

Legal instruments



Judges: independence, efficiency and responsibilities

Recommendation CM/Rec(2010)12
and explanatory memorandum

Publishing
Editions



Judges: independence, efficiency and responsibilities

Recommendation CM/Rec(2010)12
adopted by the Committee of Ministers
of the Council of Europe
on 17 November 2010
and explanatory memorandum

French edition:

Les juges : indépendance, efficacité et responsabilités (Recommandation CM/Rec(2010)12 et exposé des motifs)

ISBN 978-92-871-7071-2

Reproduction of the texts in this publication is authorised provided the full title and the source, namely the Council of Europe, are cited. If they are intended to be used for commercial purposes or translated into one of the non-official languages of the Council of Europe, please contact publishing@coe.int.

Council of Europe Publishing
F-67075 Strasbourg Cedex
<http://book.coe.int>

ISBN 978-92-871-7072-9

© Council of Europe, November 2011

Printed at the Council of Europe

1. Recommendation CM/Rec(2010)12, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, on the proposal of the European Committee on Legal Co-operation (CDCJ).
2. This document contains the text of Recommendation CM/Rec(2010)12 and its explanatory memorandum.

Recommendation CM/Rec(2010)12

of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities

*(Adopted by the Committee of Ministers on 17 November 2010
at the 1098th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as "the Convention", ETS No. 5), which provides that "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law"; and to the relevant case law of the European Court of Human Rights;

Having regard to the United Nations Basic Principles on the Independence of the Judiciary, endorsed by the United Nations General Assembly in November 1985;

Having regard to the opinions of the Consultative Council of European Judges (CCJE), to the work of the European Commission for the Efficiency of Justice (CEPEJ) and to the European Charter on the Statute for Judges prepared within the framework of multilateral meetings of the Council of Europe;

Noting that, in the exercise of their judicial functions, the judges' role is essential in ensuring the protection of human rights and fundamental freedoms;

Wishing to promote the independence of judges, which is an inherent element of the rule of law, and indispensable to judges' impartiality and to the functioning of the judicial system;

Underlining that the independence of the judiciary secures for every person the right to a fair trial and therefore is not a privilege for judges, but a

guarantee of respect for human rights and fundamental freedoms, allowing every person to have confidence in the justice system;

Aware of the need to guarantee the position and powers of judges in order to achieve an efficient and fair legal system and encourage them to commit themselves actively to the functioning of the judicial system;

Conscious of the need to ensure the proper exercise of judicial responsibilities, duties and powers aimed at protecting the interests of all persons;

Wishing to learn from the diverse experiences in member states with regard to the organisation of judicial institutions in accordance with the rule of law;

Having regard to the diversity of legal systems, constitutional positions and approaches to the separation of powers;

Noting that nothing in this recommendation is intended to lessen guarantees of independence conferred on judges by the constitutions or legal systems of member states;

Noting that the constitutions or legal systems of some member states have established a council, to be referred to in this recommendation as a "council for the judiciary";

Wishing to promote relations among judicial authorities and individual judges of different member states in order to foster the development of a common judicial culture;

Considering that Recommendation No. R (94) 12 of the Committee of Ministers on the independence, efficiency and role of judges needs to be substantially updated in order to reinforce all measures necessary to promote judges' independence and efficiency, guarantee and make more effective their responsibility and strengthen the role of individual judges and the judiciary generally,

Recommends that governments of member states take measures to ensure that the provisions contained in the appendix to the present recommendation, which replaces the above-mentioned Recommendation No. R (94) 12, are applied in their legislation, policies and practices and that judges are enabled to perform their functions in accordance with these provisions.

Appendix to Recommendation CM/Rec(2010)12

Chapter I – General aspects

Scope of the recommendation

1. This recommendation is applicable to all persons exercising judicial functions, including those dealing with constitutional matters.
2. The provisions laid down in this recommendation also apply to non-professional judges, except where it is clear from the context that they only apply to professional judges.

Judicial independence and the level at which it should be safeguarded

3. The purpose of independence, as laid down in Article 6 of the Convention, is to guarantee every person the fundamental right to have their case decided in a fair trial, on legal grounds only and without any improper influence.
4. The independence of individual judges is safeguarded by the independence of the judiciary as a whole. As such, it is a fundamental aspect of the rule of law.
5. Judges should have unfettered freedom to decide cases impartially, in accordance with the law and their interpretation of the facts.
6. Judges should have sufficient powers and be able to exercise them in order to carry out their duties and maintain their authority and the dignity of the court. All persons connected with a case, including public bodies or their representatives, should be subject to the authority of the judge.
7. The independence of the judge and of the judiciary should be enshrined in the constitution or at the highest possible legal level in member states, with more specific rules provided at the legislative level.
8. Where judges consider that their independence is threatened, they should be able to have recourse to a council for the judiciary or another independent authority, or they should have effective means of remedy.
9. A case should not be withdrawn from a particular judge without valid reasons. A decision to withdraw a case from a judge should be taken on the basis of objective, pre-established criteria and following a transparent procedure by an authority within the judiciary.

10. Only judges themselves should decide on their own competence in individual cases as defined by law.

Chapter II – External independence

11. The external independence of judges is not a prerogative or privilege granted in judges' own interest but in the interest of the rule of law and of persons seeking and expecting impartial justice. The independence of judges should be regarded as a guarantee of freedom, respect for human rights and impartial application of the law. Judges' impartiality and independence are essential to guarantee the equality of parties before the courts.

12. Without prejudice to their independence, judges and the judiciary should maintain constructive working relations with institutions and public authorities involved in the management and administration of the courts, as well as professionals whose tasks are related to the work of judges in order to facilitate an effective and efficient administration of justice.

13. All necessary measures should be taken to respect, protect and promote the independence and impartiality of judges.

14. The law should provide for sanctions against persons seeking to influence judges in an improper manner.

15. Judgments should be reasoned and pronounced publicly. Judges should not otherwise be obliged to justify the reasons for their judgments.

16. Decisions of judges should not be subject to any revision other than appellate or re-opening proceedings, as provided for by law.

17. With the exception of decisions on amnesty, pardon or similar measures, the executive and legislative powers should not take decisions which invalidate judicial decisions.

18. If commenting on judges' decisions, the executive and legislative powers should avoid criticism that would undermine the independence of or public confidence in the judiciary. They should also avoid actions which may call into question their willingness to abide by judges' decisions, other than stating their intention to appeal.

19. Judicial proceedings and matters concerning the administration of justice are of public interest. The right to information about judicial matters should, however, be exercised having regard to the limits imposed by

judicial independence. The establishment of courts' spokespersons or press and communication services under the responsibility of the courts or under councils for the judiciary or other independent authorities is encouraged. Judges should exercise restraint in their relations with the media.

20. Judges, who are part of the society they serve, cannot effectively administer justice without public confidence. They should inform themselves of society's expectations of the judicial system and of complaints about its functioning. Permanent mechanisms to obtain such feedback set up by councils for the judiciary or other independent authorities would contribute to this.

