

**SEMINAR ORGANISED BY THE FRENCH COUNCIL OF STATE
IN COOPERATION WITH ACA-EUROPE**

**ETHICS AND RECRUITMENT
OF MEMBERS OF THE SUPREME ADMINISTRATIVE COURTS AND COUNCILS OF STATE**

Questionnaire

The Versailles seminar will address two related topics: ethics and recruitment.

The first topic will be discussed on Friday morning, 29 November, in two round tables. The first will focus on the legal and institutional framework. The second, based on practical cases, will address the content of ethical rules.

The second topic will be addressed on Friday afternoon during the third round table.

Ethics for magistrates was discussed at the seminar organised by AIHJA/IASAJ in September 2020 in Athens. It was also discussed at a meeting of the European Association of Administrative Judges (AEAJ) in May 2023 focusing on the freedom of expression of magistrates. Some of the questions below repeat those asked in the Athens questionnaire. You can, of course, use the answers you provided in 2020 to respond to this questionnaire.

I Ethics: Legal and institutional framework

1.1. General framework

1.1.1. Are the ethical obligations of public officials in general enshrined in your country's positive law?

☒ Yes

☐ No

If yes, they are enshrined (please check all applicable answers):

☒ in the Constitution

☒ in the law

☒ in a regulatory text



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☒ in a Charter of Ethics or a Collection of Ethical Principles

☐ other

Please explain if necessary:

There is no charter of ethics applicable to all public officials, but rather a multiplicity of charters specifying the ethical rules applicable to public officials of certain legal professions.

We also have a code of ethics for civil servants (Decree of the Office of the Government of the Slovak Republic No. 400/2019 Coll.), as well as specific regulations governing the standards and requirements for the performance of public service.

In the legal order of the Slovak Republic, in principle, we do not have a universal code of ethics adopted, applicable to all public officials. For example, we have a code of ethics for civil servants, specific regulations governing the standards and requirements for the performance of public service and each legal profession has its own. Some legal professions have their own codes of ethics issued by the competent authorities.

Ethical obligations are often reflected in legal obligations. Sometimes they go beyond legal obligations.

Ethical obligations are not directly enshrined in the Constitution, but ethical obligations can be found in the Constitutional Act on the Protection of Public Interest in the Exercise of Functions of Public Officials. Constitutional laws have formally the same legal force as the Constitution.

1.1.2. Are the ethical obligations of members of your institution specifically enshrined in your country's positive law?

☐ Yes

☒ No

If yes, they are enshrined (please check all applicable answers):

☐ in the Constitution

☐ in the law

☐ in a regulatory text

☐ in a Charter of Ethics or a Collection of Ethical Principles

☐ other



Please explain if necessary:

The Judicial Council of the Slovak Republic, which is the constitutionally established body of judicial legitimacy, has adopted the document "*The Judicial Code of Judicial Conduct*", which applies to all judges.

1.2. Charter of Ethics

1.2.1. Does your institution also have a Charter of Ethics or a Collection of Ethical Principles?

☐ Yes

☒ No

If the answer is yes: On which date was this document adopted?

1.2.2. Is the adoption of this document an obligation for your institution?

☐ Yes

☒ No

Please explain if necessary:

Currently, there is no legal obligation for the Supreme Administrative Court of the Slovak Republic to adopt a code of ethics that would be binding on its judges and staff. It is also worth mentioning that adopting a code of ethics for this type of institution is not part of a tradition in Slovak republic and it has not been done in the past.

1.2.3. Was this document adopted in response to a particular event that stirred public opinion?

☐ Yes

☒ No

If yes, please explain the legal and political context that led to the adoption of this text:



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1.2.4. Who drafted this document?

