

Good judicial practice

Principles and Issues



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Principles and Issues

1 Introduction

1.1 Starting points

The ultimate task of the courts is to maintain the due process of law. The courts and judges must guarantee that everyone can have their rights and obligations determined objectively and independently. It is vitally important from a number of perspectives that the general public have confidence in the judges and the courts and that the judges and the courts maintain their credibility. The judge's attitude to various ethical issues is also a key factor from a confidence point of view.

This document deals with good judicial practice. This naturally encompasses matters relating to judicial ethics but goes beyond that. In this presentation, issues will be addressed regarding the role of the judge and the responsibility of the judge in a broad sense. Consequently, a number of issues that are closest to the application of law will also be examined.

1.2 A living document

One of the purposes of this document is to provide judges with guidance when dealing with the ethical dilemmas and problems they encounter in their day-to-day work. It can help the judge to act in a manner that the confidence of the general public in judges, the courts and their rulings is upheld and reinforced. The document can also provide the general public with essential information about views held by judges on basic ethical principles and current issues. A further aim is for it to be used in a training context and contribute to personal reflection, ensuring that discussions between judges regarding good judicial practice are kept alive. The document could of course also be a source of support for a judge when discussing these issues with other people in the profession, with lay judges or with the general public.

Apart from a number of general requirements that are presented regarding principles, this document does not contain any instructions on how a judge ought to act in specific situations. When faced with an ethical dilemma, it is seldom possible to find the answer in a rule. Instead, a position is adopted through a series of quite complex considerations. A list of questions could be a source of support for the judge when handling ethical problems and dilemmas. Another reason for listing questions is that views on what characterises a good ethical attitude vary over time and from one generation to another. Consequently, this document mainly comprises questions rather than guidelines.

One of the sources that inspired the idea of asking questions is the German document *Säulen richterlichen Handelns* (2007). This document was published

by Schleswiger Ethikrunde, a group of judges from the German state of Schleswig Holstein who work with judicial ethics.

Hopefully, the approach chosen will result in a living document that will be consistently useful. However, matters that are of importance today could lose their relevance and new issues could emerge. This could mean that on review, questions and sub-questions are added, reformulated or deleted.

Choosing this method highlights the fact that it is not a question of laying down rules for good judicial practice. Looking for answers to questions related to judicial ethics should not be seen as a restriction on the freedom of the judge. The catalogue of questions should instead be looked upon as a source of support for the judge in the diverse situations that are encountered.

This document is envisaged as a tool not only for judges in the profession and those undergoing judicial training but also judges who have taken up another position temporarily. However, the list of questions is directed at those who are typically regarded as ordinary judges although it includes many questions related to professional ethics in general. The document deals with questions about the judge's actions and performance, both in a judicial role and in the role of legal expert in other contexts. It also covers the judge as a private individual – during the judge's leisure time and when out in the community.

As a complement to this document, a memo entitled *Good judicial practice – ethics and assumption of responsibility* has been produced with more extensive background material. It contains, among other things, an account of international documents dealing with good judicial practice and ethical guidelines from other countries. The memo can provide judges with a certain degree of guidance when they are required to adopt a position in various ethical dilemmas. It also provides explanations related to questions in this document that at first glance may seem difficult to understand. As with the memo, this list of questions has been formulated by an analyst appointed by the Swedish National Courts Administration as well as a working group appointed by the Swedish Association of Judges.

It should also be mentioned that the Swedish National Courts Administration has produced a document – *Courts of Sweden: Ethical guidelines in conjunction with service and official travel abroad* – which is intended to bring to the attention of employees issues of an ethical nature that could arise during official foreign travel. Even if the guidelines are aimed at working abroad, the document could to some extent provide the judge with general guidance regarding what constitutes an appropriate ethical approach in different issues.

2 Basic principles

2.1 Integrity - a primary value

When producing this document, a number of international documents regarding judicial ethics were examined as well as written ethical guidelines for judges from other countries. Particular mention can be made of the leading international document in this area *The Bangalore Principles of Judicial Conduct* (2002), which is supported by the UN system.

