

ETHICA

Ethical Principles for International Criminal Judges



Developed as part of the Ethica project

PRESENTATION OF THE PROJECT

Arising from the Paris Declaration on the effectiveness of international criminal justice, the project “Ethica - The path to a common code of ethics for international criminal judges” aims at examining issues of ethics and deontology in international criminal justice.

Led by the Ecole Nationale de la Magistrature, the International Nuremberg Principles Academy and the Siracusa International Institute for Criminal Justice and Human Rights, the project is supported by France through the financial contribution of the Ministry for Europe and Foreign Affairs and of Expertise France.

The present guide contains a series of principles and guidelines identified and approved by the international group of experts brought together for the purpose of the Ethica project during two seminars held respectively on 6 February 2023 in Nuremberg and 15 May 2023 in Paris.



May 15, 2023 - Paris

February 6, 2023 - Nuremberg



This high-level group is composed of Presidents of international criminal courts and tribunals as well current and former representatives of such courts and tribunals, of international organizations, civil society and academia.

In its discussions, the group was assisted by the thorough work and research conducted by the Scientific Committee of the project over the course of a year. The Committee is composed of Nicolas Guillou, Judge at the Kosovo Specialist Chambers, José Igreja Matos, President of the International Association of Judges and President of the Court of Appeal of Porto, Mónica Pinto, Professor Emerita of International Law and International Human Rights Law at the University of Buenos Aires and former UN Special Rapporteur on the independence of judges and lawyers, as well as William A. Schabas, Professor of International Law at Middlesex University London.



METHODOLOGY

Today, the public has ever-greater expectations regarding the ethical stance of judges and International Criminal Judges (ICJs) are particularly exposed to public scrutiny. The Ethical Principles for International Criminal Judges are intended to provide guidance to all ICJs on ethical issues they might be faced with.

The Ethical Principles do not purport to direct a precise line of conduct; rather, it is the responsibility of each judge to determine the appropriate course of action in light of the relevant circumstances. Moreover, they are to be read in conjunction with existing codes of conduct and provisions regulating the duties and functions of judges applicable in the various international criminal tribunals.

In applying the Ethical Principles to a concrete situation, certain circumstances must be taken into account, such as the role and functions of the judge concerned (whether the ICJ is president or vice-president of the tribunal, a full-time judge, a part-time judge or on a roster), as well as the nature of the tribunal in question (permanent or ad hoc).

The Ethical Principles are to be read within the broader social and historical context. They are a living document whose construction and development will be shaped by the evolution of society, technology and the needs of international criminal justice.



INDEPENDENCE AND IMPARTIALITY

ICJs shall be independent and impartial and shall ensure the appearance of independence and impartiality in the discharge of their judicial functions. Accordingly, ICJs shall avoid any activity which is likely to interfere with their judicial functions or cast a doubt on their independence and impartiality. They shall avoid any situation of conflict of interest, which includes being placed in a situation which might reasonably be perceived as giving rise to a conflict of interest.

1. Transparency

ICJs should disclose any issue that might bring a reasonable observer to apprehend a lack of independence or impartiality of the judge.

2. Participation in the life of the community

There may be circumstances in which it is desirable for ICJs to develop social and cultural contacts with the communities whose situations are being addressed by their tribunals. Such contacts should not undermine the appearance of impartiality.

3. Political activities

ICJs should not engage in political activities.

4. Interactions with State representatives

ICJs should exercise caution when interacting with State representatives and in particular when deciding whether to attend events organized, sponsored or cosponsored by States that may have an interest in a pending case or investigation or one likely to become so. ICJs should not discuss the merits of the cases before their tribunal.

5. Interactions with NGOs

ICJs should not be members of, participate in the governing body of and/or participate in activities organized, sponsored or cosponsored by organizations engaged in activism, litigation or making national or international submissions if it may create a situation of conflict of interest.

6. Interactions with participants in the criminal proceedings

ICJs should not sit in matters in which they have a close personal or professional relationship with a participant.

7. Interactions with the parties outside court proceedings

Outside of court proceedings, ICJs should avoid contacts with one of the parties to the proceedings in the absence of the other.

8. Personal or professional relations

ICJs should be aware that there may be a perception of a lack of impartiality when those with whom they have close personal or professional relationships have a public profile relevant to issues before the tribunal.

9. Incompatible activities

ICJs should not develop any professional, commercial or business activity or any other activity, including fundraising, that may create a situation of conflict of interest.

10. Receiving awards, honours and medals

ICJs should decline awards, honours and/or medals that may compromise their judicial independence, conflict with their judicial functions or that may create a situation of conflict of interest.

11. Publications and statements

ICJs should exercise caution if they address, in publications and statements, factual or legal issues that are likely to be raised before them.

12. Media

Contacts with media about the activities of the tribunal should be reserved to those officially charged with such responsibility. ICJs may engage in informing and educating the public regarding such matters as the rule of law and the role of judges in the administration of justice.



DIGNITY, INTEGRITY AND PROBITY

ICJs shall conduct themselves with dignity, integrity and probity commensurate with their office, thereby enhancing public confidence in the judiciary.

13. Private life

Within the framework of their duties, functions and responsibilities, ICJs enjoy the same rights and freedoms as other members of society, including freedom of expression, freedom of association and freedom of peaceful assembly. Nevertheless, ICJs should exercise a certain restraint in their private and public lives and should accept limits on their behaviour and conduct which may not apply to others.

14. Gifts

ICJs should refuse any personal gift or benefit in the exercise of their judicial functions. If refusal of a gift or benefit of nominal value is not possible, ICJs should report it to the presidency of the tribunal.

