



Nineteenth opinion, of 12 September 2022, of the Ibero-American Commission on Judicial Ethics on the link between ethics and careers in the judicial service. Reporting judge: Commissioner Elena Martínez Rosso

I. Introduction

1. At its meeting on 19 November 2021, the Ibero-American Commission on Judicial Ethics agreed to draw up an opinion on the relationship between ethics and judicial careers. From the outset, it was decided to follow an eminently practical approach in the drafting of this opinion, far removed from the philosophical disquisitions to which any ethics-related topic is prone to giving rise.
2. Thus, the purpose of this paper is to attempt to establish some guidelines for systems governing admission into the judicial service and the promotion of judges, to ensure that ethical behaviour is given the prominence that, in the view of the entire Ibero-American community, it demands.
3. This opinion is structured as follows: the first section focuses on the preparation and results of a survey (supplemented by data included in a short appendix to this opinion); the second covers the specific experience of one country, in this case the Republic of Uruguay; the third addresses the ethical dimension of admission into the judicial service; and finally, the fourth section discusses the same issue with respect to judges' promotion. The opinion comes to an end with some conclusions and recommendations aimed at ensuring that judges' ethical behaviour results in career advancement.

II. Survey on the impact of judges' outward attitudes and ethical commitment on their professional promotion

4. The decision to draw up this opinion gave rise to the idea of conducting a survey which would be administered to the commissioners involved in the Commission, as well as all the member countries of the Ibero-American Judicial Summit and the Ibero-American Judicial Integrity Network, with the aim of gaining insight into the prevailing reality in the Ibero-American community with respect to the impact of ethics on judicial careers.
5. The questionnaire included the following questions:

1. Does a judge's outward attitude and ethical commitment have any real and effective importance in your country when making decisions about their promotion within the judicial service?
 - (a) Is only technical knowledge taken into account?
 - (b) Are individual performance indicators considered?
 - (c) Even if it is a requirement, does ethical behaviour have no real effect on judges' careers?
 2. Who determines or rates judges' ethical behaviour for the purposes of their professional promotion?
 - (a) The president of the court where the judge works?
 - (b) The bar association of the district where the judge works?
 - (c) The Judicial Inspection Services?
 - (d) All the above decide, but through tradition and except in very exceptional cases, they have no relevance because they all 'approve'?
 - (e) No one determines these matters.
 3. Can you identify the standards that constitute the system governing judges' professional promotion in your country?
 - (a) Constitutional, legal and regulatory rules (please attach as much documentation as possible).
 - (b) Customary criteria (what are they or where are they compiled?)
 4. In your opinion, which elements would constitute an ideal system for judges' professional promotion?
 - (a) Seniority
 - (b) Technical competence
 - (c) Diligence (meeting of objectives)
 - (d) Personal record (no disciplinary offences)
 - (e) Ethical commitment
6. The countries that answered these questions were: Argentina (Provinces of Formosa, Río Negro and San Luis), Brazil, Chile, Colombia, Cuba, El Salvador, Nicaragua, Paraguay, Portugal and the Dominican Republic.
7. With respect to the first question, the answers varied widely. In general, however, it was noted that judges' ethics are taken into consideration and this is relevant to their promotion. In some countries, such as the Dominican Republic and Cuba, there is a specific regulation establishing that an appraisal of judges' ethical behaviour must be taken into account by those who decide on their promotion. These countries also have a Code of Ethical Conduct and, in the case of the Dominican Republic, an Ethical Conduct Committee. There is also evaluation of judges' observance of ethical principles.
- In Cuba, non-compliance with the principles of the Code of Ethics may be subject to

disciplinary measures and may determine that a judge is not promoted. The same holds in Brazil, with the special feature that in this case it is the judge who chooses not to apply for promotion.

In many countries, aspects related to ethical behaviour are brought to light by an inspectorate, linked to disciplinary processes.

With some exceptions, as in Paraguay and Colombia, all countries state that judges' ethical behaviour is indeed taken into account when deciding on their promotion.

8. Nevertheless, the information gathered does not enable any firm conclusions to be drawn about the specific impact of the ethical factor on systems for promotion and advancement, nor about which ethical aspects are considered.

Neither is it clear, in some cases, whether, when stating that ethical factors are taken into consideration in deciding on judges' promotions, the response refers to strictly disciplinary rather than alternative forms of considering judges' ethics.