In many international documents and ethical guidelines for judges from other countries, integrity is highlighted as a key principle. Integrity is a broad concept that embodies several different aspects and is used with partly differing meanings. It involves, among other things, the judge being independent, rejecting every attempt at undue influence and not taking account of anything that is not relevant. The judge must thus be independent in his or her adjudication, have the courage to arrive at uncomfortable decisions and be able to withstand pressure of public opinion. The judge must avoid, officially and in private, behaviour that could harm the court or risk his or her position or reputation.

In this document, different ethical issues have been addressed under different principles, which state what ought to be highlighted in a judge's actions and attitude to ethical issues. Integrity is a key value. In this document, however, integrity is seen as a primary value that is reflected in four further principles that have been selected for listing instead. These principles are presented in the following section.

2.2 The four principles

The principles chosen – which are also linked to the Bangalore principles – are

- Independence
- Impartiality and equal treatment
- Good conduct and treatment of others
- Good expertise and efficiency

These principles are presented in this section. The formulation of concepts is also described in more detail in *Good judicial practice – ethics and assumption of responsibility*.

2.2.1 Independence

Ultimately, independence refers to independence in the application of the law by the court and by the judge. This principle reflects the constitutional position of the courts and the judges and is not linked in the first instance to the handling of a specific case or matter. Independence is referred to in Article 6 of the European Convention as one of the criteria required for a fair trial. According to European Court practice, when deciding whether a court is independent, account should be taken of how the judges are appointed, the length of the appointment, what guarantees there are regarding external influence and if there are circumstances that give rise to doubt regarding their independence. This principle has an external and internal aspect.

The external independence of the judge means that the judge must be free from undue influence from other community bodies and individual interests. The courts and the judges must be independent in relation to parliament and the government as well as interest organisations and companies. This includes a requirement that the constitution and related legislation are formulated in a way that independence can be safeguarded (rules regarding the composition of the courts, appointment and dismissal of judges etc.). These constitutional guarantees must also be implemented in practice and thus have a legal and ethical dimension.

A central task of a judge is to work to ensure that basic freedoms and rights are maintained in the application of the law. It is also important that the judge, when necessary, seeks to explain to the general public and highlight externally the significance of the principles in the constitution.

The internal aspect of this principle – internal independence – is based on the judge, in relation to superiors and colleagues, independently discharging his or her duties relating to the application of the law.

2.2.2 Impartiality and equal treatment

A person's equal value and equal treatment in the eyes of the law are basic values of an ethical nature in our Constitution (Section 1, sub-sections 2 and 9 of the Constitution). In this particular respect, equal treatment can briefly be said to be that a judge, when discharging his or her judicial duties, must take into account the equality of everyone in the eyes of the law and not to distinguish between people for irrelevant reasons. This means that the judge must be impartial in relation to parties and counsel. There must not be any circumstance stated specifically in law that means that the judge is biased when hearing the case and nor must there be any other circumstance that would impact negatively on public confidence in the judge's impartiality.

The meaning of bias can be expressed in different ways. The Supreme Court has defined bias as when a judge allows the position of the parties to influence the outcome of the case. If the judge were to adjudicate in the same way even if the composition of the parties had been the reverse, the judge is not biased. Nor of course must the judge appear to be biased.

Impartiality means that the judge does not actively favour a particular party. Even in other respects, the judge must be impartial in relation to parties and counsel. This basic principle could also at times affect the judge's approach to the subject matter in the case. In his or her administration of justice, the judge must be governed by factors that are objective and factual. The judge must not be controlled by irrelevant considerations, prejudices or preunderstandings in the case, neither in the matter at hand nor in related procedural issues. However, if a judge has already adopted a firm position on a general problem involving interpretation of the content of current law, this does not mean, in principle, that there is a risk that the judge is deemed to be acting in a biased way.

Impartiality is also addressed in Article 6 of the European Convention as one of the criteria required for a fair trial. With the European Court interpretation of the Article, the provision includes a requirement regarding subjective impartiality, i.e. that the judge is impartial in purely factual terms, as well as a requirement of objective impartiality, which means that an objective observer should be in no doubt whatsoever of the impartiality of the court.

