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ETHICS COMMITTEE OF THE REPUBLIC OF ARMENIA COUNCIL
OF COURT CHAIRMEN AND BOARD OF THE REPUBLIC OF
ARMENIA ASSOCIATION OF JUDGES

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PREFACE

The Republic of Armenia Code of Judicial Conduct became effective on December 5, 2005. It had been earlier approved by the General Assembly of the Republic of Armenia Association of Judges and endorsed by the Republic of Armenia Council of Court Chairmen.

The Code complies with the requirements of some of the fundamental documents concerning the rules of judicial conduct, such as the Bangalore Principles adopted in the Hague in November of 2002, the 2002 November 19 “Opinion of the Consultative Council of European Judges on the Principles and Rules Governing Judges’ Professional Conduct, in Particular Ethics, Incompatible Behavior and Impartiality,” and other international recommendations and instruments on this matter.

To ensure the effective application of the Code, it became necessary to design commentaries that are aimed at helping judges to engage in proper behavior in specific situations and to maintain the reputation of the judicial office.

The Commentaries are based on the essential principle that the public attitude towards judicial decisions largely depends on public confidence in the independence and integrity of judges, which in turn depends on the independent and impartial conduct of judges.

Clearly, improper judicial conduct undermines public confidence in the judiciary.

The Commentaries require judges to conduct themselves properly both within and without professional activities.

We hope that the Commentaries to the Code will greatly contribute to the true independence and impartiality of judges, a higher degree of accountability, and increased public confidence in the judiciary.

H. MANUKYAN
Chairman of the Republic of Armenia Cassation Court
Rule 1: A judge shall exhibit high standards of conduct in order to ensure public confidence in the judiciary.

Commentary. Under Article 91 of the Republic of Armenia Constitution, justice is administered in the Republic of Armenia solely by courts in accordance with the Constitution and the laws. Final acts of court are adopted in the name of the Republic of Armenia.

A judge is a person who, in accordance with the procedure stipulated by the Constitution, has the exclusive authority to administer justice; consequently, each judge represents the justice system of the country, and the public perception of justice hinges on the conduct of each and every judge. Therefore, the Republic of Armenia legislation provides that a person must possess a high degree of professionalism, practical skills, and morality in order to become a judge. This requirement also flows from international documents on the status of judges, such as the 1998 European Charter, which provides that every individual legitimately expects competence, independence, and impartiality from the courts of law and from every judge.

According to Article 124 of the Republic of Armenia Judicial Code, a person appointed as a judge assumes the position by taking the following oath in the presence of the Republic of Armenia President in a session of the Justice Council: “Taking on the high position of a judge, I swear before the people of the Republic of Armenia to perform my judicial duties in accordance with the Republic of Armenia Constitution and laws, to be impartial and principled, fair and humane, and sacredly comply with all the requirements of the status of a judge, ensuring the rule of law and upholding the reputation of the judiciary.” Thus, a judge must comply with not only the requirements of the Constitution and the laws, but also the rules of ethics.
and morality. A judge may not publicly express any disrespect towards laws or the constitutional order of the Republic of Armenia. A judge may not perform acts that may undermine the reputation of the state and the judiciary.

In the performance of his duties in court and in out-of-court dealings, a judge must avoid anything that may undermine the reputation of the judiciary and the high calling of the judge, or cast doubt on the impartiality and integrity of the judge.

This Rule is the most general one in the Republic of Armenia Code of Judicial Conduct. One can assert that a violation of any other rule of the Code results in a breach of this Rule.

**Rule 2.** *With his or her conduct both within and outside of the court, a judge shall enhance the confidence of the public, the legal profession, and litigants in the impartiality, independence and fairness of the process, the judge, and justice bodies. Justice must not merely be done, but must also be persuasively seen to be done.*

**Commentary.** As a central object of public attention, a judge must behave in such a way as to strengthen public confidence in the whole judiciary. In other words, a judge should avoid irresponsible acts, improper conduct, or creating the appearance thereof (see Rule 1).

This Rule requires a judge:

1. To be objective;
2. To avoid being perceived as indecent;
3. To respect laws and comply with their requirements;
4. To act in such a way as to contribute to increased public confidence in judicial integrity and impartiality;
5. Not to violate the rules of procedure; and
6. Not to violate the code of judicial conduct.

The requirements of this Rule imply that a judge should:

1. Be sensitive about any potential manifestation of abuse of his position;
2. Not allow his family, social, political, or other ties to influence his
judicial conduct and decisions;
3. Not use the reputation of his office to advance his or others’ private interests;
4. Not permit anyone to leave the impression of holding a special position from which he or she is able to influence the judge (see Rule 7);
5. Not use his office with the purpose of receiving personal gains;
6. Not use the court’s facilities for organizing and doing his personal business;
7. Not use his office for gaining an advantage in cases with the involvement of his family members, and not interfere with cases pending before another judge in connection with his relatives, close ones, and friends; and
8. Not act either with anger or impatience, and not use indecent language (see Rule 10).

In the performance of judicial duties, a judge may not, either with words or conduct, express any bias or prejudice, including that based on race, sex, religion, ethnicity, disability, age, sexual orientation, social-economic status, or other factors.

Here are some examples of statements indicating bias:
- Racial epithets, ethnic insults, or degrading nicknames;
- Indecent humor;
- Connecting race/ethnicity with the crime;
- Making biased or impolite statements about domestic violence or other crimes against women; and
- Making irrelevant references to someone’s ethnicity.

For purposes of keeping order in the courtroom, the judge may take measures in respect of those displaying contempt of court, if their behavior threatens to disturb the court session, or if contempt of court is taking place.

The institution of recusal is an important precondition of public confidence in the administration of justice and in the decisions of the judiciary (see Rules 14 and 15).

Judges have to deal with not only judicial, but also
administrative/logistical matters. To this end, the Rule requires judges to:

- Diligently exercise their administrative duties, without any bias or prejudice;
- Maintain their qualification in the sphere of judicial administration;
- In the organization of the court’s business, cooperate with other judges and other staff of the court;
- Require the court’s staff and other persons subject to the judge’s management and supervision to maintain integrity and diligence standards that are applicable to the judge; and
- Require the court’s staff and other persons subject to the judge’s management and supervision to refrain from bias or prejudice in the performance of their official duties.

Judges must address all judicial matters speedily, efficiently, and fairly; however, in doing so, judges must respect the parties’ right to be heard by court.

To ensure that judicial matters are addressed speedily and efficiently, judges must:

- Study and oversee cases;
- Allow adequate time for the performance of the judge’s duties;
- Be punctual in court;
- Speedily address issues brought before them;
- Require that judicial officers, parties in dispute, and their lawyers cooperate with the judge in this respect.

Delays cannot be justified by:

1. The insufficient number or slow performance of staff;
2. The judge’s belief that delaying a decision is in the parties’ interests;
3. The judge’s workload; or
4. The slowness of parties and their lawyers.

Judges must facilitate increased public confidence in the integrity and impartiality of the judiciary. Public confidence in courts may diminish, if one judge criticizes the decisions of or methods applied by another (see Rule 21).
There are several exceptions to the rule prohibiting statements on cases at the pre-trial or trial stages. They are:

- A judge may explain court case proceedings for purposes of informing the public;
- A judge may make public statements during the performance of his official duties. This provision concerns statements made by the judge during his work in the courtroom;
- A judge may make comments on proceedings of cases in which the judge personally appears as a party in dispute.

**Rule 3. The judicial duties of a judge shall take precedence over all other activities permitted to the judge by law.**

**Commentary.** The prohibition of a judge holding office in state and local government derives from the famous principle of the separation of powers.

A judge may be engaged in scientific, teaching, and creative work. It is assumed that this work will not hinder the judge’s performance of his main duty, i.e. the judicial function. If such work is related to the judge’s professional activities, then it will create a possibility for the judge to contribute to the education of young experts and increased public awareness of professional issues, which, too, will reinforce the reputation of judges. However, judges may also engage in creative work that is far from their profession (for instance, music, painting, and the like). In any case, these permitted activities should not interfere with the judicial work. For instance, activities permitted by law may not justify regular delays of court hearings, the non-provision of judicial decisions to the parties or other stakeholders, and so on.

In the Republic of Armenia, judges may not engage in entrepreneurial activities, hold state and local government positions not related to their duties, hold offices in for-profit organizations, and perform any paid work, other than scientific, teaching, and creative work. This means that the judicial position is incompatible with any other position, activity, or work. As an officer of judicial power that exercises justice, a judge may not “deviate from” the performance of his primary responsibilities, which are of undisputed importance. In the event of becoming engaged in entrepreneurial work, holding an office in a for-profit organization, or performing any other
paid work, the judge may invest his vigor and energy in such work, because it improves his prosperity. This, however, is impermissible, because it undermines justice and may cause the public to perceive judges as bureaucrats looking to improve their own conditions. As a consequence, confidence in judicial independence, impartiality, and fairness would diminish. This, of course, does not mean that the judge may not own assets and securities, and receive dividends from his share (stocks or shares of stock) owned in economic companies; however, all of this must be transparent and public.

Rule 4. A judge shall refrain from contacts incompatible with his calling and from the influence of executive and legislative branches of power, officials, and persons, as well as from all kinds of interference, so as to appear an independent person to an impartial observer.

Commentary. A judge is under constant public scrutiny. His conduct and lifestyle determine the public opinion of both him and the whole judiciary. Therefore, judges must refrain from contacts that are incompatible with the judicial office. Judges must not have any relationship to representatives of the criminal world.

When exercising justice, a judge must be independent, follow the law, adhere to the evidence, and be guided by his inner belief and legal conscience. In other words, a judge must not tolerate any interference with the administration of justice, regardless of whether it is performed by representatives of the legislative or executive powers, other public officials, or ordinary citizens. Such influence undermines justice and hampers public confidence in the judiciary. By ruling out any interference with the administration of justice, judges contain and try to rule out such desire on the part of public officials or citizens. This behavior can educate the public by showing that justice is sound and equal for all. It is a basis for the judge to gain the reputation of an independent and impartial person.

Therefore, a judge must ensure access to justice by allowing any person with a lawful interest in a case pending before the judge, or his legal counsel, to fully present his position within the limits prescribed by law. (See Rule 11.)
Examples of violations of this Rule:
- A judge received information from policemen in an extra-judicial manner about a case pending before the judge.
- A Member of Parliament requests the court to order a light sentence in relation to a defendant. The judgment of the court mentions and considers the request as a circumstance mitigating the liability.
- A judge frequently provided confidential information the City Mayor.