- ☐ A working group composed exclusively of members of your jurisdiction
- ☐ A working group expanded to include outside persons
- ☐ A working group involving associations of administrative judges
- ☐ Other

Please explain if necessary:

1.2.5. Which authority signed and enacted this document?

- ☐ The president of your institution
- ☐ A collegiate body of your institution
- ☐ Other

Please explain if necessary:

1.2.6. Has this document undergone one or more revisions?

- ☐ Yes
- ☐ No

Please explain the purpose of these revisions if necessary:



1.2.7. What is the legal value of this document?

☐ This document contains binding legal rules (hard law)

☐ This document contains soft law standards

☐ Other

Please explain if necessary:

1.2.8. Please attach this document to your response, if possible in a French or English translation, in the form of an attached document or a web link.

1.3. Scope of application of ethical rules:

1.3.1. Whether a Charter of Ethics or equivalent text has been adopted or not, do the ethical rules applicable to members of your supreme court apply identically to magistrates in the lower courts of your judicial system?

☒ Yes

☐ Partially

☐ No

Please explain if necessary:

The Judicial Code of Conduct applies to all judges in all courts of the Slovak Republic, without distinction between different levels or types of courts.

1.3.2. To whom do these ethical rules apply?

☒ To members of your institution who are active within it

☐ To members of your institution who are temporarily not serving there, under secondment or availability arrangements, in other administrations or in the private sector



☒ To resigning members

☒ To retired members

☐ To administrative staff (referendary judges, legal assistants, clerks, interns, etc.) assisting members of your institution

☐ Other

Please explain if necessary:

In civil life, both during and after the exercise of judicial functions, a judge must refrain from anything that might undermine the dignity and respectability of the judicial office or compromise the trust in the independent, impartial, and fair decision-making of the judiciary. This rule also applies to resigning and retired members.

Pursuant to Section 30 paragraph 2 (b) of Law on Judges in order to guarantee the independence and impartiality of the exercise of the judicial function, a judge shall comply with the principles of judicial ethics. This does not apply to resigning and retired members.

1.3.3. In the event that your institution exercises both a judicial and a consultative function, do the ethical obligations imposed on members exercising one or the other of these functions differ?

☐ Yes

☒ No

☒ Not applicable

Please explain if necessary:

The Supreme Administrative Court of the Slovak Republic does not exercise a consultative function.

1.3.4. If there is a duality of jurisdiction in your country distinguishing an administrative jurisdictional order and a judicial jurisdictional order, are the ethical rules applicable to magistrates of these two orders different?

☐ Yes

☐ Partially

☒ No



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Please explain if necessary:

1.3.5. If the ethical rules are wholly or partly different for magistrates of these two orders, please indicate one or more examples of obligations that apply to magistrates of only one order or that apply differently to magistrates of each order of jurisdiction:

1.3.6. If the magistrates who make up your institution belong to several different categories (for example, a bench and a public prosecutor's office), are they subject to different ethical rules?

☒ Yes

☐ No

☐ Partially

☐ Not applicable

If these ethical rules are wholly or partly different for magistrates of different categories, please give an example.

Associate judges at the Supreme Administrative Court of the Slovak Republic usually practice other legal professions, in which they are bound by different ethical standards. Therefore, it can be argued that, for example, a prosecutor who is also an associate judge of the Supreme Administrative Court will also be bound by the ethical standards of the prosecutor's profession.

1.4. Relationship between ethical and disciplinary rules:

Is a breach of ethical obligations necessarily an offence that may result in disciplinary action?

☒ Yes

☐ No

If not, please give an example:

1.5. Training on ethical rules:

Are members of your institution made aware of or trained in ethics?



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☒ Yes

☐ No

If yes, how and how often?

It must be noted that already in the selection procedures for the post of judge, the emphasis is placed on the area of ethics and the performance of the duties of a judge. That means every single judge is aware of his or her ethical obligations. It is also important to pay attention to the educational activities of the Judicial Academy of the Slovak Republic, in which attention is paid to particular ethical topics and status issues. Educational activities of the Judicial Academy of the Slovak Republic are not mandatory.

1.6. The College of Ethics

1.6.1. Has your institution created or does it have a collegiate body or a single authority responsible for answering ethical questions that may arise for members of your institution?

