FURTHER SUPPORT TO INDEPENDENT, ACCOUNTABLE, PROFESSIONAL AND EFFICIENT JUDICIARY AND PROMOTION OF PROBATION SERVICE AND ALTERNATIVE SANCTIONING

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Activity 1.4.1. Organising Training Sessions and Developing and Implementing New Tools and Legislation for Ensuring Integrity and Impartiality for Council Members, Judges and Prosecutors

PRACTICE GUIDE ON THE NEW CODE OF ETHICS

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ETHICS FOR JUDGES TRAINER'S GUIDE

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INTRODUCTION

The overall objective of the „Ethics for Judges Trainer's Guide“ is to increase the ability of judges to perform their duties properly and with integrity in accordance with European and other international standards through the implementation and extension of the code of conduct. The ethics is not and should not be considered as a tale on values and principles that are remembered and noticed when the corruption and frauds emerge. Ethics is compilation of values and behaviours having positive effect which blocks the paths leading to the corruption, establishes smooth operation of justice system, and increases the quality of its institutions.

Regarding training, international standards emphasize three main points: i) the obligations of judges to pursue training in order to maintain their expertise and competence; ii) the duty of states to offer and provide training at public expense; iii) the need for training to be under judicial control. The Opinion No. 4 of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on appropriate initial and in-service training for judges at national and European levels contains several provisions on training. It states that: i) training should also take into consideration the need for social awareness and an extensive understanding of different subjects reflecting the complexity of life in society; ii) it should not be limited to techniques in the purely legal field but also include training in ethics and other relevant matters such as case management, court administration, information technology, foreign languages, social sciences and alternative dispute resolution; iii) it should be pluralist in order to guarantee and strengthen the open-mindedness of the judge.

The »Ethics for Judges Trainer's Guide“ is a training package in ethical principles and ethical conduct prepared by xxxxxx for implementation throughout the judicial system in Macedonia. It provides guidance and support to assist judges to »do the right thing« in the conduct of their public duties. It contains the following:

- Part 1 provides background information to trainers on the processes of learning of the adults and guidance on techniques and training skills for the formal delivery of information.
- Part 2 provides elaboration of the values listed in the Code of judicial Ethics for the Judges in the Republic of Macedonia, not only as a help to trainers to give the right answers, but also to ask essential questions and to raise important dilemmas.
- Part 3 provides guidance and step-by-step instructions to trainers on their roles and responsibilities in the delivery of a 1-day training event, covering structure, contents, and references to the PowerPoint presentation in Annex 4.
PART 1

1. Introduction

This part provides background information and advice to trainers on the processes of learning and training. A training event on ethics for judges is a planned set of activities designed and delivered within a specific time period and directed at the meeting the identified needs of a group of judges to increase their knowledge, change their attitudes and/or improve their skills relevant to their professional roles. The event involves 1-day training programme that may include all or any of the following techniques for the formal delivery of information: lectures, general and group discussions, case studies or scenarios, icebreakers, feedback. Setting up and running the training event specifically requires your training knowledge and skills if the programme is to be organised efficiently, received positively by judges, and its key messages fully achieved.

2. Learning styles

Psychologists Peter Honey and Alan Mumford have defined four main learning styles and thus four different types of learner. In any group you are likely to find individuals with different preferred learning styles and different preferences for individual parts of the learning process.

Activists involve themselves fully and without bias in new experiences. They enjoy the here and now and are happy to be dominated by immediate experiences. They are open-minded, not sceptical, and this tends to make them enthusiastic about anything new. They tend to act first and consider the consequences afterwards. Their days are filled with activity. They tackle problems by brainstorming. As soon the excitement from one activity has died down they are busy looking for the next. They thrive on the challenge of new experiences but are bored with implementation and longer-term consolidation. They are gregarious people constantly involving themselves with others, but in doing so they seek to centre all activities on themselves.

Reflectors like to stand back to ponder experiences and observe from many different perspectives. They collect data, both first hand and from others, and prefer to think about it thoroughly before coming to any conclusion. The thorough collection of data about experiences and events is what counts so they tend to postpone reaching definitive conclusions for as long as possible. Their philosophy is to be cautious. They are thoughtful people who like to consider as possible angles and implications before making a move. They prefer to take a back seat in meetings and discussions. They enjoy observing other people in action. They listen to others and get the drift of the discussion before making their own points. They tend to adopt a low profile and have a slightly distant air about them. When they act, it is a part of a wide picture which includes the past as well as the present and others’ observations as well as their own.

Theorists think problems through in a vertical, step-by-step logical way. They assimilate disparate facts into coherent theories. They tend to be perfectionists who won’t rest easy until things are fit into a rational scheme. They like to analyse and synthesise. Questions they frequently ask are: “does it make sense?”, “how does this fit with that?”, “what are the basic assumptions?” They tend to be detached, analytical and dedicated to rational objectivity rather than anything subjective or ambiguous, their approach to problems is consistently logical.
They prefer to maximise certainty and feel uncomfortable with subjective judgements, lateral thinking and anything flippant.

Pragmatists are enthusiastic about trying out ideas, theories and techniques to see if they work in practice. They don’t like debating issues and tend to be impatient with broad ranging or open-ended discussions. They are essentially practical, down to earth people who like making practical decisions and solving problems. They are the sort of people who return from management courses brimming with new ideas that attract them. They respond to problems and opportunities as “a challenge”.

3. Adult education principles

While the child is dependent upon those around him including the teacher, the adult acts autonomously in relation to others, including the teacher. Adults are able to identify and articulate what they want to learn in dialogue with the teacher. Since the adult learner has a depth of experience, the teacher becomes a trainer or a facilitator in a more equal process of mutual learning. Unlike children who are able to focus attention on future outcome (e.g. place at university), adults are primarily concerned with their present position and are interested in solving problems they experience on a daily basis.

Adults learn best by participation. Judicial education programmes should be designed to promote active participation that stimulates interest, prevents boredom, and enhances learning. Many years ago judges attending judicial education programmes used to listen to lectures, memorise facts, and think about abstract ideas. Now we know that adults and judges learn best when they:

- actively participate
- talk with each other
- use real examples and incidents
- build on their own experiences
- experiment to find solutions to their problems
- self select the subject matter
- they are motivated by the topic or process under review because they can see its relevance to their professional work
- when they are enthused by the trainer
- when they are stimulated by the training methods used
4.1. Training skills: Lectures

Lectures are the structured presentations of information presented, usually with visual aids, directly to participants. They are useful for briefing a large group of people who require information on a topic and can be presented either with or without opportunities for people to ask questions or make comments. Particularly in their non-interactive form they should be used sparingly as they represent a passive approach to learning that can only retain people’s attention for up to about 20-25 minutes.