Rule 5. **As a subject of constant public scrutiny, a judge must freely and willingly adopt personal restrictions that will ensure public perception of the judge as being respectful, balanced, and fair.**

**Commentary.** By restricting their personal and immediate family desires to gain advantages, judges must aspire to be like other citizens that do not have any possibility of pulling strings of power. Proper judicial conduct instills confidence in ordinary citizens, who can believe that they can find the justice they seek in court, because judges make decisions on the basis of law, in accordance with the principles of integrity and impartiality. When examining cases, judges automatically find themselves at the center of the attention of parties, other participants in proceedings, and impartial observers. Therefore, judges must consciously behave in such a way as to respect the publicly-perceived traditions of integrity. In other words, any citizen should perceive the judge’s behavior in the following way: a judge, as someone with unique authority, may exercise some freedom in the exercise of such authority, but does not do so, and, rather, voluntarily refrains from such conduct and serves as a positive example for ordinary citizens. A judge must not either act with anger and impatience or use indecent language. A judge must be polite, patient, and courteous in respect of all persons that come before him in the course of his performance of official duties.

A judge must be seen by the public as a courteous, balanced, and fair person in his everyday life. A judge should exercise self-restraint not only at work, but also at home, in places of entertainment, in friendly
surroundings, and so on. For example, a judge may not perform or encourage the performance of songs that are respected and loved by representatives of the criminal world and are incompatible with the judicial posture.

Of course, a judge cannot avoid having to clarify to close ones and friends some legal issues that are not related to his official work. In such cases, the judge should never guarantee the feasibility of any concrete judicial act, because he might thus be doing ill-favor to the person: the citizen, being confident of winning the case in any event, would fail to adduce the required evidence or would hire an incompetent lawyer—something that he would not have done, had it not been for the judge’s advice. Such conduct may undermine the public perception of judicial fairness.

**Rule 6. A judge shall take steps to enhance his knowledge, continuously improve his skills and personal qualities, using for this purpose all the training opportunities available to judges under judicial control.**

**Commentary.** Throughout his term of office, a judge must constantly improve his knowledge and take part in all judicial training events organized for judges under judicial control.

A judge is not obliged to participate and, moreover, should avoid participating in events organized, in particular, by other branches of state power. The point is to keep judges away from the influence of either the executive or the legislative powers. Supervision of the judicial training process by judges would rule out any encroachment limiting judicial independence, even if it is not direct. Any training program implies development of plans and presentations, enrichment of judges’ knowledge, and development of skills; however, the primary objective of judicial training should be to improve the administration of justice and to reinforce judicial independence.

To perfect their performance, judges should use professional literature, study scientific papers on various problems, and share their viewpoints and expertise with peers.
Rule 7. In exercising the judicial function, a judge shall act independently and impartially and be free of any extraneous influences, inducements, pressures, threats, or other interference.  

In taking such judicial decisions which a judge is obliged to take independently, he or she shall be independent also of judicial colleagues. This does not prohibit a judge to consult judicial colleagues on legal issues in complicated cases, provided that the final decision is made by the judge himself/herself.  

Commentary. This Rule effectively furthers the principle enshrined in Article 97 of the Constitution (“in the execution of justice, judges are independent and abide only by the Constitution and the laws”). The Law not only proclaims independence of judges, but also prescribes liability for interference with their activities, contempt of court, defamation of a judge, and usurpation of court powers.  

Article 84 of the Judicial Code prescribes special personal protection means for judges, as well as the obligation of the competent state bodies to ensure the security of the judge, his family members, and his residence and office premises. Judges also have the power to apply judicial sanctions. These legislative safeguards are designed to ensure that judges, in the exercise of their official duties, abide only by law and are free from any type of external influence. Judicial independence includes two interrelated aspects:  

1) A judge must be independent from all persons (parties to a case, any person interested in the outcome of the case or related to the case, such as officials, political party, trade union, religious and other figures, and other citizens, as well as family members, relatives, friends, and acquaintances), state and local government and other bodies, and other branches of power (including the “mass media”); and  

2) A judge must be independent from political, economic, social, and other relations. Such persons and relations should not influence the judge in
either specific cases or general official performance, including administration (for instance, speeding up or slowing down the solution of a specific case, paying attention to a particular case and not treating another seriously, or admitting an inadmissible case, and so on).

Judicial independence is closely related to integrity and impartiality. The requirement for judges to be impartial in specific cases is reflected in the criminal and civil procedure codes. The Republic of Armenia Criminal Procedure Code, for instance, provides that no evidence shall have the force of evidence established in advance in criminal proceedings: a judge should not either treat evidence prejudicially or prioritize some pieces of evidence over others, unless evidence has been examined in the frameworks of due process. The Republic of Armenia Civil Procedure Code provides that the court shall evaluate each piece of evidence by means of inner conviction based on a comprehensive, complete, and objective examination of all the evidence in the case. A similar requirement is prescribed in the Republic of Armenia Criminal Procedure Code: “a judge, governed by law, shall evaluate the evidence in combination, by means of his inner conviction based on a comprehensive, complete, and impartial examination.”

There is another aspect to judicial integrity, which is wider, as it concerns the requirement of ensuring lawfulness throughout all the official work of the judge, rather than just specific cases. However, the integrity requirement, which is implicit in this Rule, has wider meaning. The legislature does not regulate all the details of judicial work, and judges have to perform some organizational work that is not prescribed or regulated in detail by law. In this case, the requirements of judicial integrity or impartiality are mostly matters of ethics.

An example of this is the case when a judge, by postponing the hearing of the case, grants to one party the time needed to adduce evidence or even longer time, at the same time limiting the time available to the other party for presenting evidence or counter-arguments.

Another example could be the legislature’s frequent references to the reasonable period: a period that one party may consider reasonable could well be unreasonable for the other, being perceived by the latter as intentional protraction of the adjudication. In such cases, the judge needs to be highly cautious and sensitive in order to maintain integrity.
Here is another example: there are practical cases in which the evidence submitted by one party is received by the judge “with pleasure,” as it may be considered “the key to solving the case,” even though evidence may be evaluated only in the consultative room. Such conduct cannot be deemed to be in line with the aforementioned Rule, even if the judge did not have any prejudice at the time of admitting the case.

Thus, the rule of integrity requires judges to not have prejudice, to not be biased in favor of one party, to not give preference to any fact, evidence, argument, behavior, or party.

Another aspect of judicial integrity is impartiality regardless of race, sex, faith, ethnicity, physical disability, age, social status, and other factors. A judge may not discriminate against any person on the basis of such factors. A judge may address such factors only if they are the subject of judicial examination; in doing so, the judge should avoid displaying bias in relation to any such factor (see Rule 2).

A judge can meet the requirements of independence and impartiality, if he is free from extraneous influences (including, as specified in the Rule, pressure, threats, and other interference). Pressure and threats are the most active actions aimed at regulating the judge’s conduct in a way that is beneficial for someone (instructions, orders, directives, etc.), which are accompanied with the possibility of realizing the intent of creating undesired consequences for the judge. Other interference means any other active act aimed at influencing the judge’s behavior (request, advice, urging, and the like).

A person’s behavior depends on various influences from the external world, which make up the motivations of the person. Motivation is a person’s internal urge determined by certain interests, wishes, needs, attitudes, instincts, and the like, which indicates the reasons why a person behaves a certain way in a given situation. To make the point more specific to the Rule, one can insist that a judge will act independently and impartially, if his behavior is driven only by the interests of justice and is free from other motivation (inducement, revenge, jealousy, compassion, servility, and the like).

A judge’s independence, however, cannot be absolute: moreover, certain conducive contacts are needed in order for the judge to act
independently and impartially. A judge must not only have command of the laws and ability to interpret them, but also acquire professional experience: this is the reason why the second part of this Rule regulates the communication between judges, so that such communication does not influence the outcome of a specific case. Although the Rule does not directly say so, it implies that communication between judges for the purpose of experience sharing may take place neither during the hearing of the case nor in front of the parties. An important aspect of such communication is that the judge must personally make the decision on the case, and never transfer such authority to the consulted judge. Moreover, if the communication with a fellow judge pursues the aim of fair adjudication, then the consulted judge should neither be a judge that has been recused from the same case, nor have any interest in its outcome. The language of this Rule also implies that the communication should not concentrate on the solution of the specific issue at hand, but rather, focus on consultation regarding matters of law. Otherwise, a judge consulting with a higher-instance judge may later be legitimately recused from the case.

The aforementioned conditions of consultation with other judges also concern communication with lawyers, professors of law, and other persons not related to the case. It flows from the language of the second paragraph of the Rule (“he or she shall be independent also of judicial colleagues”), i.e. he or she shall be independent from any other person, including judicial colleagues (fellow judges).

In addition to the requirement that a judge not allow his family, social, or other relations to influence the performance of functions in court, the Rule also includes a requirement on the judge not to leave the impression that any person can influence the judge by virtue of his or her family, social, official, or other status.

*Examples of violations of this Rule*

- In practice, it often happens that judges, trying to avoid pressure from the executive authorities, do not adequately examine the objections of respondents in cases concerning seizure of proceeds in favor of the state budget, thinking that it is better to avoid conflicts with budget execution authorities, because they are “performing a
Such conduct is impermissible, because judges should be interested only in the interests of justice (i.e. the fairness of the claim lodged in the instant case), rather than any other important interest (including the execution of the budget).

- The most frequent violation of this Rule is the case in which a judge, following the complaints and pressures of the victim or his successors, does not correctly apply the criminal law. There have been quite a few court cases in Armenia in which judges, under the influence of the complaints of victims or their successors, do not accept the grounds of necessary self-defense, excessive defense, or highly necessary defense, and qualify ordinary murder as murder in aggravating circumstances in order to order more severe sentences in respect of defendants. In such cases, judges normally invoke the “moral justification” that “after all, a person has been killed,” whereas in reality, these are just examples of extraneous influence and impermissible conduct.

- Another example of impermissible conduct is when a lower-instance judge, concerned that his or her judicial act may later be appealed, consults higher-instance judges on the exact solution of a case pending before him (what sentence to order in a criminal case, or in favor of which party to adjudicate a civil case, etc.), rather than a matter of law, simply to avoid his decision being quashed or reversed at some later stage.

**Rule 8. In administering justice, a judge shall not be influenced by private interest or by public opinion and shall not fear criticism.**

**Commentary.** This Rule is a narrower version of Rule 7 in the sense that it is related to the judge’s conduct in administering justice. The court executes justice by means of hearing and solving civil, criminal, administrative, and other cases prescribed by law; therefore, the requirements of this Rule apply merely to the process of hearing and solving specific cases, and do not include the other official duties of the judge. In this sense, the relevant commentaries on Rule 7 also apply to Rule 8.
The notion of “extraneous influence” used in Rule 7 is broader than “interference.” Interference is the whole spectrum of specific active extraneous influences. This Rule requires a judge to refrain, in the administration of justice, from influences that might not take the active form, but can still undermine justice.

Being free from private interests means that, when examining and solving cases, the judge should not pay any attention to the political, social, economic, or other interests, wishes, needs, and attitudes of any person or group. A judge should not adjudicate on any case in view of “appropriateness”: he must first of all be guided by law.

