

GLOBALIZATION AND FAIR TRIAL

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Abstract

One function of the law is to solve conflicts between citizens and organisations, but it is important to observe that law is only one resort for treating social conflicts. All over the world we can observe sidestepping also the law and judicial organs during the resolution of conflicts and we can see an increase in recourse to non-formal mechanisms. The reasons for this are various, but we can highlight the effectiveness and flexibility of non-formal methods. The court is the most important organisation for handling disputes. One of the greatest questions of our Europe of today is that it can be at all, or how to make two different legal cultures so different. It is important to point out that the states of Europe, as a rule of law, are "bound", because the rule of law can only act by means of the rule of law against phenomena and behaviors that threaten it.

In short, the characteristics of Islamic lifestyle and law, as well as the conceptual background of the requirement of a fair trial, the encounter between Christian Europe and Islam in terms of human rights and the importance of intercultural dialogue must be addressed. Without knowing these, it is difficult to draw short or long term conclusions. Due to its curiosity and the spectacular strengthening of religious fundamentalism, it is worthwhile to deal with the app. Islamic religion with one and a half billion believers and its legal structure. The meaning of the Islamic word has been undermined. It is a medieval legal system, which is in the VII. it has been undergoing some modernization, but only in some countries. Islam is a religious system that settles all aspects of a believer's life, so it's a lifestyle, not just a religion.

We will endeavour to present the fundamental principles and rules of judicial ethics as a component of fair trial. A Judge Shall Be Independent. The fifth passage of the document entitled "European Principles and Rules of Judicial Ethics" points out that independence of the judge has both an institutional and an individual aspect. The modern democratic State should be founded on the separation of powers. Each individual judge should do everything to uphold judicial independence at both the institutional and the individual level.

Key Words: *globalization, fair trial, judicial ethics, violation of ethical rules.*

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1. Introduction

As we know, one function of the law is to solve conflicts between citizens and organisations, but it is important to observe that law is only one resort for treating social conflicts.

All over the world we can observe sidestepping also the law and judicial organs during the resolution of conflicts and we can see an increase in recourse to

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non-formal mechanisms. The reasons for this are various, but we can highlight the effectiveness and flexibility of non-formal methods.

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As writers of these rows, we consider it is worthwhile to deal with a topic only if it is really an issue that, on the one hand, is very current and deeply occupied on the one hand, and "on the air" on the other, that is, many are looking for answers to the questions that arise.

We are in a very favorable position that, we do not need to justify the topicality of my choice of topic, as migration is becoming more and more important nowadays as a special aspect of globalization.

A large proportion of the members of society believe that there is something we need to keep, and if it is to be kept, it is not surprising that people also have the right to be in danger of occurring.

The challenge that the presence of a European migrant and of Muslim communities that have lived here for several generations will have to answer, would require action from Europe. Since then, five years have passed and we can say that there is no longer a need for answers, but to remedy the situation immediately, and to say that there is a migrant invasion in Europe.

The II. After World War II., tens of thousands of guest workers came to Europe in the hope of a better future.

Since the end of the 1990's, immigration has been legal with the intention of family reunification, but at the same time illegal migration has begun. The citizens of the host countries have become more hostile towards immigrants, causing them to have negative emotions in each state. It is not so surprising, knowing that the inhabitants of European states have their own national consciousness, while Muslim persons are bound by their own identity to their own nation and as much as they try to integrate into the inclusive society until such a sharp difference between European and Islamic cultures. until then, this situation cannot change very much.

One of the greatest questions of our Europe of today is that it can be at all, or how to make two different legal cultures so different. It is important to point out that the states of Europe, as a rule of law, are "bound", because the rule of law can only act by means of the rule of law against phenomena and behaviors that threaten it.

In short, the characteristics of Islamic lifestyle and law, as well as the conceptual background of the requirement of a fair trial, the encounter between Christian Europe and Islam in terms of human rights and the importance of intercultural dialogue must be addressed. without knowing these, it is difficult to draw short or long term conclusions. Due to its curiosity and the spectacular strengthening of religious fundamentalism, it is worthwhile to deal with the app. Islamic religion with one and a half billion believers and its legal structure. The meaning of the Islamic word has been undermined. It is a medieval legal system, which is in the VII. it has been undergoing some modernization, but only

in some countries. Islam is a religious system that settles all aspects of a believer's life, so it's a lifestyle, not just a religion.