☐ Yes

☒ No

1.6.2. If yes, how is it appointed?

1.6.3. If yes and in the case of a collegiate body, how is it composed?

1.6.4. Who can refer to this body?

- ☐ A member of your institution for an ethical question concerning them
- ☐ A magistrate from the lower courts for an ethical question concerning them
- ☐ The president of your institution
- ☐ Other members of your institution
- ☐ A litigant who believes that a magistrate has disregarded their ethical obligations
- ☐ This body can refer to itself
- ☐ Others



Please explain if necessary:

1.6.5. Are the opinions given by this body made public?

☐ Yes

☐ No

1.6.6. If yes, are the published opinions anonymised?

☐ Yes

☐ No

1.6.7. Can these opinions be challenged before the court?

☐ Yes

☐ No

Please explain the legal scope of these opinions:

It is not possible to comment on the given matter as there are no ethics colleges or senates at the Supreme Administrative Court of the Slovak Republic.

However, the Judicial Council of the Slovak Republic may establish from among its members at least a 5-member Permanent Ethics Commission, which is an advisory body of the Judicial Council. If the Ethics Commission is not established, the Judicial Council may establish an ad hoc commission from among its members.

The task of the Ethics Committee shall be to draft opinions, recommendations and replies, to draft methodological and interpretative additions to the Principles for the Judicial Council and to inform the Judicial Council about the application of the Principles, unless the Judicial Council reserves them for direct action. Any judge has the opportunity to file a petition for a Judicial Council opinion on the interpretation of the Principles and to request a Judicial Council response to a specific question or ethical dilemma. Any such filing shall be referred to the Ethics Committee.

We would like to add that the Judicial Council of the Slovak Republic is a constitutional body ensuring the independent position of the judiciary from other public authorities, or it is a constitutional body of judicial legitimacy.

1.7. Declaration of interests

1.7.1. Must members of your institution complete a declaration of interests?



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☒ Yes

☐ No

If yes, please briefly describe the modalities of its submission:

According to the Law on Judges, a judge must regularly submit a written declaration to the Judicial Council stating in which he or she, among other things, indicates the circle of close persons who work in the judiciary. This written declaration of the judge together with his/her declaration of assets is published on the website of the Judicial Council.

1.7.2. Is there a specific procedure or *ad hoc* body responsible for examining conflicts of interest that may arise when a member of your institution leaves for the private sector?

The Judicial Council of the Slovak Republic, in accordance with the relevant regulations, supervises whether the judge meets the prerequisites of judicial competence, which guarantee that he/she will perform the function of a judge properly for the entire duration of his/her term of office as a judge. It shall also supervise judges' financial circumstances. The Judicial Council establishes review commissions to verify the completeness of judges' asset declarations, to supervise the fulfilment of the prerequisites for judicial competence by a judge concerning business, property or financial relations with persons from the organized crime environment, supervising the selection procedure for the office of president of a court and the transfer of a judge to another court, supervising the election of the president and deputy president of the Supreme Court and the president and deputy president of the Supreme Administrative Court, supervising the selection of judges of the Supreme Administrative Court, verifying that a candidate for the office of judge meets the prerequisites of judicial competence.

The Judicial Council of the Slovak Republic, in accordance with the relevant regulations, supervises whether the judge meets the prerequisites of judicial competence, which guarantee that he/she will perform the function of a judge properly for the entire duration of his/her term of office as a judge. It shall also supervise judges' financial circumstances. The Judicial Council establishes review commissions to verify the completeness of judges' asset declarations, to supervise the fulfilment of the prerequisites for judicial competence by a judge concerning business, property or financial relations with persons from the organized crime environment, supervising the selection procedure for the office of president of a court and the transfer of a judge to another court, supervising the election of the president and deputy president of the Supreme Court and the president and deputy president of the Supreme Administrative Court, supervising the selection of judges of the Supreme Administrative Court, verifying that a candidate for the office of judge meets the prerequisites of judicial competence.