21. Judges may engage in activities outside their official functions. To avoid actual or perceived conflicts of interest, their participation should be restricted to activities compatible with their impartiality and independence.

Chapter III – Internal independence

22. The principle of judicial independence means the independence of each individual judge in the exercise of adjudicating functions. In their decision making judges should be independent and impartial and able to act without any restriction, improper influence, pressure, threat or interference, direct or indirect, from any authority, including authorities internal to the judiciary. Hierarchical judicial organisation should not undermine individual independence.

23. Superior courts should not address instructions to judges about the way they should decide individual cases, except in preliminary rulings or when deciding on legal remedies according to the law.

24. The allocation of cases within a court should follow objective pre-established criteria in order to safeguard the right to an independent and impartial judge. It should not be influenced by the wishes of a party to the case or anyone otherwise interested in the outcome of the case.

25. Judges should be free to form and join professional organisations whose objectives are to safeguard their independence, protect their interests and promote the rule of law.

Chapter IV – Councils for the judiciary

26. Councils for the judiciary are independent bodies, established by law or under the constitution, that seek to safeguard the independence of the judiciary and of individual judges and thereby to promote the efficient functioning of the judicial system.

27. Not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary.

28. Councils for the judiciary should demonstrate the highest degree of transparency towards judges and society by developing pre-established procedures and reasoned decisions.

29. In exercising their functions, councils for the judiciary should not interfere with the independence of individual judges.

Chapter V – Independence, efficiency and resources

30. The efficiency of judges and of judicial systems is a necessary condition for the protection of every person's rights, compliance with the requirements of Article 6 of the Convention, legal certainty and public confidence in the rule of law.

31. Efficiency is the delivery of quality decisions within a reasonable time following fair consideration of the issues. Individual judges are obliged to ensure the efficient management of cases for which they are responsible, including the enforcement of decisions the execution of which falls within their jurisdiction.

32. The authorities responsible for the organisation and functioning of the judicial system are obliged to provide judges with conditions enabling them to fulfil their mission and should achieve efficiency while protecting and respecting judges' independence and impartiality.

Resources

33. Each state should allocate adequate resources, facilities and equipment to the courts to enable them to function in accordance with the standards laid down in Article 6 of the Convention and to enable judges to work efficiently.

34. Judges should be provided with the information they require to enable them to take pertinent procedural decisions where such decisions have financial implications. The power of a judge to make a decision in a particular case should not be solely limited by a requirement to make the most efficient use of resources.

35. A sufficient number of judges and appropriately qualified support staff should be allocated to the courts.

36. To prevent and reduce excessive workload in the courts, measures consistent with judicial independence should be taken to assign non-judicial tasks to other suitably qualified persons.

37. The use of electronic case management systems and information communication technologies should be promoted by both authorities and judges, and their generalised use in courts should be similarly encouraged.

38. All necessary measures should be taken to ensure the safety of judges. These measures may involve protection of the courts and of judges who may become, or are victims of, threats or acts of violence.

Alternative dispute resolution

39. Alternative dispute resolution mechanisms should be promoted.

Courts' administration

40. Councils for the judiciary, where existing, or other independent authorities with responsibility for the administration of courts, the courts themselves and/or judges' professional organisations may be consulted when the judicial system's budget is being prepared.

41. Judges should be encouraged to be involved in courts' administration.

Assessment

42. With a view to contributing to the efficiency of the administration of justice and continuing improvement of its quality, member states may introduce systems for the assessment of judges by judicial authorities, in accordance with paragraph 58.

International dimension

43. States should provide courts with the appropriate means to enable judges to fulfil their functions efficiently in cases involving foreign or international elements and to support international co-operation and relations between judges.

Chapter VI – Status of the judge

Selection and career

44. Decisions concerning the selection and career of judges should be based on objective criteria pre-established by law or by the competent authorities. Such decisions should be based on merit, having regard to the qualifications, skills and capacity required to adjudicate cases by applying the law while respecting human dignity.

45. There should be no discrimination against judges or candidates for judicial office on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, disability, birth, sexual orientation or other status. A requirement that a judge or a candidate for judicial office must be a national of the state concerned should not be considered discriminatory.

46. The authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers.

47. However, where the constitutional or other legal provisions prescribe that the head of state, the government or the legislative power take decisions concerning the selection and career of judges, an independent and competent authority drawn in substantial part from the judiciary (without prejudice to the rules applicable to councils for the judiciary contained in Chapter IV) should be authorised to make recommendations or express opinions which the relevant appointing authority follows in practice.

48. The membership of the independent authorities referred to in paragraphs 46 and 47 should ensure the widest possible representation. Their procedures should be transparent with reasons for decisions being made

available to applicants on request. An unsuccessful candidate should have the right to challenge the decision, or at least the procedure under which the decision was made.

Tenure and irremovability

49. Security of tenure and irremovability are key elements of the independence of judges. Accordingly, judges should have guaranteed tenure until a mandatory retirement age, where such exists.

50. The terms of office of judges should be established by law. A permanent appointment should only be terminated in cases of serious breaches of disciplinary or criminal provisions established by law, or where the judge can no longer perform judicial functions. Early retirement should be possible only at the request of the judge concerned or on medical grounds.

51. Where recruitment is made for a probationary period or fixed term, the decision on whether to confirm or renew such an appointment should only be taken in accordance with paragraph 44 so as to ensure that the independence of the judiciary is fully respected.

52. A judge should not receive a new appointment or be moved to another judicial office without consenting to it, except in cases of disciplinary sanctions or reform of the organisation of the judicial system.

Remuneration

53. The principal rules of the system of remuneration for professional judges should be laid down by law.

54. Judges' remuneration should be commensurate with their profession and responsibilities, and be sufficient to shield them from inducements aimed at influencing their decisions. Guarantees should exist for maintaining a reasonable remuneration in case of illness, maternity or paternity leave, as well as for the payment of a retirement pension, which should be in a reasonable relationship to their level of remuneration when working. Specific legal provisions should be introduced as a safeguard against a reduction in remuneration aimed specifically at judges.

55. Systems making judges' core remuneration dependent on performance should be avoided as they could create difficulties for the independence of judges.

Training

56. Judges should be provided with theoretical and practical initial and in-service training, entirely funded by the state. This should include economic, social and cultural issues related to the exercise of judicial functions. The intensity and duration of such training should be determined in the light of previous professional experience.
57. An independent authority should ensure, in full compliance with educational autonomy, that initial and in-service training programmes meet the requirements of openness, competence and impartiality inherent in judicial office.

Assessment

58. Where judicial authorities establish systems for the assessment of judges, such systems should be based on objective criteria. These should be published by the competent judicial authority. The procedure should enable judges to express their view on their own activities and on the assessment of these activities, as well as to challenge assessments before an independent authority or a court.