However, the diversity of Islam is a more complicated problem than sufism and suffocation. the smaller religious communities (eg alavites) on the borderline of Islam are heavily shaded. Anyone can go to Islam, but to leave it, just to leave society. It is impossible to move to another religion as it is.

In Islam, the state and religion are inseparable. According to the cinema concept, where the saria is not in force, there is no account of Allah's will. Accordingly, the world is divided into three parts: the first is the house of Islam (daryl sub-islam): Islamic states in which Muslims can live freely and peace, the second war house (dál al-harb): countries hostile to Islam in which Muslims live and his property is in danger, and finally, the house of agreement between the two (dár al-ahd): the Muslim states in which Islam is not considered an enemy and where Muslims can live in peace.

The notorious but misunderstood concept of jihad has a dual meaning in Islam. The "big jihad" means the spiritual, moral struggle of man against temptation, while the "little jihad" is the same as the self-defense of the Islamic community.

Today's Moslem political radicals are not primarily the leaders of the West, but rather the leaders of their own countries, who do not fully observe the Sari, either for themselves or for Western influence.

Islamic Law is a Divine right, supplemented by prophetic tradition, the sources of which include the Qur'an, the sacred book of Muslims, the revelations of Allah, through the Prophet Mohammed and Archangel Gabriel. VII. century. It is also considered a religious codex, many compare it to the Bible, but also a legal system. It contains the actions of the Sun, Prophet Mohammed. When it came to light that the Qur'an had no provision for so many things, so it was very hollow, they took away the actions of the Prophet Mohammed. Idzsmá and the Snake are additional sources of law. Idzsmá means community customary law, and Kíjász is practically nothing but an analogy, as the opinion of famous religious leaders and scholars is also considered a source of law.

The so called "fair trial" has been transformed from American law into other legal systems and has become part of international law. Its appearance at the universal level in the II. World War II.

It also contains several international sources, such as the International Covenant on Civil and Political Rights (UNCCD), the Universal Declaration of Human Rights (EJENY) and the European Convention on Human Rights (ECHR). The Hungarian Parliamentary Assembly on XXXI 1993 by law. Article 6 (1) of the ECHR treats the principle of fair trial as a principle both in civil and criminal proceedings.

"Everyone has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law and to rule on the rights and obligations of civil law and on the merits of any criminal charges against

him. However, a judgment must be made public, but entry into the courtroom may be prohibited for the press and the public for the whole or part of the trial, insofar as this is necessary in a democratic society for reasons of morality, public order, or national security, if this restriction is in the interests of minors. or necessary for the protection of the privacy of the parties to the proceedings, insofar as it is deemed necessary by the court, because it considers that there are special circumstances in the case which would jeopardize the public interest in the administration of justice.”

Nowadays, the right to a fair trial is almost a “superpower”, a guiding principle, but it is also a requirement that we can only bring about a general principle of law that guides the conduct of the opposing parties and the judges during the proceedings.

If we speak of a fair trial as a law, we mean a secondary law, that is, a right derived from another - typically primary - law. In this case, the right to life and dignity can be regarded as a prerogative, but a fair procedure, in contrast to the secondary nature of this right, is not merely ancillary to secondary, and therefore not only other regulations.

According to the Hungarian Constitutional Court, it is an absolute right, and no other fundamental right or other constitutional objective can be considered, given that the law itself is the result of consideration. Restriction is therefore not possible, for example, by protecting the rights of others or by referring to a national security interest.

We would like to mention that it is important to mention that in Europe, ethnic, religious, cultural differences are growing, and at the same time legal pluralism. As we wrote at the beginning of our article, they are held in many European countries by the rise of Islam, while immigrants are afraid of losing their own identity and keeping it. I also referred to the task of solving the multi-generation Muslim integration into a European country, since peaceful coexistence is a fundamental goal in every society.

As we wrote above, Saria precisely defines the possibilities and limitations of action for Muslims; When we look at the basics of Islamic human rights, we can see that. that the Muslim concept of law lacks the fullness of human rights. This does not mean that there is no degree of similarity between Islam and European human rights (eg provisions for the protection of women and children in both legal systems), but it is certain that if we align certain provisions of the Universal Declaration of Human Rights with similar content. There are huge differences with Muslim human rights.

