

**COMMENTARY TO THE
JUDICIAL ETHICS RULES OF GEORGIA**

FOREWORD

It is generally recognized that a fair, independent, and impartial judiciary is one of the essential guaranties for democracy in a state. The ongoing judicial reform in Georgia is aimed at the establishment of the judiciary of the kind described above. In this view, many steps have been taken – new normative acts have been passed, existing legislation has been amended, High Council of Justice of Georgia gained complete independence by increasing the membership of judges to the majority and etc. Numerous other measures have been implemented to ensure independence, impartiality and fairness of the Georgian judiciary based on the experience of the democratic rule of law countries of the world.

However, none of the laws, even the most perfect and democratic laws will be able to ensure judicial independence and impartiality unless this becomes an inherent obligation of each individual judge. Judges must not only be proficient in knowing the laws, but they have to deserve public trust through the way of their everyday life. There is legitimate public interest in the activities of a judge, as one of the key guarantees for the protection of the rule of law not only with regard to his/her judicial activities, but in terms of his/her conduct in non-judicial activities, because certain conduct of a judge in non-judicial activities may become grounds for questioning his/her personal (as well as judicial) independence and impartiality by the public. Judges are an integral part of the judiciary and they are obliged to maintain dignity appropriate for the judicial office and therefore strengthen public trust in the justice system.

Judges should be implementing judicial duties solely in accordance with the rules determined by the law. However, it is impossible and even irrational to regulate all by means of the law. The Judicial Ethics Rules basically regulate issues that are not directly prescribed by the law – judicial conduct in non-judicial activities, private life, public relations and etc.

Any democratic society and all judges in these societies are facing this problem (as to which conduct is compatible or incompatible with judicial office). Therefore, many democratic countries have developed international standards (on the UN and EU level) related to the key issues of judicial ethics. The Judicial Ethics Rules of Georgia are in compliance with these standards. Furthermore, Judicial Ethics Rules should not be viewed as an expression of the view of judges on what judicial conduct should be like. There are historically established traditional rules in any society (ethical norms of self-restriction imposed by the society on itself) determining the conduct of any dignified person. The Judicial Ethics Rules also consider these (historically and traditionally established) values and moreover, the Judicial Ethics Rules are much stricter as they impose more requirements of self-restriction on judges due to the nature (status) of the judicial office.

The present commentary to the Judicial Ethics Rules of Georgia was developed in the framework of the cooperation between the American Bar Association Rule of Law Initiative and the Supreme Court of Georgia. The Judicial Ethics Rules do not represent a normative act and therefore they are less accessible for the general public. We believe that raising public awareness on the Judicial Ethics Rules will provide an additional instrument to the public to evaluate judicial conduct which will increase the importance of the Judicial Ethics Rules for the judges as well as the society as a whole.

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COMMENTARY TO THE JUDICIAL ETHICS RULES OF GEORGIA

Introduction

Similar to the legal norms, the Judicial Ethics Rules belong to the group of social norms; however, unlike legal norms, enforcement of ethics rules is ensured on a voluntarily basis rather than through coercion. “Ethics” (ethos) is a word of Greek origin and means “custom”, “habit”. Ethics is a doctrine on moral philosophy. The Judicial Ethics Rules are the compilation of the rules of conduct determining moral norms for judges.

Among the branches of government, the judiciary is one of the most prestigious entities. Judges must be aware as to how to use this prestige without impairing judicial ethics. Judges must adjust themselves with the fact that they are under constant observation by the public. Therefore, judges should recognize the rules of conduct which may be too restrictive for regular citizens while they are essential for judges, compatible with their status and they must observe them on a voluntary basis. Judges must always be in control of their conduct and make it compatible with the requirements of the ethics rules during the implementation of professional activities as well as in personal life.

The obligation of proper administration of justice is imposed on judges by the Constitution of Georgia, the Organic Law of Georgia “on the Common Courts of Georgia” as well as procedural legislation. The norms of judicial ethics determine the framework for voluntary regulation of judicial conduct for the Georgian judiciary. Obligations imposed by the Judicial Ethics Rules must be adhered to by judges on a voluntary basis. Judges must be well aware of the importance of judicial ethics and observation of the moral norms must become a part of their everyday life.

Judicial office is a very prestigious position in all countries as well as in Georgia, however it is related with an extensive amount of work and responsibility. Judges are implementing their activities in the framework of the acting legislation. In addition, a judge, as a person and a citizen is limited in his/her everyday activities and private life. It is true that, as a member of the society, a judge should not be isolated from the public, however in his/her everyday life, a judge is required to act in a manner compatible with judicial ethics. It is not easy to determine which conduct is compatible or incompatible with judicial ethics. The Judicial Ethics Rules of Georgia have identified moral and ethical standards of justice and the methods for their implementation. The relevant provisions of these rules determine the conduct of judges in order to maintain independence, observe requirements of the law and obtain the authority of an impartial and highly moral judge in the implementation of judicial duties.

Preamble

The judges of Georgia

Conscious of the fact that the public trust in the independence and impartiality of the judiciary represents the core value of a democratic society;

Bearing in mind, that judicial conduct is a significant basis for strengthening public trust and judicial authority both during implementation of judicial functions and carrying out other activities;

Having regard to the Constitution and laws of Georgia as well as values of international law for judicial ethics including Bangalore Principles of Judicial Conduct and the Opinion no. 3 of the Consultative Council of European Judges (CCJE) on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behavior and impartiality;

Have adopted the foregoing judicial ethics rules aimed at strengthening independence and impartiality of justice and unity of the judiciary, increasing public trust and faith in the judiciary and protection of the prestige and authority of the judicial office.

