

**MEASURES FOR THE
EFFECTIVE IMPLEMENTATION OF
THE BANGALORE PRINCIPLES OF JUDICIAL CONDUCT**

(The Implementation Measures)

**Adopted by the Judicial Integrity Group
at its Meeting held in
Lusaka, Zambia**

21 and 22 January 2010

CONTENTS

Introduction	...	3
--------------	-----	---

Part One Responsibilities of the Judiciary

1.	Formulation of a Statement of Principles of Judicial Conduct	...	6
2.	Application and Enforcement of Principles of Judicial Conduct...		6
3.	Assignment of Cases	...	7
4.	Court Administration	...	7
5.	Access to Justice	...	8
6.	Transparency in the Exercise of Judicial Office	...	8
7.	Judicial Training	...	10
8.	Advisory Opinions	...	11
9.	Immunity of Judges	...	11

Part Two Responsibilities of the State

10.	Constitutional Guarantee of Judicial Independence	...	12
11.	Qualifications for Judicial Office	...	13
12.	Appointment of Judges	...	13
13.	Tenure of Judges	...	14
14.	Remuneration of Judges	...	15
15.	Discipline of Judges	...	15
16.	Removal of Judges from Office	...	16
17.	Budget of the Judiciary	...	16
	Definitions	...	17

INTRODUCTION

The Bangalore Principles of Judicial Conduct identify six core values of the judiciary – Independence, Impartiality, Integrity, Propriety, Equality, Competence and Diligence. They are intended to establish standards of ethical conduct for judges. They are designed to provide guidance to judges in the performance of their judicial duties and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand the judicial role, and to offer the community a standard by which to measure and evaluate the performance of the judicial sector. The Commentary on the Bangalore Principles is intended to contribute to a better understanding of these Principles.

The section on “Implementation” in the Bangalore Principles of Judicial Conduct states that:

By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

In some jurisdictions mechanisms and procedures are already in existence, having been instituted by law or rules of court, to establish ethical standards of conduct for judges. In others they are not. Accordingly, this statement of measures is offered by the Judicial Integrity Group as guidelines or benchmarks for the effective implementation of the Bangalore Principles.

This statement is in two parts. Part One describes the measures that are required to be adopted by the judiciary. Part Two describes the institutional arrangements that are required to ensure judicial independence and which are exclusively within the competence of the State. While judicial independence is in part a state of mind of members of the judiciary, the State is required to establish a set of institutional arrangements that will enable the judge and other relevant office holders to enjoy that state of mind. The protection of the administration of justice from political influence or interference cannot be achieved by the judiciary alone. While it is the responsibility of the judge to be free of inappropriate connections with the executive and the legislature, it is the responsibility of the State to establish the institutional arrangements that would secure the independence of the judiciary from the other two branches of government.¹

¹ In its General Comment No.32 (2007), the Human Rights Committee states that the requirement of independence in article 14(1) of the International Covenant on Civil and Political Rights refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. Accordingly, States are required to take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of members of the judiciary and disciplinary sanctions taken against them.

In preparing this statement of measures, reference was made to several national constitutions and to regional and international initiatives to ensure that they reflect a broad national and international consensus. The latter include:

- (a) The Draft Principles on the Independence of the Judiciary (“Siracusa Principles”) formulated by a representative committee of experts in 1981;
- (b) The Minimum Standards of Judicial Independence adopted by the International Bar Association in 1982;
- (c) The United Nations Basic Principles on the Independence of the Judiciary 1985;
- (d) The Draft Universal Declaration on the Independence of Justice 1988 (the “Singhvi Declaration”);
- (e) Recommendation No.R (94) 12 of the Committee of Ministers of the Council of Europe on the Independence, Efficiency and Role of Judges, 1994;
- (f) The Beijing Statement of Principles of the Independence of the Judiciary adopted by a conference of Chief Justices of the Asia-Pacific region in 1995;
- (g) The European Charter on the Statute for Judges adopted in 1998;
- (h) The Universal Charter of the Judge adopted by the International Association of Judges in 1999;
- (i) The Latimer House Guidelines on Parliamentary Supremacy and Judicial Independence for the Commonwealth adopted in 2001;
- (j) Opinions of the Consultative Council of European Judges (CCJE):

Opinion No.1 (2001): Standards concerning the Independence of the Judiciary and the Irremovability of Judges;

Opinion No.2 (2002): Principles and Rules governing Judges’ Professional Conduct, in particular Ethics, Incompatible Behaviour and Impartiality;

Opinion No.3 (2003): Appropriate Initial and In-Service Training for Judges at National and European Levels;

Opinion No.10 (2007): A Council for the Judiciary.