1.8. The oath

Do members of your institution have to take an oath?

☒ Yes



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☐ No

If yes, what does this oath consist of and how is it taken?

According to Article 145 of the Constitution of the Slovak Republic, the judge shall take the following oath in the hands of the President of the Slovak Republic: *"I swear on my honour and conscience that I shall be governed by the Constitution, constitutional laws, international treaties ratified by the Slovak Republic and promulgated in the manner prescribed by law, and laws, I shall interpret the laws and decide according to my best convictions, independently and impartially"*. By taking this oath, the judge takes office.

II Ethics: Content of rules

2. 1. Independence, impartiality and prevention of conflicts of interest

2.1.1. In which circumstances should a member of your institution abstain from sitting or risk being disqualified from a judgement panel?

- ☒ In cases of familial ties that may link the magistrate with a party
- ☒ In cases of friendly ties that may link the magistrate with a party
- ☒ Due to previous functions performed by the magistrate
- ☒ Other

Please explain, citing any relevant jurisprudential examples

It is always a matter of individual assessment and the specific case. We also draw attention to the *"theory of appearance"*, the essence of which is that a judge may be disqualified from hearing and deciding a case only if it is quite obvious that his or her relationship with the case, the parties or their representatives is of such a nature and intensity that he or she will not be able to decide *"sine iura et studio"*, i.e. independently and impartially, despite the statutory obligation to do so.

2.1.2. If your institution exercises both a jurisdictional function and an advisory function, what individual measures does it implement to comply with the *Procola* case law of the European Court of Human Rights dated 28 September 1995, according to which the fact that certain members successively exercise, regarding the same decisions, advisory and jurisdictional functions is likely to compromise the structural impartiality of the institution?

☐ Prohibition of a member's participation in the judgement of an appeal directed against an act taken after advisory opinion from your institution if they participated in the deliberation of that opinion

☐ Prohibition for members of a judgement panel to consult the files of advisory panels

☐ Other

Please explain if necessary:

2.1.3. If your country allows members of your institution to temporarily leave to take up other functions in the public or private sector, what ethical rules govern such a departure and, when the time comes, such a return?

☐ Obligation to abstain, before departure, from participating in any deliberation involving a future employer from the moment the individual enters into negotiations with them

☐ Prohibition for the members concerned, during this temporary period outside the institution, from intervening in cases they became aware of in the exercise of their jurisdictional activities

☐ Prohibition for a member practising as a lawyer from submitting requests and briefs and appearing in court before your institution for a specified period

☐ Obligation to abstain, if applicable for a specified period after the return, from participating in the judgement of disputes concerning decisions taken by the authority with which the member previously served

☒ Other

Please explain if necessary:

Judges may undertake an internship in one of the institutions defined in the Judges Act. Specifically, these are the Office of the Judicial Council, the Ministry of Justice of the Slovak Republic, an institution that provides training for judges and the Constitutional Court of the Slovak Republic as a judicial advisor. A judge may not perform the function of a judge during such a traineeship. A judge may be temporarily assigned or transferred to another court under precisely defined conditions. A judge may be entrusted with tasks in a European Union body and sent as a civilian expert to work in a crisis management activity outside the territory of the Slovak Republic.

The exercise of the office of judge is incompatible with the office in any other public authority, including the office of President of the Judicial Council and Deputy President of the Judicial Council, with a civil servant relationship, with an employment relationship, with a similar employment relationship, with entrepreneurial activity, with membership in the management or control body of a legal person carrying out entrepreneurial activity, or with any other economic or gainful activity, except for the management of one's own property, scientific, pedagogical, literary or artistic activity, and except for the membership in the Judicial Council. In relation to the above mentioned, we add that it is always a matter of individual assessment and the specific case. We also draw attention to the *"theory of appearance"*, the essence of which is that a judge may be disqualified from hearing and deciding a case only if it is quite obvious that his or her

relationship with the case, the parties or their representatives is of such a nature and intensity that he or she will not be able to decide "*sine iura et studio*", i.e. independently and impartially, despite the statutory obligation to do so.