At times, laws contradict morals. Certain outlawed acts may be considered positive by society. Public opinion might criticize or praise certain phenomena with which judges deal while examining specific cases. This Rule requires that the negative attitude of society or any public group not have any influence on the judge’s hearing and adjudication of a case. This is closely related to the requirement on being free from the fear of criticism. A judge who is afraid of or takes into account the criticism may fail to honor the requirements of law. According to this Rule, judges must primarily honor the law any time there are such conflicts.

*Examples of violations of this Rule*

- There was a real case in which the judge ordered an obviously mild punishment for a crime with aggravated circumstances (murder committed with particular cruelty), simply because two brothers had murdered their sister for immoral conduct, as society does not condemn such acts and considers that the men committing this crime did what was morally right, as they “saved” the honor of their family. It is clear from this example that the judge acted with fear of criticism, thinking that once the public found out about proportionate punishment of these offenders, there would be a negative stance on the judge, and that the judge would be perceived as someone lacking appropriate understanding of family honor.

- In another case, a judge groundlessly waived the statute of limitation in respect of a heir that missed the statutory deadline for claiming inheritance, and a part of the inheritance was given to this
heir, as the judge followed the common public opinion that inheritance must be equally divided between all the children and was afraid of publicly being perceived as unfair, had he acted in a different way.

- Another judge groundlessly awarded compensation from one corporation to another, simply because the plaintiff was a company that belonged to a Member of Parliament representing the precinct under the judge’s jurisdiction.

- By allocating a land plot to one of the parties in dispute, the judge explained his decision, among other things, by the argument that the party to whom the court allocated the land plot was a single disabled woman who needed the plot more.

**Rule 9. A judge shall perform all judicial duties within reasonable time, so as not to give rise to doubts about efficiency of justice.**

**Commentary.** The efficacy of justice largely depends on its speed. Delays in the execution of justice create the impression that the judiciary is unable to perform its function, which in turn undermines confidence in the whole judiciary.

This Rule requires judges to perform their duties within reasonable time. This requirement has two aspects: 1) speedy hearing of cases; and 2) speedy performance of court staff.

Speedy performance of judicial duties requires the judge to set aside sufficient time for the performance of his official duties, to report to work on time, and to make swift decisions on admissibility. A judge must require that parties, their representatives, and court staff cooperate with the judge in order to expedite judicial work.

Speedy hearing of cases implies that a judge must start court sessions at the scheduled hours and monitor cases pending before him in order to rule out or at least to minimize unnecessary delays, postponements, and costs. A judge must encourage and help the parties to reach settlement, without leaving the impression that he is forcing the parties to waive their right to adjudication of their case.
This Rule is stricter than the requirements of procedural law. Procedural law sets some deadlines for adjudication or for taking decisions on ongoing issues, but it does not mean that cases can be solved at the end of such periods, if they can be solved earlier. This Rule requires judges to perform their duties within reasonable time even in cases in which the procedural legislation does not prescribe time limits (for instance, the length of criminal proceedings). However, this Rule cannot be interpreted in such a way as to justify compromise of quality for the sake of speed. While aiming at speedy adjudication, judges must duly respect the parties’ right to be heard by court, which they enjoy under law.

Examples of violations of this Rule

- A rather common violation of this Rule in practice is when judges intentionally delay the hearing of the case, hoping that the parties will ultimately reach settlement, or that the plaintiff will drop the claim, or that the claim will become meaningless after a sufficiently long delay, i.e. the dispute will self-resolve without any responsibility for the judge.

- Another example of impermissible practice is when judges intentionally delay the provision of the judicial act to the parties in order to deprive them of the right to an appeal within the period prescribed by law. After seeing this red-tape at the trial court, parties may find an appeal pointless, in anticipation of the same problems at the higher-instance courts and losing trust in the possibility of achieving justice. This, indeed, disturbs the parties’ confidence in the effectiveness of justice.

- There has already been a case in Armenia, when a judge was subjected to a disciplinary penalty for failing to transfer the case to the administration before going on a vacation, which resulted in a breach of the deadline for hearing the case. Another judge was subjected to a disciplinary penalty for failing to allow the respondent the necessary period prescribed by law for submitting a response to an application, i.e. for breaching the right to be heard by court.
Rule 10. A judge shall be dignified, patient and courteous. He or she shall be respectful in relation to litigants, witnesses, other participants, judicial colleagues, court staff and others with whom the judge deals in court. The judge shall require similar conduct of all participants of the proceeding.

Commentary. Dignity is the self-assessment of one’s own abilities, skills, mindset, and public importance. Thus, the requirement of being dignified means that, in order for the public to perceive the importance of the judicial function, judges themselves must recognize their importance. A judge must realize that he has the exclusive authority to administer justice, and that no other official may either act as a bearer of judicial authority or solve matters that belong to the competence of court. The judge’s conduct should help the public in developing the belief that the parties in court will achieve justice.

Parties or other participants in proceedings often cannot determine which facts and events are essential to the case, and may speak or testify at great length about irrelevant facts or circumstances. In such cases, there is a strong temptation to immediately interrupt the speaker. However, such behavior is not compatible with the office of the judge, because it may leave the impression that the judge does not wish to dwell on the details of the case or is biased; besides, immediately or frequently interrupting a speaker is rude and impolite conduct, which undermines respect for the judge. If a judge is polite, courteous, and patient, then it is more probable that the parties in dispute will have confidence in the fairness and impartially of his decision; therefore, this Rule requires judges to be patient and courteous. Of course, it does not mean that a judge should not properly chair the court session and allow it to turn into a discussion of irrelevant issues; however, when it becomes necessary to make remarks, to interrupt speeches, or to give other instructions, the judge should act with utmost delicacy, without any anger, hotheadedness, and rudeness. If a judge speaks angrily or acts impolitely, he is actually abusing judicial authority, because the participants do not have the right to respond with the same tone, and doing so would be punished by the presiding judge by ordering judicial sanctions.

In practice, there are various possibilities of non-courteousness of judges, but the analysis has revealed that there are several categories of this
violation: 1) rude behavior; 2) biased comments; and 4) abuse of the right to make judicial decisions.

This Rule requires judges to be dignified, patient, and courteous not only in the courtroom, but also in contacts with all persons with whom the judge deals in the course of his work. A judge will have the moral right to demand that others behave in this way, only if the judge himself behaves the same way.

The dignity requirement cannot be met when the hearing is held in the judge’s office, or without a robe, because it creates a homey atmosphere. When the hearing is conducted in the judge’s office, it becomes impossible to ensure the presence of all the interested persons, which violates the public nature of hearings and leaves the impression that the judge will not adjudicate fairly, because the public cannot be present in the hearing.

A typical example of undignified and discourteous judicial conduct is the superficial presence of two of the three judges in appellate court. In some cases, the two non-presiding judges were busy reading newspapers or magazines, or one of them temporarily left the courtroom, invoking some excuse; another judge was speaking on the mobile phone.

Another violation of this Rule is that the prosecutor often interferes with the defendant or witness interrogation without the court’s permission, or insults and threatens the participants: it would be unacceptable for a judge to be tolerant in this case, rather than being strict on demanding that the prosecutor act courteously. It is impermissible for the presiding judge to take over the functions of the prosecutor or the court secretary by commenting on the soundness of charges and telling the secretary what exactly to put on the record. Once all courts have implemented a reporting system, the judge will no longer have the possibility of telling the court secretary what to put on the record. However, even prior to that, judges should refrain from engaging in such conduct.

**Examples of violations of this Rule**

- In the Republic of Armenia, a judge has already been subjected to a disciplinary penalty for rudely interrupting a party during the hearing and for treating the party impolitely.
- In a civil case concerning the division of assets acquired during
joint marital life, the plaintiff, in an attempt to prove that the disputed apartment was acquired during the marriage, started to give detailed explanations and stated that she and her husband got married in church and entered into a de-facto marital relationship two years prior to the official registration of the marriage, and that the apartment had been acquired during this very period. Knowing that marriage in church or de-facto marriage has no legal significance in respect of determining the status of assets acquired during joint marital life, the judge rudely interrupted the plaintiff and asked: “Why don’t you also tell us who was the wedding priest and the godfather?” This is a typical example of the judge being neither patient nor courteous. With this conduct, the judge violated Rule 16 of the Code of Conduct, which states that pending the end of the trial, the judge must not exhibit such interpretation of facts or law, which may create the impression of a manifestation of prejudice, and that the judge must not express his positive or negative attitude towards the parties.

- A judge said about another judge: “Everyone knows the quality of judicial decisions taken by judge such and such.”
- A judge announced that “he is too small a figure” to address correctly a certain matter falling under his competency.

**Rule 11.** *Outside a court hearing, a judge shall refrain from ex-parte communication with participants of a case, except for cases when it is necessary for organizing court work.*

**Commentary.** This is a prohibitive Rule, which is designed to ensure the judge’s performance of the positive obligation to provide conditions for the exercise by any person with an interest in the outcome of the case, or by the lawyer of such person, of the legally-prescribed right to be heard by court. Parties or their lawyers exercise this right during court sessions, in which all the parties and others interested in the case are normally present. The rule prohibits a judge’s ex-parte communications outside the courtroom, because it violates the equality of arms.
Naturally, it is impossible to ensure the performance of judge’s obligations with absolutely no contact with the parties outside the courtroom. Therefore, the Rule only prohibits communications that:

1) Are ex-parte;
2) Take place in the presence of not all the persons lawfully interested in the outcome of the case or of their lawyers; and
3) Are related to cases pending before the judge or unresolved cases, or cases that can be reasonably be anticipated.

The prohibition stipulated by this Rule concerns both oral and written communications.

“Ex-parte” means that not all the parties (or their lawyers) are present in the communication. Ex-parte communications are prohibited, because they cast doubt as to the judge’s impartiality. During ex-parte communications, a judge may receive incorrect or incomplete information, which could be avoided, if all the parties were present. Such information might seriously influence the judge to become biased in favor of one party or another, regardless of whether the judge realizes it or not. Discussing case circumstances in separate contact with only some of the parties leads to autonomous review of facts, which will inevitably make the judge prejudiced. Another reason why ex-parte communications are dangerous is that, if the excluded party suspects or finds out about them, he will inevitably believe that the other party gained an advantage over him. In this case, regardless of whether the judge actually became biased or not, judicial impartiality will be doubted, which may lead to recusal of the judge or a lack of confidence in his decision.

The Rule requires judges to “refrain from” ex-parte communications. It means, first of all, that the judge may not initiate such communications, and second, that the judge may not allow such communication to be initiated by the parties or other persons. If, however, the circumstances so evolve that ex-parte communications take place, the judge must disregard any information so received, because, otherwise, the judge will violate the legal requirement whereby the judge’s inner conviction, exercised for adjudicating on the case, must be based on an objective assessment of factual data obtained in a lawful manner. The Judicial Code prohibits judges from acting *proprio motu* to seek evidence or to investigate facts in a
case outside the scope of court proceedings.

