

“EXCELLENCE IN HIGH COURTS OF APPEAL”

CONCLUSION DOCUMENT

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Independent and impartial judiciary with undisputed integrity is a fundamental institution that ensures compliance with the rule of law and justice. The foundations of society that we all cherish, such as freedom, justice and social peace, can only be preserved by a well-functioning judicial system. The most advanced standards of justice should be developed and applied in order to properly perform the judicial function.

A meeting was held in the Conference Hall of the Court of Cassation on September 2, 2021, as a result of the efforts of the high courts and the offices of prosecutor generals to ensure international cooperation in promoting respect for human rights and fundamental freedoms without any discrimination and to achieve justice.

The views of the chief justices and prosecutor generals from three continents and 13 countries and different legal traditions on “excellence in high courts of appeal” are summarized within the framework of the principles written below:

Principle 1

The ethical values adopted by the high courts of appeal should guide judges in the administration of justice.

The values of judicial ethics adopted by the high court of appeal are guiding in all its activities. In the performance of the judicial office, the Bangalore Principles of Judicial Conduct emphasizing the values of independence, impartiality, integrity, propriety, equality, competence and diligence and the Commentary on it should be taken into account.

All judicial systems should develop and enforce professional and ethical codes of conduct or standards for members of the judiciary. Complying fully with ethical values and disseminating these values in all parts of the society is a fundamental element that will increase the public trust in the judicial system and judicial quality.

Court users are entitled to not only timely and effective service, but also to the highest standards of ethical, professional and accountable behavior from auxiliary judicial staff. Ethical values guide everyone working in the court on this issue.

Principle 2

Transparency in the judiciary is a fundamental element to ensure and maintain the public trust in the administration of justice.

The protection and enjoyment of all rights, including human rights, depend on the fair and open hearing of cases by an effective, independent and impartial judiciary.

Article 11 of the United Nations Convention Against Corruption reminds the parties of the independence of the judiciary and its important role in the fight against corruption. In the Resolution of the United Nations Economic and Social Council numbered 2019/22 on

transparency in the judiciary, the member states were invited to consider the “Istanbul Declaration on Transparency in the Judicial Process and Measures for the Effective Implementation when formulating their programs and legal reforms on the administration of justice.

The Principles in the Declaration and Implementation Measures set minimum standards for transparency in the judiciary, which is an indispensable element in the administration of justice. These standards also serve as guidelines for high courts of appeal.

Principle 3

High courts of appeal should develop a strategy of disseminating case-law in order to ensure unity of case-law.

High courts of appeal should establish and effectively implement the necessary mechanisms to ensure case-law consistency. It should strive to ensure the consistency of case law with clear, understandable and quality reasoned decisions, and work towards ensuring legal certainty, consistency and stability throughout the country.

High courts of appeal should develop the necessary tools to effectively disseminate their current decisions; should activate an information system that can meet the needs of different users, including judges and prosecutors, lawyers and the public. It should follow the inconsistencies between the decisions of the lower courts and take the necessary measures to eliminate them. These include publishing bulletins for the courts, advising on training programs, and organizing forums where case law is discussed.

Principle 4

The educative role of high courts of appeal also requires them to lead the judicial system.

Courts that have internalized their values, that are transparent, accountable and integrated with the society can also be in a position to lead the judicial system.

The mission of the high courts of appeal expresses the purpose of the institution, and its vision expresses the situation it aims to be in the future.

The leadership of the high courts of appeal plays an important role in the success of the judicial system. This role also entails leading the way in implementing the most advanced standards of justice, including contributing to justice policies.

Principle 5

High courts of appeal should have a strategic management approach.

Strategies and policies should be developed and implemented to achieve the goals set in line with the vision and mission of the Court. These should be disclosed to the public, particularly to the stakeholders, and be traceable.

One of the most important elements in the management of a high court of appeal is corporate culture. Leaders and managers, who know the corporate culture well, consider the corporate governance approach and positive corporate image when creating the court's

strategies. In addition, the workload and working conditions of the court must be taken into account.