2.1.4. Can a member of your institution receive gifts?

☐ Yes

☒ Yes, under certain conditions

☐ No

Please explain if necessary:

According to the Judicial Code of Conduct, a judge may not accept any gifts, benefits, privileges that may influence his or her decision-making. The Judicial Council of the Slovak Republic, which supervises and acts in matters of the judge's property situation, also counts on the method of acquiring property by means of a gift agreement in the context of property declarations.

2.1.5. Can a member of your institution receive an honorary decoration from their country or a foreign country?

☐ Yes

☒ Yes, under certain conditions

☐ No

Please explain if necessary:

A judge may also accept an award from another state, as long as it is not a state that does not respect the rule of law and violates human rights. The Judicial Council decided this in response to a proposal to award the US Embassy's prize to judge Jaroslav Macek. This cannot raise any doubt as to his independence and impartiality.

2.2. Exercise of individual liberties

2.2.1. Are there limits placed on the freedom of expression and opinion of members of your institution?

☒ Yes

☐ No

Please explain if necessary:



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The Judicial Council of the Slovak republic proceeded to the interpretation of the relevant article of the Judicial Code of Conduct in the section on freedom of expression. According to the Judicial Council of the SR, unlike a "*non-judge*", freedom of speech is limited by the fact that a judge must always take care that his or her speeches (written or oral) do not compromise the dignity of the judicial office, do not call into question the trust in the judiciary and his or her personal impartiality and independence.

Further in this document, the Judicial Council further specifies the limitations and responsibilities of the judge's speech, including speech on social media.

2.2.2. In particular, is the use of social media by members of your institution regulated?

☐ Yes

☒ No

Please explain if necessary:

The judges of our institution are subject to the same Judicial Code of Conduct as all other judges so the answer to point 2.2.1. is relevant in this case as well.

We also add that if the judge uses social networks or other means of communication, he or she must not use them to incite hatred or intolerance, disseminate false or misleading information, misinform or insult anyone, including other public officials, the judiciary, or encourage extremism.

2.2.3. As an example, can a member of your institution participate in a public debate of general scope (for example, on immigration or euthanasia), provided that they do not specifically mention a particular case they may have been involved in judging?

☐ Yes

☒ Yes, under certain conditions

☐ No

Please explain if necessary:



The judge's right to hold political opinions is not called into question, but he is obliged to exercise them with restraint and to the extent that the authority and impartiality of the judiciary are not compromised.

The Judicial Council of the SR adopted an interpretative opinion on the Judicial Code of Conduct, where the limits of freedom of expression of judges are more precisely defined. This interpretative opinion states, among other things, that a judge should limit his or her public speeches, in principle, to professional and scientific speeches. The judge's public appearances should be limited to general explanations given in a refined manner, and only exceptionally, where there is a case for informing the public, to a restrained and competent communication to the public of specific judicial decisions. The judge should avoid political discussions, especially if they do not concern the judiciary, and should not show general support for any particular political entity.

2.2.4. Can a member of your institution write and publish an article or a book? Can they teach at a public university or a private educational institution?

☒ Yes

☐ Yes, under certain conditions

☐ No

Please explain if necessary:

Even in these activities, a judge must always take care that his or her statements (written or oral) do not jeopardize the dignity of the judicial office, do not call into question confidence in the judiciary and his or her personal impartiality and independence.

2.2.5. If yes, must they seek prior authorisation from the head of your institution?

☐ Yes

☒ No

Please clarify if necessary:

2.2.6. Are members of your institution allowed to engage in political activities?

☐ Yes



☐ Yes, under certain conditions

☒ No

Please explain if necessary:

2.2.7. Can members of your institution run for elections?

☐ Yes

☐ Yes, under certain conditions

☒ No

Please explain if necessary:

In Slovakia, the signing of a declaration in which a judge agrees to stand as a candidate on the list of a political party or political movement in elections to the National Council and in elections to the European Parliament pursuant to a special regulation shall also be deemed to be a resignation from the office of judge.