It is implicit from this Rule that the prohibition of communications does not include ex-parte communications permitted by law; for instance, when the judge determines the permissibility of a search or operational-intelligence measures.

The Rule also stipulates an exception for the case when ex-parte communications are necessary for organizing the work of the court. This means that such communications should not concern the substance of the case and should not give any party, any party’s lawyer, or other participant of proceedings any advantage over the others. Permissibility of ex-parte communications regarding organizational issues is also contingent upon the judge immediately notifying the other parties of the essence of such communications and allowing them to respond. An example of permitted ex-parte communication is when a judge contacts a party to agree upon the preparation, date, time, or other circumstances of a judicial session.

Another example of ex-parte communication facilitating the organization of the court’s work is the case when the judge requests advice from an expert that has no interest in the outcome of the case. The civil laws of Armenia permit judges to engage specialists in order to determine the substance of provisions of law in cases in which it may be necessary to apply foreign law. In such cases, the judge must inform the parties and other stakeholders of the expert’s identity and the essence of the advice, and allow the parties to respond to the expert’s opinion or advice.

During the process of solving organizational matters, the judge will normally have ex-parte communications with the court staff that are participating in the proceedings or are dealing with specific issues related to the trial, such as the court secretary or the judge’s assistant. The prohibition does not apply to such communications, either.

Another example of permitted ex-parte communication is the case when a judge, having obtained prior consent, meets with each of the parties or their lawyers separately in order to lead them to settlement. In a number of countries, the process of facilitating settlement between parties is managed by separate judges or other individuals designed specifically for this purpose; however, Armenia still does not have such institutions. Therefore, certain rules must be respected in situations in which the judge tries to
facilitate settlement between the parties. Thus, in the process of reaching settlement, the judge may convince the parties to change their position on certain issues, which may leave the impression of bias. During such meetings, the judge must act very cautiously, especially in terms of interpreting facts and law, because, if the settlement fails, the same judge will have to adjudicate on the merits of the case, and any opinion he expresses in the settlement talks may cast doubt on his impartiality. To avoid recusal or self-recusal, such ex-parte communications must necessarily be followed immediately by a meeting with all the parties, so that the parties finally learn about the substance and outcome of the separate (ex-parte) communications.

Though not prescribed by this Rule, it would be appropriate if a judge were required to monitor compliance with this requirement by court staff and other persons subject to the judge’s control.

**Examples of violations of this Rule**

- Some practical cases in which this Rule has been violated include situations when the parties, most often the defendants, do not consider it appropriate to testify in the courtroom about certain facts, including the motivation of their act or the unlawful or immoral behavior of the victim, and request a separate meeting with the presiding judge, hoping that he will “understand” them and that the information communicated to the judge in privacy will influence the outcome of the case or the sentence. The judge, no matter how interested he becomes, must refrain from such private meetings with the purpose of receiving information, because it may influence the objective solution of the case.

- A party has a separate meeting with the judge and asks the judge whether it is feasible to file a counter-claim or additional evidence in the frameworks of the civil proceedings.

- During a break from the hearing, a party separately meets with the judge in order to clarify whether he has been successful at pleading his case or defending himself, or whether he needs to hire a lawyer. As a rule, such matters should be addressed during the hearing—openly for all the parties.
An example of a violation of this Rule is if the judge, during the hearing of the case, invites the prosecutor, defense counsel, or other person to his office and treats him to coffee.

**Rule 12.** *Confidential information acquired by a judge in the judge's judicial capacity shall not be used or disclosed or made available in any other form by the judge for any purpose not related to the judge's judicial duties.*

**Commentary.** During judicial work, a judge receives diverse confidential information. An overview of civil and criminal procedure legislation shows that the following types of confidential information can be highlighted:

1. Information on private and family life, including adoption;
2. Information that contains official, commercial, banking, and other secrecy;
3. Information that contains state secrecy; and
4. Information about the sexual liberty and sexual immunity of the person.

This information, in turn, can be classified into two groups:

1. Information the confidentiality of which is directly stipulated by law or other legal acts; and
2. Information the confidentiality of which needs to be maintained for the sake of a person’s honor and dignity, or public morals, and is not prescribed by law or regulated in detail.

Especially in matters related to the second type of confidential information, the court has the right to exercise discretion to determine whether to hold a hearing in camera.

This Rule prohibits the use, disclosure, and making available of confidential information.

“To use” means “to make beneficial use,” which means that this Rule prohibits the use of confidential information for the benefit or interests of the judge or any other person.

“To disclose” means to communicate the information to an uncertain number of persons in any way (orally or in writing). Disclosure may take
place in a speech, conversation, publication in the mass media, or other ways of presenting information.

“To make available” has a wider meaning than “to disclose.” “To make available” means to make confidential information available to persons not related to the case in any way or form.

Under certain conditions, a judge may use confidential information for official purposes; therefore, the Rule prohibits the use, disclosure, and making available of such information for any purpose not related to the judge’s official duties or for any other interests.

**Examples of violations of this Rule**

- In his scientific work, a judge used the facts of a civil case concerning adoption, which had earlier been examined by the same judge, and specifically mentioned the names, surnames, and patronymics of the adoptee and adopter.
- In a private conversation, another judge said that, earlier that day, he had examined and granted an investigator’s motion to search a certain person’s house.
- A judge, speaking before his close ones, stated that, in relation to a criminal case heard by him, he had learnt the number of soldiers and military equipment in a specific detachment located close to the border.

**Rule 13. A judge shall be informed about development trends in international law, and constantly use that knowledge in his judicial practice, when relevant.**

**Commentary.** The Republic of Armenia has recently acceded to a large number of international treaties. Especially upon accession to the Council of Europe and the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, state bodies of Armenia, including courts, have assumed additional obligations related to the protection of human rights. Almost all the extant codes and laws of Armenia stipulated that international treaties are an integral part of Armenia’s legal
system and shall prevail over Armenian domestic laws in the event of inconsistencies. This is the anchor of the first requirement in this Rule, i.e. that judges must first of all be informed about the trends of development in international law and the international instruments, which judges need to know in order to be able to apply them. The majority of provisions of international legal acts have been implemented in Armenian laws. Therefore, international legal acts do not have to be invoked frequently or unnecessarily with the possible aim of leaving an impression: a judge may abide also by Armenian laws. Therefore, this Rule requires judges to use their knowledge of international legal acts only in their professional activities regarding the applicability of such acts.

In the judicial practice of Armenia, direct application of international law can so far be found mostly in the Cassation Court, although other judges also should apply the international law.

This Rule is also aimed at ensuring the maintenance and continuous development of a judge’s professionalism. Therefore, this Rule should be considered in the context of Rule 6.

*Examples of violations of this Rule*


- A judge failed to apply Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and groundlessly failed to grant a claim for compensation caused by an unlawful arrest.

- The appellate court did not admit the appeal against the lawfulness of the search order issued by the first instance court.

*Rule 14. To a reasonable extent, the judge shall display such conduct as to minimize occasions on which it will be necessary for the judge to be disqualified from hearing a case.*
Commentary. An important prerequisite to achieving public confidence in the administration of justice and in judicial decisions is that judges not only be, but also be perceived as neutral. Therefore, the procedure codes require judges to be removed from cases in all the cases in which the judge’s impartiality has reasonably given rise to suspicion. The legislation also prohibits judges from refusing to execute justice. To comply with these requirements, this Rule requires that judges behave in such a way as to minimize or preclude the need for his recusal. In other words, the judge should not behave in such a way as to artificially avoid cases that are “undesirable” for him. Besides, a judge should not behave in such a way as to give the parties reason to recuse him.

The official work of judges is diverse: any act performed by judges in their official capacity can influence the parties to or participants of the case, giving them reason to develop suspicion as to the judge’s impartiality. Such reasons may appear, for instance, when a judge violates the laws or the code of conduct. This Rule effectively prohibits judges from behaving in this way. If the actions of a judge do not violate the laws and the code of conduct, then the subjective perception of the parties cannot be a sufficient ground for the judge’s recusal: this is the reason why the Rule requires judges to display conduct that does not cast doubt on his impartiality “to a reasonable extent.” In other words, if a judge displays conduct that corresponds to the laws and the code of conduct, then he should not fear that the parties might try to recuse him. The judge should be concerned about his conduct not giving an impartial and reasonable observer the impression that the judge should be recused. Specific manifestations of undesirable conduct that cast doubt on judicial impartiality are covered by the next Rule.

Examples of violations of this Rule
- A judge, having heard several disputes between the same parties, declared upon receipt of a new claim that he had long-standing knowledge of the merits of the dispute, adding that he is tired of solving their disputes and believes that party X is right.
- In the hearing of a civil case, a judge interrupted the statement of a party and declared that the party, being a good-faith buyer of the disputed assets, should build his statement along those lines.
A judge, who previously heard a similar civil case involving one of the same parties, declared during the court hearing that the party had invoked the same arguments in a previous case, and that such arguments had been found groundless.

Rule 15. The judge shall disqualify himself or herself from a case in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Among such grounds can be the following:

a) The judge has a prejudice in respect to the arguing parties, or the judge has advance personal knowledge of disputed evidentiary facts which are evidence in a case pending in court and has a prejudice in respect to such facts;

b) The judge previously served as a defense lawyer in the case and represented one of the parties;

c) The judge served as a witness in the given case and his/her statements played a significant role in uncovering the circumstances of the case; or

d) The judge or a member of the judge's family (relatives, friends, and acquaintances) is a participant of the court case or has an economic or other interest in the outcome of the case.

Disqualification of a judge shall not be required, if no other justice body can be created to make a decision on the case, or, in emergency circumstances, if the failure to act could lead to serious judicial errors.

Commentary. Judicial neutrality and its public perception are important prerequisites of public confidence in the decisions taken by the judiciary. The grounds for self-disqualification are stipulated by the civil and criminal procedure codes, as well as the judicial code. A judge must self-recuse in all cases in which it is required by law: the law effectively requires that a judge self-recuse if he has a direct or indirect interest in the outcome of the case.

The term “recuse” is a synonym of the term “preclude.” When there are grounds for recusal, the hearing of the case by the judge will be precluded, and the case will be taken away from him and assigned to another judge.
Judicial bias and prejudice can be expressed in various forms: therefore, they cannot be defined with any certainty. As opposed to the requirement of law, this Rule sets some additional requirements, including the following:

1) A judge must self-recuse, if examination of the case by him might raise doubt as to his impartiality; and
2) A judge must officially disclose the information that the parties and others with a lawful interest in the outcome of the case might consider important to the determination of the judge’s recusal, even if the judge himself believes there to be no grounds for recusal.