4.2. Training skills: General and group discussions

Although training is likely at some stage to involve the presentation of information, opportunities should still be provided for participants to interject with comments and questions. Training should incorporate scheduled general and group discussions to enable participants to voice and share ideas relevant to the subject. General discussions can be initiated by the facilitator offering a question or topic for discussion and providing appropriate time for its consideration, perhaps retaining full control over the direction of the discussion or allowing the group to determine the flow to be followed. The management of general discussions is problematic. The facilitator is responsible for the schedule but may be criticised either for being too controlling and for curtailing discussion “just when it was getting interesting” or for not keeping to the schedule. Judging when to direct, curtail or allow the running of discussions is a matter of judgement and experience. Remember always to balance the positive benefits of having an interesting debate with the problems associated with losing complete control of the schedule.

It is useful in training events to be able to break a single participant group into smaller groups in order to change the pace of the event, shift the focus from the trainer, allow greater levels of participation, provide a task or team based activity. Group discussions also have to be timetabled and managed, too little time and participants become frustrated, too much time and they become bored and distracted. The key here is to provide clear instructions as to the task or subject, the time available, roles to be taken (e.g. group leader, reporter, etc.) and the required outcomes of the discussion.

Issues to be considered of group organisation include:

- dealing with resentment from individuals who are unhappy, for whatever reason, with their allocation
- managing status differences
- managing age or gender issues
- controlling dominant forces and individuals within a group
- encouraging full participation and task sharing
- proving clear instructions on the task, required roles and responsibilities, time available, etc.

Techniques for organising groups include:

- pre-planning to identify the required constituency and then announcing team membership
- counting off participants in sequence up to the number of groups required, e.g. 1, 2, 3, 4 and then all the 1s form a group, the 2s another, etc.
• peer selection – when you ask for volunteer group leaders and ask each to select their own team members
• location - form groups based upon clusters of where people are sitting with the whole group
• chance cards - give out pre-prepared cards with different symbols and all the participants with the same symbol form a group
• buzz groups: small groups of two or three created as quickly as possible and with minimal organisation, e.g. two/three participants already sitting together, in order to discuss a straightforward topic in a short time and report back; discussions should be allowed to continue for no more than five or so minutes or as long as the “buzz” of group conversation can be heard

4.3. Training skills: Scenario or case study

This is another approach how to engage participants, providing “real life” problems for analysis.

A scenario or case study is the presentation in writing and/or visual material, for consideration by the group of a specific incident, or incidents, relevant to the professional activities. The learner is presented with the kind of evidence, including background information, they would normally have to work on in their job. If the case study derives from something that actually took place, then names and other identifying factors should be taken out. A case study can occupy a single session, or can be undertaken on an extended basis, worked through as the training event progresses. Case studies are an effective training method because they invite learners to reflect what they would do in a given situation and to reflect on why they would do it. Consequently, it is important to ensure that learners have the opportunity to report back on their findings and to receive constructive feedback.

4.4. Training skills: Icebreakers

An ice breaker is a specific technique or device used at the start of a training event to assist participants to speak for the first time and make initial contacts within the group to each other, to help people relax. It can take the form of short entertaining games used as a substitute for what otherwise might be a dull and intimidating activity.

4.5. Training skills: Providing and receiving feedback

Feedback is a frequent practice in the field of education and in learning generally. It typically involves a learner receiving either formal or informal feedback on his or her performance on various tasks by a teacher or peer(s).

Feedback in the training process is a two-way process. It is undertaken by the trainer to provide direct comments on the conduct and outcomes of individual or group tasks and also to respond to contributions made throughout the course of a training event. It is also used by individual participants to comment on the activities and contributions of other participants and to comment on the role and activities of the trainer.

How to give feedback:
• be specific rather than general – try and give specific evidence of what you observed and use that as the basis for constructive criticism
• balance negative and positive – offer comments and opportunities for the receiver that include praise and criticism; start with positive
• be objective rather than judgmental – avoid using judgmental language to reduce the need for the individual to respond defensively
• feedback however constructively offered can be difficult to receive; before giving feedback try and put yourself in the position of the recipient
• feedback should be requested and offered rather than imposed – if the receiver asks for and is open to feedback, he/she is much more likely to receive it positively; you might say: “Would you like to hear my feedback about the work of your group?”
5. Delivering a training event

As trainer you hold the principal responsibility for the smooth management and delivery of the training event. This responsibility encompasses the following activities:

- preparing for the event
- checking facilities, equipment and materials
- welcoming the participants and opening the event
- understanding and meeting the needs of the participants
- making presentations
- facilitating general and group discussions

Your awareness of the overall purpose and specific objectives of the training event reinforced by an appreciation of the needs and interests of the group of participants should guide you in the structuring and delivery of a presentation. A simple but important question to ask yourself is: “What do you want participants to leave the training event with?” The answers may include: An explanation of something new? Improved skills? A change of attitude as a result of being given sound arguments? This will provide the starting point for preparing and presenting your material.

5.1. Structuring the presentation

1. Introduction

Tell the participants what you will be telling them.

Tips:

- describe an interesting case
- use statistics, a quotation, or current event
- state you learning objectives and summarize your main points
- demonstrate the relevance of the topic
- develop and deliver a pre-test of true/false or multiple choice questions as a self-test

2. Body

Tell them.

Tips:

- explain and demonstrate each of your main points
- use at least one example per point
- make some examples verbal, some visual
- for complex ideas use several examples
- require the class to participate in group activities
- provide a transition to the next main point

3. Conclusion
Tell them what you told them. Provide answers to pre-test.

Tips:

- provide a logical ending
- restate the main points
- restate your learning objectives and how the presentation achieves those objectives

Listed below are effective adult education techniques gathered from many sources and years of collective teaching experiences:

- speak from outline rather than a scripted speech
- advise the participants of the learning objectives
- use visual aids
- do not walk or stand in front of the projected image
- do not just read out the information presented on the screen, but use it as “signposts” to guide your verbal presentation and to guide the participants
- do not present a visual that is not connected with what you are saying at the time
- within the first 30 minutes, require the participants to participate in some way
- balance classroom participation and your presentation
- invite questions
- be an active listener, not just a talker
- speak conversationally
- when reading quoted material, practice conversational style
- develop animation – gestures, facial expressions, shifts in posture and positioning; learn your own body language and eliminate the distracting behaviours
- do not remain fixed behind a podium
- use frequent previews, transitions, and summaries
- use examples frequently; real or hypothetical illustrations are extremely effective
- maintain eye contact with the participants
- vary your style of presentation: modulate your voice, follow lecture with discussion, follow discussion with questions, follow questions with an exercise
- keep track of time or ask one of the staff to do it for you; avoid unnecessary digressions; do not speak overtime or take another’s speaker’s time
- use humour with caution – jokes can offend
- state reasons for your actions: “Now we are going…because…”
- set challenging tasks and provide feedback on the task
- compliment the participants
PART 2

1. Introduction

Among judges all over the world it is always the question why judges should deal with ethical issues. The question arises because it is quite legitimate to ask whether the Constitution or laws are enough to regulate duties and position of judges, and whether they are sufficient guarantee that judges are independent, impartial and bound only by laws, justice and their own sense of fairness and justice.