2.2.3 Good conduct and treatment of others

The principle of good conduct and treatment of others is linked to the judge as a person. Ultimately, it is about the judge behaving in a manner in which the confidence of the general public in the judicial process is upheld and reinforced. The judge therefore ought to strive to behave correctly and to treat his or her fellow human beings with respect and dignity. However, this does not mean that all judges need to be cast in the same mould. A judge must be able to bring his or her personality into the task of adjudicating.

The judge must have considerable freedom to choose to live the kind of private life he or she wishes although this correct conduct requirement must not lead to the judge being isolated from the community in general. In both professional and private life, judges must bear in mind how their actions or behaviour influence their reputation as well as the reputation of colleagues and the courts.

2.2.4 Good expertise and efficiency

Judges carry out their work on behalf of the people. The people are justified in expecting the courts to pronounce high-quality decisions and rulings within a reasonable time. The principle of good expertise and efficiency relates to the

requirement that judges discharge their duties in the best possible way. A judge must strive to maintain a high level of knowledge, which includes in-service training. The term 'expertise' also refers to the capacity to mediate coherent decisions and rulings to the parties and others involved. A judge must ensure that cases and other matters are heard speedily. A practised, efficient judge must also observe the need for accuracy in the discharge of judicial duties.

3 Questions

Below are a number of questions – 60 main questions and just over 100 sub-questions to be exact. The questions covered in this document differ in nature and level of detail. Some questions deal with matters of a principle nature whilst others are more practical. In many cases, the question is open, the aim being to give the judge the opportunity – alone or with others – to think about his/her standpoint. The question could be formulated generally so that the answers are different depending on the situation highlighted in the question. Sub-questions have been linked to certain main questions in order to concretise the question or to provide guidance when faced with the need to adopt a standpoint on an ethical dilemma that falls within or outside the judge's application of the law.

The questions differ in the sense that the judge, when looking for answers, in certain cases needs to take into account constitutional rules and other legal rules in a specific area. In other questions, such rules and regulations are lacking. This means that a standpoint must be adopted using mainly personal, ethical reflections as a guideline.

At first glance, the list of questions may appear very extensive and 'pedantic' with regard to something that could seem obvious. A number of questions could also be regarded as leading. However, the seminars that are run within the framework of this assignment confirm that the concept of good judicial practice embodies a large number of questions. It has emerged that these questions frequently provide guidance in modulated discussions in which different circumstances apply depending on the situation.

Variations on a number of issues appear under several principles. Consequently, the list of questions includes a number of cross-references.

Finally, before reading the questions, could we ask you not to become 'bogged down' on individual questions. You should instead attempt to see the totality and the aim behind the product.

3.1 Independence

External interdependence

Judges

- 3.1.1 How do I see the role and function of the judge in society?
 - How do I see my role in promoting human freedom and rights?

- Are there situations where, as a judge, I have a responsibility to the parties and the general public to explain the role of the courts and their function in society?
- 3.1.2 Could there be extraordinary situations – quite apart from examination of the law – where for ethical reasons I could refuse to apply a legal rule fully?
- 3.1.3 How do I deal with a precedent that I consider debatable?
- 3.1.4 Should I be able to consult informally a jurisprudence expert, a ministry official or an expert in a government enquiry regarding a legal issue?
- 3.1.5 What position should I adopt with regard to general recommendations relating to the application of the law, e.g. general advice and reference tables that exist alongside traditional sources of the law?
- 3.1.6 What position should I adopt regarding the way the media reports a case over which I am presiding?
- 3.1.7 How do I withstand pressure of public opinion and unwarranted attempts to influence me in my judicial work?
- 3.1.8 What do I do if I am exposed to violence, threats or harassment (face-to-face, by telephone, in the social media etc.) connected to a case? Do I raise the question with colleagues or the management? Does the threat etc. mean that I will be biased when hearing the case? Should I refrain from hearing a certain type of case, citing the risk of threat?
- 3.1.9 What should I take into account when deciding what to do in specific situations, e.g. regarding an invitation or a gift that could fall into the 'grey area' for what could be deemed a bribe?
 - Is the offer linked to the hearing of a specific case or matter?
 - Does the offer refer to an open and serious arrangement?
 - Does the offer fall within what could be regarded as standard practice in public service in general and in particular for judges and other persons in public office when performing official duties?
- 3.1.10 What should I bear in mind when deciding whether to become involved in a training programme, either as a student or a teacher?
 - Is it a question of professional training?
 - Who is the co-ordinator?