Chapter VII – Duties and responsibilities

Duties

59. Judges should protect the rights and freedoms of all persons equally, respecting their dignity in the conduct of court proceedings.
60. Judges should act independently and impartially in all cases, ensuring that a fair hearing is given to all parties and, where necessary, explaining procedural matters. Judges should act and be seen to act without any improper external influence on the judicial proceedings.
61. Judges should adjudicate on cases which are referred to them. They should withdraw from a case or decline to act where there are valid reasons defined by law, and not otherwise.
62. Judges should manage each case with due diligence and within a reasonable time.
63. Judges should give clear reasons for their judgments in language which is clear and comprehensible.

64. Judges should, in appropriate cases, encourage parties to reach amicable settlements.
65. Judges should regularly update and develop their proficiency.

Liability and disciplinary proceedings

66. The interpretation of the law, assessment of facts or weighing of evidence carried out by judges to determine cases should not give rise to civil or disciplinary liability, except in cases of malice and gross negligence.
67. Only the state may seek to establish the civil liability of a judge through court action in the event that it has had to award compensation.
68. The interpretation of the law, assessment of facts or weighing of evidence carried out by judges to determine cases should not give rise to criminal liability, except in cases of malice.
69. Disciplinary proceedings may follow where judges fail to carry out their duties in an efficient and proper manner. Such proceedings should be conducted by an independent authority or a court with all the guarantees of a fair trial and provide the judge with the right to challenge the decision and sanction. Disciplinary sanctions should be proportionate.
70. Judges should not be personally accountable where their decision is overruled or modified on appeal.
71. When not exercising judicial functions, judges are liable under civil, criminal and administrative law in the same way as any other citizen.

Chapter VIII – Ethics of judges

72. Judges should be guided in their activities by ethical principles of professional conduct. These principles not only include duties that may be sanctioned by disciplinary measures, but offer guidance to judges on how to conduct themselves.
73. These principles should be laid down in codes of judicial ethics which should inspire public confidence in judges and the judiciary. Judges should play a leading role in the development of such codes.
74. Judges should be able to seek advice on ethics from a body within the judiciary.

Explanatory memorandum

Introduction

1. In accordance with the objectives that governed the drafting and adoption in 1994 of Recommendation No. R (94) 12 of the Committee of Ministers on the independence, efficiency and role of judges, and which are set out in its explanatory memorandum, it was considered necessary to undertake a substantial revision and updating of the recommendation, leading to the drafting of a new recommendation.
2. The formulation of these rules, which should be applied by member states to promote the role of judges and improve their efficiency and independence, as well as clarify their duties and responsibilities, has taken account of the new ideas and practices that have emerged in countries' judicial systems since 1994.
3. First of all, lessons need to be learned from the way in which the principles laid down in Recommendation No. R (94) 12 have been received and implemented in member states and from the establishment in some countries of bodies aimed at safeguarding the independence of individual judges and of the judiciary as a whole (councils for the judiciary).
4. The Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter referred to as "the Convention") lays down principles incorporating substantial values for the respect of human dignity and the quest for a fair society. Judges have a duty to enforce these principles effectively. The role of the judge has therefore been enhanced and the function of enforcing the law has become more complex.
5. Individuals' increasing awareness of their rights together with an increase in recourse to litigation have created a major increase in workloads for the administration of justice, which has the potential to reduce the effectiveness of these rights. The case law of the European Court of Human Rights on the right to a fair trial within a reasonable time illustrates the challenge for the administration of justice in member states.
6. One of the most significant changes since the adoption of Recommendation No. R (94) 12 has been the increased emphasis on

efficiency in justice systems. At the same time, information technology has also greatly expanded. It is no longer enough to judge in an independent and impartial system. It is now necessary that judges produce quality decisions within a reasonable time frame to meet individuals' legitimate expectations and comply with judgments of the European Court of Human Rights. This has resulted in the Council of Europe promoting the independence of judges and the quality and efficiency of justice through the creation of the Consultative Council of European Judges (CCJE) and the European Commission for the Efficiency of Justice (CEPEJ) the work of which was taken into consideration in the revision of the recommendation.

7. In addition, judges now have to perform their functions in an increasingly global society in which international judicial co-operation is essential. Efficiency of justice in procedures comprising international elements requires a better knowledge of the legal systems of other countries and a strengthening of mutual confidence. Exchanges among judges and judicial authorities should be promoted. This should not involve altering the diversity of legal systems, constitutional positions and approaches to the separation of powers in member states. Rather it should identify and expand the already existing common ground.

8. The present recommendation (hereinafter referred to as "the recommendation") contains eight chapters and is structured as follows:

- Chapter I – General aspects;
- Chapter II – External independence: judges' independence in the context of government, parliament, media and civil society;
- Chapter III – Internal independence: hierarchy, internal organisation, distribution of cases and professional organisations;
- Chapter IV – Councils for the judiciary;
- Chapter V – Independence, efficiency and resources: judicial efficiency and its importance for judicial independence;
- Chapter VI – Status of the judge: selection and career, tenure and irremovability, remuneration, training and assessment;
- Chapter VII – Duties and responsibilities: civil and criminal liability, disciplinary proceedings and duties;
- Chapter VIII – Ethics of judges.

9. The recommendation, just as the 1994 recommendation, does not seek harmonisation of member states' legislation. It outlines in greater detail the measures which should be taken in some member states in order to strengthen the role of individual judges and of the judiciary.

10. When using the word "law", the recommendation refers to statute law, including constitutions, legislative acts and enactments of lower rank than statutes, as well as case law and unwritten law.

Chapter I – General aspects

Scope of the recommendation

11. The recommendation applies to professional and non-professional judges, including judges of constitutional courts. Provisions on recruitment, remuneration, selection and career do not relate to non-professional judges. The recommendation gives no definition of "non-professional judges" as this greatly varies from one system to another, and it is a matter for the internal law of member states to define which judges are to be considered as non-professional for the purposes of this recommendation, whether they are lay judges, experts appointed on the basis of their specialised knowledge, etc. Some provisions could also be applicable to prosecutors and other professionals acting before the courts whose status is defined by the principle of independence from the executive or the legislative powers. Nevertheless, the recommendation relates to judges only. The recommendation does not apply to judges in international tribunals (paragraphs 1 and 2 of the recommendation).

Judicial independence and the level at which it should be safeguarded

12. The recommendation states that judicial independence is a fundamental right of each individual as safeguarded by Article 6 of the Convention. The independence of each individual judge thus safeguards every person's right to have his or her case decided only on the law, the evidence and facts and without any improper influence (paragraph 3 of the recommendation).

13. The separation of powers is a fundamental guarantee of the independence of the judiciary whatever the legal traditions of member states.