Under the Constitution of Georgia, it is the firm will of the citizens of Georgia to establish a democratic social order, economic freedom, a Rule of Law based social state, to secure universally recognized human rights and freedoms.

The role of the judiciary is immeasurable both in ensuring protection of human rights and in building a Rule of Law state un general. Existence of a Rule of Law state is unimaginable without an independent and impartial judiciary.

During administration of justice, judges protect interests of a person on the one hand and restrict rights of a person or protect values safeguarded by the law in cases directly determined by the law on the other i.e. they restrict certain rights or freedoms of expression of a will of a person infringing values safeguarded by the law, therefore it is of utmost importance to examine the issues based on the judicial conduct in administering justice.

In the realization of the principles of the independence and impartiality of the judiciary in practice, great importance is laid upon the existence of a self-regulation system which is provided by the rules of judicial ethics determining judicial conduct not only during hearing and deciding cases (i.e. administration of justice), but judicial conduct in private life and relations not directly related with the administration of justice as well.

Rules of judicial conduct are not only based on national normative acts and the experience existing in Georgia in this regard. It is based on the international legal values recognized in the field of judicial ethics, including, "UN Basic Principles of Judicial Independence" adopted in 1985 by the UN; European Charter on

the Statute for Judges, Recommendations of the Consultative Council of European Judges on the principles and rules of professional conduct, in particular incompatible activities and impartiality and Bangalore Principles of Judicial Conduct.

Judicial Independence and Impartiality is recognized and guaranteed not only by the mentioned acts of international law or other international provisions (that are an integral part of the Georgian legislation), but by the internal normative acts, such as: Constitution of Georgia (Articles 5; 82; 84), the Organic Law of Georgia “on the Common Courts of Georgia” (Articles 1; 7; 8), Code of Criminal Procedure of Georgia (Article 8), Code of Administrative Procedure of Georgia (Article 1), Code of Civil Procedure of Georgia (Article 6) and etc.

The existence of a self-regulation system of judges is deemed one of the guarantees for the independence and impartiality of the Judiciary. Under the organic law of Georgia “on the Common Courts of Georgia”, the entity for the self-regulation of judges is the Conference of Judges of Georgia protecting and strengthening judicial independence, encouraging public trust and confidence in the judiciary and encouraging increase of the authority of judges (Article 77). The Conference of Judges of Georgia adopts the Rules of Judicial Conduct upon submission by the High Council of Justice of Georgia (Article 79), i.e. adoption of the rules of judicial conduct is a legal obligation of the judiciary.

I. Impartiality and Independence of a Judge

Article 1.

During the implementation of judicial functions, a judge shall be independent and shall act in accordance with the laws.

Judicial independence and impartiality should be discussed in several aspects, namely:

- 1) Judicial independence and impartiality as a value protected by the law;
- 2) Judicial independence and impartiality as a rule of judicial conduct;
- 3) Judicial independence and impartiality as a right and obligation of a judge and a right of citizens.

Independence and impartiality of justice is a right of citizens rather than a privilege of judges. Judges are obliged to be independent and impartial.

Even though it was already discussed in the introduction regarding general institutional issues related with judicial independence and impartiality, it should be emphasized that judicial independence and decision making in compliance with the law are primarily legal obligations of judges and nonetheless, these principles must at the same time be ethical values for judges (not only legal). Furthermore, judges should not perceive the principle of independence and impartiality as solely a legislative requirement, for the

violation of which he/she may be disciplined, but the protection of these principles must be the way of his/her life and an inherent constraint. This is what the essence of recognition of the principles of independence and impartiality as an ethical rule is.

In 2007, the Conference of Judges of the Common Courts of Georgia has adopted the Judicial Ethics Rules which laid great importance upon judicial independence and impartiality. With the above, Georgian judges have emphasized that they perceive judicial independence and impartiality as not only a duty under the law, but an ethical obligation as well.

Article 2.

A judge shall be faithful to the laws and judicial oath, shall be the supreme guarantor of law during the implementation of justice. The opinion of a judge shall not be affected by any kind of influence from political, social interests, or the interests of parties or public influence or by the fear of criticism.

Prior to appointment, persons appointed for judicial office for the first time, must take an oath.

Taking an oath by persons designated for appointment for judicial office is another crucial symbolic process in order to emphasize that the work in judicial office requires exceptional responsibility.

Judges must be faithful to the oath. They must observe the principle of the Rule of Law with their activities and decisions made. In making decisions, judges must avoid influence by any factor or circumstance which might undermine the principle of the Rule of law and judicial impartiality. Judicial decisions and judges' views may never be affected or influenced by corruption, political, social factors, and interests of the parties, public pressure, other relations or fear of criticism.

The principle of equality of all before the law is protected under the Constitution of Georgia and international treaties on human rights and fundamental freedoms. This principle will be transformed into a declaration solely unless each judge and the judiciary as a whole act as a guarantee for its protection. The same laws must be interpreted and applied similarly towards various cases of the same kind regardless of the political, social, ethnical or other affiliation of the party to a legal relationship (person participating in the proceedings before the court).

In particular, inadmissibility of judicial decision making with a fear of criticism should be emphasized. Judicial decision making shall never be affected by the fact whether a certain ruling of the judge will be "popular" or not. First of all, decisions must be based on the principles of equality before the law, fairness and the Rule of Law. Judges are obliged to make decisions in compliance with the law at all times even if they are "unpopular" and are likely to cause criticism of the judge by certain groups, persons or etc.

