

## Hellenic Court of Audit – Judges’ Charter of Ethics

Decision No. ΦΓ8/55595

Charter of Ethics of the Judges of the Hellenic Court of Audit.

Government Gazette, Issue B’ No. 4942/9.11.2020

### THE PLENARY OF THE COURT OF AUDIT

Held a session at its premises on 2 November with the participation of (...)

Having regard to:

1. Articles 26, 88 and 89 of the Constitution which enshrine the institutional and functional independence of the judges, an inherent element of which are the ethical principles which govern them along with the obligations provided for by the legislature.
2. Article 22 (1) of Decision No. ΦΓ8/65456/24.9.2014 approving the Rules of Procedure of the Court of Auditors (Government Gazette, Issue B’ No. 3139), which illustrate the perception of the Court’s Plenary as to the contents of the “Charter of Ethics of the Court”, in which “guidelines addressing specific issues arising in the performance of the judges’ duties” are adopted.
3. Article 348 (1) and (2) of Law No. 4700/2020 (Government Gazette, Issue A’ No. 127), in conjunction with the provisions of Article 82 (A9), (B7) of the Code on the Organisation of Courts and Status of Judges (Law No. 1756/1988, Government Gazette, Issue A’ No. 35) and the fact that, following the adoption, by Law No. 4700/2020, of a new Code of Procedures of the Court of Audit, priority is given to guaranteeing parties’ rights to judicial protection and, in particular, the right to a reasonable duration of proceedings, it is imperative that ethical principles pertaining to judges be articulated in the light of the above fundamental approach.

4. The affirmation reiterated in the preamble, articles and clarifications of this Charter that neither rules of law are laid down via its text, nor does it introduce obligations or recognise rights, but rather lists assertions on the values and principles which govern the conduct of judges, proclaims those values and principles in society and formulates directions to the judiciary with a view to resolving their dilemmas regarding the respect for those values and principles.
5. The fact that even though they are not explicitly pronounced, the rules on the ethics of judges, as set out below, are inherent to their function and are thus useful to appear in text, in line with the universal best practice of judicial institutions similar to that of the Hellenic Court of Audit.
6. The Bangalore Principles of Judicial Conduct, drawn up by a UN Working Group, as revised in 2002 in The Hague and adopted by the European Network of Councils for the Judiciary (ENCJ).
7. The contribution of the Court's President Ioannis Sarmas.
8. The minutes of the Working Group established by the Court's President in order to elaborate a Charter of Ethics and chaired by the Court's Vice-President (...).
9. The opinion of the Athens Bar Association (...)  
the opinion of the Administrative Board of the Hellenic Court of Audit's Judges Association (...)  
the opinion of the Administrative Board of the Hellenic Court of Audit's Judicial Employees Union (...)  
the opinion of the Secretary of the Court's Plenary (...)

10. The written opinion of the Advocate General of the Hellenic Court of Audit, (...), according to which the Charter of Ethics is adopted by the judges of the Advocate General's Office.

11. The need for a Code of Ethics pertaining to the judges of the Hellenic Court of Audit.

Approves the Charter of Ethics of the Judges of the Hellenic Court of Audit, which reads as follows:

#### PREAMBLE

The answer to the ethical dilemmas the judges falls into the realm of their own individual responsibility. For that, they seek to strike a balance between the requirements of the judicial office and their legitimate prerogative to develop their personality and to protect their privacy. This Charter of Ethics assists in achieving this balance as it guides the judges when faced with serious ethical issues, helps citizens recognize the nature and role of the judicial function and highlights the latter's importance to the bodies of the other powers.

#### First Part

#### SCOPE OF IMPLEMENTATION OF THE CHARTER

#### Article 1

#### Subjective scope of implementation

The Charter applies to all judges of the Hellenic Court of Audit.