14. It is essential that judges have the authority to enable them carry out their duties. To ensure judges have the respect due to them and the authority necessary to enable them to conduct proceedings efficiently and

smoothly, all parties connected with a case (for example, plaintiffs, defendants, witnesses, experts), including state and other public bodies and their representatives, as well as members of the media and the public, should be subject to the authority of the judge, in accordance with domestic law (paragraph 6 of the recommendation).

15. Where the council for the judiciary is a constitutional body, at the same level as the legislative or executive powers, or when another independent authority has such a competence, a statement made by the council or the authority is normally enough to protect the independence of an individual judge. In other cases, the independence of the judge can be guaranteed by a legal remedy before higher courts or another authority, for example the president of the court, with the power to protect judicial independence from any external interference eventually coming from other organs of the state (paragraph 8 of the recommendation).

16. A case may not be withdrawn from a judge unless there are valid reasons for doing so and such decisions must only be taken by the competent authorities. Such an authority might be the president of the court. The concept of “valid reasons” covers all grounds for withdrawal which do not undermine the independence of judges. Efficiency may also constitute a valid reason. For example, where a judge has a backlog of cases due to illness or other reasons, cases may be withdrawn from that judge and assigned to other judges. Similarly, it may be necessary to withdraw cases from a judge who has been assigned a time-consuming case which may prevent him or her from dealing with other previously assigned cases. In no event should this provision remove the entitlement of parties to withdraw a case, nor the obligation of judges to decline to act in the event of an actual or perceived conflict of interest (paragraph 9 of the recommendation).

17. In individual cases, judges should be able to decide on their own competence as defined by law, without any external influence. Judicial independence would be illusory if executive or legislative bodies were able to interfere and determine a judge’s competence in individual cases (paragraph 10 of the recommendation).

Chapter II – External independence

18. Some of the principles included in this chapter relating to external independence have, in fact, a broader scope and apply to judicial independence in general. The reason for this is that protecting the judge from improper

external influence is at the heart of the concept of judicial independence. One of the innovations of the recommendation consists in extending the concept of independence to internal relations within the judiciary.

19. The reference in the recommendation to the impartiality of judges is of particular importance. In the definition of independence a link is established between independence and impartiality. Both are fundamental rights safeguarded by Article 6 of the Convention but they have different areas of application. Independence protects judicial decision making from improper influence from outside the proceedings. Impartiality guarantees that the judge has no conflicts of interest or association with the parties, or with the subject of the trial, that might be perceived to compromise objectivity (paragraph 11 of the recommendation).

20. In an increasingly interdependent society, judicial functions cannot be efficiently performed without meaningful co-operation between the authorities and bodies which have responsibility for the administration and management of the courts, and with professionals whose tasks are related to judicial functions. For instance, co-operation is required between a family judge and the bodies in charge of family mediation. In order to preserve judicial independence, these relationships should be governed by law or written protocols which set out the different duties and responsibilities (paragraph 12 of the recommendation).

21. The recommendation calls for all necessary measures to be taken to protect and promote the independence of judges. These measures could include laws such as the “contempt of court”¹ provisions that already exist in some member states (paragraph 13 of the recommendation).

22. Those who seek to improperly influence or corrupt judges should be subject to criminal, civil and administrative sanctions (paragraph 14 of the recommendation).

23. Judgments should be self-explanatory. This should also apply to decisions of judges that have an impact on fundamental rights. Judges should not be obliged, outside of court proceedings, to explain or give any justification other than the reasoning contained in their judgments. This does

1. The concept of contempt of court (either civil – breach of a court order – or criminal, namely, disrespect for the court’s authority) is one derived from the common law system. This power enables the courts to ensure that there is no undue interference with the judicial process and to ensure that court orders are obeyed.

not exclude obligations to provide information for statistical purposes or legislative reform. Concerning the obligation to give reasons for judgments, several exceptions exist, as mentioned in paragraph 63 *infra* (paragraph 15 of the recommendation).

24. The recommendation states that decisions of judges can be revised only in appellate or re-opening procedures. This includes all legal remedies available for revision in member states, such as “Nadzor” proceedings¹ in the Russian Federation (paragraph 16 of the recommendation).

25. Revision of decisions outside that legal framework, by the executive or legislative organs or by the administration, should not be allowed. This does not remove the power of the legislature to change existing laws or enact new ones which judges must then apply. The administration and executive or legislative organs should not invalidate, in individual cases, decisions of judges. This would not exclude the special cases of amnesty, pardon, and clemency or similar measures such as paying compensation without admitting liability. Such exceptions exist in every democracy and their justification can be found in high humanitarian principles (paragraph 17 of the recommendation).

26. The public reporting of trials and judicial decisions is essential in order to create and maintain public confidence. Article 6.1 of the Convention prescribes that “judgment shall be pronounced publicly” and it is also in the public interest that decisions are made available to the public by various means. Judicial activity is the subject of legitimate public and media interest. Information regarding the functioning of the administration of justice should be widely disseminated. However, in situations where the privacy and rights of individuals are protected by law (in camera cases), judges should protect such privacy and rights and preserve in all circumstances the professional confidentiality entrusted to them. Judges should exercise restraint in their contact with the media. This restraint cannot be precisely quantified and depends on the individual circumstances. Personal appearances by judges in the media, to justify their decisions, are strongly discouraged (paragraph 19 of the recommendation).

27. It is essential that information provided on judicial decisions is accurate in order to maintain public confidence in the administration of justice. This

1. “Nadzor” proceedings are re-opening proceedings, aimed at enabling the revision of judicial decisions having authority of *res iudicata*.

is why the recommendation, having regard to Opinion No. 3 of the CCJE, encourages the establishment of spokespersons and communication offices to facilitate the dissemination of accurate and timely information from the courts and about the court system (paragraph 19 of the recommendation).

28. Independence should not isolate judges from society and therefore the authorities in charge of the judiciary should enable them to maintain contact with the social and cultural environment that has to be taken into account when deciding on cases (paragraph 20 of the recommendation).

29. Judges should be aware that their membership in certain non-professional organisations may infringe their independence or impartiality. Each member state should determine which activities are incompatible with judges' independence and impartiality. For instance, the following activities are considered, in some member states, as being incompatible with judicial office: electoral mandate; profession of lawyer, bailiff or notary; ecclesiastic or military functions or plurality of judicial functions. Having regard to the necessity of avoiding actual or perceived conflicts of interest, member states may consider making information about additional activities publicly available, for instance in the form of registers of interests. Furthermore, in order to ensure that judges have the time to perform their primary function, that is to adjudicate, the number of their mandates on various commissions should be restricted and there should be limitations to the situations in which the law provides for judges to sit on a commission, council, etc. (paragraph 21 of the recommendation).

Chapter III – Internal independence

30. Judicial independence is not just freedom from improper external influence, but also improper influence from within the judicial system, either by other judges or judicial authorities. Each individual judge is subject only to the law. Therefore, judicial hierarchical interference in the exercise of judicial functions cannot be permitted. Instructions from presidents of courts should never interfere in judges' decision making in individual cases (paragraph 22 of the recommendation).

