

*With the aim of implementing fundamental principles and values of the legal order of Montenegro – democracy, rule of law, constitutionality, legality and respect for human rights;*

*with the aim of implementing constitutional principles of autonomy and independence of a court;*

*with the aim of further empowering of individual and professional accountability, conscientiousness and integrity of judges;*

*with the aim of promoting and improving dignity and reputation of judges and of the judiciary;*

*with the aim of achieving standards of humanity and ethics of a judge and of the judiciary laid down in:*

- *Universal Declaration of Human Rights adopted by the UN General Assembly in 1948 (Resolution 217A (III) U.N.A/810);*
- *International Covenant on Civil and Political Rights adopted by the UN General Assembly in 1966 (Resolution 2200A (XXI)*
- *European Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe in 1950;*
- *Bengalore Principles of Judicial Conduct adopted by the Judicial Group on Strengthening Judicial Integrity in 2002;*
- *European Charter on the Statute for Judges adopted by the Council of Europe in 1998;*
- *UN Resolution: Basic Principles on the Independence of the Judiciary adopted by the Seventh UN Congress and approved by the UN General Assembly in 1985;*
- *Recommendation CM/Rec(2010)12 of the Council of Europe on judges: independence, efficiency and responsibilities of judges adopted by the Committee of Ministers in 2010;*
- *Opinions of the Consultative Council of European Judges (CCJE)*

*under Article 8 paragraph 3 of the Law on Judicial Council (Official Gazette of Montenegro 39/2011, 31/2012, 46/2013 and 51/2013), at the session held on \_\_\_\_\_ the Judicial Conference has adopted the following:*

# **CODE OF JUDICIAL ETHICS**

## **Article 1**

### **General Provision**

The Code of Judicial Ethics (hereinafter referred to as: the Code) lays down ethical principles and rules of conduct to be upheld by judges for the purpose of safeguarding, promoting and improving dignity and reputation of a judge and of the judiciary.

## **Article 2**

### **Legality**

Judges shall conduct proceedings in accordance with the law, in compliance with the Constitution of Montenegro, ratified international treaties and other regulations adopted under the Constitution and the law.

## **Article 3**

### **Independence**

#### *Principle*

*Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial.*

*A judge shall uphold and exemplify judicial independence in both, its individual and institutional aspects.*

A judge shall conduct proceedings on the basis of his/her own assessment of facts, in accordance with the conscientious interpretation and application of regulations, free of any limitations and influences by legislative and executive branches of power, media, political parties, organisations managing economic interests, non-governmental and international organisations, social groups and individuals.

A judge shall abstain from any action that may give rise to suspicion of his/her independence from institutions and individuals from executive and legislative branches of power. A judge shall abstain from any action that may raise suspicion of his/her apolitical attitude.

A judge shall conduct proceedings and decide autonomously and independently and in the trial process he/she shall be capable of performing judicial duties free of any limitations, any direct or indirect extraneous influences, inducements, pressures or threats from any quarter or for any reason.

In performing judicial duties, a judge shall be independent of judicial colleagues and other judicial office holders in respect of decisions he/she is obliged to make.

A judge is not obliged to provide explanation of his/her legal understanding and established facts to anyone, except in the statement of reasons contained in the decision or when so specifically required under the law.

#### **Article 4**

#### **Impartiality**

#### ***Principle***

***Judicial impartiality is an essence and a prerequisite for ensuring a fair trial. A judge shall be free from any connections, favouritism or bias which influences – or which may be deemed to influence – his/her ability to make decision independently.***

A judge shall preform judicial duties without favour, bias or prejudice on the grounds of race, colour, religion, national origin, age, marital status, sexual orientation, social and economic status, political belief and any other differences.

With his/her conduct both in and out of the court, the judge shall maintain and enhance public confidence in individual and institutional impartiality.

In performing judicial duties, and in his/her conduct both in and out of the court, a judge shall avoid situations in professional and personal relations with members of legal profession and other persons which might reasonably give rise to suspicion of his/her impartiality.

A judge shall request to be disqualified from proceedings of the case in which there are reasons that give rise to suspicion of his/her ability to make impartial decision. Suspicion of impartiality of a judge is particularly raised by family, friendship, business, social and other relations with parties and their representatives.

A judge shall abstain from giving public statements or comments on pending cases which might make an impression of bias among the public.