The performance of the function of a judge shall also be interrupted on the day when the judge registers as a candidate in the elections for the President of the Slovak Republic or in the elections to the bodies of local self-government. The suspension shall continue for three months after the announcement of the election results, if the judge has not been elected, or for three months after the end of the performance of the office to which he or she was elected in the election.

2.2.8. If a member of your institution is elected, can they continue to perform their functions in your institution?

☐ Yes

☐ Yes, under certain conditions

☒ No

Please explain if necessary:

The above mentioned applies.

2.2.9. If a member of your institution is elected, can they, in the event of full-time elective office, rejoin your institution upon the expiration of their mandate?



☐ Yes

☐ Yes, under certain conditions

☒ No

Please explain if necessary:

In accordance with the provision of the Law on Judges and Associate Judges, the signing of a declaration in which a judge agrees to stand as a candidate on the list of a political party or political movement in the elections to the National Council is also considered to be a resignation from the office of a judge. According to the opinion of the Ministry of Justice of the Slovak Republic, if a judge wished to return to the office of judge, he or she would have to go through a proper selection procedure for the office of judge, whether at a district court, a regional court, the Supreme Court of the Slovak Republic, administrative court, or the Supreme Administrative Court of the Slovak Republic.

The performance of the function of a judge shall also be interrupted on the day when the judge registers as a candidate in the elections for the President of the Slovak Republic or in the elections to the bodies of local self-government. The suspension shall continue for three months after the announcement of the election results, if the judge has not been elected, or for three months after the end of the performance of the office to which he or she was elected in the election.

2.2.10. Can a member of your institution sign a petition?

☒ Yes

☐ Yes, under certain conditions

☐ No

Please explain if necessary:

2.2.11. Can a member of your institution participate in a demonstration?

☒ Yes

☐ Yes, under certain conditions

☐ No

Please explain if necessary:



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In civil life, both during and after the exercise of judicial functions, a judge must refrain from anything that might undermine the dignity and respectability of the judicial office or jeopardise confidence in the independent, impartial and fair administration of justice.

2.2.12. Can a member of your institution invoke a "conscience clause" to refuse to apply the law – for example, by refusing to sanction a doctor who, in violation of the provisions obliging him to do so, failed to inform his patients about the possibility of terminating their pregnancy?

No, he/she cannot invoke a "*conscience clause*" to refuse to apply the law.

2.3. Case studies

To add substance to our discussion, the organisers of the symposium would like to discuss specific questions that you have encountered and on which your College of Ethics, if you have one, would have pronounced.

The French Council of State proposes four questions to you, as an example:

- On impartiality: Can a consultant judge (*rapporteur public*) of the Council of State [responsible for presenting to the members of the judgement panel the case before them, the legal issues it raises, and proposing a solution] receive a gift from a third party, not a party to the litigation, for the direction of the findings he has made in a case concerning the euthanasia of an elephant? ([Opinion no. 2013/4 of 17 June 2013](#))

Our quick summary and translation of the case:

The ethics committee addressed the question of whether a judicial magistrate can provide legal assistance to a regional health agency. While generally permissible, such activity requires prior authorization from the head of the judiciary and should not interfere with the magistrate's primary duties. Additionally, engaging in auxiliary activities may necessitate abstention from certain legal proceedings to maintain impartiality. Considering the potential impact on judicial operations, the decision to allow such assistance rests with the president of the tribunal. This decision should consider the nature of the agency's work and may draw on legal provisions allowing judicial members to assist state administrations.

Our answer:

A consultant judge cannot receive a gift from a third party, not a party to the litigation, for the direction of the findings he has made in a case.

- On conflicts of interest: Which cases can a head of jurisdiction assign to a magistrate whose spouse is one of the most important members of the French Government? ([Opinion no. 2017/4 of 18 September 2017](#))

Our quick summary and translation of the case:

The Ethics Committee provided an opinion on the professional conduct of Magistrate Caroline Collomb, whose spouse is the Minister of the Interior. Caroline Collomb, a senior counselor at the Paris Administrative Tribunal since September

1, 2017, sought guidance to ensure her judicial role would not raise doubts about her independence or impartiality due to her familial situation.