Principle of division of powers secures the judiciary to be the third - independent pillar of the state power. If nothing else, this is enough to put a judge not only as part of one of the state public services, but also to place him in a special position which extends him / her from the position of the civil servant. Judge, because of the position of the judiciary as the third equal power, has to be at all times and in all situations conscious of his/hers duties and constantly open to life which surrounds him/her.

It is beyond any doubt that Constitution and laws are the primary source of guarantees for a judge to be independent and that they are source of protection from outside influences. But, there is more to ask from judges. Judge’s sense of his/her own independence and appropriate picture judge is sending to the society cannot be only imposed from outside, from the laws and regulations. This comes from the sole life of a judge.

How personal independence of a judge is going to be expressed – this is something that each judge has to answer according to his/hers system of values and ideals. In that respect laws and regulations could be of some assistance as general sense of values shared in the society. However, modern judiciaries see that this is not enough, especially when global development of the human society is creating more and more challenges to the values which existed for centuries. In that respect judges need professional ethics which will single them out from the circle of simple legal experts.

Laws and regulations are only a frame. This frame has to be fulfilled with values which have to be understood and implemented in the accordance with the concrete situation and which are influenced with the circumstances of the particular case but also with personal understanding and attitudes.

Ethical behaviour is always result of personal evaluation of the concrete situation and it is always based on the free will of a person involved. It has to be stressed out that there are so many questions to which it will be impossible to give unambiguous, correct or wrong answer. That is the reason why most of judiciaries and judges decided not to give precise definitions of the obligations and duties of judges but on the contrary, to decide what the values are which characterize responsible and dutiful judge.

Association of Macedonian Judges took the similar approach when they delivered in June 2014 Code of Judicial Ethics for Judges in the Republic of Macedonia.

The Code is more a compendium of values where its list is not closed, but more a collection of definite values and answers to the each ethical dilemma which could arise in the life of a judge.
That is why one has always to have in mind that Code of Ethics is not only a manual but more a guidebook how to take a critical approach to any action or conduct of a judge.

That is why we thought that besides the text of the Code of Ethics itself anybody who will take a duty to bring closer to judges, and perhaps other receivers, principles and goals defined by the Code of Ethics will need some more elaboration of the values listed in the Code of Ethics, not only as a help to a trainer to give right answers but also to ask essential questions and to raise up important dilemmas.

The text in Part 2 is trying to fulfil this aim. It has to be said that it is sometimes difficult to make strict division between the circumstances connected to each of the principles. That is why user will notice that some statements are overlapping and further developed in different parts. As ethical issues they do not exist alone so the explanation and further development of the different ethical issues cannot be strictly divided.

2. About the principles - guide for better understanding.

2.1. Independence

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

One crucial guarantee of judicial independence is a judge's security of tenure and the rule that they shall only be promoted with their free consent. Even with statutory guarantees of judicial independence, ruling in an independent manner is also a state of mind. It involves know-how and behaviour that must be taught, cultivated and developed throughout an entire career.

Members of the judiciary preserve their independence from legislative and executive powers by refraining from all inappropriate relations with the representatives of these powers and guarding against any undue influence on their part. They must be seen by citizens and persons under a court's jurisdiction as respecting these principles.

Judges must find a way to protect themselves against overly close relations with various local figures, in particular persons involved in the administration of justice, institutions, partner associations, the local business community or the media.

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

Members of the judiciary manage proceedings, lead discussions before the court and hand down their rulings independently.
In the discharge of their duties, they shall make it a principle to banish and reject any intervention, outside of proper procedural and legal channels, liable to directly or indirectly influence their decisions.

As guardians of individual freedoms, members of the judiciary shall apply legal rules based on the elements in the proceedings, with no fear of displeasing or desire to please the executive, members of parliament, the judicial hierarchy, the media or public opinion.

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

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

Members of the judiciary are legitimately required to manage flows and process cases within a reasonable time limit, but these objectives do not exempt them from providing the following guarantees of independent justice: compliance with procedural and statutory rules; quality of decisions; and listening to the persons under a court's jurisdiction.

When participating in bodies that elaborate public or state policy (i.e. members of commissions for drafting laws), members of the judiciary shall abstain from any commitments liable to alter their freedom of judgments and judicial independence.

Despite the fact that they belong to the same law enforcement system and to the judiciary in broader sense of the term, and discharge their duties in the same place, judges and prosecutors shall maintain and publicly demonstrate their mutual independence.

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

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

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

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

At the end, it has to be highlighted that a judge has always to take in account:

- that he/she must not deliver decisions “shaded” with inappropriate external influence,
- that he/she must deliver decisions according to the law as he/she understands it, on the basis of facts which have been established without any fear or improper assistance,
• judge must take actions without fear of criticism and regardless if final decision is going to be popular in the public, media, government and judge’s inner circle or family,
• every attempt to influence a judge, direct or indirect, must be rejected, and every contact regarding a case has to be public in the court room,
• usual social contacts should not be avoided, but judge has always to take in mind that such contacts sometimes create image in the public that independence of a judge is jeopardized, because trust in the independence is gained not only with real independence but also with a message judges are sending to the public.

2.2. Impartiality

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

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

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

The impartiality of the courts and their members implies that the nomination and appointment of members of the judiciary should rely on objective, transparent rules based on professional ability. That is why there is strong and firm correlation between institutional guarantees of independence and impartiality of an individual judge. It is impossible to have one without another.

Court hearings must be public, unless statutory exceptions exist.

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

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

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

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

In their professional activities, members of the judiciary shall set aside all prejudice and adopt an objective attitude.
If judges convey an opinion, either by words or behaviour before they rule, this has to be
done in the matter regulated in the law taking all the time in account that impression of
impartiality could be endangered in the case if the ruling will be in opposition to the previous
expressed opinion but as well if the ruling will be in accordance with the opinion previously
expressed.

In their judicial activities, in particular in the area around the courtroom, judges must present
an image of impartiality and there should not appear to be excessive closeness or
collaboration, between them and the parties and their representatives. The same caution must
be observed as regards the all those involved in the trial.