15. Work environment

ICJs should refrain from any behaviour incompatible with their obligation of courtesy, politeness, and respect in professional relations with their colleagues, staff and non-staff personnel, parties and participants. ICJs should refrain from making any comment or adopting any conduct, including sexual comment or conduct, that is discriminatory, inappropriate, insulting, intimidating, degrading or offensive.

16. Collegiality

ICJs should show respect for their colleagues and meaningfully engage during deliberations.

17. Confidentiality

ICJs should not reveal confidential information, during and after the termination of their mandate, unless authorized.

18. Social media and other information technologies

ICJs should exercise caution when using social media and other information technologies and should keep in mind that existing principles relating to the integrity of tribunals, judicial independence and impartiality and fairness apply equally to communications on social media.

Pseudonyms should not be used to conceal conduct that would otherwise be unacceptable. ICJs should be aware that family members' activities on social media could reflect adversely on the judge and should encourage them to exercise discretion.



CAREER AND PROFESSIONAL CONSCIENCE

ICJs shall perform their duties with competence, diligence and professionalism.

19. Ability to carry out judicial functions

ICJs should be physically and mentally fit to perform their functions throughout their mandate and should report any doubt about their ability to perform their judicial functions to the presidency of the tribunal.

20. Competence

ICJs should take steps to maintain and enhance their knowledge and skills necessary for the proper performance of judicial functions, taking advantage for this purpose of professional development opportunities.

21. Diligence

ICJs should perform their judicial functions diligently and fairly. They are expected to issue their decisions within a reasonable time, having regard to the urgency of the matter and the length and complexity of the case.

22. Remote work

When working remotely, ICJs are expected to meet the same performance standards as they would when working at the seat of the tribunal.

23. Other activities

ICJs should ensure that other activities do not have any impact on the performance of their judicial functions.

24. Preparation for future employment

While in office, ICJs should refrain from engaging in any discussions or negotiations or entering into any agreements regarding their future employment if it may tarnish the reputation of the tribunal or create a situation of conflict of interest.

25. Former ICJs

Former ICJs should refrain from any activity that may tarnish the reputation of the tribunal or create a situation of conflict of interest.

ETHICA

A project supported by the International Nuremberg Principles Academy, the Ecole Nationale de la Magistrature, the Siracusa International Institute for Criminal Justice and Human Rights, the French Ministry for Europe and Foreign Affairs, and Expertise France.

THE SCIENTIFIC COMMITTEE

Nicolas GUILLOU, Judge at the Kosovo Specialist Chambers

José IGREJA MATOS, President of the International Association of Judges and President of the Porto Court of Appeal

Mónica PINTO, Professor Emerita of International Law and International Human Rights Law at the University of Buenos Aires and former UN Special Rapporteur on the independence of judges and lawyers

William A. SCHABAS, Professor of International Law at Middlesex University London

PRESIDENTS OF INTERNATIONAL CRIMINAL COURTS AND TRIBUNALS

Graciela Susana GATTI SANTANA, President of the United Nations International Residual Mechanism for Criminal Tribunals

Piotr HOFMAŃSKI, President of the International Criminal Court

Ivana HRDLIČKOVÁ, President of the Special Tribunal for Lebanon

Michel LANDRY LOUANGA, President of the Special Criminal Court of The Central African Republic

Ekaterina TRENDAFILOVA, President of the Kosovo Specialist Chambers

WITH THE PARTICIPATION OF

Olivier BEAUVALLET, Judge at the Special Criminal Court of The Central African Republic, former Judge at the Extraordinary Chambers in the Courts of Cambodia

Alejandro CHEHTMAN, Professor of Law and Dean of the Faculty of Law at the Universidad Torcuato Di Tella

Filippo DONATI, Professor of Constitutional Law at the University of Florence

Hanna Sofia DREIFELDT-LAINÉ, Senior Legal Officer at the Office of Legal Affairs of the United Nations

Kate GIBSON, President of the Executive Committee of the Association of Defence Counsel practising before the International Courts and Tribunals

Thordis INGADÓTTIR, Professor of Law at the Reykjavik University

Daqun LIU, Judge at the United Nations International Residual Mechanism for Criminal Tribunals

Stephen RAPP, Former United States Ambassador-at-Large for Global Justice, former Prosecutor of the Special Court for Sierra Leone, and former Chief of Prosecutions of the International Criminal Tribunal for Rwanda

Françoise Marie F. TULKENS, Former Judge and Vice-President of the European Court of Human Rights (1998-2012), Extraordinary Professor Emerita at the Université catholique de Louvain

Tatiana VERESS, Crime Prevention and Criminal Justice Officer at the United Nations Office on Drugs and Crime

AND

Simon MEISENBERG, Chef de Cabinet and Senior Legal Officer at the Kosovo Specialist Chambers

Ana Cristina RODRIGUEZ PINEDA, Chef de Cabinet and Principal Legal Advisor at the United Nations International Residual Mechanism for Criminal Tribunals

WITH THE LEGAL ASSISTANCE OF

Cécile OUBA, Legal Assistant of the Scientific Committee

PROJECT COORDINATED BY

Anabela ALVES, Senior Officer for Training and Capacity Building at the International Nuremberg Principles Academy

Amélie BECQUART, Special Advisor on international criminal justice at the Legal Affairs Directorate of the French Ministry for Europe and Foreign Affairs

Flavio BELLIO, Research Fellow, Legal and Policy Team at the Siracusa International Institute for Criminal Justice and Human Rights

Emmanuelle LAUDIC-BARON, Magistrate, Prosecutor, Project manager at the Ecole Nationale de la Magistrature

Luce JOSSELIN, International Cooperation Officer at the Ecole Nationale de la Magistrature

