

Implementing the UN Convention against Corruption (UNCAC)

Bangalore Principles of Judicial Conduct

Partner: United Nations Office on Drugs and Crime (UNODC), Judicial Integrity Group (JIG)

Term: May 2005 to March 2007

Budget: € 90,000 for drafting and processing commentary

Why judicial integrity?

Every state with a liberal democratic constitution needs an efficient, transparent and independent third power. The judiciary can only serve its crucial function if the judges do justice to their role, above and beyond all formally legal requirements. They must fulfil their duty impartially and with absolute integrity. The question, therefore, is whether general requirements for a judicial professional ethos should be spelled out explicitly and whether ethical standards of conduct for the judiciary should be codified. The high degree of corruption in the judiciary in many developing and transition countries is one of the most destructive evils. The lack of trust of the population and the business community in particular in the judicial machinery of many countries, undermines social and economic development and contributes to political destabilisation.

Background

The Bangalore Principles of Judicial Conduct were developed by the Judicial Group on Strengthening Judicial Integrity (later named Judicial Integrity Group), an informal gathering of chief justices and senior justices as a Draft Code of Judicial Conduct in Bangalore, India, in February 2001. Initially, the UN Centre for International Crime Prevention had convened a first preparatory meeting in Vienna in April 2000 with a group of senior justices within the framework of the Global Programme against Corruption, in conjunction with the 10th UN Con-

gress on the Prevention of Crime and the Treatment of Offenders. The Draft Code of Judicial Conduct, later called the Bangalore Principles of Judicial Conduct, were elaborated and further developed through various rounds of international round table meetings involving the UN Commission on Human Rights and the Commission on Crime Prevention and Criminal Justice by judges from common and civil law countries.

Core values

The Bangalore Principles are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to offer the judiciary a framework for regulating judicial conduct. Seven core values are recognized: Independence, impartiality, integrity, propriety, equality, competence, diligence.

The Principles define their meaning and elaborate in detail on what kind of conduct is to be expected in concrete terms of the persons concerned in order to put the respective value into practice. A number of specific instructions are given under each of the values.

Objective

The intention of the GTZ UNCAC Project to support the work of the Judicial Integrity Group on the Bangalore Principles is closely related to Article 11 of the Convention: Measures relating to the judiciary and prosecution services. The Convention stipulates judicial integrity as a basic provision to prevent corruption in the judiciary. In view of the fundamental role of the rule of law in development, integrity standards and a far-reaching ethical reform of the judiciary is urgently needed in many countries. The aim of the GTZ UNCAC Project to the UNODC and the JIG is to support the process of further developing the Bangalore Principles by way of funding the elaboration of a commentary, contributing to revising the Principles according to comments from member states and drafting procedures for the effective implementation. The focus is also to promoting the Principles as univer-

sal instrument in development cooperation in the field of law and justice.

Results

The Bangalore Principles were discussed at the 4th working meeting of the JIG held in Vienna in October 2005. Work at this meeting resulted in the transformation of the Principles into Draft Principles on Judicial Integrity. The conduct of judicial personnel, thereby encompassing the judicial sector in a holistic manner was included.

Additionally, draft commentaries pertaining to the first chapter of the Principles and to the Principles of Conduct for judicial personnel were elaborated and adopted. The key messages for the commentary were agreed upon. An extensive commentary was drafted by late 2006. During the course of the 4th JIG meeting UNODC had submitted a draft Guide to Strengthening Court Integrity and Capability.

At the 15th Session of the Commission on Crime Prevention and Criminal Justice in April 2006, the Bangalore Principles were adopted in a resolution co-sponsored by the Governments of Egypt, France, Germany, Nigeria and the Philippines entitled Strengthening Basic Principles of Judicial Conduct and recommended to the Economic and Social Council of the UN (ECOSOC). In July 2006 ECOSOC adopted the resolution (ECOSOC 2006/23). The next step is now to pass the Principles as resolution to the UN General Assembly

The commentary is now ready. It was discussed at the 5th JIG meeting in Vienna on 28 February 2007 and during the Intergovernmental Expert Group Meeting on Strengthening Judicial Integrity and Capacity at the UN in Vienna on 1 and 2 March 2007.

Impact

The adoption of the Bangalore Principles by ECOSOC is a decisive step forward. The Principles are now ready to be implemented by the UN member states. The focus on international human rights declarations, on the prevention of international crime and the combat of corruption through the UNCAC is expected to contribute to the fundamental values as laid down in the Principles. The completion of an extensive commentary and technical guide respectively will allow the Bangalore Principles to be applied by national governments. The strong focus on Article 11 of the UNCAC anticipates that the integrity of a judiciary system is a cornerstone for freedom from corruption. The Principles also serve the purpose of supporting the Global Programme against Corruption of the UN.

With comparatively little financial effort, an important initiative has been brought to a successful conclusion for the time being. It would be expedient if those governments concerned or interested were to adopt the Draft United Nations Principles on Judicial Integrity, thereby promoting implementation of Article 11 as well as the UN process.

The Bangalore Principles of Judicial Conduct are an excellent example for best practices. They are expected to contribute to national judicial reform processes, which includes anti-corruption strategies and legislation. The regional dissemination should incorporate training and peer review. The implementation of the Principles has the potential for supporting the creation of regional and international learning cycles.

References

www.gtz.de/en, www.unodc.org, www.u4.no.

How to implement the Bangalore Principles in our work?

The Bangalore Principles and/or the Basic Principles of Judicial Conduct have a sound potential for development cooperation, possessing as they do the capacity to be transferred 1:1 to projects of development cooperation in the field of law and justice, as is now being considered in a number of countries. We are promoting proposals for pilot-scale activities for UNCAC. Initiatives of this kind, as are now being considered in Africa as part of the East African Judiciary Working Group or ECOWAS for example, directly promote implementation of UNCAC Art. 11. On top of addressing UNCAC Art. 11 the Principles relate to the UNCAC chapters on criminalisation and law enforcement, international cooperation and mutual legal assistance in particular and asset recovery. They also make a statement in terms of integrity standards in the public administration and could serve the promotion of integrity standards for civil society organisations and the business world.

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