- What interest does the co-ordinator have and what is the purpose of the training?
- Who is taking part in the training?
- What is the content of the training programme?
- Where and under what circumstances will the training take place?
- Is the training programme balanced?

Legal expert in other contexts

- 3.1.11 What should I bear in mind before taking up an assignment involving legislative work or other work in Parliament or at the Government Offices? What impact – either on my work in individual cases or in general – could such involvement have on my independence? (See also question 3.2.15.)
- 3.1.12 Are there other assignments or incidental employment, e.g. working as a teacher (cf. question 3.1.10), that could conflict with the requirement that a judge remains independent? (See also question 3.2.14.)

Private individual

- 3.1.13 What should I bear in mind when faced with a decision to become involved in politics or in another area of society? Does the nature of this involvement mean that it could lead to conflicts or problems in relation to the discharge of my judicial duties? (See also question 3.2.22.)

Internal independence

Judge

- 3.1.14 How do I assure my personal integrity in my application of the law?
- 3.1.15 How is the principle of a judge's independence when discharging judicial duties safeguarded in the system for allocating cases and other matters?
- Are the reasons that form the basis for allocation objectively acceptable?
 - Does allocation take place openly and through consultation between the judges?
 - What standpoint should I adopt in a situation where in my application of the law I am bound by or have my scope cur-

tailed by a previous court decision reached by a colleague that I consider debatable?

- 3.1.16 What reason or reasons could justify a person in a senior position taking a judge off a particular case or matter?
- 3.1.17 What reason or reasons could justify a judge refraining from hearing a case or a matter?
- 3.1.18 How do I preserve my own judicial independence and the judicial independence of my colleagues (including lay judges)?
- How do I contribute to ensuring internal independence, particularly for those colleagues who are undergoing judicial training, with due consideration given to factors such as grading and issuing of references?
 - How do I help to defend loyalty values in both the legal and ethical sense?
- 3.1.19 How do I view my involvement in court administration matters? (See also question 3.4.7.)
- Do I express my opinion in such matters?
 - Do I take part in discussions and meetings regarding such matters?

3.2 Impartiality and equal treatment

Judges

- 3.2.1 When I examine my impartiality, have I also taken into account the objective side of impartiality, i.e. how my relationship with the parties could be perceived by the parties themselves or by other external parties?
- 3.2.2 Are there other circumstances which – even if I do not consider them grounds for disqualification – I still ought to bring to the attention of the parties?
- 3.2.3 Am I aware of how my behaviour and my statements during the hearing could influence whether the parties consider the court impartial?
- 3.2.4 Am I aware of how badges, jewellery or other items that symbolise a certain point of view or affiliation, could be perceived by the parties?

- 3.2.5 How do I deal with the demand for equal treatment in cases and hearings where cultural encounters take place in a broad sense (ethnic, social etc.)?
- 3.2.6 What problems do I need to deal with in a case where the 'relative strength' between the parties could appear to be uneven?
- 3.2.7 How do I safeguard the principle that prejudice and preunderstandings must not affect me as a judge?
- How do I ensure that my prejudices do not influence my attitude to the parties etc. or my legal assessments?
 - Would my standpoint be affected if the identity of the parties were different?
 - Would my opinions be affected if the parties were represented by different counsel?
 - Would my opinions be affected if a party had a different social or cultural background?
 - Is there any circumstance of a party (cf., for example, grounds for discrimination) that could have an unacceptable influence on me?
- 3.2.8 How should I handle a situation where a fellow judge, another court employee, a lay judge, a party or counsel expresses personal prejudices?
- 3.2.9 Are there ethical aspects that apply when I prepare for a main hearing in a criminal case?
- Are there reasons that could justify reading the preliminary investigation report before the main hearing? In that case, how do I ensure that the decision of the court is not reached in the light of preconceptions in the question of culpability?
- 3.2.10 How does the demand for impartiality on the part of the court affect my handling of proceedings or investigatory obligation? To what extent can I endeavour, for example, to ensure that a party adduces a legal fact that I feel ought to form the basis for assessment of their case or that they supplement their claim in other ways?
- 3.2.11 What position do I adopt in a settlement situation?
- What interests do I deem important when I seek to bring about a settlement between the parties?

