAIRNESS AND TRANSPARENCY

Fair shall be a magistrate who, within the general and abstract norms of the law, takes into consideration the specificities of every individual case and decides it on the basis of criteria related to the general human values and the values of the democratic legal order.

Transparency in the magistrate's actions and acts is a guarantee for the fairness of the decisions made by him/her.

CIVILITY AND TOLERANCE

Civil shall be a magistrate who through his/her actions and acts always expresses the respect he/she owes his/her colleagues, **citizens**, lawyers, parties and the other participants in the proceedings.

Tolerant shall be a magistrate who is open and patient to hear and perceive new or different arguments, opinions and points of view.

HONESTY AND PROPRIETY

Honest shall be a magistrate who outside the law does not accept tangible or intangible favours which might place in doubt his/her independence and impartiality.

Propriety means refraining from any actions that might compromise the magistrate's honour in the profession and in society.

COMPETENCE AND QUALIFICATION

Competent and qualified shall be a magistrate who is well-trained, who knows the normative framework of the Republic of Bulgaria and European Union law and has developed capacities and skills to apply them correctly.

Competence and qualification are a prerequisite for the proper implementation of the magistrate's responsibilities and for his/her professional progress.

CONFIDENTIALITY

Confidential shall be a magistrate who is discreet and keeps as **official** secret the facts or information that he/she has become aware of in the course of the implementation of his/her official duties.

Section II

RULES FOR ETHICAL BEHAVIOUR ENSUING FROM THE MAIN PRINCIPLES

1. Rules for ethical behaviour ensuing from the principle of INDEPENDENCE

Independence is a prerequisite for establishing the rule of law and a guarantee for protection of the fundamental human rights and constitutional values.

APPLICATION

1.1. The magistrate shall exercise his/her powers and make decisions solely on the basis of the law and his/her inner conviction;

1.2. The magistrate shall not allow and shall not succumb to any external influence, pressure, threats, direct or indirect interference in his/her work regardless of their source, cause or reason;

1.3. When making decisions the magistrate shall be independent and shall not be influenced by the opinions of his/her colleagues but shall not take actions that might infringe upon their independence;

1.4. With his/her actions and behaviour outside the office the magistrate shall protect and establish in society the concept of independence of the judiciary and **shall not succumb** to influences – direct or indirect – by whatever power – public or private, internal or external to the judicial system.

1.5. The magistrate shall be **obliged** to inform the judicial authorities and the public of any attempt to infringe upon his/her independence.

2. Rules for ethical behaviour ensuing from the principle of IMPARTIALITY

Impartiality concerns equally the acts of magistrates on the application of material and procedural law and ensues from the right of the participants in the proceedings to be treated equally.

APPLICATION

2.1. The magistrate shall respect the dignity of any person both when he/she exercises his/her official duties and outside the office and shall not allow preference, bias or prejudice on the basis of race, origin, ethnicity, gender, religion, education, beliefs, political affiliation, personal or public status or property status;

2.2. The magistrate shall uphold his/her impartiality also in the cases when in society there are strong sentiments or sympathy or antipathy towards the participants of proceedings pending before him/her and shall decide the case solely on the basis of the facts and the law;

2.3. The magistrate may not make public statements or comments on cases pending before him/her through which the outcome of the case is prejudged or an impression is created of bias or prejudice. Outside the courtroom he/she may not discuss such cases in front of other participants in them, lawyers or third parties, **save for the cases provided for by law**;

2.4. The magistrate shall behave in a manner that would **not give grounds, directly or indirectly**, his/her consideration of specific cases to be challenged;

2.5. The magistrate must respect the rights of the parties to express opinions, to make allegations and objections within the proceedings in which they participate;

2.6. The magistrate shall not give consultations on legal matters.

3. Rules for ethical behaviour ensuing from the principle of FAIRNESS AND TRANSPARENCY

The requirement for fairness ensues from the impossibility to regulate all cases and relationships occurring in life through legal norms.

The requirement for transparency ensues from the constant need of society to be convinced of the legality and fairness of the magistrates' acts and actions.