- (k) The Blantyre Rule of Law/Separation of Powers Communique issued by representatives of all three branches of government in the Southern African Development Community (SADC) region in 2003;
- (l) The Cairo Declaration on Judicial Independence adopted by the participants of the Second Arab Justice Conference held in 2003;
- (m) The Suva Statement on the Principles of Judicial Independence and Access to Justice adopted at a judicial colloquium in 2004.
- (n) “Justice Matters” – the report of the Irish Council for Civil Liberties on Independence, Accountability and the Irish Judiciary, 2007;
- (o) General Comment No.32 (2007) of the Human Rights Committee on Article 14 of the International Covenant on Civil and Political Rights.
- (p) The Venice Commission Report on Judicial Appointments, 2007;
- (q) The United Nations Office on Drugs and Crime (UNODC), Draft Guide on Strengthening Judicial Integrity and Capacity, October 2009.

Part One

RESPONSIBILITIES OF THE JUDICIARY

- 1. Formulation of a Statement of Principles of Judicial Conduct**
 - 1.1 The judiciary should adopt a statement of principles of judicial conduct, taking into consideration the Bangalore Principles of Judicial Conduct.
 - 1.2 The judiciary should ensure that such statement of principles of judicial conduct is disseminated among judges and in the community.
 - 1.3 The judiciary should ensure that judicial ethics, based on such statement of principles of judicial conduct, are an integral element in the initial and continuing training of judges.

- 2. Application and Enforcement of Principles of Judicial Conduct**
 - 2.1 The judiciary should consider establishing a judicial ethics advisory committee of sitting and/or retired judges to advise its members on the propriety of their contemplated or proposed future conduct.²
 - 2.2 The judiciary should consider establishing a credible, independent judicial ethics review committee to receive, inquire into, resolve and determine complaints of unethical conduct of members of the judiciary, where no provision exists for the reference of such complaints to a court. The committee may consist of a majority of judges, but should preferably include sufficient lay representation to attract the confidence of the community. The committee should ensure, in accordance with law, that protection is accorded to complainants and witnesses, and that due process is secured to the judge against whom a complaint is made, with confidentiality in the preliminary stages of an inquiry if that is requested by the judge. To enable the committee to confer such privilege upon witnesses, etc., it may be necessary for the law to afford absolute or qualified privilege to the proceedings of the committee.

² In many jurisdictions in which such committees have been established a judge may request an advisory opinion about the propriety of his or her own conduct. The committee may also issue opinions on its own initiative on matters of interest to the judiciary. Opinions address contemplated or proposed future conduct and not past or current conduct unless such conduct relates to future conduct or is continuing. Formal opinions set forth the facts upon which the opinion is based and provide advice only with regard to those facts. They cite the rules, cases and other authorities that bear upon the advice rendered and quote the applicable principles of judicial conduct. The original formal opinion is sent to the person requesting the opinion, while an edited version that omits the names of persons, courts, places and any other information that might tend to identify the person making the request is sent to the judiciary, bar associations and law school libraries. All opinions are advisory only, and are not binding, but compliance with an advisory opinion may be considered to be evidence of good faith.

The committee may refer sufficiently serious complaints to the body responsible for exercising disciplinary control over the judge.³

3. Assignment of Cases

- 3.1 The nomination of judges to sit on a bench is an inextricable part of the exercise of judicial power.
- 3.2 The division of work among the judges of a court, including the distribution of cases, should ordinarily be performed under a predetermined arrangement provided by law or agreed by all the judges of the relevant court. Such arrangements may be changed in clearly defined circumstances such as the need to have regard to a judge's special knowledge or experience. The allocation of cases may, by way of example, be made by a system of alphabetical or chronological order or other random selection process.
- 3.3 A case should not be withdrawn from a particular judge without valid reasons. Any such reasons and the procedures for such withdrawal should be provided for by law or rules of court.

4. Court Administration

- 4.1 The responsibility for court administration, including the appointment, supervision and disciplinary control of court personnel should vest in the judiciary or in a body subject to its direction and control.
- 4.2 The judiciary should adopt and enforce principles of conduct for court personnel, taking into consideration the Principles of Conduct for Court Personnel formulated by the Judicial Integrity Group in 2005.
- 4.3 The judiciary should endeavour to utilize information and communication technologies with a view to strengthening the transparency, integrity and efficiency of justice.