31. Internal independence prevents higher courts from addressing instructions to lower courts on the way they should decide individual cases, other than through their case law and judgments when deciding on legal remedies

against decisions of lower courts. This should be without prejudice to higher courts' ability to develop the law in member states where their legal systems permit. This is not intended to interfere with the functions of appellate courts to ensure legal consistency as well as the clarification of existing judicial practices. Moreover, a court may be bound by decisions taken by other courts, such as the referral decision, *res iudicata* (matter adjudged) or decisions on preliminary questions. The legal remedies mentioned in the recommendation include appeals as well as other legal remedies to higher courts against decisions of judges ("Nadzor" proceedings in the Russian Federation) (paragraph 23 of the recommendation).

32. There are various systems for the distribution of cases on the basis of objective, pre-established criteria. These include, *inter alia*, the drawing of lots, distribution in accordance with alphabetical order of the names of judges or by assigning cases to divisions of courts in an order specified in advance ("automatic distribution") or the sharing of cases among judges by decision of court presidents. What is important is that the actual distribution is not subject to external or internal influence and is not designed to benefit any of the parties. Appropriate rules for substituting judges could be provided for within the framework of rules governing the distribution of cases. Caseload and overburdening are valid reasons for the distribution or removal of cases provided such decisions are taken on the basis of objective criteria (paragraph 24 of the recommendation).

33. Recommendation No. R (94) 12 establishes a right of association for judges confined to protecting their independence and promoting the interests of the profession. In some member states, judges have created professional organisations which do not necessarily confine themselves to safeguarding judges' independence and protecting their professional interests, but also seek to uphold other principles of the justice system in the interest of individuals. The recommendation, drawing lessons from this diversification of forms of joint action by judges, contains a recommendation on the right to form "professional organisations", stating, as did the European Charter on the statute for judges, that judges may freely join such organisations. Such organisations, according to United Nations' principles, may operate at national or international level, have authority to take part in discussions with the competent institutions on matters related to their purpose and participate in the training of judges (paragraph 25 of the recommendation).

Chapter IV – Councils for the judiciary

34. In a number of states, variously named independent authorities and non-executive bodies, which the CCJE refers to as “councils for the judiciary”, have been established. Chapter IV only applies where councils for the judiciary have been established. Their objective is to protect and safeguard the independence of the judiciary. These authorities are involved to a greater or lesser extent in, *inter alia*, the selection, career and professional training of judges; disciplinary matters and court management. In the light of the various experiences observed, the changes noted since the early 1990s and the latest developments on this subject (see in particular Opinion No. 10 of the CCJE), it was considered necessary to recommend guidelines for the organisation, composition and functioning of such councils (paragraph 26 of the recommendation).

35. It should be added that some legal systems traditionally adhere to the alternative which consists of securing the independence of each individual judge in the decision-making process while entrusting executive bodies with certain administrative matters. As both approaches to judicial independence are equally acceptable, no part of the recommendation should be read as privileging one of these traditional models.

36. While councils for the judiciary have proved to be helpful in preserving judicial independence their mere existence does not in itself guarantee it. Therefore it is necessary to regulate their composition, the appointment of members and respect for pluralism in order, for example, to reach a gender balance, transparency and reasoning of their decisions and to ensure that they are free from political or corporate influence. As regards the composition and the requirement to have no less than “half of judges elected by their peers”, it should be underlined that in member states where prosecutors have a similar status to that of judges, they may be members of the council for the judiciary (paragraphs 27 and 28 of the recommendation).

Chapter V – Independence, efficiency and resources

37. Independence should not be an obstacle or impediment to efficiency. They are complementary. However, it is necessary to balance independence and efficiency. The search for enhanced efficiency should never compromise independence. Independence protects the judge as a member of a state power. Efficiency concerns the judge’s role in the justice system from which people expect clarity, speed, cost-effective organisation, courtesy and

sensitivity – especially towards victims – and efficiency in the protection of their rights and the determination of their obligations (paragraph 30 of the recommendation).

38. Judicial efficiency is defined in the recommendation as delivering quality decisions within a reasonable time (Article 6 of the Convention). Judges should be receptive to decisions and policies, adopted by authorities responsible for the administration and management of the courts, to improve efficiency, provided they do not interfere with or compromise in any way judicial independence. Where the execution of a judicial decision falls within the jurisdiction of a judge (such as a sanction for contempt of court) the requirements of Article 6 of the Convention apply (paragraph 31 of the recommendation).

39. Efficiency relates to both qualitative and quantitative aspects. It involves both individual judges and authorities responsible for the organisation and the functioning of the judicial system.

40. In their work, judges should be aware of their contribution to efficiency and should, for example use every procedural means of case management provided for by law, as well as demonstrate personal organisation (punctuality and availability during court sitting hours, adequate preparation, notice of planned absence, prompt reporting of unavoidable absences, etc.).

Resources

41. A balance should be achieved between the entitlement of judges to adequate working conditions and their responsibility to use the resources provided to them efficiently. In principle, prevailing economic conditions should not restrict judges' choice of a certain line of action or decision. Judges should be informed about the costs of the different options so that they are able to assess them. Judges should be informed about the costs of their procedural decisions in cases where these decisions involve considerable costs such as genetic testing, examination of witnesses, legal aid or others (paragraph 34 of the recommendation).

42. The needs should be assessed and evaluated on the basis of objective criteria. Judges will work more efficiently and deliver their judgments more promptly when provided with adequate back-up staff, who are chosen on the basis of objective criteria, and equipment. Some national systems and some constitutional courts assist judges with decision making by providing

them with highly qualified support staff for legal/research assistance. The recommendation calls for the further development of such resources (paragraph 35 of the recommendation).

43. To ease the burden on judges and enable them to concentrate on hearing and determining cases, non-judicial tasks, such as the maintenance of land or commercial registries, acting as a notary public or collecting judicial fees, could be assigned to other suitably qualified persons, in conformity with Recommendation No. R (86) 12 concerning measures to prevent and reduce excessive workload in courts (paragraph 36 of the recommendation).

44. Judicial systems and court administrations should be continuously modernised. Modern technologies such as electronic case management systems and other information and communication technologies should be available. Modern technologies are important to support judges in their work but should never be a substitute for judges' decision making. It is essential that all office automation and data processing be available to judges, who themselves have an important role in promoting the use of new and modern technologies. Safeguards aiming at the protection of personal data (in processing, storage or profiling) should be respected when using such technologies (paragraph 37 of the recommendation).

Courts' administration

45. To assist budgetary authorities in making informed assessments of courts' needs, the recommendation states that councils for the judiciary or other independent authorities with responsibility for the administration of courts can be consulted and involved in the preparation of courts' budgets. In some countries this includes not only the state, but also decentralised authorities where they are competent in these matters (paragraph 40 of the recommendation).