## Article 2

### Objective scope of implementation

1. The Charter is applicable to all judicial functions of the judges of the Hellenic Court of Audit, internal or external, as well as to every other activity permitted by the Constitution [Article 89 (2) and (3)] and the relevant laws.
2. The provisions of the Charter also apply to the judges' personal conduct to the extent strictly necessary to ensure that the judge respects the principles and values of the Second Part hereof.

## Article 3

### Relationship between the Charter and the legislation in force

1. The arrangements of the Charter specify the provisions of Article 22 of the Rules of Procedure of the Hellenic Court of Audit. As stipulated in the Preamble, these apply in addition to the constitutional, supra-legislative and legislative provisions which define the competences and obligations of judges and do not impinge upon the effect of the restrictions introduced by the said provisions.
2. The specification of responsibilities by the provisions of this Charter does not predispose the interpretation and application of the relevant legislative provisions. On the contrary, the provisions of the Charter are interpreted in accordance with the legislative regulations in force.

## Second Part

### VALUES AND PRINCIPLES

#### Article 4

#### Integrity

1. The judge performs their duties with honesty and ethos in the interest of justice and the public interest in general. Citizens' faith in the integrity of justice is consolidated by the conduct of the judge, who ensures that their behaviour in the exercise of their duties is deemed above and beyond reproach in the view of the average reasonable citizen.
2. The judge does not seek intervention in order to obtain appointments, promotions, the delegation of administrative duties or the selection to a post beyond the Court. In addition, the judge, in this capacity, does not act with a view to advancing their private interests or of third parties. Nor does the judge invoke in one's private life their professional status or their judicial capacity to improperly obtain preferential treatment to oneself or to a member of their family.
3. In the course of or in connection with the performance of their duties, the judge does not accept gifts, benefits or advantages neither for oneself nor for members of their family lest these be deemed an attempt to influence or to find favour with one. Token gifts may be accepted only when offered to the judge when representing the Court in public events. Gifts of symbolic nature or awards are accepted only in so far as they cannot be construed as an attempt to influence the judge in the exercise of their duties or likely to give rise to a suspicion of bias.

## Article 5

### Independence

1. The judge exercises their judicial function in accordance with the law and the dictates of their conscience. The judge assesses the facts of each individual case, free of any extraneous influences and must be seen to be immune to all exogenous sources of influence, intervention, pressure and dependence.
2. In addition to complying with the restrictions laid down by law, the judge pays particular attention to refrain from participating in legal entities, associations as well as activities, events and any situation which may call their independence into question.
3. The judge rejects all improper attempts directed at influencing one and safeguards judicial independence both on a personal and collective level reporting, if necessary, the incidents to the competent authorities.
4. The judge preserves their independence with respect to litigants, lawyers, the legal community, the bodies of the legislative and the executive branch as well as society at large.

## Article 6

### Impartiality

1. Impartiality is demonstrated and guaranteed both in the decision-making process and the procedures leading to them. The judge safeguards impartiality through their conduct, both in and out of duty.

2. The judge seeks to avoid any activity which may lead to a conflict of interest or can be reasonably perceived as such.
3. In public hearings, the judge refrains from making any comment which could be interpreted as approval, disapproval, or annoyance for what takes place or is said before them and seeks to maintain calm with respect to unprocedural, abusive, offensive or insulting behaviour directed at them as well as anyone who is involved in the administration of justice whilst ensuring that order and decorum are maintained in the courtroom where they preside. The judge does not address questions to the litigants or their legal representatives and witnesses alike in a manner which exhibits an already established opinion on the case heard.

#### Article 7

#### Propriety

1. The judge, through their proper and decent public and private behaviour, contributes to building citizens' trust in the judiciary's integrity. In this context, the judge voluntarily accepts more personal restrictions than the ordinary citizen and conducts oneself in a manner consistent with the dignity of the judicial office they hold.
2. The judge, like any citizen, has the right to freedom of speech, religious beliefs, assembly and association, but exercises these rights in such a way so as to safeguard the propriety of their judicial office.
3. The judge dissuades persons of their social circle from inappropriately influencing their professional conduct and judgement.
4. The judge does not use their judicial office to advance the private interests of oneself or a member of one's family or of a third party for that matter, nor does a judge convey the impression or permit others to convey the impression that one may be influenced in the exercise of their judicial duties.