It is necessary to determine the goals and objectives, to carry out the workflow in accordance with the transparent and contemporary justice management requirements, and to conduct risk management well. In order to implement strategies and policies for the development of business processes, it is of great importance to allocate, control and monitor human and financial resources efficiently.

Principle 6

For the high courts of appeal to be effective and efficient, it is a basic requirement that human resources be managed correctly.

High courts of appeal should be aware of the abilities and characteristics of their employees and develop merit-based systems in their promotion and appointment. Considering the educational role of the high courts of appeal and their impact on the entire judiciary, it is imperative that training programs be structured to cover internal and external activities.

The quality of human resources also increases the trust and satisfaction of the public by ensuring that the judicial service provided by the high court of appeal is of high quality. The fact that the high court of appeal manages and trains its own human resources is also an essential component of its independence.

Principle 7

The physical and technical infrastructure and effective transaction processes of the high courts of appeal are essential elements for the timely and accurate performance of judicial duties.

The judiciary should increase public confidence in the administration of justice by providing safe, clean, convenient and user-friendly court buildings. Issues related to the infrastructure of the courts such as adequate hearing and negotiation halls, easy access to the building, secure areas, secure archiving of case files, and efficient physical conditions for employees affect the reliable, fast and efficient delivery of the judicial service. At the same time, necessary and appropriate usage opportunities should be provided for those with special needs such as nursing mothers and disabled people in the building.

High courts of appeal are responsible for accurately disclosing information related to litigation expenses, court procedures and hearing schedules to the citizens. In addition to the effective conclusion of the cases, the quality of the decisions, their timely writing and the predictability of the processing times are among the issues that need to be taken care of.

All processes should be supervised by using modern technological facilities and reported to the relevant authorities and authorities in the court.

Principle 8

High court of appeal management should consider the views, needs and expectations of internal and external stakeholders.

Strong and effective communication with court users is important. It is necessary to establish systems to receive feedback from them and to process this feedback. The understanding of court activities by all court users, including litigants, public outreach programs and media relations affect public trust in the judiciary.

Developing an effective and efficient communication network with court users and benefiting from the opinions, suggestions and other information from these networks increases the quality of the judicial service. In this context, the importance of developing innovative measures should always be considered.

The satisfaction of court users should be measured regularly, a satisfaction survey should be applied to lawyers and litigants, and their results should be used to increase service quality. Sharing the survey results with the public is a factor that strengthens the trust in the judiciary.

Principle 9

Cost-effective judicial service, along with other requirements for access to justice, is a key element in maintaining public confidence in the judiciary.

Access to fast, effective and affordable dispute resolution and reasoned decisions based on a fair and public hearing and publicly rendered within a reasonable time contribute to increasing public confidence in the judiciary. In each country, the costs of litigation should be determined by the joint work of high courts of appeal, courts of first instance and other justice actors, and clear and appropriate policies should be established to provide cost-effective judicial services to the public.

Cost-effective, physically accessible systems should be developed in which citizens can easily carry out their transactions. Providing incentive services to court users with disabilities, providing translation services to parties who do not speak the language of the court and legal aid to litigants in need of legal assistance, offering alternative dispute resolution suggestions, providing accessible services to the entire public, both physically and online is a requirement for the court.

Principle 10

File management system of the high courts of appeal should include appropriate filtering tools, effective review mechanisms, and procedures that allow individual attention to each case.

Considering the number and quality of the files, the processing times and the average trial times, the examination of the files in accordance with the principles of transparency, equality and justice within the framework of pre-determined rules increases the trust in the court. This approach does not preclude the primary examination of some files for justifications (such as detained files, files nearing expiry).

The development of “preliminary examination standards” contributes to the efficiency and effectiveness of the court and to the conclusion of the cases in a short time.

Different systems are applied in the world regarding the filtering mechanisms used in the high courts of appeal. In addition to methods such as permission, bypass appeal,

accreditation of lawyers who can appeal, and inadmissibility decision, there are also sui generis filtering mechanisms.

Individual attention to each file depends on the establishment of an effective file management system. Confusing the order of the files, forgetting or losing the files negatively affects the trust in the judicial system.