



The Doha Declaration:  
PROMOTING A CULTURE  
OF LAWFULNESS



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## Session Report Template for Substantive Sessions

### Launch of the Global Judicial Integrity Network

(9-10 April 2018, United Nations Vienna)

This form provides guidance to the organizations that will coordinate sessions to address one of the conference's work streams.

The Conference's main goal is to officially launch the Global Network and to kick start its activities by engaging participants in substantive exchanges and discussions on topics, approaches and emerging good practices related to the strengthening of judicial integrity and preventing corruption in the justice system.

As such, the Conference will work under three streams:

- **Strengthening Judicial Integrity & Accountability**
- **Preventing Corruption in the Justice System**
- **Assessing and Monitoring Integrity**

Each organization coordinating a session is required to prepare a **3-6 pages report** about their sessions (Times New Roman, 12 pt, single space).

The objective of this document is to provide an account of the presentations made and discussions carried out during the session. The report will be shared with all participants of the Conference, as well as disseminated more widely on the Global Judicial Integrity Network website.

The Session Report should cover the following areas:

1. **Introduction of the topic** – providing background information on the issue addressed in the session. The information should include, whenever possible, reference to academic materials, surveys, publications or other reference material, as well as an overall summary of the experiences, practices and challenges to date under the topic. This information may be the same included in the discussion guide of the session;
2. **How the session supports the overall objective of the Global Judicial Integrity Network of strengthening judicial integrity and preventing corruption in the justice system** – this information may be an update/amendment from the initial session proposal submitted;
3. **Outline the issues addressed during the session by the panellists** – information to what aspects of the topic each panellist addressed in his/her presentation;
4. **Outline the issues raised by the audience and discussed with the panel;**



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5. **Proposed outcomes of the session and whether they were achieved** – a summary of what the outcomes of the session were when it was initially proposed and whether they were achieved during the session. The report should also include a summary of the outcomes achieved.
6. **Conclusions and Recommendations** – any recommendations or observations that come out of the discussions and relate to priority areas for action and suggestions of activities or services to be provided by the Global Judicial Integrity Network.

All reports will be incorporated to the library of resources of the Global Judicial Integrity Network and made available through the Network's website, as relevant resources on judicial integrity and the prevention of corruption within the justice system.

### **Background**

With a view to provide sustained support and technical assistance to Member States in implementing the Doha Declaration's goals, UNODC launched in 2016 a **Global Programme for Promoting a Culture of Lawfulness**, with the support of the State of Qatar. The **four-year programme** covers specific areas addressed in the Doha Declaration, including strengthening judicial integrity and the prevention of corruption in the justice system. One of the key objectives of the Global Programme is the establishment of a **Global Judicial Integrity Network**.

### **Deadline for Submissions:**

Discussion guides should be submitted until **30 April 2018**.

### **How to Submit:**

**By email addressed to [oliver.stolpe@unodc.org](mailto:oliver.stolpe@unodc.org) and [roberta.solis@un.org](mailto:roberta.solis@un.org)**

In case of further questions, please contact:

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## Global Judicial Integrity Network Substantive Breakout Session Report

### I. TITLE OF THE SESSION:

Title of the Session:	Drafting codes of Conduct- Do's and Don't's
Date and time of the Session:	10 <sup>th</sup> April 2018, 9.00 to 10.15
Topic of the session:	How to draft strong and effective codes of conduct for the Judiciary
Organizer(s):	European Network of Councils for the Judiciary (ENCJ)
Contact information of the session coordinator:	Nuria Díaz Abad

### II. RAPPORTEUR<sup>1</sup>

Rapporteur:	Nuria Díaz Abad
Position:	President
Organization:	European Network of Councils for the Judiciary

### III. MODERATOR AND PANELLISTS:

Moderator:	Nuria Díaz Abad
Position:	President
Organization:	European Network of Councils for the Judiciary

#### PANELLISTS

Name:	Grzegorz Borkowski
Position:	Polish judge and academic
Organization:	
Topic of presentation:	International standards in the field of judicial ethics. The Polish experience
Outline of presentation (max. 1000 characters):	The European standards in judicial ethics have been developed by the Consultative Council of European Judges (CCJE) in its opinion n° 3 and in the Magna Charta of Judges, by the ENCJ in its report of 2010 on judicial

<sup>1</sup> Responsible for drafting the session report.