³ In many jurisdictions in which such committees have been established, complaints into pending cases are not entertained, unless it is a complaint of undue delay. A complaint is required to be in writing and signed, and include the name of the judge, a detailed description of the alleged unethical conduct, the names of any witnesses, and the complainant's address and telephone number. The judge is not notified of a complaint unless the committee determines that an ethics violation may have occurred. The identity of the person making the complaint is not disclosed to the judge unless the complainant consents. It may be necessary, however, for a complainant to testify as a witness in the event of a hearing. All matters before the committee are confidential. If it is determined that there may have been an ethics violation, the committee usually handles the matter informally by some form of counselling with the judge. If the committee issues a formal charge against the judge, it may conduct a hearing and, if it finds the charge to be well-founded, may reprimand the judge privately, or place the judge on a period of supervision subject to terms and conditions. Charges that the committee deems sufficiently serious to require the retirement, public censure or removal of the judge are referred to the body responsible for exercising disciplinary control over the judge.

- 4.4 In exercising its responsibility to promote the quality of justice, the judiciary should, through case audits, surveys of court users and other stakeholders, discussion with court-user committees and other means, endeavour to review public satisfaction with the delivery of justice and identify systemic weaknesses in the judicial process with a view to remedying them.
- 4.5 The judiciary should regularly address court users' complaints, and publish an annual report of its activities, including any difficulties encountered and measures taken to improve the functioning of the justice system.

5. Access to Justice

- 5.1 Access to justice is of fundamental importance to the rule of law. The judiciary should, within the limits of its powers, adopt procedures to facilitate and promote such access.
- 5.2 When there is no sufficient legal aid publicly available, the high costs of private legal representation make it necessary for the judiciary to consider, where appropriate and desirable, such initiatives as the encouragement of *pro bono* representation of selected litigants by the legal profession of selected litigants, the appointment of *amici curiae* (friend of the court), alternative dispute resolution, and community justice procedures, to protect interests that would otherwise be unrepresented in court proceedings; and the provision of permission to appropriate non-qualified persons (including paralegals) to represent parties before a court.
- 5.3 The judiciary should institute modern case management techniques to ensure the just, orderly and expeditious conduct and conclusion of court proceedings.⁴

6. Transparency in the Exercise of Judicial Office

⁴ Traditionally, the parties to a dispute control the movement of a case, with judges and court personnel merely acting as facilitators. It is now recognized in many jurisdictions that the judiciary should actively monitor and control the progress of a case, especially in the original courts, from institution to judgment, including the completion of all the post-judgment steps. The active management by the court of the progress of a case is designed to encourage the just, orderly and expeditious resolution of disputes. This may involve the case being handled by the same judge from beginning to end; the early fixing of a near-immutable trial date; the judge himself fixing the timetable and giving relevant directions in the pre-trial period; and the same judge trying the case if it goes to trial. The active involvement of the judge enables him or her to deal effectively with the critical areas of litigation, such as defective pleadings, excessive discovery of documents and other techniques frequently employed to delay the proceedings. It may also facilitate the continuous hearing of a case instead of short and incomplete hearings spread over several weeks or months.

- 6.1 Judicial proceedings should, in principle, be conducted in public. The publicity of hearings ensures the transparency of proceedings. The judiciary should make information regarding the time and venue of hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, inter alia, the potential interest in the case and the duration of the hearing.⁵
- 6.2 The judiciary should actively promote transparency in the delivery of justice, and ensure that, subject to judicial supervision, the public, the media and court users have reliable access to all information pertaining to judicial proceedings, both pending and concluded, whether on a court website or through appropriate and accessible records. Such information should include reasoned judgments, pleadings, motions and evidence, but affidavits or like evidentiary documents that have not yet been accepted by the court as evidence may be excluded.
- 6.3 To facilitate access to the judicial system, the judiciary should ensure that standard, user-friendly forms and instructions, and clear and accurate information on matters such as filing fees, court procedures and hearing schedules are made available to potential court users.
- 6.4 The judiciary should ensure that witnesses, other court users and interested members of the public have access to easily readable signs and publicly displayed courthouse orientation guides. Sufficient court personnel should be provided to respond to questions through public information services. They should be available close to court entrances. Customer service and resource centres should be provided in an accessible place. Court users should have access to safe, clean, convenient and user-friendly court premises, with comfortable waiting areas, adequate public space, and amenities for special-need users, such as children, victims, and the disabled.
- 6.5 The judiciary should consider initiating outreach programmes designed to educate the public on the role of the justice system in society and to address common uncertainties or misconceptions about the justice system.⁶

⁵ The requirement of a public hearing does not necessarily apply to all appellate proceedings which may take place on the basis of written presentations, or to pre-trial decisions. Article 14(1) of the International Covenant on Civil and Political Rights acknowledges that a court has the power to exclude all or part of the public for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice. Apart from such exceptional circumstances, a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons. Even in cases in which the public is excluded from the trial, the judgment, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children.