APPLICATION

3.1. The magistrate shall enact his/her decisions only after he/she is convinced that they are fair within the law for all participants in the proceedings. He/she shall be particularly attentive when deciding matters related to freedom and the reputation of citizens;

3.2. Where the law gives the magistrate the option to decide certain matters on the basis of judgment the guiding principle for him/her shall be the requirement for fairness;

3.3. In compliance with the requirements of the law the magistrate shall provide the public with useful, timely, comprehensible and proper information;

3.4. The magistrate shall guarantee within the law publicity of his/her actions and decisions taking care at the same time not to infringe upon the legal rights and interests of the participants in the proceedings;

3.5. He/she shall present to the public, personally or through the media, the grounds for his/her decisions on **cases that represent public interest** and at the same time he/she shall avoid behaviour and actions that may be interpreted as self-promotion or excessive quest for public recognition

4. Rules for behaviour ensuing from the principle of CIVILITY AND TOLERANCE

The requirements for civility and tolerance are based on the morality and upbringing inherent to the magistrate and contribute both to the better implementation of his/her official duties and to the more efficient functioning of the judicial system itself.

APPLICATION

4.1. The magistrate's behaviour in society should be based on good manners and good conduct and in public and official contacts he/she shall be courteous and polite;

4.2. The magistrate shall be honest, polite and civil both in his/her work and in personal life and shall treat people with respect and shall abide by their rights and freedoms;

4.4. Relations with colleagues between magistrates and employees in the judicial system, regardless of their place in the official hierarchy, shall be based on mutual respect and tolerance through abstaining of any behaviour that damages the reputation of the judicial authorities.

5. Rules for behaviour ensuing from the principle of HONESTY AND PROPRIETY

Honesty and propriety have substantial importance for the trust in, the reputation and the overall work of the magistrate.

APPLICATION

5.1. The magistrate may not receive favours from third parties which could reasonably be perceived as a result of compromise with his/her honesty and fairness in the course of exercising his/her professional duties.

5.2 The honest magistrate shall not sneak and shall not plot against his/her colleagues and employees and shall express his/her positions openly.

5.3. The magistrate shall avoid acts and actions that are at variance with the views of propriety existing in society;

5.4. In his/her public and official contacts the magistrate shall not be entitled to use his/her official position or his/her powers with the aim to obtain personal gain;

5.5. With his/her personal conduct and sense of responsibility in his/her official and unofficial work the magistrate shall set an example of high morality and propriety;

5.6. The magistrate shall refrain from any actions that might compromise his/her honour in the profession and in society;

5.7. The magistrate must have irreproachable reputation;

5.8. The magistrate shall be consistent and unswerving in complying with the legal and ethical norms;

5.9. In his/her career development the magistrate shall not use personal contacts (connections, intercession) neither shall he/she act in a manner that damages his/her dignity.

6. Rules for behaviour ensuing from the principle of COMPETENCE AND QUALIFICATION

The requirement for competence and continuous qualification of magistrates ensues from the right of the participants in the proceedings and of society as whole to receive lawful legal acts.

APPLICATION

6.1. The magistrate shall perform his/her official duties as a matter of priority before any other activity.

6.2. The magistrate must strive to enhance his/her professional qualification and training and must take the necessary measures to maintain and increase his/her knowledge, skills and personal qualities for the proper exercise of his/her powers.

6.3. The magistrate **should be informed** of the respective novelties in domestic and international law.

7. Rules of behaviour ensuing from the principle of CONFIDENTIALITY

Confidentiality ensues from the need to protect the rights of the parties and their relatives against illegal use of information and data;

7.1. The magistrate shall be obliged to be absolutely discreet and in his social communications and personal life to keep **official** secrets in relation to the facts or information that he/she has become aware of in the course of performing his/her official duties and to require this from the judicial employees.

7.2. The magistrate may not use illegally the information that he/she has become aware of in the course of performing his/her functions;

7.3. The magistrate may discuss legal matters from the point of view of principle and in such cases he/she shall be obliged to keep in confidence the specific facts in the files and the cases on citizens' personal lives and ones that harm the interests of persons or their reputation;

7.4. The magistrate shall not be entitled to express publicly a preliminary position on specific files or cases;

7.5. The magistrate shall be free to express personal opinions in the media on any issues which are not expressly prohibited by law;

7/6. The magistrate who is a member of a collegiate body must keep in

confidence the proceedings therein.

Section III

SPECIFIC RULES FOR ETHICAL BEHAVIOUR OF ADMINISTRATIVE HEADS

8.1. The **magistrate who is in a leading position** shall treat his/her subordinate magistrates and judicial employees with respect and consideration for their personal dignity and shall not allow or create an impression of favouring anyone.

8.2. The magistrate in a leading position shall not succumb to any pressure and suggestions made in a manner that is inadmissible by law in cases of appointment, transfer or career development of his/her subordinate magistrates. Transparency of his/her actions in this respect is a guarantee of fairness, objectivity and best selection.

8.3. The magistrate in a leading position shall attend to the organisation and work of the office that he/she has been assigned with in a manner through which best results would be achieved. He/she shall ensure the best possible cooperation with the other judicial authorities and public services respecting the specific competences of any one of them.

