

**Response of the Republic of Latvia to the invitation of the Special Rapporteur to contribute to his forthcoming report to the Human Rights Council, which will focus on the exercise of freedom of expression, association and peaceful assembly by judges and prosecutors**

In Latvia, the profession of a judge, including the duties and rights of a judge are enshrined in the Law on Judicial Power, the Law on Disciplinary Liability of Judges and the Code of Judicial Ethics.

According to The Law on Judicial Power<sup>1</sup>, judges have the rights and freedoms provided by law to every citizen. Judges shall use these rights and freedoms, in the way to safeguard the dignity and honor of the court and judges, impartiality, and the independence of the court.

The Judicial Code of Ethics recommends avoiding words and phrases, gestures or other actions that could be interpreted as showing bias or prejudice. Also, a judge should regulate his or her extra-judicial activities in such a manner that there is no conflict with judicial duties. For example, a judge shall not be isolated from the society in which the judge lives, but the judge shall not manifest partiality or prejudice towards any group of people, nation, sex, religion, etc. The recommendation to abstain behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge.

The Law and the Judicial Code of Ethics sets basic principles regarding any type of communication – this applies equally to online and offline communication. There are no specific restrictions on rights when using digital technologies.

According to the Law on Judicial Power, Judges may freely join together in organizations, to protect their independence, promote their professional development, and defend their rights and interests. The Judicial code of Ethics clarifies that a judge may participate in charity organizations but shall not do it on behalf of a judicial institution.

The Law on Judicial Power provides only a few prohibitions: the office of a judge may not be combined with membership in a party or other political organization and a judge is not allowed to go on strike. The prohibition to a judge to be involved in political parties or organizations does not prohibit the judge from having personal affection to separate political parties, as long as it does not interfere with the impartial administration of justice.

On 10 May 2013 the Constitutional Court pronounced judgement recognized that the prohibition to the judge to take membership in political parties strengthens the authority of the

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<sup>1</sup> <https://likumi.lv/ta/en/en/id/62847-on-judicial-power>

judicial power. The Constitutional Court noted that the contested norm does not allow the possibility that a judge is connected with a political party. This means that the judge is not subject to the discipline of a political party and does not have to abide by the party program. Thus, the contested norm creates certainty in society that a judge does not represent the opinion of a political party. This prevents situations for doubts to arise concerning judges' ability to administer justice objectively and independently.

Meanwhile, the Constitutional Court recognized that a judge has a number of possibilities to voice his position regarding important issues in the work of the State and the local governments, for example, to participate in and run for elections, as well as to address State and local government institutions. The Constitutional Court recognized that the contested norm serves to strengthen the authority of the judicial power, and the restriction set out by it is a benefit to society.

The Judicial Code of Ethics does not have the force of law, but under section 1, Paragraph one, Clause 3 of the Judicial Disciplinary Liability Law<sup>2</sup>, the basis for prosecution of a judge may be a gross violation of norms of the Judicial Code of Ethics. As well as in accordance with Section 1, Paragraph one, Clause 5 of the Law On Disciplinary Liability of Judges a judge may be prosecuted for refusal to terminate his or her belonging to parties or political organizations.

Restrictions are not dependent on the judge's position or matters over which the judge has jurisdiction. All judges have the same rights and duties.

Legislation and guidelines governing the work of prosecutors in Latvia is similar to that of judges. The Code of Ethics of Prosecutors provides underlining principles of how a prosecutor should behave, for example, a prosecutor should not create doubt about his/her independence and impartiality through words or actions. A prosecutor is independent in decisions and actions while upholding the Constitution of Latvia, the principles underlined on the Code of Ethics of Prosecutors, as well as other relevant legislation<sup>3</sup>. A prosecutor is entitled to all rights and duties enshrined in legislation and may practice those while respecting the rights and dignity of others.

The Code of Ethics for Prosecutors does not have specifications on applying professional ethics standards while using information and communication technologies, the same standards as with offline communication should apply.

Further, as with judges, prosecutors are also not permitted to be part of a political party or any other political organizations (Clause 10 of the Office of the Prosecutor Law<sup>4</sup>). Regarding

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<sup>2</sup> <https://likumi.lv/ta/en/en/id/57677-judicial-disciplinary-liability-law>

<sup>3</sup> <http://www.prokuratūra.gov.lv/lv/noderigi/normativie-akti>

<sup>4</sup> <https://likumi.lv/doc.php?id=57276>

freedom of expression, a prosecutor observes the fundamental rights of others and is aware that public opinion can be interpreted as the opinion of the Prosecutors Office.

Finally, no violations of the right of a judge or prosecutor to freedom of expression, association or assembly have been detected in Latvia, also no cases have been detected where judges or prosecutors have been subject to threats, pressure, interference or reprisal in connection with, or as a result to, the exercise of these fundamental freedoms.