The committee emphasized the need to avoid any appearance of bias given the sensitivity of the Interior Ministry's responsibilities. While Caroline Collomb is entitled to continue her judicial duties, she must adhere strictly to principles of discretion and reserve. The tribunal must ensure she does not handle cases related to the Interior Ministry, including immigration issues.

She is primarily assigned to tax law cases, which generally pose no conflict. However, in politically sensitive or high-profile cases, her participation should be assessed individually to determine if she should abstain.

Our answer:

Family ties may be grounds for disqualifying a judge from hearing a particular case (according to resolution of the Judicial council of the Slovak Republic No. 177/2018)

- On conflicts of interest: Under what conditions can a former administrative magistrate practise as a lawyer? ([Recommendation no. 2017-1 of 15 November 2017](#))

Our quick summary and translation of the case:

The Ethics Committee of the Council of State advises that former administrative magistrates should refrain from submitting petitions or appearing in court before the judiciary they previously served for a period of five years.

Beyond these temporary restrictions, former magistrates turned lawyers must adhere to ethical conduct to maintain the dignity and reputation of their former roles and the administrative judiciary. They should present themselves to potential clients without emphasizing their previous judicial experience, ensuring this information remains understated and discreet. Additionally, they must critically assess and possibly distance themselves from the practices of their new professional environment when presenting themselves or their services.

Our answer:

There are no special requirements or conditions. The Slovak Bar Association shall accept a professional judicial examination as an attorney's examination and it also

accepts the practice of a judge or judicial clerk as the practice of an associate attorney.

- On the obligation of discretion and freedom to produce intellectual works: Can a judicial magistrate seconded to the Council of State, during their secondment period, publish a historical essay on the *Ranucci* case, which had caused a stir and led to one of the last capital executions in France in 1976? ([Opinion no. 2016/4 of 17 January 2017](#))

Our quick summary and translation of the case:

A judicial magistrate, temporarily serving as a master of requests at the Council of State, sought an opinion from the administrative jurisdiction's ethics committee regarding a planned historical essay. The essay covers a judicial case from 1977, involving the last execution of a French citizen, detailing the crime, the perpetrator, the legal proceedings, and the execution.

The ethics committee found no major issues with the project, noting that the freedom to produce intellectual works must be balanced with the obligations of restraint and dignity appropriate to the magistrate's role. However, the committee suggested revisions to the manuscript to avoid revealing confidential deliberations and to maintain the required delicacy.

Our answer:

We can mention Judicial Council Resolution No 102/2018 according to which: "unlike "non-judges," a judge's freedom of speech is limited by that a judge must always ensure that his or her speeches (written or oral) do not compromise the dignity of the judicial office, do not call into question the confidence in of the judiciary and his personal impartiality and independence." In principle, a judge's public appearances should be limited to professional and scholarly speeches.

III. Recruitment of members

3.1. Who can be recruited in your institution?

3.1.1. How many members do you recruit on average each year in your institution?

In 2023, there were 3 judges who were recruited. In 2022 there was only 1 judge who was recruited. Other judges were recruited in 2021 when the Supreme Administrative Court of the Slovak Republic was established. This was an exceptional step beyond standard selection procedures. Under normal circumstances, a judge must go through a selection procedure. Once the court was established, new judges were already recruited under the standard rules.

3.1.2. Are all new members recruited at the same rank, or are the members of your institution divided into several ranks for which different recruitment methods exist? Please explain:

All judges have the same status.

3.1.3. Are age conditions set for the recruitment of these new members?

☒ Yes

☐ No

Please explain if necessary:

People who want to become a judge must be at least 30 years old.