46. The administration of courts should help improve efficiency and preserve the independence and impartiality of judges. Independence covers judicial decision making and the conduct of court hearings. It does not prevent the adoption of common working methods necessary for the performance of judicial duties in an efficient manner. Protocols, guides or benchmarking books aimed at this goal should be validated by judges of the court or of the judicial sector they are addressed to, or by their representatives, so as to guarantee the efficiency of working rules and their respect for judicial

independence. Management accountability systems should only relate to managerial activities and never to adjudicating activities (paragraph 41 of the recommendation).

Assessment

47. The implementation of assessment mechanisms for judges, similar to those for the performance of courts, work to improve the efficiency and the quality of justice. Where they exist, such mechanisms must comply with the statutory safeguards set out in paragraph 58 of the recommendation and cannot compel judges to report on the merits of cases they are dealing with (paragraph 42 of the recommendation).

International dimension

48. The importance of international judicial co-operation in today's global society is explicitly acknowledged. The work of judges should be facilitated by providing appropriate support to enable cases involving foreign or international elements to be dealt with efficiently, including providing information on foreign legal systems, international and supranational law, and the necessary information technology tools (paragraph 43 of the recommendation).

Chapter VI – Status of the judge

Selection and career

49. The independence of judges should be preserved not just when they are appointed but throughout their careers. The term “career” includes promotion and appointment to new positions. Decisions to promote a judge to another position could in practice be a disguised sanction for an “inconvenient judge”. Such a decision would not be compatible with the recommendation. To address such situations, some member states, such as Italy, have adopted a system of separation of judicial careers and judicial functions. The hierarchical level, which only determines the level of remuneration, is therefore separate from the work of the judge. In the majority of states, judges’ careers are based on merit. In such cases, this should be assessed using objective criteria, as previously specified. Those objective criteria should be pre-established by law or by the competent authorities, noting that basic criteria should in all cases be prescribed by law. The competent authority will, in some member states, be the council for the judiciary (paragraph 44 of the recommendation).

50. It is essential that the independence of judges be guaranteed when they are selected and throughout their professional career, and that there should be no discrimination. All decisions concerning the careers of judges should be based on objective criteria, free from considerations outside their professional competence. The reference to possible grounds of discrimination is not intended to be exhaustive. Where justified, “positive action” criteria could be introduced for the selection and promotion of judges provided that they have been previously established by law. Disability should not prohibit appointment to judicial positions provided it does not affect the capacity to perform judicial duties (paragraph 45 of the recommendation).

51. The recommendation confers an essential role on independent authorities established to decide on the selection and career of judges. At least half of their members should be judges chosen by their peers (paragraph 46 of the recommendation).

52. In some member states the appointing authority is not obliged to accept the recommendations of the independent authority. Nevertheless, it is desirable that its recommendations be followed in practice. Concerning the composition of the independent and competent authority, it is recommended that a substantial part of the members be drawn from the judiciary, which implies that member states are free for the remaining seats to include, for instance, representatives of other legal professions, as well as the general public (paragraph 47 of the recommendation).

53. The “widest possible representation” aims at ensuring gender balance, geographical balance and a balance in hierarchical levels (paragraph 48 of the recommendation).

Tenure and irremovability

54. Security of tenure means judges cannot, except for disciplinary reasons, be removed from office, until they reach the mandatory retirement age unless they have requested early retirement. It also requires, in systems where judges must undergo a probation period before being confirmed in their posts, that the decision on this renewal or confirmation be taken by an independent authority. Irremovability implies that judges cannot receive new appointments or be moved to another post without their consent. Grounds for terminating office should be prescribed by internal law, where this concerns disciplinary sanctions, loss of nationality, etc. (paragraphs 49 and 50 of the recommendation).

55. The principle of independence implies that the terms of office must be respected whether a judge is appointed on a permanent or temporary position, with no exceptions other than those prescribed by law (paragraph 52 of the recommendation).

Remuneration

56. Judges' remuneration is an important element to address when dealing with independence and impartiality. For this reason general principles on judges' remuneration should be established by law while more specific rules can be set by other instruments. This does not exclude collective agreements recognised by law (paragraph 53 of the recommendation).

57. An adequate level of remuneration is a key element in the fight against corruption of judges and aims at shielding them from any such attempts. The rules to prevent measures expressly seeking to reduce the level of judges' remuneration do not exclude that specific legal provisions apply in cases of long-term illness or medical incapacity. Where the recommendation refers to "maternity or paternity leave" it concerns the legal leave offered, according to national legislation, to mothers and fathers on the occasion of the birth or adoption of a child and does not concern the longer parental leave that exists in some member states to enable parents to care for their child, with part of their remuneration sometimes being paid by family allowance schemes. Public policies aiming at the general reduction of civil servants' remuneration are not in contradiction with the requirement to avoid reducing specifically judges' remuneration (paragraph 54 of the recommendation).

Training

58. Initial training, as a precondition to the exercise of judicial functions, and in-service training for all judges, comprising both theoretical and practical teaching methods, should be fully funded by the state. In some member states in-service training is compulsory; in others it is an ethical obligation. Initial and in-service training should include European law, with particular reference to its practical application in day-to-day work, the Convention and the case law of the European Court of Human Rights, as well as foreign language skills as required. Training on economic, social and cultural issues is meant to take into consideration the general need for social awareness and understanding of different subjects reflecting the complexity of life in society. Initial and in-service training should allow for study visits to

European jurisdictions and other authorities and courts. In-service training assessment should not be used as a form of integrated assessment of the judge. When referring to the intensity and duration of the training in the light of previous experience, the idea is not to have an individualised training system but rather to reflect the variety of systems, noting that in some member states, candidates may have professional experience – sometimes long – outside judicial office before being trained to become judges, and that in this precise case, their initial training will be different from the one provided to post-university candidates with no professional experience. This recommendation has been developed with regard to Opinion No. 4 of the CCJE (paragraph 56 of the recommendation).

Assessment

59. The assessment of the judge's activity is the appraisal of his or her professional performance following modalities which may vary between judicial systems (hierarchical authority, panels of judges, council for the judiciary, etc.). Arrangements for such assessment must be consistent with the constitutional and other legal provisions of member states. As the assessment may determine judges' promotion, it must be implemented having full regard to the guarantees contained in the recommendation so as to preserve an individual judge's independence. Whatever assessment mechanism exists, appeals should be made possible where the assessment may impact on a judge's career path. Nevertheless, where the assessment is purely a managerial tool entailing no financial penalty or disciplinary effect, a right to appeal is not necessarily justified (paragraph 58 of the recommendation).

Chapter VII – Duties and responsibilities

Duties

60. Duties dealt with in this chapter refer to the exercise of judicial functions while other duties should be understood as being covered by the chapter related to the ethics of judges.