⁶ In a departure from the traditional belief that judges should remain isolated from the community to ensure their independence and impartiality, judicial outreach now involves proactive measures by

6.6 The judiciary should afford access and appropriate assistance to the media in the performance of its legitimate function of informing the public about judicial proceedings, including decisions in particular cases.

7. Judicial Training

7.1 To the full extent of its powers, the judiciary itself should organize, conduct or supervise the training of judges.

7.2 In jurisdictions that do not have adequate training facilities, the judiciary should, through the appropriate channels, seek the assistance of appropriate national and international bodies and educational institutions in providing access to such facilities or in developing the local knowledge capacity.

7.3 All appointees to judicial office should have or acquire, before they take up their duties, appropriate knowledge of relevant aspects of substantive national and international law and procedure. Duly appointed judges should also receive an introduction to other fields relevant to judicial activity such as management of cases and administration of courts, information technology, social sciences, legal history and philosophy, and alternative dispute resolution.

7.4 The training of judicial officers should be pluralist in outlook in order to guarantee and strengthen the open-mindedness of the judge and the impartiality of the judiciary.

7.5 While it is necessary to institute training programmes for judges on a regular basis, in-service training should normally be based on the voluntary participation of members of the judiciary.

7.6 Where the language of legal literature (i.e. law reports, appellate judgments, etc) is different from the language of legal education, instruction in the former should be provided to both lawyers and judges.

7.7 The training programmes should take place in, and encourage, an environment in which members of different branches and levels of the judiciary may meet and exchange their experiences and secure common insights from dialogue with each other.

judges and direct interaction with the communities they serve. Experience suggests that increased public knowledge about the law and court processes promote not only judicial transparency but also public confidence. Recent outreach approaches have included town hall meetings, the production of radio and television programmes, and the dissemination of awareness-raising materials such as court user guides in the form of short pamphlets providing basic information on arrest, detention and bail, criminal and civil procedures, and useful contacts for crime victims, witnesses and other users.

8. Advisory Opinions

- 8.1 A judge or a court should not render advisory opinions to the executive or the legislature except under an express constitutional or statutory provision permitting that course.

9. Immunity of Judges

- 9.1 A judge should be criminally liable under the general law for an offence of general application committed by him or her and cannot therefore claim immunity from ordinary criminal process.
- 9.2 A judge should enjoy personal immunity from civil suits for conduct in the exercise of a judicial function.
- 9.3 The remedy for judicial errors (whether in respect of jurisdiction, substance or procedure) should lie in an appropriate system of appeals or judicial review.
- 9.4 The remedy for injury incurred by reason of negligence or misuse of authority by a judge should lie only against the State without recourse by the State against the judge.
- 9.5 Since judicial independence does not render a judge free from public accountability, and legitimate public criticism of judicial performance is a means of ensuring accountability subject to law, a judge should generally avoid the use of the criminal law and contempt proceedings to restrict such criticism of the courts.

Part Two

RESPONSIBILITIES OF THE STATE

10. Constitutional Guarantee of Judicial Independence

10.1 The principle of judicial independence requires the State to provide guarantees through constitutional or other means:

- (a) that the judiciary shall be independent of the executive and the legislature, and that no power shall be exercised as to interfere with the judicial process;
- (b) that everyone has the right to be tried with due expedition and without undue delay by the ordinary courts or tribunals established by law subject to appeal to, or review by, the courts;
- (c) that no special ad hoc tribunals shall be established to displace the normal jurisdiction otherwise vested in the courts;
- (d) that, in the decision-making process, judges are able to act without any restriction, improper influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason, and exercise unfettered freedom to decide cases impartially, in accordance with their conscience and the application of the law to the facts as they find them;
- (e) that the judiciary shall have jurisdiction, directly or by way of review, over all issues of a judicial nature, and that no organ other than the court may decide conclusively its own jurisdiction and competence, as defined by law;
- (f) that the executive shall refrain from any act or omission that preempts the judicial resolution of a dispute or frustrates the proper execution of a court decision;
- (g) that a person exercising executive or legislative power shall not exercise, or attempt to exercise, any form of pressure on judges, whether overt or covert;
- (h) that legislative or executive powers that may affect judges in their office, their remuneration, conditions of service or their resources, shall not be used with the object or consequence of threatening or bringing pressure upon a particular judge or judges;
- (i) that the State shall ensure the security and physical protection of members of the judiciary and their families, especially in the event of threats being made against them; and