9. With respect to the second question, the responses were highly disparate. Some referred to judges' supervisory bodies, while others mentioned an ethical conduct committee, the president of the court where the judge serves, the governing councils of the courts of justice, the judicial councils, or the inspection services reporting to the higher councils of the judiciary, among others.

10. The third question, concerning the regulatory framework governing the system for judges' professional promotion, was answered in detail by some countries, as can be seen from the summary of the responses provided by each country, which are included in the appendix at the end of this opinion.

11. Finally, the responses all agree that ethical behaviour, alongside other requirements, must be a component in an ideal system for promoting judges.

III. Comparative experience and the case of the Republic of Uruguay

12. The degree of impact that judges' ethical behaviour should have on their promotion within the judicial service is far from a settled matter. The Ibero-American Commission on Judicial Ethics, therefore, considers it of great interest to explore the recent comparative experience in the Republic of Uruguay.



13. In point of fact, the Supreme Court of Uruguay recently debated this issue in depth and at length, and has not thus far reached an agreement between its members.
14. In 2020, it was unanimously agreed to hold a competitive examination for trial court judges who hoped to be appointed as supreme court justices, a position which marks the culmination of a judicial career, since the Supreme Court of Justice is a body of political composition.
15. The results of the first competitive examination were published at the beginning of 2021. Shortly thereafter, during the following month, a vacancy arose in a Court of Appeal and, after extensive debate on the relevance of the outcome of that first competitive examination for future promotions to supreme court justices, the Court decided, by a majority of four (out of a total of five members), to appoint the judge who had placed first in the part of the competition relevant to the vacancy.
16. Nevertheless, the dissenting opinion of Judge Martínez Rosso asserted that a knowledge contest is not sufficient to resolve decisions about the promotion of judges. The accompanying argument further contributes to the discussion of the topic addressed in this opinion.
17. For a better understanding of the subject of debate within the Court, it is important to clarify that, up until that time, all appointments to positions as supreme court justices had been made, without exception, according to the lists of judges drawn up biannually by the Supreme Court of Justice Advisory Committee on matters related to promotion. This Committee comprises a representative of the Supreme Court, a representative of the Courts of Appeal, a representative of the Uruguayan Association of Judges, a representative of the Faculty of Law at the University of the Republic and a representative of the Uruguayan Bar Association. Its task is to draw up a biennial list of the 20 judges who are in the best position for promotion, taking into account both the judges' technical capacities and their ethical behaviour.
18. Judge Martínez Rosso's reasoning considered, firstly, that in order to evaluate a judge's technical capacities, it was important to consider not only an analysis of their decisions and other actions and decisions taken as part of judicial processes during prolonged periods but

also “a continuous evaluation of various actions and decisions taken in different processes, over time, by the same judge. Fundamental tasks such as the selection of the relevant facts, the selection of admissible facts, the delimitation of the object of the proceedings and the evidence, the judgment of fact to which they arrive subsequent to the assessment of the evidence and the selection of the applicable regulatory premises in a particular case, for example, cannot be evaluated in the type of test that was performed on this occasion [...] the values to which I refer cannot be appreciated in a competition, nor in judges’ decisions”.

19. Secondly, she maintained that the Bar Association fulfils an irreplaceable task in this comprehensive assessment of a judge’s performance and that within the Advisory Committee it can more properly express its opinion on diligence, timeliness, observance of procedural deadlines, respectful treatment of parties, management of the process, overzealous authority, among other aspects. Ultimately, “the role of the Uruguayan Bar Association within the Advisory Committee has resulted in the exclusion of judges who could have been added to the list if the only consideration was their technical capacities”.
20. In short, the Ibero-American Commission notes that, in light of previous national experience and, in particular, that of Uruguay, it is necessary to design a series of considerations relating to judges’ admission into the judicial service and their professional advancement.