3.1.4. Are diploma conditions set for the recruitment of these new members?

☒ Yes

☐ No

Please explain:

To be appointed as a judge, a person must have obtained a master's degree in law from a faculty of law.

3.1.5. Is it possible to become a member of your institution directly after completing university studies or, if applicable, after a training college?

☐ Yes



☒ No

Please explain:

To become a judge, a Slovak citizen must pass the professional judicial examination (or the bar examination, the prosecutor's examination, the notary's examination, and the commercial lawyer's examination). To apply for the professional judicial examination, a judicial clerk must have worked continuously as a clerk for 3 years and must have reached the age of 30 years of age.

3.1.6. Are conditions of prior professional experience required to become a member of your institution?

☒ Yes

☐ No

Please explain:

One of the conditions is, that the candidate had to work at least 10 years in legal profession.

3.1.7. Can members of the lower courts become members of your institution?

☒ Yes

☐ No

Please explain:

Yes, if the member of the lower court has worked at least 10 years in legal profession.

If yes, what is their proportion in the number of new members?

The proportion is 6 of 23.

3.1.8. How old is the youngest of your colleagues?

Youngest judge is 38 years old.

3.1.9. Are the members of your institution recruited without a time limit - that is, for a career that will end with retirement - or for a fixed-term contract?



Judges are recruited without time limit. Only time limit concerns retirement age, which is set at 67 years for judges.

3.2. How does the recruitment procedure work in your institution?

3.2.1. Does the executive branch intervene in the recruitment procedure for members of your institution?

☐ Yes

☒ No

Please explain:

If a candidate who has already been appointed as a judge applies for the position of a judge at the Supreme Administrative Court, the executive branch interferes in the recruitment process by the fact that one of the 5 members of the selection committee is a representative of the Ministry of Justice of the Slovak Republic. If a candidate who has not yet been appointed as a judge applies for the post, his or her entry into office must be preceded by the appointment of the President of the Slovak Republic, who is a part of executive branch in the Slovak Republic.

3.2.2. Does the recruitment procedure for members of your institution involve an individual interview?

☒ Yes

☐ No

3.2.3. If yes, is this interview an opportunity to assess the candidate's motivation as well as their legal knowledge?

☒ Yes

☐ No

3.2.4. Does the recruitment procedure vary depending on the rank the candidate is applying for - in the event that recruitments in your institution may be made at different ranks (cf. above 3.1)?

☐ Yes

☒ No

Please explain if necessary:



The selection procedure is also held for the President of the Senate and only judges of the Supreme Administrative Court of the Slovak Republic may participate. It consists of a personal interview.

3.3. What is the procedure for appointing members of your institution?

3.3.1. The appointment of members of your institution results from a decision:

☒ by the executive branch (for example, a presidential decree)

☐ by the judicial branch (by the president of your institution or a panel of independent judges)

☐ other

Please explain if necessary:

The President of the Slovak Republic shall appoint and recall judges based on a proposal of the Judiciary Council of the Slovak Republic (half of the Judicial Council consists of judges and half of nominees); they are appointed without time restrictions.

3.3.2. Can the appointment of members of your institution be challenged in court?

☐ Yes, through an action at the time of the appointment of said members

☐ Yes, as an exception regarding the regularity of the composition of the members of the judgement panel

☒ No

If yes, before which judge?

The candidate may appeal to the Constitutional Court of the Slovak Republic against the resolution of the Judicial Council according to which the candidate for judge does not meet the prerequisites for judicial competence by means of a constitutional complaint. This shall apply to a candidate for judge in any court.

The President of the Slovak Republic appoints and dismisses judges on the proposal of the Judicial Council of the Slovak Republic. If the President decides not to appoint a candidate even though the Judicial Council has found that he or she meets the conditions for a judge, the candidate may file constitutional complaint to the Constitutional Court.

3.3.3. If your institution is competent to hear this litigation, how does it ensure respect for the right to a fair trial?

The Supreme Administrative Court does not have the competence to decide on this matter, and it must be noted that the Constitutional Court respects this right to the maximum extent possible.