Article 3.

A judge, on both institutional and individual level, shall strengthen public trust and confidence in the independence, fairness, objectiveness, and impartiality of the judiciary.

This issue should be discussed in two aspects:

- Individual independence, fairness and impartiality of a particular judge;
- Institutional independence, fairness and impartiality of the judiciary as a whole, as a separate branch of government.

Independence and impartiality of each individual judge is one of the guarantees of the institutional independence and impartiality of the judiciary and vice-versa, existence of court instances, examination of the legitimacy, fairness and reasonableness of the courts of lower instances by higher instance courts is the guarantee ensuring unified court practice, practical realization of the principle of equality before the law and institutional independence, fairness and impartiality of the judiciary.

A judge is not only a person knowing the laws well, but a judge is a person who is supposed to strengthen public trust in the independence, fairness and impartiality of the justice system. Therefore, the judiciary in particular (each individual judge and the judiciary as a whole) must ensure establishment of the Rule of Law and the perception of justice in the society.

Article 4.

A judge shall protect the prestige of the judiciary and shall not behave inside or outside of a court building in a manner that damages the reputation and authority of a judge.

Judges must protect the prestige of the judiciary not only in the course of administration of justice (implementation of judicial duties), but during fulfillment of non-judicial duties judges must act in a manner which will strengthen public perception that he/she is a dignified and just person.

The manner judges must act in course of the judicial activities (i.e. during the trial of cases, decision making and administration of justice), is prescribed by the legislation directly and in detail.

In this case, the matter concerns conduct of a judge, as a person, inside or outside the courtroom and in the private life. The Rules of Judicial Conduct do not prescribe (determine in detail) as to which specific conduct will be deemed as incompatible or compatible with “the authority of the judiciary and judicial office”. In each specific case, judges must decide themselves on how to act bearing in mind that not only judges, but

regular dignified persons must act ethically at all times, however judges are expected more and they must avoid undermining of their personal dignity, fairness, independence and impartiality and of the judiciary as a whole.

Article 5.

During the implementation of judicial obligations a judge shall be free from any kind of bias and prejudice. A judge shall also avoid any behavior that can be understood by the parties or the society in general as prejudice.

The law (various normative acts) obliges judges to be impartial and to be free from any kind of prejudice and bias on cases pending before him/her. The legislation does not create a moral (ethical) conflict for a judge – a judge is not obliged (moreover, a judge has no right to) try a case, where for instance, one of the parties is his/her close relative. The legislation provides for other grounds as well due to the existence of which, judges have the right (in some cases, judges are obliged) to self-recusal. In these cases, the law protects the right of the judge to avoid moral conflict on the one hand, and protects the principle of the protection of the public trust in the impartiality of the judge (judiciary) on the other.

The rule determined by the Judicial Ethics Rules providing that judges must be free from any kind of prejudice or bias in the implementation of judicial duties and must avoid conduct which may be perceived by the parties or the public in general as bias, does not imply (or does not only imply) above mentioned cases determined by the law, but it is broader and implies any kind of action by the judge which might be deemed as possible existence of prejudice and bias.

The issue should be examined in two aspects:

- Judicial conduct during proceedings (in the courtroom); and
- Judicial conduct at other times (outside the courtroom).

During proceedings before the court, during hearing and deciding cases which are the right and obligation of a judge under the law, judges must refrain from expressing any opinion in any form or from any action which may be perceived as prejudice on the pending matter (save cases directly determined by the law, such as proposing settlement in civil proceedings). During the hearing, judges shall never demonstrate preference or negative attitude to any of the parties, participants of a case and etc.

From the moment of opening a case through issuance of a ruling, judges must refrain from any public action or statement (expression of his/her opinion) which may be perceived by the parties to the case or the society as prejudice on the matter pending even during implementation of non-judicial activities.

Even after making a ruling, making public comments and expressing views on the resolved case may be deemed as an unethical behavior of the judge unless it is done for scientific or educational purposes or other grounds directly determined or permitted by the law.

Article 6.

A judge shall avoid expressing negative opinions about the professional or personal qualities of his/her colleagues or other judges. A judge shall not discuss decisions made improperly by another judge.

Judges must bear in mind that the activities of each individual judge and the judiciary as a whole is an object of constant and legitimate public interest. Therefore, judges must seek establishment of public trust in the professionalism, fairness, impartiality and independence of the judiciary in general.

Each judge must protect not only his/her personal authority and prestige, but the authority of the judiciary as a whole. Judges must refrain from expressing negative views on the professionalism or personal qualities of other judges both in private life and while making public statements. Judges shall never publicly criticize other judges and disrespectfully speak about decisions made by other judges. A Judge of higher instance court may express his/her opinion on the decisions of the lower instance courts in case of reviewing appeal on this decision. However, even in this case, the view of the judge must be expressed in his/her decision (i.e. the decision of the higher court is the opinion on the appealed decision of the lower instance court). Judges may express opinions on the decisions of other judges if the decision is being used for scientific purposes – in an article, manual, lecture or etc. However, even in these cases the opinions must be expressed courteously and in view of legal assessment rather than in a manner to be perceived as undermining professionalism of and insulting the judge who made the decision.

Article 7.

A judge is prohibited to meet, communicate inside or outside the court building, with a party or other person interested in a case from the moment a case enters a court before a decision made on a case enters legal force. In addition, a judge is obliged, to immediately inform the court chairman in writing regarding any attempt of communication by an advocate or other participant of a case.