IV. Admission to the judicial service and ethical commitment

21. Irrespective of the process that Ibero-American countries adopt for the selection of candidates for the judiciary, it seems essential to include a psychological study in order to determine, among other aspects, whether there are weaknesses in their ethical training that might predict future conduct that is incompatible with judges’ ethics.
22. After this initial screening, the principles and values included in the Ibero-American Code of Judicial Ethics rank highly among the various courses of study required in the education of an aspiring judge. These include, of course, specific and comprehensive training on judicial ethics.
23. Judicial colleges would seem to be the most appropriate environments for the most

comprehensive training of judges, both in academic and ethical terms. Such training, in our opinion, should not be limited to knowledge of the conceptual content of the main principles of judicial ethics. Rather, it should ensure that, to the extent possible, after absorbing this theoretical knowledge, applicants are positioned in the role of judge and faced with situations that put such values or principles at risk of compromise, as occurs in real life, where independence, impartiality and other values and principles become involved.

24. The technique of role play is perfect for this much-needed exercise, because we learn better when we put our learning into practice. In other words, it is essential for judges not only to acquire the necessary learning that enables them to “know” but also to learn how to “do”, something that teaching experience demonstrates is very different from simple knowledge.
25. There is no doubt that both the knowledge and application of the main principles must be included in this formative stage, not only from a theoretical standpoint but also on the basis of real-life examples that judges have to address. It is through the technique of role play, which involves candidates placing themselves in the position of judge in order that they can uncover the true strengths and weaknesses of their character, that the “ethics of attitude” can be practised and perfected.
26. Not only are judges required and expected to be independent, impartial and honourable, as well as morally and intellectually honest, but they must also be tolerant, respectful, polite, humble, courteous, sure, firm and punctual.
27. While such characteristics may be typical of or natural to a judge’s personality, aspects of character that deviate from this profile can also be incorporated, corrected and improved, especially through practices that bring attitudinal aspects - both positive and negative - to the fore, with the aim of strengthening the former and correcting the latter.
28. Many of the characteristics of a judge’s personality are put to the test - much so more than at any other time - in processes involving hearings, where the judge takes on a complex and far more prominent role than in written proceedings. In oral proceedings, the judge is both lead actor and director.
29. Such a role exposes all the judge’s strengths and weaknesses to all the participants in the

hearing, in a very different way from predominantly written processes. Those with experience as judges in both systems understand these profound differences better than anyone.

30. The attitudes of an authoritarian judge, a haughty judge, an intolerant, disrespectful or discourteous judge, are much more apparent here than when viewed through the actions and decisions recorded in the documents of a case file.
31. Such behaviours or attitudes are also embedded in judges' ethics, and the time to focus on this aspect is during initial training, especially in judicial colleges.
32. Yet negative attitudes often persist after the beginning of a judicial career, since some are deeply rooted in judges' characters.
33. Many opinions issued by this Commission have considered how to address the negative attitudes manifest in the behaviour of some judges.
34. Thus, various opinions issued by this Commission have addressed topics such as judicial backlogs, the phenomenon of revolving doors, the due treatment of parties, judges' behaviour on social networks and the relationships between judges and senior national politicians, even while the judges are trying cases that affect these very politicians.
35. All these opinions refer to the conduct or attitudes of judges, some with extensive careers, who compromise their appearance of independence, impartiality and integrity, or their adherence to principles such as prudence, moderation, diligence and timeliness in decision-making.
36. The above opinions relate to the ethics of attitude, which, ever-present through the course of a judge's career, must be taken into account in judges' initial training. It is then that a judge's character is more malleable, more flexible and more receptive to being moulded.

V. The ethical dimension in judges' professional advancement

37. When promoting judges to a higher level, judicial ethics should be the primary consideration. This is the most remarkable assessment from the results of the questionnaire, to which a large number of countries in the Ibero-American community gave their response.