5. The judge respects the dignity of one's colleagues at all times and does not challenge their integrity save in the case of launching a formal complaint.
6. The judge describes in an appropriate manner one's judicial status in business cards and letters.
7. The judge ensures that relations with one's colleagues, judicial employees, lawyers, litigants, society in general and the media are characterised by courtesy and candour.
8. The judge fully respects the personality and professional dignity of the judicial employees.

#### Article 8

#### Reserve

1. The judge, like any citizen, has the right to a political opinion. However, the judge, by exercising reserve, ensures that citizens maintain confidence in justice, without worrying about the political convictions of its officials. For that matter, one refrains from any public statements or hostile manifestations against the legitimate government of the State and the legally operating political parties. The judge also refrains from any demonstrations of political nature when the latter are incompatible with the self-restraint imposed on one by their office.
2. The judge refrains from commenting on one's own decisions even when these come under criticism by the media or academics or are subjected to appeal. The only way of defending their legal judgment lies in the reasoning of one's decisions. If the judge becomes the focus of personal attacks or criticism, one defends their position with restraint and moderation.



3. Without prejudice to scientific or academic freedom, the judge abstains from commenting in public on decisions of the Court, either negatively or positively, when these are subject to appeal, upon which they may be called to adjudicate.
4. The obligation of reserve neither precludes the judge from publicly interpreting the law, nor does it prevent one from assuming a pedagogical role in explaining the law.
5. The fact that the judge is bound by professional secrecy does not preclude collaboration with colleagues to the extent necessary.
6. The judge does not disclose, either anonymously or anecdotally, confidential information of which they become aware in the course of their duties. Nor does one make use of information obtained in the performance of their duties for purposes alien to their judicial functions.
7. The judge does not support or advance any association, group or organisation whose principles are incompatible with the judge's public status.
8. Membership of any association or any kind of participation therein which requires a promise of allegiance from its members or which does not ensure thorough transparency of such membership is incompatible with the judicial office.
9. The judge exercises reserve and discretion in the use of social media networks, especially those with free, unencoded access, since these — as they do not address a closed circle of persons — entail risks of time unlimited data archiving and the possibility of name-based search, eventually resulting in the disclosure of relationships or considerations that could cast doubts on the citizens as to the judge's impartiality.

## Article 9

### Competence

1. The judge contributes to the diligent and prompt delivery of justice by the Court. One shares their knowledge with colleagues and assists one's collaborators, albeit ensuring that this does not come at the expense of one's duties. The judge also fosters the spirit of teamwork and collaboration.
2. In order to contribute to the diligent and prompt delivery of justice by the Court and to consolidate society's faith in justice, the judge performs their duties in a scientifically competent manner, meticulously and consistently taking all the necessary steps towards their constant scientific development, continuous expansion of their knowledge, beyond the technical field of law, as well as the acquisition of novel professional skills, essential to meet the challenges contemporary justice is faced with.
3. The judge keeps oneself constantly informed of the latest developments in the legislation and jurisprudence both with respect to national and E.U. law including case law pertaining to human rights.
4. The judge seeks lifelong learning, in a way that is beneficial to the discharge of their judicial function, taking due care to adapt to the evolution of technology, to the extent necessary for the performance of their duties.
5. The judge approaches and manages their tasks methodically, effectively and efficiently. One makes optimal use of their working time and the available resources made available by the Court. The judge also demonstrates self-discipline when working under pressure.

6. In applying their expertise and skills, the judge concludes the cases assigned unto one, taking due care on the one hand to apply the law properly and to ensure the quality of their decisions while on the other to respect the reasonable time of the proceedings, having regard to the workload, the level of complexity of the cases assigned, the adequacy of the resources at one's disposal as well as any task entrusted, other than the judicial ones.
  