The presiding judge shall address all those involved in the trial with the same objectivity.
Panel of judges hearing a criminal case should avoid ruling immediately after the closing
addresses, which would lend support to the idea that proceedings and deliberations serve no
purpose. Only a free discussion between members of the bench guarantees that there has been
ture deliberation and that the arguments presented by both parties have been examined.

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

While members of the judiciary enjoy the same rights as all citizens, they may not take on a
commitment of any nature whatsoever (political, philosophical, religious, or within an
association, trade union or business, etc.) that would subject them to limitations other than
those of domestic or international law and restrict their freedom of thought and analysis.

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

### 2.3. Integrity

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

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

By their professional and private behaviour, members of the judiciary help vindicate public
confidence in that judiciary's integrity. Every judge has to bear this in mind all the time. Being
a judge means being a judge 24 hours, in public and in private circumstances.

By their reserve, caution and discretion, members of the judiciary demonstrate that they are
mindful of the image of justice and their role in the society.

When making personal commitments, members of the judiciary shall ensure that they
reconcile the legitimate exercise of their rights as citizens with their duties as judiciary
members. They shall behave and express themselves in public with caution and moderation.
Members of the judiciary shall ensure that their private commitments within associations do not interfere with their field of jurisdiction within their court of appointment. If they are unable to do so, they shall withdraw.

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

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

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

Probity is the commanding element in professional practice, behaviour in society and private life. For members of the judiciary, probity means an overall requirement of honesty. It implies compliance with the statutory provisions specific to members of the judiciary, their status and judicial organization.

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Members of the judiciary shall behave with tact.

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

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

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

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

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

2.4. Propriety

When a judge is faced with the problem of his/her proper actions he/she should ask himself/herself whether his/her behaviour in official or unofficial capacity is performed in the manner that it will (not) endanger trust in their independence.
Judges should restrain themselves from statements and actions which could lead to erosion of such public trust and respect of judiciary. They shall strive with moderate actions, with objectivity and with controlling their emotions, to improve confidence in their work dedicated to the cause of justice.

Members of judiciary are performing their duties with self-consciousness and respect to their own profession. Judges should never put themselves in the front with aim to promote themselves alone, because their role is to protect rights of the parties.

Judges and other players in the judicial system should create collegial relations and mutual respect in personal and professional sense. When there is need to express criticism it should be expressed unpretentiously, objectively and without personal insult.

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

Certain extra-judicial activities should be authorized or reported appropriately in order to be open to the outside world and promote awareness of the institution. They must be compatible with the judiciary member's dignity and independence, and must not be detrimental to the service of the court. Any such activities liable to create a conflict of interest should be avoided.

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

Persons under a court's jurisdiction are entitled to expect the same integrity from members of the judiciary when appointing natural persons or legal entities to assist them with their tasks.

The systematic selection of the same experts or agents may arouse suspicion of dependency.

Members of the judiciary shall not comment on their own decisions. The grounds of the judgments alone should suffice. They shall not criticize their colleagues’ court rulings, even within the same series of courts, as these rulings should be analyzed through the normal appeals process.

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

The duty of taking more restrained approach to the public does not preclude the judicial hierarchy from intervening when a member of the judiciary is the object of unfair accusations, in particular by the media.

As a precaution, members of the judiciary shall not handle cases that directly or indirectly involve either themselves or their close circle of relations. In such cases, they shall not wait for their disqualification but shall refrain from intervening in any proceedings of this nature or involving a party with whom their relationship is one of friendship, proximity or intimacy.
The decision to withdraw from a case is up to the judge's own conscience, with no obligation to explain with exception when law commends differently.

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

In their private lives, members of the judiciary are still subject to a strict obligation of scrupulousness, which includes delicacy. This requires that they show discernment and caution in their life in society, choice of relationships, the performance of their private activities and participation in public events.

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

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

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

2.5. Equality

The judge actively commits himself to respecting the dignity and equality of all the parties in the case, and does not demonstrate any kind of prejudice or discrimination in relation to sex, racial or ethnic origin, physical or mental disability, religion or creed, sexual orientation or political conviction, which in any way may violate their personality or create an intimidating, hostile, degrading, humiliating or offensive environment.

Within the scope of his powers of direction and discipline in pleadings, the judge ensures that all the parties in the case and the staff that are assigned to him adopt conduct which respects the equality and dignity of the human person, and expresses his disapproval regarding all conduct which is prejudiced or discriminatory.

The judge binds himself to comply with and apply the law and the principles of the legal system legitimately consecrated in the positive legal order by the proper bodies. However, faced with the multiplicity and heterogeneity of cases brought to trial, the judge always keeps in mind that justice and the law are not limited to the strictly positivist and legalist interpretation of the rules, and that the whole of the decision must be essentially fair and human and respect the fundamental rights of the democratic rule of law. This requires that the judge pays particular attention and is sensitive to constitutional, European Union and international sources of law.

The judge’s awareness of belonging to a global legal order, with responsibilities which extend beyond the national legal framework and beyond the territory, requires that he performs his functions in a manner appropriate to affirm the universal validity of human rights.
The function of the judge as a guarantee of the rights of citizens also requires a careful reading of the case in the light of the principles of the Constitution and, when legally admissible, rejection of the concrete application of a law which infringes those principles. However, the judge keeps in mind that this exceptional mechanism is established principally as a guarantee of the citizens against laws which infringe their fundamental rights.

The fundamental point is that parties are not before a judge because of him/her, but they are there because they are seeking protection or because they are protecting some of their rights. That is why they expect help from a judge. The judge must therefore pay attention to listen to parties and to help them acknowledging that such help must be in the frame of the law and within judge’s authority.

Even in cases, in which parties have a very critical and hostile attitude towards opposite party and judges, communication problems can be solved by upholding dignity, impartiality, and full care sustaining form showing emotions.

Relationship between judges and parties must be polite, cultured and human. The judge must respect party’s personality without showing any familiarity. It is his/her duty to show equal approach to both parties with respect to their dignity and taking in to the account that parties very often feel inferior to the judge because they are there to seek help in protection of their rights and freedoms.

Equality and humanity also means that judges should hear what parties have to say with patience and understanding but without inflating in sympathy.

It is not acceptable for a judge to act in a way to show to the parties that they are in inferior position and that they are completely depending on the judge’s will. For example, leaving a party to wait in front of a courtroom without any justified reason is not acceptable.

Contacts between judges and parties should be held with caution.

2.6. Competence and diligence

Throughout their professional life judges are committed to acquiring the knowledge, skills and personal qualities necessary in order for them to exercise their function with merit.