- (j) that allegations of misconduct against a judge shall not be discussed in the legislature except on a substantive motion for the removal or censure of a judge of which prior notice has been given.

11. Qualifications for Judicial Office

- 11.1 Persons selected for judicial office should be individuals of ability, integrity and efficiency with appropriate training or qualifications in law.
- 11.2 The assessment of a candidate for judicial office should involve consideration not only of his or her legal expertise and general professional abilities, but also of his or her social awareness and sensitivity, and other personal qualities (including a sense of ethics, patience, courtesy, honesty, commonsense, tact, humility and punctuality) and communication skills. The political, religious or other beliefs or allegiances of a candidate, except where they are proved to intrude upon the judge's performance of judicial duties, should not be relevant.
- 11.3 In the selection of judges, there should be no discrimination on irrelevant grounds. A requirement that a candidate for judicial office must be a national of the country concerned shall not be considered discriminatory on irrelevant grounds. Due consideration should be given to ensuring a fair reflection by the judiciary of society in all its aspects.

12. The Appointment of Judges

- 12.1 Provision for the appointment of judges should be made by law.
- 12.2 Members of the judiciary and members of the community should each play appropriately defined roles in the selection of candidates suitable for judicial office.
- 12.3 In order to ensure transparency and accountability in the process, the appointment and selection criteria should be made accessible to the general public, including the qualities required from candidates for high judicial office. All judicial vacancies should be advertised in such a way as to invite applications by, or nominations of, suitable candidates for appointment.
- 12.4 One mechanism which has received particular support in respect of States developing new constitutional arrangements consists in the creation of a Higher Council for the Judiciary, with mixed judicial and lay representation, membership of which should not be dominated by political considerations.

- 12.5 Where an independent council or commission is constituted for the appointment of judges, its members should be selected on the basis of their competence, experience, understanding of judicial life, capacity for appropriate discussion and appreciation of the importance of a culture of independence. Its non-judge members may be selected from among outstanding jurists or citizens of acknowledged reputation and experience chosen by an appropriate appointment mechanism.
- 12.6 The promotion of judges, when not based on seniority, should be made by the independent body responsible for the appointment of judges, and should be based on an objective appraisal of his or her performance, having regard to the expertise, abilities, personal qualities and skills required for initial appointment.
- 12.7 The procedure in certain states of the Chief Justice or President of the Supreme Court being elected, in rotation, from among the judges of that court by the judges themselves, is not inconsistent with the principle of judicial independence and may be considered for adoption by other states.

13. Tenure of Judges

- 13.1 It is the duty of the State to provide a full complement of judges to discharge the work of the judiciary.
- 13.2 A judge should have a constitutionally guaranteed tenure until a mandatory retirement age or the expiry of a fixed term of office.⁷ A fixed term of office should not ordinarily be renewable unless procedures exist to ensure that the decision regarding re-appointment is made according to objective criteria and on merit.
- 13.3 The engagement of temporary or part-time judges should not be a substitute for a full complement of permanent judges. Where permitted by local law, such temporary or part-time judges should be appointed on conditions, and accompanied by guarantees, of tenure or objectivity regarding the continuation of their engagement which eliminate, so far as possible, any risks in relation to their independence.
- 13.4 Because the appointment of judges on probation could, if abused, undermine the independence of the judiciary, the decision whether or

⁷ National practice appears to favour a specified retirement age for judges of superior courts. The constitutionally prescribed retirement age for judges of the highest court ranges from 62 in Belize, Botswana and Guyana to 65 in Greece, India, Malaysia, Namibia (with the possibility of extension to 70), Singapore, Sri Lanka and Turkey, 68 in Cyprus, 70 in Australia, Brazil, Ghana, Peru and South Africa, to 75 in Canada and Chile. In some of these jurisdictions (for example, Belize and Botswana), however, provision exists to permit a judge who has reached retirement age to continue in office “as long as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age”.

not to confirm such appointment should only be taken by the independent body responsible for the appointment of judges.

