

EUROPEAN CHARTER

ON THE PROFESSIONAL ETHICS OF THE NATIONAL INSPECTION AUTHORITIES, MEMBERS OF THE NETWORK OF THE EUROPEAN JUDICIAL INSPECTION SERVICES

(adopted at the General Meeting of RESIJ on 25.06.2021 r.)

RECITALS

WE, the members of the Network of European Judicial Inspection Services (RESIJ),

Guided by the idea of working together to achieve the common objectives of judicial inspections set out in the founding documents of the Network,

Recognizing our primary mission to help build an even better, independent and fair judiciary,

Emphasizing the need to adopt common guiding ethical principles and rules to promote the independence of judicial inspections and to help increase their effectiveness and public confidence,

Noting that the ethical performance of duties in carrying out inspection activities ensures its objectivity and impartiality,

Taking into account the diversity of legal regulations and national traditions regarding the place of judicial inspections and using this diversity to define our ethical principles and rules,

We adopt this European Charter of Professional Ethics for national inspection bodies, members of the Network of European Judicial Inspection Services.

CHAPTER ONE

BASIC PRINCIPLES

1. Independence

1 Independence is a right and obligation of the inspection body and means that while performing its duties, it is subject to the statute and the law.

Independence requires ignoring any attempts to influence the inspections being carried out, regardless of their origin: especially by administrative, political, trade union bodies or pressure groups.

It is inadmissible to exercise undue influence in carrying out inspections or any other influence on the part of the professional community.

In exercising their independence, inspectors must act professionally and responsibly. In doing so, they must respect the independence of judges and prosecutors in the exercise of their judicial functions in all phases of the judicial process. Under no circumstances may the inspector rule on the merits of the judgments.

2. Impartiality¹

Impartiality guarantees the absence of prejudice on the part of the inspection body and its members. It is manifested in the way of work and the conclusions made, as well as in the behavior of the inspectors towards the inspected body and the particular inspected person.

Impartiality requires the observance of two basic principles, ensuring equal treatment and avoiding conflicts of interest while carrying out the inspections.

Ensuring equal treatment means:

- to not allow preferences, bias or prejudice based on race, origin, ethnicity, sexual orientation, gender, religion, education, beliefs, political affiliation, personal and social status or property status;
- to apply the same standards to all inspected persons;
- to respect and ensure the right of the inspected persons to express opinions and make objections in the course of the inspection;
- to not make public statements or comments on pending inspections that may raise the impression of bias.

Avoiding conflicts of interest means ignoring situations in which there may be a suspicion of a direct or indirect personal or other significant interest for the inspecting inspector that could affect the objectivity and impartiality of the inspection, or cast doubt for such influence.

The specific hypotheses of conflict of interest are formulated in the national law of each of the Member States of the Network and this Charter only pays attention to their relevance.

In the event of a conflict of interest, the inspectors must be removed.

In the event of a suspicion of a conflict of interest, inspectors may request advice from the management of the service or from another deontological body if national law so provides. Confidentiality must be guaranteed during the consultation.

Impartiality is a key factor in building and upholding the authority and trust of the inspection service and should be a priority for its management.

¹ The principle of impartiality is formulated in the languages of the members of the Network, in accordance with the provisions of national law.

3. Integrity

Integrity meets the general requirement of honesty. It is a key element of the conduct required in carrying out inspection missions, in the office and in society. Integrity has many forms, all of which are related to the concepts of honesty and dignity of the individual. The inspectors must:

- to be honest and open in their behavior;
- not take advantage of their official position to benefit;
- not to solicit or allow the soliciting in favor of an inspected person;
- not to perform actions that are contrary to the understandings of decency established in society;
- not to perform actions related to their functions or beyond, which damage the prestige of the judicial inspection service.

In determining the characteristics of the required fair conduct, inspectors may request deontological consultations with the management of the service or other deontological authorities if national law so provides. The confidentiality of such consultations must be guaranteed.