- What influence does the way I conduct settlement negotiations have on my potential to satisfy the demand for impartiality of the court?
- What do I take into account regarding the content of an envisaged agreement prior to confirming a settlement?

3.2.12 What impact could my earlier decision in a case or a matter have on my potential to take part in the final ruling? In a later hearing, can I free myself completely from a previous assessment of the matter?

- What position should I adopt when hearing a charge in a case in which I previously dealt with the remand issue or other compulsory measure?
- What position should I adopt when examining a matter of continued remand to avoid the suspect doubting the impartiality of the court?
- If I have reached a decision in a matter regarding undisclosed compulsory measures, should I then be involved later in hearing the charge? In that case, how should I handle any information deriving from the proceedings regarding compulsory measures of which the accused is not aware?
- If I have ruled on attachment of assets for a company, should I then hear a case regarding taxation of that company?
- In what other situations, e.g. in psychiatric cases, can similar considerations be taken into account and how should these be handled?
- What effect could it have if in one case I adopt a position in a matter that subsequently arises in another case regarding another party? If, for example, I find in a tax case that a sub-contractor has issued false invoices, can I in another case involving invoices made out by the same sub-contractor free myself from the assessment I made in the earlier case?

3.2.13 How should I handle situations in which I am aware of circumstances and facts that could be relevant to the case but which are not of a judicial nature and which I have acquired outside my judicial duties?

Legal expert in other contexts

- 3.2.14 What consequences could my accepting an offer of incidental employment have regarding my impartiality? (See also question 3.1.12.)
- Who is the principal?
 - Who put my name forward for the assignment?
 - What does the assignment involve?
 - How close is the involvement to my family circle and the management of my family's finances?
 - Will the assignment mean that I have become materially biased in cases heard in court?
 - Is there a risk of the assignment conflicting in other respects with my judicial duties?
 - Are there specific factors to be taken into account with regard to acting as an arbitrator and sitting as a board member of a legal entity?
- 3.2.15 Could my impartiality be called into question in cases where I have taken part in some way in legislative work regarding a matter that is now the subject of a case before the court? (See also question 3.1.11.)
- 3.2.16 What standpoint should I take as a judge regarding unpaid advice given in legal matters?
- Who has asked for the advice?
 - Does the advice refer to an area that is covered by the type of court in which I work?
 - What is the extent of the advice?
 - Would it make any difference if the advice were provided in return for payment?

Private individual

- 3.2.17 What considerations should a judge make when he or she is close to another legal expert in the same town who is working with matters that could be the subject of court proceedings?
- Have measures been taken in the court to avoid, as far as possible, a disqualification situation?

- Does the judge observe discretion and avoid speaking to friends and relatives about cases or matters being handled in the court?
- Does the relationship give the judge reason to take into account other specific considerations?

3.2.18 Should I be considered disqualified in a case in which a lawyer with whom I socialise is involved?

- To what extent and in what context does this socialising take place?
- Is the contact of a friendship nature?
- Do I feel uncomfortable prior to presiding over a case in which the lawyer is involved?
- Would an objective observer have doubts regarding my impartiality in the case?

3.2.19 What should I bear in mind as a judge when socialising with lawyers who work in the same locality in order to avoid disqualification problems etc.?

3.2.20 What should I bear in mind as a judge regarding membership of private social clubs, open or closed associations or networks?