38. Nevertheless, there was still a common vein seen in the factors that are usually mentioned as having a decisive impact on judges' promotion, i.e., their technical capabilities, their academic knowledge, their performance and their seniority.
39. Along the same lines, it has been proposed that judges' promotion should be decided by competitive examinations or a combined competition and merit-based mechanism. This method, by itself, seems utterly insufficient to evaluate all the aspects that would justify a judge's promotion.
40. A good judge is not merely someone with sound legal knowledge or a good academic background. They may have all this, yet still not make a good judge.
41. The most important consideration with respect to judges is their ethical values and principles, and the degree to which their actions adhere to the principles of independence (both external and internal), impartiality and integrity, to name only those that most clearly distinguish the role of judge, alongside the attitudes demanded by judicial ethics in a broader sense.
42. An assessment of a judge based solely on their legal knowledge or technique seems altogether inadequate, incomplete and insufficient.
43. A judge must know the law, of course, and it is their ethical duty to continue their legal training throughout their career in the judicial service. What is being proposed here, however, is that technical capabilities, performance or efficiency do not make a good judge. Thus, a competitive examination should be just one of several elements under consideration when deciding on a judge's promotion.
44. Firstly, because the test usually involves a task that takes place over a few hours of a single day, when human experience shows that many factors can lead to a lack of concentration or a sub-par performance.
45. Secondly, because it does not consider, in any form, the ethics underpinning the judge's actions.
46. Nor does it seem desirable that the measurement of a judge's performance be the determining factor in their promotion.
47. The last joint meeting of the Spanish Commission on Judicial Ethics and the Ibero-

American Commission on Judicial Ethics, held on 7 April 2022 at the Spanish Judicial College in Barcelona, saw a particularly fecund exchange between the members of both commissions, in which Antonio del Moral, now President of the Spanish Commission on Judicial Ethics, shared his insightful views on this issue.

48. This prominent jurist pointed out that a judge's diligence is measured not only by quantity - the number of hours worked or matters addressed - but also quality. Judges may often work when they are supposedly resting; matters continue to revolve around in our minds for a considerable length of time, especially when dealing with a difficult case. We may issue many rulings, but they may be based on inferior reasoning, which is why it is vital to maintain a high degree of balance between the factors of quantity and quality.
49. The Opinion (Consultation 01/22) of 16 June 2022 of the Spanish Commission on Judicial Ethics, underlined the same idea, stating: "Social expectations are not fulfilled by a judge who resolves few issues (and leaves many more overdue), even if they demonstrate their thorough and scholarly study of each issue in a brilliant show of scientific research, if it is unnecessary in order to decide fairly and in accordance with the law. Neither are these expectations met by a judge who arrives at extraordinarily speedy decisions, but in a superficial, bureaucratic and almost robotic way, without real justification, nor the specific understanding that each matter demands, and who acts in an almost intuitive way, akin to the justice of the qadi".
50. Alongside these reflections, we can add that while a judge may issue fewer rulings, compared to the work of other judges, this may be due to the judge's superior skills of mediation (with greater or lesser scope depending on the nature of the cases in hand). At the same time, it may also be due to the fact that the judge presses for settlements, crossing the line to undue prejudice, with the aim of avoiding the most arduous work, which is to pass judgment.
51. Consequently, a judge's performance should be subject to the degree of analytical depth which only highly trained and experienced members of the judiciary can properly measure.
52. Nevertheless, it should never be the sole nor even the fundamental aspect considered when deciding on a judge's promotion, since, once again, it fails to take into account the judge's



ethical behaviour in full.

53. The ways in which information about judges' ethical conduct may reach the bodies that decide about their promotion may vary, but what is essential is to ensure that there is as much information as possible, so that knowledge about this fundamental aspect of evaluation is as complete and objective as possible.
54. Of course, the bodies that wield disciplinary power over judges have an important contribution to make, as do the bodies (where they exist) that, independently of the former, are responsible for evaluating judges' ethical behaviour¹.
55. It is essential that the bodies that decide on judges' promotion gather and take into account information from both disciplinary bodies and the bodies responsible for judging ethical conduct independently of disciplinary offences.
56. Yet this is not the only way in which to form a complete idea of judges' ethical behaviour. It seems both sensible and reasonable that in order to arrive at a comprehensive view of a judge's ethics, we take into account the opinion of the procedural superiors who have knowledge of subordinate judges' cases through the corresponding challenges.
57. These hierarchical superiors have usually had the opportunity to evaluate the judge's conduct over a considerable time. They will have analysed various rulings issued by these judges and had access to the corresponding case files, taking note of any potential delays in trials, the causes for such delay, the degree of respect for the principle of procedural consolidation, the way in which incidental issues have been resolved and the way in which disputes have been handled - all of which can provide valuable insight into a judge's ethical conduct.
58. Nevertheless, those who are surely most familiar with judges' ethical behaviour are lawyers. With the necessary direct and frequent contact, they are able to assess a judge's adherence to ethical and attitudinal principles and values, and furthermore, their opinion may, of course, also carry weight in assessing a judge's technical capacities and

¹ Steidel Figueroa, Sigfrido, "Disciplina judicial y ética de los jueces: algunas controversias y propuestas", *Criterio Jurídico* V. 8, no. 2 2008-2, Santiago de Cali (Colombia), pp. 135-136. This is expressed in the same respect in his paper *Ética para juristas: Ética judicial y responsabilidad disciplinaria*, Ediciones Situm, San Juan, Puerto Rico, 2019, pp. 45-52.



performance.