The ban on certain types of communication (relations) with judges prohibited by the law is directly related to the judicial independence and in particular to the principle of judicial impartiality. If the issue is discussed in view of the parties and other participants of the case, or other persons interested in the outcome of a specific case, judges are obliged and at the same time authorized to be independent from them and impartial. Therefore, judges are prohibited to communicate or meet with the participants of the case and/or persons interested in the outcome thereof both inside and outside the courtroom from the moment the

case is filed to the court through the enactment of the decision on the case. Furthermore, judges are obliged to inform the chairman of the court in writing about any attempt of the communication prohibited under the law by the prosecutor, advocate or other participant of the case.

One of the milestones for strengthening public trust in the independence and impartiality of judges (the judiciary in general) is the recognition and protection of the principle by the judges as well as the society as a whole, that judges are prohibited to maintain any communication (relationship) with the participants of the case or persons interested in the outcome thereof unless directly provided by the law.

The ban on certain types of communication with judges prohibited by the law is not only intended for judges. On the contrary, primarily the ban is intended for the participants of the case and parties interested in the outcome thereof. In prohibiting the judge to communicate illegally with the parties, participants and persons interested in the outcome of the case, the law and the Ethics Rules simultaneously prohibit these persons as well to communicate with the judge. Therefore, the ban on the prohibited communication has a double implication - it protects judges from any prohibited communications on the one hand and obliges judges to avoid communication with the parties, participants or persons interested in the outcome of the case which protects the interests of the opposing party, participants of the case and the society in general in order to avoid influence of the prohibited communication on the judicial decision.

II. Competence and Diligence of a Judge

Article 8.

A Judge shall fulfill the duties entrusted to him/her properly, honestly and with due diligence.

Proper administration of justice by a judge implies adoption of a lawful rulings as well as timely trial and resolution of a case and observation of the principle of trial economy. The obligation of judges – to review the cases with due diligence and efficiency shall never prevail over the judges’ obligation to deal with the cases with fairness and patience. Handling cases with due diligence requires adequate time resources, punctuality in attending hearings and promptness in decision making.

Certain norms determining judicial conduct in the Judicial Ethics Rules are of a juridical nature. Lawfulness and substantiation of judicial decisions is a factor determining judicial competency and professionalism. Judges must fulfill duties entrusted to them diligently and impartially. Article 8 of the Judicial Ethics Rules emphasizes the fact that fulfillment of the duties above is entrusted to judges not only by the law but they are moral obligations as well. Judges must implement judicial duties with the feeling of their personal and professional and freedom rather than fear or coercion. Article 2 of the UN Basic Principles of 1985 contains a provision: the court must resolve cases impartially, based on the facts and in accordance with the law without any limitation by any party with any purpose, improper influence, coercion, compulsion, threat or direct or indirect involvement.

Actions of a judge must be efficient. He/she shall use all effort to avoid groundless elongation of a trial;

Judges must use all efforts to effectively implement judicial duties both on the institutional and individual level.

A Judge shall have a strong feeling of self-control in order for the parties to a case to justify their expectation and trust in the judiciary (“Unified Charter for Judges”, “European Charter on the Statute for Judges”).)

Georgia, as a democratic country is based on the principle of distribution of powers. In these circumstances, each judge must use all efforts to support maintenance of the independence of the judiciary both on the institutional and individual levels. This kind of independence is directly discussed in the Opinion of the Consultative Council of European Judges #1(2001), articles 10-13. Authority entrusted to judges should be balanced through the obligations imposed on them.

Implementation of the obligations imposed on judges is largely dependent on the level of efficiency of the management of the preparation of cases for the review by judges.

Decisions (rulings) issued by judges must be clearly formulated in a manner understandable for all. Judges must realize that court documents prepared by them are basically intended for non-lawyers and they must be as understandable as possible for the parties. Therefore, in drafting procedural documents, judges must avoid usage of complex language when it is possible to express the opinion in a simpler manner; they must refrain from quotations in foreign languages where it is possible to find relevant terminology in the native language.

Article 9

A judge shall treat participants of a case and attendees of trials with dignity and due respect. In addition, the chairman of a hearing (judge) shall ensure order in the courtroom, act in accordance with the law and require due respect towards the court from all persons attending a trial.

The Judicial Ethics Rules determine the standards of judicial conduct towards the parties, counsel, other participants of the case and the society in general. The relevant norms of these rules determine the types of judicial conduct which may harm his/her dignity and honor and the authority of the judiciary as a whole. Therefore, these norms define moral and ethical rules of judicial conduct inside and outside the courtroom, in the family and in private life in general. Judges are at all times required to act in a manner to avoid undermining the prestige of justice.

First and foremost, judges are required to respect judicial office, independence, fairness and impartiality of the judiciary. Some judges may be good lawyers independently and be practicing law observing requirements of the law, however in private life they may be violating moral norms frequently, for instance,

systematically using alcohol drinks and insulting relatives while drunk, be arrogant and rude in the relations with friends and acquaintances. Due to these negative qualities, such judges will not have positive image and the public will not have special trust and faith in such a person.

Judges must have human qualities such as courteousness, patience, sympathy and ability to listen to other people's troubles. Unless a citizen who applied to the court feels these qualities of the judge, he/she may believe that his/her rights are not properly protected; Citizens should never have an impression that the judge hearing the case will not be able to understand the essence of the case and he/she did not even want to do so and therefore he/she ruled against the citizen. Therefore, judges are required to act with special courteousness inside the courtroom and be guided with the principle of judicial independence and honesty. Judges must treat the parties with particular consideration and attentiveness.