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	<p>ethics and in the London Declaration on judicial ethics and by the Venice Commission. These standards establish guidelines, principles and rules that should govern the judges' professional conduct. According to these standards such a code should better be of general nature than detailed, it should not be a "code" in the legal sense and should not serve for disciplinary purposes. It is not a piece of legislation. The code should be drafted by judges themselves, by judicial associations or by the Council for the Judiciary. It should describe conducts, deal with aspects of the private life of the judge where he or she is recognize in public as a judge and it should also create a separate body or commission to examine complaints and give its opinion. The content should follow the Bangalore Principles.</p> <p>Regarding the experience of Poland in this field in 2003 the Polish Council for the Judiciary adopted the "Collection of principles of judges' professional ethics", developed by the judicial association "Iustitia" in 2000. It has shown to be a very useful tool to preserve judges' independence and every Polish judge gets a copy of these principle when he or she enters office.</p>
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Name:	Wenceslao Olea Godoy
Position:	Justice of the Supreme Court in Spain, Member of the Spanish General Council for the Judiciary and President of the Disciplinary Commission
Organization:	Spanish General Council for the Judiciary (CGPJ)
Topic of presentation:	Disciplinary procedures vs ethical rules
Outline of presentation (max. 1000 characters):	<p>The ethical rules must be inspired by the Bangalore principles. The judicial independence has two sides: it is an obligation of the judge and at the same time a right of the citizen. When we talk about judicial ethics we do not talk about an obligation in the legal sense, but about a mechanism that allows the judges to adapt their conduct to some guidelines. This is a duty of the judges, but not an obligation, since no sanction has been foreseen in case of a breach of these principles. Therefore the code of conduct is not a code in the legal sense. In Spain the Council for the Judiciary adhered to the principles on judicial ethics developed by the judges. These codes of conduct strengthen the trust of the people in the Judiciary. Spain has a complete system of accountability of judges at the criminal, administrative and ethical level.</p>

Name:	Horatius Dumbrava
Position:	Judge at a Court of Appeal in Romania, former member of the Romanian Judicial Council (2011-2016) and trainer in professional ethics at the Romanian National Institute of Magistracy
Organization:	National Training Institute of Judges of Romania



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Topic of presentation:	Practical guide to judicial ethics
Outline of presentation (max. 1000 characters):	A code of ethics is necessary for several reasons: that can be defensive (like the need of the Judiciary for selfregulation) or offensive (like the need to increase public confidence in the Judiciary). There is a correspondence between justice and ethics. Judges' decisions have an impact on the people and therefore judges have the responsibility to follow ethical rules. But the formal existence of a code of conduct does not lead to a more efficient judiciary system nor to an increasing confidence of the citizens in the judiciary. Therefore the Judiciary should follow practical ethics, using the method of empirical investigation, collecting practical examples and disseminating information. The Superior Council of Magistracy of Romania has a deontological code for judges and prosecutors and a practical guide on judicial ethics for the Romanian magistrates.

Name:	Caroline Pellerin-Rugliano
Position:	Atteché to the Registrar
Organization:	Court of Justice of the European Union (CJEU)
Topic of presentation:	A code of ethics for the CJEU
Outline of presentation (max. 1000 characters):	Usually codes of conduct apply to judges from the same judicial culture and experience and that speak the same language. But this is certainly not the case of the CJEU, where 28 legal systems live together and 24 official languages have to be used. There was a need to clarify certain situations and in 2007 a code of conduct was adopted, drafted by the judges of the CJEU on the basis of international regulations and inspired in the codes of conduct of other European institutions. In 2017 a new code entered into force and it applies not only to the members of the CJEU, but also to former members. The code also regulates the external activities, that have to be authorized by the Court or Tribunal, and the duties of the members after ceasing to hold office. Finally it establishes a Consultative Committee to assist the President of the Court of Justice to ensure a proper application of the code.

#### IV. BACKGROUND INFORMATION ON THE TOPIC:

The ENCJ adopted in 2010 a [report on judicial ethics](#) and the [London Declaration](#) on judicial ethics. The report establishes principles, values and qualities of professional conduct for judges. Judicial ethics have been addressed in a positive manner to emphasize the common, founding values of the judge's work to respond to the public expectations. The report identifies independence, integrity, impartiality, reserve and discretion, respect and the ability to listen, equality of treatment, competence and transparency as the common values of a judge. A judge must be aware that his professional behaviour, his private life and his conduct in society have an influence on the image of justice and public confidence. The report also enumerates qualities or virtues of a judge. A judge should perform his role with wisdom,





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loyalty, humanity, courage, seriousness and prudence, while having the capacity to listen, communicate and work.