59. It is therefore considered advisable, taking into account the specific characteristics of each country, to consult the professional associations or bar associations with respect to the technical and ethical evaluation of judges' actions.
60. The views of those who are not members of the judiciary but who appraise judges' capabilities and ethical conduct from outside - from the standpoint of the society in which they act - shift us away from the belief or presumption that decisions on promotion or advancement are conditional on purely corporate criteria.
61. Taking into account the adaptations required by the specific characteristics of each country of the Ibero-American Judicial Summit, the participation of lawyers democratises the system for promotion and represents an open window on the community in whose service the judges act.

VI. Conclusions

62. Judges' ethical behaviour, in a broad sense which encompasses the attitudes adopted in the exercise of their duties, should be a determining factor when deciding on their promotion.
63. In old Spanish law, the expression "*omes buenos, sabedores de derecho*" ("good men, with knowledge of the law") was used to refer to judges. The order in which this is expressed allows the words to speak for themselves in respect of what is considered first and foremost in this definition.
64. A judge - the person to whom society entrusts the responsibility to judge their fellow human beings - must, above all else, be a person of irreproachable ethical conduct in order to serve their community.
65. A judge's adherence to ethics ensures, in turn, that they will perform their duties guided by the necessary knowledge, since exercising a profession or trade without this knowledge goes against ethics.
66. Judges' legitimation in society depends on their ethical conduct as much as, or even more than, the grounds for their decisions. It should, however, be noted that the duty to state grounds is not only a legal duty whose breach prevents the exercise of due defence in trial;



it is also an ethical duty.

67. In all events, efforts will be made to strengthen training in ethics to ensure that in respect of both admission into the judiciary and judges' professional advancement, there must be provision of courses in judicial ethics which are a prerequisite for access to or promotion within the judicial service.
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Appendix

Argentina

Formosa

1. Judges' outward attitudes and ethical commitment are important in decision-making about their career advancement, but they are assessed within the framework of the candidate's "background" and during a personal interview with the Judicial Council.
2. There is no specific assessment carried out by any particular body. The assessment is carried out by the Judicial Council, an institution which, in the Province of Formosa, selects and proposes judges to the Legislative Branch. This is a general assessment which verifies the candidate's background, followed by a personal interview which includes questions related to judicial ethics.
3. All the elements listed in question four of the form should be included in an ideal system for judges' professional advancement.

Rio Negro

1. We will limit our answer to stating that in assessing judges' outward attitudes and ethical commitment, only individual performance indicators are taken into account.
2. With respect to the regulations in force in the province governing the evaluation of judges' ethical behaviour and its impact on those who decide on their training, we refer to Law No. 2434 of the Province of Rio Negro.
3. In terms of the elements that should comprise an ideal system for judges' professional advancement, we suggest that technical competence, diligence and ethical commitment should be included, but that it should exclude seniority and personal records (without disciplinary offences).

San Luis

1. Judges' outward attitudes and ethical commitment are evaluated in the shortlisting of candidates in the competitive examinations held by the Judicial Council in the Province of San Luis, among whose functions are the following: 1. To propose to the Executive Branch the appointment and transfer of judges and officers of the Public Prosecutor's Office. 2. To organise and conclude the competitive examinations through comprehensive assessment of the candidate's personality, according to the position to be offered.
2. There is a law governing the evaluation of judges' ethical behaviour, which must be taken



into account by those who decide on their promotion.

3. All the elements proposed in question four should be taken into account in an ideal system for judges' professional advancement.

Brazil

1. Failure to comply with ethical standards may prevent a judge from applying for promotion.
2. Potential breaches of ethics are investigated by judges' supervisory bodies. As a general rule, the evaluation of the outcome of any disciplinary investigation during the process of a judge's promotion is the responsibility of the full court to which the judge applying for promotion is assigned.
3. Ethical commitment, alongside seniority, technical competence, productivity and personal record (without disciplinary offences), should constitute the ideal criteria for promoting judges.