In the exercise of their function, judges dedicate their activity to the proper functioning of the court and the timely handling of cases, so that cases submitted for their appreciation are decided with maximum quality and readiness, fairly, professionally, diligently and determinedly.

Judges are aware that the proper functioning of the court also depends on the adoption of organizational and procedural management criteria, with a view to simplifying the formal procedures, planning, monitoring and assessing the service, and the use of the new information and computerization technologies.

Judicial training is indispensable for safeguarding a judge’s independence and impartiality, a presupposition of his legitimacy to administer justice and a guarantee of true autonomy of reflection and decision.
In addition to the initial training, the judge accepts as his own responsibility the acquisition of permanent and specialized training, appropriate to the exercise of his functions, and he promotes this throughout his working life and works to constantly update his knowledge, maximize his skills and optimize his personal qualities.

Before exercising functions in court which require specialized skills, the judge keeps in mind the need to acquire the specific knowledge necessary, namely by attending appropriate training activities.

Besides this, the judge seeks to acquire training in non-legal areas of his interest, aiming to improve his knowledge and enrich his cultural background and personal qualities.

Merit is of primary importance to the exercise of the function of a judge, regardless of which stage he is at in his career or which court he exercises functions in. The assessment of merit, linked to professional experience, is thus a predominant factor in appointment, transfer and promotion.

The judge, in search of a fair, equitable and timely solution for the litigation in question, rejects mechanical and uncritical reproduction of other decisions and the use of formalities which impede or unnecessarily delay the acknowledgement of merit, and he maintains an open mind to hear and recognize new arguments and analyze the different alternatives offered by the law, in order to confirm the criteria or points of view held and, if necessary, to repair or rectify decisions given, when the law so admits.

In the interpretation and application of the law, the judge gives critical attention to the legal practice and legal theory, and takes into account the need to incorporate within the decision-making process the principle of uniformity of criteria for situations, which are identical in subject matter, and consideration of scientific development in the study of law.

The judge provides reasoned grounds for his decisions, by means of a discourse which can be understood by those at whom it is directed, with clear and succinct language, such that the former understand not only the respective scope but also the logical and argumentative process on which the decision is built, even when they disagree with it.

The judge seeks to comply with the obligations of his functions within the time limits established by law and, when this is totally impossible, either due to the level of difficulty of the case or to an excessive caseload, within a reasonable time period. For this purpose, he discourages the unnecessary delaying of proceedings and the practice of time-wasting procedural actions and uses all the means at his disposal which allow for difficulties and insufficiencies of the court to be overcome or for their effects to be minimized, with a view to ensuring the greater usefulness and satisfactory settlement of the litigation and avoiding the injustice which results from a late decision.

The judge seeks to schedule proceedings in line with a reasonable forecast of the development of the work and the availability of the premises, so that he does not have to delay or postpone their start. When this cannot be avoided, he personally and in a timely manner informs the affected parties in the case of the reasons for such delay.
The judge does not accept extrajudicial commitments which are incompatible with the diligent exercise of his judicial functions.

The judge clearly informs the body with jurisdiction for managing human and physical resources of all difficulties in the performance of his work which require the use of extraordinary means of assistance. In the same way, the judge communicates that these are no longer necessary when the situation that determined their use has ended.

Aware that diligent performance of the judicial function and the correct functioning of the organization requires assistance from staff assigned to processing the case and performing administrative tasks, the judge takes an interest in the overall management of the organic unit for which he is responsible, requesting the necessary means, motivating the staff and accompanying and supervising the performance of their tasks in accordance with the planning that has been defined.

In the management of his cases, taking into account the aim of complying with the established caseload targets, without sacrificing the necessary quality and consideration of the decision, the judge seeks to simplify the formal and bureaucratic procedures, eliminate unnecessary tasks and routines, produce suitable planning and scheduling, implement methods which allow the results obtained to be permanently assessed, adopt the necessary correction measures, and make use of the new information technologies and computer programs of the courts.

The judge views the assessment of his performance and the attributing of a classification not only as a factor for grading merit and career progression, but also as a component in his learning process and an aid for identifying areas for improvement.

To the conclusion, and taking in account everything already pointed out, judge must take all necessary steps to build him/her as a complete and competent judicial figure. This can be achieved with constant improvement of general and professional knowledge - only such judge can face and respond to serious demands which challenge him/her from the day of appointment to the end of the career.
PART 3

1. Introduction

This part provides guidance and step-by-step instructions to trainers on their roles and responsibilities in the delivery of a 1-day training event, covering structure, contents, suggested training techniques, schedule, and references to the PowerPoint presentation in Annex 4. The suggested training event is, because of its interactive approach, designed for small groups of judges (no more than 20!).

Remember that you should arrive at the training room at least 30 minutes before the scheduled start-time for the event. Identify as soon as possible all individuals responsible for assisting in the event’s organisation: equipment technician (if available), catering staff, representative(s) of organisation, etc. Check that all equipment is functioning.

Check the chosen seating arrangements to confirm that the arrangements suit the techniques to be sued and that all participants have a seat and will be able to view the screen from their seats. The preferred room layout for the interactive learning is the “U or horseshoe” layout because it allows the trainer to move freely around the room and supports group cohesion. Try to avoid the classroom layout because it creates a distance between presenter and the participants.

2. 9.00-9.30 Opening the event and welcoming the participants

Objective:
- Participants are able to identify the structure and purpose of the event.

Approach:
- Welcome the participants and express thanks for their attendance.
- Inform them that the purpose of the training is to learn about ethical values, principles and standards which help judges determine “how their daily work ought to be done”, and solve practical ethical dilemmas, which occur in their daily professional and private life.
- Tell them that this is going to be an interactive workshop, therefore their constant presence, and active participation are requested.
- Provide an outline of the training methods to be used (lectures, group discussions and group work).
- Request for openness in discussion and request that everyone respects the confidentiality of the discussions by not repeating anything said outside the training room.
- Make “housekeeping” announcement: breaks, location of toilets, request to turn off mobile phones and to be on time.
- Give an overview of the schedule.
- Ask the participants to introduce themselves and to explain what they expect from the training; note down their expectations on a flipchart if available.

9.30-9.50 Icebreaker
Objective:

- The first contact with the participants is made.
- A more relaxed atmosphere is created.
- The participants learn the practical relevance of ethical rules in their judicial activities.