The draft Judicial Code provides: “A self-recused judge, if he considers that he can be unbiased in the case, may propose that the parties discuss the possibility of ignoring the self-recusal in the judge’s absence. If the parties decide, in the absence of the judge, to ignore the judge’s self-recusal, then the judge shall hear the case after putting such decision of the parties on the record.”

However, it should be noted here that self-recusal cannot be ignored, if it is based on personal bias or prejudice, i.e. when the judge himself believes that he cannot be unbiased in the case.

This Rule requires a judge to self-recuse, if he may seem to an impartial observer unable to decide the matter fairly. In order for the observer to be impartial, he must be aware of the recusal grounds and circumstances, and must have assumptions based on common sense. Therefore, the judge does not have to self-recuse, if the doubt about his inability to decide on the matter fairly comes from a biased observer. For instance, a judge does not have to self-recuse, if the decisions in cases previously heard before him were always against one of the parties, provided that there are no other facts pointing to bias of the judge.

The Rule provides that a judge must self-recuse, if:

1) The judge has prejudice or bias in respect of the parties in dispute or any other person that has a lawful interest in the outcome of the case. The language of the Rule implies that this requirement concerns the person’s qualities. For instance, a judge cannot be impartial, if he believes that one of the parties is a decent man who would never file a groundless claim. In the same way, a judge’s impartiality may be doubted, if the judge, being acquainted with a party or another participant, prejudicially considers him to
be honest, dishonest, good, evil, fraudulent, professionally perfect, and so on.

This provision also covers the case when a judge has advance personal familiarity with and has pre-set opinion of the facts disputed or evidence presented in the case. Criminal procedure laws require free evaluation of evidence, and there are no exceptions to this rule. The Republic of Armenia Civil Procedure Code provide that circumstances established in a civil case tried earlier and decided by a judgment that has entered into legal force do not have to be proved again in another case heard by court. A criminal case judgment that has entered into legal force is binding for the court with respect to the facts that confirm certain acts and the persons committing them.

There can be situations in which a judge knows about the facts disputed in the case from a case previously heard by him, but there is a judgment or decision that has entered into legal force: in such cases, the judge is required by law to evaluate certain facts of the case, which means that it cannot be a ground for self-recusal. Thus, the requirement of this Rule is concerned with all the other cases, in which the judge is familiar with case facts, data, and evidence prior to examining the case, and has a pre-set opinion of them. In such cases, the psychological justification of the requirement to self-recuse is the difficulty with which people usually change or refuse to change their opinions. Such phenomena in the examination of a case by a judge may influence the impartiality of the judge’s decision on a given case.

2) Another ground for requiring the judge to self-recuse is the case when the judge was previously a defense lawyer in the same case and defended the interests of one of the parties to the case. The Republic of Armenia Law on Advocacy provides that a lawyer must refrain from performing any act that contradicts the interests of the client and not adopt any position without first obtaining the client’s consent. Usually, lawyers render legal services and act in the interests of a person that has legal issues with others; therefore, it would be natural to assume that, being prejudiced in favor of the person to whom he earlier rendered legal services, a lawyer’s opinions would be restrained. It is commonly accepted that lawyers see only one side of the case, as it is their calling, and that, as a consequence of this status, a person who acted as a lawyer would most probably be unable
to remain impartial in the future. A defense lawyer may not render legal services to different persons that have conflicting interests. By working to protect the interests of one party, the defense lawyer identifies his own interests and opinions with those of the party, whereas the universal rule provides that no one may be a judge of his own case; therefore, this requirement is designed to ensure impartiality: a person who protected the interests of one party will no longer be able to properly take into account the interests of the other party.

3) A witness is a person who has become aware of information and circumstances that are relevant to the correct judicial settlement of a dispute and are subject to proof. Though a witness must testify correctly about case facts known to him, the witness’ testimony must be checked and evaluated in combination with the other evidence in the case. By learning about certain circumstances of the case, the witness develops a certain opinion of such circumstances in accordance with his perceptions. If he later becomes the judge in the case, he will be restrained by the opinion that he already has; therefore, a judge must self-recuse if he has earlier served as a witness in the same case. The Rule implies that, in such cases, the judge does not have to self-recuse, if his testimony was not essential to establishing the facts of the case. Thus, the restriction is intended to ensure the free evaluation of evidence heard by the judge during the hearing of the case and the impartial settlement of the dispute.

4) A judge must also self-recuse, if he or his family members (relatives, friends, and acquaintances) are participating in the proceedings.

“Family members” are the individuals who permanently share living space with the judge, regardless of the degree of kinship (blood relationship). Such a definition may not include parents or adult children; however, in such cases, parents or adult children would qualify as “relatives” or “other persons interested in the outcome of the case.”

The judge’s interest is considered natural, and self-recusals is mandatory, if the trial participants are within the third degree of blood relationship with the judge. The first degree of blood relationship includes a person’s spouse, children, parents, and siblings. The second degree of blood relationship includes the persons within the first degree of blood relationship, plus persons that have first degree of kinship with such persons. The third degree
of blood relationship includes the persons within the second degree of blood relationship, plus persons that have first degree of blood relationship with such persons.

Taking into account the peculiarities of the national mentality, the Republic of Armenia Code of Judicial Conduct prescribes self-recusal of a judge in cases in which the judge’s friends and acquaintances are participating in the proceedings.

“Participants in the proceedings” or “trial participants” include the parties, their representatives, lawyers, and other persons who have a lawful interest in the outcome of the case.

“Economic interest” means that the outcome of the case will affect the financial interest of the judge or the other persons specified in the Rule, i.e. any change of their material situation for the better (including direct material gain, increased income, acquisition of property or property rights, and the like). The notion of “economic interest” includes also such ties or connections that facilitate improvement of the material situation.

“Other interest” means non-material interest.

The parties should be at least notified of any economic interest of the judge.

“Other interest” includes non-material interests.

The so-called “rule of necessity” prevails over the rule that requires self-recusal of the judge. The “rule of necessity” defines the cases in which a judge does not have to self-recusal, even if recusal grounds are present. For instance, if a dispute is related to the salaries or pensions of judges, then judges obviously have an economic interest in such case, but it would be impossible to create a special court to adjudicate on such disputes. A judge does not have to self-recuse, if he examines a matter that requires urgent solution (for instance, a preventive measure, a search, and the like), and, given the specific circumstances, his substitution with another judge might lead to serious judicial error.

5. It is also impermissible for the judge to groundlessly self-recuse or grant recusal. Such conduct of the judge may be seen as refusal from the administration of justice, which may trigger a disciplinary penalty against the judge.
Examples of violations of this Rule

- In a case, the judge, though she did not have any prejudice, failed to officially disclose to one party that the other party was an employee of her husband’s company, and that, several years ago, she was once a guest to the party’s summerhouse.

- A judge did not self-recuse in a civil case in which one of the attorneys was a person that was close to the judge—the person considered the best student of their class, with whom the judge frequently had contact.

- Another judge failed to self-recuse from a criminal case related to a car crash, although several months ago, on his way to work, he had witnessed the crash and developed an opinion as to who was guilty of the crash (though the other person involved in the crash had been charged with the crime).

- In another criminal case, the judge dismissed the lawyer’s challenge, which was based on the fact that the judge, who was the godfather of the investigator, was restrained by the conclusions of the pre-trial investigation. The judge dismissed the challenge on the ground that being one’s godfather is officially not a family tie.

Rule 16. Pending completion of the judicial process, the judge shall:

   a) Avoid such interpretation of facts or laws, which may give the appearance of prejudiced solution of the case.
   b) Not express his or her positive or negative attitude towards litigants;
   c) Not exhibit such conduct (face expression, body language, irony, ridicule, etc.), which may be seen by the participants of the case as a manifestation of prejudice; and
   d) Avoid statements, public speeches, and interpretation of the facts of the case.

Commentary. By taking a judicial act, the judge analyses the case facts and interprets the laws; however, prior to deciding the case, the judge may
not interpret facts and laws, if such interpretation may leave the impression that the outcome of the case is predetermined. In practice, it would be impossible for the judge to make no comment whatsoever on the facts or the law during the examination of the case. Often, the judge has to do so in his or her interim judicial decisions, or orally during the court hearing. Therefore, this requirement is about the kind of comment or interpretation that may cast doubt on the judge’s impartiality. This is especially true in cases in which the parties or their representatives are legally very literate and support their claims with specific references to the laws. The judge must act cautiously and delicately in order to make sure that, pending the end of the examination, the parties do not develop a final opinion of which facts, arguments, and interpretation of law has been accepted or rejected by the judge. Such conduct would not only help avoid bias, but also strengthen the judge’s reputation, because comments made by him prior to the end of the examination might be hurried and wrong—something that would become clear only by reaching the final judicial decision, having examined all the evidence of the case and the relevant law.

Paragraph “b” of this Rule requires a judge to not express his or her positive or negative attitude towards litigants prior to the end of the judicial process. This, in effect, is a specific requirement intended to ensure both judicial impartiality and the perception thereof (discussed earlier in the commentaries on Rules 7, 14, and 15). When the judge has prejudice in respect of a party, he must self-recuse. In reality, the judge develops a certain attitude towards the parties while the case is still under examination. This Rule actually requires that the judge not disclose his attitude prior to the completion of the judicial process, because such disclosure could undermine confidence in both the judge and his judicial decision. The Judicial Code prohibits a judge from characterizing a person’s features in the frameworks of civil, administrative, or criminal cases in any way other than by a judicial act.

Paragraph “c” of the Rule rather specifically defines the types of conduct with which a judge might manifest his biased attitude in respect of the participants of the process. These forms of conduct could be conditionally divided into two categories—physical and mental. The first category includes face expressions and body language, whereas the second
includes irony, sarcasm, and the like. This division into “physical” and “mental” types is very relative, because undesirable conduct could be expressed with both words and acts. Irony, for instance, could be manifested through either words (“it doesn’t matter,” “don’t waste your efforts,” and the like) or shaking of the hand, or both forms concurrently. In practice, there are infinite expressions of conduct that leaves the impression that the judge is prejudiced; therefore, for each alleged violation of this Rule, the judge’s conduct must be assessed by the Ethics Committee of the Council of Court Chairmen.

Paragraph “d” of the Rule requires the judge to avoid statements, public speeches, and interpretation of the facts of the case. A judge who violates this requirement prior to the completion of the judicial process endangers several values. First of all, such statements, speeches, and interpretation may affect the correct adjudication of the case, because a judge who has once expressed an opinion, especially if it has been public, would stand by this opinion at least for reasons of face-saving, even though the opinion may be wrong. In addition to obstructing objective decision of the case, such conduct would create the impression of the judge being biased, which might lead to his recusal and undermine confidence in his judicial decision. As was already mentioned, the case must be decided only after reviewing all the relevant facts and laws; it is assumed that, pending completion of the judicial process, the judge has not yet fully examined the relevant laws and facts. Such conduct would also negatively affect the reputation of the judge and the judiciary, because the public has a right to expect the judiciary to be composed of individuals who are capable of making balanced and reasoned, rather than hasty and doubtful decisions. Finally, public statements, speeches, and interpretation by the judge might lead to a debate with the parties, other persons, or the mass media—something that any judge should avoid.