3.2.21 What should I consider prior to becoming involved in interest associations, organisations etc.?

- What matters are pursued by the association and how does this take place?
- What form does the involvement take?
- Is it conceivable that the association etc. will be involved in legal disputes?
- Is it the intention that I will be involved in the provision of legal advice to the association?
- Have I been asked to be involved in order to give the association the reputation of my profession?
- Is the involvement closely linked to my family circle and the management of my family's finances?

3.2.22 What should I take into account before becoming involved in politics? (See also question 3.1.13.)

- Is the political involvement compatible with the values expressed in the basic principles of the current system of government?
- What form will such involvement take?
- Does the political involvement relate to standpoints in matters that are frequently dealt with in court?
- Is there a risk that decisions reached within the framework of my political involvement could be the subject of examination in the court at which I work?
- Do I maintain a neutral position when formulating my grounds for a ruling in matters in which the party political division is particularly tangible? In that case, am I quite clear and open about the principles that form the basis for my assessment?

3.2.23 What should I take into account before I exercise my right of free speech, as embodied in the Constitution, e.g. by taking part in a legal policy debate in different fora? (See also question 3.3.7.)

- Does the statement involve a matter that forms part of a case over which I am currently presiding?
- Could an expression of views involve a risk that a prospective party might consider me biased in a case?
- Am I prepared to stand by my statement?
- Is the statement compatible with the main principles of what could be said to constitute a common set of values for judges?
- Does the statement risk having negative implications for the work of the court?

3.3 Good conduct and treatment of others

Judges

3.3.1 Do I treat parties, other persons involved and the general public well?

- Do I show respect to those involved and the general public?
- Do I treat those involved and the general public in a friendly way but at the same time instil authority?

- Do I safeguard the integrity of those involved and as far as possible avoid exposing individuals?
- Can I demonstrate empathy for a party without it being misunderstood as biased sympathy?
- Do I take sufficient time to listen to those involved and other persons with whom I come into contact as part of my judicial duties?
- Do I take account of the parties' particular cultural or social needs etc.?
- Do I provide clear information, adapted to the needs of the person in question?
- When a decision needs to be made during or immediately after a hearing, how do I ensure that the decision is deemed to have been made as part of a carefully considered process?
- Do I monitor to ensure that the parties and other persons involved treat each other and the court correctly and with respect?
- What is my reaction to persons who act in a criminal way towards each other or the court?
- What should I bear in mind to create a good, secure atmosphere in the courtroom for those involved and the general public? How do I achieve this?
- Do I think about how my behaviour might appear to an outside observer?

3.3.2 Do I treat my fellow colleagues and other co-workers well?

- Do I show respect to my colleagues and other co-workers?
- Am I available to my colleagues and am I prepared to relieve their workload?
- How do I view the scope to provide constructive criticism or feedback?
- Do I give particular praise and support to legal clerks, assistant judges etc. who are undergoing training and who will be graded?
- Do I provide support and help to a colleague or other co-worker who for personal reasons is in a difficult situation?

- 3.3.3 When should I act if a colleague, perhaps a superior, behaves inappropriately towards parties or other persons involved or otherwise acts unethically?
- 3.3.4 How do I act towards lay judges? (See also question 3.4.3.)
- Do I show the lay judges respect?
 - Do I ensure that the lay judges have an insight into what their judicial assignment entails?
 - How should I act if a lay judge behaves inappropriately or unethically?

Private individual

- 3.3.5 How do my behaviour and actions in my leisure time affect the confidence of the general public in me as a judge and in the courts in general?
- Are there forms of behaviour, contexts, gatherings and settings that I ought to avoid?
 - Should I avoid situations where I could risk being put in a position of dependence?
 - Do I think about how my reputation or the reputation of my colleagues and the courts could be affected by the way I behave and act in public situations and in community life?
- 3.3.6 What demands could be made on me as a judge with regard to correct management of my private finances?
- 3.3.7 What should I take into account before I exercise my freedom of speech by, for example, making a statement in my private life or in public and through participation in social media? (See also question 3.2.23.)
- Does the statement relate to the circumstances of an individual whom I met through my professional life?
 - Could the statement affect my reputation or the reputation of my colleagues or the courts?
 - Could the statement have personal implications for my personal safety or the safety of my colleagues?
 - Am I aware that I could lose control of how a statement or an image is disseminated?