Approach:

- Ask the participants whether they have ever faced a personal ethical dilemma related to their work.
- If they look uncomfortable or remain passive/reluctant (most probably they will) describe an ethical dilemma from your personal experience.
- Use a visual aid to demonstrate an ethical dilemma of a judge (e.g. see the ppt presentation, Annex 4, slide 2).
- Repeat your question and ask the participants to write down on a piece of paper a dilemma they are currently facing, have previously faced or are aware of in the workplace. Tell them to save the paper until later when you will get back to this point and discuss possible solutions.
- To conclude the session define the “judicial ethics” by stating that it means an attitude to judge’s professional life, and summarize that judges face ethical dilemmas on a daily basis.
3. **Law versus ethics**

**Objective:**

- The participants analyse the difference between law and set of ethical rules.

**Approach:**

- Use quotations of prominent lawyers on judicial ethics (e.g. see the ppt presentation, Annex 4, slide 3) and promise to get back to this point later.
- Form groups of 3-5 participants (see techniques for organising groups, Part 1, 4.2.).
- Give instructions: the subject of the first group (or groups, depending on the number of participants) may be: “Who makes the laws as opposed who sets ethical principles?; the subject of the second group (or groups, depending on the number of participants) may be: “Do ethical standards for judges (e.g. Be diligent!) prescribe an objective to be pursued or in advance determined activities to be followed (i.e. what to do to achieve the objective); the subject of the third group (or groups, depending on the number of participants) may be: “What are the sanctions if the judge breaches ethical standards?”
- Before they start reflecting upon the subject instruct the groups to assign a representative who will report on their findings. Inform them of the time available to complete the task (10 min should probably be enough).
- Call on the representatives to make a short report on the work of each group.
- Give feedback and summarize the main points by using a visual aid (e.g. see the ppt presentation, Annex 4, slide 4). At this point, in order to accentuate the fact that the ethical standards unlike laws prescribe an objective to be pursued, you might also go back to the ppt presentation, Annex 4, slide 3, quotation one.

**10.30-11.00 Coffee break**
4. 11.00-11.50 International and national standards

Objective:

- The notion of a broader, universal aspect of ethical values for judges is developed.
- The participants research the impact of international standards on the Code of Judicial Ethics for the Judges in the Republic of Macedonia.
- The participants research the difference between disciplinary offences and ethical principles.

Approach:

- Use a visual aid to demonstrate some international codes of conduct for judges (e.g. see the ppt presentation, Annex 4, slide 5-8).
- Explain with examples how the international standards are directly reflected in the Code of Judicial Ethics for the Judges in the Republic of Macedonia (e.g. see the ppt presentation, Annex 4, slide 9-15).
- Give examples to illustrate violations of ethical principles, by stressing that independence and impartiality will be studied in-depth during the next session (e.g. i) competence: a judge issues verdicts which are clearly based on ignorance of the legal basis on which the judgement should be made; a judge is not prepared for hearings; ii) dignity: a judge behaves rudely in court; a judge who is married is often seen in public with a lover; a judge dressed improperly; iii) equality: verdict is influenced by the fact that the defendant belongs to a minority or marginalised group).
- Exercise: introduce a general discussion: “In which way does the Code of Judicial Ethics for the Judges in the Republic of Macedonia interact with other rights and obligations of judges as contained in their basic laws?” or “What is the interdependence of principles enshrined in the Code?”
- Summarize the main points of discussion: There are four levels of rules/principles: Constitution (independence of judiciary), statute laws, other binding norms such as regulations, and non-binding instruments such as guidelines. The Code should be used as the primary reference point as it contains all of the principles in one place (i.e. it repeats principles that are in other laws/Constitution). Explain purpose of the Code, stressing that its prime purpose is to provide a positive model of behaviour, rather than establish a set of prohibitions. Underline however that it may be used in exceptional circumstances as a ground for disciplinary sanctions. Stress that the Code is also an instrument that judges can and should use to defend themselves from improper pressures and influences.
- Elaborate the interdependence of principles, e.g. impartiality requires independence (but is not guaranteed by it); dedication is essential for competence; competence is a condition for impartiality, etc.
5. 11.50- 12.35 Independence of judges

Objective:

- The judicial independence is defined and analysed from international and national perspective.
- The participants are able to perceive its practical implications including potential threats to the independence.

Approach:

- Outline/explain the origin of judicial independence, its rationale (“a privilege for judges”?), concept (individual and institutional), and elements (legal and ethical). You might use a visual aid (e.g. see the ppt presentation, Annex 4, slides 16 and 17).
- Discuss the criteria developed by the ECHR to determine whether a tribunal is considered to be independent. Give examples (e.g. Campbell Fell v. U.K., as to institutional independence Beaumartin v. France, McGonnell v. U.K., see the ppt presentation, Annex 4, slides 18 and 19, for the ECHR judgements see Annex 3).
- Exercise: introduce a general discussion: “What constitutes a potential threat to individual/institutional independence of judges in Macedonia?” If the group remains silent give an example (e.g. judges assigned to the Ministry of Justice, the ppt presentation, Annex 4, slide 19) and repeat the question – show sincere interest when they participate. Summarize the main points of discussion.
6. 12.35-13.15 Impartiality

Objective:

- The principle of impartiality is defined and analysed.
- The participants are able to perceive its practical implications in their professional and private life.

Approach:

- Compare independence and impartiality: In what aspect are they similar to (different from) each other? You might use a visual aid (e.g. see the ppt presentation, Annex 4, slide 20).
- Discuss the criteria developed by the ECHR to determine the existence of impartiality (subjective and objective test). You might use a visual aid (e.g. see the ppt presentation, Annex 4, slide 21). Give examples (e.g. De Cubber vs. Belgium, see Annex 2, and the ppt presentation, Annex 4, slide 22; Poposki v. Macedonia, see Annex 2.).
- Make your last point by reading out the Bangalore principle, 4.3.

13.15-14.15 Lunch
7. 7. 14.15-14.35 Conflict of interest

Objective:

- The participants research the difference between corruption and conflict of interest.
- Solutions in borderline situations with regard to conflict of interest are suggested.

Approach:

- Form groups of two participants already sitting together (a buzz group, see Part 1, 4.2.), in order to discuss the topic “Is conflict of interest the same as corruption?” and report back. Discussions should be allowed to continue for no more than 3-5 minutes. Ask participants who replied to the question in the affirmative to lift their hands (Ideally nobody should lift a hand).
- Define the conflict of interest, by stressing the existence of borderline situations. How do we recognize them? In what aspect is the conflict of interest similar/different to corruption? You might use a visual aid (e.g. see the ppt presentation, Annex 4, slides 23 and 24).
- Discuss incompatibilities, disclosure and recusal from proceedings. Discuss in plenary: ”Are there cases where notification of conflict of interest is sufficient without recusal (e.g. if the interest involved is minor/peripheral, the judge only becomes aware of it in the middle or late in the proceeding, and s/he notifies the court giving parties the opportunity to request his/her recusal)?” You might use a visual aid (e.g. see the ppt presentation, Annex 4, slide 25).
8. 14.35-15.30 Case scenarios – group discussion

Objective:

- Practical ethical dilemmas in borderline situations are identified and possible solutions outlined.