This Rule implicitly prohibits a judge from making public comments on:

1) A case pending before him;
2) A case pending before another judge of his court, including cases in the appellate court; and
3) Cases at the pre-trial stage or cases expected to be brought before
court in his or another judicial precinct.

There are some exceptions to the rule that prohibits public comments on the circumstances of cases pending before court, at the pre-trial stage, or expected to be brought before court. Here are those exceptions:

1) Judges may make references to cases in their teaching work outside of court and in their extra-judicial papers;
2) Judges may explain the procedures of the court to the parties and the public during the hearing of the case;
3) Judges may make public comments on the circumstances of the case only in the courtroom, with due respect for other rules of the Code of Conduct; and
4) A judge may make comments on the circumstances of a case in which the judge himself acts as a party to the dispute.

It flows from the language of paragraph “d” of the Rule that the word “statements” is not accompanied with the adjective “public.” It means that the judge must also refrain from making non-public statements (such as statements made privately in a conversation with a colleague), if the latter might influence the outcome of the case.

It is implicit in the Rule that judges must require the court staff and persons under their management and control to comply with this Rule of conduct, because any breach of this Rule by them might lead to the negative consequences mentioned at the beginning of the comments on this Rule.

Examples of violations of this Rule

- A judge trying an inheritance case declared: “According to the Republic of Armenia Civil Code, the reasons for missing the statute of limitation for accepting inheritance could be considered excusable, if the heir did not know and was not obliged to know about the emergence of inheritance—a circumstance that did not exist in this case.”

- In another case, the judge, speaking at the hearing, told the respondent that he (the judge) does not understand how respondent can reject the plaintiff’s claim, because the expert opinions in the case confirm that the respondent has inflicted damage upon the
plaintiff, and damage must be compensated under the Republic of Armenia Civil Code.

- During the hearing of a criminal case, a judge stated that the media coverage of the hearing was full of lies, and that the case facts examined by the court did not prove that the defendant had committed the act. He then went on to say that the sentence that he will order should not concern the mass media.

- In a civil case, after hearing the plaintiff’s pleadings, the judge declared: “Do you really believe you can succeed with these arguments of yours?”

- In response to the party’s threat to challenge any unfair decision to an appellate court, the first instance court judge declared that, as the facts of the case were established, the party would hardly succeed in higher courts.

Rule 17. A judge shall neither ask for, nor accept any gift, loan or favor in exchange to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties. A judge shall not permit members of the judge’s family and all the other persons subject to the judge’s influence, direction or authority to be involved in above described conduct.

Commentary. A gift, loan, or other favor given to a judge, his family member, and other persons subject to the judge’s influence, direction, or authority may be seen as an act that is aimed at influencing the judge in the performance of his official duties.

It is generally considered that judges should not accept anything of value from third parties, because the public may perceive it as a means of influencing him. This Rule should be seen as a specific version of the requirement in Rule 5, which provides that a judge must freely and willingly adopt personal restrictions. In any case, a judge’s accepting of a valuable gift will make an improper impression on the public.

The Rule implies that the restriction on accepting gifts, loans, or other favors concerns persons that deal with the judge in respect of the judge’s
official work, as well as those that will probably be dealing with the judge in the future. Such persons include parties, other participants of the process, their representatives, lawyers, law firms, their clients, and the like. At the same time, one cannot reasonably expect the judge either to be aware of and monitor all the financial or business affairs of his family members and others specified in the Rule, or to predict all the persons and interests that would be brought before his court. Therefore, in order to not violate this Rule, a judge is required:

1) To have personal knowledge of and to honor the restriction on accepting a gift, loan, or other favor; and

2) To inform the other persons mentioned in the Rule of such restrictions and to warn them of the need to comply with the Rule.

The Rule also makes it clear that a judge should neither demand gifts, loans, or other favors, nor accept them in cases in which he has not demanded them, but they have been offered to him at the initiative of the person offering them.

The notion of a “gift” includes not only assets served as a present, but also assets sold at a disproportionately low price, waived claims, and the like. The notion of a “loan” mostly includes loans and credits. “Other favors” include the free use of someone else’s assets, use of assets in return for disproportionate pay, and other material services.

According to the Rule, a judge may not accept a gift, loan, or other favors for either past or future performance of official duties.

In this case, the notion of “family members” corresponds to the Commentary on Rule 15(d). “All other persons subject to the judge’s influence, direction, or authority” should be understood as the other persons (relatives, friends, and acquaintances) specified in Rule 15(d), court staff that are directly or indirectly subordinate to the judge, and all the staff and persons not subordinate to the judge, over whom the judge does not have administrative lever, but has moral influence.

The Rule prohibits judges, their family members, and the other persons specified in the Rule from accepting gifts, loans, or other favors from friends, relatives, credit organizations, or other persons, if the gift, loan, or other favor are not proportionate to the significance of the event, the kinship, or the degree of friendship or closeness, or are made available at such
privileged terms at which they would not have been made available to non-judges. In all of the aforementioned cases, reasonable suspicion arises, when the gift, loan, or other favor is intended to compensate a judge for a past or future favor done by the judge. This Rule prohibits the judge from accepting even a government award, if it can be considered a means of influencing the performance of the judge’s official duties.

*Examples of violations of this Rule*

- A bank located in the judicial precinct served by a judge, which frequently submits claims to the judge’s court, made a loan to the judge’s wife at an interest rate of 6% per annum, while similar loans were being made to other persons at 12% per annum.
- The assistant of a judge told him that a company that is a party to a civil case pending before the judge would sell him construction materials at a clearly low price, and that he needed these materials for the construction of his home. The judge allowed his assistant to purchase the construction materials at these terms, because he is going to adjudicate in favor of that company.
- A judge demanded the director of a company, which was a party to a case pending before the judge, to make a bronze statue of Themis for his office.
- A judge accepted a party’s suggestion to sell a disputed apartment to a relative of the judge at a “convenient” price instead of selling it in an auction.

**Rule 18. Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit, provided that such gift, award or benefit might not be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to doubts about the judge’s impartiality.**

**Commentary.** Since a judge cannot be fully isolated from society, this Rule permits judges to accept gifts, awards, or benefits subject to certain requirements. The first requirement is to comply with the rules of law: i.e.
the receipt of any gift, award, or benefit by the judge must be in keeping with the requirements of laws and other legal acts.

Making a gift is an act of civil law; judges who receive gifts must comply with the requirements of the Republic of Armenia Civil Code, including, for instance, the requirement on the written form of such transactions. When receiving a government award, judges must comply with the relevant legislation, which prescribes, for instance, that awards above a certain value must be transferred by the official to the Republic of Armenia. The Judicial Code provides that a judge who has received permitted gifts, the total value of which exceeded a certain level during the calendar year, must immediately notify the Ethics Committee of the Council of Court Chairmen thereof. In all cases of receiving assets and income, judges must also comply with the Armenian legislation on public disclosure of income and assets of senior public officials and persons affiliated with them.

Another requirement of accepting gifts, awards, or benefits is that of publicity. It means that gifts, awards, or benefits may not be received privately or confidentially, but rather, in conditions that would allow the public finding out about the facts and circumstances of receiving it. This requirement guarantees that the judge will not accept a gift, award, or benefit that might either be perceived as a means of influencing the judge or cast doubt on his impartiality.

Based on practice, there are some cases in which the judge may accept a gift, award, or benefit. The restrictions on accepting a gift, award, or benefit do not apply to the following cases:

1) Gifts usually received at public events, including gifts received in connection with a public speech;
2) Books, computer software, tapes, and other information materials provided free of charge for official use;
3) A reception held during an official event;
4) Gifts and benefits received by the judge’s cohabitating family members for activities not related to either their entrepreneurial and professional or the judge’s official work, including gifts and benefits that may be co-used by the judge and the family member, provided that such gifts and benefits cannot be reasonably perceived as means of influencing the judge in connection with the
performance of his official duties;

5) Cases of common receptions or hospitality;

6) Gifts received from relatives or friends on special occasions, including the wedding anniversary, birthday, or other anniversary, provided that the nature and size of the gift reasonably correspond to the occasion and to the nature of the relationship between the one giving and the one receiving the gift;

7) A gift received from a relative or a friend without a special occasion, if the size and nature of the gift reasonably corresponds to the nature of the relationship between them;

8) A loan or credit from a financial organization, if it is received at the same conditions at which loans or credit are usually made to non-judges and persons not affiliated with judges; and

9) Stipends, scholarships, allowances, or entitlement to take part in an educational program, if given under the same conditions and criteria as those given to other students or applicants.

A judge may receive a gift, award, or benefit, if all of the aforementioned requirements of this Rule are reasonably and jointly met. For instance, even if the gift, award, or benefit has been given in accordance with the requirements of legal acts, but such giving may be perceived as improper by the public, then the judge should not accept such gift, award, or benefit regardless of how low its value is. In any case, receiving a gift, award, or benefit may be justified, if this fact cannot raise doubt as to the judge’s impartiality in the performance of his official duties. Therefore, in all cases in which the receipt of a gift, award, or benefit might cast such doubt, the judge must notify such facts to the Ethics Committee of the Council of Court Chairmen.

If a judge has received a gift that is not permissible under law and cannot be reasonably returned, then the judge must transfer it to the Republic of Armenia.

Examples of violations of this Rule

- A judge was examining claims of a number of farmers against the cognac factory (regarding compensation for grapes supplied to the latter). A representative of the cognac factory sent a bottle of
cognac to the judge through the judicial assistant and informed him that it was just a token gift. Having found out that this one bottle of cognac was 50 years old and was worth 500,000 drams, the judge still accepted it.

- A judge allowed a lawyer, with whom the judge went to law school, to pay for his lunch, even though the lawyer was due to attend a hearing before the judge a week thereafter.
RULES OF JUDICIAL CONDUCT
IN NON-OFFICIAL ACTIVITIES

Rule 19. A judge shall not use the reputation of a representative of a judicial body to advance private or family interests or other interests related to him or her.

Commentary. Public confidence in the judiciary and the public perception of the impartiality of judicial power largely depend on the conduct of each judge—the personal conduct of the judge in not only official activities. The everyday conduct of a person holding the position of a judge, including the non-judicial activities of a judge, are also under close public scrutiny. Judges must follow the laws and ethical rules. A judge personally must comply with the Republic of Armenia Constitution and laws, and respect the rights and freedoms of others. During non-judicial activities, too, a judge must not allow the reputation of judicial office to diminish, because the public opinion of his ability to act as an impartial judge is shaped as a result of the combined perception of the judge’s judicial and non-judicial activities and conduct.