7. In the course of their professional activity, the judge devotes oneself to the performance of their judicial duties. The judge may also engage in writing, giving lectures, teaching and participating in activities pertinent to the law, the legal system, the administration of justice or other related matters provided, however, that this does not affect one's full engagement in their judicial work. Under this condition, the judge may also appear at a public hearing before a state institution on the aforementioned issues, participate, as an active citizen, in activities which do not diminish the dignity of the judicial office or otherwise interfere with the performance of their judicial duties.

## Article 10

### Fairness

1. Equal treatment of all parties before the courts requires the judge to accord everyone that which one is entitled to under the law, both in the court proceedings and in the delivery of justice.
  
2. The judge is aware of and understands the variety and diversity within society and opposes any discrimination indicatively with regard to sex, race, colour, language, religion, political or other conviction, national or social origin, disability, both physical and mental, state of health, age, marital status and sexual orientation. On the contrary, the judge remains up to date on the constantly changing attitudes and values of society on these issues. The judge is

aware of both international and national rules of justice which prohibit discrimination against vulnerable groups in society.

3. The judge exercises their duties with due respect towards all persons involved in judicial and other court proceedings taking place before one, such as litigants, lawyers, state representatives, witnesses, court staff, other judges, public management officials, as well as representatives of the other branches of power and treats them with equal respect and without undue discrimination. The judge is also aware and takes into consideration that treatment of such persons must not only be fair, but also be perceived by them as such.
4. The judge recognizes the institutional role of lawyers as officials of justice and respects their professional dignity.
5. The judge performs their judicial function in a manner that ensures the right of all parties to equal access to justice and fair treatment by the Court. The judge also ensures that the appropriate conditions to a fair trial are guaranteed indiscriminately for all parties and that these are granted the same procedural rights, unless the law provides for a derogation.
6. The judge ensures that the Court staff and any other person subject to their direction treat all those involved in the Court's proceedings with respect and dignity, without undue discrimination.
7. The judge neither tolerates nor remains inactive when persons who partake of the proceedings, such as litigants, lawyers, court staff, engage in inappropriate or abusive behaviour against a particular person or group of persons, which could suggest prejudice or bias. On the contrary, the judge goes to great lengths in order to detect, highlight, correct and prevent such behaviour.

## Third Section

### COMPLIANCE WITH THE MAP

#### Article 11

##### Nature of compliance

Compliance with the rules of the Charter is at the discretion of each individual judge of the Hellenic Court of Audit.

#### Article 12

##### Ethics committee

1. In the event of doubt as to the interpretation and application of ethics arrangements, the judge may address a query to a Three-member advisory Committee consisting of judges from the Plenary.
2. In this Committee sits the President of the Court, unless he or she is prevented from attending, in which case he or she is substituted for by the most senior Vice-President, and two members of the Plenary with their legal alternates, designated by the Plenary and the Association of Judges of the Hellenic Court of Audit, respectively.
3. The term of office for the members of the Committee is three years.

#### Article 13

##### Procedure for declaring and utilising gifts

If the judge accepts gifts in their judicial capacity or from persons who have or may, in the future, have cases before the Court, then these gifts are submitted to the President of the Court, who expedites the assessment of their value. The Committee referred to in the previous article decides on their utilisation.

#### Fourth Section

#### FINAL ARRANGEMENTS

#### Article 14

#### Posting on the website

The Charter is posted on the Court's website.

#### Article 15

#### Entry into force of the Charter

This Charter shall enter into force on the date of its publication in the Government Gazette.

## ANNEX

### Clarification to Article 1

The Charter applies, where appropriate to the content of its arrangements, to the judges of the Advocate General's Office of the Hellenic Court of Audit.