- 13.5 Except pursuant to a system of regular rotation provided by law or formulated after due consideration by the judiciary, and applied only by the judiciary or by an independent body, a judge should not be transferred from one jurisdiction, function or location to another without his or her consent.⁸

14. Remuneration of Judges

- 14.1 The salaries, conditions of service and pensions of judges should be adequate, commensurate with the status, dignity and responsibilities of their office, and should be periodically reviewed for those purposes.
- 14.2 The salaries, conditions of service and pensions of judges should be guaranteed by law, and should not be altered to their disadvantage after appointment.

15. Discipline of Judges

- 15.1 Disciplinary proceedings against a judge may be commenced only for serious misconduct.⁹ The law applicable to judges may define, as far as possible in specific terms, conduct that may give rise to disciplinary sanctions as well as the procedures to be followed.
- 15.2 A person who alleges that he or she has suffered a wrong by reason of a judge's serious misconduct should have the right to complain to the person or body responsible for initiating disciplinary action.
- 15.3 A specific body or person should be established by law with responsibility for receiving complaints, for obtaining the response of the judge and for considering in the light of such response whether or not there is a sufficient case against the judge to call for the initiation of disciplinary action. In the event of such a conclusion, the body or person should refer the matter to the disciplinary authority.¹⁰

⁸ The transfer of judges has been addressed in several international instruments since transfer can be used to punish an independent and courageous judge, and to deter others from following his or her example.

⁹ Conduct that gives rise to disciplinary sanctions must be distinguished from a failure to observe professional standards. Professional standards represent best practice, which judges should aim to develop and towards which all judges should aspire. They should not be equated with conduct justifying disciplinary proceedings. However, the breach of professional standards may be of considerable relevance, where such breach is alleged to constitute conduct sufficient to justify and require disciplinary sanction.

¹⁰ Unless there is such a filter, judges could find themselves facing disciplinary proceedings brought at the instance of disappointed litigants.

- 15.4 The power to discipline a judge should be vested in an authority or tribunal which is independent of the legislature and executive, and which is composed of serving or retired judges but which may include in its membership persons other than judges, provided that such other persons are not members of the legislature or the executive.
- 15.5 All disciplinary proceedings should be determined by reference to established standards of judicial conduct, and in accordance with a procedure guaranteeing full rights of defence.
- 15.6 There should be an appeal from the disciplinary authority to a court.
- 15.7 The final decision in any proceedings instituted against a judge involving a sanction against such judge, whether held in camera or in public, should be published.
- 15.8 Each jurisdiction should identify the sanctions permissible under its own disciplinary system, and ensure that such sanctions are, both in accordance with principle and in application, proportionate.

16. Removal of Judges from Office

- 16.1 A judge may be removed from office only for proved incapacity, conviction of a serious crime, gross incompetence, or conduct that is manifestly contrary to the independence, impartiality and integrity of the judiciary.
- 16.2 Where the legislature is vested with the power of removal of a judge, such power should be exercised only after a recommendation to that effect of the independent authority vested with power to discipline judges.
- 16.3 The abolition of a court of which a judge is a member should not be accepted as a reason or an occasion for the removal of the judge. Where a court is abolished or restructured, all existing members of that court should be re-appointed to its replacement or appointed to another judicial office of equivalent status and tenure. Where there is no such judicial office of equivalent status or tenure, the judge concerned should be provided with full compensation for loss of office.

17. Budget of the Judiciary

- 17.1 The budget of the judiciary should be established in collaboration with the judiciary, care being taken that neither the executive nor legislature authorities is able to exert any pressure or influence on the judiciary when setting its budget.

- 17.2 The State should provide the judiciary with sufficient funds and resources to enable each court to perform its functions efficiently and without an excessive workload.
- 17.3 The State should provide the judiciary with the financial and other resources necessary for the organization and conduct of the training of judges.
- 17.4 The budget of the judiciary should be administered by the judiciary itself or by a body independent of the executive and the legislature and which acts in consultation with the judiciary. Funds voted for the judiciary should be protected from alienation and misuse.

DEFINITIONS

In this statement of implementation measures, the following meanings shall be attributed to the words used:

“irrelevant grounds” means race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes.

“judge” means any person exercising judicial power, however designated, and includes a magistrate and a member of an independent tribunal.