This Commentary on Rule 19 of the Code of Conduct is intended to provide judges with examples of recommended and permissible behavior in the exercise of personal, family, or other related interests, and guide them as to the cases of out-of-court dealings in which judicial conduct would be deemed inappropriate and cast reasonable doubt on the judge’s impartiality.

The Commentary on Rule 1 of the Code of Conduct has clarified that judges must display high standards of conduct in order to ensure public confidence in the judiciary. Rule 2 addresses the concept of decent conduct of judges. Under Rule 5, judges must consciously and voluntarily adopt such restrictions that would make them publicly perceived as being courteous, balanced, and fair. Therefore, the present rule should be considered in conjunction with the commentaries to Rules 2-5. Judges must adopt certain restrictions during not only official work, but also extra-judicial activities, because the judge’s activities aimed at administering justice should prevail over other activities. It flows from the logic of Rule
19 that judges are required to make sure that their family members and close ones adopt such conduct that would neither cast reasonable doubt on the judge’s ability to act impartially nor bring into disrepute the judicial position and the reputation of the judiciary.

For purposes of this Rule, “family member of the judge” is construed as a parent, spouse, child, or sibling, who shares the household with the judge. “A person that has blood relation with the judge” should be understood as individuals that have up to the third degree of blood relationship with the judge (see Rule 15).

When a judge tries to protect his, his family member’s, relative’s, or an acquaintance’s property or personal non-property interests, he may not use his reputation of being a representative of the judiciary, or use the influence he has by virtue of being a judge, because doing so would endanger judicial independence and public confidence in the judiciary. A judge must not allow family, friendly, social, political, or other ties to influence his judicial conduct. A judge may not interfere with the activities of another judge or any representative of any state or local government body in cases concerning the judge, his family member, or relative; a judge may not ask or demand special treatment of a case. Moreover, a judge may not receive personal property or non-property benefits by using the judicial office. Under this Rule, a judge may not be an “attorney” (even on a pro-bono basis), paid legal counsel, trust administrator, or inheritance administrator, with the exception of cases involving his family members and persons under his guardianship, in which cases the judge shall act without any compensation whatsoever. When a judge is forced to become engaged in a personal case as a party with a family or property claim, or in the context of a civil law dispute, then the judge must ensure that such involvement does not hinder the proper fulfillment of the judge’s official duties.

An example of improper judicial conduct is when a judge tries to use his position to gain privileged treatment in cases in which he has violated the traffic rules, environmental or urban development rules, or rules of keeping pets, or in the course of administrative proceedings initiated on other grounds. A judge may not use his position in anticipation of “special” treatment for his family member or relative in the frameworks of an administrative, criminal, or civil case. A judge must be cautious when
displaying an interest in any such case, because it may be perceived by the
official conducting proceedings as imposing a “duty” to treat the case in a
special way. A judge may not fulfill a request of his acquaintance to demand
the debtor of such acquaintance, on the basis of a document confirming the
existence of the debt, to immediately pay the debt. Another example of
improper conduct is when the judge sends “letters” with the official
letterhead of the court for the judge’s personal affairs.

A judge must avoid using the court’s assets (vehicle, computer, etc.) for
non-official purposes. A judge may not use the court’s facilities to organize
his personal affairs.

For anyone, including his family member, the judge may not issue a
personal guarantee at the pre-trial stage of a criminal case.

A judge may hold a position in a non-for-profit organization, provided
that the work associated with such position is performed without any
compensation, the position does not imply management of financial
resources, execution of civil contracts on behalf of the organization, and
protection of the pecuniary interests of the organization in front of central
and local government bodies, and the holding of the position does not create
the possibility of challenging the judge.

In the context of non-official activities, it is important to note that
judges are non-politicized: a judge may not be a leader or member of any
political party, make public speeches in favor of any political party or a
candidate for any office not related to the judiciary, express his opinions for
or against, make speeches or any other public statements in support of any
political party, publicly express opinion on the personal qualities of a
candidate, or organize fundraising. The Code does not prescribe any
limitations in this field on the judges’ family members, because the latter are
free to have a political career. However, a judge must behave in such a way
as to make sure that the political position of his family member does not
leave the impression of improper conduct by the judge.

Expressions of bias by the judge, even if made outside the performance
of official duties, may cast reasonable doubt on the ability of the judge to act
impartially in his judicial capacity.
Examples of violations of this Rule

- While driving a car in a state of intoxication, a judge is stopped for violating the traffic rules and introduces himself as a judge to the inspector. In another case, he presents or shows his judicial ID without saying anything to the road police officer.

- A judge called another judge hearing the case of a relative of the former and told the other judge that he does not believe that his relative “committed the act for which he is accused.”

- A judge sent notification to a debtor of his acquaintance and invited him to his court, even though a civil case was not proceeding before the court.

- A judge declared that large businessman A is an authoritative man, and that his opinion is important to the judge.

- In the City Administration, the judge took part in discussions on the amount of local taxes and expressed his opinion on the matter.

- A judge gave legal advice to an acquaintance and prepared his claim to be filed to court.

- A judge said during a reception that no business can be done in his precinct without his knowledge.

Rule 20. The judge shall have respect towards the principle of trial publicity and not hinder the public or the media in receiving and disseminating information in accordance with law, unless it is apparent that the exercise of this right by them is used to obstruct the court's work or to exert unlawful influence on the court's decision.

Commentary. Civil society is keen on being thoroughly aware of what goes on within the judiciary. The mass media have an increasing role in building and strengthening confidence in the judiciary.

The Republic of Armenia Constitution safeguards everyone’s right to a public hearing of his case in order to have his violated rights restored and to have charges against him determined by an independent and impartial court, within a reasonable period, under equal conditions, with due respect for all the requirements of fairness.
Public hearing of cases is a procedural requirement and an element of the right to a fair trial. Any breach of this requirement amounts to a breach of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The public and the mass media have the right to take part in the court hearing, and to receive from courts and disseminate information in accordance with laws.

As a primary principle, the hearing of cases is open to the public. However, the Armenian Constitution stipulates some cases in which courts may restrict the participation of the mass media and the public in all or a part of the hearing—for reasons of public morals, the public order, national security, or the protection of the privacy of parties or the interests of justice.

This constitutional provision implies that judges must ensure the publicity of trial and, for each case of restricting it, take reasonable and justified decisions. A judge must be tolerant in respect of representatives of the mass media. A judge may not prohibit the participation of the mass media or the public in the hearing merely on the ground of not having been given advance notice of their participation or having unfriendly personal ties with the mass medium in question, or on any other similar ground.

There may be cases in which a mass medium, which is literally not free, may intentionally want to spread misinformation on a hearing and to undermine the interests of justice.

If a judge has sufficient credible information showing that the mass medium or a representative of the public intends to obstruct the normal work of the court, or if such information has been published in order to influence the judge, or if the mass medium has published the witness statements before the other witnesses have been examined, then the judge may, through a substantiated written decision, restrict the right of such mass medium to receive and disseminate information, because the interest of justice is the supreme goal towards which the judiciary aspires.

In any event, a judge may not limit the right of access to judicial acts that have entered into lawful force.

The judiciaries of developed democratic countries have a judge-spokesman responsible for media relations or additional functions of a court employee, provided that the person given such functions is tolerant,
balanced, and competent. The one responsible for media relations may comment on the status of a case, delays of hearings, and other aspects of cases pending before the court.

A judge is not in any way obliged to comment on any case pending before him. This Rule suggests complete abstinence from making comments on pending cases, including from mass media interviews, limiting such contacts to the scope of the court hearing.

*Examples of violations of this Rule*
- A judge declared that any representative of journal X has nothing to do in his court, and that he would not tolerate their presence.
- A judge had a telephone interview with a representative of the mass media and, during the interview, expressed some of his attitude towards a party to the case: the interview was subsequently published in a newspaper.

*Rule 21. The judge may not publicly, beyond his or her professional work, express doubt as to the final judicial acts or actions of his or her colleagues.*

*Commentary.* The purpose of this Rule is to reinforce public confidence in the judiciary and to ensure the independent and impartial functioning of the judiciary.

As a type of legal act, judicial acts, upon entering into lawful force in accordance with the procedure stipulated by law, become binding on state and local government bodies and citizens. Intentional non-honoring of judicial acts that have entered into lawful force is a crime against justice. When the Rule is examined in this light, it becomes clear why it is not permitted to publicly express, outside of professional work, doubt about a judicial act that has entered into lawful force, and why the doubt thus expressed should be considered a violation of the Code of Judicial Conduct.

In the Republic of Armenia, justice is administered by means of trying and deciding cases related to civil and economic disputes concerning human and civil rights, freedoms, and lawful interests, and the rights and lawful
interests of the state and legal entities, trying and deciding cases related to administrative infringements, as well as trying criminal cases in court and sentencing guilty persons or acquitting persons that have not committed a crime. Confidence in justice is breached, if even one representative of the judiciary publicly expresses doubt about either a judicial act that has entered into lawful force or the acts of fellow judges.

This Rule does not apply to the review of judicial acts that have entered into lawful force in cases stipulated by law, when the judges of a higher court perform an *ex officio* review of the acts of a lower court.

The prohibition of this Rule concerns not only acts taken in cases examined by the judge, but also judicial acts taken in cases completed in other courts.

Though the literal text of the Rule is about judicial acts that have entered into lawful force (“final judicial acts”), it should be interpreted broadly. One should bear in mind that a judge may not make public statements about cases pending before any court, unless the judge personally is a party to such case.

In other words, a judge must refrain from any public comment on any case pending before any court, as long as a case is pending before any court, and a final judicial act has not been adopted. Any public comment by a judge may influence the outcome of the case or restrict fair trial in other ways.

If the judge was personally involved in a case as a party to the case, then this Rule does not prohibit him from making statements on the proceedings of that case. The judge then has the right to make comments on the process, issues of law, and arguments, and present his opinions or assumptions about the likely outcome of the case.

“Actions of colleagues” includes all judicial actions and functions performed throughout the judicial process, including any interim act or decision taken during the trial.

A judge must personally comply with the rules of conduct and make sure that his colleagues, too, comply with them, in view of the interests of justice. Once a judicial act has entered into lawful force, any doubt expressed publicly about the contents of the act or the activities of judicial officials would contradict the interests of justice.
There is an exception to this Rule for references to judicial acts that have entered into lawful force in teaching, scientific, and training work, as well as the scientific analysis of judicial errors, which facilitates the development and perfection of the law. As for lectures or papers containing references to cases still pending, it is in any case not permitted to publicize such cases.