A judge shall abstain from any political activity or participation in any political gatherings and events organised by political parties which might put at risk the

impression of his/her impartiality. A judge shall not aid the work of political parties by giving monetary donations.

A judge shall not be a member of, nor will he/she participate in the activities of, secret associations or associations which do not ensure full transparency of their work.

## **Article 5**

### **Competence, Professionalism and Commitment at Work**

#### *Principle*

*A judge shall perform duties in a competent, conscientious, diligent and efficient manner. An enviable level of theoretical knowledge and skills shall be a requirement that shall constantly be set for judges in order for them to be capable to perform judicial duties in a responsible and efficient manner.*

A judge shall continuously advance and upgrade his/her professional knowledge and skills. A judge shall have the right and duty to participate in the professional development programmes offered to him/her.

A judge shall maintain order and decorum in all the proceedings conducted before the court and shall be dignified, courteous and respectful in relation to the parties and other participants in proceedings, as well as in relation to the court staff. A judge shall abstain from any conduct that might compromise reputation of the court and integrity of the judicial office.

A judge shall perform duties in a dedicated manner and with reasonable promptness. A judge shall observe time-limits in the course of proceedings, while recognising the rule of setting priorities in resolving the cases and shall seek to resolve the filed cases of the same level of urgency in order in which they have been received. A judge shall ensure that there is no unnecessary delay in resolving individual cases and shall conduct proceedings, in which he/she renders decision, within the shortest time possible.

With regard to the order of conducting proceedings, a judge shall not give preference to any of the parties in proceedings.

A judge shall assign tasks in a rational manner, while ensuring full utilisation of the working hours. A judge shall invest all efforts and knowledge towards achieving the best work results, while ensuring that the number of resolved cases does not affect their quality.

Depending on his/her capabilities and interests, a judge shall engage in other tasks that are important for judicial profession, improvement and promotion of judicial duties, while ensuring that these extrajudicial activities do not compromise regular and timely performance of judicial duties, and also ensuring that he/she is not engaged in performing any public, private, paid or unpaid duties which are incompatible with judicial office.

A judge may not engage in provision of legal advice or legal aid.

## **Article 6**

### **Equality**

#### *Principle*

***A judge shall perform judicial duties by observing the principle of equal treatment of parties in the proceedings, while ensuring that everyone is provided a fair trial.***

A judge shall be aware of and respect the differences arising from race, colour, religion, national origin, age, marital status, sexual orientation, social and economic status, political belief and any other criterion.

A judge shall have the right and duty to demand from the court staff, and from all the others subject to his/her official influence, to treat participants in the proceedings and citizens addressing the court by observing the principle of equality and in a decent, courteous and respectful manner.

## **Article 7**

### **Integrity**

#### *Principle*

***Dignity, honesty and incorruptibility are fundamental principles on which integrity of a judge rests. On all the occasions, a judge shall ensure that his/her conduct is in accordance with dignity of office he/she discharges, which will enhance public confidence in integrity of judicial institutions.***

In his/her conduct both in and out of the court, a judge shall observe and develop standards of conduct which contribute to safeguarding reputation of a court and to building public confidence in the judiciary.

A judge shall safeguard reputation of the judicial profession and of the judiciary in both, his/her written and spoken words.

A judge shall abstain from receiving gifts and services free of charge from parties and other participants in the proceedings, but also from all those because of whom suspicion of his/her impartiality and objectivity might be raised.

A judge shall not allow members of his/her family, court staff or anyone else that is subject to the authority of the judicial office to accept a gift, loan or favour for what the judge is anyway obliged to do or for what he/she has done in performing his/her judicial duties.

If a gift has been given, a favour done or any other benefit provided contrary to his/her will, a judge shall inform in writing, and immediately after he/she has become aware of it, a president of the court or a public prosecutor if such an action led to establishment of elements of a criminal offence. Judges shall act in the same manner in the case of an attempt to give a gift or do a favour.

A judge shall maintain confidentiality of information obtained in the performance of judicial duties and shall not use nor disclose them for any other purposes.

A judge shall not use his/her profession, official capacity and reputation to generate material gain for himself/herself or for another person or to serve his/her private interests, interests of his/her family members or interests of another person.

A judge shall conduct his/her private affairs honestly and in a manner which excludes the possibility of suspicion of his/her independence and impartiality in the performance of judicial duties and shall not allow his/her financial interests and financial interests of his/her immediate family to have negative impact on dignity of the duties he/she performs.