- 3.3.8 What should I take into account before I make use of my official title or in some other way make people aware of my position in a private matter?
- What is the purpose of doing so and what is the context?
 - Is it justifiable on factual grounds?
 - What impression does the use of my official title etc. have on an individual or the general public? Could I be accused of using my professional reputation to promote my private interests?

3.4 Good expertise and efficiency

Judges

- 3.4.1 How do I view my responsibility for maintaining both my own knowledge and a high level of knowledge in the court?
- How do I monitor new legislation and practice?
 - What view do I take of the in-service training that is offered, not only in different legal areas but also of a more general nature?
 - How do I regard discussions related to practice and other discussions on legal matters between colleagues?
- 3.4.2 How do I ensure that my rulings comply with current law?
- 3.4.3 Do I provide the lay judges with sufficient information about current law to allow them to form their own opinion in a case? (See also question 3.3.4.)
- 3.4.4 Am I careful to ensure that my rulings are understandable the parties and other persons?
- Do I use correct, simple, understandable language – both spoken and written – in my decisions?
 - Do I think about how I formulate my judgments? How do I view my responsibility for the written formulation of judgments? What is my standpoint on decisions proposed by others, either judges or drafting lawyers? Do I make use of the training I have been offered in written formulation of judgments?
 - Do I write my decisions in accordance with recommendations for the formulation of judgments and decisions that are

produced at the court or in general? Can I envisage problems here in the light of my independence in the judicial process and, if so, what are these problems?

- Is there a careful balance in the division of my working time spent on the writing of judgments and other duties?

3.4.5 What should a judge take into account in particular before formulating a finding of not guilty in a criminal case?

- In what order should the court examine different objections (limitation period, objection in the matter of guilt, criminal responsibility)?
- To what extent should the court present an account of its assessment regarding the degree of probability that the person found not guilty actually committed the crime?
- Do similar considerations apply in other types of cases?

3.4.6 How do I handle the conflict between the need to handle cases and matters speedily and the demand for a high level of quality and accuracy?

- Is the way in which I divide my working time between the different duties well planned?
- Do I prepare and consider my legal decisions with sufficient care and accuracy without it taking up unreasonable resources?

3.4.7 Do I openly express, in different contexts, my views on organisational matters, allocation of cases, allocation of responsibility and pressure of work at the court? (See also question 3.1.19.)

3.4.8 Am I careful to prioritise cases and matters appropriately? What do I feel are the governing factors?

3.4.9 What is my position regarding the system of spending time working in honorary positions? Do I contribute to this work being done in a way that my fellow colleagues and I derive practical benefit from the time spent working in honorary positions?

3.4.10 Do I safeguard the right of the general public to insight into the work of the courts?

- How do I view the role of the media as the principal channel for giving the general public insight into the work of the courts? How do I view the work of journalists? Do I con-

tribute to ensuring that journalists and others working in the media have a good working situation in the courts?

- What do I take into account when I am asked to make a statement to the media? What are my thoughts regarding an interview situation if this were to arise?
- What should I take into account with regard to the protection and integrity of individuals prior to my contact with the media?
- Do I provide a service to the general public by, for example, answering questions about the work being done?

Legal expert in other contexts

3.4.11 What should I think about – from an efficiency point of view – before taking on incidental employment?

- Will the incidental employment be during the time I would normally be expected to work with my regular judicial duties?
- How much time would it require?
- Does taking on incidental employment, possibly in conjunction with other assignments, risk having a negative impact on my potential to perform my regular duties?

Private individual

3.4.12 How do I view the content and scope of activities in my private life in relation to my duties at the workplace?

Good judicial practice - principles and questions

The standpoints adopted by an individual judge on different ethical issues are key factors from a confidence perspective. This publication contains a large number of questions about a judge's actions and conduct in a judicial capacity and when a judge assumes the role of legal expert in other contexts or as a private individual. The aim is that this presentation will form the basis for a judge's personal reflection and contribute to keeping alive discussions about what constitutes good judicial practice.

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