If a judge is a respectable person, he/she will be able to inspire trust and positive attitude to the parties not only towards the judge, but towards the judiciary in general.

During a trial, a judge must refrain from any action or expression that might offend a participant to a case or cause distrust of a participant in the judiciary. Judges must be patient and well-mannered. They must treat the parties with particular respect.

A judge working in different regions of Georgia must respect traditions of the population of these regions. A judge shall never express his/her opinion on the customs of these regions.

A judge shall use remedies determined by the procedural legislation against persons infringing the order in the courtroom without breaching the Ethics Rules.

Judges must observe the Ethics Rules in conducting all proceedings; they have to be patient, dignified and respectful towards the parties, witnesses, counsel and in other relations in the course of judges' professional activities.

Judges must realize that they are entrusted the obligation to protect the rights and freedoms of the participants of the case during the trial.

Article 10

A judge shall ensure equality before the law of the parties to a case. The legitimacy of the opinions of a judge or implementation of judicial functions shall never be affected by any circumstances related with race, nationality, language, ethnicity, religion, gender, color, disability, sexual orientation, social-economic status or any other circumstances.

A judge shall be particularly attentive towards all participants of a case. None of the participants shall ever have a feeling that he/she was not given an opportunity to fully express his/her view or that the judge failed to listen to him/her with due consideration.

An expression of judicial professionalism and realization of judicial ethics rules is that a participant of a case will be certain that the judge has not treated his/her views without due consideration or interest or treated the opposing party with particular favor even if his/her motions were overruled or he/she has lost the case.

Judges must try all cases impartially, with personal evaluation of the facts of the case and accurate interpretation of the law; they should be confident that all the parties were given the opportunity of fair trial and that their procedural rights are protected.

In attendance of the participants of the case, a judge must refrain from any statements or expressions that may undermine racial, national, ethnical, lingual, rank, official, material, religious and gender equality.

Regardless of the fact that the nature of judicial office imposes certain legal and ethical restrictions on judges in the judicial activities as well as outside the court, judges as persons and citizens always have their personal national, ethnical, lingual, and religious views, however their individual qualities and views shall never influence the legitimacy of the decisions and rulings made by them.

A judge shall be aware of his/her role in the settlement of the parties as this is an expression of the efficiency of justice. In addition, it should be kept in mind that during settlement, equality of the parties must be observed and the judge must maintain impartiality. (Recommendation NR (94) 12 of the Committee of Ministers for the Member States on the Independence, Efficiency and Role of Judges, Explanatory Memorandum).

Article 11

A judge shall respect court staff and ensure that the court staff observe the rules of professional ethics and behave with discretion; avoid prejudice and treatment of parties with differentiation.

A judge is obliged not only to monitor the conduct of the court staff but he/she must ensure that his/her assistant and secretary of the hearing systematically increase the level of their professional knowledge. Judges must closely cooperate with court staff and specifically indicate as to which laws and special literature they must read that is necessary for their work. In addition, judges must provide moral and ethical advice to the staff and ensure unified court practice.

A judge must always remind the court staff that justification of the parties' expectations from the fair court largely depends on their conduct.

Judges must realize that they will be able to better and more efficiently do their work if they will have qualified personnel. In order to enhance efficiency of administration and case management, reprocessing of the Georgian court practice must be available to judges and courts must have appropriate equipment.

In implementing professional duties a judge shall require from the court staff never to permit bias towards any of the parties based on their race, nationality, gender, religion, disability, sexual orientation, age and social-economic status.

Article 12

A judge must react appropriately in case of violation of the professional ethics rules by a court employee, party to a case or his/her representative.

Judicial independence, dignity and impartiality may be undermined if court staff, judicial assistant, secretary of the hearing or chancellery staff treat participants of the case in a rude, disrespectful and biased manner. Sometimes they may misuse the judge's trust and disclose to one of the parties certain information with regard to the case. Judges must be cautious and careful in selecting judicial assistants. They must require from the court staff to respect judicial independence, be courteous and loyal to the participants of the case, fulfill their professional duties with due diligence and abide by the norms of professional ethics inside and outside the courthouse.

In case of unethical conduct by a court employee towards participants of a case a judge shall immediately undertake remedial measures against the employee. If the conduct is repeated, the judge shall raise the issue of implementing a disciplinary action against the employee with the chairman of the court.

Article 13

A judge shall not improperly use information entrusted to him/her in the course of implementation of judicial duties for personal interests or to infringe rights of other persons. Disclosure of such information is inadmissible after the removal of a judge as well.

It is a legal and at the same time ethical obligation of a judge not to disclose confidential information received in course of implementation of professional activities. Information obtained during trial of a certain case may be used by the judge only for the substantiation of the decision made or ruling issued.

During administration of justice, a judge is limited with general principles both inside and outside the court including relations with the family members.

A judge shall not disclose confidential information entrusted to a him/her in course of his/her professional activities during his/her entire life.

A judge shall not use information received in course of implementation of professional activities for personal or financial interests of his/her family members.

Judges shall never mention their title in any correspondence concerning private or financial interests.

Article 14

In order to be able to implement judicial duties properly, a judge shall enhance his/her professional knowledge on a regular basis and be aware of the developments in his/her field. In addition, a judge shall encourage the court staff to enhance professionalism and competency and provide advice as necessary.

The quality of the judicial decisions depends on the competency and professionalism of the judge.