Chile

1. The system for appointments to the judiciary in Chile is regulated by the Organic Code for Courts and Supreme Court Act No. 105 of 28 April 2021. This act aims to fill the gaps in the legislature by regulating procedures for the selection of its members with a view to encouraging the selection of the best applicants, restricting room for discretion, specifying the principles of objectivity, equality, non-discrimination and inclusion, and favouring the merit and seniority of judicial servants.

In Article 1 of the Act, when referring to the guiding principles, ethics is included as one of the legislative bases to be applied in awarding positions.

The regulation governing appointments includes no direct assessment of judges' outward attitudes or ethical commitment.

The way in which it is possible to include ethics in evaluations for appointments in Chile is related to its consideration in the curriculum of the training courses for those wishing to enter the judiciary (judicial ethics workshop), but this ultimately translates into a final overall score on the application.

For those who have already entered the judiciary, it could be argued that ethics are considered when making appointments, via the annual appraisal which, in addition to any entries made in the candidate's employment history and qualifications records, encompasses responsibility, capacity, knowledge, initiative, efficiency, desire for self-improvement, human relations and public service orientation.

The employment history of each member of the judiciary includes any disciplinary measures meted out, assessments of merits and faults, and participation in training and improvement activities.



2. In terms of whether there is any regulation that stipulates that the evaluation of judges' ethical behaviour should be taken into account by those who decide on their promotion, aspects linked to ethics are evaluated in the appraisals, but in a very generalised way.
3. In an ideal system for judges' professional advancement, all of the listed elements should be included.

Colombia

1. In answer to the question of whether judges' outward attitudes and ethical commitment are considered important when deciding on their professional advancement, only technical knowledge is taken into account.
2. No one determines issues related to judges' ethical behaviour for the purposes of their professional promotion.
3. With respect to the elements that should comprise an ideal system for promoting judges, the answer is that four of the elements described should be included - technical competence, diligence, personal record and ethical commitment - but not seniority.

Cuba

1. Article 56 of Law 140/2021 on the Courts of Justice, approved in the Republic of Cuba, establishes that it is the duty of members of the judicial service, according to their competence, to comply with the principles of the Code of Judicial Ethics, an instrument that sets out the fundamental values and principles that should characterise judges' attitudes and behaviour.
Promotion takes into account the judges' degree of achievement in the exercise of their powers, the results of performance appraisals, professional development, teaching and research.
2. If judges violate the Code of Judicial Ethics, they may be subject to disciplinary measures which range from reprimands to dismissal. And this is observed.
It is established that if, as a result of their actions, the inspection system notes any irregularities in a judge's ethical behaviour, it must inform the President of the Court in which the judge serves so that they can take the appropriate measures, and this would logically influence decisions on promotion.
If a judge's ethical behaviour does not correspond to the principles of the Code of Ethics, they are not promoted.
3. For promotion, the judge should demonstrate humanity, integrity, transparency, responsibility, ethical commitment and dedication to service.
Judges' ethical behaviour is the object of periodic analysis in the agendas of the Governing Councils of the Courts of Justice.



4. All the aspects listed on the form should form part of an ideal system for judges' professional advancement, but the following requirements should be added: results from the judges' performance appraisals, professional development, teaching and research.

El Salvador

1. The country has made commitments in many international instruments which stipulate that members of the judicial service must adhere to ethics when dealing with users, carrying out judicial processes and making decisions, among other aspects, as well as the values that must permeate all of their actions.

In the Guidelines for the Selection of Judges, Chapter 2, on the process for promotions, advancement and transfers, establishes assessment criteria for applicants including incontrovertible morality and technical aspects.

2. The ethical behaviour of members of the judicial service is a point of inquiry in the interview, which is understood as a technical administrative activity as part of the selection process.
3. It should be noted that the requirements for incontrovertible morality are assessed by the National Council of the Judiciary and can be accredited in various ways. Incontrovertible morality encompasses the applicant's personal behaviour, any history of disciplinary or punitive processes during their career, or any other circumstance that may attest to their moral conduct.
4. In addition to the aspects proposed in the questionnaire, and following the teachings of Professor Rodolfo Luis Vigo, another aptitude that should be evaluated in members of the judicial service is their administrative capacities and their prudence. The first is defined as their ability to manage human, material and temporary resources efficiently and effectively, while the second is defined as their knowledge of the tools with which to apply the law to a specific case. Both criteria should be evaluated when considering seniority.