A judge`s conduct shall not be undignified and shall not make an impression which is inappropriate for judicial profession, while he/she shall accept restrictions on his/her conduct that may be viewed as burdensome by other citizens.

A judge shall, while working in the court, observe the dress code which is appropriate for judicial profession and shall be appropriately dressed on all other occasions.

A judge shall have the right and duty to demand from civil servants and state employees, as well as from parties and citizens addressing the court, to dress in a way which is appropriate for a judicial institution and its reputation.

## **Article 8**

### **Freedom of Association**

#### *Principle*

*Judges shall have the right to form professional associations for the purpose of safeguarding and promoting judicial profession, representing their interests and safeguarding independence and position of the judicial branch of power.*

A judge may be a member of and actively participate in the work of professional associations and other organisations that represent interests of judges and contribute to safeguarding and improving reputation of the judicial profession.

## **Article 9**

### **Public and Media Relations**

In his/her public appearances, a judge shall promote reputation of judicial profession.

Outside of court sittings and hearings, a judge shall abstain from expressing opinion about the case he/she has been assigned, as well as about the other pending cases and judicial proceedings and court decisions.

A judge may participate in public debates on law, legal system and functioning of the judiciary.

A judge shall not participate in public debates of political nature, except in the cases that have direct impact on the work of courts, independence of the judiciary or fundamental aspects of justice administration.

In his/her public appearances and when commenting on social phenomena in the media, written articles, public events, lectures etc. a judge shall strive for his/her appearance to be based on regulations, and for the expressed views and the overall conduct to be in accordance with provisions of this Code.

A judge shall abstain from giving any information to the media and interested persons regarding specific cases if he/she has not been authorised to do so.

A president of a court or a judge authorised to provide information to the media shall give the most objective information, while ensuring that giving such information at the moment of communicating it is justified and permitted, given the stage of proceedings and taking into account all the circumstances of the case, and particularly the need to protect personal and family life of parties and other participants in the proceedings,

interests of juveniles as well as to protect personal and family life of a victim and defendant so as not to violate their rights.

## **Article 10**

### **Relations with Colleagues and Court Staff**

A judge shall maintain and develop good co-worker relationships and professional cooperation with colleagues.

A judge shall provide support to judicial assistants and trainees in their professional training and development.

A judge shall develop the level of conduct of judicial assistants and trainees which is in accordance with this Code.

A judge shall treat fairly the entire court staff.

## **Article 11**

### **Observance of the Code**

Judges shall observe the Code. A judge shall have the right and duty to draw attention of competent bodies to the conduct of a judge which constitutes infringement of this Code.

The Committee for the Code of Judicial Ethics (hereinafter referred to as: the Committee) shall establish whether there has been an infringement.

Anyone may initiate the procedure for establishing whether there has been an infringement of the Code.

## **Article 12**

### **Procedure for Establishing Infringement of the Code**

The initiative for commencing the procedure for establishing whether there has been an infringement of the Code shall specify first and last name of the judge against whom the initiative has been filed, description of the conduct of the judge which constitutes an infringement of the Code and time and place of manifesting such conduct.

In the procedure for establishing whether there has been an infringement of the Code, the Committee shall obtain statement from the judge against whom the initiative for commencing the procedure has been filed.



The manner of operation and decision-making of the Committee is determined in more detail by its Rules of Procedure.

A judge is entitled to lodge a complaint to the Judicial Council against decision of the Committee in which it is established that there has been an infringement of the Code of Judicial Ethics within eight days from the day of the receipt.

Final decision on infringement of the Code shall be recorded in the personal file of a judge.

If the Committee has established, during the procedure for establishing infringement of the Code, that there exist elements of a disciplinary violation which tarnish reputation of the judicial office, the Committee shall terminate the procedure for establishing infringement of the Code and shall file motion to the competent body to establish disciplinary liability of the judge.

### **Article 13**

#### **Transitional Provisions**

The procedures that commenced before the Committee before entry into force of this Code shall be finalised in accordance with the Code of Judicial Ethics (Official Gazette of Montenegro 45/2008 and 17/2012).

### **Article 14**

#### **Final Provisions**

This Code was adopted at the Judicial Conference held on \_\_\_\_\_ and it entered into force on that same date, while it shall be published in the Official Gazette of Montenegro and on the webpage of the Judicial Council.

As on the day this Code enters into force, the Code of Judicial Ethics (Official Gazette of Montenegro 45/2008 and 17/2012) shall be repealed.