In the following part we will endeavour to present the fundamental principles and rules of judicial ethics as a component of fair trial. (Kelly, M., 2005, Lerman&Schrag, Ph., 2005, Rincken, A., 1991)

A Judge Shall Be Independent. The fifth passage of the document entitled “European Principles and Rules of Judicial Ethics” points out that independence of

the judge has both an institutional and an individual aspect. The modern democratic State should be founded on the separation of powers. Each individual judge should do everything to uphold judicial independence at both the institutional and the individual level.

In accordance with Article 8 of the Italian Code of Judicial Ethics “The judge shall guarantee and protect the independent exercise of his own vocation and preserve the image of impartiality and independence. He shall avoid all connections with the political and business powers, which may have an effect on his office and influence the image formed of him. He shall not undertake a task or pursue an activity which would hinder correct and full performance of his tasks and which, by its nature, origin and method would interfere with his independence.”

Point 111/2 of the Croatian Code of Judicial Ethics provides that “Independence denotes that the judge is free, during the performance of his judicial activity, from any influence coming from any direction, be it either individual or state — corporate — influence, which would have an effect on his decision-making. This means that the judge must not be influenced in decision-making by his individual personal interests or the interests of everyday politics or by any other pragmatic cause. The decision must solely and exclusively be based on the law...”

Point 4 of Article 2 of the Canadian code lays down that “Judges should exhibit and promote high standards of judicial conduct so as to reinforce public confidence which is the cornerstone of judicial independence.”

Canon 1 of the American Bar Association’s Model Code of Judicial Conduct provides that “An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved... Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.” This is also confirmed by Canon I of the Code of Conduct for U.S. Judges.

The ethics statement of Austrian judges contains the following:

“Independence is an element we cannot renounce, namely, that judicial decisions shall be adjusted only to the law and within its framework, to free inner conviction. Conscious impartiality presupposes a high measure of sense of responsibility. Independence is not a privilege and it cannot be made a pretext for despotism during the exercise of judicial office and the making of decisions, neither can it serve as a ground for high social position. It protects solely the citizen seeking justice. Unlawful attempts directed at interference with specific proceedings — whoever should initiate them — must not only be averted by all means but also disclosed to the public for the very reason of prevention...”

Stating in advance that our Constitution, Act LXVII of 1997 and our procedural Acts all contain ethical norms (independence, impartiality, incompatibility, fairness etc.), in accordance with Points 11/ 1—3 of the Hungarian code “During the exercise of his judicial office, the judge shall be subordinated

solely to the Constitution and Acts of Parliament and he shall proceed to his best knowledge and in accordance with his conscience. The judge himself shall protect his independence, which independence does not simply mean independence of politics and political parties but also the requirement that the judge shall make his decisions freely from any other external or internal influence. The judge's activity of application of law shall not be influenced by public opinion or media criticism or the prejudices of the whole or part of the public." All this seems to reflect German professor Henkel's well-formulated idea, according to which "the judge must be independent in the upward direction (of political power); in the downward direction (of public opinion); sideways (of his fellow-judges); as well as inwards (of his emotions).

A Judge Shall Be Impartial. This is organically related to independence. Point 10 of the document entitled European Principles and Rules of Judicial Ethics emphasizes "Judges should, in all circumstances, act impartially, to ensure that there can be no legitimate reason for citizens to suspect any partiality. In this regard, impartiality should be apparent in the exercise of both the judge's judicial functions and his or her other activities."

According to Article 9 of the Italian Code of Judicial Ethics, "The judge shall respect the human dignity of all persons without sexual, cultural, racial or religious prejudice or discrimination. During the exercise of his judicial office he shall work impartially, he shall overcome the cultural prejudices that would influence the evaluation and understanding of the facts as well as the interpretation and application of legal rules. He shall ensure that the image of impartiality is always guaranteed during the performance of his tasks. For this reason he shall evaluate with full rigour the situations where he lacks jurisdiction."

Point I/II of the Croatian code defines impartiality as the essence of the judicial vocation and a condition for fair process. The Canadian code provides a detailed elaboration of the notion of impartiality. Thus it warns judges against membership in political parties, the pursuit of political activity, the signing of petitions and conflicts of interest both in the judicial dimension and in relation to the judge's family members, close friends or colleagues (Article 6).

In accordance with Point 8 of Canon 3 of the American ABA Code, "A judge shall dispose of all judicial matters promptly, efficiently and fairly". During this he "must demonstrate due regard for the rights of the parties to be heard.... A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs".

This is reiterated by Canon 3 of the Code of Conduct for US. Judges, which lays down that "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned..."