Nicaragua

1. With respect to the Judiciary of Nicaragua, the National Council for Judicial Service and Administration is the body entrusted by constitutional mandate to make decisions related to the professional advancement of members of the judicial service. It takes into consideration aspects including ethical behaviour, for which purpose, it requests a detailed report from the Directorate General for Judicial Inspection on any complaints and disciplinary proceedings corresponding to each member.
2. The Directorate General for Judicial Inspection is competent to investigate complaints related to disciplinary offences and to make any recommendations it considers relevant to the Disciplinary Commission. It is also responsible for carrying out inspections in the courts and offices of the judicial bodies in order to verify the satisfactory performance of



functions.

3. The judiciary considers that the ethical behaviour of a judicial official is relevant in their promotion.
4. All aspects listed on the form are essential to the construction of an ideal system for promoting judges.

Paraguay

1. For appointment to the position of supreme court justice, among other requirements for access to this office, the Constitution refers to an incontrovertible reputation for honourability. This is not strictly required in practice, nor are performance indicators.
2. An ethics tribunal should evaluate judges' behaviour, but there is no evidence that this happens in practice.
3. Ethical commitment is an element that should clearly be included in an ideal system for promotion, but there are no indications that this is currently the case in this country.

Portugal

1. Judges' conduct and sense of ethics over the course of their career are effectively taken into consideration in the Portuguese judicial system when considering their promotion to the higher courts.

The respective competitive examinations for the Courts of Appeal and the Supreme Court of Justice take into account: independence, impartiality and dignity of behaviour; equanimity and reserve in the exercise of their functions; and capacity for professional relations.

Ethical behaviour has an impact on judges' careers.

2. The body that determines or evaluates judges' ethical behaviour for the purposes of their promotion within the justice service is the Judicial Inspection Service, which reports to the Higher Council of the Judiciary. This is carried out through periodic performance appraisals of Portuguese judges.

Appellate court judges, unless they so desire, or the Higher Council of the Judiciary determines, are not subject to evaluation.

3. There are rules governing the system for judges' professional advancement, such as the Constitution of the Portuguese Republic, the Judges' Statute and the competitive examinations for the Courts of Appeal or the Supreme Court of Justice.
4. The following elements should be included in an ideal system for judges' professional advancement: seniority, technical competence, quality and productivity of performance, professional and personal conduct, standing and contribution to the improvement and promotion of the justice system, human capacities and ethical commitment.



Dominican Republic

1. Regulation of judges' ethical behaviour exists in the sense that it must be taken into account by those who make decisions regarding promotion.
Ethical aspects are of great importance, given that the country's judges aspire to serve the public from the standpoint of offering them timely, inclusive, accessible and reliable justice, guaranteeing the dignity and rights of people, with the recognised integrity and institutional commitment of its servants.
 2. There is a law in the country which provides for the evaluation of judges' ethical behaviour, which must be taken into account by those who decide on their promotion. Resolution No. 31/2011 of 10 February 2011, issued by the plenary session of the Supreme Court of Justice of the Dominican Republic, approves the Implementing Regulation for the Performance Appraisal System for Members of the Judiciary. Article 12 states that: "non-judicial competences are defined in the Institutional Integrity System's Code of Ethical Conduct and refer to the observance of ethical principles by judges under evaluation, through which there is a weighting of 10 points for all evaluated judges, divided equally for each of the principles evaluated".
 3. The body that determines these matters is the Committee on Ethical Conduct, pursuant to Resolution 03/2011 of 6 May 2011, approving the Regulation on the Committee on Ethical Conduct in the Judiciary, issued by the Council of the Judiciary. Article 2 states: "The Committee is a body specialised in ethics whose purpose is to study, promote and disseminate its principles, as well as to interpret the rules of the Code, with the aim of harmonising the criteria at national level and applying these rules in accordance with its powers.
 4. The principles and values that dictate individuals' ethical commitment determine their record (personal record) and constitute their ethical commitment.
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