*Examples of violations of this Rule*

- A judge publicly declared that he knew one of the witnesses in the case, who had “the nature of a liar,” and that he was sure that the witness perjured in the frameworks of this case, as well.
- A judge announced that a specific judicial act that had entered into lawful force was unfair, and that the sentence was too severe or obviously too lenient.
- A judge announced that the judgment would not have been taken, had official X not influenced the judge.
- A judge announced that the decision on admitting a claim was a violation.
- A judge announced that, had he been the judge trying the case, he would have immediately released the person concerned.
- A judge announced, in relation to a completed case, that a different judgment would have been taken, had the panel of judges performed an on-site examination of the physical evidence.

**Rule 22.** *A judge shall make reasonable efforts to be aware of his/her or his/her family’s financial interests in order not to jeopardize his function of administering justice.*

**Commentary.** This Rule is intended to build confidence in the constitutional principles of administering justice, including the independence of the judiciary.

According to this Rule, a judge must be reasonably informed of his and his family members’ financial interests.

“Financial interests of the judge’s family members” means the financial
interests of the judge, his/her spouse, or cohabiting parents and children.

In accordance with the procedure defined by law, judges submit to tax agencies income and property declarations. Declarations are filed for the regular reporting period; therefore, it is assumed that the judge becomes informed about the funds and income of persons affiliated with him at least once a year. Judges are obliged to carry out their financial activities and manage their investments in such a way as to minimize the possibility of recusal. A judge’s participation in financial and business affairs of the family is limited: judges may not assume functions of their everyday management or be sole entrepreneurs or participants in economic companies and trade cooperatives, because such participation reasonably implies the use of the judge’s official position or reputation, as such participation would make the judge involved in the management or governance of the company. When entering into civil law contracts on the management of his personal investments (such as real estate lease, free use, etc.), a judge should be concerned whether the execution of such transactions has cast reasonable doubt on his ability to act impartially in court, undermined the reputation of judges, or obstructed the judge’s performance of his duties. A judge must make sure that his participation in the financial affairs of the family does not lead to abuse of the reputation of the judicial office or of the court’s facilities, and not interfere with the proper performance of his judicial duties.

Within reasonable limits, a judge must be informed of his family members’ receiving high-value gifts, inherited assets, waived claims, assets sold to them at disproportionately low prices, loans at interest rates far below the regular interest rates, or free use of the assets of others. Judges must demand that, in accepting gifts or entering into financial transactions, his family members refrain from acts undermining the reputation of judicial office.

The concept of a “gift” has already been explained under Rule 17.

*Rule 23. A judge, as any other citizen, is entitled to freedom of expression, belief, and association in trade unions and other public organizations. However, in exercising those rights, the judge shall behave in such a*
manner that will uphold the dignity of a judge and will not give rise to any doubt as to the independence and impartiality of judicial bodies.

Commentary. There are different ways in which influence (pressure) can be exerted on a judge—public, partisan, corporate, family, and friendship. Judiciaries normally prohibit judges from belonging to political parties. The Spanish Constitution categorically prohibits judges from being members of political parties and trade unions. In the US, federal judges must refrain from political activities that may leave the impression of political bias or dishonesty. French judges must refrain from any political activity or discussion; they may neither express any intolerance of the governance system and methods nor engage in any political action. In the Republic of Armenia, too, judges are non-politicized, and must maintain political neutrality and self-restraint.

The Armenian Constitution stipulates restrictions on the freedom of association and the freedom to create parties for army, police, and prosecution servants, as well as for judges and members of the Constitutional Court. In order for a judge to be able to make an impartial decision on a case, and for his decision to be perceived as doing justice, the judge must exercise his right to freedom of expression, faith, and association in trade unions and other non-governmental organizations with such care as to not endanger public confidence in judicial independence and impartiality. Judges participate directly in the exercise of public authority vested in them and are responsible for the protection of common state interests. In relation to the performance of his official duties, a judge’s right to the freedom of expression is subject to certain limitations, which must be prescribed by law and necessary in a democratic society for ensuring respect for the reputation and integrity of the judiciary.

A judge may participate in central and local government elections only as a voter; a judge may not participate in the pre-election campaign.

A judge may not be a member of any organization formed on the basis of racial, religious, or ethnic discrimination, or of any union in which the association is based on locality, origin, or other similar principles.

This includes membership in, or participation in events organized by, both the aforementioned organizations and clubs with a similar focus.
Prior to becoming a member of an organization or accepting an invitation to participate in a gathering, the judge should wonder whether the organization is an expression of racial, religious, sexual, or ethnic discrimination, and whether its activities have been suspended or banned.

One should bear in mind that a judge cannot be fully isolated from society: a judge must be well-aware of civil society developments in his country, and express his ideas and principles concerning the development of society and the improvement of law and the judiciary; however, the judge should exercise the right to freedom of expression cautiously in order to avoid being perceived as biased or improper.

Examples of violations of this Rule
- During the hearing of a family case, the judge declared: “Had you joined religious organization X, these things would not have happened to your family.”
- After hearing a witness in court, the judge declared that he does not believe the witness, because “all adults and children speak lies in [the locality where the witness was born]…”

Rule 24. A judge may join the association of judges or participate in other organizations representing the interests of judges, and freely become involved in activities provided by the charters of such organizations.

Commentary. The judiciary is autonomous, and the self-governance of the judiciary shall be carried out through self-governance bodies stipulated by the legislation. Judges may form and join unions to represent their interests, develop their professionalism, and guard their status. Within the judiciary, unions and committees bearing different names may be created and operated. Regardless of their names, judicial associations in any jurisdiction are designed to improve the judges’ professionalism, respect for their rights, and a number of other issues.

In the Republic of Armenia, the highest body of judicial self-governance is the General Assembly of Judges, which has created the Association of Judges of the Republic of Armenia, a non-governmental
organization, which any judge may join as a member by lodging a written application. Thus, the procedure of becoming a member has been expedited.

Judges may be nominated to the Justice Council or to the Board of the Judicial Association. Judges may elect and be elected to the bodies of organizations representing the interests of judges and self-governance bodies. In this process, they may freely carry out campaigns and make public speeches. The requirement of not being politicized is not violated, if professional associations of judges or judicial self-governance bodies organize professional discussions or issue opinions or public statements on draft legal acts regulating or related to the activities of the judiciary.

Judges are free to perform acts stipulated by the by-laws of judicial associations, because such by-laws cannot contradict such constitutional principles as the separation from other branches of power and respect for the interests of justice. However, even this freedom should be restricted, in the sense that judges may not express any disrespect of the law or the constitutional order within their associations. Judicial self-governance bodies, too, may not perform any act that might undermine the reputation of either the state or the judiciary.

Rule 25. Besides proper performance of professional duties, a judge may:

a) Make speeches and presentations, write, lecture, and participate in activities concerning the law, the legal system, and the implementation of laws or related matters;

b) Appear at public hearings of official bodies and, upon request, publicly give advice to officials of such bodies on matters relating to the law, the legal system, the implementation of laws, or related matters, to the extent that it is viewed as use of the judge’s legal knowledge and expertise;

c) Serve as a member of an official body, a state institution, or a consultative body, unless such membership contradicts the principles of independence, impartiality, and political neutrality of a judge;

d) Engage in processes aimed at developing legislation related to the judicial system; and
e) Engage in other activities, as long as they do not detract from the dignity of the judicial body or of the judge.

Commentary. One should bear in mind that this Rule prescribes the “besides proper performance of professional duties” caveat, i.e. engagement in such activities should not hinder the official activities of the judge in the area of executing justice. Regardless of whether a judge takes part in events dedicated to the legal system or the law, he or she must always be aware of the development trends in international law. A judge must take care to improve his or her professional knowledge, and strive to improve his or her performance. A judge is uniquely positioned as an individual that applies the law, whose everyday work of interpreting and filling the application gaps of substantive and procedural law may facilitate the development of the law and the improved administration of justice. Within the limits allowed by the judges’ workload, judicial activities enumerated in this rule should be encouraged. Judges may take part in such events on their own or through the bar association, the judicial association, or any group involved with reforms of the law. In specific cases, in view of work discipline or participation considerations, the judge must consult with or inform the chairman of his court or the Ethics Committee of the Council of Court Chairmen.

When a judge attends open hearings of public bodies and gives them advice on the law, the legal system, and the administration of justice, he must remember that he acts in his capacity of a judge—presenting his legal knowledge and expertise; in this situation, the judge must structure and deliver his public speech in such a way as to be perceived as a proper judge, displaying care to avoid violating the Rules of this Code, refraining from any discussion of political matters, not expressing any public suspicion about either judicial acts that have entered into lawful force or the acts of fellow judges, and displaying political self-restraint.

Judges may participate in the process of developing the legislation on the judiciary both through their professional associations and on the basis of individual invitations.

The judges’ participation in other educational and training programs, conferences, and workshops of lawyers should be encouraged.
Rule 26. The judge is entitled to engage in teaching, research, or other creative activities without restriction and be paid for it. Such activities of a judge shall be assisted and encouraged to the extent that they enhance the judge’s professional qualification.

Commentary. Judicial policy, which develops as a result of systemizing judicial acts taken by judges interpreting the law, substantively depends on the professional legal culture of the judicial corps and the creative performance of judicial duties, among other factors. A modern judiciary implies the existence of judicial staff with excellent professionalism and social competencies. Knowledge obtained in the course of professional education, as well as the skills and experience gained in office need constant improvement and harmonization with changing social relations.

By virtue of their status, judges must constantly take care of improving their qualification and performance, which is defined in the legislation as the duty of judges to take part in mandatory professional training programs.

The ban on holding state or other office or performing other paid work means that a large number of representatives of the judiciary have scientific and teaching work in various educational institutions as the only work that they may combine with their judicial positions.

The notion “without restriction” cannot be interpreted widely, because the performance by any judge of his judicial duties takes prevalence over all other activities in which the judge may engage. Teaching, scientific, or creative work should not disturb the performance of judicial duties. A judge who engages in such work should make sure to perform his judicial duties without any delays. The remuneration a judge receives for his teaching, scientific, or creative work must not exceed the amount normally paid to others for the same work.

Judges who teach and perform scientific work may make references to cases examined and completed by courts; however, such judges should be cautious in terms of using the real names of the parties. To the degree possible, cover pages of scientific papers and creative work should not emphasize the judge’s position. Articles published in the newsletter of the judicial association may be an exception to this rule. A judge may receive
compensation of his costs in this sphere of work, if the source of compensation cannot be reasonably perceived as a means to influence the judge.

To the extent that teaching, scientific, or creative work helps improve the professionalism of judges, it should be encouraged by the chairmen of courts and taken into consideration for purposes of career advancement.

Examples of violations of this Rule
- A judge organized an exhibition and sale of his drawings, by stating in the announcement that the exhibition was organized with the sponsorship of businessman A.
- A judge teaches in a university, where his salary is four-fold the salary paid to other persons that teach in the same university.
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