8.4. The magistrate in a leading position shall strive to be informed of everything happening in the office that he/she leads in order to be able to make the correct management decisions and to take responsibility. **He/she shall not tolerate and shall curb forthwith acts of calumny and intrigue.**

8.5. The magistrate in a leading position shall see to it that his colleagues and the administrative staff **draw up their acts on time** and shall take the necessary measures within his/her powers.

8.6. The magistrate in a leading position shall be the main guarantor for upholding the independence of magistrates when making decisions and for complying with the principle of random distribution of files and cases.

Section IV

RULES FOR PREVENTING CONFLICTS OF INTEREST

9.1. The magistrate shall not allow himself/herself to participate in proceedings when there is a conflict of interest. In case of doubt of such

a conflict he/she shall be obliged to announce the facts and, if need be, shall withdraw;

9.2. The magistrate shall not participate in whatever way in party or political activity and shall not become involved in political or business circles of influence;

9.3. The magistrate may not occupy any other position, perform any other activity or exercise a profession save for the ones provided for in the Judicial System Act;

9.4. The magistrate shall not use his/her official position in order to exert influence in favour of a private interest;

9.5 The magistrate shall declare incompatibility and private interests in the cases and within the time-frames provided for in the Conflict of Interests Prevention and Disclosure Act;

9.6. The magistrate shall declare his/her income and property under the procedures and terms in the Publicity of the Property of Persons Occupying High Government Positions Act.

Section V

GUARANTEES FOR COMPLIANCE WITH THE ETHICAL RULES OF BEHAVIOUR INTRODUCED HEREBY

The main guarantor for complying and applying the provisions of this Code shall be the magistrates themselves through their conviction, involvement and voluntary adoption and implementation of the **ethical rules of behaviour**.

The Supreme Judicial Council shall exercise overall control over the application of and compliance with the Code of Ethics and shall take action periodically to refresh and update the provisions provided for herein.

The Professional Ethics Commission of the Supreme Judicial Council and the professional ethics commissions of the bodies of the judiciary shall **exercise direct and immediate control over the application of and compliance with the Code of Ethics**.

The professional associations of the magistrates shall **take the actions provided for in their statutes *vis a vis* any established case of violation of these ethical rules of behaviour**.

Section VI

FORMATION AND STATUTE OF THE PROFESSIONAL ETHICS COMMISSIONS AT THE BODIES OF THE JUDICIARY

Professional Ethics Commissions shall be established **at the regional courts and prosecution offices in the regional centres**, the regional and appellate structures of the judiciary bodies, at the Supreme Court of Cassation, the Supreme Administrative Court, the Supreme Cassation Prosecutor's Office, the Supreme Administrative Prosecutor's Office and the National Investigation Service.

The personal composition and the number of the members of each commission shall be decided by the general meeting of each structure.

The professional ethics commissions at the bodies of the judiciary shall be subsidiary organs of the Standing Commission of the Supreme Judicial Council on Professional Ethics and for Combating Corruption.

Their main task and purpose shall be to provide **consultations**, advice, to give opinions and positions in relation to the implementation of the rules for ethical behaviour and in cases of conflict of interests.

The Professional Ethics Commissions of the bodies of the judiciary shall give opinions on:

- evaluation of judges, prosecutors and investigators on the indicator "compliance with the rules for ethical behaviour";
- in case of disciplinary proceedings for violation of the rules for ethical behaviour instituted by the administrative heads;
- in case of signals and complaints received from citizens for actions of magistrates that are incompatible with the rules for ethical behaviour.

They shall contribute to neutralising and settling in the best possible way occurring conflicts between judges, prosecutors or investigators.

They shall notify the Standing Commission of the Supreme Judicial Council on Professional Ethics and for Combating Corruption in case of serious violations of the rules for ethical behaviour by judges, prosecutors or investigators.

CLARIFICATIONS:

Private power – bearers of private power, in the meaning herein, shall be citizens that have no employment or official relationships with a government or municipal body, legal person or organisation.

Magistrates, in the meaning herein, shall be judges, prosecutors, investigators, members of the Supreme Judicial Council, inspectors of the Inspectorate at the Supreme Judicial Council.

Other relatives, in the meaning herein, shall be relatives in direct line as well as the ones in collateral line up to the 4th degree.

This Code of Ethics of Bulgarian Magistrates was approved with a decision of the Supreme Judicial Council of 2008 in minutes No. of

Control over the implementation and the obligation to draw up proposals for periodic updating is assigned to the Standing Commission of the Supreme Judicial Council on Professional Ethics and for Combating Corruption.