61. A judge's duty is to protect, in all cases, the rights and freedoms of individuals equally, while respecting their dignity. This has taken on special significance following the introduction, in some states, of legislation or practices to deal with exceptional situations (in particular terrorism),

potentially leading to less protection for rights and freedoms. It is essential, in such circumstances, that judges' responsibility and vigilance remain undiminished (paragraphs 59 and 60 of the recommendation).

62. The efficient management of cases not only involves individual judges, but also presidents of courts or other competent authorities that have a key role in that area, with full respect for the independence of every individual judge. The compliance with the "reasonable time" requirement of Article 6 of the Convention and the desirable uniformity in the interpretation and application of the law are of particular importance. In order to reach common ground in the interpretation of the law, the president of a court may, for instance, organise meetings to enable judges to exchange opinions on a particular legal subject. Presidents should encourage the sharing and dissemination of "good practices" among judges of their jurisdiction and set priorities and objectives to be achieved in the management of cases, having regard to the necessity to contain, reduce and eliminate backlogs. Judges should be seen as taking an active stand against delaying tactics. They should seek to contain legal costs for parties to a reasonable level by the speedy and transparent management of cases (paragraph 62 of the recommendation).

63. Giving clear reasons in understandable language for their judgments is an obligation of judges. This is to ensure that the law is visibly applied and to enable the parties to decide whether or not to appeal, and if necessary to prepare appeals. Reasons may be omitted for certain decisions,¹ in particular decisions involving the management of the case (for example, adjourning the hearing), minor procedural issues or essentially non-contentious issues (judgments by default or by consent), decisions by an appeal court affirming a first instance decision after hearing similar arguments on the same grounds and some decisions concerning leave to appeal or to bring a claim, in countries where such leave is required (paragraph 63 of the recommendation).

64. Judges have a duty to update and develop their proficiency. They can do so by attending training programmes at the judicial school or similar competent body and also through personal efforts to obtain the knowledge and skills required to continually provide quality justice (paragraph 65 of the recommendation).

1. See in this respect Opinion No. 11 (2008) of the CCJE on the quality of judicial decisions, footnote 11, paragraph 34.

Liability and disciplinary proceedings

65. When not exercising judicial functions, judges are liable under civil and criminal law in the same way as any other citizen. In the exercise of their judicial functions, judges should only be liable under civil law and disciplinary procedures in cases of malice and gross negligence (paragraph 66 of the recommendation).

66. The recommendation provides that the personal civil liability of a judge may be incurred only as a result of actions brought before a court by the state after having had to award compensation to persons who sustained damages as a result of an action or inaction by the judge, in situations prescribed by law only. In certain cases, if an official breaches his or her duties in a judgment, redress is only possible if the breach of duty consists in a criminal offence. Member states may decide to protect themselves through the subscription of insurance schemes covering gross negligence. In certain member states, the judicial code stipulates that judges' responsibility can be engaged in cases of denial of justice or, in the broad sense, when they commit fraud at any stage of the proceedings. Such responsibility has to be prescribed by law and judges can be ordered to award compensation. The case can also be assigned to other judges (paragraph 67 of the recommendation).

67. When exercising judicial functions, judges should be held criminally liable only if the fault committed was clearly intentional. Various disciplinary sanctions¹ exist depending on the constitutional provisions and traditions of each state, as well as on the gravity of the misconduct (paragraphs 68 and 69 of the recommendation).

Chapter VIII – Ethics of judges

68. Since Recommendation No. R (94) 12, codes of judicial ethics have been adopted in some member states. This issue has also been dealt with at European and international levels (see in particular Opinion No. 3 of the CCJE). These texts highlight independence and impartiality as standards of judicial ethics but also refer to clear reasoning of the judgments, institutional

1. Disciplinary sanctions may include, for instance: reprimand or censure; withdrawal of cases from the judge; moving the judge to other judicial tasks within the court; economic sanctions such as a reduction in salary for a temporary period; suspension or removal.

responsibility, diligence, active listening, integrity, courtesy to the parties and transparency, all of which are closely related to the principles that have informed this new recommendation.

69. Public confidence in the administration of justice is one of the essential components of a democracy. This involves not only respect for independence, impartiality, efficiency and quality, but also relies on the quality of the individual behaviour of judges. Respect by judges of ethical requirements is a duty which comes with their powers.

70. An adequate legal framework and appropriate institutions for the preservation of judicial independence are not enough to ensure that judicial decisions are free from improper influence if judges do not personally administer justice in an independent manner. Judicial independence is also a judicial virtue, a standard of judicial ethics. This is the reason why the recommendation ends with an appeal to the ethics of judges, understood as a set of duties guiding their ethical approach even in the cases where breaches to such duties are not sanctionable by the law. The effective participation of judges in the elaboration of such codes is to be promoted (paragraph 72 of the recommendation).

71. Ethical principles should be laid down in codes of judicial ethics. In some states, such "codes" include the disciplinary regime for judges, but ethics standards should not be confounded with a disciplinary regime. Ethics standards aim at achieving, in an optimal manner, the best professional practices, while disciplinary regimes are essentially meant to sanction failures in the accomplishment of duties (paragraph 73 of the recommendation).

72. Judges seeking advice on ethics should be able to consult bodies established for such purposes. Such special bodies should be distinct and well differentiated from organs enforcing disciplinary sanctions (paragraph 74 of the recommendation).

Sales agents for publications of the Council of Europe

Agents de vente des publications du Conseil de l'Europe

BELGIUM/BELGIQUE

La Librairie Européenne -
The European Bookshop
Rue de l'Orme, 1
BE-1040 BRUXELLES
Tel.: +32 (0)2 231 04 35
Fax: +32 (0)2 735 08 60
E-mail: info@libeurop.eu
http://www.libeurop.be

Jean De Lannoy/DL Services
Avenue du Roi 202 Koningslaan
BE-1190 BRUXELLES
Tel.: +32 (0)2 538 43 08
Fax: +32 (0)2 538 08 41
E-mail: jean.de.lannoy@dl-servi.com
http://www.jean-de-lannoy.be

BOSNIA AND HERZEGOVINA/ BOSNIE-HERZÉGOVINE

Robert's Plus d.o.o.
Marka Marulića 2/V
BA-71000, SARAJEVO
Tel.: + 387 33 640 818
Fax: + 387 33 640 818
E-mail: robertsplus@bih.net.ba

CANADA

Renouf Publishing Co. Ltd.
22-1010 Polytek Street
CDN-OTTAWA, ONT K1J 9J1
Tel.: +1 613 745 2665
Fax: +1 613 745 7660
Toll-Free Tel.: (866) 767-6766
E-mail: order.dept@renoufbooks.com
http://www.renoufbooks.com

CROATIA/CROATIE

Robert's Plus d.o.o.
Marasovičeva 67
HR-21000, SPLIT
Tel.: + 385 21 315 800, 801, 802, 803
Fax: + 385 21 315 804
E-mail: robertsplus@robertsplus.hr