The Judicial Ethics Rules recognize the judge's constant attempts to increase the level of professional knowledge as an ethical obligation. Judges should never neglect any legislative amendments. Judges must be well aware of legislative novelties and be able to professionally generalize their court practice. Judges should participate in the selection of the topics for educational programs for judges. Judges may individually select means for enhancement of their professional knowledge.

Judges must participate in any training necessary for getting acquainted with legislative novelties and unified court practice. Judges should use all effort to maintain and extend their knowledge, skills and personal qualities necessary for proper fulfillment of judicial obligations and use opportunities and means accessible for judges.

Judges must always be informed of the developments in the field of international law including international treaties and other instruments determining human rights provisions.

In relationships with the court personnel, a judge shall pay particular attention to the fact that they develop appropriate organizational skills.

A judge shall ask the opinion on the case of his/her assistant, secretary of the hearing, referent or other court employee and make them feel that their opinions are very important to him/her.

A judge shall systematically discuss issues related to the court and other with the court staff.

A judge shall ensure professional development and career advancement of the court personnel.

III. Relations of Judges with the Media

Article 15

In enjoying the right to freedom of expression a judge shall never harm the dignity, impartiality and independence of justice.

The ethics rules determine standards that a judge should be guided with during the implementation of professional duties as well as other activities in his/her private life in order to avoid impairment of the interests of justice through his/her actions or statements. A judge is subject to permanent attention from the public and each of his/her actions and statements must serve the strengthening of the public trust in the impartiality of the judiciary. Limitations under the ethics rules shall help the judge to properly conduct his/her activities and avoid harming the reputation of justice.

Freedom of expression plays an exceptional role in the system of human rights and freedoms as it is the one to determine the opportunity to enjoy other rights and freedoms. Furthermore, the ethics rules provide for a certain framework for the enjoyment of the freedom of expression by judges. A judge, as other citizens, enjoys the freedom of expression, belief, association and gathering; however in enjoying these rights, a judge must at all times act in a way to maintain dignity of a judge, impartiality and independence of the judiciary (Bangalore Principles of Judicial Conduct, Article 4.6; Basic Principles of Judicial Independence, Paragraph 8).

Therefore, freedom of speech and expression guaranteed by the articles 19 and 24 of the Constitution of Georgia and article 10 of the European Convention on the Protection of Human Rights and Freedoms is also attributable to judges; however the enjoyment thereof shall never undermine dignity, independence and impartiality of justice.

Article 16.

In the relations with the media a judge shall refrain from expressing his/her opinion on pending or ongoing cases unless the matter does not concern organizational or technical aspects of the case.

Public trust in the judiciary is a guarantee for the stability in the country. Therefore, activities of each individual judge determine the level of public trust in the judiciary. Judicial activities must be implemented

impartially and independently. Nothing should impair proper administration of justice. A judge must avoid expressing his/her views on pending, impending and decided cases.

A judge must not knowingly make any comments on pending or impending cases before him/her that may reasonably have an impact on the outcome of the case or impair fair trial. A judge has no right to make any public or other kind of comment that may influence a fair trial against a person or matter (Bangalore Principles of Judicial Conduct, Paragraph 2.4).

Therefore, judges must show cautiousness and discretion in order to avoid disclosure of his/her professional opinion and approach to the media on a specific matter which may negatively influence the interest of justice. Judges shall provide their substantiated opinions in the rulings on specific criminal cases and decisions in administrative and civil cases. Judges are not restricted in expressing their opinions on organizational or technical aspects of a case.

Article 17.

Upon or without request by the media, a speaker judge shall release information on the activities of the court as well as provide overview of the court decisions considering public interest.

Informing the society on the ongoing court cases as well as rulings is an integral element of the principle of publicity of justice. Only when a person is aware of the activities of the judiciary, he/she is certain of the guarantees for the protection of his/her rights and has trust in the judiciary.

Justice must not only be administered properly, but it must be demonstrated as well (Bangalore Rules of Judicial Conduct, Paragraph 3.2). In providing information to the public the role of speaker judges is of utmost importance. The basic direction of the work of speaker judges involves media relations. Speaker judges must courteously and cautiously treat interests of the representatives of the press and mass media to obtain and disseminate information on the administration of justice or on specific cases.

Upon request by the media or without, speaker judges must operatively collect information needed by the public and provide it to the media. Moreover, speaker judges cover judicial decisions taking into account public interest. Speaker judges must have complete information on the cases pending in the court which the media may be interested in. Within their competency, speaker judges must work in coordination with the press service of the court. And on the other hand the press service must cooperate with speaker judge in collecting and correctly disseminating information.

Information must be disseminated by speaker judges in accordance with the article 10 of the European Convention on the Protection of Human Rights and Freedoms by protecting interests of justice under article 6 of the European Convention.

In disseminating information, speaker judges must ensure proper balance between the principles of freedom of information, confidentiality and presumption of innocence which implies satisfaction of legitimate public interests without violating personal rights guaranteed by international treaties and national legislation.

Information distributed by speaker judges must be accessible for all editors' offices for which the information is important.

Speaker judges have to be able to provide information on certain rulings or decisions in a reasonable period of time and most importantly in a form understandable for a person without special legal education. Timely dissemination of information by speaker judges to the media satisfies legitimate public interest and ensures balanced relations between the judiciary and the media.

Article 18.

While releasing information for the media a judge shall never disclose existence of argument or discussion between his/or her colleagues on a certain issue. In addition, while making statements for the media, he/she shall never be affected by the popularity of a party to a case or level of interest towards this issue from the part of the media or government agencies.