The ethics statement of Austrian judges uses the technical term "unbiased", which primarily means the conscientious evaluation of all pro and contra positions of the parties. The work also covers the ability to recognize our own prejudices and to always consider the effect of our own words and actions on others... Only an

objective, dignified meeting based on equal distance from the parties and their representatives may fit into the picture of an unbiased and professionally competent judge. All discriminative attitudes and expressions must absolutely be disallowed!”

Finally, the Hungarian code states: “The judge shall perform his duties originating in his vocation impartially — having due respect for the equal rights of the parties. He shall also pay increased attention to the appearance of impartiality. He shall refrain from giving expression to his passions and emotions in such a way which would impair the manifest fairness of process (Point 4).

Judicial Conduct of Proceedings Shall Be Characterised By Fairness, Integrity, Equality and Diligence. This rule is laid down in Point 3/IT of the Croatian code. The Canadian code does not lay down the requirement of integrity with regard to the judge only but also with regard to his judicial colleagues (Article 3). As the three elements of diligence, the code mentions the enhancement of knowledge, skills and personal qualities; the delivery of judgments with reasonable promptness; and refraining from engaging in conduct incompatible with the diligent discharge of judicial duties.

In accordance with the Italian code, “The judge shall perform the duties of his judicial office with great care and diligence. He shall maintain and enhance his professional knowledge, he shall undertake to enhance and deepen his knowledge in the sectors in which he pursues his judicial activity” (Article 3).

Canon 3 of the American ABA code has a similar wording to the Canadian code; at the same time, it lays down some further requirements. Thus, for example, ensuring a dignified atmosphere in court; courtesy and patience toward the participants of the action and the judge’s colleagues.

Canon 3 of the Code of Conduct for US. Judges reinforces this by stating that “A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings”.

Let me mention for the sake of interest that the American rules include norms of etiquette as well when providing that “A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment... Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias...” (Commentary to Canon 3 Point B/5)

The Austrian ethics statement lays down that “the judge’s own work but also that of his colleagues must be organized keeping the prohibition of speediness in view, taking the initiative and making extraordinary effort if necessary. Cooperation with the colleagues can prove meaningful in the long run only if it is characterised by respect for values, sincerity and serious interest in their purpose.”

The Hungarian code - in our opinion -, grasps the essence and manifold nature of the ethical rules in question rather aptly by stating: “During the resolution of cases — apart from the necessary determination — the judge shall be courteous toward the participants of the proceeding; he shall refrain from making personal remarks, using insulting labels or being supercilious. He shall avoid calling to

account of such content and tone that is capable of disturbing the relaxed atmosphere of the hearing. He shall also ensure that the participants of the proceeding show due respect for the court and each other. The judge shall perform his work in a well-prepared and diligent way, having the required self-confidence but without self-conceit. He shall refrain from soulless, mechanical work; he shall endeavour to resolve legal disputes appropriately and successfully within the shortest possible time. The judge shall continually enhance his knowledge required for his professional work.” (Points 5—7) (Visegrády A., 2016)

A Judge Shall Refrain from Pursuing Any Political Activity. The European document formulates this idea somewhat liberally: there is a “need to strike a balance between the judges’ freedom of opinion and expression and the requirement of neutrality. It is therefore necessary for judges, even though their membership of a political party or their participation in public debate on the major problems of society cannot be proscribed, to refrain at least from any political activity liable to compromise their independence or jeopardise the appearance of impartiality.” (Point 7)

Point 3/TI of the Croatian code underlines that “... the prohibition of judges’ membership in political parties is not a mere formality, it also means that they have to distance themselves from any movement of political nature even if it does not involve actual membership in a political party. In this light, participation at meetings suitable for formulating a political message may be interpreted as support for that message or as the rejection of a certain political message or idea... Consequently, all political activity including even passive participation at a political meeting must be avoided.”

According to the Austrian document, “Judges contemplating joining a political party or pursuing activity relating to party politics shall, under the Salzburg Resolutions, be aware of the fact that such activities may harm the credibility of independent justice, which is not subject to the influence of party politics or tied to interest unions. Judicial promotions shall exclusively be based on objective criteria laid down by the Act on Court Services.”

The Canadian code, as seen above, discusses the prohibition of political activity under the headword “impartiality”.