CZECH REPUBLIC/RÉPUBLIQUE TCHÈQUE

Suweco CZ, s.r.o.
Klecakova 347
CZ-180 21 PRAHA 9
Tel.: +420 2 424 59 204
Fax: +420 2 848 21 646
E-mail: import@suweco.cz
http://www.suweco.cz

DENMARK/DANEMARK

GAD
Vimmelskaftet 32
DK-1161 KØBENHAVN K
Tel.: +45 77 66 60 00
Fax: +45 77 66 60 01
E-mail: gad@gad.dk
http://www.gad.dk

FINLAND/FINLANDE

Akateeminen Kirjakauppa
PO Box 128
Keskuskatu 1
FI-00100 HELSINKI
Tel.: +358 (0)9 121 4430
Fax: +358 (0)9 121 4242
E-mail: akatilaus@akateeminen.com
http://www.akateeminen.com

FRANCE

La Documentation française
(diffusion/distribution France entière)
124, rue Henri Barbusse
FR-93308 AUBERVILLIERS CEDEX
Tél.: +33 (0)1 40 15 70 00
Fax: +33 (0)1 40 15 68 00
E-mail: commande@ladocumentationfrancaise.fr
http://www.ladocumentationfrancaise.fr

Librairie Kléber
1 rue des Francs Bourgeois
FR-67000 STRASBOURG
Tel.: +33 (0)3 88 15 78 88
Fax: +33 (0)3 88 15 78 80
E-mail: librairie-kleber@coe.int
http://www.librairie-kleber.com

GERMANY/ALLEMAGNE

AUSTRIA/AUTRICHE
UNO Verlag GmbH
August-Bebel-Allee 6
DE-53175 BONN
Tel.: +49 (0)228 94 90 20
Fax: +49 (0)228 94 90 222
E-mail: bestellung@uno-verlag.de
http://www.uno-verlag.de

GREECE/GRÈCE

Librairie Kauffmann s.a.
Stadiou 28
GR-105 64 ATHINA
Tel.: +30 210 32 55 321
Fax.: +30 210 32 30 320
E-mail: ord@otenet.gr
http://www.kauffmann.gr

HUNGARY/HONGRIE

Euro Info Service
Pannónia u. 58.
PF. 1039
HU-1136 BUDAPEST
Tel.: +36 1 329 2170
Fax: +36 1 349 2053
E-mail: euroinfo@euroinfo.hu
http://www.euroinfo.hu

ITALY/ITALIE

Licosa SpA
Via Duca di Calabria, 1/1
IT-50125 FIRENZE
Tel.: +39 0556 483215
Fax: +39 0556 41257
E-mail: licosa@licosa.com
http://www.licosa.com

NORWAY/NORVÈGE

Akademika
Postboks 84 Blindern
NO-0314 OSLO
Tel.: +47 2 218 8100
Fax: +47 2 218 8103
E-mail: support@akademika.no
http://www.akademika.no

POLAND/POLOGNE

Ars Polona JSC
25 Obrocnow Street
PL-03-933 WARSZAWA
Tel.: +48 (0)22 509 86 00
Fax: +48 (0)22 509 86 10
E-mail: arspolona@arspolona.com.pl
http://www.arspolona.com.pl

PORTUGAL

Livraria Portugal
(Dias & Andrade, Lda.)
Rua do Carmo, 70
PT-1200-094 LISBOA
Tel.: +351 21 347 42 82 / 85
Fax: +351 21 347 02 64
E-mail: info@livrariaportugal.pt
http://www.livrariaportugal.pt

RUSSIAN FEDERATION/ FÉDÉRATION DE RUSSIE

Ves Mir
17b, Butlerova ul.
RU-117342 MOSCOW
Tel.: +7 495 739 0971
Fax: +7 495 739 0971
E-mail: orders@vesmirbooks.ru
http://www.vesmirbooks.ru

SPAIN/ESPAGNE

Díaz de Santos Barcelona
C/ Balmes, 417-419
ES-08022 BARCELONA
Tel.: +34 93 212 86 47
Fax: +34 93 211 49 91
E-mail: david@diazdesantos.es
http://www.diazdesantos.es

Díaz de Santos Madrid
C/Albasanz, 2
ES-28037 MADRID
Tel.: +34 91 743 48 90
Fax: +34 91 743 40 23
E-mail: jpinilla@diazdesantos.es
http://www.diazdesantos.es

SWITZERLAND/SUISSE

Planetis Sàrl
16 chemin des Pins
CH-1273 ARZIER
Tel.: +41 22 366 51 77
Fax: +41 22 366 51 78
E-mail: info@planetis.ch

UNITED KINGDOM/ROYAUME-UNI

The Stationery Office Ltd
PO Box 29
GB-NORWICH NR3 1GN
Tel.: +44 (0)870 600 5522
Fax: +44 (0)870 600 5533
E-mail: book.enquiries@tso.co.uk
http://www.tsoshop.co.uk

UNITED STATES and CANADA/ ÉTATS-UNIS et CANADA

Manhattan Publishing Co
670 White Plains Road
USA-10583 SCARSDALE, NY
Tel.: +1 914 271 5194
Fax: +1 914 472 4316
E-mail: coe@manhattanpublishing.com
http://www.manhattanpublishing.com

Council of Europe Publishing/Éditions du Conseil de l'Europe

FR-67075 STRASBOURG Cedex

Tel.: +33 (0)3 88 41 25 81 – Fax: +33 (0)3 88 41 39 10 – E-mail: publishing@coe.int – Website: http://book.coe.int

Recommendation CM/Rec(2010)12 on the independence, efficiency and responsibilities of judges updates a recommendation that the Committee of Ministers of the Council of Europe adopted in 1994. These new rules aim to promote the role of judges, improve both their efficiency and independence and clarify their duties and responsibilities. They take account of the new ideas and practices that have emerged in member states' judicial systems since 1994.

This recommendation places emphasis on the independence of every individual judge and of the judiciary as a whole. The notion of "internal independence", which aims at protecting judicial decisions from undue internal influences, is one of the important new elements of the recommendation. Judicial "efficiency" is defined in a clear and simple manner. Additional measures on the selection and training of judges, their responsibility, and judicial ethics seek to strengthen the role of individual judges and the judiciary in general.

Overall, the recommendation represents a significant step forward in strengthening the protection of human rights and fundamental freedoms, as the manner in which judges exercise their judicial functions is crucial to the protection of these rights and freedoms.



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

www.coe.int

The Council of Europe has 47 member states, covering virtually the entire continent of Europe. It seeks to develop common democratic and legal principles based on the European Convention on Human Rights and other reference texts on the protection of individuals. Ever since it was founded in 1949, in the aftermath of the Second World War, the Council of Europe has symbolised reconciliation.

ISBN 978-92-871-7072-9



9 789287 170729

€8/US\$16

<http://book.coe.int>
Council of Europe Publishing