In the London Declaration the ENCJ, considering that the affirmation of shared principles and values on a European level strengthens mutual understanding and thus mutual confidence between judges in the European Judicial Area, required the Executive Board to ensure that the distribution of the content of the report to ENCJ Members and Observers and to the members of the European Judiciaries is as wide as possible and proposed that Members and Observers should promote actively the content of the report on national and European levels and report back to the General Assembly on their activities in this field with any comments that may have been received.

#### **V. SUMMARY OF THE SESSION:**

The four panellists presented their contributions to this session. During the debate the panellists had the opportunity to discuss several aspects with other participants. Russia underlined the need to reinforce public trust in the Judiciary. There should be codes of ethics for all the legal professions. The Dominican Republic raised the question of the influence of “wild powers” on judicial independence. Spain put on the table the need to disseminate the Bangalore principles, since most judges don’t know them. The Code on Ethics developed by the Ibero-American Judicial Summit should also be taken into account when rafting a code on ethics. Ethical rules have not a binding nature in the legal sense, There is no sanction in case of an infringement, but these rules complement the disciplinary rules. Andorra proposed to integrate as a subjective right of the judge to preserve his or her independence against the State (see case *Bakka vs Hungary* of the ECHR). States have to guarantee judges independence and establish a procedure to safeguard this independence if it is in peril. Bangladesh asked for national regulations to avoid interferences in the judges’ independence in case of familiar relations between judges and lawyers. This regulation exists already in several countries. Romania explained the process of how the code of ethics was developed in this country and raised the question of the distinction between deontology and ethics. The President of the Ibero-American Commission of Judicial Ethics (ICJ) underlined the need of these codes and showed his interest for the existence of these instruments in international Courts, as the CJEU. After 20 years of application of the Ibero-American Code of Ethics it seems that it is a human right that judges adjust their conduct to these rules, since it is the profile society expects from a judge. There is also a need for Commissions on Judicial Ethics, that give answers to practical problems as the use of social media by judges. Sri Lanka informed that they do not have a code on ethics, but they are considering establishing one. Sudan insisted in the nature of these codes, as guidelines to judges and in the need to give public confidence and lead to a culture of integrity. Finally, Montenegro showed the need to have a code of ethics to reinforce the integrity of the Judiciary and the Rule of Law, in its process of accession to the EU

#### **VI. HOW THE SESSION SUPPORTS THE OVERALL OBJECTIVE OF THE GLOBAL JUDICIAL INTEGRITY NETWORK OF STRENGTHENING JUDICIAL INTEGRITY AND PREVENTING CORRUPTION IN THE JUSTICE SYSTEM:**



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The development of a code of ethics helps to reinforce a culture of integrity among judges. It provides guidelines to help judges to take personal decisions on how to behave in certain situations, but it also shows to society that judges want to fulfil their duties with integrity.

## VII. PROPOSED OUTCOME(S) OF THE SESSION AND THEIR ACHIEVEMENT:

1. The procedure to develop a code of conduct: it was pointed out that codes of conduct should be drafted by judges, judicial associations or the Councils for the Judiciary
2. Main elements of a code of conduct. Codes of conduct should be inspired in the Bangalore principles. Besides other international standards should be taken into account (CCJE: opinion n° 3 and Magna Charta of Judges, ENCJ: report on judicial ethics and London declaration, Ibero-American Code of Ethics)
3. Distinction between disciplinary procedures and ethics: disciplinary procedures sanction the infringement of disciplinary rules, but there is no sanction for the infringement of ethical rules.
4. The effectiveness of a code of conduct: a Committee on Judicial Ethics: consultative committees should be established to guide judges in the application of ethical rules.
5. Practical guides to judicial ethics: a practical approach to ethical questions is desirable. Guides should provide examples on the application of these rules. Dissemination of this work is also needed.

## VIII. CONCLUSIONS OF THE SESSION AND RECOMMENDATIONS TO THE GLOBAL JUDICIAL INTEGRITY NETWORK:

There is a need to develop a code of conduct for judges. These codes should be drafted by judges, judicial associations or the Councils for the Judiciary. They should be inspired in the Bangalore principles, the Code on Ethics of the Ibero-American Judicial Summit, the Magna Charta of Judges and opinion n° 3 of CCJE, the report on Ethics of ENCJ and the London Declaration of 2010 and the work of the Venice Commission in this field.

It would be very useful to collect the existing codes of conduct and to develop a template on how to draft such a code.