



RFEPOR (CONSULTATION 2/22) OF 7 FEBRUARY 2022

I. QUERY

I have been asked to write a personal letter of recommendation for a student who wishes to pursue a master's degree in an academic institution. The truth is that I would like to do so because this girl is very studious and hardworking. While this does not constitute a conflict of interest, I am unsure whether or not I should do so, depending on any potential effect on my duties. I look forward to your response. Thank you very much'.

II. PURPOSE OF THE CONSULTATION

1. The query concerns compliance with the principles of judicial ethics when writing a personal letter of recommendation for a student who intends to pursue a master's degree in an academic institution (which is located outside the scope of the querier's jurisdiction). The reason for this query derives from the fact that the judge's status as such is referred to in the letter of recommendation.

2. This query touches on several principles included in the Principles of Judicial Ethics:

Principle 22: *Integrity requires that judges adhere to conduct that reaffirms public confidence in the administration of justice, not only in the exercise of justice but also in all circumstances in which they are recognisable as judges or which call on their status as such.*

Principle 30: *Judges shall not use or lend the prestige of the judicial office to advance their personal interests, nor those of a family member or those of any other person.*

III. ANALYSIS OF THE ISSUE

3. Judges' use of their status as such in relation to matters or activities outside the exercise of their judicial functions carries an obvious risk in relation to Principle 30, cited



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above. This risk directly relates to integrity, one of the most important ethical values in the judicial sphere. A break with the value of integrity, as represented by a judge's relationship with society, inevitably generates a risk to public confidence in the administration of justice.

A judge is not only recognisable as a member of the judiciary when they perform their judicial functions. There is a social perspective that derives from their recognition in private life as a member of the judiciary. Consequently, the Bangalore Principles advise that *'a judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer'*. This perspective is found at the root of Principle 30 in the text of the Principles of Judicial Ethics, indicating the duty not to use the improper influence of their position for the enjoyment of privileges that are not inherent to the services that they provide nor to further their own interests, or those of a family member or friend. Similar principles are found in the London Declaration and the Bangalore Principles. It fundamentally concerns avoiding setting a bad example in asserting their status as a judge to obtain privileges that do not correspond to them, whether for themselves or a third party.

4. The query refers to the writing of a personal letter of recommendation to enable a student undergoing legal training to apply for the selection process for a master's degree in an academic institution. The public information provided by some of these institutions in relation to the access requirements for students applying for these types of studies often states that a certain percentage of the evaluation (generally not exceeding 10%) is based on letters of recommendation issued by people from academic or professional fields. In this respect, there is justification for writing such a letter of recommendation insofar as it is a requirement for the candidate's access to the selection process for the master's degree, and there is an obvious relationship between the querier and a profession in the legal field.

5. The query does not clarify whether the judge has acted as a tutor or trainer of the person requesting the letter of recommendation as part of a training activity related to their judicial functions, either at the university itself or through work placement. If this is the case, there is no doubt that the issuance of such a letter of recommendation, referring



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to their status as judge, would not contravene any ethical principle, since it would impart an opinion that has been formed as a result of a specific activity which is related, although indirectly, to their membership of the judiciary. In any event, whether there is compliance with the principles of ethics will depend on the content of the letter of recommendation and its reflection of the student's true aptitudes and qualifications; it would be inappropriate from an ethical standpoint to make inaccurate or overly generous assessments of such aptitudes.

6. If there is no academic or formative relationship with the student requesting the letter of recommendation, there may be more doubts about compliance with ethical principles in the issuance of such letter of recommendation, when the writer refers to their status as judge, especially in cases where the underlying reason for writing it is kinship or friendship with the candidate or their family circle. Nevertheless, such doubts can be dispelled when considering the nature and purpose of the activity in which the querier would identify themselves as a judge. There is no intent to gain any privilege for themselves nor for the student requesting the letter of recommendation, and this is true to the extent that such a letter of recommendation constitutes an access requirement for the selection process for the master's degree. Furthermore, the purpose of this action is none other than to help further the legal training of a person who, as indicated in the query, has provided objective proof of their capacity, effort and interest in such training. The judge's contribution to facilitating this training is an action which - far from damaging public confidence in the judiciary - is likely to strengthen it. Consequently, we do not consider that the issue giving rise to this query contravenes the principles of judicial ethics.

IV. CONCLUSION

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

(i) Judges' use of their status as such in relation to matters or activities outside the exercise of their judicial duties entails a risk in relation to their ethical duty not to lend the prestige of the judicial office to further their own personal interests or those of a third party - a risk that is directly related to the ethical value of integrity.



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(ii) The action referred to in the query, however, does not seek to gain an advantage for the student, since the letter of recommendation is an access requirement for the selection process for the master's degree; its intent is to help further the legal training of a person who has shown interest in it, which does not harm public confidence in the judicial function.

(iii) Consequently, the writing of a letter of recommendation, referring to the writer's status as a judge, for a student who intends to take a master's degree at an academic institution does not contravene the principles of judicial ethics, provided that it does not make any inaccurate or overly generous assessments of the student's aptitudes.