Approach:

- Organise participants in groups (see techniques for organising groups, Part 1, 4.2.). Explain that ethical principles and their implications for judges can be best understood by examining and discussing and reviewing specific examples of the decisions that have to be taken and the ethical issues associated with the choice to be made. Explain that they will be presented with individual examples – scenarios - which illustrate a set of circumstances and a decision to be made that raises ethical issues. Use a visual aid to display a scenario (e.g. see ten scenarios in the ppt presentation, Annex 4, slides 26-35; alternative: provide a scenario for each group on paper). Assign scenarios to groups (e.g. one scenario per two groups; alternative one scenario per group)
- Ensure that the group discussion identifies the principles/ethical rules the judge should use to determine the appropriate course of action.
- Before groups start reflecting upon the subject, instruct them to assign a representative who will report on their findings. Inform them of the time available to complete the task (10-15 min should most probably be enough).
- Call on the representatives to make a short report on the work of each group. Compare their findings in case the same scenario is assigned to more than one group.
- Give feedback to each group and summarize the main points.
9. 15.30-16.00 Wrap up and close

Objective:

- Restating learning objectives and verifying how the training event achieves those objectives.

Approach:

- Introduce a general discussion: “What are the qualities (virtues) of a good judge?” At this point, you might go back to the quotation 3 (Irmgard Gris) in the ppt presentation, Annex 4, slide 3. After a short group discussion summarize the main points by showing a list “Ten commandments for a new judge” written by an American judge Edward Devitt in 1961 (ppt presentation, Annex 4, slide 36).
- To conclude ask the participants to take the piece of paper they saved from the beginning of the training where they have noted a personal ethical dilemma they experience(d). Discuss issues and possible solutions and in particular: “Did the content of the training event help you to solve a dilemma?”
- Conclude that while there are no absolute right or completely wrong answers to often complex situations, there are guiding values and principles to help us make the most appropriate decision. The Code of Judicial Ethics for Judges in the Republic of Macedonia and the content of this training event are designed to help us in such situations.
- Remind participants of the importance of seeking advice of trusted colleague whenever facing doubts about ethics.
- Ask the participants to complete and hand in their evaluation form before they leave.
- Thank the participants for the commitment and active engagement.

ANNEXES
Annex 1: Schedule of the training event

<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
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<tbody>
<tr>
<td>9.00-9.30</td>
<td>Opening the event and welcoming the participants</td>
</tr>
<tr>
<td>9.30-9.50</td>
<td>Icebreaker</td>
</tr>
<tr>
<td>9.50-10.30</td>
<td>Law versus ethics</td>
</tr>
<tr>
<td>10.30-11.00</td>
<td>Coffee break</td>
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<tr>
<td>11.00-11.50</td>
<td>International and national standards</td>
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<tr>
<td>11.50-12.35</td>
<td>Independence of judges</td>
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<tr>
<td>12.35-13.15</td>
<td>Impartiality</td>
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<tr>
<td>13.15-14.15</td>
<td>Lunch</td>
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<tr>
<td>14.15-14.35</td>
<td>Conflict of interest</td>
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<tr>
<td>14.35-15.30</td>
<td>Case scenarios – group discussion</td>
</tr>
<tr>
<td>15.30-16.00</td>
<td>Wrap up and close</td>
</tr>
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Annex 2: Code of Ethics for Judges in the Republic Macedonia

CODE OF JUDICIAL ETHICS FOR THE JUDGES
IN REPUBLIC OF MACEDONIA

PREAMBLE

WHEREAS the Universal Declaration of Human Rights recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge;
WHEREAS the International Covenant on Civil and Political Rights guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law;
WHEREAS the foregoing fundamental principles and rights are also recognized or reacted in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions;
WHEREAS the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice;
WHEREAS the Universal Declaration of Human Rights recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge;
WHEREAS the International Covenant on Civil and Political Rights guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law;
WHEREAS the foregoing fundamental principles and rights are also recognized or reacted in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions;
AND WHEREAS these rules are rules of reason and each of the sections of this code should be read together as a whole, and each provision should be construed in context and consistent with each other provision. They are to be applied in conformance with constitutional requirements, laws and international conventions retied according to the Constitution, and other rules and by-laws that may exist and to be applied in the context of all relevant circumstances.
The code is designed to give guidance to the Judges and to provide a structure for regulating conduct that will demonstrate the high level of responsibility and ethics expected from such an important position in the judiciary. The rules contained in this code are intended to state basic standards that should govern the conduct of Judges and to assist them in establishing and maintaining high standards of professional conduct.

PRINCIPLES
The following principles are intended to establish standards for ethical conduct of Judges. They are designed to provide guidance to Judges and to the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that Judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the Judge.

**INDEPENDENCE**

**Principle:**
Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A Judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

**Application:**

1.1 A Judge shall exercise the judicial function independently on the basis of the Judge's assessment of the facts and in accordance with a conscientious understanding of the law and its application, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

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

1.3 A Judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but should in every occasion defend the independence of the court from political pressure and influences.

1.4 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.

1.5 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.

**IMPARTIALITY**

**Principle:**
Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

**Application:**

2.1 A Judge shall perform his or her judicial duties without favour, bias or prejudice.

2.2 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.

2.3 A Judge shall, so far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the Judge to be disqualified from hearing or deciding cases.

2.4 A Judge shall recuse himself or herself from participating in any proceedings in which the Judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:
2.4.1 The Judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
2.4.2 The Judge previously served as an investigative judge, lawyer, licensor, co-obligor or regress obligor or was a material witness in the matter in controversy; or
2.4.3 The judge is obliged to at all times identify the cases set by law and judicial practice and to request disqualification from a case which has been assigned to him or her;
2.5 A Judge shall not, while a proceeding is before, or could come before, the Judge, make any public or other comments that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process.

INTEGRITY

Principle:
Integrity is an attribute of fairness and honesty. The judge shall always, not only while performing the judicial duties, act honestly and in such a manner that is of benefit to the proper discharge of the judicial office.