In providing information to the media, judges shall never disclose any disputes or arguments between their colleagues on a matter. Judges shall never publicly criticize their colleagues, their professional or personal qualities. Judges shall never disrespectfully speak about decisions by other judges on a matter. Judges must maintain the prestige of justice.

In providing information to the media, judges shall not be biased. In making statements, judges shall not be affected by popularity of any of the parties or public or government interest in the matter. Each of his/her statements must strengthen public trust in the independence, integrity, fairness and impartiality of justice.

Article 19.

A judge shall avoid making any statements publicly or in private conversations that might cause reasonable grounds that this statement will obstruct an impartial decision on a case.

Judges must be independent and impartial at all times both during fulfillment of judicial duties and in implementing any other activities directly or indirectly related to the administration of justice. Impartiality is essential for the proper implementation of judicial duties.

Judges must ensure that their conduct inside and outside the courtroom encourage maintenance and strengthening of the trust of the public, representatives of the legal profession and the parties in the impartiality of the judge and the judiciary as a whole (Bangalore Rules of Judicial Conduct, Paragraph 2.2). Therefore, judges shall never make any statements publicly or in personal conversations that may create grounds that would impair impartial resolution of a matter. It is inadmissible for a judge to demonstrate any bias or prejudice towards any person or group on an irrelevant basis (Bangalore Principles of Judicial Conduct, Paragraph 5.2).

A judge shall not consider the principle of impartiality as an obligation solely in case of violation of which he/she may be held appropriately responsible, but observation of this principle must be the rule of his/her life and moral requirement. Judges must fulfill their duties attentively and based on self-control – with due respect of the court and all participants (Universal Charter of Judges, Article 5).

Judges must be self-restrictive in expressing views on professional matters. Judges shall never use or disclose confidential information related to a case obtained during implementation of professional activities. In personal conversations or public statements, judges shall express their positive or negative attitude towards participants in a pending, impending or decided matter. Judges shall never make statements that may negatively affect interests of justice.

Article 20.

In his/her statements, a judge shall show proper courteousness and shall never use offensive words or expressions or discriminatory language. In addition, a judge shall direct court staff to refrain from such statements.

Every statement of a judge must be well-thought and courteous. Judges must show proper courteousness both towards parties and any other persons. Judges shall never use discriminatory language.

In implementing judicial duties, judges must show proper courteousness towards all persons such as parties, witnesses, counsel, court staff and colleagues without expressing any different treatment on an irrelevant basis which is incompatible with proper fulfillment of judicial functions (Bangalore Rules of Judicial Conduct, Paragraph 5.3).

Judges shall have personal qualities such as tolerance and openness. It is unacceptable for judges to be biased or to use offensive and insulting language. Judges must maintain order and discipline during all proceedings before the court, be patient, dignified and courteous in the relations with the parties, jurors, witnesses, counsel and other persons judges deal with in the course of professional activities (Bangalore Principles of Judicial Conduct, Paragraph 6.6). Judges must respect their role and functions in the trial. Judges shall have a great feeling of self-control in order to justify the expectations and trust of the participants of a case in the judiciary.

Article 21.

A judge shall consider the place and conditions in which he/she is making a statement in order to ensure that the society does not associate him/her with a single organization or group. In addition, a judge shall be careful in making public statements in order to avoid his/her opinions being perceived as political support or bias.

In course of judicial activities as well as at other times, judges must reinforce the faith that justice is administered by the independent and impartial judiciary.

No one should doubt judicial independence. Judges should be careful as to where and in which conditions they are making statements. They must be especially attentive when holding a speech on public meetings in order to avoid perception of their statements as support for a certain political party or bias. Judges must remember that they are constantly subject to the attention by the public. They must always protect the prestige of justice.

Judges must refrain from political activities. They are not allowed to be members of any political parties or implement political missions. Judges shall never speak on behalf of any political party.

IV. Non-Judicial Activities

Article 22.

Other activities of a judge not related with professional duties are only admissible if compatible with the principles of independence of judges and the judiciary, do not harm the authority of the court and do not cause doubt regarding his/her objectivity and impartiality in carrying out judicial duties and do not contradict with the legislation of Georgia and the present rules of conduct.

The Judicial Ethics Rules determine standards judges must be guided by in course of the judicial activities as well as other activities including private life in order to avoid impairment of proper implementation of their professional duties and of the interests of justice knowingly or unintentionally. Chapter IV defines ethical standards for non-judicial activities of judges. Ethical norms regulated in the present chapter ensure implementation of judicial activities by the judge by avoiding collision of judges' personal interests and the interests of justice.

Judicial duties of judges must take precedence over any other activities. Judges must dedicate their professional activities to the judicial office implying not only fulfillment of judicial functions and responsibility, but other duties as well related with the judicial office and activities of the courts.

Judges must fulfill their obligations efficiently and diligently without any improper delay (European Charter on the Statute for Judges, Article 6). Judicial office is related with an extensive amount of work and responsibility and requires maximum effort from judges. Therefore, non-judicial activities are only admissible for judges if they do not contradict with the principles of judicial independence and impair authority of the court or cause doubt in the impartiality and objectiveness of the judge in implementing judicial activities and do not violate the legislation of the Georgia and the present Ethics Rules.

In implementing activities permitted to judges, they must always bear in mind that their judicial obligations have priority over other activities. Implementation of admissible activities should not become grounds for improper fulfillment of judicial duties. Judges should give lectures and conduct scientific or creative work only during time free from the implementation of judicial duties.

