



REPORT (CONSULTATION 18/2019), OF 23 OCTOBER 2019

PRINCIPLE OF INTEGRITY. ON WHETHER THERE IS AN ETHICAL DUTY TO COMMUNICATE PSYCHOLOGICAL PROBLEMS THAT AFFECT THE JUDGE TO THE GENERAL COUNCIL OF THE JUDICIARY HEALTH AND SAFETY DEPARTMENT.

I. CONSULTATION

[...]

II. OBJECTIVE OF THE CONSULTATION

1. The opinion of the Committee is sought on whether, from the perspective of judicial ethics, a judge who requires psychological treatment for personal problems should inform the General Council of the Judiciary.

2. Although the question raised, from the ethics perspective, is not directly related to any of the Principles of Judicial Ethics, it could indirectly affect those that refer to the effective performance of judicial duties.

26. Judges must undertake their jurisdictional activity with dedication and study the matters entrusted to them in detail and in their own singularity.

29. Judges must be aware that the dignity of the jurisdictional function demands appropriate behaviour.

32. Judges must at all times demonstrate respectful behaviour to all those connected with the proceedings, showing due consideration to their psychological, social and cultural circumstances. Furthermore, they must show a tolerant and respectful attitude towards criticism directed at their decisions.

33. Judges must ensure that the proceedings are carried out in a timely manner and are resolved within a reasonable time period, and ensure that procedural acts are carried out with maximum punctuality.

III. ANALYSIS OF THE QUESTION

3. The analysis we are going to carry out on the question adjusts to an ethical assessment, without knowing the legal background, to which it does not correspond to us to make a pronouncement.



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4. As any other person, those who perform the judicial function may suffer from sporadic or chronic psychological problems. The cause of these problems may be exogenous and/or endogenous. On some occasion they may have been caused or aggravated by the work itself (overload, lack of means, personal problems between or with judicial office staff or other professionals, etc.) And, logically, these problems may require psychological treatment in order to cope with or solve them.

5. If this situation and psychological treatment do not impede the normal performance of the judicial function within the identified principles, there is no ethical duty to inform any of the General Council of the Judiciary services thereof.

6. However, these problems may have a negative effect on the normal performance of judicial functions and the required provision of the service to citizens who turn to the courts. For example, they could alter the stability of mood necessary to face hearings and trials, the resolution of proceedings and interlocutory matters in a reasonable time, etc. In these cases, it would be prudent not to wait for the negative consequences that the passing of time could end up creating (for example, a long delay in the resolution) and turn to the health and safety at work services, in case a solution can be found that deals both with the situation of the judge suffering from the situation, and the correct provision of the service.

7. Being a legal matter, that which occurs when psychological problems become serious and affect the capacity for performing the judicial function is outside our consideration.

IV. CONCLUSION

In view of the foregoing, we issue the following opinion:

i) While psychological treatment does not impede the normal performance of the judicial function within the identified principles, there is no ethical duty to inform any of the General Council of the Judiciary services thereof.

ii) However, when it does affect good performance of the judicial function (leading oral hearings, resolution of cases in good time,...), it would be prudent to inform the health and safety at work services of the General Council of the Judiciary thereof, in order to try and find a solution that addresses the situation of the judge, at the same time as avoiding or alleviating such negative effects in order to provide a good service to the public.