Application:
3.1 A Judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
3.2 The behavior and conduct of a Judge, professionally and otherwise, must reaffirm the people's faith in the integrity of the judiciary.
3.3 A judge shall not use the reputation of the judicial office to satisfy own personal interests or the interests of a member of his/her family or any other quarter. A judge shall not allow others to have the impression that any party is in a special position to inappropriately affect him/her while performing judicial duties.
3.4 A judge and the members of his/her family, must not accept, nor request for any gifts, loans or other services in regard to something that the judge might do or omit to do relating to the performance of the judicial duties, except for suitable presents whose value is under the value prescribed by law.
3.5 A Judge shall inform himself or herself about the Judge's personal and fiduciary financial interests and shall make reasonable efforts to e informed about the financial interests of members of the Judge's family.

PROPRIETY

Principle:
Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a Judge.

Application:
4.1 A Judge shall avoid impropriety and the appearance of impropriety in all of the Judge's activities.
4.2 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 particular, a Judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
4.3 A Judge shall, in his or her personal relations with individual members of the legal profession who practice regularly in the Judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.
4.4 A Judge shall not allow any use of the Judge's residence that is contrary to the principles in this Code.
4.5 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.
4.6 A Judge shall not allow the Judge's family, social or other relationships improperly to influence the Judge's judicial conduct and judgment as a Judge.
4.7 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.
4.8 Subject to the proper performance of judicial duties, a Judge may:
4.8.1 Write, lecture, teach and participate in activities concerning the law, the legal system and the administration of justice or related matters;
4.8.2 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;
4.8.3 Serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a Judge; or 4.8.4 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.
4.8.4 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.
4.8.5 A Judge shall not practice law whilst the holder of judicial office.
4.8.6 A Judge may form or join associations of Judges or participate in other organizations representing the interests of Judges.
4.8.7 A Judge may not be a member of a management board, supervisory board or auditing committee of a company under commercial law or a co-operative, or a foundation conducting business, hold shares in a company or in any other capital manner to be in a relation with a company if this relation evokes conflict of interest with the due performance of the judicial office or run a business alone or jointly with other persons. These provisions do not apply to retired Judges.

EQUALITY

Principle:
Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:
5.1 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, disability, age, marital status, sexual orientation, social and economic status and other like causes (“irrelevant grounds”).
5.2 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.
5.3 A Judge shall carry out judicial duties according to law, 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.
5.4 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.
5.5 A Judge shall not hold membership in any organization that practices discrimination.
COMPETENCE AND DILIGENCE
Principle:

Competence and diligence are prerequisites to the due performance of judicial office.

Application:

6.1 The judicial duties of a Judge take precedence over all other activities.
6.2 A Judge shall devote the Judge's 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.
6.3 A Judge shall take reasonable steps to maintain and enhance the Judge's knowledge, skills and personal qualities, taking advantage for this purpose of the training and other facilities which should be made available.
6.4 A Judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.
6.5 A Judge shall perform all judicial duties efficiently, fairly and with reasonable promptness.
6.6 A Judge shall be patient, dignified and courteous in all proceedings before the court in relation to litigants, jurors, witnesses, lawyers and others with whom the Judge deals in an official capacity. The Judge shall require similar conduct of legal representatives, court staff and others subject to the Judge's influence, direction or control.
6.7 A Judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

CONFLICT OF INTEREST AND CORRUPTION
Any violation of the principles shall be considered a violation of this Code. Each Judge shall recognize and protect himself or herself from such cases that represent conflict of interests and corruption.

IMPLEMENTATION

8.1 Implementing these principles and ensuring the compliance of Judges with them are essential to the effective achievement of the objectives of this Code.
8.2 By the nature of the judicial office, the Judges are accountable for their conduct in accordance with law, whereas advisory opinions regarding the implementation of the principles and securing their application by the Judges, which is essential to the effective achievement of the objectives of this Code, are provided by the Advisory Body which is established to implement this Code.
8.3 The Advisory Body and procedures established to implement this Code shall be transparent so as to strengthen public confidence in the judiciary and thereby to reinforce judicial independence.
8.4 The implementation of this Code shall take into account the legitimate needs of a Judge, by reason of the nature of the judicial office, to be afforded protection from vexatious or unsubstantiated accusations, and only in due process of law and only in front of a body established by law, can the Judge be held accountable for disciplinary breach and for unethical and unprofessional performance of judicial duties.
8.5 The judiciary and any institution established to implement this Code shall promote awareness of these principles and of the provisions of the Code.

ADVISORY COMMITTEE ON JUDICIAL ETHICS

9. For consistent application of the principles of the Code of Ethics, the Macedonian Judges Association establishes the Advisory Committee, which upon request by the Judges of the Republic
of Macedonia should issue opinions to the Judges in Macedonia concerning questions regarding ethical conduct, or appropriate performance of judicial duties and avoidance of conflict of interest in the Judges’ private life and during the performance of their judicial duties.

9.1 The opinions of the Advisory Committee with which a breach of the principles of the Code of Ethics is determined have a preventive significance, which indicates that a disciplinary procedure or a procedure for unethical and unprofessional performance of judicial duties can be initiated, in cases in which the conditions are met to consider certain conduct as a parallel breach of the provisions of this Code of Ethics, as well as basis for disciplinary breaches and unethical and unprofessional performance of judicial duties prescribed by Law.

9.2 The Advisory Committee works under the auspices of the Macedonian Judges Association (MJA) and is consisted of a president and 14 members.

9.3 The members of the Advisory Committee are elected by the Managing Board, from among the members of the Macedonian Judges Association, on the proposal of the branch offices of the Association in the courts of the Republic of Macedonia. The president of the MJA is also a president of the Committee, and the other 14 members are elected as follows: one Justice of the Supreme Court and one Judge of the Administrative or High Administrative Court, one judge from each appellate court and eight judges from the basic courts, elected from the two biggest courts from each appellate region, and who are valued and trusted by the Judges based on their personal integrity and dignity in the performance of the judicial duty.

The members of the Committee shall work without any compensation.

9.4 A request from a Judge or from the MJA for an advisory opinion should be submitted in writing, to which the Committee responds in writing no later than 15 days from the day the request was received, based on concrete facts and circumstances. If any of the facts or circumstances in the request are not detailed enough to allow the Committee to issue an appropriate opinion, additional information can be requested from the submitter of the request for opinion. The Committee shall not issue an opinion if the requested additional information is not enough or are not submitted.

9.5 The requests for opinions and the advisory opinions issued to the Judge by the Committee, as well as the facts and circumstances on which they are based are confidential.

9.6 The Committee publishes its advisory opinions on the website of the MJA, as well as the facts and circumstances they are based on, after an appropriate anonymizing of the persons, places and data that may lead to identification of the submitter of the request. The conferences of the Committee are confidential. The publishing of the anonymized opinions of the Committee should be available to all Judges that face similar issues.