Canon 5 of the American ABA Code provides that “A judge or judicial candidate shall refrain from inappropriate political activity. He shall not act as a leader or hold an office in a political organization... He shall not attend political gatherings; or solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.” The sanction for non-compliance is that „A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.” (Subsection (2))

Canon 5 of the Code of Conduct for US. Judges reiterates these provisions word for word.

Finally, in accordance with the Hungarian regulation, “The judge shall not pursue any political activity. He shall not attend any political meetings of parties or like events. He shall refrain from making statements of political content in public.” (Point 15)

Judges ‘Activity in Public Life Must Also Be Ethical According to Point C/3 of the European “code”, judges must avoid “any activities liable to compromise the dignity of their office” and they must maintain “public confidence in the judicial system by minimising the risk of conflicts of interest. To this end, they should refrain from any supplementary professional activity that would restrict their independence and jeopardise their impartiality.” The European Charter on the Statute for Judges also recognizes judges’ right to set up and freely adhere to professional organizations as much as their right to express their opinion freely (§ 1.7). “It is however essential that judges continue to devote the most of their working time to their role as judges, including associated activities, and not be tempted to devote excessive attention to extra-judicial activities. There is obviously a heightened risk of excessive attention being devoted to such activities, if they are permitted for reward.”

Point 4/IV of the Croatian code prohibits judges from participating in the activity of civil organizations manifesting discrimination based on ethnicity, religion, race, sex or any other grounds. It considers that judges should avoid participation in profitoriented organizations and reconsider becoming a member or participating in sports organizations.

Point C (1) c of the Canadian code provides that “Judges should avoid involvement in causes or organizations that are likely to be engaged in litigation.” Judges should not solicit funds or give legal or investment advice (CU) b and C(1)d).

In accordance with Articles 7 and 8 of the Italian code, “Judges should not join an association if it requires them to take a loyalty oath or if the full transparency of its membership is not ensured. Judges should avoid all contact with the political and business powers, which may have an effect on their office and may influence the image formed of them.”

Canon 2 Point C of the American ABA Code also states that “A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin”.

The rules of the Code of Conduct for US. Judges provide further orientation when pinning down: “A judge may engage in extra-judicial activities to improve the law, the legal system, and the administration of justice. A judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties. A judge should regularly file reports of compensation received for law-related and extrajudicial activities.” (Canons 4—6)

Finally, the Hungarian code also provides regulation at multiple levels. First of all, it lays down that “A judge shall not participate in an undertaking or non-profit organization if from his participation inference could be drawn about his gaining advantage because of his judicial office. A judge shall not, when acting in his or his relatives’ official or other matters, make any reference to his judicial office” (Point 13). Further restrictions and prohibitions include: “A judge may pursue activity in a charitable or non-profit organization if that organ functions freely from politics. A judge shall not become a member of nor shall he maintain connections with any organization, permanent or temporary grouping the purpose or activity of which is in conflict with legal provisions, discriminative or compromises confidence in the judicial profession.

A Judge Shall Conduct Himself Ethically Also in His Private Life. Because of the cultural diversity of the Member States and the continuous further development of moral values, the European document establishes only one single standard: “Judges should behave with integrity in their private lives” (Point 3). Whenever judges have some uncertainty as to whether a given activity in the private sphere is compatible with their status of judge, the document encourages them to consult a consultative and advisory body that would be established under the aegis of the Supreme Court or judges’ associations.

The wording of the Canadian code is rather interesting when laying down that “Judges should as much as reasonably possible conduct their personal ... affairs so as to minimize the occasions on which it will be necessary to be disqualified from hearing cases”. (Point 6/A/2)

The American ABA Code and the Code of Conduct for US. Judges state the requirement that “A judge shall so conduct the judge’s extra-judicial activities as to minimize the risk of conflict with judicial obligations. A judge shall conduct all of the judge’s extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge’s capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties.” (Canon 4)

Finally, in accordance with the Hungarian regulation, “In his private life..., as well, the judge shall conduct himself prudently and with integrity, he shall avoid any acts that would jeopardize the dignity and prestige of the judicial vocation. Both in conduct and appearance, he shall refrain from extremities ... The judge shall endeavour to solve his problems in private life. He shall manage his friendships, private relationships and his free time activities in such a way so as not to jeopardize the dignity or impartiality of the judicial vocation or even the appearance of dignity or impartiality.” (Points 12 and 14)

Finally, we must touch upon the question relating to the violation of ethical rules. (Zlinszky J., 2002)

In the USA, under the ABA Code — there is a Judicial Ethics Committee consisting of nine members appointed by the chief judge of the Supreme Court. Its members include five judges, two non-judge lawyers, and two public members. The mandate of the members lasts for three years.