Judges must implement non-judicial activities only in the framework which would avoid undermining of the high authority of judges or other negatively impact on the interests of justice.

Article 23.

Apart from the functions entrusted to him/her by the law, a judge shall not conduct any reimbursed activities other than teaching, scientific or creative work if it does not contradict with the proper fulfillment of judicial duties.

Judicial office is incompatible with any other office or reimbursable activities other than educational activities (Constitution of Georgia, Article 86, Paragraph 3). Judges should not implement any other activities public or private, reimbursable or non-reimbursable that are not in full compliance with the judicial duties and the status of judges (Universal Charter for Judges, Article 7).

Therefore, persons holding judicial office are prohibited to practice law, act as arbitrators in arbitration courts, hold any other office or implement any reimbursable activities save certain exemptions. In addition, judges shall not implement reimbursable activities incompatible with judicial status.

Judges are authorized to implement: educational, scientific or writing activities. In addition, judges must always bear in mind that judicial duties must take precedence over other activities. Educational or other activities shall not impair proper fulfillment of judicial functions by the judge. Additional activities are admissible only in consideration of the main professional workload and shall not impair fulfillment of judicial obligations or proper administration of justice.

Article 24.

A judge shall not participate in any transactions in conflict with his/her official status and duties.

Each action of a judge must be aimed at raising public trust in the judiciary. Therefore, judges shall not participate in any transactions incompatible with the judicial status.

Judges shall not participate in transactions which could undermine the authority of the court or negatively affect independence and impartiality of justice. Judges shall not participate in transactions in which they could benefit from their judicial office.

Judicial impartiality can be doubted due to the transaction by the family members of a judge as well. Therefore, judges must ensure that their family members avoid transactions of this kind in order to eliminate the impression as if the judge is favoring any person or is misusing his/her professional powers.

Article 25.

A judge may not join any association requiring an oath of devotion, and/or harming the reputation of a judge and damaging the authority of a court.

Judges, as well as any other citizen, enjoy the right of affiliation and gathering. However, in enjoying these rights, judges must at all times maintain the dignity of the judge and impartiality and independence of the judiciary (Bangalore Principles of Judicial Conduct, Paragraph 4.6; Basic Principles of Judicial Independence, Article 8).

Judges are not allowed to become members of any association requiring an oath of loyalty and/or question the reputation of the judges or the authority of the judiciary. Before appointment, judges being appointed to judicial office for the first time are taking an oath observance of which is essential. Judges must be loyal to the law, judicial oath and duties.

Judicial duties must take precedence over any other activities of a judge. Judges must dedicate their professional activities to judicial duties consisting not only of the fulfillment of judicial functions but other obligations as well that are related with the judicial office and activities of the court. With their actions, judges must strengthen the trust in the impartiality of justice. Maintenance of high standards in the course of judicial and non-judicial activities is an obligation of each individual judge.

Article 26.

A judge shall not carry out political activities. He/she shall not be a member of any political party nor implement any order by a political party. A judge shall not make a speech on behalf of any political organization.

Judges are prohibited to join any political party or participate in political activities (Constitution of Georgia, Article 86, Paragraph 3).

The purpose of prohibition of political activities to judges is to ensure independence of justice. The said prohibition excludes dependence of a judge on any political party and involvement of political forces in the process of administration of justice.

Therefore, judges must avoid political activities. A judge shall not be a member of any political party or fulfill any political mission and make statements on behalf of any political party.

Certainly, judges may have personal preference or negative attitude towards a certain political party, however, they shall never publicly express their opinions on this matter and it should not have any influence on an impartial decision. Judges must be politically neutral both inside and outside the courtroom.

Judges must not get involved in the activities which may be perceived by the public as political activity; for instance, contributions to a certain political party, participation in political gatherings, signing petitions of political nature. Judges must not get involved in political debates and publicly express their political views.

Article 27.

A judge shall never publicly disclose his/her political views. Any kind of propaganda inside and outside of a courtroom is inadmissible. In addition, a judge shall not publicly express his/her opinion regarding a candidate to be appointed to a governmental political office. Further, a judge shall direct court staff to refrain from demonstrating their political activities or political views.

Judges must not publicly disclose their political opinions. Any direct or indirect political propaganda by judges is prohibited inside and outside the courtroom. Opinions expressed by judges shall not give grounds for the public to perceive them with regard to a certain group.

Judges must be attentive as to where and in which circumstances to make statements in order to avoid perception of political support or bias. Judges must not publicly express their positions with regard to the candidates for public office, distribute information in favor of such candidates or publicly oppose them. It is inadmissible for judges to solicit contributions for political parties or personally contribute materially to a certain political party.

Judges must advise court personnel to refrain from the demonstration of political views or activities.

Any conduct of judges inside and outside of the court must reinforce the trust in the objectiveness and impartiality of the judiciary.

Article 28.

A judge is prohibited to strike. A judge has no right to individually or collectively refuse to carry out professional duties or to encourage others to do so on any ground.

Impairing administration of justice even for an insignificant period of time is inadmissible. We should remember the words by Ilia Chavchavadze: “making justice and fairness is a need without which a country and a nation will not be able to survive even for one day.”

Judges must realize that they are the ones implementing judicial power in the country and that impairment of justice infringes the right of physical and legal persons to protect their rights and freedoms through the court. Public must have the faith that the rights of each person will be protected through a fair, impartial and independent court which will administer justice properly and without impairment.