### Clarifications to Article 2

The Charter also applies to the judicial functions of the judges of the Hellenic Court of Audit, both within and beyond the Court (such as their membership in the Special Tribunal provided for by Articles 88 and 99 of the Constitution, and also in the Supreme Special Tribunal). It also applies to the other activities permitted by the Constitution [Article 89 (2) and (3)] and the law (participation in the Academy of Athens, Higher Education teaching staff, committees or boards of disciplinary, auditory or jurisdictional nature, law-making committees – including the competent legislative initiative office of the Ministry of Justice – participation in the training of judges, in arbitration, and the country's representation in international organisations).

Judges, like all citizens, are not prevented from exercising their rights and freedoms and can freely develop their personality without being isolated from society. They may engage in any form of social activity which is not prohibited by the existing legislative framework, provided that such activity is in line with the ethical principles of the Charter and does not impinge on the prestige of justice.

### Clarification to Article 3

When carrying out audit tasks (supervision, administration or assessment of the quality of audits), the judges of the Hellenic Court of Audit adhere also to the rules of ethics laid down in Chapter 3 of the Audit Manual of the Court (see minutes of the

13th General Session of the Plenum of the Hellenic Court of Audit of 27.6.2016) and the INTOSAI Code of Ethics (ISSAI 130), in so far as these rules do not run contrary to the principles of this Charter and the relevant provisions of the Greek legal order.

#### Clarification to Article 4

The judge does not accept gifts or other advantages offered by litigants, their representatives or third parties either with a view to exerting continuous or ad hoc influence on their in-service conduct or judgement in proceedings, or as an expression of gratitude for a specific decision taken by the Court.

#### Clarification to article 5

Independence means:

(a) Independence from the executive and the legislature: The judge is and must be seen to be independent of improper connections and influence from the executive and the legislative branch, as well as of any other form of political power.

(b) Independence from other members of the judiciary: The judge remains independent of all their colleagues regardless of rank and jurisdiction and is solely responsible for their own decisions which they take in the performance of the judicial duties.

(c) Independence of judgement: The judge delivers justice in accordance with the law and their conscience, setting aside personal aspirations, preferences, opinions and private interests. The judge performs their duties with an open mind and tries to be alert to the potential influence which their established convictions (political, social, philosophical, religious) may have on the understanding of the facts pertaining to a case and the interpretation of the laws governing it, so that they do not affect their free thinking and independent judgment. The judge is aware of the cases in which the expression of political, social, philosophical, religious and other



beliefs, both within and beyond the Court, may undermine the image of their independence and behaves in a way that does not impinge on that image.

(d) Independence vis-à-vis litigants and lawyers: The judge is vigilant with respect to forming relations with lawyers or anyone who is involved in the proceedings and third parties, especially when they have cases pending or when they regularly present cases before the Court, so as to avoid conditions that could raise suspicion of favouritism or bias and could undermine trust in their independence.

(e) Independence from public opinion, the media and various pressure groups: The judge remains immune to the probable effects of publicity, whether favourable or unfavourable, albeit being aware of the consequences which their decisions may have both on a personal level for the litigants and on matters of general interest.

#### Clarifications to article 6

Except for complying with the provisions of the law in force, which lay down rules and obligations to ensure impartiality, the judge recuses oneself from a case in which a member of their family represents a disputing party or is in any way related to the case. The judge also refrains from providing legal advice in cases where they may be called upon to hear. The judge refrains from expressing, publicly or privately, opinions, comments or criticisms in connection with persons, facts or situations, either directly or indirectly, related to cases pending or likely to be brought before the Court.

The judge refrains from formulating, to the printed and electronic means of communication and social media, comments or replies to public comments pertaining to decisions, acts, minutes and cases of the Court, especially where these are pending. The same applies to any legislative, regulatory provisions and government acts related to the Court's organisation and operation, as this task lies with the leadership of the Court or the relevant judicial association, representing the Court and its judges, respectively.