The Judicial Ethics Committee has authority to: (a) by concurrence of a majority of its members, express its opinion on proper judicial conduct with regard to the provisions of the code of judicial conduct and any other specified sections of law of the jurisdiction regarding the judiciary, such as

financial reporting requirements either on its own initiative, at the request of a judge or candidate for judicial office, or at the request of a court or an agency charged with the administration of judicial discipline, provided that an opinion may not be issued on a matter pending before a court or before such an agency except on request of the court or agency; make recommendations to the Supreme Court for amendments of the Code of Judicial Conduct.

(b) adopt rules relating to procedures to be used in expressing opinions, including rules to assure timely response to inquiries.

A judge or candidate for judicial office who has requested and relied upon an opinion may not be disciplined for conduct conforming to that opinion. The edited versions of opinions are regularly published.

A similar solution has become institutionalized as a result of the Hungarian code as well, Point 18 of which established the National Judicial Ethics Council (NJEC), which, on the one hand, provides opinions on whether some specific judicial conduct is unethical or not, and on the other hand, endeavours to prevent unethical judicial conduct.

Section 5 of the Rules of Procedure of the NJEC lays down that “a proceeding may be initiated by a judge or the NJEC.”

Chapter IV of the NJEC Rules of Organization and Operation states that “The President of the NJEC shall, within 15 days, forward the opinion to the judge(s) initiating the proceeding and to the President of the Hungarian Judges Association, who shall — while guaranteeing anonymity — take measures concerning its publication in the Judges’ Journal.”

The NJEC has already decided two cases, which were published in No 2006/2 of the Court Gazette. The following opinions were issued: “The judicial conduct manifested in an action pertaining to the law of property by the judge acting as his relative’s representing lawyer who applies for the exclusion of the judge proceeding in the legal dispute on the grounds that he would not be capable of making a well-founded and lawful decision for lack of experience and the required legal knowledge, about which announcement the adverse party and a wide circle of judges become informed, is unethical.” (National Judicial Ethics Council of the Hungarian Judges ‘Association 3/2006 NJEC)

“The judicial conduct manifested by the judge proceeding in a civil action who informs the parties in the courtroom before the opening of the trial about the fact that he has not been able to prepare the case properly because of his condition of health and who then accepts the assistance of the medical practitioner litigant and subsequently proceeds in the case and makes a decision is unethical.” (National Judicial Ethics Council of the Hungarian Judges ‘Association 4/2006 NJEC)

Finally, the European “code” is right when laying down as principle the rule that “it is incorrect to correlate breaches of proper professional standards with misconduct giving rise potentially to disciplinary sanctions.” “It would discourage the future development of such standards and misunderstand their purpose to equate them with misconduct justifying disciplinary proceedings. In order to justify disciplinary proceedings, misconduct must be serious and flagrant (B/4/c/ third point).

Naturally, this does not mean that breach of the rules in question cannot have relevance concerning disciplinary action. In Lithuania, for example, in the case of disciplinary actions “some weight” is attributed to rules of professional ethics. In Estonia the above rules provide help for the judge in disciplinary legal actions by illuminating legal provisions.” In Moldova these rules are also used during disciplinary proceedings. However, Ukrainian and Slovakian judicial practice does not link the two.

In Slovenia failure to comply with the rules of professional ethics leads to a sanction by the “Court of Honour” functioning within the Judges’ Association, while in the Czech Republic it may result in the judge’s exclusion from the Judges’ Union.

As we have shown above, fair trial not only has a connection with judicial ethics, but it is an integral part of the former.

Bibliography

1. Kelly, Michael: Legal Ethics and Legal Education. New York, The Hastings Center, 1980.
2. Lerman, Lisa G. – Philip G. Schrag: Ethical Problems in the Field of Law. New York, Aspen Publishers, 2005.
3. Rinken, Alfred: Einführung in das juristische Studium München, C.H. Beck, 1991.
4. Visegrády, Antal: Jog- és állambölcselet. Budapest – Philosophy and law and state, 2016.
5. Zlinszky, János: Keresztény erkölcs és jogász etika. [Christian Morals and Lawyers’ Ethics]. Budapest, Szent István Társulat, 2002.