4. Confidentiality and professional discretion

The members of the judicial inspection services must carry out their duties with the utmost discretion as to the facts and information which became known to them during or in connection with the performance of their duties.

They may not misuse (outside of the nature of the verification) the information which became known to them in the performance of their functions.

Members of the judicial inspection services may not disclose information about the personal life or protected personal data of the inspected persons or those that harm their protected interests or their reputation.

Inspectors must respect the confidentiality of their professional activities when required by law.

5. Fairness

Justice is an ethical attitude towards the objective establishment of facts and their interpretation. The implementation of the principle of fairness is related to the following requirements:

- during the conducted inspections, to collect, check and analyze all relevant facts of the subject of the inspection;
- when issuing the conclusions (acts) of the inspections, to pay special attention to issues that could unduly restrict or affect the freedom and/ or reputation, both of the inspected persons and possibly of third parties directly or indirectly affected by the inspection;

- the inspectors are guided by the requirement of fairness in cases where the law provides them the opportunity to decide certain issues upon their discretion.

6. Loyalty

Loyalty originates from the duty of integrity that inspectors must comply with. It is the result of the transparency and predictability of their actions and includes the obligation to report on their activities. It shall apply to the contracting authority, the members of the mission teams and the inspection service. Loyalty requires adherence to the guiding principles for conducting missions.

Actually, loyalty in the judicial inspection manifests itself in several ways:

- loyalty in carrying out inspections;
- loyalty, expressed in the bona fide performance of missions assigned by the contracting authority;
- loyalty to the contracting authority;
- in carrying out inspections by the inspection service in a team, loyalty is manifested through the exchange of information and compliance with the established methodology;
- loyalty in an interinstitutional aspect, when inspection services carry out joint activities with other bodies and services, which is manifested in transparency of the manner of action, bona fide and well-intentioned activities towards these bodies or services.

7. Modesty and courtesy

During inspections, inspectors must show respect, attention, tolerance and consideration with regard to all inspected bodies and their members.

Modesty and courtesy shall also be manifested towards all persons who are questioned or are a source of other information during inspections.

8. Competence and qualification

The requirement for competence and professional development is essential for achieving quality, speed and efficiency of the performed inspections.

High qualification and competence contributing to the implementation of the requirements of independence, impartiality and integrity of inspectors.

The establishment of mechanisms for verification of competence and creation of conditions for continuous professional development is the main concern of the inspection services.

Professional development is encouraged by the Network of European Judicial Inspection Services through appropriate initiatives and exchange of experience.

9. Transparency of inspections

Transparency is an important factor for public awareness and for multiplying the effect of the results of the work of inspection services. It contributes to prevention.

The inspection services shall provide the public with timely, comprehensible and objective information on the inspections carried out. The information provided to the public by the inspection services must be through mechanisms established in national law.

The information provided must comply with the requirements of confidentiality and professional discretion laid down in national law and in this Charter.

On the basis of the information provided, judicial inspections may identify lawful and unlawful conduct under national law.

The information provided may constitute the basis and reason for discussions on ethical topics, and for this purpose the specific cases must be duly anonymized.

CHAPTER TWO

MONITORING AND CONTROL MECHANISM

The principles set out in this Charter serve as guidelines for the basic ethical standards required of heads of judicial inspections and inspectors in the performance of their duties. They have advisory nature and aim to assist the heads of judicial inspections and inspectors with regard to the ethical and professional issues they face.

The Charter shall be published on the website of the Network of European Judicial Inspection Services, as well as on the website of each inspection service - member of the Network of European Judicial Inspection Services.

The authorities and the bodies entrusted under national law with the function of inspection services shall ensure that the rules and principles of this Charter are complied with and applied.

ADDITIONAL PROVISION

In the member states of the Network, where there is no legally provided inspection body, with independent legal personality, separately or within a supreme body of the judiciary (SJC, Minister of Justice), the principles and rules of this Charter apply only if they are compatible with the framework of national legislation. Whether there is such compliance or not, the highest judicial authority in the particular country shall rule on that.