The judge abstains from participating in public events, demonstrations or protests, as well as engaging in or associating with natural or legal persons, associations, unions, organisations, as well as events or situations, where the involvement or relationship may, directly or indirectly, affect or appear to affect or call into question the prestige and impartiality of the judge and of the Court itself.

The judge exercises great caution when receiving invitations to participate in social events or conferences by a legal or other relevant professional association or public body or individuals lest they endow private promotional activities with their prestige.

The judge avoids close social relations and contacts with lawyers and citizens, who regularly operate at the Court in their capacity of legal or procedural representatives in connection with any case pending before it.

When contacting the litigants, their representatives or proxies the judge exhibits patience and courtesy.

#### Clarification to Article 7

It has to be reminded that this Charter does not exemplify particular disciplinary offences, like indecent behaviour or misconduct. Similar Charters of Ethics from other States may indeed specify disciplinary offences or contain provisions of hard law corresponding to the national ones related to “Asset Declarations” and “Declarations of Interest” or grounds for the judges’ recusal. The introduction of such provisions is not the object of the present Charter.

#### Clarification to article 8

The reserve exercised by the judge maintains the necessary balance in the relationship between their rights as a citizen and the limits imposed on by their office.

The judge is free to express one's views, but within the limits imposed by the public office they hold. In particular, in their public manifest, a judge exhibits moderation lest they undermine the impartiality of the judiciary, which is essential for society's trust in the institution of justice.

The judge makes proper use of the media, with the sole aim of improving citizens' understanding of the mission of justice and promoting the institution itself, without undermining either the Court or one's colleagues, even anonymously, without seeking to advance one's personal interests, and ultimately without appearing, in the name of freedom of expression, biased or prejudiced.

The judge does not comment on cases likely to be assigned to one in the future, let alone publicly disclose information on the cases they handle.

The judge always respects the secrecy and confidentiality of the deliberations when posting on the internet or commenting on other people's messages, as social networking sites are in principle considered to be a public domain, regardless of the type of website, its configuration or the user's number of contacts. The judge exercises caution and consternation when using social media by refraining from posting comments or opinions or approving or disapproving other people's views and comments, in so far as such actions may affect or call into question one's impartiality and citizens' trust in the independence of the Court. The judge also avoids the expression, either in print or electronic means of communication and social media, of comments on political, economic, social and other sensitive issues.

Posting on these accounts is not regarded as private correspondence, unless the judge has taken care of in advance (with the proper configuration) to restrict access to their social network account to a limited and reliable circle of contacts, and to prevent their profile from surfacing in the results of internet search engines.

The judge present on digital networks avoids highlighting their judicial capacity when participating in online conversations and exercises caution as to the content of one's postings and messages to other users.

The judge avoids expressing any opinion, comment or criticism, either in public or in private, pertaining to persons, facts or situations directly or indirectly related to cases pending or likely to be brought before the Court, even if they do not participate or are not going to participate in their hearing.

#### Clarification to article 9

It has to be recognised that effectiveness is inextricably linked to: (a) the recognition to the judge's sufficient resting time per year, (b) the provision of appropriate secretarial and logistical support, (c) the provision of training and learning opportunities, and (d) recognition of the importance of quality work alongside the prompt conclusion of cases.

#### Clarification to article 10

The judge, in the course of proceedings, adjudicates without prejudice, complying with the principles of fair trial and the applicable rules of procedure and accords respect and equal treatment towards all parties and their legal representatives. The judge performs their duties without any pressure or influence, either external or internal, and embraces an objective stance on all the issues called upon to address.

#### Clarification to article 11

Albeit self-evident, in the light of what has been stated in the Preamble and in the clarifications, it was considered useful to reiterate hereto this important statement.

Clarifications to articles 12 and 13

These are internal measures. Submitting gifts is a strong recommendation, without any provision for penalty.

This Decision shall be published in the Government Gazette.

The President

IOANNIS SARMAS